

**SUMMARY OF CHANGES TO LAND TITLE PRACTICE MANUAL
PUBLISHED 30 November 2020**

Part	Para	Summary
14	0120 2600	Updated to reflect that the planning body CMS notation is now to be provided on a Form 18C – Planning Body Community Management Statement Notation
16	0190 0191(new) 2137 (new) 2138 (new)	Clarification of requirements relating to interstate or international powers of attorney
16	0195 0196 (new) 0198 (new) 2015	Update to reflect the change to the enduring power of attorney certification requirements made by the <i>Guardianship and Administration and Other Legislation Amendment Act 2019</i>
16	0050 2030	Clarify the specific practice requirements for a Form 16 lodged to register a power of attorney executed by a principal in the principal's trustee capacity
16	0010 0130	Update to reflect changes made by the <i>Guardianship and Administration and Other Legislation Amendment Act 2019</i> regarding a conflict of interest, gifts/donations and the limit of four joint attorneys for a matter under an enduring power of attorney
16	0050	Clarification that a letter is required to be deposited with dual capacity powers where the Form 16 relates to only one of the capacities
16	0140	Clarify the practice requirements for lodging a Form 16 to record a successive attorney under a power of attorney
16	2000	Updated to include the new forms under the <i>Powers of Attorney Act 1998</i>
16	2040	Clarify that there is no provision in the <i>Powers of Attorney Act 1998</i> or the relevant enduring power of attorney forms for multiple principals to jointly and/or severally appoint an attorney
18	0000 2000 4000 4200 (new) 4210 (new) 4220 (new)	Updated for the new Form 18C to be used for the Planning Body Notation to a Community Management Statement
21	2130 2320 4000 4010	Updated for the new Version 2 of the Form 21Z and other minor amendments
21	2330	Include text to clarify that consent of all mortgagees is required
21	4010	Correct typographical error in relation to form number for Main Plan

Part	Para	Summary
45	2200,2220,2240, 2260,2280,2360, 2445,2450,2500, 2670,3180,4000, 4010 and 4090	Updated to reflect that the planning body notation to a CMS is now to be provided using the new Form 18C – Planning Body Community Management Statement Notation and other minor amendments
59	0010	Updated to reflect the introduction of a second Electronic Lodgement Network Operator (ELNO)
59	4000	Clarify that Version of Forms 21A, 29 to 34 and CMS were Version 1 and to correct typographical error which referred to Form 26 instead of Form 29
59	4000	Updated for the new Form 18C and the new versions of the Form 21Z and CMS
60	1030	Update to clarify application of guide and to refer to the relevant section of part 16 for certifications of power of attorney documents under the Powers of Attorney Act 1998

Part 14 – General Request

Table of Contents

General Law.....	[14-0000]
^{1,2} Body Corporate and Community Management Requests.....	[14-0100]
^{1,2} Reservation of Name.....	[14-0110]
^{1,2} Community Management Statement.....	[14-0120]
^{1,2} Change of address of Body Corporate.....	[14-0130]
Legislation.....	[14-1000]
² Application of the <i>Land Title Act 1994</i> to the <i>Water Act 2000</i>	
^{1,3} Reference to the Chief Executive in the <i>Land Act 1994</i>	
Practice	
Request to Record Correction or Change of Name	[14-2000]
Natural Person.....	[14-2010]
Corporation.....	[14-2020]
Documents to be Deposited When Requesting Change or Correction of Name	[14-2025]
Incorporated Association	[14-2030]
Transition from an Incorporated Association to a Company Registered under the <i>Corporations Act 2001</i> (Cth)	[14-2035]
Request to Remove Expired Lease from Title	[14-2045]
Request to Register Merger of Interest.....	[14-2050]
² Merger of Mortgage	[14-2060]
² Merger of Lease	[14-2070]
¹ Merger of Easement (Extinguishment under s. 87A of the <i>Land Title Act 1994</i> or s. 368(2) of the <i>Land Act 1994</i>)	[14-2080]
Withdrawal of Caveat and Discharge, Satisfaction, Cancellation and Withdrawal of Writ of Execution.....	[14-2090]
Withdrawal, Removal and Cancellation of Caveat.....	[14-2100]
Withdrawal of registered Caveat by Caveator	
Withdrawal of unregistered Caveat by Caveator	
Removal by Supreme Court order after application by Caveatee	
Removal of lapsed caveat	
Cancellation of Caveat	
Partial Withdrawal of registered Caveat by Caveator	[14-2110]
² Instalment Contract Caveat	[14-2120]
Discharge, Satisfaction or Cancellation of Writ of Execution	[14-2125]
Discharge	
Satisfaction	
Cancellation	
Withdrawal of Writ of Execution Issued by the Registrar of SPER.....	[14-2127]
Partial Discharge, Satisfaction or Cancellation of Writ of Execution	[14-2130]
Extension of Writ of Execution	[14-2150]
Standard Terms Document Forming Part of Instrument/Document	[14-2160]
Request to Record Transmission by Bankruptcy	[14-2170]
Bankruptcy of Debtor or Deceased Debtor's Estate	[14-2180]
Trustee by Part IV Composition or Arrangement, Part IX Debt Agreement or Part X Personal Insolvency Agreement	[14-2210]
<i>Bankruptcy Legislation Amendment Act 2004</i> (Cth)	[14-2220]
Part X arrangement entered into prior to 1 December 2004	[14-2225]
Controlling Trustee under Part X of the <i>Bankruptcy Act 1966</i> (Cth).....	[14-2230]
Powers of a Trustee.....	[14-2240]
Annulment of Bankruptcy.....	[14-2250]
Disclaimer.....	[14-2260]
Disclaimer of Freehold Land under the <i>Land Title Act 1994</i> or a Lease or Licence under the <i>Land Act 1994</i> by a Trustee of a Bankrupt	
Disclaimer of a Freehold Lease or a Sub-Lease under the <i>Land Act 1994</i> by a Trustee of a Bankrupt	
Disclaimer of Freehold Land under the <i>Land Title Act 1994</i> or a Lease or Licence under the <i>Land Act 1994</i> by a Company Liquidator	
Disclaimer of a Freehold Lease under the <i>Land Title Act 1994</i> or a Sub-Lease under the <i>Land Act 1994</i> by a Company Liquidator	
Court Order to vest Disclaimed Freehold Land under the <i>Land Title Act 1994</i> or a Lease or Licence under the <i>Land Act 1994</i>	

Charge under s. 139ZN or 139ZR of the <i>Bankruptcy Act 1966</i> (Cth).....	[14-2270]
^{1,2} Interest for Life.....	[14-2280]
Death of life tenant	
Relinquishment	
^{1,2} Application for Title by Adverse Possession.....	[14-2290]
Deregistered Company.....	[14-2300]
^{1,2} Company Deregistered Prior to the <i>Companies Act 1961</i>	
Company Deregistered under the Australian Securities and Investments Commission (ASIC)	
² Foreclosure and Vesting.....	[14-2310]
^{1,2} Dedication of Road by Notice.....	[14-2315]
¹ Resumption.....	[14-2320]
Generally	
Resumption of an Easement	
² Resumption of Freehold Land by a Constructing Authority	
³ Resumption of a Lease under the <i>Land Act 1994</i>	
Revocation of Resumption	
Vesting Order	
By Proclamation.....	[14-2330]
By Order of the Court.....	[14-2332]
Vesting in a Trustee.....	[14-2335]
Request for Determination of Lease.....	[14-2350]
Under s. 124 of the <i>Property Law Act 1974</i>	
Company Deregistered under the Australian Securities and Investments Commission (ASIC)	
Re-entry by Lessor by Repudiation	
Recording Vesting in an Incorporated Association.....	[14-2360]
Recording Vesting under the Returned & Services League of Australia (Queensland) Branch Act 1956.....	[14-2365]
Trustee.....	[14-2390]
Legal and Beneficial Interests Merge.....	[14-2400]
¹ Application by Local Government under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012.....	[14-2410]
¹ Change of Department Representing the State of Queensland.....	[14-2420]
¹ Removal of a Profit a prendre.....	[14-2425]
¹ Order of the Court Modifying or Extinguishing an Easement.....	[14-2430]
^{1,2} Request to Record Reservation of Name for a Community Titles Scheme	
^{1,2} Reservation of Name for Community Titles Scheme.....	[14-2500]
^{1,2} Duplication of Names.....	[14-2530]
^{1,2} Extension of Reservation of Name.....	[14-2540]
^{1,2} Withdrawal of Reservation of Name.....	[14-2550]
Request to Record Community Management Statement	
^{1,2} Community Management Statements.....	[14-2600]
Request to Record Change of Address for a Community Titles Scheme	
^{1,2} Change of Address of Body Corporate.....	[14-2700]
Update of a Registered Power of Attorney.....	[14-2800]
^{1,2} Charge under the <i>Land Tax Act 2010</i>	[14-2810]
^{1,2} Removal of Charge under the <i>Land Tax Act 2010</i>	[14-2820]
¹ Statutory Charge under the <i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i>	[14-2825]
¹ Removal of Statutory Charge under the <i>South-East Queensland Water (Distribution and Retail Restructuring) Act 2009</i>	[14-2827]
^{1,2} Statutory Charge under the <i>Retirement Villages Act 1999</i>	[14-2830]
Creation of Statutory Charge over Retirement Village Land	
Additional Retirement Village Land	
^{1,2} Release of Statutory Charge under the <i>Retirement Villages Act 1999</i>	[14-2840]
¹ Charge under the <i>First Home Owners Grant Act 2000</i>	[14-2850]
¹ Removal of Charge under the <i>First Home Owners Grant Act 2000</i>	[14-2860]
Charge under the <i>Duties Act 2001</i>	[14-2870]
Removal of Charge under the <i>Duties Act 2001</i>	[14-2880]
^{1,2} Charge by utility service provider under the <i>Body Corporate and Community Management Act 1997</i>	[14-2890]
^{1,2} Removal of Charge by utility service provider under the <i>Body Corporate and Community Management Act 1997</i>	[14-2900]
^{1,2} Statutory Charge under the <i>Building Industry Fairness (Security of Payment) Act 2017</i>	[14-2905]

Recording a Charge	
Extension of Charge	
^{1,2} Removal of Charge under the <i>Building Industry Fairness (Security of Payment) Act 2017</i>	[14-2906]
Release of Charge	
Request by Claimant	
Request by Registered Owner	
Setting aside a Charge	
^{1,2} Request for separate indefeasible title for a lot.....	[14-2910]
² Request for separate title for a tenant in common	[14-2915]
¹ Local government charge	[14-2920]
¹ Registration of a charge.....	[14-2930]
¹ Removal of a charge	[14-2940]
^{2,3} Subdivision of a Water Allocation.....	[14-2950]
^{2,3} Amalgamation of Water Allocations.....	[14-2960]
^{2,3} Change of Water Allocation	[14-2970]
^{1,2} Charge under the <i>Water Supply (Safety and Reliability) Act 2008</i>	[14-2980]
^{1,2} Release of Charge under the <i>Water Supply (Safety and Reliability) Act 2008</i>	[14-2990]
^{1,2} Amendment of Charge under the <i>Water Supply (Safety and Reliability) Act 2008</i>	[14-3000]
^{1,3} Condition under s. 362 of the <i>Water Supply (Safety and Reliability) Act 2008</i>	[14-3010]
¹ Removal of a Carbon Abatement Interest	[14-3015]
Forms	
General Guide to Completion of Forms.....	[14-4000]
Guide to Completion of Form 14 for Examples 1 to 25	
Item 1	[14-4010]
Item 2	[14-4020]
Item 3	[14-4030]
Item 4	[14-4040]
Item 5	[14-4050]
Item 6	[14-4060]
Item 7	[14-4070]
¹ Guide to Completion of Form 14 for Example 26	
Item 1	[14-4090]
Item 2	[14-4100]
Item 3	[14-4110]
Item 4	[14-4120]
Item 5	[14-4130]
Item 6	[14-4133]
Item 7	[14-4136]
^{1,2} Guide to Completion of Form 14 for Example 27	
Item 1	[14-4140]
Item 2	[14-4150]
Item 3	[14-4160]
Item 4	[14-4170]
Item 5	[14-4180]
Item 6	[14-4190]
Item 7	[14-4200]
^{1,2} Guide to Completion of Form 14 for Example 28	
Lodger Details	[14-4218]
Item 1	[14-4220]
Item 2	[14-4230]
Item 3	[14-4240]
Item 4	[14-4250]
Item 5	[14-4260]
Item 6	[14-4270]
Item 7	[14-4280]
^{1,2} Guide to Completion of Form 14 for Example 29	
Lodger Details	[14-4290]
Item 1	[14-4300]
Item 2	[14-4310]
Item 3	[14-4320]
Item 4	[14-4330]
Item 5	[14-4340]
Item 6	[14-4350]
Item 7	[14-4360]
^{1,2} Guide to Completion of Form 14 for Example 30	

Item 1	[14-4370]
Item 2	[14-4380]
Item 3	[14-4390]
Item 4	[14-4400]
Item 5	[14-4410]
Item 6	[14-4420]
Item 7	[14-4430]
Guide to Completion of Form 14 for Example 31	
Item 1	[14-4440]
Item 2	[14-4450]
Item 3	[14-4460]
Item 4	[14-4470]
Item 5	[14-4480]
Item 6	[14-4490]
Item 7	[14-4500]
^{2,3} Guide to Completion of Form 14 for Example 32	
Item 1	[14-4510]
Item 2	[14-4520]
Item 3	[14-4530]
Item 4	[14-4540]
Item 5	[14-4550]
Item 6	[14-4560]
Item 7	[14-4570]
^{2,3} Guide to Completion of Form 14 for Example 33	
Item 1	[14-4580]
Item 2	[14-4590]
Item 3	[14-4600]
Item 4	[14-4610]
Item 5	[14-4620]
Item 6	[14-4630]
Item 7	[14-4640]
^{2,3} Guide to Completion of Form 14 for Example 34	
Item 1	[14-4650]
Item 2	[14-4660]
Item 3	[14-4670]
Item 4	[14-4680]
Item 5	[14-4690]
Item 6	[14-4700]
Item 7	[14-4710]
^{1,2} Guide to Completion of Form 14 for Example 35	
Item 1	[14-4720]
Item 2	[14-4725]
Item 3	[14-4730]
Item 4	[14-4735]
Item 5	[14-4740]
Item 6	[14-4745]
Item 7	[14-4750]
^{1,2} Guide to Completion of Form 14 for Example 36	
Item 1	[14-4755]
Item 2	[14-4760]
Item 3	[14-4765]
Item 4	[14-4770]
Item 5	[14-4775]
Item 6	[14-4780]
Item 7	[14-4785]
^{1,2} Guide to Completion of Form 14 for Example 37	
Item 1	[14-4790]
Item 2	[14-4795]
Item 3	[14-4800]
Item 4	[14-4805]
Item 5	[14-4810]
Item 6	[14-4815]
Item 7	[14-4820]
Duty	[14-5500]
Fees	[14-8000]

Cross References and Further Reading	[14-9000]
Notes in text.....	[14-9050]

Part 14 – General Request

General Law

[14-0000]

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

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

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

[14-0100]

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

^{1,2}Reservation of Name

[14-0110]

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

^{1,2}Community Management Statement

[14-0120]

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

A ‘First’ CMS may only be recorded if ~~it is endorsed by the local government~~ 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: ~~be~~

- A properly completed Form 18C ~~noted endorsed~~ signed by the planning body ~~local government~~ 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 ~~totally~~ ‘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 the register record a CMS is an instrument. Section 115L(2) of the Land Title Act also provides that the recording of a CMS in the registry does not guarantee that it is valid or enforceable. The Registrar is not obliged to, but may, examine a CMS before it is recorded.

^{1,2}Change of address of Body Corporate**[14-0130]**

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

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

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

For further information see [14-2700].

Legislation

[14-1000]**²Application of the *Land Title Act 1994* to the *Water Act 2000***

Under the provisions of the Water Act, the Land Title Act applies to the registration of an interest or dealing 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.

^{1,3}Reference to the Chief Executive in the *Land Act 1994*

The functions of the Chief Executive under the Land Act relating to the keeping of registers are carried out by the Registrar of Titles under delegation given under s. 393 of that Act.

Practice

Request to Record Correction or Change of Name**[14-2000]**

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

recorded on a title. Throughout this topic, this Form is also referred to as a Form 14 – Request to Change Name or a Form 14 – Request to Correct Name.

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

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

Natural Person

[14-2010]

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

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

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

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

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

For example, if Mary Green marries Tom Brown:

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

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

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

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

- (3) by assumption of a name and use of that name in keeping with common law.

Persons who use other than their legal names when acquiring interests in a lot or a State tenure could experience difficulty when attempting to deal with that interest as a result of the provisions of the Land Title Act or Land Act relating to ‘obligations of witnesses for individuals’.

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

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

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

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

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

Generally, acceptable proof of legal name is:

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

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

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

- (1) a statutory declaration by the applicant that states:
 - their previous and current names;
 - the applicant is the owner/holder of the registered interest;
 - the duration of exclusive use of the current name;
 - it is the intention of the applicant to use only the current name in all matters;

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

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

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

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

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

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

Example 2 — Request to change name.

Corporation

[14-2020]

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

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

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

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

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

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

See Example 3.

Documents to be Deposited When Requesting Change or Correction of Name

[14-2025]

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

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

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

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

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

then no further evidence is required.

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

Incorporated Association

[14-2030]

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

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

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

See Example 3.

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

[14-2040] deleted

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

[14-2035]

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

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

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

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

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

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

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

Request to Remove Expired Lease from Title

[14-2045]

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

Request to Register Merger of Interest

[14-2050]

A merger of interest may occur in the following circumstances:

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

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

²Merger of Mortgage

[14-2060]

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

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

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

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

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

²Merger of Lease

[14-2070]

Where a lessee becomes the registered owner of:

- a lot; or
- ¹part of the lot;

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

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

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

See Example 5.

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

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

[14-2080]

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

See Example 6.

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

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

[14-2090]

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

Withdrawal, Removal and Cancellation of Caveat

[14-2100]

Withdrawal of registered Caveat by Caveator

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

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

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 (s. 159 of the *Land Title Act 1994* or s. 308 of the *Land Act 1994*).

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.

See Example 8.

Removal of lapsed caveat

Any person can 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.

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.

Sufficient evidence must be included with the Form 14 – General Request to Cancel Caveat to satisfy the Registrar of one of the above circumstances, including a Form 20 – Declaration setting out the grounds supporting the request and any relevant documentary evidence.

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.

Partial Withdrawal of registered Caveat by Caveator

[14-2110]

A partial withdrawal of a registered caveat may occur:

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

A caveator can partially withdraw a registered caveat by lodging a Form 14 – Request to Partially Withdraw Caveat which can be signed by the caveator or by the caveator's current solicitor. The parcels or the part of the title over which the caveat is to be withdrawn must be clearly identified.

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

²Instalment Contract Caveat**[14-2120]**

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

Discharge, Satisfaction or Cancellation of Writ of Execution**[14-2125]****Discharge**

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

If the Form 14 is executed by:

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

Appropriate evidence must be:

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

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

Satisfaction

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

Appropriate evidence must be:

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

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

Cancellation

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

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

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

Withdrawal of Writ of Execution Issued by the Registrar of SPER

[14-2127]

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

Lodgement fees are not applicable.

Partial Discharge, Satisfaction or Cancellation of Writ of Execution

[14-2130]

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

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

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

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

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

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

See Example 7.

[14-2140] deleted

Extension of Writ of Execution

[14-2150]

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

Standard Terms Document Forming Part of Instrument/Document

[14-2160]

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

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

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

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

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

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

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

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

No fees are payable for lodgement.

See Example 11.

Request to Record Transmission by Bankruptcy

[14-2170]

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

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

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

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

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

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

Lodgement fees are applicable and a duty notation is required.

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

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

Bankruptcy of Debtor or Deceased Debtor's Estate

[14-2180]

A person may become bankrupt:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

See Examples 12 and 13.

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

Trustee by Part IV Composition or Arrangement, Part IX Debt Agreement or Part X Personal Insolvency Agreement [14-2210]

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

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

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

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

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

- for a Part X

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

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

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

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

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

Bankruptcy Legislation Amendment Act 2004 (Cth)

[14-2220]

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

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

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

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

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

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

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

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

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

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

The deed of assignment must be deposited.

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

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

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

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

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

²Section 189AB of the *Bankruptcy Act* creates a statutory charge. That charge is a caveatable interest and a caveat may be lodged (see part 11, esp [11-0030]).

Powers of a Trustee**[14-2240]**

Section 134 of the *Bankruptcy Act 1966* (Cth) authorises the trustee of a bankrupt to sell, lease or mortgage property or to execute a power of attorney. ¹While there are no specific provisions

to grant or accept an easement, this is regarded as acceptable if it improves the value of the property. The Registrar will register these instruments or documents without enquiry.

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

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

Annulment of Bankruptcy

[14-2250]

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

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

See Example 15.

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

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

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

Disclaimer

[14-2260]

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

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

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

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

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

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

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

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

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

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

The following must be deposited with the request:

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

Lodgement fees are applicable.

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

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

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

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

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

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

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

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

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

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

Lodgement fees are applicable.

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

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

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

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

Lodgement fees are applicable. A duty notation is required.

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

[14-2270]

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

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

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

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

^{1,2}Interest for Life

[14-2280]

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

Death of life tenant

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

Lodgement fees are payable.

See Example 16.

Relinquishment

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

Lodgement fees are applicable and a duty notation is required.

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

[14-2290]

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

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

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

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

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

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

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

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

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

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

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

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

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

The application should be supported by:

- (1) A statutory declaration by at least two disinterested persons who are familiar with the history of the land for the required period setting out, from their own knowledge and observation, the actual use and occupation of the land by the applicant and his/her predecessors in title during the period.
- (2) A letter from the local authority stating in whose name the rates were assessed and by whom the rates were paid for the period in question, or other documentary evidence of

payment of rates for that period. If the documentary evidence consists of rates notices and/or receipts, the information should also be summarised in the form of a table showing rating periods, amounts and payment dates in chronological order.

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

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

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

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

See Example 17.

Deregistered Company

[14-2300]

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

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

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

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

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

Lodgement fees are not applicable.

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

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

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

When dealing with the property of a deregistered company that has vested in ASIC, an instrument may be lodged which disposes of the property of the company, executed by ASIC,

together with evidence that the company is deregistered, without the necessity of vesting the property in the name of ASIC on the title. Lodgement fees are payable.

²Foreclosure and Vesting

[14-2310]

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

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

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

The following practice requirements apply:

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

Registry lodgement fees are payable.

See Example 18.

^{1,2}Dedication of Road by Notice

[14-2315]

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

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

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

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

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

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

Lodgement fees apply. A duty notation is not required.

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

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

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

¹Resumption

[14-2320]

Generally

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

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

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

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

Lodgement fees apply to forms except where the constructing authority is the State (s. 6(7)(a) of the Land Title Regulation 2015 or s. 87(5)(a) of the Land Regulation 2020). The form must have a duty notation.

Resumption of an Easement

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

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

²Resumption of Freehold Land by a Constructing Authority

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

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

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

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

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

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

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

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

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

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

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

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

Revocation of Resumption

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

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

See Example 19.

Vesting Order

By Proclamation

[14-2330]

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

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

The following practice requirements apply:

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

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

By Order of the Court

[14-2332]

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

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

The following practice requirements apply:

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

Registry lodgement fees are payable.

Vesting in a Trustee

[14-2335]

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

The following practice requirements apply:

- the applicant(s) in Item 5 must be the trustee(s) in whom the land is vested by the vesting order;
 - a copy of the vesting order certified by the Court must be deposited with the Form 14; and
 - either:
 - an original Form 20 – Trust Details Form (see [51-4100]); or
 - all documents that create the trust upon which the interest is vested;
- must be deposited with the Request. For information about depositing supporting documentation see [60-1030].

[14-2340] deleted

Request for Determination of Lease

[14-2350]

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

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

Usually, a lessor has an express power granted in the lease to re-enter and take possession of the premises where the lessee has defaulted under the terms of the lease. Section 107 of the Property Law Act implies into the lease a provision that the lessor may re-enter. Section 68 of the Land Title Act or s. 339 of the Land Act may also be invoked for this purpose. A Form 14 – General Request for Determination of the lease is required to be lodged to remove the lease from the title.

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

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

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

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

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

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

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

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

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

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

Re-entry by Lessor by Repudiation

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

- (1) State that the lease was determined for common law repudiation and not pursuant to a right of re-entry in the lease.
- (2) Provide evidence of the conduct of the lessee that amounted to a repudiation (for example, the lessee left the premises (in the case of land) or abandoned the water allocation on a particular date without consent and has not returned. The lessee may have also removed or abandoned some or all of its fixtures, fittings and stock).
- (3) Provide evidence of the conduct of the landlord that amounted to an acceptance of the repudiation (for example the lessor re-took possession of the premises or water allocation on a particular date after the lessee abandoned. The lessor may have also relet premises or water allocation/s to a new lessee etc.).

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

There is no requirement to provide a copy of a notice of default under s. 124 of the Property Law Act to the Registrar where the lease is determined for repudiation at common law.

Recording Vesting in an Incorporated Association

[14-2360]

A Form 14 – General Request is lodged in relation to incorporated associations in the following situations:

- Where land or an interest formerly held by trustees is to be vested in the name of an incorporated association under the *Associations Incorporation Act 1981* (as amended) a Form 14 – General Request is required.

See Example 24 and notations.

- Where two or more incorporated associations amalgamate, a Form 14 – General Request is lodged by the secretary of the new association requesting that the land or interest held by the previous associations be vested in the name of the new association. The Form 14 – General Request is executed by the secretary of the new association and is lodged, together with a certified copy of the certificate of incorporation of the new, amalgamated association. Land or interests previously held by the prior associations will now be recorded as being in the name of the new association. A duty notation is not required.
- Where a body which holds letters patent under the (now repealed) *Religious Educational and Charitable Institutions Act 1861* (repealed by No 74 of 1981, s. 4, sch 1) incorporates, a request to vest the land or interest so held in the association is lodged. The Form 14 – General Request is executed by the secretary of the association and is lodged with a certified copy of the certificate of incorporation of that body. A duty notation is not required.
- Where an incorporated association is cancelled, a Form 14 – General Request is lodged requesting the property of the association to be vested in the Public Trustee of Queensland. The Form 14 – General Request is lodged with a copy of the Order in Council vesting the property in the Public Trustee. Alternatively, the Governor in Council may, by an Order in Council, vary the trusts and vest the property in another body or party. In this case, a Form 14 – General Request is lodged, together with a copy of the Order in Council. A duty notation is not required in either case.
- Where a receiver and manager appointed by a mortgagee executes an instrument or document for an association under the Associations Incorporation Act, a copy of the deed of appointment certified by a solicitor is required as evidence of the appointment.

Recording Vesting under the Returned & Services League of Australia (Queensland) Branch) Act 1956

[14-2365]

The Returned & Services League of Australia (Queensland Branch) Act provides that upon the passing of a resolution by any district branch or sub-branch adopting the Act, any land held by that district branch or sub-branch or by any person/s on behalf of the district branch or sub-branch becomes vested in the branch or sub-branch in the name of ‘Trustees of the Returned & Services League of Australia, (Queensland Branch) [name of sub-branch/district branch, as the case may be] Sub-Branch/District Branch [as the case may be]’. To record such a vesting, a Form 14 – Request to Vest must be lodged, together with a certificate that a resolution adopting the Act has been passed by the district branch or sub-branch, showing the **date of adoption** of

the Act and signed by the president and secretary of the district branch or sub-branch (s. 3 of the Returned & Services League of Australia (Queensland Branch) Act).

No lodgement fees are payable and a duty notation is not required.

[14-2370] and [14-2380] deleted

Trustee

[14-2390]

A lot or an interest can be held by a registered owner or holder as trustee for one or more other parties. If no appointment of a new trustee is involved, the instruments or documents required to be lodged for registration in the registry in certain circumstances are as follows:

- where a trustee dies: a Form 4 – Record of Death (see part 51 – Trusts, esp. [51-2060] to [51-2090]); and
- where a trustee retires or is discharged: a Form 14 – General Request to record retirement or discharge, together with an original Form 20 – Trust Details Form (see [51-4100]) or documentary evidence, see Example 22.

Lodgement fees apply.

A duty notation is required on a retirement or discharge.

If the appointment of a new trustee is to be simultaneously recorded, the appropriate instrument or document is a Form 1 – Transfer (see part 1 – Transfer, esp. [1-2400] to [1-2420]).

Legal and Beneficial Interests Merge

[14-2400]

From time to time the situation will arise where a person (A), being registered on the title as ‘devisee in trust’ or ‘personal representative’, is also the sole beneficiary under the will of the deceased or is the only person entitled to the deceased’s estate under the rules of intestacy.

Where A has discharged all required executorial duties, other than having effected the transfer, then the property is held by A as trustee. The law is well settled that one cannot be a trustee for oneself, and so the doctrine of merger operates to merge the beneficial and legal estates.

Where A is registered as ‘devisee in trust’ or ‘personal representative’ and is alive, but is the sole beneficiary under the will and is entitled to be registered as ‘devisee’, the property may be dealt with in the following manner:

A Form 14 – Request to Record a Merger of estates should be lodged, supported by a declaration by A to the effect that he/she (as ‘personal representative’) has effected all executorial duties in respect of the administration of the estate of the deceased proprietor, but has not effected a transfer to himself/herself. See Example 23. A duty notation is required.

When A is registered as ‘devisee in trust’ or ‘personal representative’ and is deceased, but is the sole beneficiary under the will and is entitled to be registered as ‘devisee’ a Transmission Application must be lodged (see Part 5 [5-2030]).

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

[14-2410]

Where land, or a lease under the *Land Act 1994* with overdue rates is:

- submitted for sale by auction but the land is not sold, the land is taken to have been sold to the local government; or
- valueless or not worth selling;

a local government can apply to be registered as owner of the land, or holder of the lease under the Land Act.

An application to register land, or a lease under the Land Act in the name of a local government must be in a Form 14 – General Request.

Lodgement fees are payable and a duty notation is required.

