

27 February 2023

Our ref: WD:W&A

Mr Bob Gee APM
Director-General
Department of Agriculture and Fisheries
GPO Box 46
BRISBANE QLD 4001

By post and by email: [REDACTED]

Dear Director-General

Rural conveyancing and property sales - procedures and searches – register searches

I write at the request of the Queensland Law Society's Water and Agribusiness Law Committee to raise concerns of practitioners following a recent change of policy in relation to register searches conducted during the conveyancing process.

QLS is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law and help protect the rights of individuals. QLS also assists the public by seeking improvements to laws affecting Queenslanders and working to improve their access to the law.

The members of the QLS Water and Agribusiness Law Committee comprise members from across the State who regularly advise their rural and regional clients during the sale and purchase of properties and businesses that include livestock.

Our members report that a recent change within the Department of Agriculture and Fisheries regarding register searches.

The change in policy now requires provision of a specific "Permission to Release Property Information" form (copy **attached**), which has been signed by the owner of the property, before the Department will undertake a register search for the purchaser's solicitor.

Previously, our members' experience was the Department was prepared to undertake the search on the basis of a clause within the sale contract authorising the Department to release information to the purchaser (or purchaser's solicitors). Such a clause is a standard provision in these transactions. By its very nature, a sale contract contains specific details of the parties' identities and is signed to prove acceptance of its terms. These are the same details which are duplicated on the "Permission to Release Property Information" form.

We understand there is a proposal to create an automated search portal, but that this is not yet available.

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The change in policy is causing delays in conveyancing practices. A seller may delay signing, or refuse to sign, the form required by the Department. If a register search is unable to be undertaken within the timeframe required under the contract, it may result in a transaction not proceeding, or a buyer settling without the results of the search.

In such a situation, the buyer would then take a significant risk that there may be issues with the designation of the land by the Department, animal health status of the livestock or other issue which is not discovered until after settlement, and payment already made to the seller.

QLS requests the Department to revert to its former position of accepting a search authority clause within a sale contract as providing authority from the seller / owner of the land to release information to the purchaser (or the purchaser's solicitor).

QLS's Water and Agribusiness Law Committee is willing to work with the Department to reach agreement on a form of wording for such a clause that would be acceptable to the Department.

Members of the Committee and the QLS Legal Policy team would be pleased to meet with your officers to discuss the potential wording for such a clause.

We look forward to hearing from you. I would be grateful if you would contact our Legal Policy team via [REDACTED] to make arrangements for a discussion.

Yours faithfully

[REDACTED]
Chloé Kopilovic
President

PERMISSION TO RELEASE PROPERTY INFORMATION

TO BE SIGNED BY PROPERTY OWNER

To: **Register Search Officer**
Department of Agriculture and Fisheries

From: _____ (Name)

(Address)

Being the owner of the property, I hereby authorise the Department of Agriculture and Fisheries to release to

_____ of
(Name of prospective purchaser)

(Address of prospective purchaser)

or their solicitors, information held by Department of Agriculture and Fisheries related to the property on the Biosecurity Register upon receipt of application and payment of the prescribed fee. (*Biosecurity Act 2014*). The Biosecurity Register information includes R1 Biosecurity Register and/or R2 Register of Biosecurity Orders and/or R3 Register of prohibited and Restricted Matter Permits as it relates to the property described as:-

(Real property description/Lot on Plan)
situated at -

(Address of property)

Property owner's name _____

Property owner address _____

Trading Name (if applicable) _____

Registered Property Number: _____

Signed: _____ Date: _____
(Property Owner)