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*Division Applications
under Part 19AB
Preparation Notes*



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Division Applications under Part 19AB Preparation Notes

1. BACKGROUND

On the 1st September 1995 changes were made to Part 19AB of the Real Property Act 1886 (RPA) giving rise to the “Single Instrument” principle where the application and the accompanying plan of division (DP) together form a single instrument. However each has separate functions. There are two types of applications, an RTU (uncertified application for deposit of a plan of division) and RTC (certified application for deposit of a plan of division).

The DP:

- delineates the extent and description of the allotments it creates
- displays some of the transactions required to enable deposit to occur
- invokes the transactions and creates the allotments upon deposit

The application:

- applies to the Registrar-General for deposit of the accompanying plan of division by the owners of the land being divided
- is the vehicle for providing the necessary consents of any person with an estate or interest, registered or claimed, in the land being divided or any other land affected by the division
- includes reference to all of the transactions required to deposit the plan (RTC)

2. THE PLAN

There are two components to the DP, these are the textual and diagram sheet(s):

2.1 TEXTUAL SHEET

The textual sheet comprises various key elements, which affect the documentation to be lodged under Part 19AB and these are:

- a) Approval panel – completed and dated when plan approved for data
- b) Deposit panel – completed and dated when plan deposited
- c) Plan purpose e.g. “Division”, “Division and Redesignation of Parcels”
- d) Local Council for the area, if applicable
- e) Development number
- f) Surveyor’s certification – Certification will be completed for a survey plan whereas for a data plan the certification is blank. This will determine the plan examination fees to be paid and if the Survey Act levy fee is applicable
- g) Subject title details, showing title references and land description for -
 - the land being divided
 - redesignated parcels
- h) Other titles affected, showing title references of any titles affected by the plan other than for the land being divided or redesignated e.g. Easement in Gross where an easement is to be extinguished
- i) Easement details - describing particulars of any easements e.g. status, purpose, servient land description, private or service easement
- j) Annotations – used for explanatory notes e.g. ALLOTMENT(S) 800 (PT CT 5227/412) DO NOT FORM PART OF THIS DIVISION



2.1 TEXTUAL SHEET

Plan Purpose

Local Council for area

Development No.

Approval panel

Deposit panel

PURPOSE:	DIVISION	AREA NAME:	MUNNO PARA WEST		APPROVED:	<div style="font-size: 24px; font-weight: bold;">D76208</div> SHEET 1 OF 2 V02					
MAP REF:	6628-19-C	COUNCIL:	CITY OF PLAYFORD		988 18/12/07 DEPOSITED/FILED: 15/1/2008 <i>[Signature]</i>						
LAST PLAN:	F48503	DEVELOPMENT NO.:	292/D034/06/14919								
AGENT DETAILS: ALEXANDER & SYMONDS PTY LTD, 11 KING WILLIAM STREET, KENT TOWN, SOUTH AUSTRALIA 5067 PO BOX 1000 KENT TOWN, SA, 5071 TEL: (08) 8130 1666 FAX: (08) 8362 0099 DX 209 ABN 93 007 753 988		SURVEYORS CERTIFICATION:		I, <u>GLENN IAN HORDACRE</u> , a licensed surveyor of South Australia do hereby certify - 1) That this plan has been made from surveys carried out by me or under my personal supervision and in accordance with the Survey Act 1992 2) That the field work was completed on 12/11/2007 excepting for the final placement survey marks (strike out if not applicable). Date 26/11/2007 <i>[Signature]</i> Licensed Surveyor							
AGENT CODE: ALSY		REFERENCE: A089506LTD1B (C)									
SUBJECT TITLE DETAILS:											
PREFIX	VOLUME	FOLIO	OTHER	PARCEL	NUMBER	PLAN	NUMBER	HUNDRED / IA / DIVISION	TOWN	REFERENCE NUMBER	
PT CT	5 227	412		ALLOTMENT(S)	300	D	76207	MUNNO PARA			
OTHER TITLES AFFECTED:											
EASEMENT DETAILS:											
STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF		CREATION			
EXTINGUISHMENT	300 IN D76207 NOW CONTAINED IN 807.809	SERVICE	EASEMENT(S)	C IN D76207	FOR SEWERAGE PURPOSES	SOUTH AUSTRALIAN WATER CORPORATION		223LG RPA			
EXTINGUISHMENT	300 IN D76207 NOW CONTAINED IN 807.809.905	SERVICE	EASEMENT(S)	D IN D76207	FOR WATER SUPPLY PURPOSES	SOUTH AUSTRALIAN WATER CORPORATION		223LG RPA			
EXISTING	905	SERVICE	EASEMENT(S)	C	FOR SEWERAGE PURPOSES	SOUTH AUSTRALIAN WATER CORPORATION		223LG RPA			
NEW	905	SERVICE	EASEMENT(S)	B	FOR WATER SUPPLY PURPOSES	SOUTH AUSTRALIAN WATER CORPORATION		223LG RPA			
NEW	904.905	SERVICE	EASEMENT(S)	E	FOR ELECTRICITY SUPPLY PURPOSES	DISTRIBUTION LESSOR CORPORATION (SUBJECT TO LEASE 8890000)		223LG RPA			
NEW	904	SERVICE	EASEMENT(S)	F(T/F)	FOR ELECTRICITY SUPPLY PURPOSES	DISTRIBUTION LESSOR CORPORATION (SUBJECT TO LEASE 8890000)		223LG RPA			
ANNOTATIONS:							ALLOTMENT(S) 800 (PT CT 5227/412) DO NOT FORM PART OF THIS DIVISION				

Surveyor's certification

Title reference(s) and land description for land being:

- divided
- redesignated

Title reference(s) for any other titles affected by the plan.

Easement details:

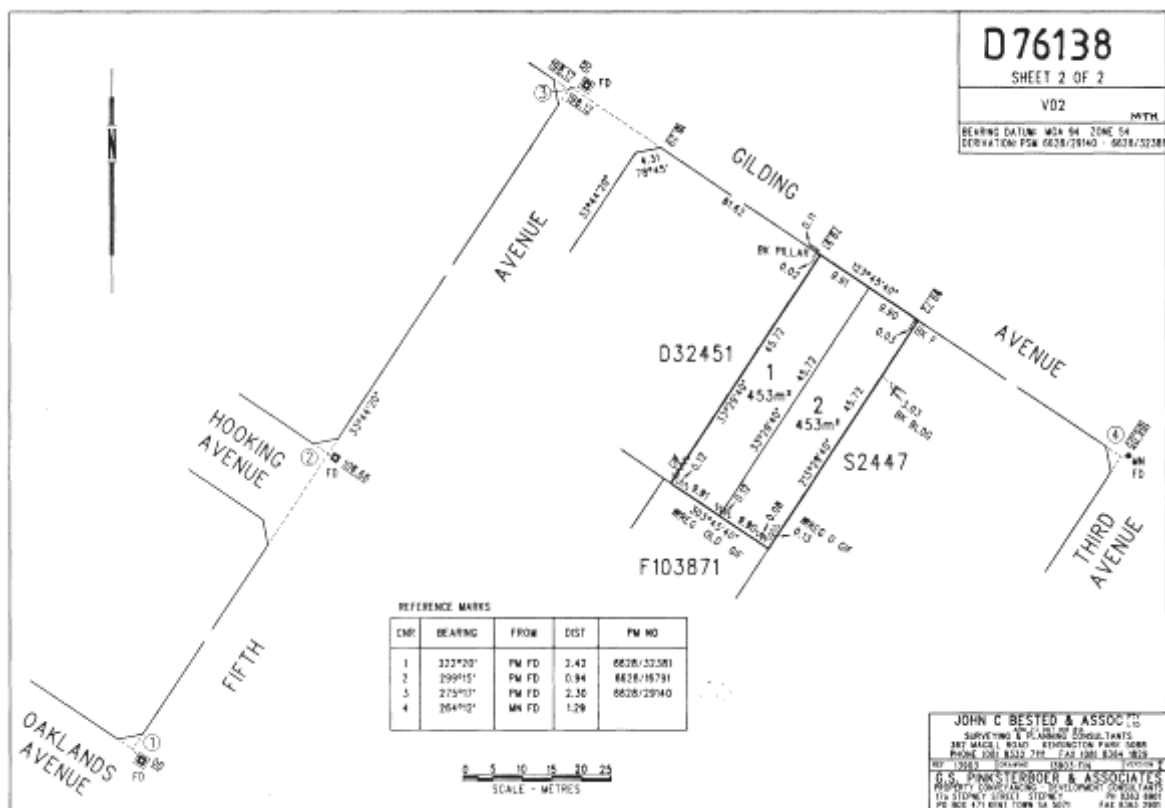
- Extinguishment
- Vary from/Vary to
- Existing
- New - to be created on deposit of plan
- Proposed - to be created after plan deposited

Annotations

2.2 DIAGRAM SHEET

The Diagram sheet(s) delineate the allotments being created and if applicable, existing easements, easements to be created or varied.

DIAGRAM SHEET



3. FORMS

Under Part 19AB of the Real Property Act, the application types are

- a) Application to Deposit a Division Plan that does not involve transactions (RTU).
- b) Application to Deposit a Division Plan that involves transactions (RTC).