²If the application is over the whole of the land, a new indefeasible title will not be created. However, if the land is held in separate titles by tenants in common, or is part of an existing indefeasible title, a new indefeasible title must be requested and applicable fees paid.

See Example 25.

¹Change of Department Representing the State of Queensland

[14-2420]

A change of a title from one representative department to another, within the State of Queensland, is **not** a transfer of title. As no interest is passing, a Form 1 – Transfer is **not** appropriate.

A Form 14 – General Request to record a change of the department representing the State is the appropriate form even where there is a shift of responsibilities to a different department.

The address for service of notices to the applicant must be inserted in Item 5.

Item 6 of the Request must provide the full circumstances of the change and include where applicable:

- a reference to the relevant legislative authority, if the change is by way of a statutory vesting; or
- details of relevant Administrative Arrangements Order(s), if the change is by way of a machinery of government change; or
- details of any agreement, the payment of money or other arrangement, if there is a shift of responsibilities to a different department.

Lodgement fees are not applicable. A duty notation is required for only a statutory vesting.

¹Removal of a Profit a prendre

[14-2425]

If the specified period of time has expired or the event upon which it is based has happened, then a profit a prendre may be removed under the provision of s. 97L(3) of the *Land Title Act 1994* or s. 373O(3) of the *Land Act 1994*.

The removal is lodged in a Form 14 – General Request. Any interested party can apply. If the removal is based upon the happening of an event then evidence that clearly establishes the occurrence of that event must be deposited.

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

See Example 26.

¹Order of the Court Modifying or Extinguishing an Easement

[14-2430]

If the court makes a direct order for the extinguishment of an easement or modification of the covenants to an easement, without requiring the participation of the parties to the court application to execute appropriate documentation to give effect to the order (pursuant to s. 181 of the *Property Law Act 1974*), the appropriate instrument or document to be lodged is a Form 14 – Request to Record an Order of the Court, made by either the grantor or the grantee of the easement.

^{1, 2}Request to Record Reservation of Name for a Community Titles Scheme

^{1, 2}Reservation of Name for Community Titles Scheme

[14-2500]

A plan for a community titles scheme may not be accepted for lodgement if the name has been reserved or used for another community titles scheme.

An application to reserve, extend or withdraw a reservation of name for a proposed community titles scheme must be made by lodging a Form 14 – General Request. Only one name is to be reserved over any one parcel of land unless the Registrar is satisfied that an appropriate reason is given for example, the names being reserved are for a layered scheme. However, a name may be recorded over more than one parcel if all the parcels are to be included in the same scheme.

The Request may be made by the registered owner of the land or by another party on behalf of the proposed development. It must specify the name to be reserved for the proposed scheme and should also clearly identify the parcels to be included in the scheme land.

Prior to applying for reservation of a name for a community titles scheme, a search of previously reserved and registered names should be undertaken to ensure the envisaged name is available for reservation.

The reservation period is initially two years from the date of lodgement, however, it may be extended by a further one year if an application for extension is lodged during the initial two year period. A reservation ends if the applicant withdraws the reservation or a community titles scheme is established on the scheme land using the reserved name.

See Example 27.

[14-2510] to [14-2520] deleted

^{1, 2}Duplication of Names

[14-2530]

Names may be duplicated or similar only with the prior written approval of the Registrar. Depending on the circumstances, approval may be given subject to either:

- the written consent of the body corporate of the existing scheme; or
- a declaration stating that:
 - the name for the scheme being reserved is not in the same locality as the existing scheme, i.e. not in the same town or city or is not within 100 kilometres of the existing scheme; and

- the existing scheme has been established for some time and is not currently being marketed.

The circumstances may also require other special conditions to be complied with before approval is given.

^{1,2}Extension of Reservation of Name

[14-2540]

The period of reservation of name for a proposed scheme may be extended for a further period of one year provided the request to extend the reservation of name is lodged before the expiry of the term of the original reservation of name.

The request to extend reservation of a name must be made by the person who originally requested reservation of that name.

If the period of time for the original reservation of a name has expired a new request for reservation of the name may be lodged using the name previously reserved, providing a scheme has not been established using that name.

^{1,2}Withdrawal of Reservation of Name

[14-2550]

A name that has been reserved for a proposed community titles scheme may be withdrawn. The person who originally requested that the name be reserved must be the applicant for the request to withdraw the reservation of that name.

Request to Record Community Management Statement

^{1,2}Community Management Statements

[14-2600]

The following items are required to be lodged to record a CMS:

- Form 14 – General Request with;
 - the CMS in the appropriate form;
 - Schedules A to E that have been completed as they apply to the community titles scheme; and
 - if planning body notation to the CMS is required (i.e. if an exemption does not apply) – a properly completed Form 18C – Planning body community management statement notation signed by the planning body; and
- the ~~relative~~ 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. ~~Stringent checking may be relaxed when the Registrar is satisfied the industry has had the opportunity to familiarise itself with the requirements.~~

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 regulated fee is also payable.

The CMS and all sheets that comprise schedules to it must be numbered sequentially beginning with the CMS as ‘Page 1 of ... pages’. More than one schedule may be contained on a sheet. With the exception of any sketch plans that are included and which may be prepared on international A3 paper folded to A4 size, the CMS must conform to the requirements set out in part 59 esp [59-2000] to [59-2060]. See part 45 for detail of CMS, esp [45-2140] to [45-2320].

See also Example 28.

[14-2610] deleted

Request to Record Change of Address for a Community Titles Scheme

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

[14-2700]

This address for service of the body corporate is an integral component of every Request to Record First CMS that is lodged for a community titles scheme. The address disclosed in the First CMS is recorded on the indefeasible title for the common property.

That address may be changed by the body corporate lodging either a Request to Record Change of Address for Body Corporate in a Form 14 – General Request or as part of a request to record a New CMS.

A lodgement fee is applicable; however, there is no additional fee for lodging through the post.

See Examples 29, 30 and [14-2600].

Update of a Registered Power of Attorney

[14-2800]

A registered power of attorney may require updating following a change of name of a principal and/or an attorney, or following a change to the description of the property identified in the power of attorney. For an update of a registered power of attorney to record a change of a company name, the evidence provided must contain the date the change of name of the company was effective from, as this date is required to be entered into the power of attorney register. Updating the power of attorney will facilitate prompt registration of later transactions signed under the power of attorney.

Note: *Changed* names of attorneys resulting from incorrectly prepared documentation cannot be corrected. A new Power of Attorney must be lodged. The incorrect power of attorney should be revoked.

A power of attorney may be updated by the registration of an instrument or document to record the change. Form 14 – General Request is appropriate for the purpose. Copies of supporting evidence certified by the issuing agency must be deposited with the request. For information about options for deposit of supporting evidence see [60-1030]. If an update is required to be recorded against more than one registered power of attorney, separate requests are required to update each registered power of attorney. Evidence that has already been deposited in the registry may be referred to in item 5 in the following manner ‘Certificate of change of name [or other evidence] deposited with dealing number [number]’.

A lodgement fee applies for each power of attorney being updated. A duty notation is not required.

See Example 31.

^{1,2}Charge under the *Land Tax Act 2010*

[14-2810]

Section 60 of the Land Tax Act provides that unpaid land tax is a first charge on land and has priority over all other encumbrances. The Commissioner of State Revenue may lodge and register a charge under Part 4, Division 5 of the *Taxation Administration Act 2001*.

Under s. 47B of the Taxation Administration Act, a Form 14 – General Request executed by the Commissioner or delegate must be lodged. A certificate of the Commissioner stating there is a charge over the land for a stated outstanding amount of tax must be deposited with the request.

A duty notation is not required however lodgement fees are applicable.

^{1,2}Removal of Charge under the *Land Tax Act 2010*

[14-2820]

A charge under s. 60 of the Land Tax Act registered against an indefeasible title may be removed only by lodgement of a Form 14 – General Request to remove the charge executed by the Commissioner of State Revenue or delegate.

A duty notation is not required however lodgement fees are applicable.

¹Statutory Charge under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*

[14-2825]

Under the provisions of s. 53AX of the South-East Queensland Water (Distribution and Retail Restructuring) Act, the Northern SEQ Distributor-Retailer Authority, the Central SEQ Distributor-Retailer Authority and the Southern SEQ Distributor-Retailer Authority may record a charge over land for overdue water and sewerage charges.

Form 14 – General Request is appropriate for the purpose and should be executed by an authorised delegate of the relevant Distributor-Retailer Authority or a solicitor.

A certificate signed by the Chief Executive Officer stating the distributor-retailer's charge exists over the land must accompany the charge.

A duty notation is not required however lodgement fees are applicable.

¹Removal of Statutory Charge under the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*

[14-2827]

A charge under s. 53AX of the South-East Queensland Water (Distribution and Retail Restructuring) Act registered against a title may be removed only by the lodgement of a Form 14 – General Request to remove the charge executed by an authorised delegate of the relevant Distributor-Retailer Authority or a solicitor.

A certificate signed by the Chief Executive Officer stating the amount has been paid must be deposited with the release of the charge.

A duty notation is not required however lodgement fees are applicable.

^{1,2}Statutory Charge under the *Retirement Villages Act 1999*

[14-2830]

Creation of Statutory Charge over Retirement Village Land

Section 116 of the Retirement Villages Act (the Act) provides for the creation of a statutory charge over the whole of retirement village land immediately the chief executive of the department administering the Act registers a retirement village.

The provisions require the chief executive to give written notice of the registration of a retirement village to the Registrar. Section 116(4) of the Act requires that the Registrar must record the charge in the register under the *Land Title Act 1994*.

The charge once recorded in the registry will not be removed from the indefeasible title without lodgement of appropriate documentation. This includes cases where retirement village land the subject of a charge is subdivided to create indefeasible titles for new lots.

Form 14 – General Request is appropriate for the purpose of recording the statutory charge. The Form 14 must identify the retirement village land and be executed by the chief executive or delegate.

No lodgement fees are payable and a duty notation is not required.

Additional Retirement Village Land

Section 117 of the Act provides that when any new land becomes retirement village land additional to the original retirement village land the charge over the original land is released and a charge is created over the original land and the new land. The chief executive as soon as

practical after receiving notice by the scheme operator of the change to retirement village land must notify the Registrar of Titles.

A request to release the charge over the original land and a request to register a new charge over all land must be lodged. Form 14 – General Request is appropriate for each purpose. The request to register the new charge must identify all the retirement village land and the day on which the new land became retirement village land. The chief executive or delegate must execute each instrument.

No lodgement fees are payable and a duty notation is not required.

^{1,2}Release of Statutory Charge under the *Retirement Villages Act 1999*

[14-2840]

A statutory charge under s. 116 of the Retirement Villages Act registered against an indefeasible title may only be removed by lodgement of a Form 14 – General Request to remove the charge. The chief executive or delegate must execute the request to remove the charge.

No lodgement fees are payable and a duty notation is not required.

¹Charge under the *First Home Owners Grant Act 2000*

[14-2850]

Section 48 of the First Home Owners Grant Act provides for the Commissioner of State Revenue to recover an amount of money paid in error to an applicant or a former applicant for a first home owner grant. Section 49 authorises the Commissioner of State Revenue to register a charge over an interest in the land on which the home, for which the grant was sought, is fixed.

Form 14 – General Request is appropriate for the purpose and must be executed by the Commissioner or delegate. A certificate, issued by the Commissioner of State Revenue or delegate, stating that there is a charge over the land under s. 49 of the First Home Owners Grant Act and the amount owed in relation to the charge must be deposited as evidence of the charge.

Lodgement fees apply but a duty notation is not required.

¹Removal of Charge under the *First Home Owners Grant Act 2000*

[14-2860]

A charge under s. 49 of the First Home Owners Grant Act registered against a title may only be removed by lodgement of a Form 14 – General Request to remove the charge. A certificate, issued by the Commissioner of State Revenue or delegate, stating the amount owed in relation to the charge over the land has been paid must be deposited as evidence of the payment of the charge. The Commissioner of State Revenue or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

Charge under the *Duties Act 2001*

[14-2870]

Section 198 of the Duties Act provides that the Commissioner of State Revenue may register a charge over land owned by a corporation to pay outstanding land rich duty payable by a land rich corporation.

Form 14 – General Request is appropriate for the purpose and must be executed by the Commissioner or delegate. A certificate, issued by the Commissioner of State Revenue or delegate, stating that there is a charge under s. 198 of the Duties Act and the amount of land rich duty owed in relation to the charge over the land must be deposited as evidence of the charge.

Lodgement fees apply but a duty notation is not required.

Removal of Charge under the *Duties Act 2001*

[14-2880]

A charge under s. 198 of the Duties Act registered against a title may only be removed by lodgement of a Form 14 – General Request to remove the charge. The Commissioner of State Revenue or delegate must execute the request.

Lodgement fees apply but a duty notation is not required.

^{1,2}Charge by utility service provider under the *Body Corporate and Community Management Act 1997*

[14-2890]

Section 197 of the Body Corporate and Community Management Act (the BCCM Act) provides for a utility service provider, other than the Urban Land Development Authority or a local government, to ask the Registrar to register a charge for unpaid fees for services delivered to a body corporate. The unpaid amount is payable proportionately by each lot owner according to the contribution schedule lot entitlement for the lot and under the BCCM Act the amount payable by a lot owner is a charge on the lot.

Form 14 – General Request is appropriate for the purpose and the applicant must be the utility service provider. The request may be signed in accordance with the execution requirements for the applicant or by a solicitor for the applicant. A certificate signed by the utility service provider stating that there is a charge on all the lots under s. 196(10)(b) of the BCCM Act must be deposited with the request.

Normal lodgement fees apply but a duty notation is not required.

^{1,2}Removal of Charge by utility service provider under the *Body Corporate and Community Management Act 1997*

[14-2900]

Immediately after the amount secured by a charge registered pursuant to s. 197 of the Body Corporate and Community Management Act is paid the utility service provider must remove the charge. The charge may only be removed by lodgement of a Form 14 – Request to remove charge and must be removed from all the lots in the scheme. A partial removal of a charge is not permitted. The applicant must be the utility service provider and the request may be signed in accordance with the execution requirements for the applicant or by a solicitor for the applicant.

Normal lodgement fees apply but a duty notation is not required.

^{1,2}Statutory Charge under the *Building Industry Fairness (Security of Payment) Act 2017*

[14-2905]

Chapter 3 of the Building Industry Fairness (Security of Payment) Act (the BIF Act) provides for an adjudication process in relation to disputed progress payments. If an adjudicator decides that a respondent is required to pay an amount (the adjudicated amount) to the claimant an adjudication certificate providing details of the adjudicated amount is issued.

Section 100B of the BIF Act provides for a claimant (who must be a head contractor) to ask the Registrar to register a charge for the unpaid adjudicated amount over a relevant property if the respondent (or their related entity) is the registered owner of that relevant property. Pursuant to s. 100B(1)(d) of the BIF Act, prior to lodging a request to register the charge with the Registrar, the claimant is required to file the adjudication certificate as a judgement for debt in a court of competent jurisdiction.

Recording a Charge

Form 14 – General Request is the appropriate form and the applicant must be the claimant. The request may be signed in accordance with the execution requirements for the applicant or by a solicitor for the applicant.

The following must be deposited with the request:

- a copy of the adjudication certificate; and
- a statutory declaration that includes the following:
 - the lot on plan description of the relevant property;
 - a statement that the adjudicated amount has not been paid; and
 - if applicable – confirmation that the registered owner of the relevant property is a ‘related entity’ for the respondent.

Normal lodgement fees apply but a duty notation is not required.

Extension of Charge

The charge expires 24 months after the day it is registered, however section 100C(3) of the BIF Act provides for a charge to be extended. The claimant can apply to a court of competent jurisdiction for an extension (of an additional period of not more than 24 months), prior to the expiry of the charge.

The claimant must notify the Registrar of Titles of the extension.

Form 14 – General Request is the appropriate form. A copy of the Court Order extending the charge must be deposited with the request.

^{1,2}Removal of Charge under the *Building Industry Fairness (Security of Payment) Act 2017* [14-2906]

The Building Industry Fairness (Security of Payment) Act (the BIF Act) provides for a charge under Section 100B of the BIF Act to be released or set aside.

Release of Charge

Request by Claimant

The claimant must release the charge as soon as practicable under section 100D(2) of the BIF Act when the charge expires or when the adjudicated amount is paid.

Form 14 – General Request is the appropriate form. The dealing number of the charge must be provided.

Normal lodgement fees apply but a duty notation is not required.

Request by Registered Owner

The registered owner of the relevant property can apply for a charge to be released under section 100D(4) of the BIF Act if the registered owner is satisfied the charge has expired or the adjudicated amount has been paid and the claimant has not released the charge.

Form 14 – General Request is the appropriate form. The dealing number of the charge must be provided. The request must be accompanied by a statutory declaration by the registered owner. The statutory declaration must include:

1. the lot on plan description of the relevant property; and
2. either:
 - (a) where the charge has expired:
 - (i) a statement that the charge has expired under:
 - s. 100C(1) of the BIF Act (24 months after the charge is registered); or
 - s. 100C(5)(a) of the BIF Act (adjudication decision set aside); or
 - s. 100C(5)(b) of the BIF Act (security payment by respondent); or
 - s. 100C(5)(c) of the BIF Act (court dismisses proceedings); and
 - (ii) if the charge expired under section 100C(1) of the BIF Act – a statement that a search of court records indicates that the claimant has not applied for an extension under section 100C(2) of the BIF Act; or
 - (b) confirmation that the adjudicated amount the subject of the charge has been paid to the claimant.

Normal lodgement fees apply but a duty notation is not required.

Setting aside a Charge

Section 100E of the BIF Act provides for the registered owner of the relevant property to apply to a court of competent jurisdiction to have a charge under Section 100B of the BIF Act set aside. If the court orders that the charge be set aside, the owner may request that the Registrar removes the charge.

Form 14 – General Request is the appropriate form. The request must be accompanied by a copy of the court order which sets aside the charge.

Normal lodgement fees apply but a duty notation is not required.

^{1,2}Request for separate indefeasible title for a lot

[14-2910]

Under provisions of s. 40 of the *Land Title Act 1994*, where the Registrar has created a single indefeasible title for two or more lots, the registered owner may request the Registrar to create separate indefeasible titles for any of the lots. Separate indefeasible titles can only issue for lots that:

- have the following depicted on the relevant survey plan:
 - a separate surveyed area;
 - dimensions;
 - a unique identifier; and
- have not been re-surveyed or cancelled.

A Form 14 – General Request is the appropriate form and must be signed by all of the registered owners. On registration of the request, a separate indefeasible title will be created for each of the lots contained in the title. The Registrar will not create an indefeasible title for multiple lots.

A duty notation is not required on the Request. Lodgement and creation of indefeasible title fees are applicable.

Where multiple parcels of land are compulsorily held in one title only by virtue of a condition of a local government consent on a plan, separate titles may be issued if the appropriate local government grants approval to the removal of the conditional consent and submits this decision in writing to the Registrar.

Prior to 1948 there was no legislative authority for local governments to conditionally consent to a plan of subdivision. The *Local Government Act 1936* was amended in 1948 to add s. 34A(3) (12 Geo. VI No 49, 1948, assented to and commenced 9 December 1948), and provide this authority. Accordingly, conditions placed on plans prior to 1948 are invalid. A common noting on these plans was ‘lots to be held in the one ownership’.

Where an application is lodged requesting separate indefeasible titles for lots over a plan that bears a notation of this nature the Registrar will:

- On plans with the local government approval dated on or after 9 December 1948, require local government consent before the titles can be issued. As a minimum, the council will have to provide their consent in writing on paper that contains their letterhead. The plan will then be noted that the conditional consent no longer applies.
- On plans with the local government approval dated before 9 December 1948, issue the titles with no further action.

2Request for separate title for a tenant in common

[14-2915]

A tenant in common of a share in a lot may request the Registrar to create a separate title for the share. A Form 14 – General Request is the appropriate form and must be signed by the tenant in common.

A duty notation is not required on the Request. Lodgement and creation of new title fees are applicable.

1Local government charge

[14-2920]

Section 95 of the *Local Government Act 2009* provides that a local government may register a charge over land or a lease under the *Land Act 1994*, for the payment of overdue rates or charges.

1Registration of a charge

[14-2930]

To register a charge a Form 14 – General Request is appropriate for the purpose and must be executed by the local government or by a lawyer. A certificate signed by chief executive of the local government stating that there is a charge over the land or the lease under the *Land Act 1994* must be deposited with the request.

A charge registered pursuant to s. 95 of the *Local Government Act 2009* has priority over all encumbrances over the land or the lease under the *Land Act* other than encumbrances in favour of the State or a government entity.

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

¹Removal of a charge**[14-2940]**

A registered charge under s. 95 of the *Local Government Act 2009* against a title may only be removed by lodgement of a Form 14 – General Request to remove the charge and must be executed by the local government or by a lawyer. A certificate signed by the chief executive officer or delegate of the local government stating that the overdue rates or charges have been paid must be deposited with the request.

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

[14-2495] and [14-2947] deleted

^{2,3}Subdivision of a Water Allocation**[14-2950]**

A registered owner of a water allocation seeking to subdivide it into two or more smaller allocations must first apply to the Chief Executive (s. 159(1) of the *Water Act 2000*) for the issue of a Water Allocation Dealing Certificate, whether or not the water allocation is managed under a Resource Operations Licence (ROL).

When the certificate approving the subdivision has been obtained, it must be deposited with a Form 14 – General Request Subdivision of a Water Allocation. Certificates are valid for 40 business days or until the expiry date shown on the certificate. A separate Form 14 – General Request is required to be lodged for each Water Allocation to be subdivided.

In addition for a subdivision of a water allocation managed under a ROL, a W2F152 – Notice of existence of water supply contract must also be deposited.

Lodgement fees (including a fee for each new water allocation title to be issued) apply. A duty notation is not required.

Where the water allocation is subject to a mortgage, the consent of the mortgagee in Form 18 – General Consent is required to be deposited with the request.

When a subdivision is lodged, no other dealings affecting the relevant title will be accepted for lodgement, until after the subdivision is registered.

See Example 32.

^{2,3}Amalgamation of Water Allocations**[14-2960]**

A registered owner of two or more water allocations seeking to amalgamate them into a single water allocation must first apply to the Chief Executive (s. 159(1) of the *Water Act 2000*) for the issue of a Water Allocation Dealing Certificate, whether or not the water allocations are managed under a Resource Operations Licence (ROL).

When the certificate approving the amalgamation has been obtained, it must be deposited with a Form 14 – General Request Amalgamation of Water Allocations. Certificates are valid for 40 business days or until the expiry date shown on the certificate. A separate Form 14 – General Request is required to be lodged for each amalgamation request.

In addition for an amalgamation of water allocations managed under a ROL, a W2F152 – Notice of existence of water supply contract must also be deposited.

Lodgement fees (including a fee for each new water allocation title to be issued) apply. A duty notation is not required.

Where the water allocation is subject to a mortgage, the consent of the mortgagee in Form 18 – General Consent is required to be deposited with the request.

When an amalgamation is lodged, no other dealings affecting the relevant title will be accepted for lodgement, until after the amalgamation is registered. This includes a collateral mortgage (see part 2 – Mortgage (National Mortgage Form), esp. [2-2080])

Where any resource related element of the water allocations to be amalgamated are not the same, the holder must change to the elements so that the water allocations being amalgamated have the same attributes. See [49-2970]. The Request to Change Water Allocation must be lodged prior to the Request to Amalgamate Water Allocations.

See Example 33.

2,³Change of Water Allocation

[14-2970]

A registered owner of a water allocation seeking to change a resource related element must apply to the Chief Executive (s. 159(1) of the *Water Act 2000*) for a Water Allocation Dealing Certificate approving such change to the resource related elements.

When the certificate approving the change has been obtained, it must be deposited with a Form 14 – General Request Change of a Water Allocation. Certificates are valid for 40 business days or until the expiry date shown on the certificate. A separate Form 14 – General Request is required to be lodged for each Water Allocation to be changed.

In addition, where the water allocation is managed by a Resource Operations Licence (ROL) holder a Form W2F152 – Notice of Existence of Water Supply Contract – issued by the ROL holder, is also required to be deposited with the request for change. See part 49 – Water Allocations, esp. [49-0030].

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

See Example 34.

1,²Charge under the *Water Supply (Safety and Reliability) Act 2008*

[14-2980]

Under s. 361 of the *Water Supply (Safety and Reliability) Act* where the Chief Executive gives a debt notice in relation to land that is not leased from the State under the *Land Act 1994*, the debt becomes a charge on the land. The Chief Executive must lodge a request to register a charge. The request must be on a Form 14 – General Request and state that the request is under Chapter 4 Part 1 Division 4 of the *Water Supply (Safety and Reliability) Act*. The request must be accompanied by:

- a certificate signed by the Chief Executive stating the debt is a charge over the land under Chapter 4 Part 1 Division 4 of the *Water Supply (Safety and Reliability) Act*; and
- a copy of the debt notice.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

The charge once registered on the title will not impede registration of other dealings. However, the charge attaches to the land and binds the owner and the owner's successors.

^{1,2}Release of Charge under the *Water Supply (Safety and Reliability) Act 2008*

[14-2990]

A charge under Chapter 4 Part 1 of Division 4 of the Water Supply (Safety and Reliability) Act (the Act) registered over land that is not leased from the State under the *Land Act 1994* may be released on the payment of the debt (s. 361(2) of the Act).

A request to release a charge under the above provision must be on a Form 14 – General Request which:

- shows the dealing number to be released; and
- is accompanied by a certificate stating that the debt has been paid.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

The Chief Executive is also authorised to lodge at any time a request to release a charge (s. 361(3) of the Act). A request to release the charge under s. 361(3) of the Act must be on a Form 14 – General Request which states:

- the dealing number to be released; and
- that the release is under s. 361(3) of the *Water Supply (Safety and Reliability) Act 2008*.

The request requires no supporting evidence.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

^{1,2}Amendment of Charge under the *Water Supply (Safety and Reliability) Act 2008*

[14-3000]

A charge under Chapter 4 Part 1 Division 4 of the Water Supply (Safety and Reliability) Act (the Act) registered over land that is not leased from the State under the *Land Act 1994* may be varied at any time by the Chief Executive under s. 361(3) of the Act.

A request to record a variation of charge must be on a Form 14 – General Request which:

- states the dealing number of the charge being varied; and
- is accompanied by a certificate stating the type of variation requested.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

^{1,3}Condition under s. 362 of the *Water Supply (Safety and Reliability) Act 2008*

[14-3010]

Under s. 362 of the Water Supply (Safety and Reliability) Act where the Chief Executive gives a debt notice in relation to land leased from the State under the *Land Act 1994*, the debt is a condition of the lease. The Chief Executive must lodge a request to register the condition. The request must be on a Form 14 – General Request and state the details of the condition and that

the request is under Chapter 4 Part 1 Division 4 of the Water Supply (Safety and Reliability) Act. The request must be accompanied by:

- a certificate signed by the Chief Executive stating the details of the debt; and
- a copy of the debt notice.

The request will usually be signed by the Director Water Allocations.

Lodgement fees are not applicable.

¹Removal of a Carbon Abatement Interest

[14-3015]

Under the provision of s. 97U(3) of the *Land Title Act 1994* or s. 373Y(3) of the *Land Act 1994*, a carbon abatement interest may be removed if:

- (a) a request to remove the carbon abatement interest is lodged, and the request establishes that—
 - (i) the period of time for which the carbon abatement interest was intended to exist has ended; or
 - (ii) an event upon which the carbon sequestration was intended to end has happened; or
- (b) the registrar receives a request to remove the interest under an Act of the Commonwealth.

The removal is lodged in a Form 14 – General Request. Any interested party can apply. If the removal is based upon the happening of an event then evidence that clearly establishes the occurrence of that event must be deposited.

If non-freehold land is involved, the Minister administering the Act must consent to the removal on a Form 18 – General Consent.

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

Forms

General Guide to Completion of Forms

[14-4000]

For general requirements for completion of forms see part 59.

A document that is lodged as an electronic conveyancing document must be accompanied by a set of lodgement instructions identifying the nominated Responsible Subscriber and the order in which the documents are to be lodged. The lodgement instructions must be digitally signed by the Responsible Subscriber for the transaction.

Guide to Completion of Form 14 for Examples 1 to 25

Item 1

[14-4010]

Insert nature of request.

Item 2**[14-4020]****^{1,2}Freehold Description**

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

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

^{2,3}Water Allocation Description

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

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

^{1, 3}State Tenure Description

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

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

Item 3**[14-4030]**

Insert, as the case requires, the full name of the person/entity owning or holding the interest which is the subject of the request and shown in Item 4, for example:

- the registered owner of a freehold lot; or the holder of a lease or licence under the *Land Act 1994*, or the holder of a water allocation; or
- the registered proprietor or holder of a secondary interest (e.g. mortgagee or lessee of a lease of freehold).

Item 4**[14-4040]**

Insert interest, either fee simple, water allocation, the type of State tenure e.g. State Lease, or lease or mortgage number.

Item 5**[14-4050]**

Insert full name of applicant.

Complete the postal address of the applicant for service of notice for a request that changes:

- the registered owner of a freehold lot; or
- the holder of a lease or licence under the *Land Act 1994*; or
- the holder of a water allocation; or

- the name or any part of the name of the above, for example a Request to Change Name or Request to Correct Name.

Item 6**[14-4060]**

Insert details of the Request.

Item 7**[14-4070]**

Complete and execute where indicated.

Example 1 – Request to Record Correction of Name (Natural Person) supported by a declaration from the solicitor's firm that prepared the original instrument or document

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP238942

Title Reference

11345070

3. Registered Proprietor/State Lessee

WAYNE KYLE PEARSON and MEREDITH JULIE PEARSON

4. Interest

FEE SIMPLE

5. Applicant

DWAYNE KYLE PEARSON

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: the name of one of the Registered Owners be corrected from Wayne Kyle Pearson to Dwayne Kyle Pearson in accordance with the declaration deposited herewith.

7. Execution by applicant

L J Fung
LOIS JANE FUNG

21/11/2007

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 1 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [11345070]

I, **LOIS JANE FUNG** of 24 Logan Road, Logan in the State of Queensland, Solicitor, do solemnly and sincerely declare as follows:

1. My firm, Smith & Co prepared a Form 1 – Transfer in the name of WAYNE Kyle Pearson and Meredith Julie Pearson lodged under Dealing No. 710478823.
2. The name WAYNE Kyle Pearson in item 5 of the transfer was shown incorrectly.
3. The name should have been shown as DWAYNE Kyle Pearson.

