

# NOTICE TO LODGING PARTIES LAND SERVICES GROUP

Department for Administrative and Information Services  
101 Grenfell Street Adelaide 5000



Government  
of South Australia

ABN : 71 967 041 422

No. 136

## TRANSFERRING LAND TO THE COUNCIL FOR PUBLIC ROAD PURPOSES

Section 208 of the Local Government Act 1999 (LGA) is currently used with a plan of division to declare a piece of land being transferred to the council, **for consideration**, as a public road. The RTC records payment of the consideration and government gazettal of the public road. The plan includes a note referring to the transfer of an allotment to the council for road purposes.

Section 208 of the LGA provides that the council must **own** the land prior to it being gazetted as public road. In the case of a plan of division the council does not own the land until after the plan is deposited. A declaration **prior** to ownership by the council would appear to be null and void. Land transferred and declared by this process will, therefore, no longer be shown as a public road on plans.

An alternative way of achieving the same result is, however, available. Land may be shown vesting as a public road under section 223lf of the Real Property Act 1886, even if consideration has been paid.

If consideration is to be included a Form 2 consent can be completed and attached to either a form RTU where there are no transactions or form RTC where there are transactions. The top panel of the Form 2 must include reference to the vesting of the land as a public road "pursuant to section 223lf of the Real Property Act" – example:

STATEMENT OF EFFECT ON ESTATES OR INTERESTS OF CONSENTING PARTIES		
ESTATE / INTEREST AFFECTED	EFFECT ON ESTATE OR INTEREST HELD OR CLAIMED	CONSIDERATION / VALUE
Allotment 3	Vesting of Allotment 3 as public road pursuant to section 223lf of the Real Property Act 1886	\$3000

When consideration is to be paid for the public road the **RTC or RTU must be assessed for stamp duty prior to being lodged in the Lands Titles Office.**

## **EFFECT OF A STRATA SCHEME ADOPTING THE COMMUNITY TITLES ACT**

The filing a Lodgement of Resolution (LR) under which a strata scheme adopts the Community Titles Act 1996 (CTA) does not change the boundaries of the strata plan.

Clause 2 of the Schedule to the CTA provides:

*“(b) the strata plan will be taken to be a primary strata plan of community division deposited under this Act and the units created by the plan (including the unit subsidiaries (if any)) will be taken to be primary strata lots **having the same boundaries as the units;**”*

Accordingly, the boundaries for the units that existed before filing the LR remain as the boundaries of the lots in the community scheme.

To amend the title boundaries an application under section 52 of the CTA needs to be lodged after filing of the LR.

**Simon Libbis**  
**REGISTRAR-GENERAL**  
**8 August 2003**