

# Notice

## To Lodging Parties

18 September 2015 No 179

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### 1. Deregistered Encumbrancees – ASIC consent

Further to Notice to Lodging Parties No 171 in respect to deregistered encumbrancees and consents in division applications.

The Registrar-General will only consider an application to dispense with consent of an encumbrancee which is a deregistered company where the:

- encumbrancee's interest is not affected,
- encumbrance does not prohibit land division, or
- encumbrance does not contain a clause requiring the encumbrancee to consent to land division.

As a Grant of Easement will affect the encumbrancee's interest, application must be made to the Australian Securities & Investments Commission (ASIC) for the required consent of the encumbrancee.

ASIC consent must also be sought where land is subject to a registered encumbrance containing a clause that requires the encumbrancee's consent to subdivide.

### 2. Statutory Encumbrances include Agreements

Further to Notice to Lodging Parties No 158, 161 and 163, clients are reminded that statutory encumbrances include Land Management Agreements and Heritage Agreements and can be adjusted within a division application.

The interpretation clauses of Part 19AB of the *Real Property Act 1886*, the *Community Titles Act 1996* and *Strata Titles Act 1988* list the statutory encumbrances that can be varied or rescinded within the division or amendment to plan application. The variation or partial rescission and consent can be combined within the division application. Otherwise where separate application is made to vary or partially rescind the agreement a separate application fee is incurred and the holder of the agreement must still consent within the division application.

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#### Land Services

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### 3. Off-the-Plan Apartment Transfer Registration Fees

Section 71DB of the *Stamp Duties Act 1923* provides for a stamp duty concession on the transfer of an off-the-plan apartment in specified circumstances. Under ss71DB (2)(a) no duty is payable on a conveyance which gives effect to a qualifying off-the-plan contract entered into between the prescribed date (as defined in s71DB) and 30 June 2014, where the market value of the apartment does not exceed \$500,000.

In accordance with Schedule 1 – 2(b) of the *Real Property Regulations 2009*, where the Commissioner of State Taxation has adjudged a transfer to be exempt from stamp duty or no *ad valorem* stamp duty is payable (as is the case with ss71DB (2)(a) transfers), then the base Lands Titles Office registration fee (currently \$155) applies.

Where *ad valorem* registration fees rather than the base fee have been paid on applicable off-the-plan apartment transfers, refunds will be made to the transferee's conveyancer or solicitor.

Those transfers lodged but not yet registered will have the refund processed immediately after registration.

The identification of registered transfers is being conducted in conjunction with RevenueSA. As there are many transfers affected, your patience as we process these refunds will be appreciated.

If you have any enquiries please contact Trudi Skinn, Senior Data Management Officer on 08 8226 4149 or email [DPTI.SeniorDataCapture@sa.gov.au](mailto:DPTI.SeniorDataCapture@sa.gov.au)

### 4. Priority Notice Uptake

The ability to lodge a Priority Notice commenced with the introduction of the South Australian Integrated Land Information System (SAILIS) on 27 April 2015.

It is important that the practice of lodging Priority Notices is well established prior to the introduction of Electronic Conveyancing and the proposed removal of the duplicate Certificate of Title in South Australia.

Priority Notices will play a fundamental role as we move towards dual lodgement mediums, as they:

- Reserve priority for transactions
- Notify parties that a transaction is pending
- Assist in fraud prevention
- Improve the accuracy of Title searches

Lodging parties are therefore urged to integrate priority notices into their standard work practices at the earliest possible time.

For more information regarding Priority Notices and the remaining reforms, please visit [www.sa.gov.au](http://www.sa.gov.au).



## 5. Register Search Plus

A new product bundle option - the Register Search Plus - was introduced with the implementation of SAILIS.

The Register Search Plus enables Account Customers to purchase a Register Search copy that contains hyperlinks to images of the relevant plan and any dealings registered over the title.

The bundled option represents value for clients who would currently order the stand-alone Register Search, Plan Image and Dealing Image products for a property, and means that these searches no longer need to be conducted individually.

The Register Search Plus is located under the Land Search menu in SAILIS.



Brenton Pike  
**Registrar-General**  
**Lands Titles Office**