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

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

L J Fung

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 1A – Request to Record Correction of Name (Natural Person) supported by a declaration by the registered owner

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD CORRECTION OF NAME

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP238942

Title Reference

11345070

3. Registered Proprietor/State Lessee

WAYNE KYLE PEARSON and MEREDITH JULIE PEARSON

4. Interest

FEE SIMPLE

5. Applicant

DWAYNE KYLE PEARSON

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: the name of one of the Registered Owners be corrected from Wayne Kyle Pearson to Dwayne Kyle Pearson in accordance with the declaration deposited herewith.

7. Execution by applicant

L J Fung
LOIS JANE FUNG

21/11/2007

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 1A (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [11345070]

I, **DWAYNE KYLE PEARSON** of 24 Hideaway Close, Narangba in the State of Queensland, do solemnly and sincerely declare as follows:

1. On 20 May 2003 a transfer to Wayne Kyle Pearson and Meredith Julie Pearson was lodged under dealing 710478823.
2. My name in item 5 on the transfer was shown incorrectly as WAYNE Kyle Pearson.
3. My name should have been shown as DWAYNE Kyle Pearson as evidenced by the name shown in the copy of my certificate of birth deposited herewith.

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

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

D K Pearson

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 2 – Request to Record Change of Name of Registered Owner (Natural Person)

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD A CHANGE OF NAME

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

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

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: in accordance with the declaration dated 21 November 2007 deposited herewith, the change of name of Laura Margaret Barnard to Laura Margaret Windsor be registered.

7. Execution by applicant

21/11/07

Execution Date

L M Windsor

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 2 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [17688021]

I, **LAURA MARGARET WINDSOR**, do solemnly and sincerely declare as follows:

I am the person identical with Registered Owner **LAURA MARGARET BARNARD** named in Item 3 on the attached Form 14 – General Request.

My true and correct name is as shown in Item 5 on the Form 14 – General Request as **LAURA MARGARET WINDSOR** as on the 14th day of August 2007 I married **GEOFFREY MATTHEW WINDSOR**, as evidenced by the office copy Certificate of Marriage deposited herewith.

AND I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1867.

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

L M Windsor

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 3 – Request to Record Change of Name of Registered Owner (Corporation)

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO RECORD CHANGE OF NAME

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 14 ON RP977000

Title Reference

11326072

3. Registered Proprietor/State Lessee

XYZ CORPORATION LIMITED ACN 001 311 711

4. Interest

FEE SIMPLE

5. Applicant

EXIT CORPORATION LIMITED ACN 001 311 711

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE, QLD 4060

6. Request

I hereby request that: the change of name of the registered owner from XYZ Corporation Limited ACN 001 311 711 to Exit Corporation Limited ACN 001 311 711 be recorded.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

S Brown, Director
SAMUEL DENIS BROWN

G Wolfe, Director/Secretary
GERALD JOSEPH WOLFE

Applicant's or Solicitor's Signature

Example 4 – Request to Record Removal of Expired Lease from Title

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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1. Nature of request

REQUEST TO RECORD REMOVAL
OF EXPIRED LEASE FROM TITLE

Lodger (Name, address, E-mail & phone number) **Lodger
Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 27 ON RP131121

Title Reference

18329006

3. Registered Proprietor/State Lessee

SWANSDOWN PTY LTD ACN 020 777 420

4. Interest

LEASE NO. 300290364 (L336621P)

5. Applicant

BLACKDON PTY LTD ACN 030 662 421

6. Request

I hereby request that: the dealing noted in the attached statutory declaration marked Annexure "A" be removed from the title.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

D A Smith, Director
DIANNE ALLYSON SMITH

.....
M Hudson, Director/Secretary
MARGARET ALICE HUDSON

.....
Applicant's or Solicitor's Signature

Example 4 (contd)

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

ANNEXURE "A"

FORM 20 Version 2
Page 2 of 2

Title Reference [18329006]

This is annexure "A" referred to in the Form 14 – General Request executed for Blackdon Pty Ltd ACN 030 662 421 dated 21 November 2007.

I, **DIANNE ALLYSON SMITH** of Brisbane, in the State of Queensland, Director of Blackdon Pty Ltd ACN 030 662 421 do hereby solemnly and sincerely declare as follows:

1. I am duly authorised to make this declaration.
2. Lease registered under Dealing No 600290364 (L336621P) on Title Reference 18329006 may be removed, as the option to renew has not been exercised.

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

DECLARED AND SIGNED before me at Brisbane)
this 21st day of November 2007)

D A Smith

.....
(Signature of Declarant)

W J Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 5 – Request to Register Merger of Lease

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REGISTER MERGER OF LEASE

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

Lodger Code

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

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

21/11/07
Execution Date

J E Smith
.....
Applicant's or Solicitor's Signature
Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 6 – Request to Register Merger of Easement

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REGISTER MERGER
OF EASEMENT NO. 623456789

Lodger (Name, address, E-mail & phone number) **Lodger Code**
21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

Title Reference

DOMINANT TENEMENT

LOT 3 ON RP877500

21138062

SERVIENT TENEMENT

EASEMENT A IN LOT 4 ON RP877500

21138063

3. Registered Proprietor/State Lessee

XYZ CORPORATION LIMITED ACN 001 222 349

4. Interest

FEE SIMPLE

5. Applicant

XYZ CORPORATION LIMITED ACN 001 222 349

6. Request

I hereby request that: Easement No. 623456789 be merged in the fee simple of the land described above.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07
Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

P D Mazwell, Director
PETER DOUGLAS MAZWELL

.....
M S Hudson, Director/Secretary
MATTHEW STANLEY HUDSON

.....
Applicant's or Solicitor's Signature

Example 7 – Request to Register Discharge of Writ of Execution

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REGISTER DISCHARGE OF WRIT
OF EXECUTION BY ENFORCEMENT CREDITOR

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

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

21/11/07

Execution Date

E J Jones

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: If executed by the enforcement creditor no evidence is required
If executed by a solicitor for the enforcement credit, evidence of satisfaction of the debt is required see Part 12 esp. clause [12-2060]

Example 8 – Request to Record Removal of Caveat

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

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1. Nature of request

REQUEST TO RECORD REMOVAL OF CAVEAT

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 2 ON RP112234

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 court order dated 3 April 2007 deposited herewith, Caveat No. 630711945 be removed.

7. Execution by applicant

21/11/07

Execution Date

J D Browne

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

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



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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

21/11/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Evidence of satisfaction of the debt is required to be deposited see Part 12 esp. clause [12-2070]

Example 10 – Request to Record Extension of Writ of Execution

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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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 2007 deposited herewith, you record an extension for a period of three months of Writ of Execution No. 634882911.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

M P Laidlaw, Director
MARTIN PETRIE LAIDLAW

.....
D T Wright, Director/Secretary
DOUGLAS THOMAS WRIGHT

.....
Applicant's or Solicitor's Signature

Example 11 – Request to Register Standard Terms Document

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO REGISTER STANDARD
TERMS DOCUMENT FOR LEASE

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

**Lodger
Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

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

21/11/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Example 12 – Request to Record Transmission by Bankruptcy (Request by Official Trustee)

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 3

Dealing Number



OFFICE USE ONLY

Privacy Statement

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

1. Nature of request

REQUEST TO RECORD
TRANSMISSION BY BANKRUPTCY

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 2 ON RP571535

Title Reference

30066134

3. Registered Proprietor/State Lessee

EDWARD ROBERT SULLIVAN

4. Interest

FEE SIMPLE

5. Applicant

THE OFFICIAL TRUSTEE IN BANKRUPTCY

Address for the service of notices to the applicant: USE CURRENT RECORDED ADDRESS

6. Request

I hereby request that: the applicant be registered as a proprietor of the estate or interest specified in Item 4 in the and described in Item 2 in consequence of the bankruptcy of EDWARD ROBERT SULLIVAN as evidenced by the National Personal Insolvency index extract and declaration deposited herewith.

7. Execution by applicant

The seal of the Official Trustee in
Bankruptcy was hereto affixed by me,
Digby Nicholas Bartholomew Ross,
the Official Receiver for the Bankruptcy
District of the State of Queensland

(seal)

D N B Ross

21/10/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index;
- Supporting declaration/s.

Example 12 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 3

Title Reference [3006134]

I, **DIGBY NICHOLAS BARTHOLOMEW ROSS** of c/- 13th Level, 340 Adelaide Street, Brisbane in the State of Queensland, a Commonwealth Public Servant, do solemnly and sincerely declare that:

1. I am the Official Receiver for the Bankruptcy District of the State of Queensland under the *Bankruptcy Act 1966* (Cth) and am authorised to act on behalf of the Official Trustee in Bankruptcy pursuant to s. 18(8) of the Act.
2. Edward Robert Sullivan is registered as proprietor of an estate in fee simple in that land comprised in Indefeasible Title 30066334 being Lot 2 RP571535.
3. The said Edward Robert Sullivan registered as proprietor in the said Indefeasible Title is one and the same person as and identical with the Edward Robert Sullivan mentioned in extract from the National Personal Insolvency Index deposited herewith who disclosed his interest in the said land as an asset of his estate.
4. I am advised and verily believe that by virtue of section 58 of the *Bankruptcy Act 1966* (Cth) the Official Trustee in Bankruptcy is entitled to be registered as proprietor of the interest of Edward Robert Sullivan in the said land.

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

SIGNED AND DECLARED by **DIGBY NICHOLAS**)
BARTHOLOMEW ROSS at Brisbane in the State of)
Queensland this 21st day of October 2007)

D B N Ross

.....
(Signature of Declarant)

H P Thomas JP (Qual.) #19833

.....
(Signature of a Justice of the Peace/Solicitor)

HAROLD PETER THOMAS

.....
(Name of Witness in Full)



**National Personal Insolvency Index
Insolvency Trustee Service Australia
Extract as at 04:18 pm 21-Nov-2007**

Name	SULLIVAN, EDWARD ROBERT		
Date of Birth	16-Sep-1942	Administration Type	Bankruptcy
Administration Number	QLD 2541/3/0	Petition Type	Debtor Petition
Date Filed	20-Oct-2006		
Date SA Filed	20-Oct-2006		
Entered on NPII	20-Oct-2006		
Date Ended	<No Data Held>		
Result	<No Result>		
Address	1 Choonda Street CORINDA QLD 4075		
Occupation	UNEMPLOYED		
Business Name	<No Data Held>		
Business Address	<No Data Held>		
Trustee	OFFICIAL TRUSTEE IN BANKRUPTCY		
Overall Summary	This individual is an undischarged bankrupt.		

**End of
Report**

Example 13 – Request to Record Transmission by Bankruptcy (Request by Trustee other than Official Trustee)

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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Privacy Statement

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1. Nature of request

REQUEST TO RECORD
TRANSMISSION BY BANKRUPTCY

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 33 ON RP213130

Title Reference

34567112

3. Registered Proprietor/State Lessee

ROBERT TIMOTHY MCCARTHY and ANNA JANE MCCARTHY

4. Interest

THE ½ SHARE OF AN ESTATE IN FEE SIMPLE HELD BY ROBERT TIMOTHY MCCARTHY IN THE LOT DESCRIBED IN ITEM 2.

5. Applicant

THE TRUSTEE OF THE PROPERTY OF ROBERT TIMOTHY MCCARTHY (a bankrupt)
ADDRESS FOR THE SERVICE OF NOTICES TO THE APPLICANT: LEVEL 30, 1 EAGLE STREET,
BRISBANE, 4000

6. Request

I hereby request that the applicant be registered as proprietor of the estate or interest specified in Item 4 in the land described in item 2 in consequence of the bankruptcy of ROBERT TIMOTHY MCCARTHY as evidenced by the National Personal Insolvency Index extract and in accordance with the declaration of Arthur Wayne Lachlan deposited herewith.

7. Execution by applicant

A W Lachlan
Arthur Wayne Lachlan as Trustee in Bankruptcy

21/11/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Extract from the National Personal Insolvency Index (see Example 12);
- Supporting documentation.

Example 13 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [34567112]

I, **ARTHUR WAYNE LACHLAN**, Chartered Accountant of c/- Level 30, Waterfront Place, 1 Eagle Street, Brisbane, Queensland do solemnly declare as follows:

1. On 1 November 2006 I became the trustee in bankruptcy of the estate of Robert Timothy McCarthy pursuant to a sequestration order made that day in the Federal Court by District Registrar McPherson sitting in the General Division of the Bankruptcy Division of the State of Queensland, the order having been made after all requirements of s. 52 of the *Bankruptcy Act 1966* (Cth) were satisfied.
2. Pursuant to s58 of the *Bankruptcy Act 1966* (Cth), upon the making of the said sequestration order, all the divisible property of Robert Timothy McCarthy vested in me. That divisible property includes the right title and interest of Robert Timothy McCarthy.
3. The said Robert Timothy McCarthy is one and the same person and identical with the Robert Timothy McCarthy mentioned in the extract from the National Personal Insolvency Index deposited herewith.
4. The said Robert Timothy McCarthy disclosed his interest in the property described as Lot 33 on RP 213130 contained in Indefeasible Title 34567112 as an asset of his estate.

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

SIGNED AND DECLARED by **ARTHUR WAYNE**)
LACHLAN at Brisbane in the State of Queensland this)
21st day of November 2007)

A W Lachlan

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 14 deleted



Example 15 – Request to Record Annulment of Bankruptcy

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD ANNULMENT
OF BANKRUPTCY

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 811 ON RP993662

Title Reference

13182248

3. Registered Proprietor/State Lessee

TRUSTEE OF THE PROPERTY OF KAREN ELIZABETH JOHNSTONE (A BANKRUPT)

4. Interest

FEE SIMPLE

5. Applicant

KAREN ELIZABETH JOHNSTONE

ADDRESS FOR THE SERVICE OF NOTICES TO THE APPLICANT: 160 MARSDEN ROAD KALINGA QLD 4030

6. Request

I hereby request that: the above land be vested in the applicant in consequence of the annulment of the bankruptcy of KAREN ELIZABETH JOHNSTONE as evidenced by the extract from the National Personal Insolvency deposited herewith.

7. Execution by applicant

21/11/07	<i>K E Johnstone</i>
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])

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

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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

21/11/07

Execution Date

J E Cornwall

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Certified copy of certificate of death, or evidence of relinquishment of life interest, as applicable.

Example 17 – Request for Title by Adverse Possession

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 4

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST FOR TITLE BY ADVERSE POSSESSION

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

Lodger Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 4 ON RP955211

Title Reference

19229134

3. Registered Proprietor/State Lessee

ANGUS THOMAS BLACK

4. Interest

FEE SIMPLE

5. Applicant

LAWRENCE FABIAN FORBES

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 3 Brisbane Road, Brisbane 4000

6. Request

I hereby request that: pursuant to Part 6, Division 5 of the Land Title Act 1994 and in accordance with the declarations and the other evidence deposited herewith, I be recorded as Registered Owner in fee simple by adverse possession of the land described above.

7. Execution by applicant

L F Forbes

8/10/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:
▪ Supporting declaration and evidence.

Example 17 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 4

Title Reference [19229134]

I, **LAWRENCE FABIAN FORBES**, of 3 Brisbane Road, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. I am the applicant in an application for title by adverse possession dated 8 October 2007 lodged with the Registrar of Titles.
2. I began occupying the subject land on or about 7 January 1975. To the best of my knowledge the land had not been occupied for some time. The land was vacant.
3. On 30 June 1975 I completed construction of a dwelling house on the land. I have continued to use the land for residential purposes up to the date of this application.
4. Since 30 June 1975 I have paid rates on the land to the Brisbane City Council as evidenced by the attached certificate.
5. I enclose declaration by Edith Dora Leary and Francis Terrence Darville, residents of No. 2 and No. 7 Brisbane Road, Brisbane respectively testifying as to my occupation of the land.
6. There is no person in possession or occupation of the land adversely to my estate or interest therein.
7. I am not aware of any mortgage, encumbrance or claim affecting the land or that any person other than the registered owner has any claim, estate or interest in the land in law or in equity.
8. I have never been the tenant of the registered owner of the land and I have never been contacted by him or anyone acting on his behalf.
9. I have no documents, receipts or contracts in my possession or under my control from the registered owner of any other person deriving title thereunder relating to the land.
10. In consequence of the evidence herein set forth I verily believe and claim that I am entitled to be registered as owner of the land described above under Part 6, Division 5 of the *Land Title Act 1994*.

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

SIGNED AND DECLARED before me at Brisbane)
this 8th day of October 2007)

L F Forbes

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 17 (contd)

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

DECLARATION

FORM 20 Version 2
Page 3 of 4

Title Reference [19229134]

I, **EDITH DORA LEARY**, of 2 Brisbane Road, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. I have occupied 2 Brisbane Road, Brisbane since 1972.
2. I recall that Lawrence Fabian Forbes commenced occupation of the property at 3 Brisbane Road, Brisbane on or about January 1975.
3. I remember that shortly after that time Lawrence Fabian Forbes constructed a home on the land.
4. Since that time Lawrence Fabian Forbes has used the land for his residence.
5. To the best of my knowledge at no time has any person come forward claiming an interest in the land.

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

SIGNED AND DECLARED before me at Brisbane)
this 8th day of October 2007)

E D Leary

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 17 (contd)

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

DECLARATION

FORM 20 Version 2
Page 4 of 4

Title Reference [19229134]

I, **FRANCIS TERRENCE DARVILLE** of 7 Brisbane Road, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. On 13 September 1970 I purchased 7 Brisbane Road, Brisbane. I have lived at that address since that time.
2. I remember that around January 1975 Lawrence Fabian Forbes was occupying 3 Brisbane Road, Brisbane. I remember that in the winter of 1975 Lawrence Fabian Forbes built a home on the land.
3. I have not noticed any other person come forward claiming an interest in that land.
4. Lawrence Fabian Forbes has occupied the land since 1975.

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

SIGNED AND DECLARED before me at Brisbane)
this 8th day of October 2007)

F T Darville

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 18 – Request to Register Order of Foreclosure and Vesting

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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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: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: in accordance with the court order dated 20 July 2007 deposited herewith you register the order for foreclosure and vesting of the interest of the Registered Owner shown in Item 4 above in the applicant.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

M J Kendall, Director
MARCUS JOHN KENDALL

K M Chan, Director/Secretary
KEVIN MICHAEL CHAN

Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Court issued copy of the order;
- If the court order stipulates conditions for foreclosure and vesting to occur – a statutory declaration from the mortgagee or their solicitor declaring that the conditions have been met.

Example 19 – Request to Record Revocation of Resumption

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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Privacy Statement

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1. Nature of request

REQUEST TO RECORD REVOCATION
OF RESUMPTION

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 10 ON RP223344

Title Reference

13123066

3. Registered Proprietor/State Lessee

MORETON BAY REGIONAL COUNCIL (FORMERLY CABOOLTURE SHIRE COUNCIL)

4. Interest

FEE SIMPLE

5. Applicant

MORETON BAY REGIONAL COUNCIL

ADDRESS FOR SERVICE OF NOTICES: 22 REAL STREET, NARANGBA QLD 4460

6. Request

I hereby request that: in accordance with the gazette notice dated 11 May 2007 revoking a previous gazette notice registered under dealing 6032214/88 you record the revesting of the above described land in the name of DEVELOPMENT CO PTY LTD ACN 003 520 397 for an estate in fee simple.

7. Execution by applicant

S Jones,

.....
MORETON BAY REGIONAL COUNCIL
Stephen James Jones Chief Executive Officer
.....

21/11/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Proclamation revoking resumption.

Example 20 deleted



Example 21 – Request to Record Determination of Lease

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



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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

XYZ COPORATION LIMITED ACN 003 976 423

4. Interest

LEASE NO. 718654213

5. Applicant

ABC CORPORATION LTD ACN 011 632 911

6. Request

I hereby request that: Lease No. 718654213 be determined and cancelled from the above title in accordance with the attached statutory declaration.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

L Blundell, Director
LAUREL BLUNDELL

.....
J Smith, Director/Secretary
JORDAN RAYMOND SMITH

.....
Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Supporting documentation.

Example 21 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [13088190]

I, **LAUREL BLUNDELL** of 122 Edward Street, Brisbane, Queensland do solemnly and sincerely declare as follows:

1. I am a director of ABC Corporation Ltd ACN 011 632 911 and am duly authorised to make this declaration on its behalf.
2. On 5 November 2002 ABC Corporation Ltd as lessor entered into Lease No. 718654213 with XYZ Corporation Limited ACN 003 976 423 as lessee of the premises known as Sunshine Place situated at 14 Sunny Street, Brisbane and described as Lot 12 on RP674555.
3. On 1 March 2007 ABC Corporation Ltd served the two notices annexed hereto ("**Notices**") claiming breaches of the lease on the Principal Executive Officer, Richard Manuel Morrow at the lessee's registered office at 222 Bowen Road, Manly.
4. The breaches stated in the Notices were not remedied by the lessee and the lease was subsequently determined by the Registered Owner who re-entered and took possession of the premises.

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

SIGNED AND DECLARED before me at Brisbane)
this 21st day of November 2007)

L Blundell

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 22 – Request to Record Retirement (or Discharge) of Trustee

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD THE RETIREMENT
(OR DISCHARGE) OF TRUSTEE

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 17 ON RP113268

Title Reference

13088190

3. Registered Proprietor/State Lessee

JONATHON MATTHEW BRADY AS TRUSTEE UNDER INSTRUMENT NO. 732468931

4. Interest

FEE SIMPLE

5. Applicant

ANTHEA NICOLA RICHARDS

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: you record the retirement/discharge of the above named Jonathon Matthew Brady in accordance with terms of the deed of retirement (or discharge) deposited.

7. Execution by applicant

21/11/07

Execution Date

A N Richards

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Certified copy of original deed of retirement (or discharge).

Example 23 – Request to Record Merger of Estates

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 2

Dealing Number



OFFICE USE ONLY

Privacy Statement

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1. Nature of request

REQUEST TO RECORD MERGER OF ESTATES

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

Lodger Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 3 ON RP32044

Title Reference

22383085

3. Registered Proprietor/State Lessee

JONATHAN COLIN MIDDLETON AS DEVISEE IN TRUST

4. Interest

FEE SIMPLE

5. Applicant

JONATHAN COLIN MIDDLETON

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 30 INALA AVENUE, BROWNS PLAINS QLD 4060

6. Request

I hereby request that: you register the applicant as the registered owner of the lot pursuant to a merger of the beneficial and legal estate.

7. Execution by applicant

10/11/07

Execution Date

J C Middleton

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:
• Supporting declaration.

N.B. – The request requires a duty notation.

Example 23 (contd)

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

DECLARATION

FORM 20 Version 2
Page 2 of 2

Title Reference [23383085]

I, **JONATHAN COLIN MIDDLETON** of 30 Inala Avenue, Browns Plains in the State of Queensland do solemnly and sincerely declare as follows:

1. I am the executor of the estate of Rose Middleton, and the registered owner of the lot described in the attached Form 14 – General Request as devisee in trust.
2. Pursuant to the will of Rose Middleton, deposited with Transmission by Death No. 700015762, Joyce Elva Middleton is the life tenant of the said lot, and I am the devisee in trust.
3. The life tenant, Joyce Elva Middleton, died on 14 September 2007 as appears by the certificate of death deposited herewith. I am the sole beneficiary.
4. I have effected all executorial duties in respect of the administration of the estate of Rose Middleton deceased.
5. The legal and beneficial estates have merged and are vested in me.

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

SIGNED AND DECLARED before me at Brisbane)
this 10th day of November 2007)

J C Middleton

.....
(Signature of Declarant)

WJ Brown JP(Qual.) #12345

.....
(Signature of a Justice of the Peace/Solicitor)

WILLIAM JOHN BROWN

.....
(Name of Witness in Full)

Example 24 – Request to Record Incorporated Association

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

RECORDING UNDER THE ASSOCIATIONS
INCORPORATION ACT 1981

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

JOHN WATERHEAD.
24 FLATHEAD COURT
SURFHAVEN QLD 4999
(07) 3278 5943

2. Lot on Plan Description

LOT 999 ON RP9999999

Title Reference

14399224

3. Registered Proprietor/State Lessee

WILLIAM SANDMAN and NORMAN BEACHCOMBER AS TRUSTEE OF THE COASTAL GOLF CLUB UNDER
NOMINATION OF TRUSTEES 666655554

4. Interest

FEE SIMPLE

5. Applicant

COASTAL GOLF CLUB INCORPORATED

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: 22 REAL STREET, ASHGROVE QLD 4060

6. Request

I hereby request that: the Registrar of Titles record the interest of the above registered proprietors in the name of the applicant in accordance with s. 24 of the Associations Incorporation Act 1981 and certify that the applicant is incorporated as evidenced by the certificate of incorporation deposited.

7. Execution by applicant

J D Surfboard
JOHN DAVID SURFBOARD
Secretary, Coastal Golf Club Incorporated

21/11/07
Execution Date **Applicant's or Solicitor's Signature**
Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: It should be noted that:

- the registered proprietor/State Lessee in Item 3 should be as shown on the current title/lease; and
- the applicant in Item 5 is the incorporated association; and
- the request in Item 6 should be substantially as shown in the example; and
- the signing of Item 7 must be by the secretary of the association (see ss24(1), (2) and (3) of the *Associations Incorporation Act 1981*; and
- these Requests attract normal lodgement fees; and
- there is no duty payable; and
- a copy of the certificate of incorporation, issued by the relevant agency and certified by an appropriate officer of that agency is to be provided; or
- the alternative arrangements whereby the original certificate and a photocopy are presented, checked and the photocopy noted by the Receiving Officer as being a true copy of the original, the noted copy retained and the original returned to the lodger is acceptable.

**Example 25 – Application by Local Government under Chapter 4 Part 12 Division 3
of the Local Government Regulation 2012**

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

APPLICATION BY LOCAL GOVERNMENT UNDER
CHAPTER 4 PART 12 DIVISION 3 OF THE
LOCAL GOVERNMENT REGULATION 2012

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

LOT 10 ON RP120610

Title Reference

11223134

3. Registered Proprietor/State Lessee

JOHN DAVID BROWN

4. Interest

FEE SIMPLE

5. Applicant

SMITHSON CITY COUNCIL

ADDRESS FOR SERVICE OF NOTICES TO THE APPLICANT: PO BOX 31 SMITHSON QLD 4878

6. Request

I hereby request that: under Chapter 4 Part 12 Division 3 of the Local Government Regulation 2012 the land in item 2 be registered in the name of the applicant in Item 5.

7. Execution by applicant

(local government seal)

22/11/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

J Bloggs
Authorised Officer

.....
Applicant's or Solicitor's Signature

Example 26 – Request to Remove a Profit a Prendre

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO REMOVE PROFIT A PRENDRE

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

Lodger Code

21

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

2. Lot on Plan Description

LOT 5 ON RP900432

Title Reference

50008710

3. Registered Proprietor/State Lessee

KRISTINA MARIA JOHNSON

4. Interest

PROFIT A PRENDRE NO. 700258637

5. Applicant

KRISTINA MARIA JOHNSON

6. Request

I hereby request that: Profit a Prendre No. 700258637 be removed as the term specified in instrument expired on 20/09/2007.

7. Execution by applicant

F B Chan
FRED BRIAN CHAN

21/9/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

¹Guide to Completion of Form 14 for Example 26

Item 1 [14-4090]

Insert the nature of the request.

Item 2 [14-4100]

Insert the ‘Lot on Plan’ descriptions and identify all burdened and, if applicable, benefited lots comprised in the profit a prendre.

Item 3 [14-4110]

Insert the full name(s) of the registered proprietor(s) or holder(s) of the lot(s) affected by the profit a prendre.

Item 4 [14-4120]

Insert the profit a prendre number.

Item 5 [14-4130]

Insert the full name of the applicant.

Item 6 [14-4133]

Insert the appropriate words for the relevant request.

Item 7 [14-4136]

Execute as required.

Example 27 – Request to Record Reservation of Name for a Community Titles Scheme

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

GENERAL REQUEST

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

21/9/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

C Johns, Director
CHARLES ANTHONY JOHNS

K Brown, Director/Secretary
KENNETH ROBERT BROWN

Applicant's or Solicitor's Signature

^{1, 2}Guide to Completion of Form 14 for Example 27

Item 1

[14-4140]

Insert the nature of the request (i.e. ‘Request for reservation of name/extension of reservation of name/withdrawal of reservation of name’).

Item 2

[14-4150]

Insert the full description of:

- the land for the proposed scheme; or
- the common property, if the name is to be reserved over an existing scheme.

Item 3

[14-4160]

Insert the full name(s) of the registered owner(s).

Item 4

[14-4170]

Insert fee simple.

Item 5

[14-4180]

Insert the full name of the applicant.

Item 6

[14-4190]

Insert the appropriate words for the relevant request.

Item 7

[14-4200]

Execute as required.

Example 28 – Request to Record “First” Community Management Statement

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

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)

**Lodger
Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

LOT 70 ON SP900432

Title Reference

50046270

3. Registered Proprietor/State Lessee

BRIGHTON PTY LTD ACN 007 768 903

4. Interest

NOT APPLICABLE

5. Applicant

BRIGHTON PTY LTD ACN 007 768 903

6. Request

I hereby request that: the first CMS deposited herewith be recorded as the CMS for Brighton Villa Community Titles Scheme and that 32 This Rd Indooroopilly Qld 4068 be recorded as address for service on the body corporate for the scheme.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/10/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

C Johns, Director
CHARLES ANTHONY JOHNS

.....
K R Brown, Director/Secretary
KENNETH ROBERT BROWN

.....
Applicant's or Solicitor's Signature

^{1, 2}Guide to Completion of Form 14 for Example 28

Lodger Details

[14-4218]

The name, address, contact phone number and lodger code (if applicable) should be completed by the person/firm actually lodging the request for registration.

Item 1

[14-4220]

Insert the nature of the request.

Example:

‘Request to record first community management statement for Brighton Villa community titles scheme’.