4. PRE EXAMINATION

A DP can be lodged for the examination and approval of data prior to the division application being lodged. The required plan examination fee and if applicable the Survey Act levy will be required on lodgment of the plan. An RTC or RTU application must subsequently be lodged for the DP to be deposited.

The plan must be lodged before the Development Assessment Commission (DAC) certificate has expired. The certificate expires 12 months after the date of its issue. Irrespective of whether or not the plan has been lodged, the RTC or RTU must be lodged before the certificate has expired.

A DAC certificate can be renewed, this usually occurs at 12 monthly intervals during the life of the planning approval. The life of a planning approval is normally 3 years and generally the DAC certificate will not be renewed if the planning approval has lapsed. If after the planning approval has lapsed, the development is still required a new planning application will need to be lodged with DAC.

5. TRANSACTION/NO TRANSACTION

To determine if an RTU or RTC application is to be lodged, it needs to be decided whether there are any transactions involved in the plan of division. Once this has been determined the appropriate application can be completed.

5.1 NO TRANSACTIONS

The following are not transactions:

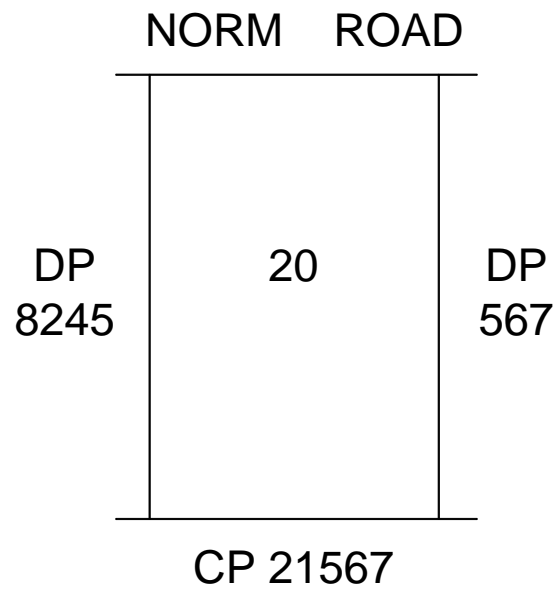
5.1.1 Extinguishment of rights of way or easements where dominant land vests as roads or reserve (section 223LF(6))

Where the whole of the land being divided has a dominant right and portion of that land is vested as road or reserve the right is extinguished as regards the portion vesting as road or reserve unless the plan shows the easement will remain appurtenant to that land.

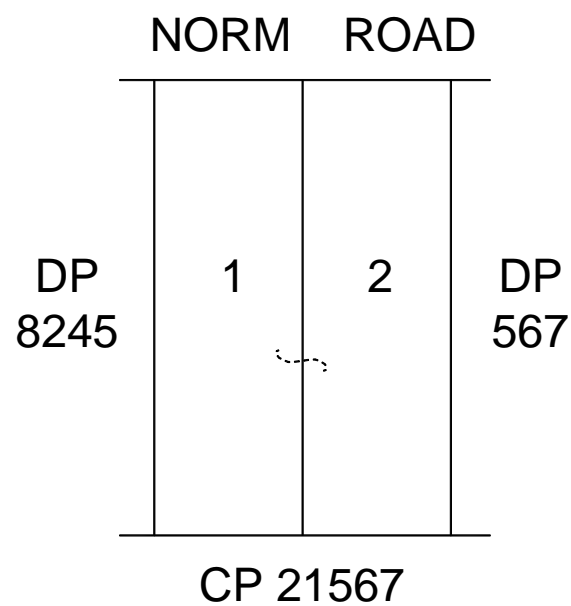


5.1.2 Division of 2 or more allotments with no change in ownership

CT Volume 6000 Folio 72



PLAN



PLAN OUTCOME

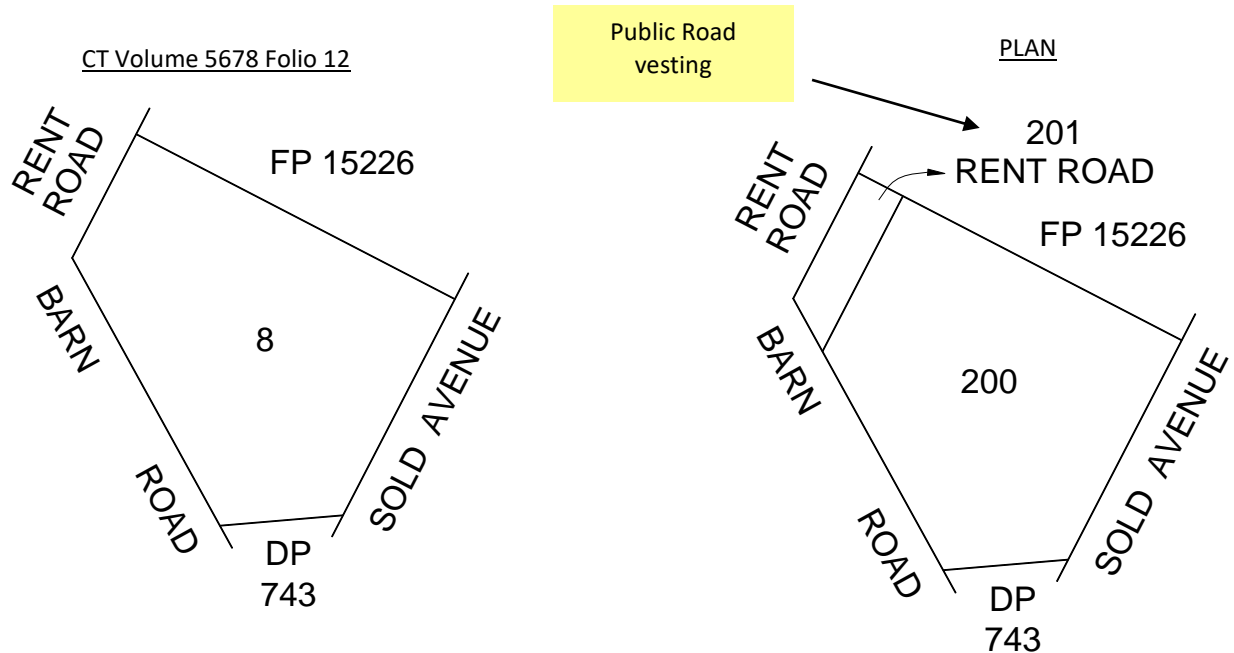
CT 6000/72 divided into Allotments 1 & 2



5.1.3 Vesting of Allotments as roads, reserves etc. in the Council or the Crown (section 223LF).

The example below shows Allotment 201 is vesting as a Public Road with a name of Rent Road.

Note – Generally vesting of Allotments as roads or reserves, etc. are free of consideration but monies may be exchanged between parties – see Notice to Lodging Parties No. 136.



PLAN OUTCOMES

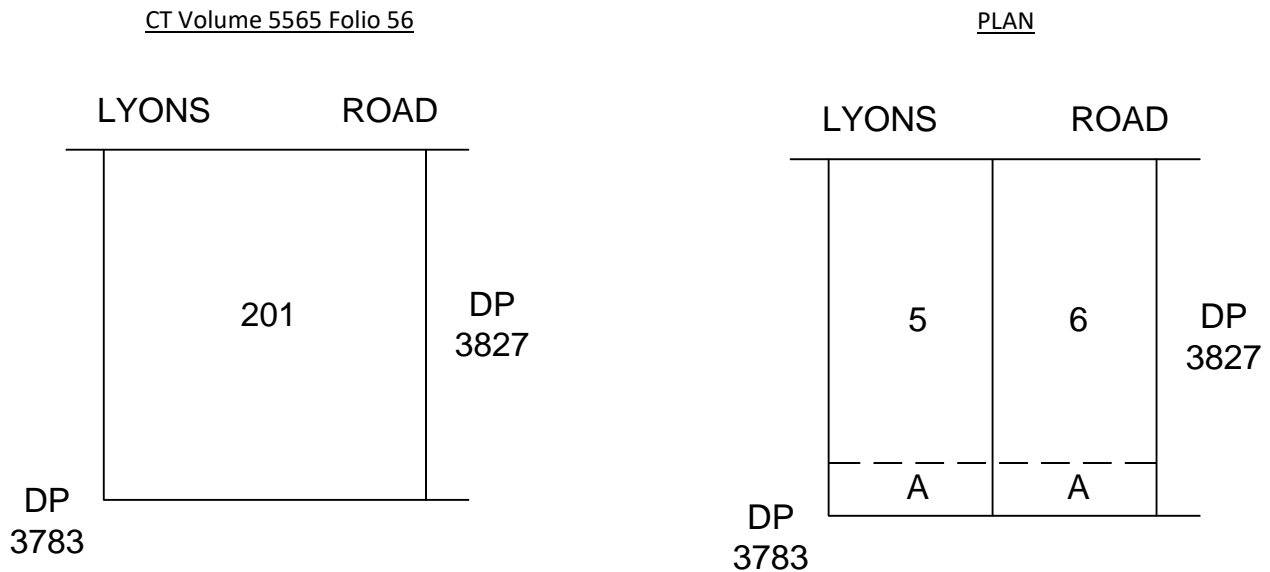
- CT 5678/12 is being divided into Allotments 200 and 201
- On deposit of the plan Allotment 201 vests as a Public Road in the local council, or where there is no council, the Crown

5.1.4 Creation of Service Easements (section 223LG)

If a service easement is to be created on deposit of a DP, the plan's easement details for the easement show:

- Status, "NEW"
- Form, "SERVICE"
- Creation, 223LG RPA

In this example the plan's easement details show that a new service easement for water supply purposes to the South Australian Water Corporation is to be created over portion of Allotments 5 and 6 marked A.



