DOC-01 Document Preparation

Version 4 - 18/05/2018

The information provided in this guide is not intended to amount to legal advice. Professional assistance may be required to determine the most appropriate action to protect your legal rights. Please read our Terms of Use on the Land Titles Registration policy and procedure guides web page. Landgate accepts no responsibility where parties print this guide and seek to rely on information that is out of date.

1 Overview

Instruments intended to be lodged or registered in respect of land under the Transfer of Land Act 1893 (TLA) must conform to the requirements laid down in the Regulations to the Act.

In the interests of economy (for the client), time (for the engrosser), examination and storage (for the office) the practice of preparing multiple documents, where one will suffice, is discouraged. Those persons or firms using computer facilities to produce their forms may utilise adjustable panels to create more space for complex arrangements or numerous land items.

Proper use of the additional page (Form B1) will, in most other cases, provide sufficient space for larger dealings on pre-printed forms. However, there are occasions when separate documents must be used. In a transaction where a number of vendors transfer a number of parcels to a common transferee, separate transfers must be used unless each vendor has an interest in each parcel transferred.

For example, in a sale from A and B to C where A and B own the land in one certificate and A owns the land in another, two transfers must be prepared: one from A and B to C and one from A to C. If A and B own the land in both certificates, even if they hold different shares, a single transfer may be used.

The design of the computerised power of attorney register does not limit the number of donors in any one document. It is recommended that preparing parties show restraint in the number of donors appointed, and impose the same requirement on the number of attorneys in one document.

2 Form of Documents

The Registrar of Titles is required to approve forms for use under the TLA. A list of Landgate’s standard forms that have been approved by the Registrar is shown on Landgate’s corporate website http://www0.landgate.wa.gov.au/titles-and-surveys/forms-and-fees/land-tilting-forms.
Personalisation of forms that mirror one of Landgate’s standard forms – and only seek to pre-populate information such as lodging party details – no longer require approval.

3 Size, Margins, Quality and Binding

The standard size of forms (documents) to be lodged for registration is 297 mm by 210 mm in external measurement (A4). Adequate margins (a minimum of 5 mm) must be provided on all sides. Binding is not permitted on original documents and if more than one sheet is used, they should be secured by two staples in the left-hand margin.

Duplicate copies of any documents that can be accepted in duplicate may be bound if desired. The form should not be cut or trimmed in order to fit it into an envelope for posting. The paper selected must be of a type and quality approved by the Registrar of Titles (at least 80 gsm). Persons printing their own forms must ensure these mirror one of Landgate’s approved Land titling forms and are printed in black and white and printed on both sides (duplexed). This excludes the electronic Record Interest - Mortgage (National Mortgage) form which aligns to a national standard and may be printed in simplex, that is, single sided.

4 Private Printing

It is important that all privately printed forms that are lodged for registration:

- mirror Landgate’s approved Land titling forms

- conform to the Regulations to the Act

- are printed in black and white and printed on both sides (duplexed). This excludes the electronic Record Interest - Mortgage form and the National mortgage PDF form, both of which align to a national standard and may be printed in simplex, that is, single sided

and

- if the document produced is four or more sheets, the sheets are numbered consecutively.

5 Completing Documents when a Digital Title Exists

The following is a guide to successfully completing a Land Registration form when a digital title exists.

5.1 Land Description panel

Copy the land description details as shown on the digital Title Record. This will show only the lot on survey details, e.g. Lot 10 on Plan 30025.

5.2 Limitations, Interests, Encumbrances and Notification panel (where there is one)

Copy the Limitations, Interests, Encumbrances and Notifications shown in this section of the digital
Title Record with the exception of subsidiary limitations, interests, encumbrances and notifications - e.g. a Transfer of Mortgage is not shown.

Do not show in the document any of the following:

- The benefit of any easement or restrictive covenant.

or

- Subsidiary limitations, interests, encumbrances and notifications.