Item 2

[14-4230]

Insert the lot on plan description and title reference for each current parcel which will be subdivided to create the scheme land.

Example:

2.	Lot on Plan Description	Title Reference
	Lot 70 on RP885798	50046270

Item 3

[14-4240]

Insert the name(s) of the registered owner(s) as per the title(s).

Item 4

[14-4250]

Insert not applicable.

Item 5

[14-4260]

Insert the name of the applicant – registered owner(s).

Item 6

[14-4270]

Insert the appropriate words of request including the address for service.

Example:

‘... the first CMS deposited herewith be recorded as the CMS for Brighton Villa community titles scheme and that (show postal address) be recorded as the address for the service of the body corporate for the scheme’.

Item 7

[14-4280]

Execution may be by the applicant or applicant’s solicitor. If signed by a solicitor print the full name of the solicitor signing.

Example 29 – Request to Record “New” Community Management Statement

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

GENERAL REQUEST

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 NEW COMMUNITY
MANAGEMENT STATEMENT FOR FAWLTY
TOWERS COMMUNITY TITLES SCHEME 2345

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

COMMON PROPERTY OF FAWLTY
TOWERS COMMUNITY TITLES
SCHEME 2345

Title Reference
19203231

3. Registered Proprietor/State Lessee

BODY CORPORATE FOR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

4. Interest

NOT APPLICABLE

5. Applicant

BODY CORPORATE FOR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

6. Request

I hereby request that: the new CMS deposited herewith which amends (insert appropriate Item and schedule e.g. Item 2 (regulation module) and Schedule C) of the existing CMS be recorded as the CMS for Fawltly Towers Community Titles Scheme 2345.

7. Execution by applicant

(seal of body corporate)

J Cleese, Chairperson
JASON JOHN CLEESE

.....
C Booth, Secretary/Treasurer
CELESTE SYBIL BOOTH

21/10/07

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

^{1, 2}Guide to Completion of Form 14 for Example 29

Lodger Details

[14-4290]

The name, address, contact phone number and lodger code (if applicable) should be completed by the person/firm actually lodging the request for registration

Item 1

[14-4300]

Insert the nature of the request.

Example:

‘Request to record new community management statement for Fawltly Towers community titles scheme 2345.’

Item 2

[14-4310]

Insert the description and title reference for the common property for the scheme.

Example:

2.	Lot on Plan Description	Title Reference
	Common property of Fawltly Towers community titles scheme 2345	19201331

Item 3

[14-4320]

Insert the name of the body corporate e.g. ‘Body corporate for Fawltly Towers community titles scheme 2345’.

Item 4

[14-4330]

Insert not applicable.

Item 5

[14-4340]

Insert the name of the body corporate e.g. ‘Body corporate for Fawltly Towers community titles scheme 2345’.

Item 6

[14-4350]

Insert the appropriate words of request.

Example:

‘... the new CMS deposited herewith which amends (for example) Schedule(s) (A etc) and/or (for example) Item 2 (regulation module) of the existing CMS be recorded as the CMS for Fawltly Towers community titles scheme 2345.’

Item 7

[14-4360]

Execution may be by the applicant or applicant’s solicitor. If signed by a solicitor print the full name of the solicitor signing.

Example 30 – Request to Record Change of Address for Body Corporate

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO RECORD CHANGE OF
ADDRESS FOR THE BODY CORPORATE

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

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

**Lodger
Code**
21

2. Lot on Plan Description

COMMON PROPERTY OF BRIGHTON
VILLA COMMUNITY TITLES SCHEME
1246

Title Reference
50055887

3. Registered Proprietor/State Lessee

BODY CORPORATE FOR BRIGHTON VILLA COMMUNITY TITLES SCHEME 1246

4. Interest

NOT APPLICABLE

5. Applicant

BODY CORPORATE FOR BRIGHTON VILLA COMMUNITY TITLES SCHEME 1246

6. Request

I hereby request that: the address for the service of body corporate under s. 315 of the Body Corporate and Community Management Act 1997 be recorded as 32 Any Road, Indooroopilly Q 4068.

7. Execution by applicant

(seal)

C Johns, Chairperson
CHARLES ANTHONY JOHNS

K R Brown, Secretary
KENNETH ROBERT BROWN

21/10/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

^{1, 2}Guide to Completion of Form 14 for Example 30

Item 1 [14-4370]

Insert the nature of the request.

Item 2 [14-4380]

Insert the description and title reference of the common property e.g. ‘Common property of Brighton Villa community titles scheme 1246’.

Item 3 [14-4390]

Insert the name of the body corporate e.g. ‘Body corporate for Brighton Villa community titles scheme 1246’.

Item 4 [14-4400]

Insert not applicable.

Item 5 [14-4410]

Insert the name of the body corporate.

Item 6 [14-4420]

Insert the appropriate request which includes the new address for service of the body corporate.

Item 7 [14-4430]

Execute as required.

Example 31 – Request to Record Update of Power of Attorney

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

REQUEST TO RECORD UPDATE
OF POWER OF ATTORNEY

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

**Lodger
Code**

SMITH & CO.
SOLICITORS
218 EDWARD STREET
BRISBANE QLD 4000
mail@smithco.com.au
(07) 3278 5943

21

2. Lot on Plan Description

NOT APPLICABLE

Title Reference

3. Registered Proprietor/State Lessee

ABC PTY LTD ACN 001 002 003

4. Interest

POWER OF ATTORNEY NO. 701234567

5. Applicant

XYZ PTY LTD ACN 001 002 003

6. Request

I hereby request that: XYZ Pty Ltd ACN 001 002 003 be recorded as the principal [or attorney] in Power of Attorney No 701234567 in accordance with the certified copy of the certificate of change of name [or other relevant evidence] deposited herewith.

7. Execution by applicant

W G Smith
WILLIAM GRAHAME SMITH

21/9/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Copy of evidence certified by the relevant issuing agency

Guide to Completion of Form 14 for Example 31

Item 1 [14-4440]

Insert the nature of the request.

Item 2 [14-4450]

Insert not applicable.

Item 3 [14-4460]

Insert the name of the principal/attorney as registered.

Item 4 [14-4470]

Insert the reference to the power of attorney to be updated.

Item 5 [14-4480]

Insert full name of principal/attorney to be registered.

Item 6 [14-4490]

Insert details of the request.

Item 7 [14-4500]

Execute as required.

Example 32 – Subdivision of Water Allocation

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

SUBDIVISION OF WATER ALLOCATION

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

A. Water-Owner
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

2. Lot on Plan Description

LOT 1234 ON AP1234

Title Reference

46009999

3. Registered Proprietor/State Lessee

ALFRED BRIAN WATER-OWNER and BETTY BEATRICE WATER-OWNER

4. Interest

WATER ALLOCATION

5. Applicant

ALFRED BRIAN WATER-OWNER and BETTY BEATRICE WATER-OWNER

6. Request

I hereby request that: the Water Allocation shown in Item 2 be subdivided in accordance with Dealing Certificate No. 199999 deposited herewith.

7. Execution by applicant

A B Water-Owner
B B Water-Owner

21/9/07

Execution Date

Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Water Allocation Dealing Certificate
- If managed under a Resource Operations Plan: Notice to registrar of water allocations of Existence of Supply Contract (W2F152)

^{2, 3}Guide to Completion of Form 14 for Example 32**Item 1** [14-4510]

Insert the nature of the request.

Item 2 [14-4520]

Insert Lot/Plan description of water allocation to be subdivided. Only one Water Allocation is permitted on each Form 14 –General Request.

Item 3 [14-4530]

Insert the full name(s) of the registered owner(s).

Item 4 [14-4540]

Insert: Water Allocation.

Item 5 [14-4550]

Insert the full name of the applicant.

Item 6 [14-4560]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: the water allocation shown in Item 2 be subdivided in accordance with Dealing Certificate No. 199999 deposited herewith.

Item 7 [14-4570]

Execute as required.

Example 33 – Amalgamation of Water Allocation

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

AMALGAMATION OF WATER ALLOCATION

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

A. Water-Owner
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

2. Lot on Plan Description

Title Reference

LOT 1234 ON AP1234
LOT 1235 ON AP1234

46009999
46008888

3. Registered Proprietor/State Lessee

AQUA OWNERS PTY LTD A.C.N. 999 999 999

4. Interest

WATER ALLOCATION

5. Applicant

AQUA OWNERS PTY LTD A.C.N. 999 999 999

6. Request

I hereby request that: the Water Allocations shown in Item 2 be amalgamated in accordance with Dealing Certificate No. 199998 deposited herewith.

7. Execution by applicant

(seal)
or full name of
company to be shown

21/9/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

A Water-Owner, Director
ALFRED BRIAN WATER-OWNER

B Water-Owner, Director/Secretary
BETTY BEATRICE WATER-OWNER

Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Water Allocation Dealing Certificate
- If managed under a Resource Operations Plan: Notice to registrar of water allocations of Existence of Supply Contract (W2F152)

^{2, 3}**Guide to Completion of Form 14 for Example 33**

Item 1 [14-4580]

Insert the nature of the request.

Item 2 [14-4590]

Insert Lot/Plan description of all Water Allocations to be amalgamated. Only one amalgamation request is permitted on each Form 14 – General Request.

Item 3 [14-4600]

Insert the full name(s) of the registered owner(s).

Item 4 [14-4610]

Insert: Water Allocation.

Item 5 [14-4620]

Insert the full name of the applicant.

Item 6 [14-4630]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: the water allocations shown in Item 2 be amalgamated in accordance with Dealing Certificate No. 199998 deposited herewith.

Item 7 [14-4640]

Execute as required.

Example 34 – Change of Water Allocation

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number



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1. Nature of request

CHANGE OF WATER ALLOCATION

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

B. F. Pioneer
PO Box 999
ANYTOWN QLD 4999
(07) 4999 9999

2. Lot on Plan Description

LOT 1234 ON AP1234

Title Reference

46009999

3. Registered Proprietor/State Lessee

BURNETT FITZROY PIONEER

4. Interest

WATER ALLOCATION

5. Applicant

BURNETT FITZROY PIONEER

6. Request

I hereby request that: the Water Allocation shown in Item 2 be changed in accordance with Dealing Certificate No. 199998 deposited herewith.

7. Execution by applicant

21/9/07

Execution Date

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

B F Pioneer

Applicant's or Solicitor's Signature

NOTE: Items to be deposited:

- Water Allocation Dealing Certificate
- If managed under a Resource Operations Plan: Notice to registrar of water allocations of Existence of Supply Contract (W2F152)

^{2, 3}**Guide to Completion of Form 14 for Example 34**

Item 1 [14-4650]

Insert the nature of the request.

Item 2 [14-4660]

Insert Lot/Plan description of the water allocation to be changed. Only one Water Allocation is permitted on each Form 14 –General Request.

Item 3 [14-4670]

Insert the full name(s) of the registered owner(s).

Item 4 [14-4680]

Insert: Water Allocation.

Item 5 [14-4690]

Insert the full name of the applicant.

Item 6 [14-4700]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: the water allocation shown in Item 2 be changed in accordance with Dealing Certificate No. 199998 deposited herewith.

Item 7 [14-4710]

Execute as required.

Example 35 – Statutory Charge under the *Building Industry Fairness (Security of Payment) Act 2017*

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number

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1. Nature of request

RECORD STATUTORY CHARGE

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

TR CONSTRUCTIONS P/L
PO BOX 53
BRISBANE 4001
trconstructions@email.com

2. Lot on Plan Description

LOT 9876 ON SP 313131

Title Reference

51099977

3. Registered Proprietor/State Lessee

CHRISTOPHER ROGER TAYLOR

4. Interest

FEE SIMPLE

5. Applicant

TR CONSTRUCTIONS PTY LIMITED A.C.N. 111 999 555

6. Request

I hereby request that: A Charge under section 100B of the Building Industry Fairness Act (Security of Payment) Act 2017 and as set out in the attached evidence be recorded against the land referred to in item 2

7. Execution by applicant

TR CONSTRUCTIONS PTY LTD
A.C.N. 111 999 555

Trevor Roberts

Sole Director and Sole Secretary

1 / 10 / 2020

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Adjudication Certificate
- Statutory Declaration

^{1,2}**Guide to Completion of Form 14 for Example 35**

Item 1 [14-4720]

Insert the nature of the request.

Item 2 [14-4725]

Insert Lot/Plan description/s and title reference/s.

Item 3 [14-4730]

Insert the full name(s) of the registered owner(s) (the respondent).

Item 4 [14-4735]

Insert: Fee Simple.

Item 5 [14-4740]

Insert the full name of the applicant (the claimant). If the applicant is a company include the Australian Company Number.

Item 6 [14-4745]

Insert the appropriate words for the relevant request.

For example:

I hereby request that: A Charge under section 100B of the Building Industry Fairness Act (Security of Payment) Act 2017 and as set out in the attached evidence be recorded against the land referred to in item 2.

Item 7 [14-4750]

Execute as required.

Example 36 – Extension of Charge under the Building Industry Fairness (Security of Payment) Act

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number

**OFFICE USE ONLY****Privacy Statement**

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

1. Nature of request

RECORD THE EXTENSION OF STATUTORY
CHARGE 960000677

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

TR CONSTRUCTIONS P/L
PO BOX 53
BRISBANE 4001
trconstructions@email.com

2. Lot on Plan Description

LOT 9876 ON SP 313131

Title Reference

51099977

3. Registered Proprietor/State Lessee

CHRISTOPHER ROGER TAYLOR

4. Interest

STATUTORY CHARGE 960000677

5. Applicant

TR CONSTRUCTIONS PTY LIMITED A.C.N. 111 999 555

6. Request

I hereby request that: Statutory Charge dealing number 960000677 be extended pursuant to section 100C(2) and (4) of the Building Industry Fairness (Security of Payment) Act 2017 and in accordance with the attached evidence.

7. Execution by applicant

TR CONSTRUCTIONS PTY LTD
A.C.N. 111 999 555

Trevor Roberts

Sole Director and Sole Secretary

1 / 10 / 2020

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- Copy of Court Order extending the charge

^{1,2}**Guide to Completion of Form 14 for Example 36**

Item 1 [14-4755]

Insert the nature of the request.

Item 2 [14-4760]

Insert Lot/Plan description/s and title reference/s.

Item 3 [14-4765]

Insert the full name(s) of the registered owner(s) (the respondent).

Item 4 [14-4770]

Insert: the dealing number of the Statutory Charge to be extended.

Item 5 [14-4775]

Insert the full name of the applicant (the claimant). If the applicant is a company include the Australian Company Number.

Item 6 [14-4780]

Insert the appropriate words for the relevant request.

For example:

Statutory Charge dealing number XXXXXXXXXX be extended pursuant to section 100C(2) and (4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached evidence.

Item 7 [14-4785]

Execute as required.

Example 37 – Removal of a Charge under the Building Industry Fairness (Security of Payment) Act

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

GENERAL REQUEST

Duty Imprint

Form 14 Version 4
Page 1 of 1

Dealing Number

**OFFICE USE ONLY****Privacy Statement**

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

1. Nature of request

RECORD THE RELEASE OF
STATUTORY CHARGE 960000677

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

RHODES AND ASSOCIATES
SOLICITORS
PO BOX 99
BRISBANE 4001
Nicholas.Rhodes@rhodesandassoc.com.au

2. Lot on Plan Description

LOT 9876 ON SP 313131

Title Reference

51099977

3. Registered Proprietor/State Lessee

CHRISTOPHER ROGER TAYLOR

4. Interest

STATUTORY CHARGE 960000677

5. Applicant

CHRISTOPHER ROGER TAYLOR

6. Request

I hereby request that: Statutory Charge dealing number 960000677 be removed pursuant to section 100D(4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached statutory declaration.

7. Execution by applicant

Nicholas Rhodes

SOLICITOR

15 / 1 / 2021

Execution Date

.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

NOTE: Items to be deposited:

- For a Release where the request is made by the registered owner: Statutory Declaration by Applicant (respondent/registered owner)
- For a Setting Aside: Copy of Court Order setting the Statutory Charge aside.

^{1,2}Guide to Completion of Form 14 for Example 37

Item 1 [14-4790]

Insert the nature of the request. (Either Release or Setting Aside)

Item 2 [14-4795]

Insert Lot/Plan description/s and title reference/s.

Item 3 [14-4800]

Insert the full name(s) of the registered owner(s) (the respondent(s)).

Item 4 [14-4805]

Insert: the dealing number of the Statutory Charge.

Item 5 [14-4810]

Insert the full name of the applicant. If the applicant is a company include the Australian Company Number.

The applicant will be:

- *For a Release - request by claimant* – the claimant;
- *For a Release – request by registered owner* – the registered owner;
- *For a Setting Aside* – the registered owner.

Item 6 [14-4815]

Insert the appropriate words for the relevant request.

For example:

- *For a Release - request by claimant:*
Statutory Charge dealing number XXXXXXXXXX be removed pursuant to section 100D(2) of the Building Industry Fairness Act (Security of Payment) Act 2017.
- *For a Release – request by registered owner:*
Statutory Charge dealing number XXXXXXXXXX be removed pursuant to section 100D(4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached statutory declaration.
- *For a Setting Aside:*
Statutory Charge dealing number XXXXXXXXXX be removed pursuant to section 100E(4) of the Building Industry Fairness Act (Security of Payment) Act 2017 and in accordance with the attached court order.

Item 7 [14-4820]

Execute as required.

Duty

[14-5500]

Set out below is an alphabetical list of likely Form 14 – General Requests, with information as to whether a request requires a Queensland duty notation. The list was prepared in consultation with the Office of State Revenue.

Form 14 – General Request list of likely requests	Duty Notation Required
Abolishment of council and vesting in another	yes
Acquisition of land by Commonwealth	no
Agreement – <i>River Improvement Trust Act 1940</i>	no
Amalgamation of Water Allocation	no
Annulment of bankruptcy	yes
Application for title by possession (executed after 1 March 2002)	yes
Application under Chapter 4 Part 12 Division 3 of the <i>Local Government Regulation 2012</i>	yes
Cancellation of a caveat	no
Cancellation of expired lease of freehold or water allocation lodged in the first unexercised option period see part 7, esp [7-2200])	Yes*
Cancellation of expired lease over freehold or water allocation lodged after the first unexercised option period see part 7, esp [7-2200])	no
Cancellation of an Agreement – <i>Local Government (Planning and Environment) Act 1990</i>	no
Cessation of Public Trustee as administrator	no
Change or correction of name of corporation	no
Change or correction of name of natural person	no
Change of Water Allocation	no
Correction of deed of grant (s. 359 of the <i>Land Act 1994</i>)	no
Determination of lease	Yes*
Discharge of trustee only	yes
Discharge/Satisfaction/Cancellation of Writ	no
Disclaimer of lease	Yes*
Divest and Vest – changing registered proprietor details	yes
Divest and Vest – no change to registered proprietor details	yes
Extinguishment of lease other than surrender	yes
Merger of lease	no
Notice of forfeiture, foreclosure and vesting	yes
Order of the court – changing registered proprietor details	yes
Order of the court –no change to registered proprietor details	yes
Order in Council	no
Proclamation resuming land (State)	yes
Proclamation resuming easement (State)	yes
Realignment of a road – notification	no
Realignment of a road – determination	no
Removal of trustee only	yes
Resignation of trustee only	yes
Retirement of trustee only	yes
Register any direction, licence or order of the Supreme Court not being a vesting order	no

Form 14 – General Request list of likely requests	Duty Notation Required
Removal of carbon abatement interest	no
Removal of charge created by a will	yes
Removal of instalment contract caveat	no
Revocation of proclamation resuming land	no
Revocation of proclamation resuming easement	no
Request for separate indefeasible titles	no
Request to record change of name by a corporation	no
Request to record change of name by a natural person	no
Request to record correction of name	no
Request to record first CMS	no
Request to record new CMS	no
Request to record reservation of name for a community titles scheme	no
Request to record change of address of a body corporate	no
Request to record removal of profit a prendre	no
Request to register standard terms document (s. 169 of the <i>Land Title Act 1994</i> or s. 317 of the <i>Land Act 1994</i>)	no
Subdivision of Water Allocation	no
Transmission by bankruptcy – registered proprietor	yes
Transmission by bankruptcy – lessee, etc	yes
Vesting order – land	yes
Vesting order – not land	yes
Withdrawal of caveat (by equitable mortgagee)	no
Withdrawal of caveat (other than by equitable mortgagee)	no

*only where the lease commenced before 1 January 2006 and no Form 13 – Amendment of Lease altering the commencement date has been registered.

[14-6000] deleted

[14-7000] deleted

Fees

[14-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current:

- ^{1, 2}Land Title Regulation;
- ^{1, 3}Land Regulation
- ^{2, 3}Water Regulation.

Cross References and Further Reading

[14-9000]

Part 1 – Transfer

Part 2 – Mortgage (National Mortgage Form)

Part 11 – Caveat

Part 12 – Request to Register Writ or Warrant of Execution

Part 20 – Schedule, Enlarged Panel, Additional Page, Declaration or Standard Terms Document

Part 45 – Body Corporate and Community Management Schemes

Part 48 – State Land

Part 49 – Water Allocations

Megarry, RE and Wade, WHR, *The Law of Real Property*, 5th edn, London Stevens, 1984

Butt, P, *Land Law*, 2nd edn, Law Book Company, 1988

Bradbrook, A, MacCallum, S and Moore, AP, *Australian Real Property Law*, Law Book Company, 1990

Darvall, C and Fernon, NT, McDonald, Henry and Meek: *Australian Bankruptcy Law and Practice*, Law Book Company (loose-leaf service)

Notes in text

[14-9050]

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

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

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

Part 16 – Request to Register Power of Attorney or Revocation of Power of Attorney

Table of Contents

General Law	[16-0000]
General Rules Relating to Powers of Attorney	[16-0010]
Capacity of Principal	[16-0020]
Prisoners.....	[16-0040]
Dual Capacity Powers	[16-0050]
Request to record principal in less than all of the capacities in the power of attorney	
Trustee	
Power under s. 56 of the <i>Trusts Act 1973</i>	[16-0060]
Statutory Trustee Company	[16-0070]
Corporation	[16-0080]
Receiver/Manager.....	[16-0090]
Liquidator	[16-0100]
Effect of Winding Up on Receiver.....	[16-0110]
Power of Attorney Granted by Way of Security – Irrevocable Powers	[16-0120]
Joint and Several Attorneys	[16-0130]
Successive Power of Attorney	[16-0140]
Alternative Attorney.....	[16-0145]
Substitutionary Power of Attorney	[16-0160]
Supplementary Power of Attorney.....	[16-0170]
Power of Attorney Affecting State Tenure and Water Allocations	[16-0180]
Interstate or International Power of Attorney	[16-0190]
Queensland Powers of Attorney made outside Queensland	[16-0191]
Certified Copy of Power of Attorney under the <i>Powers of Attorney Act 1998</i>	[16-0195]
General Powers of Attorney	[16-0196]
Enduring Powers of Attorney	[16-0198]
Certifications on or after 30 November 2020	
Certifications prior to 30 November 2020	
Restrictions in Power of Attorney.....	[16-0200]
Revocation of Power of Attorney	[16-0210]
Revocation of Joint and Several Principals.....	[16-0220]
Revocation of Joint and Several Attorneys.....	[16-0230]
Revocation of Substituted Attorney	[16-0240]
Revocation of a Power of Attorney Granted by a Corporation.....	[16-0250]
Revocation by Operation of Law.....	[16-0260]
Legislation.....	[16-1000]
Application of the <i>Land Title Act 1994</i> to the <i>Water Act 2000</i>	
<i>Land Act 1994</i>	
Practice	
Registration of Power of Attorney	
General Registration Requirements.....	[16-2000]
Duty.....	[16-2010]
Lodgement.....	[16-2015]
Power of Attorney under s. 56 of the <i>Trusts Act 1973</i>	[16-2020]
Power to Appoint an Attorney under the <i>Trusts Act 1973</i> or under a trust instrument.....	[16-2030]
Joint and Several Principals or Attorneys	[16-2040]
Registration of Power of Attorney Clause in Mortgage or Other Instrument or Document.....	[16-2050]
Error in Power of Attorney	[16-2060]
Types of Power of Attorney	
Form 1 under s. 11 of the <i>Powers of Attorney Act 1998</i>	[16-2063]
Forms 2 and 3 under s. 44 of the <i>Powers of Attorney Act 1998</i>	[16-2066]
Form 13 or Form 14 under the <i>Property Law Act 1974</i>	[16-2100]
Power of Attorney under Common Law	[16-2130]
Registration under the <i>Property Law Act 1974</i>	[16-2135]
Certified copy	
Original	

Interstate or international power of attorney	[16-2137]
Queensland Powers of Attorney made outside Queensland	[16-2138]
Execution of Power of Attorney	
Individual.....	[16-2140]
Corporation.....	[16-2150]
Attestation.....	[16-2160]
Execution of Instrument by Attorney.....	[16-2170]
Revocation of Power of Attorney	[16-2180]
Update of a Registered Power of Attorney	[16-2190]
Forms	
General Guide to Completion of Forms	[16-4000]
Guide to Completion of Form 16	
Item 1	[16-4010]
Item 2	[16-4020]
Item 3	[16-4030]
Item 4	[16-4040]
Case Law	
<i>Tobin v Broadbent</i> (1947) 75 CLR 378	[16-7000]
Fees	[16-8000]
Cross References and Further Reading	[16-9000]
Notes in text.....	[16-9100]

Part 16 – Request to Register Power of Attorney or Revocation of Power of Attorney

General Law

[16-0000]

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.

By Chapter 9 Part 5 (ss. 181 and 182) of the Powers of Attorney Act, Part 9 (Powers of Attorney) of the *Property Law Act 1974* was repealed. However, s. 163 of the Powers of Attorney Act clarifies that every power of attorney made under the Property Law Act 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 pursuant to the Property Law Act must comply with the provisions of the Property Law Act 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.

General Rules Relating to Powers of Attorney

[16-0010]

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 cannot put themselves in a position where their own interests conflict with the interests of the principal or their duties as an attorney, unless there is a specific provision permitting them to do so in the power of attorney (s. 73(1) of the *Powers of Attorney Act 1998*).~~

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. Authority to make a gift or donation may be provided in addition to any other powers. However, unless there is a contrary intention expressed in an enduring power of attorney, an attorney for financial matters may make a gift or donation if the gift or donation is:

- ~~to a relation or close friend of the principal; and~~
- ~~of a seasonal nature or because of a special event (including, for example, a birth or marriage); or~~
- ~~a donation of the nature that the principal made when the principal had capacity or that the principal might reasonably be expected to make;~~
- 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's value 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]).

Capacity of Principal

[16-0020]


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

Prisoners

[16-0040]

Persons 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* have no control over their affairs (such control being vested in the Public Trustee of Queensland) and cannot therefore execute a lawful power of attorney without the consent in writing of the public trustee.

A letter from the lodging solicitor advising the term of the sentence should be deposited with the Form 16 – Request to Register Power of Attorney. If the term is longer than three years, a statutory declaration from the Public Trustee stating that it has no objection to the attorney acting for the principal must be deposited. Alternatively, the Public Trustee may consent to the power of attorney. This consent may be given in a Form 18 – General Consent.

Dual Capacity Powers

[16-0050]

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 regulated fee.

~~The clause in the deed of trust authorising the appointment of an attorney must be stated in Item 3 of the Form 16—Request.~~

~~The trust document must be deposited in the registry for any power executed by a person in his/her/its capacity as trustee. (For deposit of trust document see part 51, esp ¶[51-2043].)~~

Trustee

Power under s. 56 of the *Trusts Act 1973*

[16-0060]

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.

Statutory Trustee Company

[16-0070]

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.

Corporation

[16-0080]

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.

Section 52 of the *Corporations Act 2001* (Cth) allows a director of a company to appoint an attorney to execute a dealing for the principal in his/her capacity as director of that company.

Receiver/Manager

[16-0090]

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.

Liquidator

[16-0100]

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.

Effect of Winding Up on Receiver

[16-0110]

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.

Power of Attorney Granted by Way of Security – Irrevocable Powers

[16-0120]

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).

Joint and Several Attorneys

[16-0130]

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.

Successive Power of Attorney

[16-0140]

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:

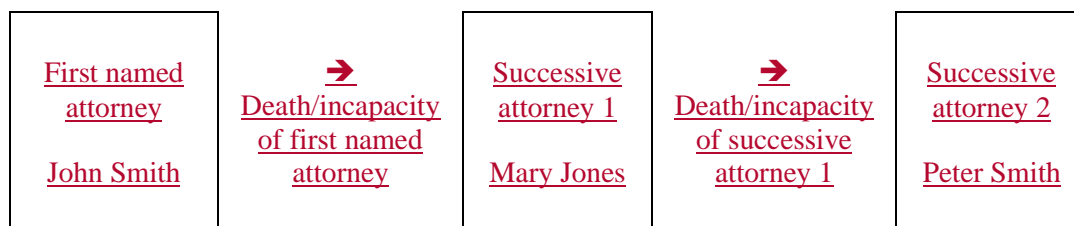
- Example 1 – A power of attorney appoints John Smith as attorney and provides that on the death or incapacity of John Smith then Mary Jones is appointed as attorney.

Chain of succession:



- 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:



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). A power of attorney which appoints one person as attorney and, in the event of that attorney's death or some other happening, appoints another as attorney, is effective as it relates to the first named attorney only, and is registered as such. Similarly, if a power of attorney appoints two or more persons as attorneys and specifies that they are appointed 'successively in the order named', the first named attorney only is registered as the attorney. If a principal in a power of attorney nominates more than one attorney 'successively' and does not specify 'in the order named', the Registrar will assume that they are appointed 'successively in the order named'.

 i

~~Should the first named attorney die, or should the prescribed event occur (e.g. the attorney becomes incapable) before the power of attorney is revoked, the power of attorney has to be presented again, with evidence of the death of the first named attorney or the happening of the prescribed event, to have the second attorney registered.~~

~~Similarly, if a power of attorney appoints two or more persons as attorneys and specifies that they are appointed 'successively in the order named', the first named attorney only is registered as the attorney. If a principal in a power of attorney nominates more than one attorney 'successively' and does not specify 'in the order named', the Registrar will assume that they are appointed 'successively in the order named'. Should the first named attorney die or become incapable, the power of attorney must be lodged again to register the appointment of the next named attorney. Evidence of the ending of the first (or earlier) power, for example evidence of death or incapacity of the prior named attorney(s), must be deposited with the Request to register the subsequent attorney.~~

Alternative Attorney

[16-0145]

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]

Substitutionary Power of Attorney

[16-0160]

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.

