

Customer Information

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New Appointments at DOLA

Mr John Gladstone and Ms Valerie Tham have been appointed to the statutory positions of Commissioner and Deputy Commissioner of Titles respectively by the Governor in Council. Mr Ian Hyde has been appointed as Registrar of Titles and sworn in by the Chief Justice. DOLA congratulates the appointees who are looking forward to building and maintaining effective partnerships with you, our customers.

MORTGAGES

Revised Practices for Lodgements of Mortgages Affected by the Consumer Credit (Western Australia) Act 1996 ("the Act") and the Consumer Conduct (Western Australia) Code 1996 ("the Code")

In Customer Information Bulletin No. 92, DOLA requested its customers, when preparing mortgage documents affected by the Act and the Code, to ensure that one of the following was noted on the cover sheet of the mortgage document:

1. Consumer Mortgage; or
2. Credit Code Mortgage.

This notation enabled DOLA to distinguish between mortgage documents and mortgages which are affected by the Act and Code. In turn, this permitted DOLA to identify the more stringent statutory notice periods applicable to consumer mortgages affected by the Act and Code and those consumer mortgages which are not so affected.

Recently DOLA has been made aware that there are circumstances in which "All Monies Mortgages" are not, at the beginning of the mortgage, affected by the Act and the Code, but future lending under the mortgage attracts the application of the Act and the Code to the mortgage. Under the current practice this results in the mortgage not being identified as a consumer mortgage. It is therefore recognised that the current practice does not achieve the outcomes required by DOLA.

In future, could you please adopt the following practices:

1. No longer note mortgages as "Consumer Mortgage" or "Credit Code Mortgage" on the coversheet of the Mortgage.
2. Where a power of sale is exercised by a mortgagee under any mortgage document, note on the statutory declaration accompanying the mortgagee transfer whether or not the mortgage is affected by the Act or the Code.
3. If the mortgage is not affected by the Act or Code, complete the statutory declaration as set out in paragraph 2.350 of the Practice Manual.
4. If the mortgage is affected by the Act or the Code, include in the statutory declaration accompanying the mortgagee transfer the standard provisions relating to "Consumer Mortgages". (See paragraph 2.355 of the Practice Manual).

Customer Services Branch

The Customer Services Branch provides a one-stop shop for customers accessing DOLA's quality land information products and services including sales, advice and training on the following:

- land registration;
- cadastral and tenure information;
- mapping and aerial photography; and
- lodgement of land transactions.

The Customer Services Branch aims to:

- continuously improve products and services to meet your needs;
- give value for money;
- supply a prompt service; and
- give accurate and up-to-date information.

Results of a recent customer satisfaction survey show the Customer Services Branch received an approval rating of approximately 94% for providing advice and services. The results were pleasing and thanks are extended to all the members of the industry who took part in the survey.

To ensure DOLA's resources are effectively used to service your requirements, customers are reminded to direct all telephone enquiries to the Customer Services Branch through one of the following numbers:

| | |
|---------------------------------------|-----------|
| Mapping Products and Services | 9273 7075 |
| Customer Information Centre | 9273 7044 |
| Document Acceptance Counter (Midland) | 9273 7367 |
| Progress and Issuing | 9273 7314 |
| Search Transmission Centre | 9273 7294 |
| Searchroom Counter | 9273 7339 |

Change In Requirements For The Removal Of Encumbrances On Termination Of Strata Schemes

1. Termination of Strata Schemes Where Encumbered

The Registration Practice Manual at paragraph 6.320 requires that notification of termination of schemes be supported by unencumbered certificates of title. That requirement may be waived if the notification is accompanied by written consents for termination of the strata plan that:

- (a) clearly acknowledge
 - for mortgagees that their powers of sale would be ineffective;
 - for other encumbrancers that their rights may be ineffective; and
- (b) request the Registrar of Titles to register the notification despite its effect on their rights.

The encumbrancers' solicitor should witness the consent and state on it that he/she has advised the encumbrancers about how their powers are affected by the termination of the strata scheme.

One of the effects would be that a mortgagee could not exercise power of sale over the land the subject of the mortgage, as the mortgage would be over an undefined portion of the land in the new title.

2. Termination of Strata Schemes for the Purpose of Creating a New Strata/Survey-Strata Scheme – Where Encumbrances on Lots are to be Carried Forward to Lots in the New Scheme

For encumbrances to be carried forward, it is not necessary to have a solicitor's statement endorsed on consents, as required in Item 1 above, provided that the following documents are lodged consecutively in the same dealing:

1. A notification for termination of a strata plan accompanied by:
 - i written consents for termination of the strata plan and acknowledgements
 - by mortgagees that the power of sale would be ineffective
 - by other encumbrancers that their rights may be ineffective following termination of the strata plan until registration of a new strata/survey-strata plan; and
 - ii written requests by encumbrancers that the Registrar of Titles register the termination of the strata scheme provided it is immediately followed by registration of a strata/survey-strata plan for which titles are to issue subject to such encumbrances in accordance with a disposition statement signed by the encumbrancer; and

2. An application for registration of the new strata/survey-strata plan, accompanied by a form 22 disposition statement allocating the encumbrances to lots on the new strata/survey-strata plan.

Christmas Message

This year has been a challenging one as DOLA has restructured itself into a purchaser/provider type organisation. Management and staff are appreciative of the participation and patience shown by our customers while these changes have been taking place. We are pleased with the results now emerging and look forward to continuing to improve our service to you.

On behalf of myself, the management and staff of DOLA, I would like to take this opportunity to wish you all a Happy Christmas and a prosperous New Year.



**GRAHAME SEARLE
DIRECTOR, SERVICE DELIVERY**