

Notice

To Lodging Parties

28 February 2014

No 171

1. **Amendments to the *Community Titles Act 1996* and the *Strata Titles Act 1988***
2. **Signing of LTO Documents by Local Council Delegates**
3. **Change to Section 223J Guidelines**
4. **Deregistered Encumbrances and Consents in Division Documentation**
5. **Verification of Identity Policy**

1. **Amendments to the *Community Titles Act 1996* and the *Strata Titles Act 1988***

The *Statutes Amendment (Community and Strata Titles) Act 2012* and supporting regulations commenced on 28 October 2013, amending the *Community Titles Act 1996* and the *Strata Titles Act 1988*.

The primary objective of the amendments is consumer protection therefore the amendments do not have a major impact on Lands Titles Office current requirements.

For further information on the changes please refer to <http://www.agd.sa.gov.au/community-and-strata-titles-legislation>. The link provides fact sheets to explain the effect of the law changes and what they mean for unit or lot owners, community and strata corporations and for body corporate managers.

2. **Signing of LTO Documents by Local Council Delegates**

Lands Titles Office documents may now be executed, accepted or consented to on behalf of local councils by authorised council delegates. Documents signed using the approved signature blocks will be accepted on face value without any further evidence of the delegation being produced.

This follows the inclusion of powers under the *Real Property Act 1886* (RPA), *Community Titles Act 1996* (CTA) or *Strata Titles Act 1988* (STA) in the Local Government Association's Instruments of Delegation template (refer to the attached link <http://www.lga.sa.gov.au/page.aspx?u=2781>) which provides a reliable delegation system and minimises the risk of a document being executed by a person who is not authorised to do so.

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Section 44 of the *Local Government Act 1999* (LGA) is generally the provision under which council delegations are made, but Section 20 of the *Development Act 1993* is applicable for the delegation of various powers under that Act.

The approved signature blocks are as follows:

Signed as delegate for *[insert name of council]* under Section 44 of the *Local Government Act 1999*

OR

Signed as delegate for *[insert name of council]* under Section 20 of the *Development Act 1993*.

.....
(Signature)

.....
(Signature)

.....
(Print full name)

.....
(Print full name)

.....
(Print position held)

.....
(Print position held)

This expands on our previous policy whereby delegates were only permitted to sign:
1) Applications to Note, Rescind or Amend a Land Management Agreement (“LMA”); and
2) consents and certificates of consent concerning LMA.

Please note that the “old” signature block (which did not recite the Section and Act under which the delegation was made) will continue to be accepted in accordance with our previous policy during the transition, however LMA Applications and consents or certificates of consent dated after 31 January 2014 must refer to Section 20 of the Development Act and Section 44 of the LGA respectively.

3. Change to Section 223J Guidelines

It is now permissible for monies to have changed hands between the parties involved in a rectification of land boundaries pursuant to section 223J of the *Real Property Act 1886 (RPA)*. Where consideration has been paid the amount must be disclosed in the declaration for stamp duty assessment purposes.

The [223J Guidelines](#) have been updated and the Plan Presentation Guidelines will also be updated accordingly.

Each application will continue to be considered carefully and must satisfy all other requirements of the 223J Guidelines. The 223J provision must not be used to avoid planning processes and Part 19AB RPA land division requirements. Any indication of inappropriate use will result in an application being refused.

Should you have any enquiries, please contact Plans Client Advice on 8226 3983.

4. Deregistered Encumbrancees and Consents in Division Documentation

Due to the complexity in gaining deregistered encumbrancee consents from the Australian Securities & Investment Commission (ASIC) in relation to documentation associated with land division, the Registrar-General has determined that in certain circumstances he may dispense with the encumbrancee consent.

Dispensation will only be considered where there is no effect on the encumbrancee's interest and the encumbrance does not prohibit land division.

The lodging party for the division documentation will need to apply to the Registrar-General to dispense with consent pursuant to section 223LH (6) of the *Real Property Act 1886*. The relevant requirements relating to an application to dispense with consent apply (see [Notice to Lodging Parties No. 162](#)) and will need to include reference to the encumbrancee being deregistered and state that the encumbrance does not prohibit land division.

In all cases where the encumbrance is required to be dealt with as a result of a land division, application must be made to ASIC. Further information regarding deregistered companies and how to make application to ASIC is available on their [website](#).

5. Verification of Identity Policy

As advised in Notice to [Lodging Parties No. 169](#) the Registrar-General's Verification of Identity policy was introduced for documents executed on or after 1 July 2013 with full compliance required for documents executed on or after 1 January 2014.

In consultation with Industry bodies, I have agreed to extend the mandatory Verification of Identity compliance date.

Full compliance is now required for documents executed on or after **1 April 2014**.



Brenton Pike
Registrar-General
Land Services Group