

INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886

Preamble

INSTRUMENT OF DELEGATION UNDER THE REAL PROPERTY ACT 1886

NOTES

1. Conditions or Limitations: conditions or limitations may apply to the delegations contained in this Instrument. Refer to the Schedule of Conditions at the back of this document.
2. Refer to the relevant Council resolution(s) to identify when these delegations were made, reviewed and or amended.

POWERS AND FUNCTIONS DELEGATED IN THIS INSTRUMENT

Delegation Sources

- Real Property Act 1886

Titles

- Chief Executive Officer

Instrument of Delegation under the Real Property Act 1886

| Real Property Act 1886 | | | |
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| Provision | Item Delegated | Delegate | Conditions and Limitations |
| s27 | <p>1. Lands granted prior to the day on which this Act comes into operation may be brought into operation under this Act</p> <p>1.1 The power pursuant to Section 27 of the Real Property Act 1886 (the Act) and in accordance with Sections 27, 28 and 29 of the Act to, as to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts (whether such land shall constitute the entire or only part of the land included in any land grant), to apply to the Registrar-General in the form of Schedule 2 to the Act, or in a form to the like effect, to bring the said land under the provisions of the Act where:</p> <p>1.1.1 the Council claims to be the person in whom the fee simple is vested either at law or in equity;</p> <p>1.1.2 the Council has power to appoint or dispose of the fee simple, at law or in equity and the application is made for the purpose of carrying such power into effect.</p> | Chief Executive Officer | |
| s27(a) | <p>1. Lands granted prior to the day on which this Act comes into operation may be brought into operation under this Act</p> <p>1.2 The power pursuant to Section 27(a) of the Act, where the Council claims or appears to be beneficially entitled to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts, whether such land shall constitute the entire or only part of the land included in any land grant, to consent to an application to bring the said land under the provisions of the Act.</p> | Chief Executive Officer | |
| s27(c) | <p>1. Lands granted prior to the day on which this Act comes into operation may be brought into operation under this Act</p> <p>1.3 The power pursuant to Section 27(c) of the Act, where the Council claims or appears to be beneficially entitled in reversion or remainder to land heretofore alienated from the Crown in fee but not under the provisions of any of the Real Property Acts, whether such land shall constitute the entire or only part of the land included in any land grant, to consent to an application to bring the said land under the provisions of the Act.</p> | Chief Executive Officer | |
| s28 | <p>2. Undivided shares and mortgaged land may not be brought under Act except upon conditions</p> <p>2.1 The power pursuant to Section 28 of the Act to join in the application with a view to bringing the entirety under the provisions of the Act, where,</p> <p>2.1.1 the Council appears to be entitled to an undivided share of the land; or</p> <p>2.1.2 the Council is the mortgagee of the land.</p> | Chief Executive Officer | |
| s39 | <p>3. Caveat against bringing land under Act</p> <p>The power pursuant to and in accordance with Section 39 of the Act, where the Council has or claims an estate or interest in any</p> | Chief Executive Officer | |

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| | land sought to be brought under the provisions of the Act, to, within the time by the Registrar-General or under any order of the Court for that purpose limited, lodge a caveat in the Lands Titles Registration Office, in the form of Schedule 3 to the Act, forbidding the bringing of such land under the provisions of the Act. | | |
| s41 | <p>4. Applicant may withdraw his application</p> <p>4.1 The power pursuant to Section 41 of the Act, to:</p> <p>4.1.1 withdraw the Council's application at any time prior to the issuing of the certificate;</p> <p>4.1.2 request in writing signed by the Delegate the return to the Council or the person notified in the application as having a lien thereon of all documents of title deposited in support of the application.</p> | Chief Executive Officer | |
| s44 | <p>5. Proceedings under Caveat</p> <p>The power pursuant to Section 44 of the Act, whenever a caveat shall have been lodged in the Lands Titles Registration Office forbidding land to be brought under the provisions of the Act, to bring like proceedings as provided for in the Act for the removal of caveats, in the case of land already under the provisions of the Act, for removal of the caveat, and for the recovery of costs and damages from the caveator, in case the caveat shall have been lodged by the caveator wrongfully and without reasonable cause.</p> | Chief Executive Officer | |
| s56(2) | <p>6. Priority of instruments</p> <p>6.1 Deliberately left blank</p> | Chief Executive Officer | |
| s56(3)(b) | <p>6. Priority of instruments</p> <p>6.2 Deliberately left blank</p> | Chief Executive Officer | |
| s56(5) | <p>6A. Priority of instruments</p> <p>6A.1 The power pursuant to Section 56(5) of the Act and in accordance with Section 56(6) of the Act to apply to the Registrar-General, in the appropriate form, to vary the order of priority between 2 or more registered mortgages or encumbrances.</p> | Chief Executive Officer | |
| s56(6)(a) | <p>6A. Priority of instruments</p> <p>6A.2 The power pursuant to Section 56(6)(a) of the Act to consent to an application under Section 56(5) of the Act where the Council is the holder of a mortgage or encumbrance that is to have its order of priority varied.</p> | Chief Executive Officer | |
| s56(6)(b) | <p>6A. Priority of instruments</p> <p>6A.3 The power pursuant to Section 56(6)(b) of the Act, if a registered mortgage or encumbrance is, by virtue of the proposed variation of order of priority, to be postponed to a mortgage or encumbrance over which it has had priority, to consent where the Council is the holder of the mortgage or encumbrance that is to be postponed.</p> | Chief Executive Officer | |
| s78 | <p>7. Certificates in lieu of surrendered certificates</p> <p>The power pursuant to Section 78 of the Act where the Council is a registered proprietor holding land under 1 or more certificates,</p> | Chief Executive Officer | |

