

INFORMATION SHEET

PRIORITY NOTICES

The South Australian Government has introduced Priority Notices commencing on 27 April 2015.

A Priority Notice is a notice which is lodged against, and registered on, a Certificate of Title or Crown Lease.

It gives notice to anyone searching the Register Book that a transaction which will affect the land is pending, and reserves priority for that pending transaction.

Priority Notices are designed to remove the risk of the 'registration gap' between settlement of a transaction and registration, and also to 'reserve' a title for a forthcoming settlement. The protection of a parties' interests will become more important when duplicate Certificates of Title are abolished. This will happen when electronic conveyancing commences. (legislation to achieve this is expected to be passed in May 2016).

A Priority Notice will reserve priority for the transaction, details of which will be set out in the Notice, and will notify parties already registered on the title, and also any party searching the title, that a transaction is pending.

This means that documents conforming with the details set out in the Notice, will be given priority by the Lands Titles Office, over any other document which is either lodged thereafter, or is the subject of a further Notice lodged thereafter by another party.

South Australian Priority Notices operate similarly to the Settlement Notices which have been operative for many years on Tasmania and Queensland.

The notification to all parties, either registered already, or intending to deal, will assist in fraud prevention and will improve the accuracy of information provided on title searches, as currently no record appears against the title in the Lands Titles Register until settlement has occurred, documents have been lodged and the data therefrom is entered by Lands Titles Office staff. The delay from lodgement to data entry could be some 2 days.

Lodgement of Priority Notices will not be mandatory. They can be lodged by any party who intends to lodge a dealing, or dealings, in the Lands Titles Office.

Usually they would be lodged by the existing mortgagee, the intending new mortgagee or by the solicitor or conveyancer acting on your behalf.

Financial Institutions (Mortgagees) may, of their own accord, insist that Priority Notices are lodged against the title for any transaction that they are dealing with in South Australia.

In those cases, we will not need to also lodge the Notice. However, we need to consider your protection and prepare to lodge if necessary.

Once lodged, a Priority Notice will be effective for 60 calendar days from date of lodgement. An option to extend (once only) for a further 30 days is available if required. When documents conforming with the Notice are lodged, the Notice automatically lapses.

The Lands Titles Office Fees of \$20.00 for Lodgement of a Priority Notice, and \$10.00 for an extension will apply.