EASEMENT DETAILS

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
NEW	5,6	SERVICE	EASEMENT(S)	A	FOR WATER SUPPLY PURPOSES	SOUTH AUSTRALIAN WATER CORPORATION	223LG RPA

PLAN OUTCOMES

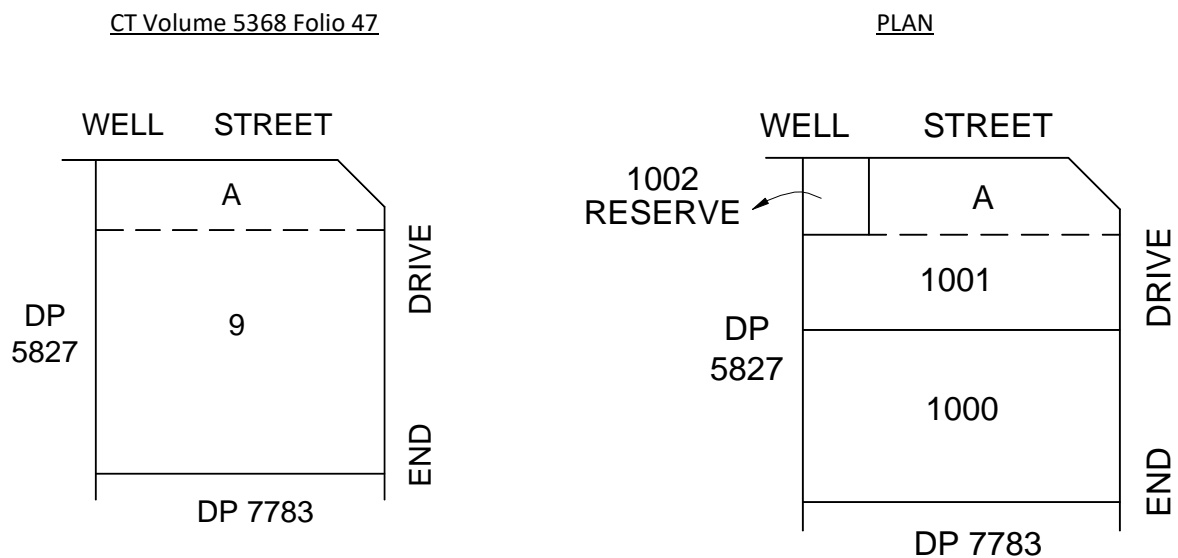
- CT 5565/56 is being divided into Allotments 5 and 6
- Creation of a service easement for water supply purposes to the South Australian Water Corporation over portion of Allotments 5 and 6 marked A



5.1.5 Extinguishment under section 223LF(2)(b)

- Extinguishment of easements or rights of way over reserves and similar open spaces
- Extinguishment of easements over public roads.

If land vesting as a reserve, similar open space or public road is not to be subject to an easement on deposit of a DP, reference to the extinguishment is included in the plan's easement details panel. Consent is required from the dominant registered proprietor/authority and registered interests to the extinguishment within the division application. The dominant land/easement in gross title is to be referred to in the other titles affected. The example over the next two pages shows a long form easement to be extinguished on deposit of a plan over a reserve



Easement clause on CT 5368/47

Subject to the easement over the land marked A (TG 8245678)

Textual Sheet

Other title(s) affected CT 5127/353

EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
EXTINGUISHMENT	1002 (RESERVE)	LONG	EASEMENT(S)	A IN D59963		CT 5127/353	TG 8245678
EXISTING	1001	LONG	EASEMENT(S)	A			TG 8245678

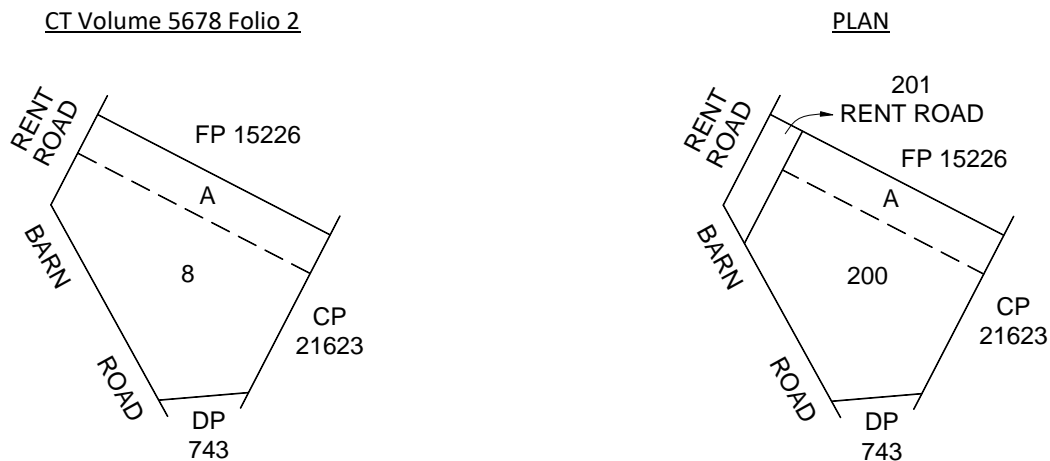
PLAN OUTCOMES

- CT 5368/47 is being divided into Allotments 1000, 1001 and 1002 (Reserve)
- Allotment 1002 is vesting in the council for the area as a Reserve
- Easement (TG 8245678) is being extinguished on deposit of the plan over the Reserve
- Portion of Allotment 1001 marked A is subject to the existing easement (TG 8245678)
- Other titles affected discloses the affected dominant/easement in gross title



5.1.6 Extinguishment of rights of way (not easements) over public roads (section 90E)

Where land subject to a right of way is to vest as a public road in a DP the right of way is automatically extinguished over the public road on deposit of the plan by operation of section 90E of the RPA. Reference to such an extinguishment is by way of a generic note "Section 90E of the Real Property Act 1886 applies to this plan" in the plan's annotations panel. Where the dominant title(s) are not part of the division plan they are not included in the other titles affected and will not require new titles. See below for an example of a plan where a free and unrestricted right of way over the land marked A on CT 5678/2 is being extinguished over the public road being Allotment 201.



Easement clause on CT 5678/2

Subject to a free and unrestricted right of way over the land marked A

EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF
EXISTING	200	SHORT	FREE AND UNRESTRICTED RIGHT(S) OF WAY	A		

ANNOTATIONS

SECTION 90E OF THE REAL PROPERTY ACT 1886 APPLIES TO THIS PLAN

PLAN OUTCOMES

- CT 5678/2 is being divided into Allotments 200 and 201 (Public Road)
- Allotment 201 is vesting in the council for the area as a Public Road with a name of Rent Road
- The free and unrestricted right of way is extinguished on deposit of the plan over the Public Road
- Portion of Allotment 200 marked A is subject to the existing free and unrestricted right of way
- If a right of way is extinguished over a public road no consents are required as this is considered to be automatic by operation of section 90E of the RPA

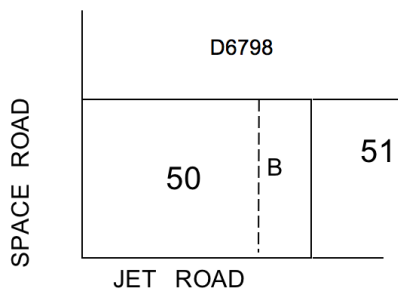


5.1.7 Extinguishment of easements or rights of way where the dominant and servient land are comprised in the same allotment (section 90C)

By section 90C of the RPA if an allotment comprises both the dominant and servient land for an easement or right of way, the easement or right of way is automatically extinguished upon deposit of the plan. Reference to the extinguishment is by way of a generic note “Section 90C of the Real Property Act 1886 applies to this plan” in the plan’s Annotations panel.

Example of an extinguishment is shown below. The diagram below shows the servient and dominant title for a right of way created by TG 8914452. The next page delineates the DP over the two titles where Allotment 21 includes the servient land marked B and the whole of the dominant land. As Allotment 21 comprises both the dominant and servient land for the right of way (TG 8914452), upon deposit of the plan the right of way is automatically extinguished.

