

Notice

To Lodging Parties

14 March 2012

No 165

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1. Housekeeping – Inactive Plans

The Land Services Group (LSG) is undertaking preliminary work for the introduction of the new land administration system. This work involves the refining of information that is to be migrated and has led to a review of all inactive plans.

An audit has been conducted of all the approved plans that have not yet been deposited and the following actions will commence immediately to clean up those that are not required in the future.

- *Plans without a current Development Assessment Commission (DAC) Certificate*

Lodging agents will be sent an explanatory letter outlining the options available to avoid rejection of the plan.

From the date of that letter, agents will have 60 days to provide grounds as to why the plan should be retained or to request its withdrawal. If no response is received the plan will be rejected.

- *Notice of Proposed Rejection for plans with a current DAC*

Currently agents receive a courtesy 'Notice of Proposed Rejection' advising that the DAC is due to expire in one month and requesting either an extension, or lodgement of the appropriate documentation to enable deposit.

Our audit has identified the need for this process to be enforced more stringently. It will be the responsibility of the lodging agent to ensure one of the above actions is taken otherwise the plan may be rejected.

- *Plans Exempt from DAC*

Lodging Agents for plans which have been approved for longer than 12 months will be advised by letter of their options to avoid rejection of the plan.

If a plan is no longer required or cannot proceed to deposit for any reason then a request for its full withdrawal should be made as soon as possible.

If no response is received within 60 days LSG staff will follow up the matter with the agent.

Please note that if any plans do get rejected a copy of the plan will be kept for information purposes.

Further information regarding these processes can be directed to Jaymie Heinrich on (08) 8226 1662 or email: Jaymie.Heinrich@sa.gov.au.

2. Electronic Plan Lodgement (EPL) Enhancements

Plans of amalgamation, divisions over Crown Land (or other non-RPA land) and **some** plans under the *Roads (Opening & Closing) Act 1991* can now be lodged via EPL.

Plans under the *Roads (Opening & Closing) Act 1991* with non-standard land descriptions such as "Closed Road adjacent to Sections 218 and 347" at this stage cannot be lodged via EPL, with the required system changes to incorporate this functionality scheduled for later this year.

The RTA or RTD documents are still required to enable deposit and will require the document fee (RTA only), deposit fee and new titles fees, with other fees being paid upon lodgement of the plan.

For further information regarding plans that can be lodged using EPL please contact Naydia Hadzi-Avdich on (08) 8226 3956 or Naydia.Hadzi-Avdich@sa.gov.au.

3. Legal Services Commission Charges

Section 18A of the *Legal Services Commission Act 1977* was amended late last year to confirm the status of a Legal Services Commission statutory charge over land and to remove potential impediments to the recovery of legal aid costs secured by such charges.

The amendments clarify the intention of Parliament that the statutory charge be taken to be a registered interest on the title and as such to have a priority with respect to other interests that is consistent with the scheme of registration in the *Real Property Act 1886* (RPA). It also ensures that:

- when there is a default in payment of the contribution secured by the charge the Commission has the powers of sale of a mortgagee under the RPA and is governed by the provisions in the RPA relating to mortgagee sales; and
- the statutory charge is treated as a registered encumbrance for the purposes of sections 135 and 135A of the RPA, which deal with the distribution of the proceeds of sale, when the charged property is sold by a mortgagee (or encumbrancee) exercising power of sale.

The effect of the amendments is retrospective and applies to all charges, no matter whether the charge is created before or after the commencement of the amending legislation.

4. Consents to Withdrawals of Unregistered Instruments

Where the certifying/correcting party of the instrument being fully or temporarily withdrawn is not also the lodging party, they must all sign the letter requesting the withdrawal. This change in policy is to eliminate any possibility of the certifying/correcting party not being made aware of the withdrawal.

Further information, including a complete list of the parties that must consent to withdrawals, is provided at www.sa.gov.au/landservices under Land Services publications and guidance notes/document registration guidelines.



Brenton Pike
Registrar-General
Land Services Group