

IDAS IMPLEMENTATION NOTES

Note 21

Approval of plans of subdivision

Under the provisions of the *Land Title Act 1994* (LTA), for a lot to be created it must be defined in a plan of subdivision and the plan must be registered in the Land Registry in the Department of Natural Resources and Water. The LTA also requires certain plans of subdivision to be **approved** by the Council before they can be registered [see s50 of the LTA].

Under section 65(3A) of the LTA, an instruments of lease (where such a lease would be included in the definition of reconfiguring a lot under the IPA) must also be **approved** by the Council before it can be registered in the Land Registry.

The *Integrated Planning Act* (IPA) works with the LTA by providing a process for Councils to approve the plan of subdivision or instrument of lease. This process of approval is set out in Chapter 3, part 7 of the IPA and is equivalent to the “sealing of plans for registration” process under section 5.3 of the repealed *Local Government (Planning and Environment) Act 1990* (repealed Act).

It should be noted that this approval of a plan of subdivision or instrument of lease is not a development approval in its own right (i.e. a development permit), rather it is a consequence of an earlier development permit for the application for reconfiguring a lot.

1.0 For development applications lodged **before** commencement of the IPA on 30 March 1998

Development applications for reconfiguring a lot, lodged with the Council **before** the commencement of the IPA on 30 March 1998, continue to be assessed and decided under the relevant provisions of the repealed Act [s6.1.25 of the IPA].

Where such applications are approved **on or after** 30 March 1998, the approval is taken to be a development permit or preliminary approval under the IPA [s6.1.25(1)(b)] with the provisions of Chapter 3, part 7 of the IPA applying to the approval of the plan of subdivision.

2.0 For development applications lodged **after** the commencement of the IPA

Section 3.7.5 of the IPA requires a Council’s approval to be endorsed on the approved plan of subdivision prior to registration, but does not specify a mode of approval. The plan must be given to the Council for its approval while the development permit still has effect. Unlike the repealed Act, the IPA no longer requires that the approval be endorsed under the Council’s seal.

For the purposes of the IPA, it is recommended that a Council endorse the plans of subdivision or instruments of lease by –

- specifying that the IPA is the relevant Act;
- marking “Approved” on the plan;
- noting the date the relevant development application for reconfiguring a lot was lodged (and properly made); and
- having an appropriate person act on behalf of the Council to sign and note the date of approval of the plan.

Noting the date the development application was lodged ensures that the plan or instrument was processed under the appropriate Act. The Registrar will accept this endorsement as a valid approval of the plan or instrument of lease.

Note: Section 5.3 of the repealed Act continues to apply to the sealing of plans of survey for applications for subdivision lodged and approved prior to the commencement of the IPA.

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3.0 Applications for amalgamation of lots on or after 30 March 1998 (i.e. post IPA)

Amalgamation is exempt development under Table 3, Item 2(b) of Schedule 9 of the IPA. The Council is not required to endorse the plan of subdivision for amalgamation prior to registration.

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