AMA-01 Amalgamations

Version 1 – 11/10/2018

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 Landgate accepts no responsibility where parties print this guide and seek to rely on information that is out of date.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 Conveyance and Amalgamation Order

Where the Minister considers that retention of Crown land as a separate lot is not considered suitable because of its geographic location, potential use, size, shape or any other land use planning reason, the Minister may by the lodgement of a Conveyance and Amalgamation Order provide that the lot is sold and amalgamated into an adjoining freehold lot. This procedure is common where a road or private road that abuts a freehold lot is closed.

Crown land amalgamations are processed under s.87 of the Land Administration Act 1997 (“LAA”), which provides that upon amalgamation of the Crown land with the adjoining freehold land, encumbrances on the whole of the adjoining freehold land extend over the land that has been amalgamated. A new compiled deposited plan that creates a new Lot for the amalgamated land and the adjoining land is required so that a new freehold title can be created for the new compiled lot.

Any encumbrances on the Crown land being amalgamated (e.g. easement) are brought forward onto the new freehold title and placed after any encumbrances that are already existing on the freehold title for the adjoining land. Consent of any existing mortgagees on the existing freehold title should be obtained for any encumbrances being brought forward onto the new compiled freehold title or it may be possible that those encumbrances could be removed on any power of sale exercised by a mortgagee.

Where Crown land is amalgamated into land within a strata plan, the amalgamated land becomes common property. In support of the lodgement of the Conveyance and Amalgamation Order a Certificate of the strata company form as set out in the Strata Titles General Regulations 1996 is required. If an easement is being brought forward onto the strata plan as part of the amalgamation a Certificate of the strata company form is also required.

Conveyance and Amalgamation Orders are registered without the production of any duplicate freehold title. Where the title is a freehold certificate of title that has an issued duplicate title, a note is added in the statements section of the title to indicate that the new title has issued after
amalgamation of Crown land without the production of the existing duplicate title. The existing duplicate title remains the valid duplicate title for the land and the note is removed and the duplicate title replaced when it is next presented to Landgate.

2 Amalgamation of Pastoral Lease Order

The Pastoral Lands Board encourages the amalgamation of adjoining pastoral leases if one or both are considered unviable as it prefers that non-viable leases are not perpetuated.

If two or more pastoral leases are held by the same lessees in the same tenancies and the leases have the same conditions other than the term of the lease, the Minister may by the lodgement of an Amalgamation of Pastoral Lease Order provide that the leases be amalgamated. The term of the remaining lease must not be longer than the term of the lease being amalgamated into it.

Pastoral Lease amalgamations are processed under s.142 of the LAA and allow for a whole lot being amalgamated to retain its parcel identifier when added to the remaining lease. Mortgages on both lands only expand over the whole of the lease if the mortgagees have agreed and the order provides for their expansion. Where the order does not provide for the mortgages to be expanded they are brought forward only as to the lot or land they encumbered prior to the amalgamation. Where a mortgage will remain encumbering only a part of the lease a mortgagee should confirm their awareness that their power of sale has been affected.

3 Lease of Crown Land and Amalgamation Order

Where the Minister considers that retention of Crown land as a separate lot is not considered suitable because of its geographic location, potential use, size, shape or any other land use planning reason, the Minister may by the lodgement of a Lease of Crown Land and Amalgamation Order provide that the lot be leased and amalgamated into adjoining Crown leased land. This procedure is common where a road that abuts a lease is closed.

Lease of Crown land amalgamations are processed under s.87 of the LAA, which provides that upon amalgamation of the Crown land with the adjoining land, the lease and encumbrances on the whole of the adjoining land extend over the land that has been amalgamated. A new compiled deposited plan that creates a new Lot for the amalgamated land and the adjoining land should be available so that a new Crown title can be created for the new compiled lot.

Any encumbrances on the Crown land being amalgamated (e.g. easement) are brought forward onto the new Crown title and placed after any encumbrances that are already existing on the Crown title for the adjoining land.