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| | to apply to the Registrar-General for the issue of one certificate for the whole of such land, or several certificates each comprising portion of such land. | | |
| s79(1) | 8. Substituted Certificate etc 8.1 Deliberately left blank | Chief Executive Officer | |
| s80A | 9. Application for Certificate based on possession The power pursuant to Section 80A of the Act and in accordance with Section 80B of the Act, where the Council would have obtained a title by possession to any land which is subject to the Act if that land had not been subject to the Act, to apply to the Registrar-General for the issue to the Council of a certificate of title to that land. | Chief Executive Officer | |
| s80F | 10. Caveats The power pursuant to and in accordance with Section 80F of the Act, where the Council claims an estate or interest in land to which an application under Part 7A relates, to lodge a caveat with the Registrar-General forbidding the granting of the application. | Chief Executive Officer | |
| s90B(1) | 11. Variation and Extinguishment of Easements 11.1 The power pursuant to Section 90B(1) of the Act, and subject to Section 90B of the Act, where the Council is the proprietor of the dominant or servient land, to make application (in a form approved by the Registrar-General) to: 11.1.1 vary the position of, or extend or reduce the extent of, an easement over servient land; or 11.1.2 vary an easement by extending the appurtenance of the easement to other land owned by the proprietor of the dominant land; or 11.1.3 extinguish an easement. | Chief Executive Officer | |
| s90B(2) | 11. Variation and Extinguishment of Easements 11.2 The power pursuant to Section 90B(2) of the Act, where the Council is the proprietor of the dominant land or servient land, or has, or claims to have, an estate or interest in the dominant or servient land, to give written consent to the Registrar-General acting under Section 90B(1) of the Act. | Chief Executive Officer | |
| s90F | 12. Easement subject to existing mortgage etc The power pursuant to Section 90F of the Act, where an easement is created over servient land and the dominant land or any part of it is subject to a mortgage or encumbrance held by the Council, to consent to the easement also being subject to the mortgage or encumbrance and endorse the Council's consent on the instrument granting the easement. | Chief Executive Officer | |
| s92 | 13. Person now holding under lease or agreement may surrender 13.1 The power pursuant to Section 92 of the Act, where the Council holds Crown lands under a lease or agreement for sale | Chief Executive Officer | |

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| | granted or made by or on behalf of the Crown, to, subject to the approval of the Minister of Lands, surrender the lease or agreement for a Crown lease of the land remaining subject to such lease or agreement, upon all the same terms as shall have been applicable to such land prior to the surrender but so that every person having any estate or interest in the surrendered land shall concur in the surrender. | | |
| s92 | 13. Person now holding under lease or agreement may surrender 13.2 The power pursuant to Section 92 of the Act where a person holding any Crown lands under a lease or agreement for sale granted or made by or on behalf of the Crown and the lease or agreement for a Crown lease of the land remaining subject to such lease or agreement is to be surrendered, to as a person having an estate or interest in the surrendered land, concur in the surrender. | Chief Executive Officer | |
| s93(1) | 14. Execution and registration of Crown Lease 14.1 The power pursuant to Section 93(1) of the Act, where the Council is party to a Crown lease, to execute two copies of the lease, one of which must be lodged in the Lands Titles Registration Office for inclusion or recording in the Register of Crown Leases and the other of which must be delivered to the lessee. | Chief Executive Officer | |
| 93(3a) | 14. Execution and registration of Crown Lease 14.2 The power pursuant to Section 93(3a) of the Act to transfer, mortgage and deal with a Crown lease registered under Section 93(3) of the Act as if it were a lease registered in the Register Book (provided that an entry in respect of a lease that would ordinarily be made in the Register Book must instead be made in the Register of Crown Leases). | Chief Executive Officer | |
| s96 | 15. Transfers 15.1 15.1 The power pursuant to and in accordance with Section 96 of the Act, where the Council is the transferor or transferee of land intended to be transferred or a right of way or other easement intended to be created or transferred, to execute a transfer in the appropriate form to be lodged for registration in the Lands Titles Registration Office. | Chief Executive Officer | |
| s96 | 15. Transfers 15.2 Deliberately left blank. | Chief Executive Officer | |
| s96AA | 16. Creation of easements by reservation The power pursuant to Section 96AA of the Act, to create an easement on the transfer under the Act of an estate of freehold or the granting of an estate of leasehold under the Act by reservation of the easement to the transferor or lessor in the instrument of transfer or the lease. | Chief Executive Officer | |
| s96A | 17. Acceptance of transfer 17.1 Deliberately left blank | Chief Executive Officer | |
| s100 | 18. New certificate to purchaser and balance certificate to registered proprietor 18.1 Deliberately left blank | Chief Executive Officer | |