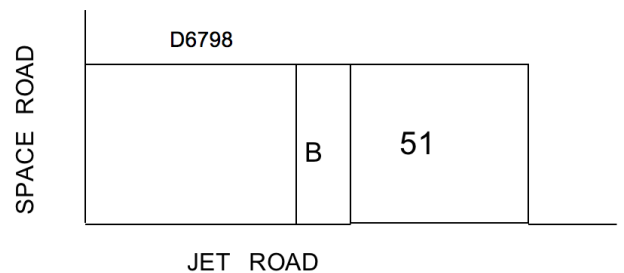
CT Volume 5321 Folio 92



Easement clause on CT 5321/92

Subject to the right of way over the land marked B (TG 8914452)

CT Volume 5218 Folio 123

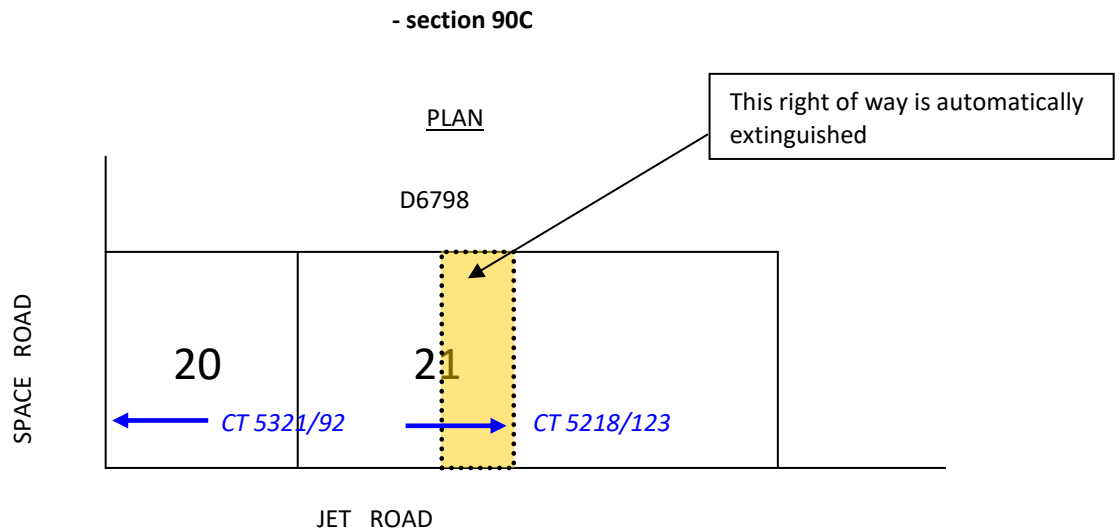


Easement clause on CT 5218/123

Together with a right of way over the land marked B (TG 8914452)

5.1.7. Continued

EXTINGUISHMENT WHERE DOMINANT AND SERVIENT LAND IN SAME ALLOTMENT



EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
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ANNOTATIONS

SECTION 90C OF THE REAL PROPERTY ACT 1886 APPLIES TO THIS PLAN

PLAN OUTCOMES

- CT 5218/123 and CT 5321/92 is being divided into Allotments 20 and 21
- As Allotment 21 comprises both the servient land for right of way B and the dominant land (CT 5218/123), the right of way is merged and extinguished.



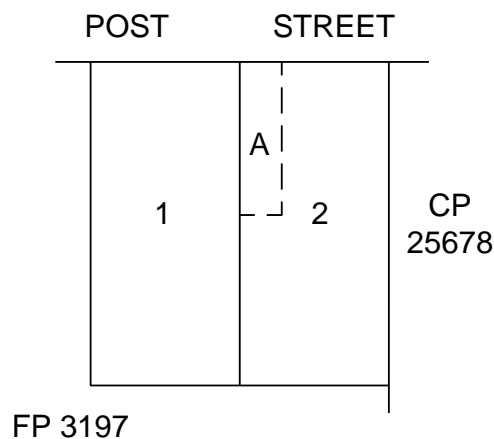
5.2 TRANSACTIONS

The following are transactions:

5.2.1 **Creation of non-service or private easements/rights of way**, including where the same party is the grantee and grantor (section 223LE(5)). Where a private easement is to be created as part of a DP, the Easement Details shows the status as being “NEW” and describes the easement to be created and is referred to within the application. The example below is of a new easement to be created. The plan’s easement details refer to a new easement is to be created over Allotment 2 marked A for water supply purposes in favour of, (or appurtenant to), Allotment 1.

CREATION OF PRIVATE EASEMENTS OR RIGHTS OF WAY

PLAN



EASEMENT DETAILS

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF
NEW	2	SHORT	EASEMENT(S)	A	FOR WATER SUPPLY PURPOSES	1

PLAN OUTCOMES

- Land divided into Allotments 1 and 2
- Allotment 2 is to be subject to a private easement for water supply purposes in favour of Allotment 1

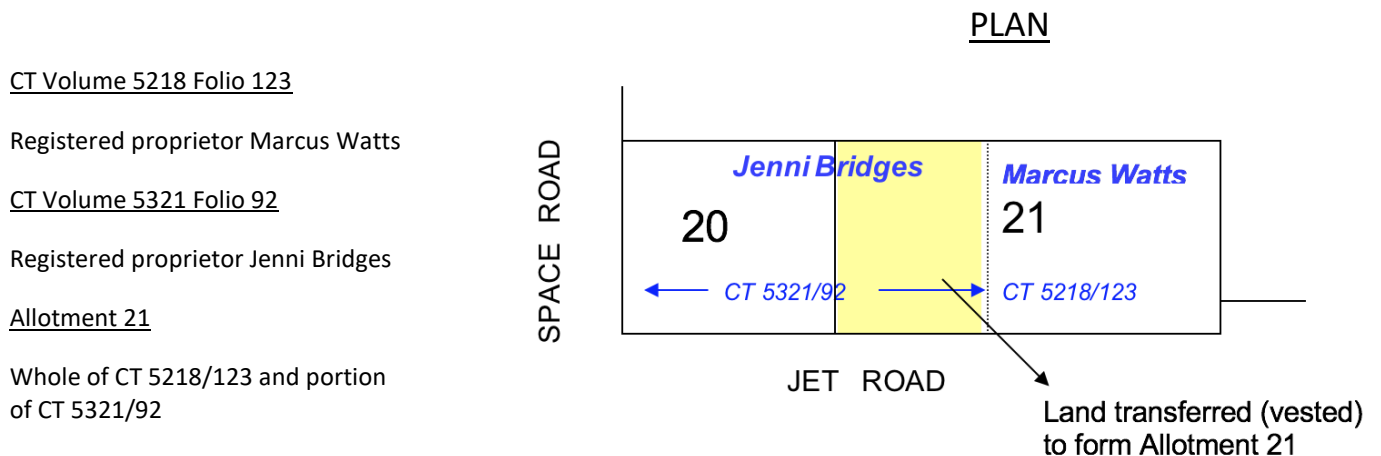


5.2.2 Transferring land between parties (section 223LE(2))

Allotment 21 comprises the whole of CT 5218/123 and portion of CT 5321/92, with each of the titles in different ownerships. The intention is for Marcus Watts, the registered proprietor of CT 5218/123, to be the proprietor of Allotment 21. For this to occur the registered proprietor of CT 5321/92, Jenni Bridges, needs to transfer that portion of her title in Allotment 21 to Marcus Watts by referring to the vesting of land in the details of transactions within the application as shown.

Note - Compare the position of the existing boundaries to the new allotment boundaries on the plan to be lodged by using the plan's background data or by plotting the existing title boundaries on the plan to determine whether land is to be transferred between parties or adjustments to be made to registered interests. If unsure, seek assistance from the surveyor or plan drafter who has prepared the plan.

TRANSFERRING LAND BETWEEN PARTIES



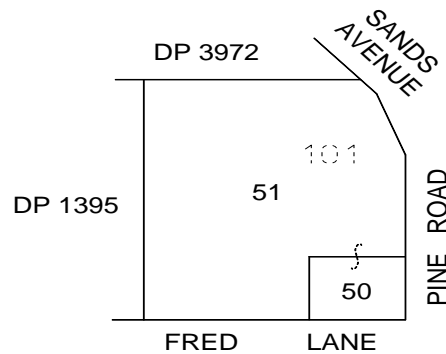
PLAN OUTCOMES

- Land divided into Allotments 20 and 21
- Allotment 20 registered proprietor to be Jenni Bridges
- Allotment 21 registered proprietor to be Marcus Watts

DETAILS OF TRANSACTIONS (Applicants Only)	CONSIDERATION/VALUE
Vesting of land from Jenni Bridges to Marcus Watts to form Allotment 21	\$10,000.00

5.2.3 Transferring land to the Crown or an agent or instrumentality of the Crown or is entitled to acquire land compulsory (s 223LE(2))

Part 19AB provides for land to be transferred to the Crown. Where as a condition of a DP land is to be transferred, a notice of this requirement is to be included in the Plan Annotations Panel. The example below, where as a condition of the plan, Allotment 50 is to be transferred to the South Australian Water Corporation as shown in the annotation panel and referred to in the details of transactions and on the South Australian Water Corporation consent form within the application.



EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
--------	---------------	------	----------	------------	---------	--------------	----------

ANNOTATIONS

ALLOTMENT 50 IS TO BE TRANSFERRED TO THE SOUTH AUSTRALIAN WATER CORPORATION

PLAN OUTCOMES

- Land divided into Allotments 50 and 51
- Allotment 50 is to be transferred to the South Australian Water Corporation

DETAILS OF TRANSACTIONS (Applicants Only)	CONSIDERATION/VALUE
Vesting of Allotment 50 from John Smith to the South Australian Water Corporation	\$2,000.00



5.2.4 Adjusting registered interests (section 223LE(2) and (4))

To enable the whole of an allotment in a plan to be subject to the same registered interest, Part 19AB provides for the discharge and extension of registered interests over land in a DP.

