

## 22. Allocations:

### 22.1 Introduction and rationale:

The Registrar of Titles is entrusted with the responsibility of registering plans against freehold land. The Registrar of Titles is also delegated by the chief executive of the Department of Natural Resources and Water, the authority to register plans affecting state tenures.

All plans of surveys which change the description of a parcel of land, or define a new interest in a parcel of land are the subject of allocations. The allocation of Titles allows the land registry to relate the current title description with the new lot. It ensures that the new titles issue correctly in regards to ownership, encumbrances, administrative advices etc. Correct allocations are integral to a correct and complete land registry. The information required on a new title (or Grant, etc) is not brought forward automatically. The land registry creates new titles, and notes interests from the information shown in the allocation schedules on the reverse of the plan of survey. The instrument that creates new titles/descriptions is the registered plan by referencing the surveyor's correct and completed allocations.

The Registrar of Titles requires two categories of allocations:

- ◆ Lot allocations (which indicates how an existing title is to be divided and new titles created); and
- ◆ Interest allocations (which enable the preparation of endorsements on an indefeasible title to show the effect of a survey against the current registered interests).

All plans lodged in the land registry must address the issue of allocations.

Wherever the term "subdivision" is used in the context of allocations, it is to be understood to also include amalgamation.

Generally, at a minimum, the following allocation tables shall be provided on the reverse of the main plan for the following:

- ◆ Where there is one or more than one original lots in the base parcel being dealt with, allocate the new lots, interests and new road to the original lot or lots;
- ◆ Where there is more than one original portion and more than one new lot being created on the plan, allocate the new lots to the original portions;

Where any registered interest affects only part of the base parcel, allocate that interest to the new lots, either fully or partially.

### 22.2 Actions under the *Acquisition of Land Act 1967*:

Where a lot is the subject of a resumption action under the provisions of the *Acquisition of Land Act 1967*, and there are interests that relate to "part of the land" endorsed on the title for that lot, the reverse of the plan of survey must allocate those interests in item 6.

The lot to be resumed does not show any secondary interests plotted on the face of the plan as the lot is resumed unencumbered.

The land registry creates indefeasible titles for all the lots on the plan of survey (subdivision), and further deals with those titles using the resumption documents to determine whether the resumed lot remains as an indefeasible title (lot resumed as an estate in fee simple) or unallocated state land (lot resumed for road and vests in the state). The plan of survey and the resumption document must register simultaneously.

**22.3 Use of dealing number:**

The unique identifier for any interest being allocated is the Dealing Number, eg 70123689. Where a single dealing number is used for a number of secondary interests, the identifier of the secondary interest as well as the dealing number must be shown; eg

- ◆ 70123689 Emt A; or
- ◆ If there is more than one Emt A referenced in the dealing, 70123689 Emt A on SP998765

The dealing number is used as the reference in preference to a "lot-on-plan" description (e.g. Emt A in Lot 2 on RP432567) because:

- ◆ An individual interest description may have a number of different interests registered over the same physical space; or
- ◆ An individual lot may have a number of different interests of the same type registered against it.

**22.4 Lot allocations:**

On every plan of survey the new lots (including common property), secondary interests and/or new roads on that plan of survey must be allocated to the underlying original lot or lots that the plan is cancelling.

The allocation table is created by extending the Title Reference table (item 6) on the reverse of the plan form. The Title Reference is shown in its column on the back of the plan as normal, under the "Title Reference" heading. The lot-on-plan description of the land being dealt with on the plan is shown under the "Description" heading. If more than one lot in the title is being dealt with on the plan, each affected lot-on-plan is set out in column form, under "Description".

A separate column is required for all lots, new road and secondary interests being created on the plan. On the line of the original lot from which they are derived are noted the new lots, new road and secondary interests. It is acceptable to have a series of new lots, i.e. 1-10, together with a single original lot.

- Note:** (1) A new lot may be linked to more than one original lot.  
 (2) All lots must be allocated, including any Unallocated State Land (USL).