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| s105 | 19. Sale under Writ of fieri facias or Decree, Warrant or Order of Court The power pursuant to Section 105 of the Act in relation to a writ or warrant of execution against land, or of a decree or order (other than an order for sale for non-payment of rates) affecting land issued out of or made by the Court, or any Court of insolvency or other Court of competent jurisdiction, to sign a statement to accompany such a writ, warrant, decree or order where the Council is a party interested, specifying the land sought to be affected. | Chief Executive Officer | |
| s115A | 20. Issue of certificate where land is vested by operation of law 20.1 The power pursuant to Section 115A of the Act, in relation to an estate or interest in land that has become vested in the Council, to make an application to the Registrar-General, to: 20.1.1 in the case of land under the provisions of the Act - register the Council as the proprietor of that estate or interest in the land; or 20.1.2 in the case of land not under the provisions of the Act - bring the land under the provisions of the Act and register the Council as the proprietor of that estate or interest in the land. | Chief Executive Officer | |
| s116 | 21. Lands, now leased The power pursuant to Section 116 of the Act, when any land is intended to be leased for a life or lives, or for any term of years exceeding one year, to execute a lease in the appropriate form, in accordance with Section 117 of the Act. | Chief Executive Officer | |
| s118 | 22. Leases not to bind non-consenting mortgagees or encumbrancees The power pursuant to Section 118 of the Act, to consent in writing to a lease of mortgaged or encumbered land prior to the lease being registered where the Council is the mortgagee or encumbrancee of the land. | Chief Executive Officer | |
| s119A(1) | 23. Standard terms and conditions of lease The power pursuant to Section 119A(1) of the Act to deposit with the Registrar-General for filing in the Lands Titles Registration Office a document containing terms and conditions for incorporation as standard terms and conditions in leases under Section 119A of the Act. | Chief Executive Officer | |
| s120 | 24. Lease may be surrendered by separate instrument The power pursuant to Section 120 of the Act to surrender a registered lease by instrument in the appropriate form, executed by the lessee and lessor. | Chief Executive Officer | |
| s121 | 25. Registrar-General may record surrender The power pursuant to Section 121 of the Act, where the lessee has given written notice to the Council as lessor or the Council's agent of his or her intention to give up possession of land comprised in a registered lease, to make application to the Registrar-General in the appropriate form and producing such evidence as the Registrar-General may require that the lessee has | Chief Executive Officer | |

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| | abandoned occupation of the land comprised in the lease, to make a record in the Register Book. | | |
| s123 | 26. Surrender where lease subject to mortgage or under lease The power pursuant to Section 123 of the Act, where the Council holds a mortgage or encumbrance over a lease or over land, to provide written consent to the surrender of the lease. | Chief Executive Officer | |
| s126 | 27. Registrar-General to note particulars of re-entry in Register Book The power pursuant to Section 126 of the Act, where the Council is the lessor of land, to provide proof to the Registrar-General of the Council's re-entry of the land. | Chief Executive Officer | |
| s128(1) | 28. Mortgage of land 28.1 The power pursuant to Section 128(1) of the Act if land is to be charged or made security in favour of a person to execute a mortgage. 28.1.1 Deliberately left blank. 28.1.2 Deliberately left blank. | Chief Executive Officer | The delegation of the power contained in Section 128 of the Act is subject to Section 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation. |
| s128(2) | 28. Mortgage of land 28.2 The power pursuant to Section 128(2) of the Act to lodge a mortgage for registration in the Lands Titles Registration Office in the appropriate form. | Chief Executive Officer | The delegation of the power contained in Section 128 of the Act is subject to Section |

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| | | | 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation. |
| s128(4) | 28. Mortgage of land 28.3 The power pursuant to Section 128(4) of the Act where the Council is a mortgagee in relation to a mortgage lodged for registration in the Lands Titles Registration Office to provide certification under Section 273(1) of the Act. | Chief Executive Officer | The delegation of the power contained in Section 128 of the Act is subject to Section 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation. |
| s128B(1) | 28A Encumbrance of land The power pursuant to Section 128B(1) of the Act if land is to be charged with or made security for the payment of an annuity, rent charge or sum of money in favour of a person, to execute an encumbrance in the appropriate form. | Chief Executive Officer | The delegation of the power contained in |