An example of an adjustment of registered interests is shown below. In this example Allotment 21 is to be subject to only M 10234567. To provide for this outcome, E 8923456 is to be discharged over portion of Allotment 21 in CT 5321/92 and M 10234567 extended over that land on the relevant consent forms within the application.

CT Volume 5218 Folio 123

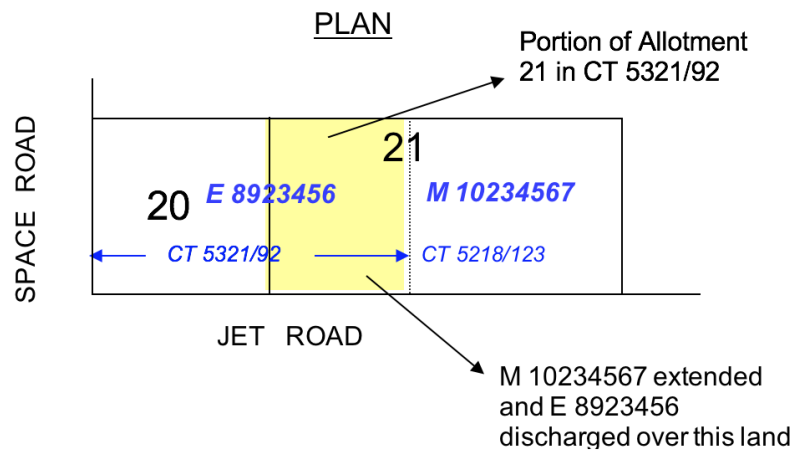
Subject to M 10234567

CT Volume 5321 Folio 92

Subject to E 8923456

Allotment 21

Whole of CT 5218/123 and portion of CT 5321/92



PLAN OUTCOMES

- Allotment 20 to be subject to E 8923456
- Allotment 21 to be subject to M 10234567

CONSENT FORMS

STATEMENT OF EFFECT ON ESTATES OR INTERESTS OF CONSENTING PARTIES		
ESTATE / INTEREST AFFECTED	EFFECT ON ESTATE OR INTEREST HELD OR CLAIMED	CONSIDERATION
M 10234567	Adjusted to cover the parcels as set out on the Mode of Issue	Nil
STATEMENT OF EFFECT ON ESTATES OR INTERESTS OF CONSENTING PARTIES		
ESTATE / INTEREST AFFECTED	EFFECT ON ESTATE OR INTEREST HELD OR CLAIMED	CONSIDERATION
E 8923456	Adjusted to cover the parcels as set out on the Mode of Issue	Nil

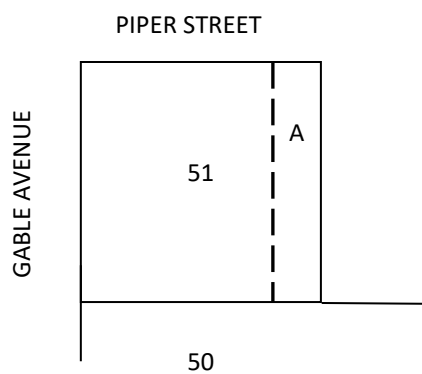


5.2.5 Variation of easements or rights of way (section 90B)

Where an existing easement or right of way is to be varied as to its position or appurtenance, reference to the variation is included in the Easement details on the plan and within the application. An example of a variation is shown in the following example.

The diagram below shows the servient and dominant title for a easement created by TG 9865231. The next page delineates a DP over the two titles. By the easement details the position of the easement is being varied from that marked A on the title below to the position marked B in the plan. The wording within the application in the details of transactions is “variation of easement as set out on the accompanying plan”.

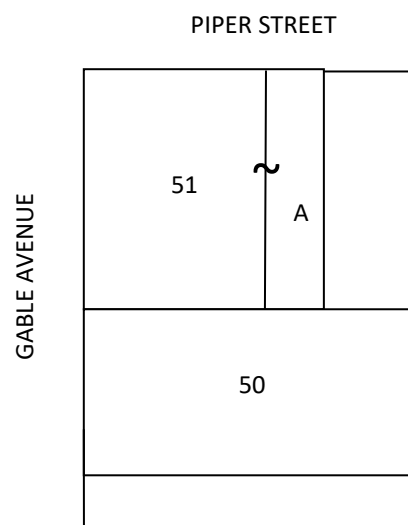
CT Volume 5287 Folio 82



Easement clause on CT 5287/82

Subject to an easement over A (TG 9865231)

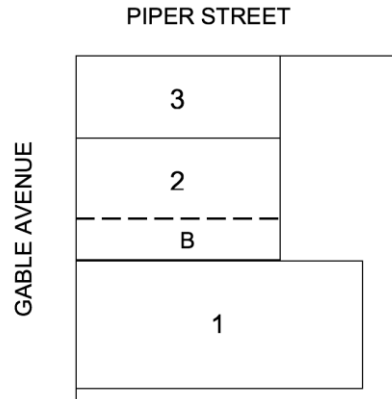
CT Volume 5287 Folio 81



Easement clause on CT 5287/81

Together with an easement over A (TG 9865231)

PLAN



EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION OF
VARY FROM	CT 5287/82	LONG	EASEMENT	A IN D45786		CT 5287/81	TG 9865231
VARY TO	2	LONG	EASEMENT	B		1	TG 9865231

PLAN OUTCOMES

- Land divided into Allotments 2 and 3. Allotment 1 (CT 5287/81) is included for redesignation
- Existing easement (TG 9865231) over the land marked A in CT 5287/82 and appurtenant to CT 5287/81 is being varied to the position marked B on the plan and appurtenant to Allotment 1 in the plan

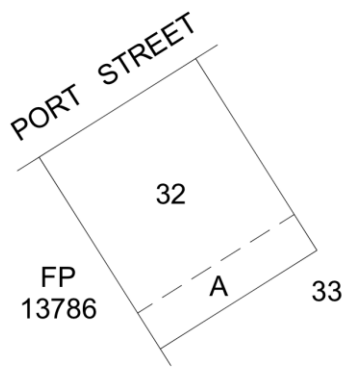


5.2.6 Extinguishment of easements or rights of way over land not vesting in the Council or Crown for a public purpose (section 223LE (4))

Where an existing easement or right of way is to be extinguished, reference to the extinguishment is included in the Easement details and within the application. See example below.

The diagram below shows the servient and dominant title for a free and unrestricted right of way. The next page delineates a DP over the two titles. By the plan's easement details, the right of way marked A is to be extinguished. The wording within the application in the details of transaction is "extinguishment of free and unrestricted right of way as set out on the accompanying plan".

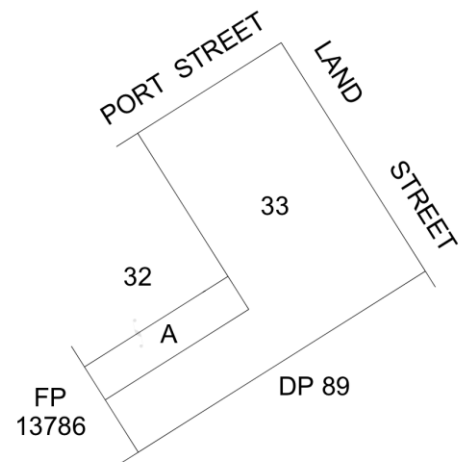
CT Volume 5757 Folio 22



Easement clause on CT 5757/22

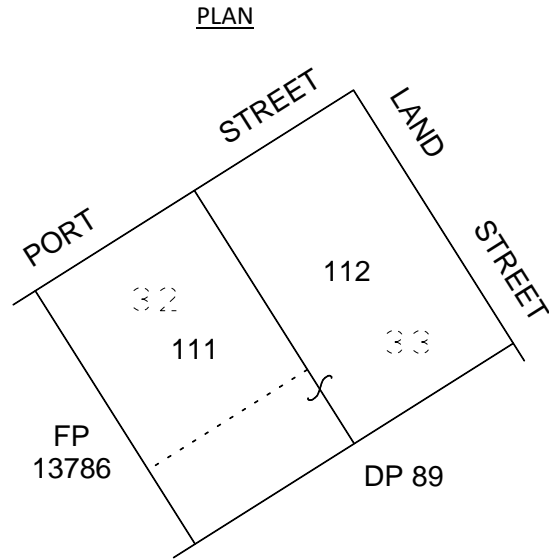
Subject to a free and unrestricted right of way over A

CT Volume 5757 Folio 23



Easement clause on CT 5757/23

Together with a free and unrestricted right of way over A



EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF
EXTINGUISHMENT	CT 5757/22	SHORT	FREE AND UNRESTRICTED RIGHT(S) OF WAY	A IN CT 5757/22		CT 5757/23

PLAN OUTCOMES

- Land divided into Allotments 111 and 112
- Existing free and unrestricted right of way over the land marked A in CT 5757/22 is extinguished



6. RTU APPLICATION

For the purpose of the following notes it is assumed that the plan has been lodged.

RTU application is lodged to deposit a plan of division where there are no transactions.