**EXAMPLE:**

Title Reference	Description	New Lots	Road	Emts	Cov	Profit a` prendre
12349083	Lot 1 on RP123987	1 - 3	New Rd	A, B		
12345678	Lot 5 on RP813965	3 - 5	New Rd	B, C	E	
12345678	Lot 6 on RP813965	4 - 7				F
18672223	Lot 2 on RP230965	5, 6 & CP		D		
15692213	Lot 1 on SL2398	4 – 8	New Rd			
14569875	Lot 5 on RP873943	8				
17693211	Lot 782 on RP829123		New Rd			
40001234	Lot 42 on USL98765	8	New Rd			

*Table 22-1: Lot Allocation*

(Note: Easement B is being created in the new Lot 3, and as such, affects the original lots 1 on RP123987 and 5 on RP813965)

**EXAMPLE:** Easements in Common Property (created on different plans) within a Community Titles Scheme

Title Reference	Description	New Lots	Road	Emts
12349083	Lot 1 on RP123987	1 - 3	New Rd	A, B
12345678	Lot 5 on RP813965	3 - 5	New Rd	B, C

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12345678	Lot 6 on RP813965	4 - 7		
18672223	Lot 2 on RP230965	5, 6		D
15692213	Lot 1 on SL2398	4 – 8	New Rd	
14569875	Lot 5 on RP873943	8		
17693211	Lot 782 on RP829123		New Rd	
18945367	CP on SP123456			E, F
18945367	CP on SP154329			G

**Table 22-2: Lot and Common Property Allocation**

**(Note: Easement B is being created in the new Lot 3, and as such, affects the original lots 1 on RP123987 and 5 on RP813965)**

**22.5 Portion allocations:**

Where there is more than one new lot on the plan and more than one original portion being affected by the survey, an allocation must be made of each new lot into each original portion in item 7 on the reverse of the plan form. Where there is more than one parish and/or more than one county, the parish and county must also be noted against the portion number. If more than one county is applicable another column is added.

The term "original portion" may be any of the following:

- ◆ A portion
- ◆ An allotment of section;
- ◆ A suburban portion;
- ◆ A suburban allotment;
- ◆ A lot-on-plan (in which case the lot on plan must be shown in full); or,
- ◆ Any of the many other types of old descriptions.

Reservations are contained within the current deed of grant of the land (as shown in ATS), except in the case of a s.358 of the *Land Act 1994* (previously s.9, *Land Act 1962*) deed of grant, where the reservations are contained in the original deed of grant for the land.

The allocation of new lots to original portions should be based on the original portions shown in ATS.

**Note:** Original Grant references are not required to be shown on the plan.

However, if the rights and reservations are contained within a conveyance, both the conveyance dealing number and the lot-on-plan are required to be shown in the allocation table.

As portion allocations are only required for allocation to new lots, it is not necessary to show original portions on the face of any secondary interest plan (eg easement, covenant etc), or to allocate new secondary interests to portions.

**Note:** Where the original portion number contains an alpha character, such as 98A, and this number has been converted (i.e. the number has been converted to another unique number that does not contain an alpha character), the portion number to be used is the original number (98A), not the converted number. ATS shows the correct number.

The preferred format for the allocation table is such that the portions are allocated to a lot, and the lot should be mentioned only once in the table. There is no objection to the columns in item 7 on the reverse of the plan form being swapped.

<b>PORTION ALLOCATION</b>		
42	601222451 (lot 1 on RP91959)	ABC
1, 3, 7, 8	36, 80	ABC
2, 4, 5, 6	36, 90	ABC, XYZ
100	90	XYZ
<b>LOTS</b>	<b>ORIG POR</b>	<b>PARISH</b> (only if required)

*Table 22-3: Portion Allocation*

- Note:**
- (1) Title and Portion allocation tables must not be combined.
  - (2) New lots should appear only once in this table.
  - (3) 601222451 is a conveyance number (generally associated with Commonwealth land).

**22.6 Interest allocations:**

**22.6.1 Existing mortgage allocations:**

Where a mortgage affects any lot, either fully or partially, contained within the land being subdivided, it is necessary to note which new lots are fully or partially encumbered by that mortgage so that the mortgage can be carried forward on to the new titles. The allocation is necessary because a mortgagee cannot exercise the right to sell part of a lot, and additional dealings may be necessary to resolve the situation. Part mortgage interests are routinely created in situations where a subdivision or amalgamation draws from more than one title, and a mortgage is not recorded against all the previous titles.