Supplementary Power of Attorney

[16-0170]

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~~

Power of Attorney Affecting State Tenure and Water Allocations

[16-0180]

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.

Interstate or International Power of Attorney

[16-0190]

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.

~~Sections 132 to 134 of the *Land Title Act 1994* comprise current Queensland law relating to powers of attorney and their registration in the registry.~~

~~Nothing in those sections suggests that a power of attorney that is prepared and executed according to the laws of another State or country cannot be registered in the registry, as registration of a power of attorney does not transfer interests, but simply records that a person other than the owner or proprietor is entitled to deal with an interest (subject to any limitations in the power).~~

~~Powers of attorney (including an enduring power of attorney) prepared and executed according to the laws of another State or country may be registered in the registry under the *Land Title Act 1994*.~~

~~A request (Form 16) to register an interstate or international enduring power of attorney must include a statement in writing, by either the lodging solicitor or the attorney, confirming that the power of attorney lodged conforms with the law of the state or country to which the power of attorney relates.~~

~~General powers of attorney executed interstate or internationally require a statement that the power of attorney has been executed in accordance with the law of the jurisdiction to which the power of attorney relates, if the witness does not comply with the requirements for an instrument executed in Queensland (eg a Justice of the Peace etc).~~

~~However, the above requirements will not apply if the power of attorney lodged has a notation, memorial or other evidence that indicates the power of attorney has been recorded in that jurisdiction.~~

Queensland Powers of Attorney made outside Queensland

[16-0191]

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.

Certified Copy of Power of Attorney under the *Powers of Attorney Act 1998*

[16-0195]

General Powers of Attorney

[16-0196]

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*).

Enduring Powers of Attorney

[16-0198]

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.
Sections 14 and 45 of the *Powers of Attorney Act 1998* provides that a general power of attorney or an enduring power of attorney may be proved to be a copy by certification under the relevant section and does not prevent a power of attorney being proved in another way.

The Registrar of Titles will extend the practice of certification to other powers of attorney (e.g. a common law form of power of attorney) provided it is certified in the same manner. The Registrar of Titles will deal with a properly certified copy of a power of attorney as if it were the original instrument.

A copy of a power of attorney certified under the provisions of s. 14 or s. 45 of the Powers of Attorney Act is to be proved in the following manner:

- 1 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.
- 2 The last page must be certified to the effect that the copy is a true and complete copy of the original.
- 3 Each page of the certified copy of the power of attorney must be on a single-sided A4 sheet of paper.
- 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 (see ss. 33A and 36 of the *Acts Interpretation Act 1954*);~~
- ~~(f) — a trustee company under the *Trustee Companies Act 1968*;~~
- ~~(g) — a stockbroker.~~

~~A copy of a certified copy of a power of attorney may also be certified as a copy under the provisions of s. 14 or s. 45 of the *Powers of Attorney Act*.~~

Restrictions in Power of Attorney

[16-0200]

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.

Revocation of Power of Attorney

[16-0210]

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. A registered enduring power of attorney may only be revoked in Form 6. 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.

For the purpose of registration in the registry a power of attorney that revokes a previously registered power of attorney **and** appoints one or more attorneys, is taken to be two instruments and requires lodgement of two Forms 16 under the Land Title Act.

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.

Revocation of Joint and Several Principals

[16-0220]

Where two or more principals severally appoint an attorney, it is possible for only one principal to revoke his/her power of attorney.

Revocation of Joint and Several Attorneys

[16-0230]

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.

Revocation of Substituted Attorney

[16-0240]

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.

Revocation of a Power of Attorney Granted by a Corporation

[16-0250]

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 [¶\[16-0090\]](#)).

Revocation by Operation of Law

[16-0260]


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*. 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

Legislation

[16-1000]

Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, the Land Title Act applies to the registration of an interest or dealings for a water allocation on the water allocations register subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the Land Title Act:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar of Water Allocations and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and
- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) with any other necessary changes.

Land Act 1994

Section 383 of the Land Act states that, a Power of Attorney registered under the *Land Title Act 1994* is taken to be a Power of Attorney registered under the Land Act and authorises the donee to deal with any interest in land that may be dealt with by the donor under the power of attorney under the this Act

Section 383(3) of the Land Act forbids a trustee of trust land from authorising a person to deal with an interest in trust land that the trustee may deal with. Trust land in this part would refer to reserves, deeds of grant in trust and similar land held for community purposes.

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

General Registration Requirements

[16-2000]

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*.

~~Seven~~ 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. ~~The following table and~~ may assist ~~to determine~~ determining how any of the forms may be registered.

Form	Purpose	Register – Land Title Act	Register – Property Law Act
1	General Power of Attorney	Yes	Yes
2	Enduring Powers of Attorney – Short Form (same attorney(s) for financial and personal matters)	Yes, if financial matters included	Yes
3	Enduring Powers of Attorney – Long Form (different attorneys for financial and personal matters)	Yes, if financial matters included	Yes
4	Advance Health Directive	No	Yes
5	Revocation of General Power of Attorney	If p/a registered	Yes
6	Revocation of Enduring Power of Attorney	If p/a registered	Yes
7	Interpreter's/Translator's Statement	Only with power	Only with power
<u>8</u>	<u>Additional page (for use with an Enduring Power of Attorney or Advance Health Directive)</u>	<u>Only with power</u>	<u>Only with power</u>
<u>9</u>	<u>Enduring power of attorney explanatory guide</u>	<u>No guide only</u>	<u>No guide only</u>

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 can-not be registered in the Power of Attorney Register.

However, it may be registered in the registry under the *Property Law Act 1974* (see ¶[16-2135]).

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*.

Form 16 is not a power of attorney in itself but the vehicle by which registration of a power of attorney or revocation of power attorney is requested. 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.

Duty

[16-2010]

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 Office of State revenue for duty payment.

Lodgement

[16-2015]

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*.

~~The original or a properly certified copy of the power of attorney is to be deposited with the Form 16—Request to Register Power of Attorney on lodgement. A copy of the instrument or document 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]).~~

Power of Attorney under s. 56 of the *Trusts Act 1973*

[16-2020]

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 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 come into operation. For example, a statutory declaration in the following form is acceptable:

‘QUEENSLAND
TO WIT

I, BILL JONES of 22 Klume Street, Red Hill in the State of Queensland do solemnly and sincerely declare as follows:

- 1 KEITH JONES of 22 Klume Street, Red Hill aforesaid did execute power of attorney
Dealing No F567861 to me prior to departing from the State of Queensland in or about
April 1985.
- 2 I am the donee mentioned and referred to in the said power of attorney and reside in
Queensland.
- 3 The said Keith Jones 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 aforementioned power
of attorney has come into operation.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867* as amended.

SIGNED AND DECLARED by)
the KEITH JONES at Brisbane) *K Jones*
in the State of Queensland this 3rd)
day of July 1985, before me:)

T. Tallis

.....

THOMAS TALLIS

A Justice of the Peace'

Power to Appoint an Attorney under the *Trusts Act 1973* or under a trust instrument
Power Under a Trust Deed to Appoint an Attorney

[16-2030]

Trustees (including corporate trustees) ~~may~~**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*). ~~if authorised to do so by the trust deed appointing the trustee.~~ Note that s. 4(4) of the *Trusts Act 1973* provides that powers given in a trust deed are in addition to those given under 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).

~~Whenever a person or company in his/her/its capacity as trustee appoints an attorney, a copy of the original trust instrument must be deposited with the power of attorney when it is lodged. See [60-1030] for information about depositing supporting documentation.~~

~~When a trustee grants the power to deal with a trust in a power of attorney, he/she must specifically state in Item 1 of the Form 16—Request to Register Power of Attorney that he/she ‘as trustee/personal representative of [name of trust/deceased]’ is granting the power. The relevant paragraph/clause in the trust deed or relevant section of the *Trusts Act* that gives the power to appoint an attorney must be stated in Item 3 of the Form 16—Request to Register Power of Attorney.~~

Joint and Several Principals or Attorneys

[16-2040]

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.

Registration of Power of Attorney Clause in Mortgage or Other Instrument or Document

[16-2050]

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 [Land-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.

Error in Power of Attorney

[16-2060]

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

Form 1 under s. 11 of the *Powers of Attorney Act 1998*

[16-2063]

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. 49 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.

A general power of attorney is capable of being registered as a deed under the *Property Law Act 1974*.

Forms 2 and 3 under s. 44 of the *Powers of Attorney Act 1998*

[16-2066]

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.

An enduring power of attorney is capable of being registered as a deed under the *Property Law Act 1974*.

¶[16-2070] to ¶[16-2090] deleted

Form 13 or Form 14 under the *Property Law Act 1974*

[16-2100]

A Form 13 – (General Power of Attorney) or Form 14 – (Enduring Power of Attorney) under the Property Law Act may be registered in the Power of Attorney Register if executed prior to 1 June 1998.

¶[16-2110] and ¶[16-2120] deleted

Power of Attorney under Common Law

[16-2130]

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.

Registration under the *Property Law Act 1974*

[16-2135]

Note: At present, this service is only available at the Brisbane Office. For registration of a power of attorney as a deed under Part 18 Division 3 of the Property Law Act, the original and a photocopy (printed one-side on international A4 sized white paper) that has been certified as required by s. 242 of the Property Law Act and has provision for endorsements as required by s. 244 of the Property Law Act must be provided. Section 242 of the Property Law Act requires

the certification to be made by a credible person and the oath to be taken before a witness as prescribed by schedule 1 of the *Land Title Act 1994*.

The certification of the copy by a credible person should be made on the last page and in the following format:

‘I (*insert full name*), of (*insert full address*) in the State of (*insert State*), (*insert profession*), certify that this (*insert number*) and the preceding pages is a true copy of the original power of attorney given by (*insert full name of principal*) dated (*insert date of power*).

Sworn by (*insert full name*) at)
(*insert place*) in the State of)
(*insert State*) on this (*insert date*))
before me: (*signature of deponent*)

(signature of witness)

(print full name of witness)

(*insert qualification of witness*)’

Provision for endorsement by the Registrar or delegate on the original power of attorney and the certified photocopy in keeping with s. 244 of the Property Law Act should be on last page of both the original and the certified copy and in the following formats:

Certified copy

‘Received in the registry as No. (*leave space to insert number*) Book (*leave space to insert book number*) at the time and date recorded on the document.

(*leave space for signature of Registrar*)

Registrar of Titles and Registrar of Water Allocations, Queensland’

Original

‘Received in the registry as No. (*leave space to insert number*) Book (*leave space to insert book number*) at (*leave space to insert time*) am/pm on (*leave space to insert date*).

(*leave space for signature of Registrar*)

Registrar of Titles and Registrar of Water Allocations, Queensland’

Note: The above receipts (which comprise registration under the Property Law Act) may only be given by the Registrar personally or by a delegate.

Interstate or international power of attorney

[16-2137]

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 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.

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]).

Queensland Powers of Attorney made outside Queensland

[16-2138]

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

Individual

[16-2140]

Execution of powers of attorney is governed by s. 45 of the *Property Law Act 1974* for individuals and s. 46 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)'

Corporation

[16-2150]

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.

Attestation

[16-2160]

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.

Execution of Instrument by Attorney

[16-2170]

See part 61, esp ¶[61-3050].

Revocation of Power of Attorney

[16-2180]

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.

Update of a Registered Power of Attorney

[16-2190]

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].

Forms

General Guide to Completion of Forms

[16-4000]

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

**REQUEST TO REGISTER POWER OF ATTORNEY/
REVOCATION OF POWER OF ATTORNEY**

FORM 16 Version 4

Page 1 of 1

Page 1 of 1



Dealing Number

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.

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

1. Principal (Donor) Given names

IVOR DENIS
SALLY ENID

Surname/Company name and number

DREAME
DREAME

* ~~and as Trustee/Responsible Entity for~~

* jointly and/or severally

*delete if not applicable

2. Attorney (Donee) Given names

RICHARD LEO

Surname/Company name and number

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

9/10/2007
Execution Date

R B Lee
ROBERT BRUCE LEE
.....
Applicant's or Solicitor's Signature

Note: A Solicitor is required to print full name if signing on behalf of the Applicant

Guide to Completion of Form 16

Item 1

[16-4010]

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’

which ever is applicable.

Item 2

[16-4020]

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.

which ever is applicable.

Item 3

[16-4030]

Delete the statement that is not applicable. If the power of attorney is only partially revoked, then set out the details in this panel.

Item 4

[16-4040]

Execute as required. No witness is required to the execution of the Form 16.

¶[16-6000] deleted

Case Law

Tobin v Broadbent (1947) 75 CLR 378

[16-7000]

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.

Fees

[16-8000]

Fees payable to the registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current Land Title Regulation.

Cross References and Further Reading

[16-9000]

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

Notes in text

[16-9100]

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

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

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

Part 18 – General Consent

Table of Contents

General Law	[18-0000]
Lease	
Mortgagee's Consent	
Grant of Lease	[18-0010]
Amendment	[18-0020]
Surrender.....	[18-0030]
Sublessee's Consent.....	[18-0040]
Local Government's Approval	
¹ Lease of Part of Land.....	[18-0050]
Easement	
¹ Lessee's/Mortgagee's Consent.....	[18-0080]
¹ Local Government's Approval	[18-0090]
¹ Lessee's Consent.....	[18-0100]
Building Management Statement	
¹ Mortgagee's Consent	[18-0110]
^{2,3} Subdivision or Amalgamation of a Water Allocation	
Mortgagee's Consent	[18-0170]
^{1,2} High-density Development Easement	
Lessee's Consent.....	[18-0180]
^{1,2} Surrender of High-density Development Easement	
Lessee's/Mortgagee's Consent.....	[18-0190]
Legislation	[18-1000]
Application of the <i>Land Title Act 1994</i> to the <i>Water Act 2000</i>	
Practice	[18-2000]
Forms	
General Guide to Completion of Forms.....	[18-4000]
Guide to Completion of Form 18	
Item 1.....	[18-4010]
^{1,2} Freehold Description	
^{2,3} Water Allocation Description	
^{1,3} State Tenure Description	
Item 2.....	[18-4020]
Item 3.....	[18-4030]
Item 4.....	[18-4040]
Duty.....	[18-4050]
¹ Guide to Completion of Form 18A	
Item 1.....	[18-4060]
Survey Plan being consented to	
Item 2.....	[18-4070]
Consent by Registered Owner/Lessee	
¹ Guide to Completion of Form 18B	
Item 1.....	[18-4080]
Survey Plan being approved	
Item 2.....	[18-4090]
Approval by Planning Body	
Item 3.....	[18-4100]
Planning Body Approval Exemption	
^{1,2} Guide to Completion of Form 18C	
Item 1.....	[18-4200]
Item 2.....	[18-4210]
Item 3.....	[18-4220]
Case Law	
Fees.....	[18-8000]
Cross References and Further Reading.....	[18-9000]
Notes in text	[18-9050]

Part 18 – General Consent

General Law

[18-0000]

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

Grant of Lease

[18-0010]

See part 7 – Lease ¶[7-0040] and [7-2030].

Amendment

[18-0020]

See part 7 – Lease ¶[7-0040] and [7-2030] and part 13 – Amendment [13-0010] and [13-2000].

Surrender

[18-0030]

See part 8 – Surrender of Lease [8-0030] and [8-2000].

Sublessee's Consent

[18-0040]

See part 8 – Surrender of Lease [8-0030] and [8-2000].

Local Government's Approval

¹Lease of Part of Land

[18-0050]

See part 7 – Lease ¶[7-0050].

¶[18-0060] and ¶[18-0070] deleted

Easement

¹Lessee's/Mortgagee's Consent

[18-0080]

See part 10 – Surrender of Easement [10-2000].

¹Local Government's Approval**[18-0090]**

See part 9 – Easement ¶[9-2080].

¹Lessee's Consent**[18-0100]**

See part 9 – Easement [9-2082].

See part 10 – Surrender of Easement [10-2000].

Building Management Statement**¹Mortgagee's Consent****[18-0110]**

See part 34 – Building Management Statement [34-2000].

¶[18-0120] and ¶[18-0160] deleted

^{2, 3}Subdivision or Amalgamation of a Water Allocation**Mortgagee's Consent****[18-0170]**

See part 49 – Water Allocations [14-2950] and [14-2960].

^{1, 2}High-density Development Easement**Lessee's Consent****[18-0180]**

See part 39 – High-density Development Easement [39-2020].

^{1, 2}Surrender of High-density Development Easement**Lessee's/Mortgagee's Consent****[18-0190]**

See part 40 – Surrender of High-density Development Easement [40-2000].

Legislation**[18-1000]****Application of the *Land Title Act 1994* to the *Water Act 2000***

Under the provisions of the Water Act, the Land Title Act applies to the registration of an interest or dealings for a water allocation on the water allocations register subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the Land Title Act:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar of Water Allocations and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and

- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) with any other necessary changes.

Practice

[18-2000]

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-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-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.

^{1, 2}[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 \(along with the community management statement\).](#)

¶[18-2010] to ¶[18-2050] deleted

Forms

General Guide to Completion of Forms

[18-4000]

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

1. Lot on Plan Description

LOT 75 ON RP20478

Title Reference

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

.....full name

.....qualification

Witnessing Officer

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

20/10/2007
Execution Date

A P Lincoln
Sunpac Finance Pty Ltd by its duly
constituted attorney Allan Peter Lincoln
under Power of Attorney 700000222

.....
Consenting Party's Signature

Privacy Statement

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

REGISTERED OWNERS/LESSEES CONSENT TO SURVEY PLAN

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

FORM 18A Version 1
Page 1 of 1

1. Survey Plan being consented to

Survey Plan Number SP333333

Registered Owners/Lessees Roger John Taylor and Robyn Joy Taylor
(names in full)

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

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.

PLANNING BODY APPROVAL OF SURVEY PLAN

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

FORM 18B Version 1
Page 1 of 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

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.

PLANNING BODY COMMUNITY MANAGEMENT STATEMENT NOTATION

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

Guide to Completion of Form 18

Item 1

[18-4010]

^{1, 2}Freehold Description

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

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

^{2, 3}Water Allocation Description

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

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

^{1, 3}State Tenure Description

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

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

Item 2

[18-4020]

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.

Item 3

[18-4030]

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.

Item 4

[18-4040]

Execute as required.

Duty

[18-4050]

A duty notation is not required

 [18-6000] deleted

¹Guide to Completion of Form 18A

Item 1

[18-4060]

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]).

Item 2

[18-4070]

Consent by Registered Owner/Lessee

The clause that is not applicable should be ruled through or otherwise deleted.

Execute as required.

¹Guide to Completion of Form 18B

Item 1

[18-4080]

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.

Item 2

[18-4090]

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.

Completion of the Planning Body Reference Number is optional. It can be completed if required by the Planning Body.

Item 3

[18-4100]

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]).

1, 2Guide to Completion of Form 18C

Item 1 **[18-4200]**

Insert the name of the community titles scheme for the CMS being noted.

Item 2 **[18-4210]**

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'.

Item 3 **[18-4220]**

This item must be signed by an authorised officer/delegate of the planning body.

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~~

Fees

[18-8000]

No fees are payable for the lodgement of a Form 18 – General Consent.

Cross References and Further Reading

[18-9000]

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

Notes in text

[18-9050]

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

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

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

¹Part 21 – Plans and Associated Documents

Table of Contents

General Law.....	[21-0000]
Definitions.....	[21-0010]
Practice	
Plan of Survey	[21-2000]
Preparation of Plan	[21-2010]
Plan Formats	
Format	[21-2020]
Standard Format Plan.....	[21-2030]
Building Format Plan	[21-2040]
Volumetric Format Plan	[21-2050]
Explanatory Format Plan	[21-2060]
Plan of Subdivision	[21-2070]
Plan of Survey for Easement.....	[21-2080]
Plan of Survey for Lease.....	[21-2090]
Plan of Survey for Profit a prendre	[21-2100]
Plan of Survey for Covenant	[21-2110]
Plan of Survey for Carbon Abatement Interest	[21-2115]
Plan of Survey for Resumption.....	[21-2120]
Approval by Planning Body	[21-2130]
Additional Approvals	
Coastal Management.....	[21-2140]
Artificial Waterways	
Access.....	[21-2180]
Reservation for a Public Purpose under s. 23 of the <i>Land Act 1994</i>	[21-2190]
Agreement under the <i>Local Government (Planning and Environment) Act 1990</i> or the <i>Local Government Act 1936</i>	[21-2200]
Consent by the Registered Owner/Lessee of a State lease.....	[21-2220]
Consents	
Consent of Mortgagee, Lessee, Covenantee or Grantee of an Easement, Carbon Abatement Interest or of a Profit a Prendre	[21-2230]
Consent of other parties.....	[21-2235]
Plan Registration Compliance Checklist.....	[21-2250]
Fees	[21-2260]
Public Use Land.....	[21-2270]
Public Use Land other than Road	[21-2280]
Public Use Land – Road	[21-2290]
² Creation of Indefeasible Title	[21-2300]
² Transfer to Local Government in Fee Simple.....	[21-2310]
² Transfer to Local Government as Trustee.....	[21-2320]
Realignment of Lot Boundaries	[21-2330]
Forms	
General Guide to Completion of Forms.....	[21-4000]
Guide to Completion of Forms 21Z/21/21A/21B	[21-4010]
Plan Cover Sheet – Form 21Z	
Survey Plan (Main Plan [21], Administration Sheet [21B] and Additional Sheet/s [21A])	
Consent of registered owners or lessees - Form 18A Registered Owners/Lessees Consent to Survey Plan	
Planning Body Approval – Form 18B Planning Body Approval of Survey Plan	
Case Law	
<i>Rock v Todeschino</i> [1983] Qd R 356.....	[21-7000]
Fees.....	[21-8000]
Cross References and Further Reading	[21-9000]
Notes in text.....	[21-9050]

³Part 21 – Plans and Associated Documents

General Law

[21-0000]

The term ‘plan of survey’ (or ‘survey plan’ as it is also called) includes all surveys undertaken by a cadastral surveyor as defined by the *Surveyors Act 2003* and for the purpose of:

- subdividing one or more lots;
- dedicating land to public use;
- redefining a lot by resurvey;
- amalgamating two or more lots to create a smaller number of lots;
- defining an area for an easement, lease, profit a prendre or covenant; and
- any other purpose that the Registrar may require the registered proprietor to undertake.

A plan of survey does not include a sketch plan.

Definitions

[21-0010]

The definitions relevant to a plan of subdivision that may be registered in the Land Registry are as follows:

1. ‘lot’ is defined in Schedule 2 of the *Land Title Act 1994*, Schedule 6 of the *Land Act 1994* and Schedule 2 of the *Planning Act 2016*.
2. ‘plan of subdivision’ is defined in s. 49 of the Land Title Act and s. 290E of the Land Act.

There is a definition of ‘plan of subdivision’ in Schedule 24 of the *Planning Regulation 2017*. This term is intended to be similar to ‘plan of subdivision’ under the Land Title Act and Land Act, but is to be used in the context of assessing a planning body approval.

3. ‘reconfiguring a lot’ is defined in Schedule 2 of the Planning Act
4. ‘planning body’ means the relevant local government, or where applicable, the Minister for Economic Development Queensland or the Coordinator-General (s. 50(6) of the Land Title Act).

¶[21-0020] to [21-0040] deleted

Practice

Plan of Survey

[21-2000]

A plan of survey is a diagrammatic representation of a parcel or parcels of land showing location and dimensions. A plan may also show monuments, both natural (e.g. a lake, stream or cliff) and artificial (e.g. a peg, fence or building) found or placed in connection with the survey.

A plan of survey is prepared by a cadastral surveyor in accordance with the *Survey and Mapping Infrastructure Act 2003* and the *Surveyors Act 2003* and associated regulations and

standards. Once the survey has been completed and approved by the planning body, if required, the plan is lodged in the Land Registry.

On registration by the Registrar, plans become part of the relevant register.

The freehold land register records details about ownership and other interests on the indefeasible title for a lot. It provides a record of all registered surveys and the unique identifier ('Lot [number] on [Plan reference]') of each lot. It also facilitates the lodgement of dealings with individual lots and interests.

Preparation of Plan

[21-2010]

Plans of survey must be prepared on the approved form; Form 21 – Survey Plan (Main Plan), Form 21B – Survey Plan (Administration Sheet) and if required, multiple Form 21A – Survey Plan (Additional Sheet).

All plans of survey must be drawn to the requirements set down in the Registrar of Titles Directions for the Preparation of Plans and the Cadastral Survey Requirements, and must comply with the requirements of s. 50 of the *Land Title Act 1994* and other relevant legislation.

Plan Formats

Format

[21-2020]

Standard, Building, Volumetric and Explanatory format plans use the same plan form, however the requirements for preparation of each format differ and are set out in the Registrar of Titles Directions for the Preparation of Plans.

The spatial characteristics of the lots or interests depicted on a plan are derived from the format of the plan used.

It is not permissible to create parcels of different format types on the same plan, other than in the case of easements or remainder lot(s) on a volumetric or building format plan.

The format of the plan must be shown in the 'Format' field on the first sheet of the plan.

Lots are not qualified by the adjectives 'Building', 'Remainder', 'Restricted', 'Standard' or 'Volumetric'.

Standard Format Plan

[21-2030]

A standard format plan defines parcels two dimensionally, at ground level. The new parcel will be unlimited in height and depth. They can be defined by natural monuments and/or marks placed on the ground. The plan must include dimensions and area(s).

A standard format plan cannot subdivide a single building format lot or a single volumetric format lot.

For further information of the survey requirements for a standard format plan see direction 8 of the Registrar of Titles Directions for the Preparation of Plans.

Building Format Plan

[21-2040]

A building format plan creates lots bounded by structural elements. Lots generally are defined by floors, walls and ceilings. However, some variations are addressed in direction 9 of the Registrar of Titles Directions for the Preparation of Plans.

Generally a building format plan cannot subdivide a base parcel that consists of both standard and volumetric lots. Exceptions to this are explained in direction 9.16 of the Registrar of Titles Directions for the Preparation of Plans.

Volumetric Format Plan

[21-2050]

A volumetric format plan creates lots that are defined by three dimensional co-ordinate geometry and are fully defined by bounding surfaces (e.g. a cube). The lots may be above, below or partly above and partly below ground level.

A volumetric format plan may divide a lot or lots and/or common property on a standard, building or volumetric format plan of subdivision.

For further information on the survey requirements for a volumetric format plan see direction 10 of the Registrar of Titles Directions for the Preparation of Plans.

Explanatory Format Plan

[21-2060]

An explanatory format plan provides a cost effective means to define the boundaries of an interest in land.

The purpose of an explanatory format plan is to provide a depiction of a secondary interest without any field survey. The plan is based upon mathematical calculations so that, if required in the future, the interest could be identified and marked on the ground

The plan may be used for easements or covenants over State Tenure land or leases, easements, covenants or profits a prendre over freehold land.

For an explanatory format plan the words ‘SURVEY PLAN’ on the top of the form must be crossed out and the words ‘EXPLANATORY PLAN’ placed beneath.

Every explanatory format plan to be lodged in the Land Registry must have been approved by the Registrar of Titles in writing prior to lodgement. The approval of the Registrar is required to be deposited with the plan upon lodgement.

For further information on the survey requirements for an explanatory format plan see direction 20 of the Registrar of Titles Directions for the Preparation of Plans.

Plan of Subdivision

[21-2070]

A plan of subdivision is a plan of survey that may provide for 1 or more of the following:

- division of 1 or more lots;
- amalgamation of 2 or more lots to create a smaller number of lots;
- dedication of land to public use;
- redefinition of a lot on a resurvey.

A plan of subdivision may require the approval of the relevant planning body (see [21-2130]). Additional approvals to the plan may be also required in some cases (see [21-2140] to [21-2210]). Where the land is affected by a mortgage, lease, easement, profit a prendre or statutory covenant, consents of relevant parties may be required (see [21-2230]). The plan must be consented to by the registered owner by way of completion of a Form 18A – Registered Owners/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 State Land Asset Management (SLAM) to address the issue of the Road Licence prior to lodgement of the plan.

Plan of Survey for Easement

[21-2080]

Section 83 of the *Land Title Act 1994* requires, for an easement (other than a high-density development easement under Part 6 Division 4AA of the Land Title Act) over part of a lot to be registered, the easement must first be designated on a registered plan of survey. If an easement is over the whole of a lot, no new plan is required as the extent of the easement is defined by the registered plan depicting the lot.

Section 83A(1) of the Land Title Act allows for the defining of boundaries of a proposed easement (other than a high-density development easement under Part 6 Division 4AA of the Land Title Act) by registration of a plan in the appropriate format. A plan that depicts an easement may show the easement as proposed whether or not the easement document that grants the easement is lodged with the plan. However, if an easement document is not lodged with the plan, the word ‘proposed’ must be shown on the plan.

Plans for easement purposes must comply with direction 4.8.2, and either direction 6, 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans. The depiction of an easement may be included with a survey of lots on a plan of subdivision.

A plan must not depict an easement in parts.

The registration of a plan does not create an easement. An easement can only be created by registering an instrument of easement (s. 82(1) of the Land Title Act).

If a plan of survey depicting an easement that gives access to a lot from a constructed road is the reconfiguring of a lot under the *Planning Act 2016*, then the plan must have the approval of the planning body concerned, when the implementing easement instrument, executed after 25 May 2001, is lodged. Alternatively the planning body may give approval to the plan on a Form 18 – General Consent that refers to the plan of survey and easement, and must then be deposited with the easement.

In cases where the plan of survey was registered prior to the lodgement of the implementing easement instrument, the plan of survey still requires approval of the planning body. Where the plan of survey depicting an easement that gives access to a lot from a constructed road was not approved by the planning body before registration, the planning body must give approval to the plan on a Form 18 – General Consent that refers to the plan of survey and easement. The consent must then be deposited with the easement.