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| | | | Section 128 of the Act is subject to Section 44(3)(c) of the Local Government Act 1999, that is, the delegate is not delegated the power to borrow money or obtain other forms of financial accommodation. |
| s129A(1) | 29. Standard terms and conditions of Mortgage or Encumbrance The power pursuant to Section 129A(1) of the Act to deposit for filing in the Lands Titles Registration Office a document containing terms and conditions for incorporation as standard terms and conditions in mortgages or encumbrances under Section 129A of the Act. | Chief Executive Officer | |
| s132 | 30. Nature of Mortgage and Encumbrance and procedure in case of default The power pursuant to Section 132 of the Act, where the Council holds a mortgage or encumbrance and default is made in the payment of the principal sum, interest, annuity, or rent charge, or any part thereof thereby secured, or in the observance of any covenant therein expressed or implied and such default be continued for the space of one month, or for such other period of time as may therein for that purpose be expressly limited, to give to the mortgagor or encumbrancer notice in writing to pay the money then due or owing on such mortgage or encumbrance, or to observe the covenants therein expressed or implied, as the case may be and that sale will be effected if such default be continued, and to leave such notice on the mortgaged or encumbered land, or at the usual or last known place of abode in South Australia of the mortgagor or encumbrancer. | Chief Executive Officer | |
| s133 | 31. Power of sale The power pursuant to and in accordance with Section 133 of the Act, if such default continues for the further space of one month from the date of such notice or for such period as may in such instrument be for that purpose limited, to sell the land so mortgaged or encumbered, or any part thereof and all the estate and interest therein of the mortgagor or encumbrancer and either altogether or in lots, by public auction or by private contract or by both such modes of sale, and subject to such conditions as the Delegate may think fit, and to buy in and resell the same and to make and execute all such instruments as shall be necessary for | Chief Executive Officer | |

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| | carrying the sale thereof into effect. | | |
| s137 | <p>32. Power of Mortgagee to enter, take possession, distrain, let or bring action for recovery of land</p> <p>32.1 The power pursuant to Section 137 of the Act, where the Council is a mortgagee or encumbrancee and there is a default in payment of the principal sum, interest, annuity, or rent charge secured by that mortgage or encumbrance, to:</p> <p>32.1.1 enter into possession of the mortgaged or encumbered land and receive the rents and profits thereof; or</p> <p>32.1.2 distrain upon the occupier or tenant of the land; or</p> <p>32.1.3 from time to time let the said land for any term not exceeding one year; or</p> <p>32.1.4 bring an action for recovery of the land either before or after entering into the receipt of the rent and profits or making any distress.</p> | Chief Executive Officer | |
| s138 | <p>33. Power of Mortgagee to distrain on tenant or occupier for arrears not exceeding the amount of rent due</p> <p>The power pursuant to and in accordance with Section 138 of the Act, where the Council is a mortgagee or encumbrancee and the principal sum, interest, annuity, or rent charge has been in arrears for 21 days and a further 7 days have elapsed from the date of application for the payment thereof to the occupier or tenant, to enter upon the mortgaged or encumbered land and distrain upon the goods and chattels of the occupier or tenant for such arrears to an amount not exceeding the rent then due from such occupier or tenant to the Council, and to dispose of the goods and chattels so distrained upon in like manner as landlords may do in ordinary distresses for rent, and out of the proceeds to retain the moneys distrained for, and all costs and expenses occasioned by such distress and sale.</p> | Chief Executive Officer | |
| s140(1) | <p>34. Application to Mortgagee to Registrar-General for foreclosure</p> <p>The power pursuant to Section 140(1) of the Act, and in accordance with Section 140(2) of the Act, when default has been made for six months in the payment of the principal or interest secured by any mortgage held by the Council, to make application, in writing, to the Registrar-General for an order for foreclosure.</p> | Chief Executive Officer | |
| s142A(1) | <p>35. Provision for case where Mortgagee or Encumbrancee refuses to join in proceedings on default</p> <p>35.1 The power pursuant to Section 142A(1) of the Act, where the Council and one or more other persons are registered as mortgagees or encumbrances under the same mortgage or encumbrance, and default has been made in payment of any money due under the mortgage or encumbrance or in the performance of any covenant in the said mortgage or encumbrance expressed or implied as entitles the mortgagees or encumbrances to exercise any of their rights or remedies under the Act or under the mortgage or encumbrance, and any such mortgagee or encumbrance fails or refuses to join in giving any notice, making any application or doing any other act or thing for the purpose of enforcing any of the said rights or remedies, to apply to the Court by</p> | Chief Executive Officer | |