Section 41C(3) of *Land Title Act 1994* states that “the fee simple interest in common property can not be the subject of a mortgage”. Accordingly, a mortgage must not be shown as affecting common property of a community titles scheme.

A table similar to the one below is required to allocate these encumbrances:

<b>Mortgage</b>	<b>Lots Fully Encumbered</b>	<b>Lots Partially Encumbered</b>
<Dealing No>	1 – 4 & 9 – 11	5 – 8

*Table 22-4: Mortgage Allocation*

Note: Where a lease, under the Land Title Act 1994, is encumbered by a mortgage there is no requirement to allocate that mortgage.

**22.6.2 Existing registered easement allocations:**

Existing registered easements that provide a benefit to a lot or to part of a lot are required to be allocated to the benefited lots.

Existing registered easements that encumber lots are required to be allocated to new lots.

**22.6.3 Benefit easements:**

Where a registered benefit easement benefits all or part of a lot contained within the land being subdivided, it is necessary to note which new lots are fully or partially benefited by the easement, so that the benefit can be carried forward on to the new titles.

The part benefit allocation is necessary because future subdivision of a “partially benefited” lot could create lots fully benefited, lots partially benefited, and lots not benefited by the easement.

A table similar to the one below is required to allocate these benefit easements:

<b>Easement</b>	<b>Lots Fully Benefited</b>	<b>Lots Partially Benefited</b>
<Dealing No>	1 – 4 & 9 11	5 – 8

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(or <Dealing No> and alpha identifier and plan number, as may be necessary in cases with multiple servient tenements, but only one easement document)		
71348731 Emt A on SP123456	12	15
Emt B on SP123457		15

**Table 22-5: Benefit Easement Allocation**

Where the reconfiguration of lots is such that a lot that is benefited by an easement will be burdened by all or part of that same easement, the easement is not plotted on that lot, and a statement similar to the following will be added to the reverse of the plan:

**<Dealing No><Emt Description> partially/fully extinguished in <lot number> in terms of s.87 Land Title Act 1994.**

**22.6.4 Encumbrance easements – burdening the land:**

Lots are either encumbered or not encumbered. Terms such as partially or fully encumbered are not used. Where a registered encumbrance easement exists over a lot or lots being subdivided into one or more than one new lot, the new lots that are encumbered shall be noted in the following manner:

<b>Easement</b>	<b>Lots to be Encumbered</b>
<Dealing No> (or <Dealing No> and alpha identifier and plan number, as may be necessary in cases with multiple servient tenements, but only one easement document)	1 - 4 & 9 – 11
71348731 Emt A on SP123456	12 - 15
71348731 Emt B on SP123456	17
70352617	21

**Table 22-6: Encumbrance Easement Allocation**

Before making this allocation, it must be determined that:

- ◆ The easement is currently registered; and
- ◆ The easement is not to be surrendered prior to the lodgement of the plan. If the easement is to be surrendered prior to lodgement, a note should be added under the allocations (item 6 on the reverse of the plan) “Emt <dealing number and Emt description if more than one easement in the document> to be surrendered prior to lodgement of plan”.

**22.6.5 Easements absorbed in new road:**

When a servient tenement, or part of a servient tenement, is absorbed in new road, a notation on the reverse of the plan shall be made in the following manner:

**“Emt A on SPxxxxxx<number that created the easement> partially/fully absorbed by new road.”**

OR

Part / whole of Easement A on RP 45623	Absorbed in new road
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**Table 22-7: Encumbrance Easement (Road) Allocation**

**22.6.6 Existing leases:**

Where any plan:

- ◆ Contains an easement or a lease or a covenant, **and**
- ◆ The title for the subject land contains registered leases,

the plan is required to indicate for each registered lease whether they are/are not subject to the new easement(s) or lease(s) or covenant(s).

This may be done by a statement or a table, indicating those leases affected and those leases not affected for each new volumetric lease or volumetric easement. Because survey plans may be prepared and certified by a surveyor well in advance of lodgement, the statement should be dated, in case leases are registered or surrendered or cancelled after the finalisation of the plan.