Notwithstanding the easement is for another purpose in addition to access, the registered plan will still require the approval of the planning body.

In the majority of cases, planning body approval is required for each plan depicting the extent of an easement that gives access to a constructed road, regardless of whether or not the easement actually abuts the road. For example, where a lot gains access through a number of easements over adjacent lots, and those easements are depicted on separate plans of survey, planning body approval is required for each plan.

In certain cases the approval of the planning body to the plan may not be required. In situations where parties consider that planning body approval is not required, sufficient evidence must be deposited with the easement.

As there is no legislated definition for a ‘constructed road’, it is sufficient to require approval by the planning body concerned, if the road has been dedicated.

Lodgement fees for a plan are payable.

Plan of Survey for Lease

[21-2090]

Where part of a lot or part of common property which is external to a building is to be leased a plan of survey must be registered to define the boundaries of the area to be subjected to the lease (s. 65(2)(b) of the *Land Title Act 1994*). These plans must comply with direction 4.8.2 and either direction 8 or 10 of the Registrar of Titles Directions for the Preparation of Plans.

One plan may be used to define any number of separate leases.

An area identifying a lease may be included with a survey of lots on a plan of subdivision.

A plan must not describe a lease as proposed and there is no requirement for a lease to be lodged immediately after the plan.

A plan must not depict the lease in parts.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

See also Part 7 Lease, ¶[7-0050] and [7-2205].

Plan of Survey for Profit a prendre

[21-2100]

Plans for profit a prendre purposes are required to define the boundaries of the area to be subjected to the profits a prendre when only part of a lot is involved (s. 97F (1)(b) of the *Land Title Act 1994* and s. 373I(1)(b) of the *Land Act 1994*). These plans must comply with directions 4.8.2 and 19 of the Registrar of Titles Directions for the Preparation of Plans. One plan can be used to define any number of separate profits.

A plan of survey or explanatory format plan is required to precede a profit a prendre if the interest affects part of a lot. If the profit a prendre is for the whole of a lot, no plan is required.

A profit a prendre may be included with a survey of lots on a plan of subdivision.

A plan must not describe a profit a prendre as proposed and there is no requirement for a profit a prendre to be lodged immediately after the plan.

A plan must not depict the profit a prendre in parts.

Plans of survey for profits a prendre do not require approval by the planning body.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

Plan of Survey for Covenant

[21-2110]

Plans for covenant purposes are required to define the boundaries of the area to be subjected to the covenant when only part of a lot is involved (s. 97B(1)(b) of the *Land Title Act 1994* and s. 373B(1)(b) of the *Land Act 1994*). These plans must comply with directions 4.8.2 and 21 of

the Registrar of Titles Directions for the Preparation of Plans. One plan can be used to define any number of separate covenants.

A plan of survey or explanatory format plan is required to precede an instrument of covenant under the Land Title Act or the Land Act if it affects part of a lot. If the covenant is over the whole of a lot, no plan of survey is required.

A covenant may be included with a survey of lots on a plan of subdivision.

A plan must not describe a covenant as proposed and there is no requirement for a covenant to be lodged immediately after the plan.

A plan must not depict the covenant in parts.

Plans of survey for covenants do not require approval by the planning body.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

Plan of Survey for Carbon Abatement Interest

[21-2115]

Plans for carbon abatement interest purposes are required to define the boundaries of the area to be subjected to the carbon abatement interest when only part of a lot is involved (s. 97O(3) of the *Land Title Act 1994* and s. 373S(3) of the *Land Act 1994*). These plans must comply with directions 4.8.2 and 24 of the Registrar of Titles Directions for the Preparation of Plans. One plan can be used to define any number of separate carbon abatement interests.

A plan of survey or explanatory format plan is required to precede an instrument of carbon abatement interest under the Land Title Act or the Land Act if it affects part of a lot. If the carbon abatement interest is over the whole of a lot, no plan of survey is required.

A carbon abatement interest may be included with a survey of lots on a plan of subdivision.

A plan must not describe a carbon abatement interest as proposed and there is no requirement for a carbon abatement interest to be lodged immediately after the plan.

A plan must not depict the carbon abatement interest in parts.

Plans of survey for carbon abatement interests do not require approval by the planning body.

The plan must be accompanied by a duly completed Form 18A.

Lodgement fees for a plan are payable.

Plan of Survey for Resumption

[21-2120]

Generally

A constructing authority, defined in s. 2 of the *Acquisition of Land Act 1967*, may take land or an interest in land (for example, an easement) for a purpose stated in the schedule of the Act.

The Acquisition of Land Act provides that where part of a lot or an interest in a lot is to be taken, the land or interest to be taken must be identified on a plan of survey. If the whole of a lot is to be taken it may be described by reference to an existing description.

A plan of survey for a resumption action does not require the approval of a planning body (see ¶[21-2130]) nor the consent of the mortgagee or other registered proprietors.

Lodgement fees are applicable except where the constructing authority is the State.

Resumption of an Easement

Where a constructing authority is taking an easement, which is over part of a lot, a plan of survey depicting the easement is required to be registered.

The plan must:

- deal only with the taking of easement action;
- identify the taken area as an easement (a proposed easement is not permitted); and
- be accompanied by a Form 18A duly completed by the constructing authority.

The plan must be accompanied by a Form 14 – General Request to register resumption (see [14-2320])

Resumption of Land

Where a constructing authority is taking part of a lot, a plan of subdivision depicting as new lots the land to be taken and the land not taken, is required to be registered.

The resumption plan must:

- deal only with the taking of land action;
- identify as a lot/s the area taken and identify the area remaining as a lot/s;
- not dedicate any new road; and
- be accompanied by a Form 18A duly completed by the constructing authority.

The plan must be accompanied by a Form 14 – General Request to register resumption (see ¶[14-2320]).

Approval by Planning Body

[21-2130]

A plan of subdivision that provides for the division of 1 or more lots, or the dedication of land to public use land must be approved by the relevant planning body, for example the local government or where relevant, the Minister for Economic Development Queensland (MEDQ) or the Coordinator-General (s. 50(1)(i) of the *Land Title Act 1994*).

The form of the approval by the planning body is by completing an accompanying Form 18B – Planning Body Approval of Survey Plan.

Where the plan of subdivision provides only for:

- the amalgamation of 2 or more lots to create a smaller number of lots; or
- the redefinition of a lot on a resurvey; or

- under the *Body Corporate and Community Management Act 1997*, chapter 2, part 3, division 2, the incorporation of a lot with common property or conversion of lessee common property within the meaning of that Act;

the approval of the relevant planning body is not required (s. 50(1)(h) of the Land Title Act).

Subsections 50(1)(h) and (i) of the Land Title Act do not apply to a plan of subdivision that, other than for s. 50(3) of the Land Title Act, would have been required to have been approved by the relevant planning body if—

- for a plan that would have required approval by the MEDQ—the plan is not a plan of subdivision as defined in the *Economic Development Act 2012*, s. 104; or
- for a plan that would have required approval by the relevant local government—the plan is not a plan for which a process for approving the plan is provided under the *Planning Act 2016*, s. 397.

Also ss. 50(1)(h) and (i) of the Land Title Act do not apply to a plan of subdivision that, under the provision of another Act, is a plan that is not required to be approved by the relevant planning body (s. 50(4) of the Land Title Act).

An approval of a plan of subdivision is current for 6 months from the date it is given (s. 50(5) of the Land Title Act).

Where land contained in a plan of subdivision is located within a number of planning body areas, separate planning body approvals are required. For example this would occur where land is located within more than one local government area.

The Planning Regulation 2017 provides for the approval of a plan of subdivision for reconfiguring a lot. Schedule 24 of Planning Regulation 2017 provides that the following reconfigurations are not included, which are therefore exempt from local government approval:

- (i) the acquisition of land, including by agreement, under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
- (ii) the acquisition of land by agreement, other than under the *Acquisition of Land Act 1967*, by a constructing authority or an authorised electricity entity, for a purpose for which land may be taken under that Act; or
- (iii) land held by the State, or a statutory body representing the State, that is being reconfigured for a purpose for which land may be taken under the *Acquisition of Land Act 1967*, whether or not the land relates to an acquisition; or
- (iv) the acquisition of land for water infrastructure; or
- (v) a lot that is, or includes, airport land, strategic port land or Brisbane core port land; or
- (vi) a plan lodged under the *Acquisition of Land Act 1967* section 12A, as a result of a reconfiguration stated in paragraph (i) above.

If a plan is withdrawn and re-entered under s. 159 of the Land Title Act or s. 308 of the Land Act, the time between planning body approval and lodgement is calculated from the date the plan was first lodged, not the date of re-entry (s. 53 of the Land Title Act and s. 290L of the Land Act).

If a plan is fully withdrawn or rejected and is presented for re-lodgement, the date it is 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

Coastal Management

[21-2140]

The *Coastal Protection and Management and Other Legislation Amendment Act 2001* (No 93 of 2001) was assented to on 10 December 2001, but the substantive provisions, including s. 25, did not commence until 20 October 2003 (the commencement date). Section 25 repealed the *Beach Protection Act 1968* and the *Canals Act 1958*.

The provisions in Division 4 of Part 2 of Chapter 6 of the *Coastal Protection and Management Act 1995* refer to planning applications in progress. In particular s. 179(2) makes reference to processing a number of applications as if the Act under which the application was made had not been repealed. Where the application predates the commencement date the plan requirements and certificates that existed under the repealed legislation continue to apply:

- For the subdivision of land within a coastal management control district the consent of the Governor in Council is required (s. 45 of the Beach Protection Act).
- When a canal is to be constructed as part of the subdivision the approval of the Governor in Council is required (s. 9 of the Canals Act).

Where the application is made on or after the 20 October 2003 requirements under the Coastal Protection and Management Act apply (see [21-2170]).

¶[21-2150] deleted

Artificial Waterways

Application made prior to 20 October 2003

[21-2160]

The following requirements apply to plans of subdivision where the application to the local government was made prior to 20 October 2003.

Any plan of survey creating a canal under the *Canals Act 1958* must show the canal as a separate lot and be marked as ‘CANAL’, including complete metes and bounds and an area. A transfer of canal lots to the State is required and must be capable of registration before the plan can be registered.

The plan should be approved by the planning body by way of a duly completed Form 18B, and then endorsed with the consent of the Governor in Council (s. 9(1)(e) of the *Canals Act*). The endorsement by the Executive Council will be signed by the Clerk of the Executive Council, and will be way of a duly completed Form 18B.

Application made after 20 October 2003

[21-2170]

Any plan of survey creating an artificial waterway must show the artificial waterway as a separate lot, including complete metes and bounds and an area, and indicate on the face of the plan whether the artificial waterway is canal, artificial waterway or access channel.

The term ‘CANAL’, ‘ARTIFICIAL WATERWAY’ or ‘ACCESS CHANNEL’ must be repeated wherever the lot number appears on the face of the plan, e.g.:

Lot 37		Lot 85		Lot 106
	or		or	
CANAL		ARTIFICIAL WATERWAY		ACCESS CHANNEL

In addition to the planning body approval to the subdivision, the completed Form 18B, the local government must certify on the Form 18B that:

- (a) the waterway, and any access channel associated with the waterway, is constructed in accordance with the development approval for the waterway; and
- (b) if the waterway is not a canal – the local government is satisfied arrangements have been made, or will be made, for the maintenance and management of the waterway (s. 119 of the *Coastal Protection and Management Act 1995*).

If the lot is a canal, then a Form 1 – Transfer and surrender to the State must be lodged to follow the plan. The transfer to the State must be capable of registration before the plan can be registered. Releases of any mortgages are not required for the canal lot(s).

The transfer and surrender to the State is registered over the indefeasible title created. The consideration must show a reference to the relevant legislation (e.g. s. 9 of the *Canals Act 1958* or s. 120 of the *Coastal Protection and Management Act*).

A lot that is an artificial waterway or access channel is to be dealt with as a normal fee simple lot, i.e.:

- a indefeasible title is created for the lot;
- the lot is not required to be surrendered to the State; and
- all secondary interests may remain on the title.

Access**[21-2180]**

The Registrar is not obliged to ensure that a lot has access to a public road except where the lot is to be dedicated to the State for public use. Where a lot is being dedicated for public use, other than as a road, non-tidal watercourse or a lake, s. 51A(a) of the *Land Title Act 1994* and s. 290JB(a) of the *Land Act 1994* apply. Access to the lot may be by way of:

- an abutting public road; or
- a public thoroughfare easement.

If a plan does not appear to comply with the above requirements, the Minister may, upon application, under s. 51A(b) of the *Land Title Act* or s. 290JB(b) of the *Land Act* approve a plan of subdivision providing for dedication of a lot without access being available. Generally in these cases access is through an adjacent reserve and:

- the adjacent reserve has dedicated access; and
- the adjacent reserve is for the same purpose as the public use land being dedicated; and
- the trustees of the public use land being dedicated are the same as the trustees of the adjacent reserve.

The Minister may grant the approval by letter or Form 18 – General Consent.

Reservation for a Public Purpose under s. 23 of the *Land Act 1994***[21-2190]**

Where a lot is the subject of a plan of subdivision and the indefeasible title for the lot contains a reservation for a public purpose under s. 23 of the *Land Act* and the location of the land reserved is not identified in the grant, prior to lodgement the plan must be referred to the State Land Asset Management area of the department for action. If the Minister, 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 Minister.

For further information about the certificate see 2.9.2 of the *Cadastral Survey Requirements*.

Agreement under the *Local Government (Planning and Environment) Act 1990* or the *Local Government Act 1936***[21-2200]**

Agreements under the now repealed *Local Government (Planning and Environment) Act* or the *Local Government Act*, between the registered owner and the local government, were lodged for registration as a condition of the approval of a plan of subdivision. Typically the agreements related to lots to be held by the same registered owner.

There is no similar provision under the *Planning Act 2016*. However, s. 97A(3)(c) of the *Land Title Act 1994* and s. 373A(3) of the *Land Act 1994* allow for the registration of an instrument of covenant, which may contain similar conditions (see part 31 – Covenants).

An agreement may be cancelled with the approval of the relevant local government.

Where an agreement is cancelled in conjunction with a new plan of subdivision, a letter from the relevant local government approving cancellation must be deposited with the plan. On registration of the plan, the agreement will be removed from relevant indefeasible titles.

Where an agreement is to be cancelled and there is no new plan of subdivision lodged, an application in a Form 14 – General Request, signed by the registered owner, and the approval of

the local government on a Form 18 – General Consent are required. Lodgement fees are applicable.

¶[21-2210] deleted

Consent by the Registered Owner/Lessee of a State lease

[21-2220]

All registered owners/lessees must consent to the plan, by way of a duly completed Form 18A – Registered Owners/Lessees Consent to Survey Plan (s. 50(1)(b)(i) of the *Land Title Act 1994* or s. 290J(1)(g)(ii) of the *Land Act 1994*).

If a person consents to the plan, by way of a duly completed Form 18A, on behalf of the registered owner/lessee under a power of attorney, the power of attorney must be registered in the Titles Registry prior to the registration of the plan. If the power of attorney is not a general power of attorney, it must grant the attorney power to subdivide. If the attorney has been delegated power to sell, this will be accepted as sufficient authority to subdivide.

When the subject land is owned/leased by a corporation, the official designations of the persons signing on behalf of the corporation must be shown on the Form 18A. The Australian Company Number should be included as part of the registered owner's name and in the seal if one is affixed on the Form 18A (see Part 50 – Corporations and Companies and Part 61 – Witnessing and Execution of Instruments or Documents for more details).

A mortgagee in possession can execute a Form 18A on behalf of the registered owner(s)/lessee(s). Evidence of default and service of the notice of demand is required to be deposited. The appropriate manner to recite in Item 2 on the Form 18A is 'XY as mortgagee in possession under Mortgage No [number]'. No reference to the registered owner's name appears on the Form 18A, however, the new indefeasible titles will be created in the name of the registered owner, subject to the registered mortgage.

Consents

Consent of Mortgagee, Lessee, Covenantee or Grantee of an Easement, Carbon Abatement Interest or of a Profit a Prendre

[21-2230]

Section 50(1)(j) of the *Land Title Act 1994* requires that a plan of subdivision (see definition of *plan of subdivision* in s. 49 of Land Title Act) must be consented to by:

- all registered mortgagees of each lot the subject of the plan; and
- all other registered proprietors (for example a lessee, covenantee or the grantee of an easement or of a profit a prendre), whose interests are affected by a plan.

The term 'affected' in this context means, the spatial extent of a registered interest is intersected by the spatial extent of new road or a new lot (including a lot for public use) depicted on a plan. The registered interest is partly or wholly extinguished to the extent intersected.

The consent must be on a Form 18 – General Consent unless otherwise stated below.

The following matrix shows where a consent is required by a registered proprietor whose interest is affected (see the definition above) by a plan of subdivision. The table does not apply to plans prepared under the *Acquisition of Land Act 1967*.

Consent of registered proprietor of affected interest required			
Affected interest	Plan depicts new lots but no public use land shown	Plan depicts new lots and shows public use land other than road	Plan depicts new road
Mortgage	Yes*	Yes*	Yes*
Lease	No	Yes	Yes
Easement (including a high-density development easement) – other than public utility easement	No	Yes	Yes No – if easement only for right of way
Easement – public utility	No	Yes No – if Minister's approval granted (by way of Statement of Intent, letter or Form 18)	Yes No – if grantee is the local government that approves the plan No – if easement only for public thoroughfare
Profit a prendre	No	Yes	Yes
Covenant – preservation or use of land	No	Yes No – if the grantee is the local government approving the plan	Yes
Covenant – binding ownership of lots	Release of covenant required	Release of covenant required	Release of covenant required
Carbon Abatement Interest	No	Yes	Yes

*A chargee of a recorded statutory charge is not required to consent to the registration of a plan unless there are specific provisions in the relevant legislation identifying the right of possession or redemption under the charge.

Consent of other parties

[21-2235]

Section 50(1)(k) of the *Land Title Act 1994* and Section 290J(1)(1)(iv) of the *Land Act 1994* require that a plan of subdivision (see definition of plan of subdivision in s. 49 of Land Title Act and s. 290E of Land Act) that affects land the subject of a conservation agreement under the *Nature Conservation Act 1992* must be consented to by the chief executive of the department in which that Act is administered. Conservation agreement is defined in the schedule to the Nature Conservation Act. The consent must be on a Form 18 – General Consent.

¶[21-2240] deleted

Plan Registration Compliance Checklist

[21-2250]

A survey plan with a certification on the face of the plan by a cadastral surveyor dated on and from 1 July 2005 and not endorsed in Item 11 on the plan administration sheet (Form 21B) by

an accredited surveyor must be accompanied by a Form 10 – Plan Registration Compliance Checklist under the *Survey and Mapping Infrastructure Act 2003* when lodged.

Fees

[21-2260]

Lodgement fees and fees for the creation of new indefeasible titles must be paid unless there is a statutory exemption (see [60-0892]).

The assessment of fees is based on a lodgement fee with a fee for each additional lot. The number of lots is determined by identifying all the new lots on the plan and all new secondary interests on the plan. However, areas of new road or common property are not included in this assessment.

A new title fee is charged for any lots on the plan for which an indefeasible title is to be created. Indefeasible titles are not created for public use lots. The new indefeasible titles are created on registration of the plan but in some instances additional documentation may be required to complete this process for example, transfers to resolve ownership or collateral mortgages.

Public Use Land

[21-2270]

Dedication of Land

The dedication of land to ‘public use land’ on registration of a plan of subdivision:

- is for the whole of the registered proprietor’s interest in the lot (s. 51(1) of the *Land Title Act 1994*);
- dedicates and opens any roads for the purposes of the *Land Act 1994* without anything further, (s. 51(2)(a) of the Land Title Act or s. 290JA(2)(b) of the Land Act); or
- dedicates and opens the new non-tidal boundary watercourse or lake (s. 51(2)(b) of the Land Title Act or s. 290JA(2)(c) of the Land Act); or
- dedicates lots identified on the plan as reserves for a community purpose/s under the Land Act, if the plan has been consented to by the Minister (s. 51(2)(c) of the Land Title Act or s. 290JA(2)(a) of the Land Act); or
- otherwise—the lot becomes unallocated State land under the Land Act (s. 51(2)(d) of the Land Title Act or s. 290JA(2)(d) of the Land Act).

A plan of subdivision that includes land to be dedicated for a public use may identify the area being surrendered on the face of the plan by endorsing on it any of the following:

- ROAD (or NEW ROAD);
- Lot number and ‘PUBLIC USE LAND’;
- Lot number and ‘PUL’;
- Lot number and ‘PUBLIC USE LAND’ together with the purpose.

Statement of Intent

Statement of Intent forms are State Land Asset Management forms that provide for and give Ministerial approval to action under the Land Act associated with plans of subdivision lodged under the Land Act or the Land Title Act. A Statement of Intent form is completed by a State Land Asset Management officer and signed by a delegate of the Minister.

The Statement of Intent – Plan Lodgement under the *Land Title Act 1994* form provides for and gives Ministerial approval to the dedication of freehold land as a reserve pursuant to sections 31, 31A and 44 of the Land Act. The form may only be used where the purpose of the reserve is shown on the face of the plan. The completed form is given to the registered owner of the subject land for deposit with the plan when lodged.

The Statement of Intent – Plan Lodgement under the *Land Act 1994* form provides for and gives Ministerial approval to the dedication of unallocated State land as road pursuant to s. 94 of the Land Act.

Public Use Land other than Road

[21-2280]

Lots dedicated to public use become unallocated State land on registration of the plan without any further action.

The dedication of public use land must not be shown as a condition of the approval of the plan.

If the plan depicts public use land and a community purpose listed in schedule 1 of the *Land Act 1994* is shown on the face of the plan and the action is approved by the Minister by way of a Statement of Intent – Plan Lodgement under the *Land Title Act 1994* form, on registration of the plan the lot is dedicated as a reserve.

If a lot that is the subject of dedication to public use is affected by registered encumbrances, additional instruments (such as partial releases of mortgages and surrenders of easements and leases) are not required to be lodged. For the dedication to occur on registration of the plan consents may be required (see [21-2230]).

In the case of a public utility easement over freehold land that is to become unallocated State land the easement may continue over the unallocated State land if the approval of the Minister is obtained and deposited (s. 372(5) of the Land Act). If a Statement of Intent is being used to provide approval to the dedication of the public use land as reserve, the approval to the continuation of easements may be included on the Statement of Intent. Where a Statement of Intent is not being used the approval must be by a letter or a Form 18.

Public Use Land – Road

[21-2290]

Registration of a plan that shows new road operates to dedicate the road and open it for the *Land Act 1994* without anything further (s. 51(2)(a) of the *Land Title Act 1994*).

New road depicted on a plan of subdivision may be either a standard format parcel or a volumetric format parcel.

There are a number of alternative methods outlined below to dedicate the whole of a lot to new road.

For the Dedication of Fee Simple Land as Road under s. 54 of the *Land Title Act 1994*

A registered owner of a lot may dedicate the whole of a lot as road by registering a dedication notice. A dedication notice must be made on a Form 14 – General Request and be for the whole of a lot. See [14-2315] for additional information.

For the Dedication of Fee Simple Land as Road under s. 12B of the *Acquisition of Land Act 1967*

A constructing authority having acquired fee simple land for road purposes under the *Acquisition of Land Act 1967* may dedicate a lot as road by registering a dedication notice. A dedication notice must be made on a Form 14 –General Request and be for the whole of a lot. See [14-2315] for additional information.

For the Dedication of Fee Simple Land as Road, under s. 327 of the *Land Act 1994*

A registered owner may absolutely surrender the whole of their land by way of a Form 1 – Transfer to the State of Queensland stating in Item 4 ‘a surrender pursuant to s. 327 of the *Land Act 1994* and to dedicate by way of s. 94 of the *Land Act 1994* the land as road’. See [1-2470] for additional information.

²Creation of Indefeasible Title

[21-2300]

Generally, indefeasible titles are created for all lots on plans of subdivision when the plan is registered. The only exceptions are:

- lots dedicated to public use; and
- common property for a body corporate created pursuant to a specified Act under the *Body Corporate and Community Management Act 1997* or the *South Bank Corporation Act 1989*.

²Transfer to Local Government in Fee Simple

[21-2310]

See ¶[1-2580] for information on preparation of a transfer to a local government in fee simple.

²Transfer to Local Government as Trustee

[21-2320]

Land may be transferred to a local government for a public, charitable, recreation or other leisure time purpose and held by the local government **as trustee**.

For development applications on or after 30 March 1998, the *Planning Act 2016* provides that a local government may require the applicant to give to the local government, in fee simple, part of the land for local community purposes. The land must be transferred to the local government on trust.

For development applications made prior to 30 March 1998 a local government may not require the transfer of a lot to it as trustee as a condition to its approval of a plan of subdivision.

The requirement to transfer the land must not be included as a condition in the planning body approval on the Form 18B – Planning Body Approval of Survey Plan.

See [1-2570] for information on preparation of a transfer to a local government as trustee.

Realignment of Lot Boundaries

[21-2330]

When a change of lot boundaries creates a situation where:

- the ownership arrangement of one or more of the lots is unresolved;

and/or

- -if there is a mortgage registered over one or more of the lots
- -the interest(s) of mortgagee(s) becomes uncertain;

documents resolving ownership and/or mortgagee(s) interest(s) must be lodged with the plan.

Please note that this requirement is in addition to all the other normal practice requirements that apply to a survey plan including the requirement for the deposit of necessary consents (for example, see [21-2230] and [21-2240]).

The following two cases are provided as examples.

Example 1

Diagram 1 – Existing Situation

Jones Street

Title: 12345067 Owner: A Lot 7 on SP 800543 Mortgage to XYZ Bank	Title: 15432178 Owner: B Lot 8 on SP 800543 Mortgage to ABC Bank	A owns Lot 7 on SP 800543 in Title: 12345067. B owns Lot 8 on SP 800543 in Title: 15432178.
---	---	--

Diagram 2 – Desired Outcome

Jones Street

Owner: A Lot 1 on SP 876345	Owner: B Lot 2 on SP 876345	A intends to buy part of B's land (as shaded) which adjoins and hold a single title for all of the land owned.
--	--	--

The documents required to achieve the desired outcome are:

- (a) **Plan of survey**
a plan of survey (shown as plan SP 876345 in diagram 2). Indefeasible titles will be created for:
 - lots that have changed in shape due the addition of transferred land in the names of both owner A and B with no tenancy shown that is Lot 1 on SP 876345; and
 - lots that have changed in shape due to disposal of land with no change of ownership i.e. Lot 2 on SP 876345.
- (b) **Release**
Where land is being transferred from a lot which is subject to a registered mortgage(s), a release(s) must be lodged for the land being transferred. In the example, a partial release is required from ABC Bank for the part of Lot 1 on SP 876345 being transferred.
- (c) **Transfer**
A transfer, that states at Item 4 the true and full consideration that was given or undertaken, from all the owners to the eventual owner of the lot that changed in shape due to the addition of transferred land. In the example, both A and B join in a transfer of Lot 1 on SP 876345 in Title 12345067 and title 15432178 to A).
- (d) **Mortgage**
Where mortgagee(s) interests are affected, collateral mortgage(s) will be required to be registered over any new lot(s) which includes transferred land. In the example, a collateral mortgage is required from A to XYZ Bank for Lot 1 on SP 876345.

The plan of survey will not be registered until all relevant documents are lodged and capable of simultaneous registration.

Example 2

Diagram 1 – Existing Situation

Jones Street

Title: 12345067 Owner: A Lot 7 on SP 800543 Mortgage to XYZ Bank	Title: 15432178 Owner: B Lot 8 on SP 800543 Mortgage to ABC Bank	A owns Lot 7 on SP 800543 in Title: 12345067. B owns Lot 8 on SP 800543 in Title: 15432178.
---	---	--

Diagram 2 – Desired Outcome

Jones Street

Title: 12345067 Owner: A Lot 1 on SP 876345	Title: 15432178 Owner: B Lot 2 on SP 876345	A intends to buy part of B's land (as hatched) and hold a single title for all of the land owned. B intends to buy part of A's land (as shaded) and hold a single title for all of the land owned.
--	--	---

The documents required to achieve the desired outcome are:

- (a) **Plan of survey**
a plan of survey (in the example shown as plan SP 876345 in diagram 2). Indefeasible titles will be created in the names of both owners A and B with no tenancy shown for the lots that have changed in shape due the addition of transferred land, in the example:
 - Lot 1 on SP 876345; and
 - Lot 2 on SP 876345.
- (b) **Release**
Where land is being transferred from a lot which is subject to a registered mortgage(s), a release(s) must be lodged for the land being transferred. In the example above, partial releases are required from:
 - ABC Bank for the part of Lot 1 on SP 876345 being transferred; and
 - XYZ Bank for the part of Lot 2 on SP 876345 being transferred.
- (c) **Transfer**
a transfer(s), which states at Item 4 the true and full consideration that was given or undertaken, from all the owners to the eventual owner of the lot that changed in shape due to the addition of transferred land. In the example, the following transfers are required:
 - both A and B join in a transfer of Lot 1 on SP 876345 in Title 12345067 and title 15432178 to A; and
 - both B and A join in a transfer of Lot 2 on SP 876345 in Title 12345067 and title 15432178 to B.

(d) Mortgage

Where mortgagee(s) interests are affected, collateral mortgage(s) will be required to be registered over any new lot(s) which includes transferred land. In the example the following collateral mortgages are required

- from A to XYZ Bank for Lot 1 on SP 876345; and
- from B to ABC Bank for Lot 2 on SP 876345.

The plan of survey will not be registered until all relevant documents are lodged and capable of simultaneous registration.

Forms

General Guide to Completion of Forms

[21-4000]

For general requirements for completion of forms see part 59 – Forms, esp [59-2000].