The application is not required to:

- Include any certifications
- Be assessed for stamp duty prior to being lodged in the LTO except where a public road is vested for consideration. See Notice to Lodging Parties No 136.

An RTU must be lodged before the DAC Certificate has expired¹. If the certificate is not current, the RTU will not be accepted for registration and a fresh DAC Certificate will be required.

All pages in the application are to be numbered in the format of Page ... of

6.1 ACCOMPANYING THE APPLICATION

A RTU application must be accompanied by:

- Any dealings required to be lodged prior to the application e.g. Change of Name.
- Appropriate fees, including new title fees.

Fees required to be paid may be determined by using the LTO Fee Calculator available on the Land Services website.

If a DAC Certificate is not required a note is to be placed in the document stating why the Certificate is not required and must be signed by the lodging party.

Example

Division plan for road widening purposes:

"This plan is lodged pursuant to Schedule 3 Clause 3(5) of the Regulations for the Development Act 1993."

Division plan involving Government Authorities:

"This plan does not contravene Section 49 of the Development Act."

6.2 FORM RTU PREPARATION

6.2.1 Heading

In the heading insert the:

- Development Number.
- DP number, if known.

¹ DAC certificate expires 12 months after the date of its issue.

6.2.2 Land Description

Insert all of the Certificate(s) of Title affected by the division. This includes titles for:

- Land being divided.
- Land being redesignated.
- Any easement or right of way titles affected by extinguishment under section 223LF(2)(b).

6.2.3 Operative Clause

The operative clause is to be dated.

6.2.4 Applicant

Show only the name and address of the registered proprietor(s) of the land actually being divided in the applicant field. The application must be executed by the applicants or by their attorney. Execution rules pursuant to Section 267 and 268 of the RPA apply.

6.2.5 Cover Sheet

On the cover sheet complete:

- a) Lodgement and Correction details.
- b) Production details of supporting documentation to be lodged with the application
- c) New Certificate(s) of Title instructions for each new title to be issued



7. RTC APPLICATION

For the purpose of the following notes it is assumed that the plan has been lodged.

An RTC application is lodged to deposit a plan of division where there is a transaction occurring as described in 5.2.

The Form RTC is a composite form therefore if some of the sheets are not required, they should not be included in the application. For example, if there are no transactions to be shown in the Details of Transaction and no private easements being created, the page with the Details of Transactions and Easement Schedule need not be included in the application. Similarly, if there are no consenting parties, consent forms need not be included in the application.

All pages forming the RTC application are to be numbered in the format of Page of

The application must:

- Have the relevant certifications signed.
- Be assessed for Stamp Duty prior to being lodged in the LTO.

An RTC must be lodged before the DAC Certificate has expired². If the certificate is not current, the RTC will not be accepted for registration and a fresh DAC Certificate will be required.

7.1 ACCOMPANYING THE APPLICATION

An RTC application must be accompanied by:

- Any dealings required to be lodged prior to the application.
- Appropriate fees, including new title fees

Fees required to be paid may be determined using the LTO Fee Calculator on the Land Services website.

If a DAC Certificate is not required, a note is to be placed on the document stating why the DAC Certificate is not required and signed by the certifying party.

Example

Division plan for road widening purposes:

"This plan is lodged pursuant to Schedule 3 Clause 3(5) of the Regulations for the Development Act 1993"

Division plan involving Government Authorities:

"This plan does not contravene Section 49 of the Development Act."

7.2 FORM RTC PREPARATION

7.2.1 Heading

In the heading insert the:

- Development Number.
- DP number, if known.

² DAC certificate expires 12 months after the date of its issue.

7.2.2 Land Description

The land description is to show all of the Certificate(s) of Title affected by the division. This includes titles for:

- The land being divided.
- The land being redesignated.
- The land receiving a right of way or easement in its favour.
- Titles affected by an easement or right of way being varied or extinguished.
Excluding titles external to the division where rights are extinguished pursuant to section 90E or 223LH (2a) of the RPA.

7.2.3 Applicant

The applicant panel on the document is to show only the names and addresses of the proprietors of the land actually being divided.

7.2.4 Operative Clause

Refers to transactions (if any) to be shown in the details of transactions and titles will issue in accordance with mode of issue.

7.2.5 Mode of Issue

The details of all of the new titles to be issued are to be shown in the Mode of Issue. This includes any titles being redesignated, balance titles and easement in gross titles. Only allotments with exactly the same details may be grouped together.

A separate new title will issue for each Reserve but only one new title will issue for all of the Public Roads.

Easements and rights of way will issue against the relevant titles as per accompanying plan and other titles affected.

7.2.5.1 Parcel Identifier/CT reference column

In the Parcel Identifier/CT reference column:

- Where the allotment is in the plan of division show the allotment number. When showing the parcel identifier, show "Allotment" not "Lot".
- For allotment comprises Pieces, show "Allotment comprising Pieces..... and"
- Where the land is not an allotment in the plan, show the CT reference or the land description e.g. Allotment 6 DP 1234.
- When an easement in gross title is to issue, show for example "Easement F".
- When describing Public Roads, Reserves, etc. show the allotment number and its purpose in brackets e.g. 14 (Public Road)

7.2.5.2 Full name, Address and Mode of Holding column

Show the full name, address and mode of holding (if required) of the proprietor(s) for the titles to be issued. If the mode of holding has changed from that shown on their title this must be reflected in the Details of Transactions.

7.2.5.3 Estate or Interests column

In the estate or interests column show in numerical order the estates or interests to remain over the new title i.e. "M 1234567, L 5467711". Also show any mortgages of leases or underleases.



7.2.6 Details of Transactions

Transactions occurring in the division plan must be shown in the Details of Transactions. All transactions must be individually shown, and the consideration must be shown for stamp duty purposes. If the details of transactions are not required either cross through or show "NIL".

Some basic principles to follow when completing the details of transactions are:

- transactions be shown as concisely as possible
- names of the parties involved be shown in full
- where land is conveyed between parties the word "vesting" is to be used rather than transfer
- refer to "allotment", "lot" is only used when referring to parcels within a community plan
- where an allotment comprises pieces even when the land being vested only relates to one of the pieces include all pieces. For example, "vesting of land from Sam Smith to John Brown to form Allotment comprising pieces 6 and 7".
- Where the recipient owns land with a particular mode of holding the transaction must accurately reflect this. For example, "vesting of land from Joe Bloggs to Martha Coote and Brian Coote with no survivorship to form allotment 2"

7.3 TRANSFERRING LAND/INTEREST

The following relates to simple transactions involving land or a share in land being transferred to (or vested in) another party within the division or the Crown. These transactions are to be shown in the Details of Transactions within a Form RTC.

7.3.1 Transferring (or Vesting) of land between owners

Where due to the adjustment of boundaries, land is to be transferred (vested) from one party to another a transaction is to occur.

Details of Transactions

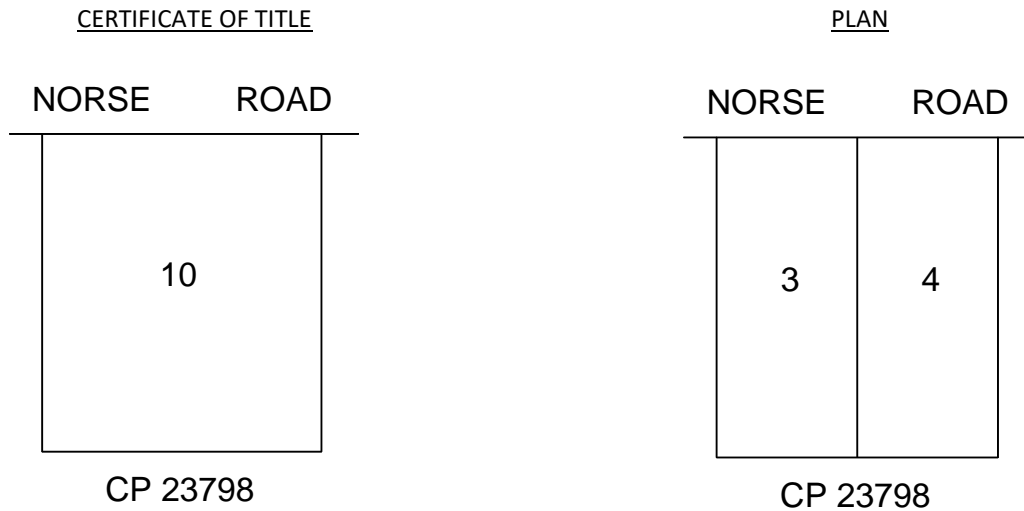
Basic wording to be used in Details of Transaction for transferring land from one party to another: "Vesting of land from A to B to form Allotment" For an example see **5.2.2**

Note: Names must be shown in full in the Details of Transactions - abbreviated names such as "J Bridges" cannot be used.



7.3.2 A Change in Mode of Holding

Where the intention is for the applicants to hold an allotment in a different mode of holding to that shown on their title, a transaction referring to the change is to be included in the Details of Transactions. Basic wording to be used in Details of Transaction for changing the Mode of Holding: “Vesting of Allotment 10 from C and D to C and D as Tenants in Common” The example below illustrates an allotment being divided so as one of the allotments remains in the name of both proprietors as joint tenants and allotment 4 is to be held in shares.



