

Guidance Notes

Application for Amendment of a Deposited Community Plan Pursuant to a Development Contract – Staged Development

These Guidance Notes are of a general nature and are not intended to, and cannot, replace the advice of a Legal Practitioner or Registered Conveyancer.

For additional information on the completion of this form and requirements see Land Services SA notes on Community Titles available at www.landservices.com.au/property-professionals/land-division

GENERAL INFORMATION

- * Form AP4 is to be used to amend a deposited Community Plan pursuant to section 58 of the *Community Titles Act 1996* in accordance with a Development Contract.

Note: Where the amendment:

- Involves no change to the extent of the community parcel, Form AP3 must be used.
 - Involves changes to the extent of the community parcel, Form AP5 must be used.
 - Changes only the lot entitlements, Form AP2CP must be used.
- * At the time of lodgement of the AP4 with Land Services SA (LSSA), the State Commission Assessment Panel (SCAP) certificate, must be current.
 - * The AP4 must be assessed for stamp duty prior to being lodged in the LSSA.
 - * If the name of an applicant or consenting party has altered from that shown on the title, an application amending their name should precede the AP4.
 - * A land valuer's certificate, certifying that the schedule of lot entitlements is correct must be lodged with the AP4 (see Community Titles Regulations, Form No.2). The land valuer is to insert the community plan number on the lot entitlement sheet. The lot entitlement sheet is available on LTO Forms.
 - * Each page must be numbered consecutively, e.g. 1 of 10, 2 of 10.
 - * All handwriting must be in permanent, dense, rapid drying black or blue ink.
 - * Each page must be printed double sided, where possible.

EXPLANATION OF FORM

Heading

Insert the amended community plan

- Plan number
- Development number

Land description

Include reference to all titles (e.g. Whole of the land in CT Volume ... Folio....) affected by the amendment this includes titles for the:

- Development Lot being divided
- Land affected by the creation, variation, extinguishment of a right of way or easement
- Land affected by any additional encroachment
- Common Property, if as part of the amendment the Common Property is being extended.

Applicants

Insert the full name and address of the Registered Proprietor of the Development Lot being divided.

If the name of an applicant has altered from that shown on their title, an application amending their name must be lodged prior to the AP4.

Application to Registrar-General

- * In (1) (a) - Insert the number of the development lot being divided and the number of the Development Contract.
- * In (1) (b)
 - Insert the number of the community plan being amended and
 - Cross through the inapplicable and, if required, show the relevant sheet numbers being replaced or added in the format of 3 of 4 or 5 of 10.

Schedule of Mode of Issue

The Mode of Issue is to show the details for all of the new titles to be issued as a result of the amendment. This includes titles issuing for the new lots in the community plan, Common Property, Certificates of Title affected by any additional Encroachment or affected by the creation, variation or extinguishment of an easement and Easement in Gross.

Parcel Identifier/CT reference

Insert the land description for all new titles being issued e.g. 51, Common Property, CT 5678/23.

Full name, address and mode of holding

Show the full name, address and mode of holding (if required) of the proprietor(s) for the titles to be issued

Estates or Interests

State all of the registered interests against the affected parcel after registration of the AP4.

The registered interests must be disclosed accurately and in the required order to indicate if the estate or interest covers all or portion of the land in the resultant parcels.

For example

L 5236421 (shop1 in F226425)
AG 602389 of portion
M 8245226

When no estates or interests exist, insert "Nil".

Note – Easements are not shown in this column

Details of Transaction(s) (Applicant(s) Only)

Set out the actions required to affect the applicant's interest on amendment of the community plan e.g. Granting, extinguishing or variation of an easement.

Consideration/Value to be included for stamp duty purposes

Schedule of Easements created by Amendment of a Deposited Community Plan

- * Service (statutory) easements are not to be included.
- * If only short form easements are to be created delete the long form statement. Similarly, if only long form easements are to be created delete the short form easements. If no easements are to be created strike through both.
- * SHORT FORM – do not express in full, as the easement set out in the accompanying plan(s) will be created on amendment of the deposited community plan.

Note: - A short form easement is one set out with the exact wording as set out in the 5th and 6th schedules of the *Real Property Act 1886* (RPA).

- * LONG FORM – set out the right in full when no short form clause is used on the plan. (The easement note on the plan will indicate the general purpose of the easement.)