Dealing Number

OFFICE USE ONLY

Privacy Statement

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

Print one-sided only

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

COATES & SULLIVAN
SOLICITORS
210 ELIZABETH STREET
BRISBANE QLD 4000
mail@coatessullivan.com.au
(07) 3227 5280

Lodger

Code
320

1. Plan Number

SP333333

First Title References

16560051
16560052

2. No of New Lots

24

No of Public Use Lots

0

No of Secondary Interests (e.g. Easements)

1

3. Directive Worksheet

DEPARTMENTAL OFFICE USE ONLY	LOTS	Standard		Volumetric	
Encumbrances:		Building Format		Crown	
		Standard with Common Property		Explanatory	
		QLD Globe		CTS Name check	
		Survey Certificate		Building Format Item 6 completed	
		Barcode Label		Development Approval date	
		Format of Plan		Dealing Notes	
		Form 18 Mortgagee Consent		Form 10	
		Form 18A Registered Owner		Ambulatory Boundary	
		Form 18B Planning Body Approval		Email Surveyor / Survey Group	
		All sheets lodged		CISP lodgement	
		Fees checked		Data entry	
		Allocations checked		New Title directives	
		Public Use Land			
		Park	Access	YES/NO	
		Road		YES/NO	
		Associated Dealings:		No of NEW TITLES	
Secondary Interests					

DEPARTMENTAL OFFICE USE ONLY	LOTS	Standard		Volumetric		
Encumbrances:		Building Format		Crown		
		Standard with Common Property		Explanatory		
		QLD Globe		CTS Name check		
		Survey Certificate		Building Format Item 6 completed		
		Barcode Label		Development Approval date		
		Format of Plan		Dealing Notes		
		Form 18 Mortgagee Consent		Form 10		
		Form 18A Registered Owner		Ambulatory Boundary		
		Form 18B Planning Body Approval		Email Surveyor / Survey Group		
		All sheets lodged		CISP lodgement		
		Fees checked		Data entry		
		Allocations checked		New Title directives		
		Public Use Land				
		Park	Access	YES/NO		
		Road		YES/NO		
		No of NEW TITLES				
		Secondary Interests				
Associated Dealings:						

SURVEY PLAN

0		50m		100m		150m		State copyright reserved.	
LOCAL GOVERNMENT:		LOCALITY:		Scale:					
				Format:					
Meridian:		Survey Records							

State copyright reserved.

Insert
Plan
Number

0 50 mm 100 mm 150 mm

Guide to Completion of Forms 21Z/21/21A/21B

[21-4010]

Plan Cover Sheet – Form 21Z

The Form 21Z – Plan Cover Sheet must be used with the Survey Plan when it is lodged.

Item Requirements

Lodger details and Lodger Code:

The name, address, contact phone number, email address, reference and lodger code (if applicable) should be completed by the person/firm actually lodging the plan for registration, and contain the minimum information necessary for positive identification and contact by correspondence (email) and telephone.

1 Plan Number and ~~First~~ Title References:

Insert the Plan Number and ~~first~~ all of the Title References affected by the survey plan.

2 No of New Lots, No of Public Use Lots and No of Secondary Interests

Insert the number of new lots, the number of public use lots and the number of secondary interests.

3 Directive Worksheet

(Completed by the Titles Registry)

Survey Plan (Main Plan [21A], Administration Sheet [21B] and Additional Sheet/s [21A])

A Survey Plan can only be completed by a cadastral surveyor registered under the *Surveyors Act 2003*, except for Items 3, 4 and 7 on the plan administration sheet (Form 21B).

Each plan and each sheet of the plan must be numbered and labelled in accordance with the requirements set out in Direction 4 of the Registrar of Titles Directions for the Preparation of Plans.

Administration Sheet Item Requirements (Form 21B)

1 Lot allocations and interest allocations:

(Completed by surveyor)

2 Original grant allocation:

(Completed by surveyor)

3 References:

(Optional – Completed if required by the relevant person/agency)

4 Lodger details:

The name, address, contact phone number, email address, reference and lodger code (if applicable) should be completed by the person/firm actually lodging the plan for registration, and contain the minimum information necessary for positive identification and contact by correspondence (email) and telephone.

5 Passed and endorsed:

(Completed by the Accredited Surveyor or ruled through if the plan is prepared by a non-accredited surveyor)

6 Building format plans certificate of encroachment/non-encroachment:

(Completed by a surveyor in accordance with Registrar of Titles Directions for the Preparation of Plans)

7 Lodgement Fees

(Completed by the Titles Registry)

8 Insert plan number:

(Completed by surveyor)

Consent of registered owners or lessees - Form 18A Registered Owners/Lessees Consent to Survey Plan

All registered owners/lessees must consent to a survey plan by way of a duly executed Form 18A – Registered Owners/Lessees Consent to Survey Plan deposited with the Survey Plan (see [21-2220]).

Refer to [18-4060] for the Guide to Completion for the Form 18A.

Please note that in Item 1 the full name, trust capacity (if applicable) and signature of each registered owner/lessee must be completed and for a corporation, the name and ACN or ARBN must be shown.

Planning Body Approval – Form 18B Planning Body Approval of Survey Plan

Where an approval to a plan of subdivision is required to be given by a planning body, the approval must be given by way of a Form 18B – Planning Body Approval of Survey Plan deposited with the Survey Plan (see [21-2130]).

Refer to [18-4080] for the Guide to Completion for the Form 18B.

Please note that Item 2 of the Form 18B must be completed by:

- stating the name of the relevant planning body and the legislative authority relevant to the approval; and
- being signed and dated by an appropriately authorised person with their authority stated.

¶[21-4020] and ¶[21-6000] deleted

Case Law

***Rock v Todeschino* [1983] Qd R 356**

[21-7000]

In this case and in *Hutchinson v Lemon* [1983] Q Conv R 54-072, it was held that the registration of a plan indicating an easement was sufficient to grant that easement. No instrument of easement was required to effect registration of the easement.

The effect of these decisions is now negated by s. 83A of the *Land Title Act 1994*, which expressly states that the registration of a plan of easement does not create the easement or evidence a present intention to create an easement.

¶[21-7010] deleted

Fees

[21-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current:

- ^{1,2}Land Title Regulation;
- ^{1,3}Land Regulation; or

Cross References and Further Reading

[21-9000]

Part 1 – Transfer

Part 7 – Lease

Part 9 – Easement

Part 14 – General Request

Part 18 – General Consent

Part 29 – Profit a Prendre

Part 31 – Covenants

Part 36 – Carbon Abatement Interest

Part 45 – Community Title Schemes

Registrar of Titles Directions for the Preparation of Plans

Notes in text

[21-9050]

Note ¹ – This part is not applicable to water allocations.

Note ² – This numbered section, paragraph or statement does not apply State Land.

Note ³ – This numbered section, paragraph or statement does not apply to freehold land.

1, 2Part 45 –Community Title Schemes

Table of Contents

General Law	[45-0000]
Practice	
Community Titles Schemes in the Land Registry	
Basic Attributes of a Community Titles Scheme.....	[45-2000]
Types of Schemes	[45-2020]
Seal of Body Corporate.....	[45-2040]
Executions Under Body Corporate Seal	[45-2060]
By a Body Corporate of a Scheme Where the Standard Module, Small Schemes Module, Accommodation Module or Commercial Module Regulations Apply	
By a Body Corporate of a Specified Two-lot scheme	
Reserving a Name for a Scheme.....	[45-2080]
Community Management Statement – Principal Document and Basic Requirements	
Purpose of a Community Management Statement.....	[45-2140]
Requirements to Record a CMS	[45-2160]
Execution of a CMS.....	[45-2180]
First CMS	
New CMS	
Requirements for a First CMS	[45-2200]
Planning body First CMS notation	
Requirements for a New CMS.....	[45-2220]
Planning body New CMS notation or exemption	
Services Location Diagrams and Statutory Easements for a Community Titles Scheme.....	[45-2230]
Practice Requirements for Recording CMS and Changing a Scheme	[45-2240]
Recording a First CMS Lodged with the Plan Establishing a Community Titles Scheme.....	[45-2260]
Changing a Scheme by a New CMS	[45-2280]
Recording a New CMS	[45-2300]
Changing the Name of a Scheme	[45-2320]
Searching Community Title Schemes.....	[45-2340]
Accessing the CMS.....	[45-2360]
Title for Common Property	[45-2380]
Change of Address of a Body Corporate	[45-2400]
Body Corporate Dealing with Scheme Land	
Body Corporate Acquisition of and Dealing with a Lot Included in its own Scheme	[45-2420]
Body Corporate May Deal with Land as Common Property.....	[45-2440]
Acquiring a Lot for Conversion to Common Property for a Residence for a Letting Agent or Service Contractor.....	[45-2445]
Survey Plan	
New CMS	
Lease	
Reconversion requirements	[45-2450]
Surrender of Lease	
Survey Plan	
New CMS	
Transfer of Lot from the Body Corporate to purchaser	
Adding or Excluding a Lot to/from a Community Titles Scheme	
Adding a Lot to a Community Titles Scheme	[45-2480]
Excluding a Lot from Scheme Land in a Community Titles Scheme	[45-2500]
Subdividing Common Property to Create a New Lot within the Scheme.....	[45-2520]
Lot to be Added to Common Property.....	[45-2540]
Section 49DA of the <i>Land Title Act 1994</i> Applies	
Section 49DA of the <i>Land Title Act 1994</i> Does Not Apply	
Lot to be Added to a Community Title Lot	[45-2560]
Part of Common Property to be Excised from a Community Titles Scheme.....	[45-2580]
Part of Common Property on a Standard or Volumetric Format Plan being Excised.....	[45-2600]
Part of Common Property on a Building Format Plan Outside a Building or Structure Being Excised.....	[45-2620]
Part of Common Property on a Building Format Plan within a Building or Structure Being Excised	[45-2640]

A Lot or Part of a Lot Excised from a Community Titles Scheme	[45-2660]
Resumptions over scheme land in a Community Titles Scheme.....	[45-2670]
Staged Subdivisions	[45-2680]
Method 1.....	[45-2700]
Method 2.....	[45-2720]
Method 3.....	[45-2740]
Method 4.....	[45-2760]
Layered arrangements	[45-2780]
Diagram A – Illustration of a Simple Layered Arrangement of Schemes	
Diagram B – Illustration of a More Complex Layered Arrangement of Schemes	
Definitions for Transitional Provisions	[45-2840]
Existing 1980 Act Plans	[45-2860]
Application of 1980 Act to Plans Not for a ‘Specified Act’	[45-2880]
Application of 1980 Act to Plan for a ‘Specified Act’	[45-2900]
Classification of Existing Plan	[45-2920]
Future 1980 Act Plans	[45-2940]
Termination of a Community Titles Scheme.....	[45-3140]
Amalgamation of Existing Schemes	[45-3160]
Documentation for Amalgamating Schemes.....	[45-3180]
Forms	
General Guide to Completion of CMS Form.....	[45-4000]
Requirements to Complete a CMS	[45-4010]
General Comments	[45-4020]
Item 1	[45-4030]
Item 2	[45-4040]
Item 3	[45-4050]
Item 4	[45-4060]
Item 5	[45-4070]
Item 6	[45-4080]
Item 7	[45-4090]
First CMS	
New CMS	
Item 8	[45-4100]
Schedules.....	[45-4110]
Schedule A – Schedule of Lot Entitlements.....	[45-4120]
Schedule B – Explanation of the Development of Scheme Land.....	[45-4130]
Schedule C – By-Laws	[45-4140]
Schedule D – Any Other Required or Permitted Details (if applicable).....	[45-4150]
Schedule E – Allocation of Exclusive Use Areas (If Applicable).....	[45-4160]
Sketches for New Exclusive Use Areas.....	[45-4170]
Guidelines for Updating Sketches of Existing Exclusive Use Areas	[45-4190]
Exclusive Use Areas – General.....	[45-4200]
Case Law	[45-7000]
Fees.....	[45-8000]
Cross References and Further Reading.....	[45-9000]
Notes in text	[45-9050]

1, 2 **Part 45 –Community Title Schemes**

General Law

[45-0000]

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 registered under the specified Acts referred to in s. 326 of the BCCMA.

Provisions set out in the *South Bank Corporation Act 1989* apply to bodies corporate created under that Act.

The BCCMA was the subject of an extensive review and was amended by the *Body Corporate and Community Management Act and Other Legislation Amendment Act 2003* which commenced on 4 March 2003. The amendments to the BCCMA provided for but was not limited to:

- the transfer of the ‘titling’ provisions of the BCCM Act to the *Land Title Act 1994*
- greater efficiency in processes involving progressive development of schemes
- allowing a body corporate to own a lot in the scheme for the purpose of allowing a letting agent to reside in the scheme
- providing more guidance in the establishment and adjustment of lot entitlements
- resolving matters associated with the compulsory acquisition of part of a scheme
- enhancing the creation of a layered scheme from a number of existing schemes
- increased obligations on the original owner (developer) of the scheme
- enhanced consumer protection in the buying and selling of lots in a community titles scheme.

[45-1000] deleted

Practice

Community Titles Schemes in the Land Registry

Basic Attributes of a Community Titles Scheme

[45-2000]

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 to create a community titles scheme:

- a plan of survey, in the appropriate format; and
- a first community management statement (CMS).

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.

Types of Schemes

[45-2020]

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.

Seal of Body Corporate

[45-2040]

The seal of a body corporate must include the full name for the body corporate, for example:

‘Body corporate for Seaview community titles scheme 1234.’

The words ‘community titles scheme’ on the seal may be abbreviated to ‘CTS’, for example:

‘Body corporate for Seaview CTS 1234.’

Executions Under Body Corporate Seal

[45-2060]

Whenever a body corporate authorises the recording of an instrument or document in the Registry, it must be signed under the seal of the body corporate.

By a Body Corporate of a Scheme Where the Standard Module, Small Schemes Module, Accommodation Module or Commercial Module Regulations Apply

If an instrument or document is not signed under seal by at least two committee members, one being the chairperson or secretary (or the secretary or treasurer with another for small schemes), the Registrar of Titles, will require evidence of the authority for the execution. Suitable evidence would be a copy of the ordinary resolution, signed under the body corporate seal by a committee member. For more information about the deposit of supporting documentation, see [60-1030].

Where positions on the body corporate have not been filled because the first annual general meeting of the body corporate has not been held, a New CMS may be signed by the original owner under the body corporate seal provided a statutory declaration by the original owner stating that the first annual general meeting has not been held is deposited.

In situations where all scheme lots are owned by the same registered owner and no resolution has been passed regarding the affixing of the seal, it is to be affixed in one of the following ways:

(a) where the registered owner is a natural person and –

(i) is also the sole owner –

‘AB chairperson/secretary, the sole registered owner for and on behalf of the Body Corporate for [scheme name] community titles scheme [number].’

See CMS Example 5.

(ii) is a joint tenant or a tenant in common –

‘AB chairperson/secretary, the nominee of DEF and GHI the sole registered owners for and on behalf of the Body Corporate for [scheme name] community titles scheme [number].’

(b) where the registered owner is a corporation –

‘AB chairperson/secretary, the nominee of XYZ Pty Ltd the sole registered owner for and on behalf of the Body Corporate for [scheme name] community titles scheme [number].’

Where a body corporate manager has been engaged by a body corporate and is executing an instrument or document on their behalf, a copy of the resolution which authorises the body corporate manager to affix the body corporate seal must be deposited with the instrument or document when lodged. The resolution must be made in accordance with the regulation module that applies to the scheme and be certified by the body corporate under the body corporate seal. If the body corporate manager is a company, the body corporate seal must be affixed together with an execution by the company in a manner permitted by law (e.g. under the seal of the company with the designations of the signatories shown).

See CMS Example 6.

By a Body Corporate of a Specified Two-lot scheme

A specified two-lot scheme body corporate may execute a document as follows:

- (a) the body corporate seal is attached to the document in the presence of—
- the owner of each lot or each owner's representative; or
 - if one person owns both lots, by the owner of the lots or the representative of the owner.

The designation of each signatory must be shown adjacent to their signature, for example 'Lot Owner' or 'Lot Owner Representative'.

If there are two or more co-owners of a lot, the signature of only one co-owner is required;

or

- (b) the manner in which a lot owner agreement directs or authorises (for example by a body corporate manager). A certified copy of the lot owner agreement authorising the engagement of the manager or the other manner of execution, must be deposited with the document (see 60-1030).

Reserving a Name for a Scheme

[45-2080]

See part 14, esp [14-2500]

[45-2100] to [45-2120] deleted

Community Management Statement – Principal Document and Basic Requirements**Purpose of a Community Management Statement**

[45-2140]

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.

Requirements to Record a CMS

[45-2160]

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.

Execution of a CMS

[45-2180]

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 in the manner set out in the regulation module applicable to the scheme. A New CMS must be lodged in the Titles Registry within three (3) months of the date of execution/consent.

For further information see [45-2060] and example 1.2 New CMS – Basic Scheme.

Requirements for a First CMS

[45-2200]

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 Local Government Community Management Statement Notation (Form 18C) notation certificate signed by an authorised officer/delegate of the planning body must be endorsed by the relevant local government deposited with the Form 14 – General Request to record the First CMS (along with the deposited First CMS). ~~That~~ 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.

Requirements for a New CMS

[45-2220]

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 provided:

- (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.

~~Item 7 — Local government community management statement notation must be completed by:~~

- ~~• the relevant local government by an authorised officer/delegate; or~~
- ~~• inserting the words ‘Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*’, if such is the case.~~

~~Section 60(6) exempts the requirement for a local government notation if there is no difference between the existing CMS and the New CMS for any issue that the local government could have regard to.~~

Services Location Diagrams and Statutory Easements for a Community Titles Scheme

[45-2230]

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 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 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	

Persons other than a licensed surveyor may prepare a SLD and certification is not required.

Practice Requirements for Recording CMS and Changing a Scheme

[45-2240]

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.

Recording a First CMS Lodged with the Plan Establishing a Community Titles Scheme

[45-2260]

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~~ ~~first~~ or ~~New CMS~~ ~~subsequent CMS~~ is made on the indefeasible titles for the lots in the scheme.

Changing a Scheme by a New CMS

[45-2280]

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 ~~registered~~ ~~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.

Recording a New CMS

[45-2300]

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.

Changing the Name of a Scheme

[45-2320]

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].’

If the Form 14 is executed by the body corporate the seal of the new name must be affixed.

The CMS must show the new name in Items 1 and 3, Item 4 must describe the common property in the new name and should be signed under the seal of the new name.

Searching Community Title Schemes

[45-2340]

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 regulated 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 regulated 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 regulated fee.

A search of a First CMS or New CMS attracts a regulated fee and comprises a copy of the Form 14 – Request to record CMS and the CMS.

A search of a standard CMS attracts a regulated 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 regulated fee.

Accessing the CMS

[45-2360]

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.

Title for Common Property

[45-2380]

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

Change of Address of a Body Corporate

[45-2400]

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 regulated lodgement fee for each transaction is paid (see also part 14, esp [14-2700]).

Body Corporate Dealing with Scheme Land**Body Corporate Acquisition of and Dealing with a Lot Included in its own Scheme**

[45-2420]

Chapter 2 Part 5 Division 3 of 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:

- 1 registering an easement for one or more basic utility services (s. 44 of the BCCMA); or
- 2 acquiring a lot to create additional common property (s. 37 of the BCCMA); or
- 3 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).

Body Corporate May Deal with Land as Common Property

[45-2440]

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]).

Acquiring a Lot for Conversion to Common Property for a Residence for a Letting Agent or Service Contractor [45-2445]

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. Transfer of the lot to the body corporate.
3. Plan of survey converting the lot to common property.
4. New CMS.
5. Lease to the letting agent and/or service contractor.

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 plan is to be signed by the body corporate.
- The approval of the ~~local government~~planning body is not required (s. 50(~~gh~~)(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.

Lease

- A Certificate under the Regulation Module is to be deposited with the Lease.

- There is no requirement to ensure lease term and any amendments comply with relevant regulation module.
- If the term of the lease with options for renewal is more than 10 years the approval of the local authority is **not** required to be deposited.
- 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.

Reconversion requirements

[45-2450]

The following instruments are required to be lodged:

1. Surrender, cancellation or determination of the lease to the letting agent and/or service contractor.
2. Plan of survey converting the common property to a lot.
3. New CMS.
4. 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.

Survey Plan

- The survey plan must only be for the purpose of converting the common property to a lot in the scheme.
- The plan is to be signed by the Body Corporate.
- The approval of the ~~local government~~ planning body is not required (s. 50(~~gh~~)(iii) of the *Land Title Act 1994*).

New CMS

- Item 4 of the Form 14 – Request to ~~register~~ record New CMS is amended by including the new lot in the scheme land.
- Item 6 of the Form 14 – Request to ~~record~~ register 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 and the New CMS are signed by the body corporate.

Transfer of Lot from the Body Corporate to purchaser

- The Form 1 – Transfer is signed by the body corporate.
- A certificate under the Regulation Module must be deposited.

[45-2460] deleted

Adding or Excluding a Lot to/from a Community Titles Scheme

Adding a Lot to a Community Titles Scheme

[45-2480]

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 signed by either a solicitor or both the registered owner of the lot to be added and the body corporate.

The CMS must be signed by the registered owner of the lot to be added and the body corporate for the scheme.

On registration of the CMS the community titles scheme number will be noted on the indefeasible title for the additional lot(s).

Excluding a Lot from Scheme Land in a Community Titles Scheme

[45-2500]

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 signed by either a solicitor or the body corporate.

On recording the New CMS, the community titles scheme number will be removed from the indefeasible title for the excluded lot(s).

Subdividing Common Property to Create a New Lot within the Scheme

[45-2520]

Additional lot(s) may be created from the common property in a community titles scheme. In these instances, the following documents must be lodged in the order shown:

1. a survey plan that is signed by the body corporate that defines the additional lot(s) (a certificate authorising the transaction in accordance with the relevant regulation module, and a statement that s. 96 of the BCCMA is not contravened, signed under the seal of the body corporate must be deposited with the survey plan); and
2. a transfer from the body corporate to the intended owner of each new lot; and
3. a New CMS that reflects the changes to Item 4 and Schedule A.

All of the documents are recorded on the indefeasible title for the common property in the scheme.

Lot to be Added to Common Property

[45-2540]

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.

Lot to be Added to a Community Title Lot

[45-2560]

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 (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.

Part of Common Property to be Excised from a Community Titles Scheme

[45-2580]

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.

Part of Common Property on a Standard or Volumetric Format Plan being Excised

[45-2600]

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. The transfer is to be accompanied by the certificate/s required under the relevant regulation module that authorise the transaction (e.g. s. 161(6) of the Body Corporate and Community Management (Standard Module) Regulation 2008) and a statement under seal by the body corporate stating s. 96 of the *Body Corporate and Community Management Act 1997* has not been contravened;
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.

Part of Common Property on a Building Format Plan Outside a Building or Structure Being Excised

[45-2620]

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. The transfer is to be accompanied by the certificate/s required under the relevant regulation module that authorise the transaction (e.g. s. 161(6) of the Body Corporate and Community Management (Standard Module) Regulation 2008) and a statement under seal by the body corporate stating s. 96 of the *Body Corporate and Community Management Act 1997* has not been contravened;
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.

Part of Common Property on a Building Format Plan within a Building or Structure Being Excised

[45-2640]

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. The transfer is to be accompanied by the certificate/s required under the relevant regulation module that authorise the transaction (e.g. s. 161(6) of the Body Corporate and Community Management (Standard Module) Regulation 2008) and a statement under seal by the body corporate stating s. 96 of the *Body Corporate and Community Management Act 1997* has not been contravened;
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

A Lot or Part of a Lot Excised from a Community Titles Scheme

[45-2660]

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.

Resumptions over scheme land in a Community Titles Scheme

[45-2670]

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.

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 ~~local government~~planning body is not required ~~in item 7 of the CMS~~ (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 may be signed by the body corporate or a solicitor for the applicant. The CMS at Item 8 is to be signed by the body corporate.

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).

3. Resumption instrument

The current requirements for a resumption instrument apply (see part 14 – General Request, esp [14-2320]).

Staged Subdivisions

[45-2680]

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.

Method 1

[45-2700]

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.

Method 2

[45-2720]

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.

Method 3

[45-2740]

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.

Method 4

[45-2760]

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.

Layered arrangements

[45-2780]

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.

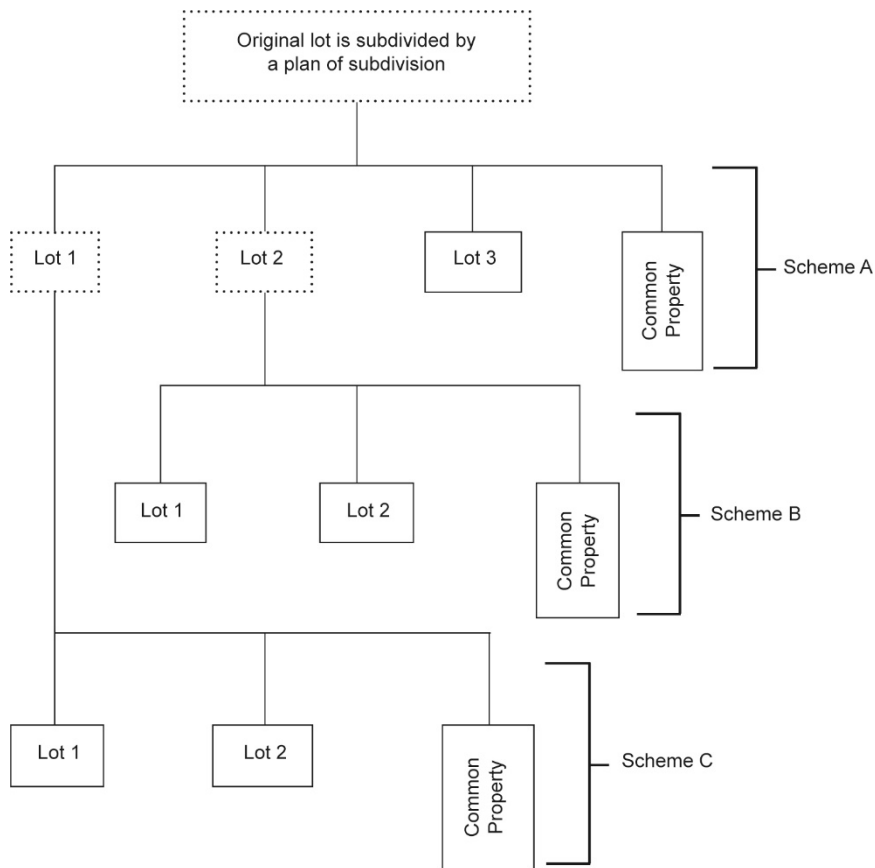
When establishing a layered arrangement, Schedule B of the CMS for the principal scheme should clearly set out details of the proposed layered development structure. If this information is disclosed in Schedule B of the CMS for the principal scheme, details of lot entitlements or plan numbers for subsidiary 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.

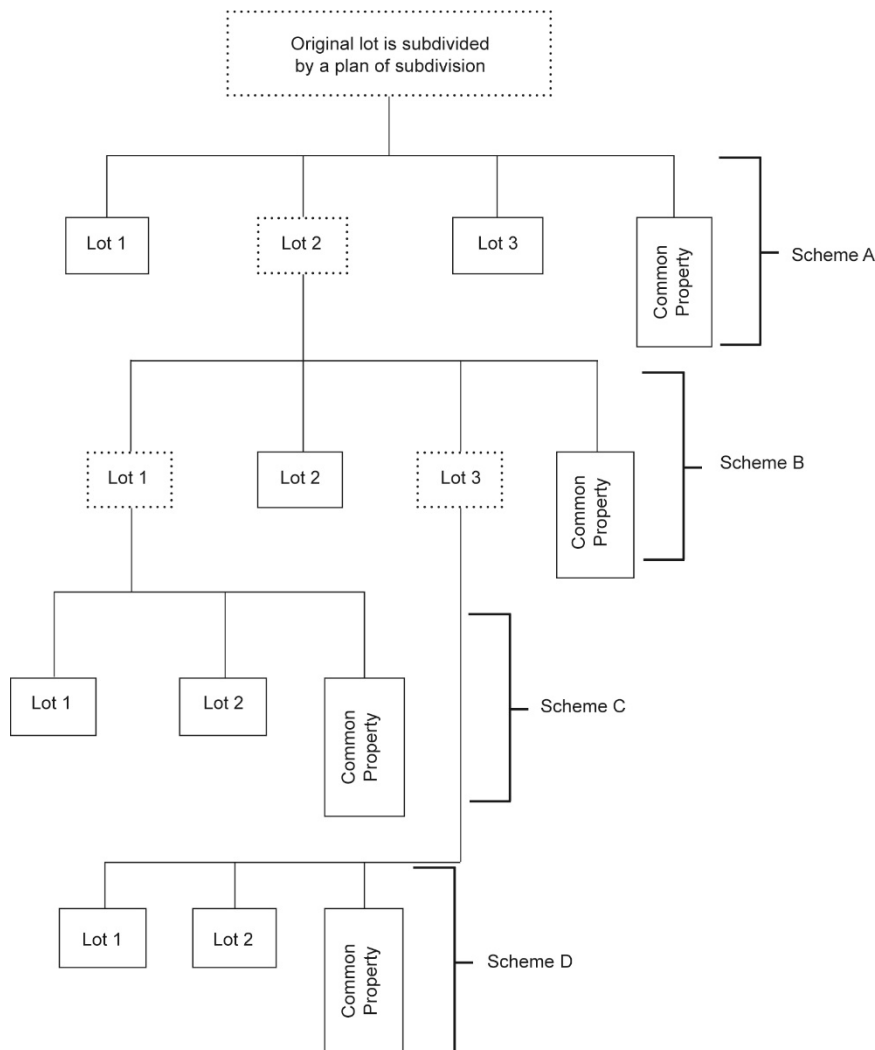
If the First CMS and if that First CMS has been replaced the current CMS, for a scheme indicates that additional common property for the principal scheme will be created on registration of a subsidiary scheme, the additional common property for the principal scheme is created on registration of the plan 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.

Definitions for Transitional Provisions

[45-2840]

‘Existing 1980 Act plan’ means:

- (a) a former building units plan or group titles plan within the meaning of s. 5(1) of the 1980 Act; or
- (b) a building units plan or group titles plan registered under the 1980 Act; to which, immediately before the commencement, the 1980 Act applied, other than as a plan brought into existence for a ‘specified Act’.

‘Future 1980 Act plan’ means a building units plan or group titles plan registered under the 1980 Act after the commencement, other than a building units plan or group titles plan brought into existence for a ‘specified Act’.

