

CUSTOMER INFORMATION



DOLA

Department of LAND ADMINISTRATION

BULLETIN

Bulletin No. 85
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In this issue:

- A. A.C.N. Numbers**
- B. Enduring Power of Attorney**
- C. Plan/Diagram lodged for the sole purpose of Vesting Pursuant to Sec 20A T.P. & D Act.**
- D. Transfer of Land Act Amendment Act 1996 Easements/Restrictive Covenants created on Surveys pursuant to part 1VA.**

A A.C.N. Numbers.

Bulletin No 45 stated that the A.C.N. number was required to be shown in the Company Sealing Clause. The Bulletin was drafted in conjunction with interim Practice Note 8 Transition to Corporation Law issued by the Australian Securities Commission on the 20th December 1990.

DOLA has reviewed Section 219 of the Corporations Law and is of the opinion that the A.C.N. number is not required in the sealing clause of the company.

However, if the number is shown no action will be taken to have it removed.

B Enduring Power of Attorney.

In accordance with current practice for Powers of Attorney, whenever an Enduring Power of Attorney (which is dated more than three months prior to the date of deposit) is deposited for filing and noting, a Statutory Declaration of non revocation or variation is to be obtained from the donee of that power.

Care must be taken to include that :-

1. the Board or an appointed Administrator (including the Public Guardian) of the donor has not varied or revoked the Enduring Power of Attorney;

or

2. a substitute donee of the Power has not been appointed.

Please see full requirements to be included in the declaration contained in Bulletin No 55.

C Plan/Diagrams Lodged for the sole purpose of Vesting Pursuant To Sect. 20A T.P. & D. Act.

Plans and diagrams are lodged at DOLA for the sole purpose of creating a vesting under the

above Act. When they receive Ministry of Planning approval they are directed into two different channels of processing, dependant on whether they are over encumbered titles or not.

Unencumbered items are directed to the Inspector of Plans for immediate approval and then a Sundry Document is created and a new title is issued in the name of the Crown.

Encumbered titles have previously caused the survey to have been held by New Title Services Branch pending lodgement of the appropriate documents to remove those encumbrances. Upon receipt of all the necessary documentation to remove the encumbrance a sundry document for a new title for the vesting is created. Upon issue of the new title the survey is approved.

There are several concerns with having a separate processing path and storage system for these subdivisional documents. One of the major concerns being that the items were not scanned and made available for searching. Subdivisional plans and diagrams for the sole purpose of creating a Section 20A vesting, over encumbered titles, will now be placed in order for dealing with the following notation:

"subject to removal of encumbrances as required by section 20A of TP & D Act"

These items will then be scanned and placed in file with all other plans and diagrams. This will allow the routine processing of the subdivision and hopefully lead to faster action on these matters by the proprietor. Upon issue of the title for the vested land the plan or diagram will be approved.

D Directions outlining DOLA's requirements for Easements/restrictive covenants created on surveys pursuant to part IVA of the Transfer of Land Act Amendment Act 1996 pursuant to proclamation of regulations expected January 13, 1997.

1. How Easements/Restrictive Covenants are to be Shown on the Plan.

Easements/Restrictive Covenants will be endorsed at the bottom of the Plan immediately above the Title block.

(N.B) where space permits Easements/Restrictive Covenants are to be set out in a TABULAR form as specified in 'ATTACHMENT A'.

2. Labelling of Easements.

Easement areas shown on Plans of subdivision must be labelled using the next ALPHA characters available after all enlargements (if any) have been similarly labelled.

(NB) Restrictive Covenants which burden whole Lots will not require labelling.

Easements of the same 'type' may burden several lots on a Plan.

* Such Easements will be labelled using the same ALPHA character on each burdened Lot.

Each of the burdened Lots will be referred to in a single endorsement at the bottom of the Plan.

Endorsements referred to above will be shown in the following manner:-

Label	Type of Easement	Burdened Lot(s)	Benefited Lot(s)	Instrument (If applicable)
H	Drainage	1,2, & 3	4 & City of Stirling	G12345

The land being burdened by the Easement (servient tenement) will be referred to first followed by the land enjoying the benefit (dominant tenement). Easements in Gross will be referred to last.

(N.B.) The "Short Form" of the easement will be used in such endorsements.

Land enjoying the Benefit of a Part IVA Easement may be described on the Plan as being "...all of the Lots on the Plan save and except (vested Lots).

3. Extent of Easements

Part IVA Easements which are parallel to and co-linear with Lot boundaries may be defined as being ...metres wide. No other annotation, other than the appropriate label, is necessary.

4. Authority to create Easements/Restrictive Covenants

Easements/Restrictive Covenants created pursuant to Part IVA must make reference to the section of the Act under which they are created.

See attached sample.

5. Terms

Where Instruments are used to define a "term", an expiry date should be specified.

6. Limitations/Restrictions

Where instruments limit the use of the Easement, such limitations should be clearly specified:
(ie) ... between the hours of ...or limited to a height/depth ofmetres above/below Australian Height Datum

7. Consents Required

Consents of all parties having a registered interest in or being a caveator in respect of the subject land must be obtained prior to or included with the Application for new Certificate of Title. Where an Instrument is used, the consents should accompany the Instrument.