Certificate of Consent to the Amendment of a Deposited Community Plan

- * Persons who must consent include:
 - a. Registered proprietor(s) and registered interest(s) of any land outside of the development lot being divided affected by the amendment i.e. Creation, variation, extinguishment of a right of way or easement.
 - b. Registered proprietor(s) of the land affected by a new encroachment as a result of the amendment.

Consenting party

Show consenting party's full name, including if a company their ACN or ABN, and their address.

Nature of estate or interest held

State the nature of the estate or interest held (i.e. Registered proprietor of CT, Mortgagee, party to AG etc)

Statement of Effect on estates or interests of consenting parties

Insert Interest affected (e.g. CT 5678/23, M 34567812, L 6785892, etc.)

Show effect on the interest, if any, e.g. Variation of easement (TG12369872) to the position marked C on CP 29345.

If there is no effect insert NIL. Do not use N/A

Insert consideration/value for stamp duty purposes.

Consent to amendment

In (1), insert the number of the community plan being amended in (a).

Must be dated.

EXECUTION BY APPLICANTS AND CONSENTING PARTIES

If the executing party is a natural person who is signing in his or her own right, he or she must sign his or her usual signature in the place indicated on the form. A different format must be used where a person is not signing in his or her own right (e.g. he or she is signing as attorney for the applicant).

Pursuant to Section 267 of the RPA, the witness must be aged 18 years or over and must know the executing party personally or have satisfied him or herself as to their identity. The witness cannot be a party to the instrument. The witness must sign his or her name and print his or her full name, address and business hours telephone number legibly beneath his or her signature.

Pursuant to Section 268 of the RPA, a witness is guilty of an offence if he or she does not know the person executing the instrument personally and has no reasonable ground on which to be satisfied as to the person's identity, OR knows or has reasonable grounds for suspecting that the person signing the instrument is not a party to the instrument or does not have the authority to sign on behalf of the party.

- *Maximum Penalty - \$5,000 or 1 year imprisonment.*

If the party executing is a body corporate its execution it may execute in any manner permitted by law.

CERTIFICATION

Any inapplicable certification statement(s) must be deleted.

Certification statements must be made by the Certifier, being one of the following:

- a. A legal practitioner
- b. A registered conveyancer
- c. If the applicant is not represented by a legal practitioner or registered conveyancer – the applicant (i.e. self-represented party)
- d. If a party to an instrument is not represented by a legal practitioner or registered conveyancer – that party (i.e. self-represented party)

All 3 certifications shown on the AP4 Form apply where the Certifier is a registered conveyancer or legal practitioner.

The first listed certification does not apply where the Certifier is a self-represented party. Self-represented parties are only required to make certifications relating to retaining evidence to support the registry instrument or document and ensuring the registry instrument or document is correct and compliant with relevant legislation and any prescribed requirement.

Note: - An attorney or a body corporate cannot make certification statements.

The Registrar-General's [Verification of Identity](#) and [Verification of Authority](#) requirements must always be complied with.

Penalties of up to \$10,000 or 2 years imprisonment apply, where a prescribed person provides a false certification under section 273(1) of the *Real Property Act 1886*.

SUPPORTING DOCUMENTATION LODGED WITH APPLICATION

Insert reference to supporting documentation that is required to be lodged with the application e.g. lot entitlement sheet.

ANNEXURE

It will be necessary to use an annexure sheet (Form B1) if there is insufficient space for the text or to complete the remaining executions.

An annexure sheet to an instrument must:

- a. be in the format of Form B1 and identified therein as an annexure to the parent instrument;
- b. be referred to in the body of the instrument where there is insufficient space;
- c. be affixed securely and permanently to the top left-hand corner of the instrument. The annexure and instrument must not be bound;
- d. comply with requirements in Form B1 Guidance Notes.

When an additional or inserted sheet being a certificate, statutory declaration or writing of a similar nature is intended to form part of an instrument ensure:

- a. it is affixed securely and permanently to the top left-hand corner of the instrument; and
- b. the printing or handwriting thereon is clear and legible and in permanent form.

The Registrar-General may refuse to accept for registration any instrument, annexure sheet or additional or inserted sheet that does not comply with the provisions of these standards.

FORM AP4 (Version 2)



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