‘New scheme’ means the community titles scheme established under Chapter 8 Part 1 of the BCCMA), for a 1980 Act plan.

‘1980 Act’ means the *Building Units and Group Titles Act 1980*.

‘1980 Act plan’ means an existing 1980 Act plan or a future 1980 Act plan.

‘Specified Act’ means:

- (a) *Integrated Resort Development Act 1987*; or
- (b) *Mixed Use Development Act 1993*; or
- (c) *Registration of Plans (H.S.P. (Nominees) Pty Limited) Enabling Act 1980*; or
- (d) *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty Limited) Enabling Act 1984*; or
- (e) *Sanctuary Cove Resort Act 1985*.

Existing 1980 Act Plans

[45-2860]

The following applies to each existing 1980 Act plan:

- on commencement of the BCCMA, a community titles scheme was established for each existing plan;
- the community titles scheme established is a basic scheme;
- each lot on the existing plan becomes a lot in the community titles scheme that was established;
- the scheme land for the new community titles scheme is all of the land that is included in the parcel for the existing plan;
- each item of additional common property under the 1980 Act (Part 2, Division 2) for the existing plan (other than a parcel of additional common property acquired as freehold land and incorporated into the common property for the existing plan) became a body corporate asset for the community titles scheme that was established; and

- any exclusive use by-law that applied to an item of common property and has continuing effect under Chapter 8 Part 1, applies to that body corporate asset;
- the community titles scheme that was established is deemed to include by-laws identical to the by-laws in force before commencement of the BCCMA;
- the body corporate established under the 1980 Act for the existing plan was taken to be, without change to its corporate identity, the body corporate for the new scheme;
- a person who immediately before commencement of the BCCMA held the office of chairperson, secretary, treasurer or member of the committee of the body corporate for the existing plan continued in the corresponding office under the BCCMA as if elected or appointed to that office under the BCCMA; and
- the original proprietor for the existing plan becomes the original owner for the community titles scheme that was established.

Application of 1980 Act to Plans Not for a ‘Specified Act’

[45-2880]

A 1980 Act plan **lodged before** the commencement of the BCCMA may be registered under the 1980 Act.

An instrument (transfer, easement, etc. of a lot(s) on the plan) executed for the purpose of the plan before the commencement, may be registered under the 1980 Act.

Application of 1980 Act to Plan for a ‘Specified Act’

[45-2900]

For every building units plan or group titles plan that was **registered before** commencement of the BCCMA, the 1980 Act continues to apply to the plan after commencement, subject to the specified Act.

Every building units plan or group titles plan that was **lodged** for registration under the 1980 Act **before** commencement of the BCCMA may be registered after the commencement and the 1980 Act applies on and from commencement, subject to the specified Act.

Every building units plan or group titles plan that was **lodged** for registration under the 1980 Act within six months **after** commencement of the BCCMA was registered under the 1980 Act. The 1980 Act applies to the plan on and from its registration, subject to the specified Act.

However, every plan that is lodged for registration under a specified Act on or after 13 July 1997 must comply with all provisions of the specified Act.

An instrument (transfer, easement, etc.) affecting a lot on the plan that was executed for the purposes of the plan may be registered regardless of whether it was executed before or after commencement of the BCCMA.

Classification of Existing Plan

[45-2920]

The following applied immediately upon establishment of a community titles scheme for an existing plan:

- a building units plan is taken to be a ‘building format plan’ under the *Land Title Act 1994*.
- a group titles plan –
 - (a) is taken to be a ‘standard format plan’ under the Land Title Act; and

- (b) all easements that applied under s. 15 (Support) and s. 17 (Services) of the 1980 Act apply to the community titles scheme that was established on commencement of the BCCMA.

Future 1980 Act Plans

[45-2940]

The following applies to each future 1980 Act plan:

- immediately, upon registration of a future 1980 Act plan under the 1980 Act, a community titles scheme (the ‘new scheme’) is established for the future plan;
- the new scheme is a basic scheme;
- each lot on the future plan becomes a lot in the new scheme;
- the scheme land for the new scheme is all land included in the parcel for the future plan;
- the body corporate formed under the 1980 Act for the future plan is taken to be, without change to its corporate identity, the body corporate for the new scheme; and
- the original proprietor of the future plan is the original owner of the new scheme.

[45-2950] to [45-3120] deleted

Termination of a Community Titles Scheme

[45-3140]

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.

The plan must be signed by either the body corporate or by the person on whose application a court ordered the termination of the scheme. It becomes the instrument of application for termination as required by s. 79 of the BCCMA.

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 to terminate the scheme and any agreements entered into by the parties about termination issues; or
- (b) an order of the court to terminate the scheme.

The resolution and any agreements may be certified by the secretary or any other appointed person.

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.

Amalgamation of Existing Schemes

[45-3160]

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:

- the contents of the CMS for the amalgamated scheme; and
- 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.

Documentation for Amalgamating Schemes

[45-3180]

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 (tThe CMS must reflect the provisions agreed to by the previous bodies corporate for the separate schemes by resolutions without dissent); and, with

- ~~a properly completed Form 18C – Planning Body Community Management Statement Notation Item 7 endorsed signed by the local government planning body, and a Form 14 – General Request to Register First CMS. The CMS must reflect the provisions agreed to by the previous bodies corporate for the separate schemes by resolutions without dissent.~~

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.
- ~~a first CMS for the amalgamated scheme, with Item 7 of the CMS endorsed by the local authority, and a Form 14 – General Request to Register First CMS.~~

Item 6 of the Form 14 – General Request to ~~record~~Register 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

General Guide to Completion of CMS Form

[45-4000]

- 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/consent of body corporate.
- Annexures including enlarged panels and schedules must be consecutively numbered commencing with the form which is page 1, e.g. page 1 of 5. The page number must appear in the top right hand corner of each page including any sketch plans.
- Page numbering starts with the CMS ~~Version 2~~ as page 1, although the Form 14 – General Request forms part of the lodgement.
- 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 ~~Business~~ Registered Body Number.
- A form and its supporting documents should be bound with one staple at the top left hand corner.

Example 1.1 – First CMS – Basic Scheme

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version 34
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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

COMMON PROPERTY OF
BRIGHTON VILLA COMMUNITY
TITLES SCHEME

LOTS 1 TO 4 ON SP12347

Title Reference

50046170

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

first community management statement only

7. New CMS exemption to planning body Local Government 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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.

I Hope

signed

IAN HOPE - CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

(seal)
or full name of
company to be shown

C Johns, Director
CHARLES JOHNS
K Brown, Director/Secretary
KENNETH BROWN

20/11/2021
Execution Date

*Execution

*Original owner to execute for a first community management statement
*Body corporate to execute for a new 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 Department's 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.

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.

Example 1.2 – New CMS Basic Scheme

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version 34
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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

N/A

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.*

7. Local Government community management statement notation

..... signed
Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*

..... name and designation

..... name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of body corporate)

C Johns, Committee Member
CHARLES JOHNS
K Brown, Secretary
KENNETH BROWN

20/12/2021
Execution Date

.....
*Execution

*Original owner to execute for a first community management statement
*Body corporate to execute for a new community management statement

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.

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
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(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.

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)

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version ~~34~~
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
COMMON PROPERTY OF
GRANDVIEW HEIGHTS
COMMUNITY TITLES SCHEME
LOTS 1 TO 12 AND 99 ON
SP12348

Title Reference
50131185

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

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.

~~Local Government community management statement notation~~

I Hope

signed

IAN HOPE - CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

(seal)
or full name of
company to be shown

B May, Director
BRIAN MAY
S Doust, Director/Secretary
STEPHEN DOUST

20/11/20~~19~~
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.

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"	Carpark
	Area "1 " on sketch marked "B"	Storage
Lot 4 on SP12348	Area "2" on sketch marked "A"	Carpark
	Area "2" on sketch marked "B"	Storage

Example 2.2 New CMS – Staged Subdivision, Last Stage

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
SEE ENLARGED PANEL

Title Reference

5. #Name and address of original owner

NOT APPLICABLE

6. Reference to plan lodged with this statement

SP123459

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.

7. Local Government community management statement notation

I Hope

signed

IAN HOPE – CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of body corporate)

C Dore, Chairperson/Secretary
CARLTON DORE
G Senior, Committee Member
GEORGE SENIOR

20/12/20**21**07
Execution Date

***Execution**

*Original owner to execute for a first community management statement

*Body corporate to execute for a new 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 Department's website.

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	

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.

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 area(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"	Carpark
	Area "1" on sketch marked "B"	Storage
Lot 4 on SP12348	Area "2" on sketch marked "A"	Carpark
	Area "2" on sketch marked "B"	Storage

Example 3.1 – First CMS – Layered Arrangement – Principal Scheme

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version ~~34~~
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
COMMON PROPERTY OF
NORTHGATE HEIGHTS NO. 1
COMMUNITY TITLES SCHEME
LOTS 1 TO 6 ON SP12346

Title Reference
14872009

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

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.*

7. Local Government community management statement notation

I Hope

signed

IAN HOPE - CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

(seal)
or full name of
company to be shown

P Stanley, Director
PAUL STANLEY
J Adams, Director/Secretary
JORDAN ADAMS

20/11/20~~19~~²¹
Execution Date

***Execution**

**Original owner to execute for a first community management statement*
**Body corporate to execute for a new 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 Department's website.

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.

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.

Example 3.2 – First CMS – Layered arrangement – First Subsidiary Scheme

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version **43**
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
COMMON PROPERTY OF
NORTHGATE HEIGHTS NO. 2
COMMUNITY TITLES SCHEME
LOTS 1 TO 4 ON SP123462

Title Reference
50011003

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

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.

7. Local Government community management statement notation

I Hope

signed

IAN HOPE - CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of original owner)
or full name of
company to be shown

P Stanley, Director
PAUL STANLEY
J Adams, Director/Secretary
JORDAN ADAMS

20/11/20**2107**
Execution Date

***Execution**

*Original owner to execute for a first community management statement
*Body corporate to execute for a new 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 Department's website

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.

Lots on Plan or Common Property	Statutory Easement	Service Location Diagrams
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.

Example 3.3 – First CMS – Layered Arrangement – Second Subsidiary Scheme

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version 34
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
COMMON PROPERTY OF
NORTHGATE HEIGHTS NO.3
COMMUNITY TITLES SCHEME
LOTS 1 TO 4 ON SP13624

Title Reference
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

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.

7. Local Government community management statement notation

I Hope

signed

IAN HOPE - CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of original owner)
or full name of
company to be shown

P Stanley, Director
PAUL STANLEY
J Adams, Committee Member
JORDAN ADAMS

20/11/202107
Execution Date

*Execution

*Original owner to execute for a first community management statement
*Body corporate to execute for a new 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 Department's website.

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.

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.

Example 3.4 - New CMS – Layered Arrangement – Principal Scheme with Recording of Final Subsidiary Schemes

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version 34
Page 1 of 4

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
SEE ENLARGED PANEL

Title Reference

5. #Name and address of original owner

N/A

6. Reference to plan lodged with this statement

N/A

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.*

7. Local Government community management statement notation

..... signed
Not applicable pursuant to s. 60(6) of the Body Corporate and Community Management Act 1997

..... name and designation

..... name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of body corporate)

2/12/2019
Execution Date

P Stanley, Chairperson/Secretary
PETER STANLEY
J Adams, Committee Member
JORDAN ADAMS

*Execution

*Original owner to execute for a first community management statement
*Body corporate to execute for a new 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 Department's website.

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	

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.

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.

Example 4 – First CMS – Progressive Subdivision by Stages

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version ~~34~~
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.*

7. Local Government community management statement notation

I Hope

signed

IAN HOPE - CHIEF EXECUTIVE OFFICER

name and designation

BRISBANE CITY COUNCIL

name of Local Government

8. Execution by original owner/Consent of body corporate

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

15/10/20~~19~~
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.)

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.

Example 5 – New CMS for Existing Scheme – Small Schemes Module (Executed by a Sole Registered Owner – Natural Person)

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version ~~34~~
Page 1 of 3

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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

N/A

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.*

7. Local Government community management statement notation

..... signed
Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*
..... name and designation
..... name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of body corporate)

J Cleese, Chairperson/Secretary
JAMES CLEESE
Sole registered owner

28/12/20~~19~~²⁰
Execution Date

.....
***Execution**

**Original owner to execute for a first community management statement*
**Body corporate to execute for a new community management statement*

Privacy Statement

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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.

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
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(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 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 6 – New CMS for Existing Scheme where a Plan of Resubdivision has been Recorded – Standard Module (Executed by a Sole Registered Owner – Corporation)

QUEENSLAND TITLES REGISTRY
Body Corporate and Community Management Act 1997

FIRST/NEW COMMUNITY MANAGEMENT STATEMENT

CMS Version 34
Page 1 of 4

THIS STATEMENT MUST BE LODGED TOGETHER WITH A FORM 14 GENERAL REQUEST AND IN THE CASE OF A NEW STATEMENT 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 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
SEE ENLARGED PANEL

Title Reference

5. #Name and address of original owner

N/A

6. Reference to plan lodged with this statement

SP109001

first community management statement only

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 or for a first community management statement (CMS), a Form 18C must be deposited with the Request to record the CMS.*

7. Local Government community management statement notation

..... signed
Not applicable pursuant to s. 60(6) of the *Body Corporate and Community Management Act 1997*

..... name and designation

..... name of Local Government

8. Execution by original owner/Consent of body corporate

(seal of body corporate)

J Cleese, Chairperson/Secretary
JAMES CLEESE,
the nominee of XYZ Pty Ltd
the sole registered owner
for and on behalf of the body corporate for
Fawlty Towers Community Titles Scheme 2345

28/12/202107

Execution Date

***Execution**

*Original owner to execute for a first community management statement
*Body corporate to execute for a new community management statement

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EITHER Title Reference [19201331] OR FAWLTY TOWERS COMMUNITY TITLES SCHEME 2345

4. Scheme Land

Description of Lot	Title Reference
Common property of Fawly 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

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
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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.

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 area(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.

Requirements to Complete a CMS

[45-4010]

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:

- ~~lodged-deposited~~ with a Form 14 – General Request to record First/New CMS (see part 14 for completion).
- 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.

General Comments

[45-4020]

Page numbering of the statement shall commence with the CMS; ~~Version 3~~ as page 1 of [total number of pages] and have all attached schedules identified by appropriate letters and pages numbered consecutively, 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.)

Item 1

[45-4030]

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

Item 2

[45-4040]

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).

Item 3

[45-4050]

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.

Item 4

[45-4060]

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.

Item 5

[45-4070]

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'.

Item 6**[45-4080]**

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'.

Item 7**[45-4090]****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. ~~A first CMS must be noted by the relevant local government and executed by an officer/delegate whose full name and designation are shown.~~

~~A new CMS must be noted by the relevant local government in the same way as the first CMS or marked 'not applicable pursuant to s. 60(6) of the BCCMA.~~

Item 8**[45-4100]**

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 consented to by the body corporate 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.

Schedules

[45-4110]

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.

Schedule A – Schedule of Lot Entitlements

[45-4120]

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.

Schedule B – Explanation of the Development of Scheme Land

[45-4130]

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.

Schedule C – By-Laws

[45-4140]

If the by-laws contained in Schedule 4 of the BCCMA 1997 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.

Schedule D – Any Other Required or Permitted Details (if applicable)

[45-4150]

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]).

Schedule E – Allocation of Exclusive Use Areas (If Applicable)

[45-4160]

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’.

Sketches for New Exclusive Use Areas

[45-4170]

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

Guidelines for Updating Sketches of Existing Exclusive Use Areas

[45-4190]

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 licensed 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 licensed surveyor. In these cases, the following certificate shall be affixed to the plan –

‘I..., Licensed Surveyor, certify that the details shown on this sketch plan are correct.

Licensed Surveyor Date’.

Exclusive Use Areas – General

[45-4200]

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

Case Law

[45-7000]

Nil.

Fees

[45-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current Land Title Regulation.

Cross References and Further Reading

[45-9000]

Part 14 – General Request

Bugden, G, *Community Schemes Law and Practice*, CCH, 1997 (loose-leaf service)

Bugden, G, ‘Development: General Issues’ (August 1997) *CLE/QUT Body Corporate and Community Management Intensive*, Seminar Paper

Bugden, G, ‘Introduction to the *Body Corporate and Community Management Act 1997*’ (August 1997) *CLE/QUT Body Corporate and Community Management Intensive*, Seminar Paper

Christensen, S (et al), ‘*Body Corporate and Community Management Act 1997* (Qld): Problems and Pitfalls in Practice’ (November 1997) *CLE Property Law Intensive*, Seminar Paper

Christensen, S, 'Disclosure Statements: A Workshop – Questions and Answers' (August 1997) *CLE/QUT Body Corporate and Community Management Intensive*, Seminar Paper

Derrick, M, 'Sale of Lots in Community Titles Schemes' (July, 1997) 11/10 *Australian Property Law Bulletin*, pp 91-94

Gregory, S, '*Body Corporate and Community Management Act 1997* Intensive: General Issues' (August, 1997) *CLE/QUT Body Corporate and Community Management Intensive*, Seminar Paper

Notes in text

[45-9050]

Note¹ – This part does not apply to water allocations.

Note² – This part does not apply to State land.

Part 59 – Forms

Table of Contents

General Law.....	[59-0000]
Electronic Conveyancing.....	[59-0010]
National Mortgage Form	
Legislation.....	[59-1000]
Application of the <i>Land Title Act 1994</i> to the <i>Water Act 2000</i>	
Practice	
General Requirements for Titles Registry Forms.....	[59-2000]
Items/Panels	[59-2010]
Interests.....	[59-2020]
Shares in an Interest	
Dealing with Different Interest Types	
Lodger.....	[59-2030]
Amending Lodger details	
Alterations and Minor Corrections to Titles Registry Forms	[59-2040]
General	
Alterations or Minor Corrections Made Before Lodgement	
Alterations Made Before Lodgement	
Minor Corrections Made Before Lodgement	
Alterations or Minor Corrections Made After Lodgement	
Alterations Made After Lodgement	
Minor Corrections Made After Lodgement	
Statement by Authorised Person	
Annexures	[59-2050]
Binding.....	[59-2060]
Current Forms	[59-4000]
Chronological List of Dates of Effect – Based on Date of Signing of the Particular Form/Version	
List of Forms	
Paper Forms	
Electronic Conveyancing (electronic) Forms	
Cross References and Further Reading	[59-9000]
Notes in text.....	[59-9050]

Part 59 – Forms

General Law

[59-0000]

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 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.

Electronic Conveyancing

[59-0010]

An electronic conveyancing document is a document that is lodged electronically under the Electronic Conveyancing National Law (Queensland).

A reference in the *Land Title Act 1994* to a document of a type that may be lodged or deposited under the Land Title Act includes reference to a document in the form of an electronic conveyancing document.

If the Land Title Act provides for a document to be signed or executed and the document is an electronic conveyancing document, the document must be digitally signed as provided for under the Electronic Conveyancing National Law (Queensland) and the Participation Rules (Queensland).

If a registry instrument, other than a plan of survey, is digitally signed in accordance with the Queensland Participation Rules for electronic conveyancing, 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.

A document that is lodged as an electronic conveyancing document must be accompanied by a set of lodgement instructions identifying the nominated Responsible Subscriber and the order in which the documents are to be lodged. The lodgement instructions must be digitally signed by all subscribers to the transaction.

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).

National Mortgage Form

The National Mortgage Form was introduced on 29 May 2017 as part of a national initiative to standardise content and presentation of mortgages.

Legislation

[59-1000]

Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, the Land Title Act applies to the registration of an interest or dealings for a water allocation on the water allocations register subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the Land Title Act:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar of Water Allocations; and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and
- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) with any other necessary changes.

^{1, 3}Reference to the Chief Executive in the *Land Act 1994*

The functions of the Chief Executive under the Land Act relating to the keeping of Registers are carried out by the Registrar of Titles under delegation given under s. 393 of that Act.

Practice

General Requirements for Titles Registry Forms

[59-2000]

A form (other than a plan of survey) must meet the requirements of the Land Title Regulation 2015.

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 department's 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.

Items/Panels

[59-2010]

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.

Interests

[59-2020]

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.

Lodger

[59-2030]

The lodger details must contain the minimum information necessary for positive identification and contact by mail, electronic mail 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.

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.

Alterations and Minor Corrections to Titles Registry Forms

[59-2040]

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;
- 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;

- 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;
- any addition must be clearly printed in the correct item.

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;
- Form CMS (Community Management Statement); or
- Power of Attorney instrument.

Section 5(4) of the Land Title Regulation 2015 requires each party and each witness to a Titles Registry form to 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.

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 department’s 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.

Annexures

[59-2050]


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.

Binding

[59-2060]

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

Current Forms

[59-4000]

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 21, ~~and Version 1 of~~ Forms 21A, ~~26-29~~ 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 (1 January 2018)	–	Version 1 of Priority Notice Form approved (accepted for deposit from 1 January 2018)
16 October 2017 (1 January 2018)	–	Version 1 of Extension of Priority Notice Form approved (accepted for deposit from 1 January 2018)
16 October 2017 (1 January 2018)	–	Version 1 of Withdrawal of Priority Notice Form approved (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/Lessee's 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
<u>30 November 2020</u>	<u>–</u>	<u>Version 4 of CMS commenced</u>
		<u>Version 1 of Form 18C Planning Body Community Management Statement Notation commenced</u>
		<u>Version 2 of Form 21Z commenced.</u>
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)
<u>28 February 2021</u>	<u>–</u>	<u>Version 3 of CMS signed after this date no longer accepted (forms signed on or before this date still accepted)</u>
		<u>Version 1 of Form 21Z no longer accepted for deposit after this date.</u>

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 6	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 4	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
<u>Form 18C</u>	<u>Version 1</u>	<u>Planning Body Community Management Statement Notation</u>
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 4 2	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
CMS	Version 4 3	Format for 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)
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Form 3	Version 2	Release of Mortgage (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)

Cross References and Further Reading

[59-9000]

Nil.

Notes in text

[59-9050]

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

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

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

Part 60 – Miscellaneous

Table of Contents

Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*

^{1,3}Reference to the Chief Executive in the *Land Act 1994*

Requisitions

General Law [60-0000]

Requisition pursuant to s. 156(1) of the *Land Title Act 1994* or s. 305(1) of the *Land Act 1994*

Electronic conveyancing document

Requisition pursuant to s. 156(7) of the *Land Title Act 1994* or s. 305(7) of the *Land Act 1994*

Practice..... [60-0030]

Requisition of a caveat or writ or warrant of execution

Fee for a Requisition..... [60-0040]

The Registrar's Powers of Correction

General Law

Error in Lodged Instrument or Document [60-0050]

Error in the Register..... [60-0060]

Practice..... [60-0090]

Standard Terms Document

General Law [60-0095]

Practice..... [60-0097]

Withdrawing an Instrument or Document

General Law

Withdrawing Lodged Instrument or Document Prior to Registration [60-0100]

Withdrawing or Cancelling Registered Standard Terms Document [60-0110]

Practice

Withdrawing Lodged Instrument or Document Prior to Registration [60-0150]

Imaging Instruments or Documents

Practice..... [60-0160]

²The Registrar's Power of Inquiry

General Law [60-0170]

Declarations

Practice..... [60-0260]

Compensation

^{1,2}General Law..... [60-0720]

Public Notice – Advertising

General Law [60-0760]

Practice..... [60-0830]

Statutory Exemption from Lodgement Fees..... [60-0892]

Overpayment of Fees..... [60-0895]

Translation of Instrument or Document in Foreign Language [60-1020]

Deposit of Supporting Documentation [60-1030]

Options for Deposit

Options for a Lodger other than an eLodger

Options for a Lodger that is an eLodger

Certification by Qualified Witness

Endorsement on a copy of single-page document is as follows:

Endorsement on a copy of a multi-page document is as follows:

Sensitive or Confidential Information in supporting documentation

Dealing with or Disposing of an Interest Held by the State [60-1040]

^{1,2}Disposing of freehold land

^{1,2}Dealing with freehold land

^{1,3}Unallocated State land (USL)

Cross References and Further Reading [60-9000]

Notes in text..... [60-9050]

Part 60 – Miscellaneous

Legislation

Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of the Water Act, the Land Title Act applies to the registration of an interest or dealings for a water allocation on the water allocations register subject to some exceptions.

A relevant interest or dealing may be registered in a way mentioned in the Land Title Act and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the Land Title Act:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar of Water Allocations; and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and
- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) with any other necessary changes.

^{1, 3}Reference to the Chief Executive in the *Land Act 1994*

The functions of the Chief Executive under the Land Act relating to the keeping of registers are carried out by the Registrar of Titles under delegation given under s. 393 of that Act.

Requisitions

General Law

[60-0000]

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

A document that is lodged as an electronic conveyancing document, and is subsequently requisitioned, will be printed as a rendered version of the electronic registry instrument (with a dealing number attached) and forwarded to the lodger of the document in case changes are required to address any deficiencies identified in the requisition notice.

Once the requisition has been complied with, the rendered paper form must be returned to a Titles Registry lodgement office even if no changes have been made to the form.

The rendered paper form must meet the relevant requirements of an instrument or document that is lodged in paper form including the requirements relating to alterations or minor amendments (see 59-2040) when the document is returned to a Titles Registry lodgement office. However, the document does not require a fresh execution (i.e. wet signatures) by the parties to the instrument or document.

An electronic conveyancing document that has been rejected cannot be relodged (s. 157(5) of the Land Title Act).

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*).

Practice**[60-0030]**

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 regulated 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. 6 of the Land Title Regulation 2015, s. 87 of the Land Regulation 2020, or s. 130 of the Water Regulation 2016.

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 [11-2010] and part 12 – Writ or Warrant of Execution, esp [12-2110]).

Fee for a Requisition

[60-0040]

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.

Fees payable to the Titles Registry are subject to an annual review. See the current:

- ^{1, 2}Land Title Regulation;
- ^{2, 3}Water Regulation; or
- ^{1, 3}Land Regulation.

The Registrar's Powers of Correction

General Law

Error in Lodged Instrument or Document

[60-0050]

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.

Error in the Register

[60-0060]

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*).

²If 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).

^{2,3}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.

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.

Practice

[60-0090]

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.

^{2,3}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. 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.

Standard Terms Document

General Law

[60-0095]

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.

Practice

[60-0097]

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].

Withdrawing an Instrument or Document

General Law

Withdrawing Lodged Instrument or Document Prior to Registration

[60-0100]

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*).

Withdrawing or Cancelling Registered Standard Terms Document

[60-0110]

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

Withdrawing Lodged Instrument or Document Prior to Registration

[60-0150]

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 Item 3 of Schedule 1 of the

Land Title Regulation 2015 for a transfer of fee simple. An administrative fee will be deducted from any fees refunded.

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].

Imaging Instruments or Documents

Practice

[60-0160]

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.

²The Registrar's Power of Inquiry

General Law

[60-0170]

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).

Declarations

Practice

[60-0260]

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.

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 Queensland; or

- *another person authorised to administer an oath under the law of 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

Compensation

^{1, 2}General Law

[60-0720]

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.

Public Notice – Advertising

General Law

[60-0760]

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:

- ²register a transmission application
- ^{1, 2}register a person as an adverse possessor.

^{1, 3}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. 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*).

Practice

[60-0830]

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

Statutory Exemption from Lodgement Fees

[60-0892]

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. 6(7) (a) or (b) of the Land Title Regulation 2015 or s. 87(5)(a) or (b) of the Land Regulation 2020 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, Item 6 of the Land Title Regulation 2015 or Schedule 6, Item 17 of the Land Regulation 2020 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. 6(7) of the Land Title Regulation 2015 or s. 87(5) of the Land Regulation 2020 includes:

- a resumption or an absolute surrender of land; and
- the taking by agreement or a resumption of an easement.

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;
- 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 6(7) of the Land Title Regulation 2015 and s. 87(5) of the Land Regulation 2020 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 item 3 of the Land Title Regulation 2015. All other lodgement fees for a transfer or another instrument or document, and requisition fees, must be paid.

Overpayment of Fees

[60-0895]

When a person lodges instruments or documents in the registry they are expected to pay the correct regulated fee at the time of lodgement. Where a previously prepared cheque is presented for an amount which is not the same as the assessed fee, the Registrar may refuse to accept the instrument/s or document/s for lodgement.

However, where due to extenuating circumstances, a lodger wishes to complete the lodgement by presenting a previously prepared cheque that exceeds the assessed fee and the Registrar agrees to accept the incorrect amount; an administrative charge will be deducted from the overpaid amount. The lodger must complete and sign a form acknowledging payment of the administrative charge. A refund of the remaining amount overpaid will only be given, if requested in writing by the lodger.

Where a paid fee is subsequently found to be in excess of the sum of the regulated fees (overcharge by the department), the refund of the full amount in excess of the regulated fees will be made on request by the lodger.

Where an Electronic Lodger pays an amount for lodgement of a document that exceeds the regulated fees, a refund will only be given if requested in writing. An administrative fee may be deducted from the overpaid amount.

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

Translation of Instrument or Document in Foreign Language

[60-1020]

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].

Deposit of Supporting Documentation

[60-1030]

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 [lodging 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.

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) submitted with the original documentation for comparison with the photocopy by a Titles Registry officer. The original documentation will be returned immediately to the lodger; or
2. 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
3. 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

4. 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 should include words to the effect that:

- it is a true and correct copy of an electronic order 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'.
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).

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 a 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 1998* (see [16-0195] for certifications of powers of attorney), ~~of an Enduring Power 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 Titlesinfo@dnrme.qld.gov.au; or
- be sent by post to GPO Box 1401, Brisbane QLD 4001; or
- be deposited by hand on Level 11 at 53 Albert 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.

Dealing with or Disposing of an Interest Held by the State

[60-1040]

1, ²Disposing of freehold land

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]).

1, ²Dealing with freehold land

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 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]).

1, ³Unallocated State land (USL)

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]

Cross References and Further Reading

[60-9000]

Nil.

Notes in text

[60-9050]

Note ¹ – This numbered section, paragraph or statement does not apply to water allocations.

Note ² – This numbered section, paragraph or statement does not apply to State land.

Note ³ – This numbered section, paragraph or statement does not apply to freehold land.