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| | <p>originating summons to:</p> <p>35.1.1 appoint the Council or any other person to exercise on behalf of the mortgagees or encumbrances such of the said rights or remedies as the Court thinks proper;</p> <p>35.1.2 give any directions as to the mode of exercising the said rights or remedies and as to any other matters incidental thereto.</p> | | |
| s143(1) | <p>36. Discharge of Mortgages and Encumbrances The power pursuant to and in accordance with Section 143(1) of the Act to wholly or partially discharge, by instrument in the appropriate form and executed by the Delegate, a mortgage or encumbrance held by the Council.</p> | Chief Executive Officer | |
| s144 | <p>37. Partial discharge of Mortgage or Encumbrance on Grant of Easement The power pursuant to Section 144 of the Act, where an easement is granted over land that is subject to a mortgage or an encumbrance and the Council is the mortgagee or encumbrancee, to endorse the Council's consent to the easement on the instrument granting the easement.</p> | Chief Executive Officer | |
| s149 | 38. Deliberately left blank. | Chief Executive Officer | |
| s150 | <p>39. Transfer of Mortgage Lease and Encumbrance The power pursuant to Section 150 of the Act to transfer a registered mortgage, lease or encumbrance by execution of a transfer in the appropriate form.</p> | Chief Executive Officer | |
| s153(1) | <p>40. Renewal or extension of Mortgage etc The power pursuant to Section 153(1) of the Act and in accordance with Sections 153(1) and (2) of the Act to renew or extend a mortgage, encumbrance or lease by registration of an instrument in the appropriate form.</p> | Chief Executive Officer | |
| s153A(1) | <p>40AA Requirements for renewal or extension of mortgage The power pursuant to Section 153A(1) of the Act, in relation to an instrument lodged for registration in the Lands Titles Registration Office renewing or extending a mortgage, to provide certification required under Section 273(1) of the Act.</p> | Chief Executive Officer | |
| s154A(1) | <p>40A Person who intends to lodge instrument may lodge priority notice 40A.1 The power pursuant to Section 154A(1) of the Act to, where the Council intends to lodge an instrument, on payment of the prescribed fee, lodge in the Lands Titles Registration Office a notice (a priority notice), in accordance with Sections 154A(2), (3), (4) and (9) of the Act, for the purpose of giving priority to 1 or more instruments relevant to the same conveyancing transaction.</p> | Chief Executive Officer | |
| s154A(6) | <p>40A Person who intends to lodge instrument may lodge priority notice 40A.2 The power pursuant to Section 154A(6) of the Act to, if a priority notice is lodged in the Lands Titles Registration Office in relation to land, lodge a further priority notice in relation to the same land.</p> | Chief Executive Officer | |

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| s154B(2)(b) | 40B Effect of priority notice 40B.1 The power pursuant to Section 154B(2)(b) of the Act to, where a priority notice lodged by the Council is in force in relation to land, provide written consent to the Registrar-General to register, record or give effect to an instrument in relation to the land. | Chief Executive Officer | |
| s154B(2)(v) | 40B Effect of priority notice 40B.2 The power pursuant to Section 154B(2)(v) of the Act, where a priority notice is in force in relation to land, to make an application under the Act where the Council is a person to whom land has been transmitted for registration as proprietor of the land. | Chief Executive Officer | |
| s154B(2)(va) | 40B Effect of priority notice 40B.3 The power pursuant to Section 154B(2)(va) of the Act, where a priority notice is in force in relation to land, to make an application under the Act where the Council is a surviving joint proprietor to have the death of a joint proprietor recorded in the Register Book. | Chief Executive Officer | |
| s154E | 40C Withdrawal of priority notice 40C.1 The power pursuant to Section 154E of the Act to withdraw a priority notice lodged by the Council by lodging in the Lands Titles Registration Office a notice of withdrawal in the appropriate form. | Chief Executive Officer | |
| s154F(1) | 40D Cancellation of priority notice by Registrar-General 40D.1 The power pursuant to Section 154F(1) of the Act where the Council is a person with an interest in land to which a priority notice is in force, to make application to the Registrar-General to cancel the notice on the basis that the priority notice purports to protect the priority of an instrument that is unlikely to be registered or recorded within 90 days of the day on which the notice was lodged. | Chief Executive Officer | |
| s154F(2) | 40D Cancellation of priority notice by Registrar-General 40D.2 The power pursuant to Section 154F(2) of the Act, where the Registrar General gives written notice to the Council as the person who lodged a priority notice, of an application under Section 154F(1) to cancel the priority notice, to provide written submissions in response to the application within a specified period. | Chief Executive Officer | |
| s154G(6) | 40E Cessation of priority notice 40E.1 The power pursuant to Section 154G(6) of the Act, where the Council has lodged a priority notice, to make application to the Registrar General to extend the duration of the notice for 30 days. | Chief Executive Officer | |
| s169(1) | 41. Disclaimers 41.1 The power pursuant to Section 169(1) of the Act, where the Council is registered as proprietor of an estate or interest in land, to advise the Registrar-General in writing that the registration occurred without the Council's consent. | Chief Executive Officer | |
| s169(2a) | 41. Disclaimers 41.2 The power pursuant to Section 169(2a) of the Act to lodge with the Registrar-General a notice of objection to the registration | Chief Executive Officer | |

