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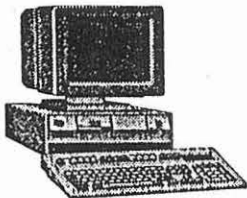


A. SIMULTANEOUS LODGEMENT OF STRATA PLANS/APPLICATIONS FOR STRATA TITLES

Customers are advised that it is now possible to lodge Strata Plans for examination together with an Application to register the Strata Plan (Title Application) simultaneously for simple strata schemes. Those lodged in this manner will receive accelerated progress, as Examination and New Title preparation processes are now able to proceed concurrently. Unless requisitions become apparent during examination, titles will issue, in less than ten working days. Clients are advised not to settle on the new Strata Lots until titles are available. No other documents should be lodged with the application unless it is required for the application to proceed i.e., portion only Caveats, would require a withdrawal to be lodged.

Customers wishing to avail themselves of this method of lodgement should indicate their intention by submitting a request with the Strata Plan when lodging with the Survey Advice Officer. New Title Production Staff will then obtain the Application and initiate the combined process.

For further information please contact the Survey Advice Officer, Bob Picknoll on 273 7044 or the Manager, New Title Production, Chris Mason on 273 7369.



B. CUSTOMER REMOTE SEARCH - GENERAL ENQUIRY BY ADDRESS

On Friday 28th October, 1994 the address search screen was changed. The letter "H" was removed from the House/Lot enquiry line. The change was made for quicker and easier access to the data required.

The option still exists for the inclusion of either "H" for a house number or "L" for a lot number if either or both numbers are known.

If this field is left blank (i.e. "H" or "L" has not been inserted) the system automatically searches for both or either house or lot numbers.

For any further enquires please ring the Land Enquiry Centre on 273 7343.

C. LAND TITLES PRACTICE MANUAL

I am pleased to announce that a Contract to print, market and distribute the manual "Land Titles Registration Practice in Western Australia" has now been awarded to "The Document Company". "The Document Company" is a small Western Australian firm with experience in the creation of computer based systems for the production of forms for registration in the Titles Registry. The directors of the firm are Mr E J Picton-Warlow LLB, Notary Public, Mr M E Paterson LLB(Hons), Bsc and Mr A Manassis Dip Teach, Grad Dip Bus (Comp). The manual will be produced in a loose leaf book format, and as a software package with extensive "key word and full text" search facilities, for use in a "Windows" operating environment.



Copies of either or both versions of the manual may be obtained from "The Document Company" at Suite 1, First Floor, The Old Bank Chambers, 311 Stirling Highway, Claremont 6010. The paper version will cost \$105, with updates to be issued at a cost of \$30 + 20c per sheet. The software version will cost \$145.00, with updates to be issued at a cost of \$25.00 plus 15c per loose leaf sheet equivalent to the paper version. For students of courses where the manual is a required text, discounted prices of \$30 and \$49 have been set. Students should attach a copy of their course enrolment advice to their request.

Copies of the manual are expected to be available in mid December, and an order form is attached to this bulletin.



D. ENDURING POWERS OF ATTORNEY

Land Titles Division, DOLA is continuing to receive Enduring Powers of Attorney for depositing and noting on its Power of Attorney register that set out in many provisions the powers being granted to the attorney rather than relying on the form provided in Form 1 of Schedule 3 of the Guardianship and Administration Act 1990 ("the G. A. Act"). This form grants to the attorney all powers that a natural person would have had despite the subsequent incapacity of the donor.

It is understood that one reason for these types of enduring attorney documents being prepared is that lending institutions prefer to have all powers of attorney specified in the enduring power of attorney document because they are uncomfortable with the provisions of paragraph 2 of Form 1 Schedule 3 of the G. A. Act that authorise the attorney to do anything on behalf of the donor that the donor could do lawfully.

The requirement by some lending institutions and, it would appear some solicitors, to specify all powers granted to an attorney in enduring powers of attorney is:

- (a) contrary to the intention of the G. A. Act which was to simplify the preparation of Enduring Power of Attorney documents and to grant all powers that the donor has as a natural person to the attorney without the complexity of a document with 20 - 30 provisions in it; and
- (b) contrary to the provisions of section 104 of the G. A. Act which requires that for a power of attorney to gain the benefit of being an Enduring Power of Attorney it must be in the form, or substantially in the form, of Form 1 Schedule 3 to the G. A. Act. That form grants to an attorney all the powers that the donor has as a natural person, except those powers expressly stated as being excluded. An Enduring Power of Attorney document with numerous powers enumerated it in substantially departs from the form required by the G. A. Act. Such a document does not obtain the benefit of being registrable under the Transfer of Land Act by virtue of Section 103 of the G. A. Act.


It appears that persons who prepare Enduring Powers of Attorney enumerating all the powers of an attorney in numerous clauses are confusing general non-enduring powers of attorney ordinarily noted at DOLA under the Transfer of Land Act and Enduring Powers of Attorney under the G. A. Act. These two concepts and documents should not be mixed.

Power of Attorney documents that are prepared in accordance with section 143 of Transfer of Land Act and in accordance with the Practice Manual Guidelines will be registered under that section provided that they do not purport to grant an Enduring Power of Attorney.

Powers of Attorney under the G. A. Act have a discrete prescribed form. That form does not allow many variations unless it is intended to limit the attorney's powers in a substantial manner. Limitations are provided for in paragraph (3) of Form 1 Schedule 3 of the G. A. Act.

Effective from 3 January 1995, DOLA will no longer accept for noting, on the Power of Attorney Register any Enduring Powers of Attorney that purport to be general powers of attorney enumerating powers that the attorney may exercise. The powers provided in the prescribed form are sufficient to give the attorney all the powers that the donor would have had as a natural person if he/she were not incapacitated.

Paragraph 3 of Form 1 Schedule 3 of G. A. Act provides for a short notation of conditions or restrictions under which the enduring attorney may act. It is not intended to be, nor should it be, a facility for donors through their legal advisers and others to set out all of the powers of the attorney.


GEOFF SACH
REGISTRAR OF TITLES
DIVISIONAL MANAGER
LAND TITLES DIVISION

9 December, 1994