

Notice

To Lodging Parties

2 April 2020

No 227

Updates on Priority Notices

A Priority Notice is a document lodged in the Lands Titles Office (LTO) that allows a party to provide notice about impending activity and protect the priority of dealings they intend to lodge in the LTO.

Priority Notices were introduced in the South Australian Integrated Land Information System (SAILIS) in 2015 as a result of the move to electronic conveyancing and removal of the duplicate certificate of title. Priority Notices play an important role in mitigating potential fraud and provide a similar level of comfort as that of the Duplicate Certificates of Title prior to the introduction of electronic conveyancing.

The use of Priority Notices is encouraged as it protects consumers and their interests when transacting land. This is particularly important in an environment where lodgement occurs through the different mediums of paper and electronic channels.

Priority Notices also provide an additional level of protection when transacting during the COVID-19 (Coronavirus) outbreak given the quickly changing circumstances. This is relevant for both electronic and paper transactions, should an event arise where dealings are either unavailable electronically and/or you cannot attend the Land Services SA's office in person.

Information Sessions

Information sessions on Priority Notices were scheduled to be held on Tuesday 17 March 2020. These sessions were to cover results of the survey undertaken by the Office of the Registrar-General, system and policy changes, how Land Services SA deals with discrepancies between the Priority Notice and dealings lodged, and provide a SAILIS demonstration.

The live sessions were cancelled as one of the precautionary measures implemented in response to the COVID-19 (Coronavirus) outbreak. However, given the importance of Priority Notices, the sessions were recorded and a video recording of the presentation is available at the below link:

<https://www.landservices.com.au/businesses-and-property-industry-professionals/registrar-general/statutory-instruments/priority-notices>.

Policy Change

[Notice to Lodging Parties No 177](#) advised that **all** lodged dealings in a series must match the list of dealings identified in a Priority Notice. Given there is no requirement under the *Real Property Act 1886* (RPA) for the identification of all dealings in a series to match those listed in a Priority Notice, the Registrar-General has amended this policy position. This change is intended to allow greater flexibility for parties when lodging a Priority Notice.

This change has resulted from industry feedback which advised of difficulties in confirming the identity of the Mortgagee on Title until later in the transaction. This results in the Priority Notice either being lodged late in the

transaction, or withdrawn to update the Mortgagee's details. To remove this unintended consequence and ensure Priority Notices provide the intended benefits, the requirement has changed.

For example, where a Priority Notice is lodged identifying a Discharge of Mortgage and Transfer, and the dealings are subsequently lodged in a series as Discharge of Mortgage, Transfer and Mortgage, the Priority Notice will no longer need to be withdrawn. Instead, the Discharge of Mortgage and Transfer, which are the subject of the Priority Notice, can be lodged with the benefit of the Priority Notice. In addition, if there are no other dealings previously lodged awaiting registration, the Mortgage can also proceed to registration.

In the instance where a Priority Notice is lodged only identifying a Discharge of Mortgage and Transfer, the Mortgagee can lodge a second Priority Notice identifying the Mortgage, to further protect their interest.

This change does not prevent a Priority Notice being lodged which identifies all the dealings in the series where those details are available.

Discrepancies between Priority Notice and Dealings Lodged

The RPA enables the Registrar-General to give priority to dealings where it is apparent that the Priority Notice is intended to give priority to a particular dealing, even if the dealing is not accurately identified in the notice.

The following examples are considered acceptable as it is clear the dealings lodged are the same interest identified in the Priority Notice:

- Priority Notice is lodged identifying a Discharge of Mortgage, but the Discharge of Mortgage lodged contains a transposed digit or typographical error in the mortgage number.
- Priority Notice is lodged identifying a Discharge of Mortgage, Transfer and Mortgage with the Mortgagee listed as ANZ Bank, but when the dealings are lodged the Mortgagee listed on the Mortgage is Australia & New Zealand Banking Group Ltd.
- Priority Notice is lodged identifying a Discharge of Mortgage, Transfer and Mortgage with the Mortgagee listed using its trading name (e.g. People's Choice), but when the dealings are lodged the Mortgagee listed on the Mortgage is listed using the legal entity name (e.g. Australian Central Credit Union Ltd.). However it is encouraged that the legal entity name is used whenever possible.
- Priority Notice is lodged identifying a Discharge of Mortgage, Transfer (with the Transferee listed as Anne Jones) and Mortgage, but the dealings are lodged with the Transferee name listed as Ann Jones.

In addition to this, a Priority Notice does not prevent the Registrar-General from registering, or giving effect to dealings noted under section 154B of the RPA. There may be instances where dealings under section 154B of the RPA are included in series with the dealings that are the subject of the Priority Notice. Common dealings under this section include Applications to Register Death, Transmission Applications and Withdrawals of Caveat.

For further information please contact Land Services SA on (08) 8423 5000 or customersupport@landservices.com.au.



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