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| | of the instrument of disclaimer. | | |
| s169(6) | <p>41. Disclaimers</p> <p>41.3 The power pursuant to Section 169(6) of the Act, where the Council is a disclaimant who has received a notice under Section 169(4)(b) of the Act, to apply to the Court for an order that the Registrar-General take such action as is necessary to give effect to the disclaimer.</p> | Chief Executive Officer | |
| s173(a) | <p>42. Bankruptcy or assignment of lessee</p> <p>42.1 The power pursuant to Section 173(a) of the Act where the registered proprietor of a lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make, a statutory assignment, and if the lease is not mortgaged or encumbered under the Act, to apply to the Registrar General in writing as the lessor being a lessor in possession of a statement signed by the Official Receiver or by the trustee under bankruptcy or the assignment, certifying his or her refusal to accept the lease, to make a record in the Register Book of the refusal.</p> | Chief Executive Officer | |
| s173(b) | <p>42. Bankruptcy or assignment of lessee</p> <p>42.2 The power pursuant to Section 173(b) of the Act and in accordance with Section 173(c) of the Act, where the Council is the mortgagee or encumbrancee of a lease and the registered proprietor of the lease has heretofore or shall hereafter become bankrupt or has heretofore made or shall hereafter make, a statutory assignment to:</p> <p>42.2.1 apply to the Registrar General in writing, accompanied by a statement in writing, signed by the Official Receiver or the trustee under such bankruptcy or assignment certifying his refusal to accept such lease to enter in the Register Book a note of such refusal.</p> <p>42.2.2 apply to the Registrar-General with proof that the Official Receiver has neglected or refused to certify such refusal or to become registered as proprietor of such lease within one month after being thereunto required by notice in writing given to him by the Council to enter in the Register Book a note of such refusal or neglect.</p> | Chief Executive Officer | |
| s173(c) | <p>42. Bankruptcy or assignment of lessee</p> <p>42.3 The power pursuant to Section 173(c) of the Act, where the Council is the mortgagee or encumbrance of a lease and the registered proprietor of the lease has heretofore made or shall hereafter make, a statutory assignment to give fourteen days' notice in writing of the Council's intended application to every subsequent mortgagee or encumbrancee of the lease, or obtain their written consent.</p> | Chief Executive Officer | |
| s173(c) | <p>42. Bankruptcy or assignment of lessee</p> <p>42.4 The power pursuant to Section 173(c) of the Act where the Council is a subsequent mortgagee or encumbrancee of a lease and the registered proprietor of the lease has heretofore or shall hereafter become bankrupt or has heretofore made or shall hereafter make a statutory assignment, to consent in writing to an application to the Registrar-General by a mortgagee or</p> | Chief Executive Officer | |

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| | encumbrance to enter in the Register Book a note of the refusal or neglect of the Official Receiver or trustee under bankruptcy or assignment to accept such lease. | | |
| s173(d) | <p>42. Bankruptcy or assignment of lessee 42.5 The power pursuant to Section 173(d) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make, a statutory assignment to:</p> <p>42.5.1 require the Official Receiver or the trustee under the bankruptcy or assignment by notice in writing to become registered as the proprietor of the lease;</p> <p>42.5.2 require the mortgagees or encumbrancees (if any) of the lease by notice in writing to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained.</p> | Chief Executive Officer | |
| s173(d) | <p>42. Bankruptcy or assignment of lessee 42.6 The power pursuant to Section 173(d) of the Act where the Council is a lessor and the registered proprietor of the lease has heretofore, or shall hereafter, become bankrupt, or has heretofore made or shall hereafter make a statutory assignment, and the Official Receiver or the trustee under the bankruptcy or assignment certifies his refusal to accept the lease, or shall neglect or refuse to become registered as proprietor of the lease, within, one month after having been thereunto required by notice in writing given to him by the Council, and the mortgagees or encumbrancees (if any) of the lease shall neglect or refuse to have an entry operating as a foreclosure made in the Register Book under the provision in that behalf hereinbefore contained within the period of two months after having been thereunto required by notice in writing given to them by the Council, to apply to the Registrar-General in writing to enter in the Register Book a note of such neglect or refusal.</p> | Chief Executive Officer | |
| s176 | <p>43. Application to be made in such case The power pursuant to Section 176 of the Act where the Council is an executor before dealing with such estate or interest, make application in writing to the Registrar-General to be registered as the proprietor.</p> | Chief Executive Officer | |
| s181 | <p>44. Proceedings when executor etc refuse to transfer The power pursuant to Section 181 of the Act, whenever an executor, or administrator, or the Public Trustee, is registered as proprietor of any land, and refuses, or, after tender of a transfer, unnecessarily delays to transfer such land to the Council where the Council claims to be entitled to the land, to, apply to the Court for an order that the executor, administrator, or Public Trustee shall transfer the said land to the Council.</p> | Chief Executive Officer | |
| s188 | <p>45. Registration of survivor of joint proprietors, and of remainder-man entitled to estate in possession The power pursuant to Section 188 of the Act, upon the death of any person registered together with any other person as joint proprietor of any estate or interest in land, or when the life estate in respect of which any certificate has been issued has determined, and the Council has become vested in possession, or the Council has become entitled to the land for an estate in</p> | Chief Executive Officer | |