Examples:

- ◆ Lease A does not affect Leases 702456172 & 703561143. Dated 17/11/2003.

or

- ◆ Easements A-D and Leases F-H do not affect any of the leases lodged or registered against CT 11705163 as at 17/11/2003.

or

- ◆ Proposed Easement A does affect lease 702456172 and does not affect lease 703561143. Dated 17/11/2003.

**22.6.6.1 Existing leases of land (*Land Title Act 1994*):**

Where a registered lease exists over the whole of a lot or part of a lot being subdivided into more than one new lot the new lots shall be noted with the encumbrance in the following manner:

Lease	Lots to be Encumbered
<Dealing No>	1 - 4 & 9 – 11
<Dealing No>	Common Property

*Table 22-8: Lease Allocation (not building format)*

Before making an allocation of a lease, it must be determined that:

- ◆ The lease is current and registered and
- ◆ The lease is not to be surrendered prior to the lodgement of the plan.

**Note:** Section 67(1) of *Land Title Act 1994* makes an option clause allowing renewal of a lease binding on the register. The effect is that the term of a lease is deemed a period that includes the first option.

When a lot subject to a lease, or part of a lot subject to a lease, is absorbed in new road, a notation on the reverse of the plan shall be made in the following manner:

***“Lease A on SPxxxxxx<number that defined the lease> partially/fully absorbed by new road.”***

OR

***“Lease <Dealing Number> partially/fully absorbed by new road.”***

**22.6.6.2 Existing leases – part of a building (*Land Title Act 1994*):**

Where an existing lease is registered against part of a building, and the building is being subdivided by a building format plan, an allocation of the lease against the new lots is required.

For a building format plan, it is acceptable that a lease exists in either a lot (eg private yard) or common property only. It is not acceptable that a lease exist in more than one lot, or a lot and common property. For these cases, ownership of the lease must be resolved in the first instance, eg partial surrender. Where the lease boundaries extend outside the boundaries of a new building

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format lot (eg outside face of wall versus centre of wall respectively) a partial surrender of that part of the lease external to the lot is required.

The allocation table below allows for the following:

- ◆ Preparation of the plan well in advance of lodgement;
- ◆ Knowledge that the surveyor has investigated the matter is made available;
- ◆ The land registry has information on the matter that can be used to assess the correct registration of the documents;
- ◆ The surveyor’s client and legal advisors have the necessary information that indicates an action is required.

The new lots shall be noted with the encumbrance in the following manner:

Lease	Level (if more than one)	Building Identifier	Lots to be Encumbered	Common Property Partial Surrender Required
<Dealing No> Lease H	A, B	Bldg D	1	Yes
<Dealing No> Lease K	A	Bldg E	1	No

**Table 22-9: Lease Allocation (building format)**

Before making this allocation, it must be determined that:

- ◆ The lease is current and registered; and
- ◆ The lease is not to be surrendered prior to the lodgement of the plan.

**22.6.6.3 Existing leases – part of a building (Land Title Act 1994) – not building format plan:**

Where an existing lease or leases are registered against part of a building, and the land on which that building is situated is being subdivided by either a standard format plan or a volumetric format plan, an allocation of the lease or leases against the new lots is required.

The new lots shall be noted with the encumbrance in the following manner:

Lease	Lots to be Encumbered
<Dealing No>	1
<Dealing No>	1

**Table 22-10a: Lease Allocation (not building format plan)**

Before making this allocation, it must be determined that:

- ◆ The lease or leases are current and registered; and
- ◆ The lease or leases are not to be surrendered prior to the lodgement of the plan.

**22.6.7 Existing covenants:**

Lots are either encumbered or not encumbered. Terms such as partially or fully encumbered are not used. Where a registered covenant exists over a lot or lots or part of a lot or lots being subdivided into one or more than one new lot, the new lots that are encumbered by the covenant shall be noted in the following manner so that the covenant can be correctly carried on to the new titles. A table similar to the one below is required to allocate these encumbrances:

Covenant	Lots Encumbered
<Dealing No>	1 - 4 & 9 – 11

**Table 22-11: Covenant Allocation**

When a lot subject to a covenant, or part of a lot subject to a covenant, is absorbed in new road, a notation on the reverse of the plan shall be made in the following manner:

**“Covenant A on SPxxxxxx<number that created the covenant> partially/fully absorbed by new road.”**

When a section 97A(3)(c) *Land Title Act 1994* covenant relating to the future transfer of lots to a single ownership is used in relation to a parcel of freehold land and a parcel of leasehold land, and that subject land is being subdivided or amalgamated, that covenant must be dealt with by a release of the covenant with respect to the encumbered lots. Early discussion with the Department of Natural Resources and Water is warranted in these cases.