6 Documents for which No Form is Provided

Some documents to be prepared will not fit any printed form, either because the form is unsuitable for the document or because the document is too complex to be reduced to the panel format. These documents should be prepared on Blank instrument form B2.

7 Additional Pages

Where a panel on any printed form has insufficient space in which to place the required information, it is permissible to:

- use a double page form and, after inserting, see Page 2 in the appropriate panel, enter the information on page 2 of the form under a heading for that panel,

and

- use an additional page (Form B1) and, after inserting see additional page (number of sheet) in the appropriate panel, enter the information on the additional sheet under a heading for that panel. The additional page should be completed by adding the additional page number and reference to the document and date and be stapled to the front of the document by two staples on the left-hand margin. No signatures are required on the additional page.

Additional pages should not be used where another form can be successfully used or the information inserted is not part of the panel format. This information should be prepared on pages of the same size numbered consecutively and stapled inside the document.

8 Insert Sheets

Where the printed matter contained in a form of mortgage is inadequate or partly inappropriate, additional pages may be stapled to a printed form. The Registrar will be satisfied if the clauses contained in the resulting document run in numerical sequence.

In most cases insert sheets of good quality white bond paper will be approved for multi-page documents. Inserts on sheets other than full size will not be accepted. Information on the sheets may be typed, printed or produced by copiers that use unsensitised paper. All insert sheets so produced must be approved by the Registrar. Outside sheets for multi-page documents must be printed on approved paper.

All signatures, seals and initials, wherever appearing on insert sheets, must be original.
No binding is required on the original copy of multi-page documents but conveyancers may bind the duplicate copy of any documents that can be accepted in duplicate if they wish.

9 Other Provisions Relating to Documents

Every document lodged for registration must comply with the following requirements:

- Handwriting, signatures and seals must be clear and legible:

- The use of black or blue ballpoint or felt tips pens are recommended when writing on or signing documents, other colours such as red or green should be avoided.

- The seal of a Corporation must be affixed in a manner that makes its reproduction by electronic or photographic process possible. The use of a black ink stamp pad is recommended. Failure to comply with this requirement could lead to rejection of the document

10 Land

10.1 Estate and Interest

The estate or interest in the land being dealt with must be set out in the panel provided in the printed forms (where applicable). When properly completed, the panel shows whether the land being dealt with is fee simple, leasehold or a lesser estate and also qualifies the extent to which any of those estates is being affected, for example

- fee simple in one undivided half share

or

- leasehold as to the interest of A as a joint tenant with B.

Where it is necessary to show an estate or interest and where the printed form being used does not provide a panel in which to insert the required words, the words may be inserted immediately preceding a description of the land being dealt with.

10.2 Description of Land

The correct description of the land being dealt with must be typed or written in the panel provided in each of the forms. A correct description includes:

- the lot or location name and number (if an original Crown survey) or subdivisional lot number with its relevant plan, deposited plan or diagram number;

- a statement as to whether the lot is part of or the whole of the land in the certificate of title, Crown land title or Crown lease; and

- the certificate of title or Crown land title volume and folio reference. In the ELN, the Land Description will be obtained from the Registry Information Supply (RIS).

Part of the Land in a Title
When dealing with part of the land in an existing title, the land description must be precise and unambiguous. Particular care should be taken where part of a lot, being part of the land in a title is being transferred and the extent panel reflects this requirement.

Partial transfer of land in multiple owner subdivisions

In the case of a plan of subdivision that involves multiple owners resulting in the transfer of part of the land in one title (e.g. Lot 10 on Plan 3130) owned by proprietor A to incorporate land owned by proprietor B in another title to form one of the new lots (e.g. Lot 2) on the plan, the land description in the partial transfer will read as follows:

All that part of Lot 10 on Plan 3130 as is now comprised in Lot 2 on Plan (insert new plan number) and being part of the land in title Volume 616 Folio 61.

