

Notice

To Lodging Parties

11 July 2007

No 149

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1. **Consents Required to Amend a Division Plan Prior to Deposit**
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1. Consents Required to Amend a Division Plan Prior to Deposit

On occasions clients find it is necessary to amend a division plan after it has been lodged in the Lands Titles Office but prior to plan deposit. To ensure all parties are aware of the amendment, the following table sets out the consents required. The correcting party for the plan should advise the applicant's agent/certifying party and any other affected parties of any changes to the plan that may affect the division application or following documentation.

Section 223LD of the *Real Property Act 1886* (RPA) and Section 18 of the *Community Titles Act 1996* (CTA) state that:

- The plan and the application once lodged are a single instrument
- The plan **or** application **cannot** be withdrawn or amended without the consent of **all** persons who are required to consent to the division

The division plan is to agree with the Development Assessment Commission (DAC) certificate.

Type of amendment	Party required to Consent				New DAC Approval Required?
	Plan is unapproved		Plan is approved		
	RDA lodged	Application lodged	RDA lodged	Application lodged	
Not a material difference le - Changes to notes or survey definition - Minor changes to data	Nil	Nil	Nil	Nil	No
Material difference le - Adding existing rights omitted from plan - Other changes that constitute a material difference	A	C	B	C	Yes



LEGEND	
A	Certifying Surveyor or plan drafter's representative
B	Certifying Surveyor or plan drafter's representative and Applicants, being the registered proprietor of the land being divided
C	Certifying Surveyor or plan drafter's representative and Certifying party of the Application (if any) and Applicants, being the registered proprietor of the land being divided and All parties consenting to the division

Form of consent

- Consents should be on the letterhead of the consenting party's company or firm, or if the applicants are private individuals, on ordinary paper
- The signatures of consenting parties need not be witnessed
- Consent must be an original (not faxed).

Note - For the purpose of this notice a "Division Plan" is a:

- Plan of division, lodged pursuant to Part 19AB of the RPA
- Plan of community division or amendment to a deposited Community Plan, lodged pursuant to the CTA
- Strata Plan or amendment to a deposited Strata Plan lodged pursuant to the *Strata Titles Act 1988*.

If doubt exists as to whether a fresh DAC certificate of approval is required please contact the Plans Client Advice Officer.

In addition to the above requirements the applicants and consenting parties may, depending upon the nature of the amendment, be required to re-execute the lodged Application.

2. Material Difference

If it is intended to carry forward an existing easement it must be delineated on the DAC certificate and referred to in an easement note. The addition of an existing easement to a division plan that is not shown on the DAC certificate will require a fresh DAC certificate to be issued.

Section 2.2 and 2.3 of the Manual of Survey Practice Vol. 1 (Plan Preparation Guidelines) provides examples of Material Differences and Non-Material Differences for division plans. Prior to this notice the omission of an existing easement from the division plan (Section 2.3.5) was considered a non-material difference. Section 2.3.5 no longer applies and Plan Preparation Guidelines will be updated to reflect this change.

Client Advice staff will be pleased to assist you with any questions relating to this Notice. Either email your question to: lsg.clientinfo@saugov.sa.gov.au or discuss the matter with a Client Advice staff member over the telephone by calling (08) 8226 3952.



John Zaccaria
Deputy Registrar-General