

**IMPORTANT NOTICE****CONSENTS REQUIRED FOR SUBDIVISIONS OF
LAND AND UNIT TITLE APPLICATIONS**

This notice concerns easements or other interests registered on title which are held by utility/service organisations such as the Power and Water Corporation, Telstra and local Councils.

When subdividing land in the Territory, several pieces of legislation affecting the registration process require the written consent of all persons 'other than the Crown' who have an estate or interest in the land and whose interest is affected by the proposed subdivision. (Refer: s.7(d) *Real Property (Unit Titles) Act*, ss.11(3) and 21A(b(ii)) of the *Unit Titles Act* and to a lesser extent s.52(3) of the *Land Title Act* where the same principles have been applied). Consents can be by way of Form 93, Registrar-General's 'General Consent Form', a Form UT16 under the *Unit Titles Act* or on a plan of survey.

Until recently, organisations which were considered to come under the definition of 'the Crown' such as Power and Water Corporation (PAWC) and Local Government Councils were not required to separately consent to a subdivision proposal where they held a registered interest on title because of an inferred status as 'the Crown' and having had, by implication, the opportunity to provide input into the proposal through the planning process.

Advice has now been received that with the enactment of the *Government Owned Corporations Act* in 2001, PAWC is no longer considered to be the Crown for this purpose. Furthermore, a local Council would not ordinarily come within the umbrella of the Crown.

This means that the Registrar-General (or the Delegate of the Minister for the purposes of the *Unit Titles Act*) must not approve or register a subdivision proposal unless the written consent of every such organisation having a registered estate or interest in the parcel, and whose estate or interest is affected by the units plan or subdivision, has been received at the time of lodgement of the proposal. By way of clarification a registered easement is, on the face of it, considered to be an interest which would be affected by a subdivision proposal and it is presumed that the holder has the rights and privileges similar to other registered interests on title.

Furthermore, our advice is that the Registrar-General or Delegate of the Minister cannot continue to rely on the initial planning processes as implied consent, firstly because of the lesser requirement under planning legislation to 'notify' rather than 'consent' and secondly because it is not always mandatory that planning approval be obtained (eg. in the case of a subdivision of a registered units plan).

Therefore, commencing immediately, consents from PAWC, Councils and any other relevant organisations with a registered interest on title such as an easement, will be required to accompany an ordinary subdivision proposal, units plan subdivision, subdivision of a registered units plan and any other subdivision of land coming under relevant legislation. Unfortunately a period of notice cannot be given in this case.

Our Office is aware of the initial difficulties this may present to developers and others involved in the subdivision process. Accordingly we will endeavour to work with PAWC and the Councils to incorporate this consent into existing compliance processes and will do our best to minimise any inconvenience this requirement may cause.

GAIL FLEAY
A/ REGISTRAR-GENERAL