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| | fee-simple in possession, to apply to the Registrar-General to make an entry thereof in the Register Book, that the Council is the registered proprietor of the estate or interest to which the Council is entitled. | | |
| s191 | 46. Caveats 46.1 The power pursuant to and in accordance with Section 191 of the Act, where the Council is the settlor of land, beneficiary claiming under a will or settlement, or claiming to be interested at law or in equity whether under an agreement, or under an unregistered instrument or otherwise howsoever in any land to, lodge a caveat in the Lands Titles Registration Office. | Chief Executive Officer | |
| s191(d) | 46. Caveats 46.2 The power pursuant to Section 191(d) of the Act, where the Council is the registered proprietor or other person claiming estate or interest in the land, to, by summons, call on any caveator, including the Registrar-General, to attend before the Court to show cause why the caveat should not be removed. | Chief Executive Officer | |
| s191(e) | 46. Caveats 46.3 The power pursuant to and in accordance with Section 191(e) of the Act except when the caveat is lodged by a settlor, or by a beneficiary under a will or settlement, to make application in writing to the Registrar-General to remove the caveat. | Chief Executive Officer | |
| s191(fa) | 46. Caveats 46.4 The power pursuant to Section 191(fa) of the Act, where the Council is a caveator, to bring an action in the Court to establish the validity of the claim on which the caveat is based. | Chief Executive Officer | |
| s191(g) | 46. Caveats 46.5 The power pursuant to Section 191(g) of the Act to apply to the court to extend the period of 21 days until an action under Section 191(fa) is determined or for any other period. | Chief Executive Officer | |
| s191(h) | 46. Caveats 46.6 The power pursuant to Section 191(h) of the Act, to, by notice in writing to the Registrar-General, withdraw the Council's caveat at any time. | Chief Executive Officer | |
| s191(k) | 46. Caveats 46.7 The power pursuant to Section 191(k) of the Act to seek the permission of the Court to lodge a further caveat relating to the same matter. | Chief Executive Officer | |
| s192 | 47. Ejectment 47.1 The power pursuant to Section 192 of the Act, and in accordance with Section 193 of the Act, where the Council is: 47.1.1 the registered proprietor of a freehold estate in possession; 47.1.2 the registered mortgagee or encumbrancee where the person in possession of land is a mortgagor or encumbrancer in | Chief Executive Officer | |

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| | <p>default or a person claiming under such mortgagor or encumbrancer;</p> <p>47.1.3 the lessor with power to re-enter where rent is in arrears for three months; or</p> <p>47.1.4 the lessor where a legal notice to quit has been given or the lease has become forfeited or the term of the lease has expired, to cause any person in possession of that land to be summoned to appear before the Court to show cause why the person summoned should not give up possession to the Council.</p> | | |
| s210 | <p>48. Persons claiming may, before taking proceedings, apply to the Registrar General for compensation The power pursuant to and in accordance with Section 210 of the Act, where the Council is sustaining loss or damage in any case in which the Council shall be entitled to institute proceedings to recover compensation against the Registrar-General as nominal defendant, to, before commencing such proceedings, make application in writing to the Registrar-General, for compensation, supported by affidavit or declaration.</p> | Chief Executive Officer | |
| s221(1) | <p>48A Reviews 48A.1 The power pursuant to Section 221(1) of the Act, if the Delegate, is dissatisfied with a decision of the Registrar-General in relation to an application by the Council: 48A.1.1 to have an instrument registered or recorded; or 48A.1.2 to have a foreclosure order issued; or 48A.1.3 to have the Registrar-General do or perform an act or duty under the Act, to seek a review of the decision by the Tribunal.</p> | Chief Executive Officer | |
| s221(1a) | <p>48A Reviews 48A.1A The power pursuant to Section 221(1a) of the Act, if the Delegate is dissatisfied with a decision of the Registrar-General to cancel the registration of a mortgage under Section 147 of the Act, to seek a review of the decision by the Tribunal.</p> | Chief Executive Officer | |
| s221(2) | <p>48A Reviews 48A.2 The power pursuant to Section 221(2) of the Act, if the Registrar General decides under Section 154A(12) of the Act that the Council is a vexatious lodger of priority notices, to seek a review of the decision by the Tribunal.</p> | Chief Executive Officer | |
| s221(3) | <p>48A Reviews 48A.3 The power pursuant to Section 221(3) of the Act, if the Registrar General rejects a priority notice lodged by the Council where the Council is a person in relation to whom a determination has been made under Section 154A(12) of the Act, to seek a review by the Tribunal of the decision to reject the notice.</p> | Chief Executive Officer | |
| s221(4) | 48A Reviews | Chief Executive | |

