

Procedure

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Privacy requirements for Gazette notices and advertisements

Purpose

This procedure provides guidance on the privacy requirements for disclosure of personal information for road closures, deed corrections, forfeiture, trust land and other Gazette notices and advertisements.

Rationale

Under the *Information Privacy Act 2009* (IPA), an agency that has control of a document containing personal information for a particular purpose must not use the information for another purpose unless:

- The individual has agreed to the use of the information for the other purpose; or
- Use of the information for the other purpose is required/authorised under a law; or
- The other purpose is directly related to the purpose for which the information was obtained.

An agency must not disclose the personal information to someone outside the agency unless:

- The individual is likely to have been aware that it is the agency's usual practice to disclose that type of personal information to the relevant entity;
- The individual has expressly or impliedly agreed to the disclosure; or
- The disclosure is authorised or required under a law.

Publishing a person's name contrary to the above could constitute a breach of the IPA which could create a liability for the Department of Natural Resource, Mines and Energy (DNRME).

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Trust land

It is in the public interest that the name/s of the applicant, trustee or grantee be published for all actions involving publication of a gazette notice regarding:

1. The cancellation of a deed of grant in trust (section 38 of the *Land Act 1994* (Land Act)); and
2. Liquidation of a trust of trust land (section 74 of the Land Act);

The trustees of the trust land are also recorded in the relevant land register which is available for the public to search.

The name of the trustee or applicant is not to be included in gazette/newspaper notices for actions regarding:

1. Addition of a community purpose for land granted in trust (section 35 of the Land Act);
2. The closing or re-opening of a cemetery to burials (section 81 of the Land Act); or

3. Surrender of freehold granted for a community, public or similar purpose (section 86 of the Land Act).

Road closures

Where public notice is required to be given under section 100 of the Land Act, the name of the applicant to close the road is not to be published for:

1. Permanent road closure applications made by an adjoining owner; or
2. Temporary road closure applications made by adjoining owners or another person for irrigation pipes or water channels that cross the road.

However, an advertisement may contain a statement advising that in the event that the Minister decides the road is no longer needed, an investigation of most appropriate use and tenure will include consideration of the suitability of the closed road to be use for a particular purpose e.g. a telecommunications site.

Deed corrections/cancellations & lease corrections

The name of the grantee, lessee or applicant must not be included in:

1. A notice of intention to correct or cancel a deed published in the Gazette or a newspaper (section 359(1); section 359(3) of the Land Act); or
2. An amendment of a freeholding lease published in the Gazette (section 360 (1)(b) of the Land Act).

The only exception to this is where a correction is required to the name of a grantee or lessee.

Other dealings

The name of the lessee or applicant is not to be included in gazette/newspaper notices for actions regarding:

1. Intention of the Chief Executive to sell a lease (section 240P of the Land Act);
2. The forfeiture of a lease.

Attachment A summarises these notification requirements.

Legislation

Land Act 1994

Land Regulation 2020

Information Privacy Act 2009

Human Right Act 2019

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

Approval

Position	Name	Date
Director, Land and Native Title Services	Anita Haenfler	01/07/2020

Version history

Version	Effective Date	Comments
1.00	27/08/2004	First Edition
2.00	12/10/2004	Updated
3.00	19/11/2008	Updated and reviewed
4.00	01/10/2009	Amended due to the introduction of the Information Privacy Act 2009
4.02	17/06/2016	Minor amendment and insert text on new template
5.00	15/08/2018	Updated content and new template
5.01	01/07/2020	Updated content to reflect amendments to Land Act and Land Regulation

Further information

- Contact your nearest business centre (https://dnrme.qld.gov.au/?contact=state_land), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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Attachment A – Notification requirements

The notification requirements are summarised in Table 1.

Table 1 – Public notice – disclosure of name requirements

Requirement of giving public notice – dealing type	Disclosure of client name required in Gazette Notice?	Disclosure of name required in advertising?
Addition of community purposes for land granted in trust s.35(2) Land Act	No	N/A
Cancellation of Deed of Grant in Trust s.38(1) Land Act	Yes	N/A
Winding-up trusts of trust land s.74(1) Land Act	Yes	N/A
Close or reopen a cemetery to burials s.81 Land Act	No	N/A
Surrender of freehold granted for a community, public or similar purpose s.86(c) Land Act	No	No
Road closure application, including from a public utility provider s.98 and s.100(1)(a) Land Act	No	No
Sale of a lease by the chief executive s.240P Land Act	N/A	No
Forfeiture of a Lease s.240S(2) Land Act	No	N/A
Notice of intention to correct, or cancel a deed of grant s.359(1) and s.359(3) Land Act	No – unless the reason for the correction is to the name of the grantee/s, and then the name/s will need to be included	S.359(1) – No; unless the reason for the correction is to the name of the grantee/s, and then the name/s will need to be included S.359(3) – N/A
Amendment of a freeholding lease s.360(1) Land Act	No – unless the reason for the correction is to the name of the lessee/s, and then the name/s will need to be included	N/A