

NOTICE TO LODGING PARTIES

LAND SERVICES GROUP

Colonel Light Centre
25 Pirie Street ADELAIDE 5000

DEVELOPMENT ACT 1993

No.94

EFFECT ON REGISTRATION OF PLANS OF DIVISION AND STRATA PLANS IN THE LANDS TITLES REGISTRATION OFFICE

The Development Act came into operation on 15/1/1994 and consequential changes to the Real Property Act and Strata Titles Act also commenced operation.

The affects on this office are as follows:-

1. **PLANNING APPROVAL**

Under the Development Act, the planning approval process for strata plans is the same as for land division rather than the separate systems in place under the Planning Act. However, the term "certificate of approval" as regards plans of division and strata plans lodged for approval of the Development Assessment Commission (DAC) after 15/1/1994, is replaced by a single approval called a Land Division Certificate.

Strata development is defined as division in the Development Act and accordingly the certificate has the same name regardless of whether the division is into allotments or units and common property. The certificate given by DAC in respect of a strata application will contain a certificate giving information supplied by council regarding age of structures, postal address of the corporation, consent to encroachments and vesting of land.

The transitional provisions of the Act provide that plans lodged for SA Planning Commission approval before 15/1/1994 can (and will) be received into the LTRO system for many years. They will be examined and deposited as if the Planning Act had not been repealed. Certificates of Approval will continue to be required for these plans. Plans lodged with DAC on or after 15/1/1994 will receive (if approved) one land division certificate, endorsed on a print of the plan that is prepared for lodgement at the LTRO. Although the Development Act provides for a land division certificate to be issued on a separate piece of paper, DAC has assured this Office that in the case of division and strata plans, the certificate will always be endorsed on a print of the plan.

As from the 15/1/1994 the City of Adelaide is no longer exempt from planning approval. Any plan lodged with the Registrar-General on and from that date must be accompanied by a land division certificate.

2. EXTINGUISHMENT OF EASEMENTS

Form 13 will continue to apply only to easements created pursuant to Section 223lo of the Real Property Act or S.17b of the Strata Titles Act. However, any Form 13 presented to DAC for approval on or after 15/1/1994 will need changing to reflect the approval of DAC, rather than the SA Planning Commission. Council consent is still required.

3. PLANS OF RESUBDIVISION AND SUBDIVISION

These are plans of division lodged under the Planning and Development Act 1966 which was repealed by the Planning Act 1982. Any unapproved application existing with the SA Planning Commission at the time of commencement of the Development Act will have a sunset term of 1 year. During this time the applicant must finalise the plan, otherwise it will lapse.

The LTRO is required by the transitional provisions to accept these plans for filing or deposit (if bearing the stamp of approval), as if the previous planning statutes had not been repealed.

4. CROWN DIVISION OF FREEHOLD LAND

Crown development falls into two categories:-

First, where it is of a nature that requires development approval, in which case DAC will issue a letter of consent, which may set out conditions of approval, to the relevant applicant in respect of a plan of division.

Secondly, where it is of a nature exempt from development approval.

In either case, the Lands Titles Registration Office will not be required to determine the category into which a Crown plan of division falls or whether approval is required and has been given, or whether it is not required. The LTRO will, however, require all plans of division lodged by the Crown to bear a certification that the plan does not contravene the Development Act.

Under the repealed planning legislation certificates of approval were required by the Crown or a Crown agency developing land as a strata scheme. This is not so under the Development Act and the same provisions apply to a strata application as for land division.

The application Form 9 or an Application for the Deposit of a Strata Plan must therefore contain the following certification:-

"This plan does not contravene Section 49 of the Development Act 1993"

Note also that where land vests in an authority or a council, the consent of that authority or council must continue to be endorsed on Form 10.

The facility of Crown development was originally restricted to the Crown and agencies of the Crown prescribed by Regulation 5 of the RPA land division regulations. Under the Development Act, all Crown agencies can use the facility other than those prescribed as requiring approval.

The State Agencies requiring a land division certificate as prescribed by regulation at the time of proclamation are:-

*The South Australian Housing Trust
The South Australian Urban Land Trust
The South Australian Totalisator Agency Board
The State Bank of South Australia*

All others are exempt and must use the aforementioned certification in any land division application.

5. LEASES

Under the Development Act, the term "planning authorisation" used by the Planning Act becomes "development approval".

Private Leases

The State Agencies mentioned above fall into this category. The criteria for seeking development approval for a lease (including an underlease) under the Planning Act 1982 has not changed under the Development Act. However it should be noted that each lease of portion of an allotment, including any in the City of Adelaide, where the term is greater than 6 years (with right of renewal) must contain the following certification in the consent panel of the lease:-

"This lease (underlease) does not contravene Section 32 of the Development Act 1993"

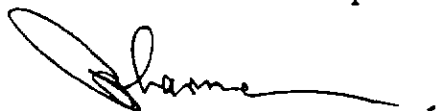
RPA Leases from or to the Crown

If the lessor or lessee is the Crown or an agency of the Crown (other than those prescribed by regulation and require planning approval to lease), the certification to be included in the consent panel is:-

"This lease (underlease) does not contravene Section 49 of the Development Act 1993"

6. LAND MANAGEMENT AGREEMENTS

Land management agreements remain the same under the Development Act and will be registered as an endorsement. The relevant authority is now Section 57 of the Development Act 1993 instead of Section 61 of the Planning Act.



ALAN J SHARMAN
REGISTRAR-GENERAL
25 January 1994