

# Notice

## To Lodging Parties

5 May 2011

No 163

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### 1. Alterations/Additions to Finalised Plans

Land Services Group is pleased to advise that an alternate option of lodging alterations/additions to finalised plans is now available to Lodging Parties. Previously these could only be lodged via a manual method but can now be lodged via email (procedures set out below). Please note that in order to mitigate any risk in relation to fraudulent misuse of signatures, a covering letter using company letterhead will now be required for both manual and electronic lodgement methods.

#### Covering letter

- A request to the Registrar-General for amendment to Deposited Plan/Filed Plan on company letterhead paper.
- Letter to be signed by the Licensed Surveyor or their agent.
- Letter is to be scanned in colour and saved as a PDF.
- PDF file is to be attached to the email.

#### Finalised Plan

- Alterations or changes are to be marked in red on a print of the Deposited or Accepted for Filing Plan. For guidelines on alteration(s)/addition(s) to finalised plans refer to Section 21 - Plan Presentation Guidelines (PPG).
- Certification as per Section 21.2 of the PPG is to be added to the plan and signed by the Licensed Surveyor.
- Plan is to be scanned in colour and saved as a PDF.
- PDF file is to be attached to the email.

#### Land Services Group

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Government  
of South Australia

Department for Transport,  
Energy and Infrastructure

The email is to contain two PDF files with the subject panel showing the Plan Type and Reference e.g. DP and the number. The email can be sent to [LSGplanalter@sa.gov.au](mailto:LSGplanalter@sa.gov.au).

If you have any queries in relation to the new process, please contact the Plans Client Advice Officer on 8226 3983.

## **2. Agreements (Land Management Agreements, Heritage Agreements and other Agreements lodged under various Acts)**

The requirement for production of duplicate titles with applications to note, vary, amend, revoke or rescind Agreements and the certification of those applications has ceased. The exception is Forest Property Agreements as the *Forest Property Act 2000* stipulates that applications to register, vary, revoke or terminate those Agreements must be certified correct and the duplicate titles produced.

Clients will be informed if Agreements lodged under any future legislation require certification and/or the production of duplicate titles.

If you have queries in relation to Agreements please call our Client Advice Officer on 8226 3983.

## **3. Amendment to Articles**

Section 19(2) of the *Strata Titles Act 1988* states:

*A strata corporation may by special resolution –*

- (a) adopt articles in substitution for those set out in Schedule 3; or*
- (b) revoke or vary articles previously so adopted.*

An Amendment to Articles (AA) document must disclose all of the rules within the document being lodged. This requirement satisfies the *Strata Titles Act 1988* and only the most recent AA document needs be ordered for anyone who would like a copy of the rules associated with that particular strata scheme. It is not acceptable to lodge a document disclosing only the rules that have been amended, added or revoked.

A copy of the resolution to amend the articles certified by an officer of the strata corporation as set out in Schedule 4 of the *Strata Titles Regulations 2003* must also be attached.

## **4. Road Names**

Amendments to Section 219 of the *Local Government Act 1999* on 1 July 2010 included the requirement for councils to assign road names for public roads created by land division. Land division in this section is referring to roads created in a land division pursuant to the *Development Act 1993* or *Roads (Opening and Closing) Act 1991*. As such all roads created in land divisions and road plans must have street names.

If a plan is lodged pursuant to the *Development Act 1993* or *Roads (Opening and Closing) Act 1991* without a named road it will be requisitioned to request the Lodging Party to contact the appropriate council to provide a road name.

There is no requirement for a new Development Assessment Commission (DAC) certificate if the only change is the addition of a road name to the plan.

## **5. Caveats and Liens**

Clients are reminded that caveats and liens are generally examined immediately upon lodgement and as such must be lodged in person with the Customer Service staff via the lodgement window (in the Viewing Room located on the Ground Floor, 101 Grenfell Street, Adelaide). Under no circumstances should caveats or liens be placed in the Drop N Go Chutes.

Clients must wait for caveats and liens to be accepted for lodgement by the Caveat Examiner (unless advised otherwise by the Caveat Examiner) and upon acceptance the appropriate lodgement fee must be paid.

A caveat will lose its priority if:

- The caveat is removed from the Lands Titles Office for correction; or
- The appropriate fee is not paid at the time of acceptance.

In these circumstances, a new date and time will be assigned to the caveat when it is re-submitted and/or the appropriate fee is paid.

## **6. Mode of Holding in Instruments**

Since 10 May 1984 section 24C in the *Law of Property Act 1936* has made it possible for a body corporate to hold property in a joint tenancy with a natural person or with another body corporate. Section 24C affected a dramatic reversal to the previous position as leaving the mode of holding unspecified now resulted in a joint tenancy.

As many parties were unaware of this change to the law, the Registrar-General required all affected transfers and other instruments creating an interest to expressly state the way in which the transferees/mortgagees/encumbrances/lessees would hold their estate or interest.

The mode of holding will no longer be queried when instruments are silent on the matter. It will be accepted without question as creating a joint tenancy and be registered in that manner.

The Registrar-General's preference is of course that the mode of holding is stated in all cases where two or more parties are involved.

## **7. Company Executions**

Notices to Lodging Parties 110, 121 and 139 advised clients of the requirements for execution of Real Property Act instruments by companies. These notices still apply but the policy has been reviewed in relation to section 204A of the *Corporations Act 2001*, which states that there is no requirement for proprietary companies to have a company secretary.

Pursuant to current policies instruments executed by a sole director must:

- State that they are signing under section 127 of *Corporations Act 2001* in their capacity as sole director and sole secretary; or

- The certifying party is to provide a certification that the execution is in accordance with the company's constitution or provide a copy of the constitution (or any other relevant documentation) which authorised the particular method of execution.

In addition to the already existing methods, if the company's director is the sole director and sole shareholder and there is no company secretary or constitution:

- The certifying party is to provide a certification that the company is a proprietary company, does not have a company secretary and the director is signing pursuant to her or his powers under section 198E of the *Corporations Act 2001*.

## **8. Personal Property Securities**

In order to reduce complexity and to maintain uniformity the States have referred powers to allow the Commonwealth to establish a national Personal Property Securities (PPS) Scheme. Under this scheme there will be one set of laws and a single nationally accessible online register which will operate seven days a week, twenty-four hours a day.

The *Statutes Amendment (Personal Property Securities) Act 2011* has been passed in order to amend various state laws consequent upon the enactment of the Commonwealth *Personal Property Securities Act 2009* (PPS Act).

The purpose of the *Statutes Amendment (Personal Property Securities) Act 2011* is to:

- Provide for closure of State registers of security interests;
- Allow data on the registers to be migrated to the national Register;
- Repeal provisions in State Acts that are inconsistent with PPS Act; and
- Repeal Acts once the national system is fully functional and the State Registers and registry functions are no longer required.

As a consequence the Bills of Sale Register, Stock Mortgages, Wool Liens Register and Liens on Fruit Register will be replaced by the national PPS Register.

These changes are scheduled to take effect in October 2011.

Further information on the transitional arrangements will be provided in future notices. In the meantime any questions relating to these aspects may be directed to Peter Potoczky on 8226 3876 or by email [Peter.Potoczky@sa.gov.au](mailto:Peter.Potoczky@sa.gov.au).

For more information on the PPS Register please visit the Australian Government PPS Website at: <http://www.ppsr.gov.au/>.



Brenton Pike  
**Registrar-General**  
**Land Services Group**