10.3 Sketches in Documents to Identify Part of the Land in a Certificate of Title

As a general rule, documents that contain a sketch to identify part of the land in a certificate of title will not be accepted. An Interest Only Deposited Plan (DP) must be prepared by a licensed surveyor to spatially define the land. The document can then make reference to the DP number to accurately identify the portion of the land being dealt with.

Note: The DP must be in Order for Dealings before the document is lodged. It is acceptable for drawings to be included within a document, as long as they don’t purport to define the area of land affected by the interest.

The following documents are exceptions to the general rule:

- Caveats
- Freehold Leases
- Management body leases and non-LAA leases over Crown land
- Simple bore easements between neighbours.

Note: While the above documents are exempt from having a DP to define a portion of land, a DP can still be created instead of a sketch.

A suitable sketch of the land can be attached to the document and must contain a notation sketch correct and be initialled by the parties to the document. Please note the following guidelines when a sketch is to be included within the document for registration:

- The paper size should be A4 as it will form part of the registered document.
- If using a copy of an original sketch, it is recommended to use a first generation copy to maintain quality and legibility.
- There must be sufficient dimensioning or notation to clearly identify the interest areas.
- A north point, scale, street frontage [showing street name] and heading [containing encumbered lot details (e.g. Caveat/Lease over Portion of Lot 1 on Plan 123456)] are to be shown.
- The sketch should also tie in by dimension to the parcel boundary (cadastral boundary) unless defined by permanent monument.
- A sketch can relate to a permanent monument (building) to define the lease/caveat area. The building does not require to be dimensioned but it must show the relationship to the parcel boundary (show road frontage-street name, north point, etc....)

- A location plan depicting the building and lease area needs to be included to show the relation of the building to the parcel boundary and to also indicate where the lease area is situated within the building.

- Stippling, hachuring or identification by notation may be used to clearly define the area of interest.

- Colours must not be used.

- Aerial photography must not be used.

- Fax copies of sketches must not be used.

Conveyancers may, prior to lodgement of the document, obtain approval of the sketch from a Plans Senior Consultant at Landgate. Approval will be endorsed on the sketch if it is accurately and sufficiently dimensioned. A Plans Senior Consultant may be contacted by telephone on +61 (0)8 9273 7373 and sketches may be forwarded in PDF format to Plans.Consultants@landgate.wa.gov.au for pre-approval.

10.4 Limitations, Interests, Encumbrances and Notifications

The Limitations, Interests, Encumbrances and Notifications to be noted in the panel on the printed forms are those which are in existence or will be noted on the Register at the time of registration of the dealing.

Where Limitations, Interests, Encumbrances and Notifications have been registered on the title before the current document to be lodged, it will be sufficiently identified if it is described by the nature of the Limitations, Interests, Encumbrances and Notifications document and its number. For example, Mortgage J123456 and for an easement or restrictive covenant Transfer K654321.

Where an encumbrance is lodged with, but in priority to an accompanying instrument, the latter instrument must show the Limitations, Interests, Encumbrances and Notifications by reference to its nature, parties and date of execution, for example"

"Mortgage dated ..... to ......"

or

"Restrictive Covenant created by Transfer ..... dated, made between the transferor and ....."

Caveats which are subject to claim may be noted as encumbrances.

A current Property (Seizure and Sale) Order may not be shown as an encumbrance and must be removed from the Register before registration of any instrument, except in the case of:

- transfer by the Sheriff or a Deputy Sheriff pursuant to such writ or warrant; or

- transfer by a mortgagee in exercise of the power of sale where the writ or warrant is lodged after the mortgage.

Care should be taken where several instruments dealing with the same land are presented together for registration. For example, where a transfer from A to B containing a covenant is
presented with a transfer from B to C, a sufficient reference to the covenant in the first transfer must appear in the encumbrance panel of the second.

Note: As a result of the National Electronic Conveyancing System (NECS), some forms which previously had a LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS panel no longer do.

11 Also see

- DOC-06 Memorandum of Common Provisions