(N.B.) Easements created pursuant to Section 27A of the Town Planning & Development Act, 1928, have priority over Easements/Restrictive Covenants created on the Plan pursuant to Part IVA.

8. Servient and Dominant Tenements to be Contiguous

Existing Regulations, Directions or Guidelines which require Benefit land to be contiguous with Burdened land still apply.

Land enjoying the benefit of an Easement created on a Plan must be the whole of a Lot(s) on the Plan or another Plan being simultaneously approved by the Inspector of Plans and Surveys. Land being burdened must be within the plan.

9. Part IVA Easements/Restrictive Covenants to Subsist

When 2 or more Lots on an APPROVED Plan are subsequently amalgamated or re-subdivided, any Part IVA Easements/Restrictive Covenants created on the parent Plan should subsist and be carried forward onto the new Certificate of Title. They should NOT be re-created.

10. Form of Instrument

Instruments which may accompany the Plan must be in the form of a "DEED", prepared on a blank instrument form (B2) and be capable of registration. Such deed is to be duly stamped by the State Revenue Department and must contain:

- * The proprietor/s name and address.
- * The burdened land clearly defined.
- * The benefited land clearly defined or the name of the benefited Local Government/Public Authority
- * An operative clause describing the easement/restrictive covenant and stating that the rights, reservations or restrictions are created under the authority of Sections 136C(5) and 136D(5) and showing any limitations associated with the rights or restrictions.
- * Any encumbrances over the land.
- * The date of the agreement.
- * All consents required. (see Paragraph 7 above).
- * Signed by all parties and witnessed.

11. Compliance with these Directions

Failure to comply with these Directions will render the Plan incapable of being endorsed "In Order For Dealings" and subject it to requisitions. In such cases the Application for new Certificates of Title will lose it's "Early Issue" status and be ineligible for a 5 day turn-around.

ATTACHMENT A

LABEL	Part IVA TLA EASEMENTS & RESTRICTIVE COVENANTS	BURDENED LOT(S)	BENEFITED LOT(S)	INSTRUMENT
D	Drainage Ease't Sec 136C TLA	527	545	N/A
D	"	529	527,545	
D	"	530	529,527,530 & Shire of Toodyay	
E	Right of Carriageway limited to a height of 10 metres above AHD Sec 136C TLA	523	524	G999999
N/A	Restrictive Covenant expiring December 31, 2020. Sec 136D TLA	All Lots hereon save & except Lots 521,1004 & 1005	All Lots hereon save & except Lots 521, 1004 & 1005	G999998
	"	517	528	"
N/A	Memorial Sec 67A Water Agencies Act	All Lots hereon save & except Lots 521, 1004 & 1005	N/A	N/A

IF INSTRUMENTS ARE TO BE LODGED

1. Lodgement of Instruments

Where an Instrument is to be lodged to support a Part IVA Easement/Restrictive Covenant it must be capable of registration being in the form of a deed setting out the information required in Sections 136C and 136D, as directed by the Registrar of Titles. Such Instrument will be lodged BEFORE the Plan is forwarded to the "Ministry for Planning" for "State Planning Commission approval". Instruments not lodged with the survey document will cause the survey document to revert to "Subject to Examination" status when lodged.

(N.B.) Such Instruments will accompany the Plan to the Ministry for Planning.

(N.B.) Plans may be endorsed "in order for dealings" subject to requisitions on the Instrument.

2. Consent of Encumbrancers Required

Consents of all parties having a registered interest in, or being a caveator in respect of, the subject land must be obtained prior to or included with the Application for new Certificates of Title. Where an Instrument is used, the consents should accompany the Instrument.

(N.B.) Easements created pursuant to Section 27A of the Town Planning & Development Act, 1928, have priority over Easements/Restrictive Covenants created on the Plan pursuant to Part IVA.

3. Servient and Dominant Tenements to be Contiguous

Existing Regulations, Directions or Guidelines which require Benefit land to be contiguous with Burdened land still apply. Land enjoying the benefit of an Easement created on a Plan must be the whole of a Lot(s) on the Plan or another Plan being simultaneously approved by the Inspector of Plans and Surveys. Land being burdened must be within the plan.

4. Part IVA Easements/Restrictive Covenants to Subsist

When 2 or more Lots on an APPROVED Plan are subsequently amalgamated or re-subdivided, any Part IVA Easements/Restrictive Covenants created on the parent Plan should subsist and be carried forward onto the new Certificate of Title. They should NOT be re-created.

5. Amendments

Requests to amend an unregistered Plan or Instrument may result in the status of such items being returned to "Subject to Examination"

6. Excision of Lots and/or Change of Lot Numbers

Any such changes to the lodged Plan must be made BEFORE forwarding it to the Ministry of Planning. Where applicable, any accompanying Instruments must also be amended, in accordance with DOLA registration practices, to reflect such changes to the Plan

7. Drafting/Lettering Standards

Refer to "Regulations for the Guidance of Licensed Surveyors".

8. Compliance

Failure to comply with these Guidelines may render the Plan imperfect and subject it to requisitions. In such cases the Application for new Certificates of Title may lose it's "Early Issue" status and be ineligible for a 5 day turn-around.



GEOFF SACH
DIVISIONAL MANAGER
REGISTRAR OF TITLES