Registered Proprietors

Steven Smythe and Annette Simson as joint tenants

PLAN OUTCOMES

Registered Proprietors of Allotment 4 to be:

- Steven Smythe of 1 undivided 6th part
- Annette Simson of 5 undivided 6th parts

DETAILS OF TRANSACTIONS (Applicants Only)	CONSIDERATION/VALUE
Vesting of Allotment 4 from Steven Smythe and Annette Simson to Steven Smythe of 1 undivided 6th part and Annette Simson of 5 undivided 6th parts”	Pursuant to a deed dated 15.8.2014

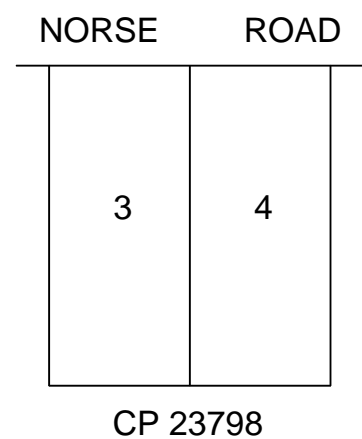
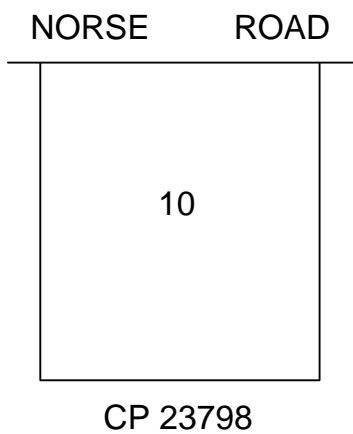


7.3.3 Partitioning

The RPA provides for partitioning between owners (section 223LE) by way of a transaction to be shown in the Details of Transactions.

Basic wording to be used in Details of Transaction for partitioning: *“Vesting of the interest of E in Allotment ... to F”*

The example below illustrates an allotment being divided so as the resultant allotments can be held solely by each of the registered proprietors



Registered Proprietors

John Almond and Saul Almond as
Tenants in Common

PLAN OUTCOMES

Registered Proprietor of:

- Allotment 3, John Almond
- Allotment 4, Saul Almond

DETAILS OF TRANSACTIONS (Applicants Only)	CONSIDERATION/VALUE
Vesting of the interest of Saul Almond in Allotment 3 to John Almond Vesting of the interest of John Almond in Allotment 4 to Saul Almond	Mutual agreement Mutual agreement



7.3.4 Transferring (or Vesting) of land in the Crown

Section 223LE (3)(b) provides for the transferring (or vesting) of land in a person who is an agent or instrumentality of the Crown or the Commonwealth Crown or is entitled to acquire land compulsorily under an Act or law of the State or Commonwealth. Such a transaction is to be shown in the Details of Transactions.

Section 223LA of the RPA interpretation clause provides the Crown means the Crown in right of the State and includes a Minister of the Crown and any instrumentality or agency of the Crown. The Commonwealth Crown means the Crown in right of the Commonwealth and includes any instrumentality or agency of that Crown.

Note – The RTC must include a consent form completed by the Crown – see 8.0

Details of Transactions

Basic wording to be used in Details of Transaction for transferring (or vesting) of the whole of an allotment in the Crown:

“Vesting of Allotment ... fromto....”

For an example see **5.2.3**.

7.3.5 Details of Transactions Example Wording

The following are other examples of wording to be used in the Details of Transactions. Where an easement is being created, varied or extinguished generic wording such as ‘creation of easement as set out on the accompany plan’ or ‘variation of easement as set out on the accompanying plan’ or ‘extinguishment of easement as set out on the accompanying plan’ is recommended as referring to the specific identifier must refer to the correct alpha identifier otherwise the application may be referred for correction.

- a) Transfer of land between parties excluding an easement -
“Vesting of land from C to D to form Allotment 2 expressly excluding the existing easement over H”
- b) Creating an easement
“Creation of easement(s) as set out on the accompanying plan”
- c) Fully extinguishing an easement
“Extinguishment of Easement(s) as set out on the accompanying plan”
- d) Varying an easement
“Variation of easement(s) as set out on the accompanying plan”

7.4 SCHEDULE OF EASEMENTS

Part 19AB allows for the creation of service and private easements. Service easements are created pursuant to section 223LG of the RPA. A private easement may be for a purpose associated with service such as water supply but is not classed as a service easement unless it has been created as a condition on a plan of division pursuant to section 223LG.

Schedule of easements is to be completed only where private easements are to be created. If there are no private easements to be created cross through the easement schedule.



7.4.1 Service easements

Service easements are automatically created on deposit of a DP and are not a transaction. The plan's easement details for the easement must show:

- Status, "NEW"
- Form, "SERVICE"
- Creation, 223LG RPA

Types of service easements that can be created are:

- Water supply purposes to a water industry entity i.e. South Australian Water Corporation
- Sewerage purposes to a water industry entity
- Drainage purposes to the Council or the Crown.
- Electricity purposes less than 10 metres wide to an electricity entity i.e. Distribution Lessor Corporation

Part 19AB allows for private easements to be created in favour of a service authority for the same purpose as a service easement. Therefore, if the easement details for an easement are for the same purpose and authority as for a service easement but the word "service" and reference to 223LG RPA does not appear then an easement in gross title may be required and the easement is considered a private easement and an RTC application must be prepared.

7.4.2 Electricity Service Easements

Electricity service easements must be less than 10 metres wide and are entitled to be held by electricity entities. Electricity entities include Distribution Lessor Corporation (DLC), Transmission Lessor Corporation (TLC) and Electranet.

An electricity entity, as defined under s 223LA(1) of the RPA, is "a person who holds a licence under the Electricity Act 1996 authorising the operation of a transmission or distribution network or a person exempted from the requirement to hold such a licence or a person exempted from the requirement to hold such a licence or Distribution Lessor Corporation or Transmission Lessor Corporation."

A list of electricity entities can be found on the Essential Services Commission of South Australia website: <http://www.escosa.sa.gov.au/>

7.4.3 Electricity Service Easements to DLC and TLC

As referred to in 7.4.2, electricity service easements can be vested in DLC and TLC. Assets of these corporations have been leased under the Electricity Corporations (Restructuring and Disposal) Act 1999 (the ETSA Act) with the DLC lease numbered 8890000 and the TLC lease numbered 9061500.

To facilitate registration of the applicable lease against a service easement held by DLC or TLC an application under Section 31 of the ETSA Act is to be attached to the accompanying RTC or RTU application, also see Notice to Lodging Parties No. 137.

7.4.4 Water Supply or Sewerage Service Easements

Water supply or sewerage service easements are entitled to be held by water industry entities. A water industry entity as defined under s 223LA(1) of the RPA means an entity involved in the water industry within the meaning of the Water Industry Act 2012.

A list of water industry entities can be found on the Essential Services Commission of South Australia website: <http://www.escosa.sa.gov.au>



7.5 PRIVATE EASEMENTS

Private easements are transactions and fall into 2 categories colloquially known as “Short” form or “Long” form. Cross through the inapplicable if a particular form is not to be created.

7.5.1 Short Form

Short form easements are provided for under section 89 (5th Schedule - free and unrestricted right of way) and section 89A (6th Schedule - easements) of the RPA.

Free and unrestricted right of way

When a short form free and unrestricted right of way is to be created, the plan’s Easement details panel shows:

- Status, “NEW”
- Form, “SHORT”
- Category, “FREE AND UNRESTRICTED RIGHT(S) OF WAY” The example below is illustrating the easement details on a plan for a short form free and unrestricted right of way being created over portion of Allotment 1 marked A in favour of Allotment 2.

6th Schedule Easement

When a short form 6th schedule easement is to be created, the plan’s Easement details shows:

- Status, “NEW”
- Form, “SHORT”
- Purpose, “describes the purpose of the easement using the exact wording as appearing in the 6th schedule” The example below is illustrating the easement details on a plan for a short form 6th schedule easement being created over portion of Allotment 2 marked B for water supply purposes to the council for the area

SHORT FORM

EASEMENT DETAILS

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF
NEW	1	SHORT	FREE AND UNRESTRICTED RIGHT(S) OF WAY	A		2
NEW	2	SHORT	EASEMENT(S)	B	FOR WATER SUPPLY PURPOSES	COUNCIL FOR THE AREA



7.5.2 Long form

Easements

With long form easements the Easement details shows:

- Status, "NEW"
- Form, "LONG"
- Purpose, "describes the general purpose of the easement"

The example below is a long form easement being created over portion of Allotment 9 marked C for the purpose of constructing a road appurtenant to allotment 32.

Rights of way

When a long form right of way is to be created, the Easement details shows:

- Status, "NEW"
- Form, "LONG"
- Category, "RIGHT(S) OF WAY" The example below is illustrating the easement details for a long form right of way being created over portion of Allotment 22 marked D appurtenant to allotment 18.

Describing the long form easement

Long form easements are to be set out in full in the Schedule of Easements. See "Division Applications under Part 19AB – Preparation Notes - Easements" for more detailed information relating to easements.