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| | 48A.4 The power pursuant to Section 221(4) of the Act, if the Registrar General refuses an application by the Council under Section 154F of the Act for the cancellation of a priority notice, to seek a review by the Tribunal of the decision to refuse to cancel the notice. | Officer | |
| s221(5) | 48A Reviews 48A.5 The power pursuant to Section 221(5) of the Act, if the Registrar General cancels a priority notice under Section 154F of the Act and the Council is affected by the cancellation to seek a review by the Tribunal of the decision to cancel the notice. | Chief Executive Officer | |
| s221(9) | 48A Reviews 48A.6 The power pursuant to Section 221(9) of the Act, if the reasons of the Registrar-General are not given in writing at the time the Council receives notice of the decision, to within 21 days of receiving notice of the decision, require the Registrar-General to state the reasons in writing. | Chief Executive Officer | |
| s221(10) | 48A Reviews 48A.7 The power pursuant to Section 221(10) of the Act, to make an application to the Tribunal for any 1 or more of the following orders: 48A.7.1 an order prohibiting a person from lodging a priority notice in the Lands Titles Registration Office; 48A.7.2 an interim order extending the duration of a priority notice until the determination of the application or until a date specified by the Tribunal or until further order; 48A.7.3 an interim order preventing the Registrar-General from registering or recording a specified instrument until the determination of the application. | Chief Executive Officer | |
| s223A(1) | 49. Applications for amendment 49.1 The power pursuant to and in accordance with Section 223A(1) of the Act, and subject to Section 223A(3) of the Act, where the Council is the registered proprietor of land, to apply to have the certificate amended if: 49.1.1 the boundaries, area, or position of the land described in the certificate differ from the boundaries, area or position of the land actually and bona fide occupied by it as being the land included in the certificate; or 49.1.2 the description of the land in the certificate is erroneous or imperfect on the face of it. | Chief Executive Officer | |
| s223A(2) | 49. Applications for amendment 49.2 The power pursuant to Section 223A(2) of the Act, and subject to Section 223A(3) of the Act, where the Council is the registered proprietor of land, to apply to have the certificate of any other registered proprietor amended if any of the land | Chief Executive Officer | |

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| | described in the Council's certificate, and actually and bona fide occupied by the Council as being the land included in the certificate, is, by reason of any error in survey or in any misdescription, included in the certificate of the other registered proprietor. | | |
| s223D(1) | 50. Caveats The power pursuant to Section 223D(1) of the Act and in accordance with Section 223D(2) of the Act, where the Council claims any estate or interest in any land in respect of which an application under Part 19A of the Act is made, to at any time before the application is granted lodge a caveat in the Lands Titles Registration Office forbidding the granting of the application. | Chief Executive Officer | |
| s223J | 51. Rectification by consent The power pursuant to Section 223J of the Act to consent to the Registrar General making any correction or amendment to any certificate of title for the purpose of reconciling the boundaries shown in the certificate with the boundaries of the land occupied. | Chief Executive Officer | |
| s223LD | 52. Application for Division of Land 52.1 The power pursuant to Section 223LD of the Act and in accordance with Section 223LD(2), (3) and (11) of the Act, where the Council is the registered proprietor of land, to make application for the division of land to the Registrar General. 52.2 The power pursuant to Section 223LD(8) of the Act and subject to Section 223LD(9) of the Act to consent to the withdrawal or amendment of a plan of division or the application to which it relates. 52.3 The power pursuant to and subject to Section 223LD(9) of the Act to amend the application or the plan to which it relates in order to comply with the Act or with a requirement of the Registrar-General under the Act. | Chief Executive Officer | |
| s223LDA | 53. Application may deal with statutory encumbrances 53.1 The power pursuant to Section 223LDA of the Act to: 53.1.1 specify in an application under Part 19AB of the Act or the plan of division that variation or termination of a statutory encumbrance is to be registered or noted; and 53.1.2 sign a certificate on behalf of the Council as the holder of the statutory encumbrance certifying that the requirements of the Act under which the encumbrance was entered into, or is in force, as to the variation or termination of the statutory encumbrance (if any) have been complied with. | Chief Executive Officer | |
| s223LH(1) | 54. Consent to plans of division 54.1 The power pursuant to Section 223LH(1) of the Act: 54.1.1 where the deposit of a plan of division in the Lands Titles Registration Office will affect the estate or interest of the Council, in the land - to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of | Chief Executive Officer | |

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| | <p>the plan;</p> <p>54.1.2 where the Council has or claims an estate or interest in the land to be divided - to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan;</p> <p>54.1.3 where the land to be divided is subject to a statutory encumbrance held by the Council - to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan.</p> | | |
| s223LH(2) | <p>54. Consent to plans of division</p> <p>54.2 The power pursuant to Section 223LH(2) of the Act, where the deposit of a plan of division will operate to vest an estate or interest in land in the Council, to consent to the deposit of the plan and sign a certificate certifying that the Council has consented to the deposit of the plan.</p> | Chief Executive Officer | |
| s223LJ(1) | <p>55. Amalgamation</p> <p>55.1 The power pursuant to Section 223LJ(1) of the Act and in accordance with Section 223LJ(2) and (3) of the Act, where the Council is the registered proprietor of two or more contiguous allotments, to apply to the Registrar-General for amalgamation of those allotments into a single allotment.</p> | Chief Executive Officer | |
| s223LJ(3) | <p>55. Amalgamation</p> <p>55.2 The power pursuant to Section 223LJ(3) of the Act to consent to an amalgamation of allotments under Division 2 Part 19AB of the Act, where it appears from the Register Book that the Council has an interest as mortgagee or encumbrance of the land or any part of the land to be amalgamated or where such consent is required either in the opinion of the Registrar-General or by regulation.</p> | Chief Executive Officer | |

Document history and version control

| Date | Council/Chief Executive Officer | Comment |
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| 27/6/2017 | Full annual review adopted at the Council meeting of 27 June 2017 | |
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