

ADMINISTRATION OF ENCUMBRANCES – FORMER SEAFORD JOINT VENTURE AREA, FORMER GOLDEN GROVE JOINT VENTURE AREA, FORMER REGENT GARDENS (OAKDEN) JOINT VENTURE AREA.

The Urban Renewal Authority (trading as Renewal SA) and its predecessor organisations has been involved in three residential joint venture developments in which encumbrances guiding the initial development of the areas remain in place.

The intention of the encumbrances attached to the title of the properties in these developments was to 'establish' the character of the area during the life of the Joint Venture. It was never the intention of the Renewal SA to act as the administrator of the encumbrances in perpetuity once the Joint Venture had ended. Renewal SA considers that once a project reaches maturity it is a matter for the Council (through its Development Plan) and the community to determine the nature of development allowed in the area.

Therefore, it is Renewal SA's policy, in relation to all its completed projects where residential encumbrances remain in place, that Renewal SA no longer actively administers the encumbrances. That is, Renewal SA no longer requires approval for any building works nor will Renewal SA take action in relation to breaches of encumbrances. In regard to Renewal SA's right to enforce the covenants of the encumbrances, Renewal SA has the right to waive its requirements in regard to the encumbrances at any time.

As the encumbrances are "common building scheme" encumbrances, under the provisions of each particular encumbrance, any person who is the owner of property within the Development Area specified in the particular encumbrance, is able to take action in their own right if the property owner whose property is subject to the encumbrance, is in breach of any of the substantive covenants of the encumbrance.

Golden Grove

The Golden Grove Joint Venture between the State Government and Delfin Lend Lease ended in August 2003. As part of the 'wind up' of the Joint Venture, the Joint Venturers, in consultation with City of Tea Tree Gully, agreed that the Joint Venture would no longer actively administer the encumbrances.

A letter to this effect dated 14 November 2003, was sent to all land owners in Golden Grove by Delfin, advising them of the position of the Joint Venture on the management of the encumbrances post the completion of the joint venture. At that time the key design requirements controlled by the encumbrances were incorporated into the City of Tea Tree Gully Development Plan.

As such, Renewal SA no longer requires that property owners seek approval under the encumbrances for any building works nor will Renewal SA take action in relation to breaches of the encumbrances.

Conveyancers

Where a property is sold within these development areas, the encumbrance does not need to be lifted and replaced; it can be sold subject to the existing encumbrance.

Should you have any further queries in relation to this matter please contact Renewal SA on 8207 1300.



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people partnerships progress

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