LONG FORM

EASEMENT DETAILS

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF
NEW	9	LONG	EASEMENT(S)	C	CONSTRUCTION OF A ROAD	32
NEW	22	LONG	RIGHT(S) OF WAY	D	ACCESS	18



7.6 EXECUTION PAGE

Execution page is to be dated and must be signed by the applicants or by an attorney of the applicants. Execution rules pursuant to Section 267 and 268 of the RPA apply.

CERTIFICATIONS

Practitioners will need to fully comply with the new legislative requirements and give certifications regarding:

- Verification of Identity;
- Evidence retention; and
- Correctness and compliance of the dealing with relevant legislation and any Prescribed Requirements

7.7 COVER SHEET

On the cover sheet complete lodgement and correction agent details.

SUPPORTING DOCUMENTATION LODGED WITH APPLICATION

It is unlikely supporting documentation will be required to be lodged with an RTC but when necessary insert reference to the supporting documentation.



8. CONSENT FORMS

Under Part 19AB any party affected by a DP, other than the registered proprietors of the land being divided, must consent to the plan (section 223LH).

The approved consent form used for this purpose for the RTC and RTU applications is included as part of the relevant application. Additional consent forms are available from LTO forms. Any completed consent form is to be attached to the Form RTC or Form RTU with its page numbered so as to be part of the form.

Separate consent forms should be used for each authority, financial institution, lessee etc. consenting to the division.

8.1 CONSENTING PARTIES

Consenting parties include mortgagees, encumbrancees, caveators, etc. of the land being divided. Consents are not required from the holder of a right of way or easement or the lessees of rights of way or easements providing the easement or right of way is not being varied or extinguished.

Note – Where the land affected by a DP is subject to a Land Management Agreement to the council. The council must complete a consent form even though the council as part of the planning process has consented to the division.

It is important to note that consents are required not only from the registered interests of the land being divided but also when:

- a) Creating a service easement where there is no requirement to obtain DAC approval. In this situation the party receiving the easement must consent to its creation.
- b) Extinguishing an easement or right of way over Reserve or other similar open spaces (section 223LF(2)(b)). Consents are required from the registered proprietor and registered interests of the dominant land or in gross title.
- c) Extinguishing an easement over a Public Road (section 223LF(2)(b)), Consents are required from the registered proprietor and registered interests of the dominant land or in gross title.
If a Right of way is extinguished over a public road no consents are required as this is considered to be automatic by operation of section 90E of the RPA.
- d) Vesting land in the Crown, the party gaining ownership of the land must consent.
- e) Creating a private easement appurtenant to land or over land outside of the land being divided. Consents are required from the registered proprietor and registered interests of the land outside the division.
- f) Creating a service easement over a redesignated parcel. Consents are required from the registered proprietor and registered interests of the redesignated land.
- g) Extinguishing an easement or right of way over land within or outside the division requires consent of the registered proprietors and interests of the land outside the division. The exception is where the extinguishment is only as regards part of the dominant land and rights under the easement continue in respect of some other part of the dominant land. In that circumstance the consent of the servient owner and interests is not required (section 223LH (2a)).

All of the above situations are covered in greater detail in the “Division Applications under Part 19AB Preparation Notes - Easements”.



8.2 EFFECT ON CONSENTING PARTIES

The effect on a consenting party's interest is described in the Effect on Estate or Interest Column in a consent form.

In relation to registered interests only mortgages, leases, encumbrances, statutory encumbrances³ and worker's liens can be adjusted within the RTC. In the case of worker's liens, they can only be fully or partially withdrawn but not extended. Cessation requires separate documentation.

Caveats and Retirement Villages can only be dealt with by separate documentation lodged before or after an RTC/RTU. Consent from the caveator will still be required in the division application unless the caveat is fully withdrawn prior to the division application.

The following should be noted when dealing with titles subject to:

- An absolute caveat. The caveat will prevent deposit of the plan, irrespective of whether an RTU or RTC has been lodged.
- Warrants of Sale, these act as an absolute caveat until the time period has lapsed.
- An Order of Court, the order should be perused to determine any effect on the DP.

8.3 CONSENT FORM PREPARATION

8.3.1 Consenting Party

Show consenting party's full name (including ACN or ABN) and address.

8.3.2 Nature of Estate or Interest Held

Show estate or interest held by consenting party e.g. Mortgagee

8.3.3 Statement of Effect

8.3.3.1 Estate and Interest Affected

In the Estate and Interest affected column show the estate or interest held. The following are examples of the wording that can be used to describe an estate or interest:

- Registered Interest: "M 1234567"
- A Certificate of Title: "Proprietor of CT 5678/9"
- A service easement is being extinguished/varied: "Service Easement over A on DP 12345"
- A service easement is being created without any DAC Certificate: "Easement over".
- An allotment being transferred to the Crown "Allotment ..."

8.3.3.2 Effect on Estate or Interest

Any effect on the estate or interest of the consenting party must be shown in the Effect on Estate or Interest column. In the case of there being no effect, "NIL" must be shown. Generic wording is included within the effect on estate or interest which is to be struck through when inapplicable and additional wording added when necessary.

For example, where a registered interest is to be adjusted and there are no easements to be extinguished, varied or created then that statement should be struck through. Adjustment includes extension, discharge, surrender or withdrawal of a registered interest.

³ See section 223(LA) of the RPA.

8.3.3.3 Consideration/Value Column

The consideration or the value of the action shown in the Effect on Estate or Interest column is to be shown in the Consideration/Value Column.

8.3.4 Operative Clause

By signing the certificate of consent the consenting party is agreeing to the statements at (1) and (2) on the certificate.

8.3.5 Execution by the Consenting Party

The consent form is to be dated and must be signed by the consenting party or by an attorney of the consenting party. Execution rules pursuant to Section 267 and 268 of the RPA apply.

If the party executing the consent is a natural person who is signing in his or her own right, he or she must sign their usual signature in the place indicated on the form in front of an independent witness. A different form of execution is required where a person is not signing in his or her own right i.e. he or she is signing as attorney for the applicant(s). For the recommended form Refer to Notice to Lodging Parties No.123 "Execution under a Power of Attorney". If the party executing is a body corporate, its execution must conform to any prescribed formalities. Notice to Lodging Parties Nos. 110,121,139 and 163 provide information on execution by a corporation.

Section 267 of the Real Property Act 1886 (RPA) requires that the witness must be aged 18 years or over and must know the party personally or have satisfied him or herself as to their identity. The witness cannot be a party to the instrument. The witness must sign his or her name and print his or her full name, address and business hours telephone number legibly beneath his or her signature.

Pursuant to Section 268 of the RPA, a witness is guilty of an offence if he or she does not know the person executing the instrument personally and has no reasonable ground on which to be satisfied as to the person's identity OR knows or has reasonable grounds for suspecting that the person signing the instrument is not a party to the instrument or does not have the authority to sign on behalf of the party. Maximum Penalty - \$5 000 or 1-year imprisonment.

8.3.6 Easements

Generic wording is inserted within the effect on estate or interest. The generic wording includes reference to extinguishment, variation or creation. When none of those are applicable the wording is to be struck through or when only one or two are relevant the inapplicable word is to be struck through.

8.3.7 Transfer of land to the Crown

Where land is to be transferred (vested) to the Crown, the Crown's consent form in the "Effect on Estate or Interest" column is to include:

"Vesting of Allotment from.....to(insert name of the Crown instrumentality)"

8.4 STATUTORY ENCUMBRANCES

Part 19AB provides for a statutory encumbrance to be amended/varied or revoked/terminated within a division application. Section 223LA RPA interpretation clause contains a list of what agreements or encumbrances are considered to be statutory encumbrances.

Where as part of a division plan any land, including a Reserve, Public Road or private easement is not to be subject to the statutory encumbrance. The encumbrance must be terminated or varied as part of the application.

See Notice to Lodging Parties No 158 & 161.



8.4.1 Documentation requirements

To amend/vary or revoke/terminate a statutory encumbrance the holder of the encumbrance as part of their consent must:

- Include reference to the amendment/variation or rescission/termination in the Statement of Effect.
- Have a certification from the holder of the encumbrance of compliance to amend/vary or rescind/terminate with the relevant Act the encumbrance is held under. The certification can be incorporated as part of the holder's consent or on a B1 Annexure form – see 8.4.3 for certification.

8.4.2 Amendment/Variation or Rescission/Termination

The wording to be used in the certification depends upon the wording in the relevant Act when dealing with a statutory encumbrance. For example:

Land Management Agreements under section 57 of the Development Act 1993, "Amendment" or "Rescission" is to be used due to section 57(8) of the Act.

Heritage Agreements under section 32 of the Heritage Places Act 1993 "Variation" or "Termination is to be used due to section 32(4) of the Act.

8.4.3 Certification

The suggested form of certification for:

- a) Variation is –

"I [name and address] certify that the requirements of section [section number and Act] to vary Agreement [number of Statutory Encumbrance] have been complied with.

[Signature of person certifying]"

- b) Termination is –

"I [name and address] certify that the requirements of section [section number and Act] to terminate Agreement [number of Statutory Encumbrance] have been complied with.

[Signature of person certifying]"

9. ADDITIONAL INFORMATION

Examples of completed LTO forms for various scenarios are available on the Land Services SA website.