**22.6.8 Existing profit a prendre:**

Lots are either encumbered or not encumbered. Terms such as partially or fully encumbered are not used. Where a registered profit a prendre exists over a lot or lots or part of a lot or lots being subdivided into one or more than one new lot, the new lots that are encumbered by the profit a prendre shall be noted in the following manner so that the profit a prendre can be correctly carried on to the new titles. A table similar to the one below is required to allocate these encumbrances:

Profit a Prendre	Lots Encumbered
<Dealing No>	1 - 4 & 9 – 11

**Table 22-12: Profit a Prendre Allocation**

When a lot subject to a profit a prendre, or part of a lot subject to a profit a prendre, is absorbed in new road, a notation on the reverse of the plan shall be made in the following manner:

**“Profit A on SPxxxxxx<number that defined the profit> partially/fully absorbed by new road.”**

**22.6.9 Existing administrative advices:**

The types of administrative advices entered against the indefeasible title in ATS are shown in Land Title Practice Manual 52-2000. Any administrative advice affecting all or part of a lot or lots being subdivided is required to be either allocated to the new lots that will be affected or a notation made indicating that the administrative advice has been satisfied.

Where an administrative advice advising of the intention to resume (N.I.R.) affects only part of the land being subdivided, either make a note allowing the administrative advice to be cancelled, or if necessary, brought forward onto the new titles.

**Example of Note:** NIR 123456789 is fully satisfied.

A table similar to the one below is required to allocate these interests:

Administrative Advice	Lots to be Encumbered
<Dealing No>	3, 7

**Table 22-13: Administrative Advice Allocation**

When an administrative advice entered against an indefeasible title contains no spatial information to enable the allocation to be confirmed, additional evidence may be required to confirm the allocation. Typically this evidence shall be in the form of a letter from the registered owner, in the case of an Owner Builder Notification, or another authoritative source, confirming the allocation.

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Where the administrative advice refers to another State Government Department or instrumentality, early discussion with that body is warranted to ensure that any proposed action is not delayed by the resolution of the existing administrative advice.

**22.7 Local Government allocation:**

For each lot that is within more than one Local Government, an allocation that identifies the area of the lot(s) in each Local Government is required. This allocation may be shown on the face of the plan as a statement or a table similar to that below may be added to the face or reverse of the plan. The boundaries of the Local Governments should be plotted on the face of the plan.

<b>Local Governments</b>			
<b>Lot</b>	<b>Pine Rivers Shire</b>	<b>Brisbane City</b>	<b>Redcliffe City</b>
42	1234m	234m <sup>2</sup>	23.4 Ha
100		11m <sup>2</sup>	654m <sup>2</sup>

*Table 22-14: Local Government Allocation*

**22.8 Special cases:**

For cases where there are a significant number of interests in a single lot, eg shopping centre, and that lot is being subdivided such that a statement can be made to clearly identify the allocation of those interests, this will be acceptable as an alternative to the requirements of Direction **22.6 Interest allocations** which requires a listing of all of the interests and appropriate dealing numbers. The statement would take the form of: **“All leases which were in the former <lot-on-plan>, are now fully contained within Lot <number> on this plan. Date .../.../....”**

**Note:** The date is required to ensure that any interest created after the date may need to be examined to ensure a correct allocation to the new lot(s) at the time of registration.

**22.9 Other Dealing allocations:**

There are a number of other types of dealings that are registered as an interest against a title and these dealings will need to be investigated and allocated to the appropriate lots. For example a dealing identifying that section 174 of the *Land Act 1994* applies to the subject land will need to be allocated to the lots that it affects.

<b>Dealing</b>	<b>Lots to be Encumbered</b>
<Dealing No>	3, 7

*Table 22-15: Dealing Allocation*