

Notice

To Lodging Parties

7 October 2005

No 145

IN THIS ISSUE

1. Common Property in Community Plans
 2. Stamping of Substitute Mortgages
 3. Scheme Description Consents
 4. Amending Lot or Unit Entitlements
 5. Part 19AB and Community Titles Act Workshop Notes
-

1. Common Property in Community Plans

After consultation and consensus with industry in 2003, it was decided to simplify the preparation of Community Plans by the removal of identifiers for the common property (e.g. '(C1), (C2)'... etc.). This change was communicated to clients as part of the November 2004 update to the Manual of Survey Practice Volume 1(Plan Presentation Guidelines).

Following this change there have been instances where the By-laws have still referred to the common property as being identified as 'C1' on sheet 1 of the plan and (C1) has been removed from the plan following a requisition to the surveyor. There have also been requests for an exemption of this change when there are numerous common property parcels that the By-laws are to refer to.

In sympathy with these issues it has been decided to make it optional to show the identifiers '(C1), (C2)' etc. for the common property on a Community Plan. Where '(C1)' etc is shown on a Community Plan **all** of the common property parcels must be identified and the following note shown in the annotations column.

e.g. 'THE COMMON PROPERTY IS DESIGNATED (C1) AND (C2) FOR LAND INFORMATION PURPOSES ONLY AND DOES NOT PROVIDE A LEGAL IDENTIFIER FOR THE COMMON PROPERTY'



Note: The first sheet of the Community Plan will be described as 'Location Plan'.

The Manual of Survey Practice Volume 1 (Plan Presentation Guidelines) will be updated in accordance with this notice at a future date.

2. Stamping of Substitute Mortgages

Prior to the introduction of self-assessment by RevenueSA, stamping of substitute mortgages¹ was organised by this office. With the introduction of Revnet and the expansion of the self-assessment process, this office will no longer continue the practice of presenting substitute mortgages to RevenueSA for stamping. As a result, all substitute mortgages must be assessed for stamp duty prior to being lodged in this office.

3. Scheme Description Consents

When amending a Scheme Description pursuant to Section 32 of the *Community Titles Act 1996* (CTA) there is a requirement for me to be satisfied that the parties referred to in that section have consented to the amendment.

Form of Consent

To comply with this requirement the parties referred to in Section 32 are to consent to the amendment on a B1 annexure, which is to be attached to the amended Scheme Description. The B1 Annexure form is to comply with the following:

- Notice to Lodging Parties 134 with the top part of the form showing for example -

Land:	CP 23457
Applicants:	Community Corporation No. 23457 Inc.
Dealing:	Request for Amendment of Scheme Description 10895672
- Consenting parties to show their full name, address and nature of estate or interest held together with a statement "consents to the amendment to Scheme Description 12345678". For example, Joe Bloggs of 23 Goodall Avenue Adelaide 5000 owner of development lot 23, consents to the amendment to Scheme Description 12345678
- Consenting parties are to comply with normal execution and witnessing provisions for Real Property Act documents.

4. Amending Lot or Unit Entitlements

Amending Lot Entitlements

¹ Lodged pursuant to Clause 3(4)(b) of the Schedule to the *Community Titles Act 1996* and Clause 5(4)(b) of Schedule 2 of the *Strata Titles Act 1988*

Where a deposited community plan is being amended pursuant to the lodgement of forms AP3 or AP5 **and** the amendment involves a change to a lot entitlement by more than \pm 10% of the proportion of the aggregate of the lot entitlements for the plan (an affected Lot), the following information is required to be attached to the panel form:

- Evidence of the application being made pursuant to a unanimous resolution of the corporation as required under Section 21(3) of the CTA
- Consents of parties set out in Section 21(4) and (5) of the CTA

Note: There is no provision in the CTA to amend the lot entitlements for the existing lots when amending a deposited community plan pursuant to a Development Contract and the lodgement of Form AP4.

If the only amendment is a change in lot entitlements, form AP2CP must be lodged - see Guidance Notes for AP2CP for requirements

Evidence of Unanimous Resolution

The required evidence is a copy of the minutes showing that the relevant resolution was passed unanimously, certified by an officer² of the corporation.

The Registrar-General's required form of certification to be placed on the copy of the minutes is:

This is the copy of the resolution of the corporation referred to in the application

.....
[Signature of the person certifying]

Consenting Parties

Consents required by Sections 21(4) and (5) are to be on a Form 1 panel form.

The Form 1 is to be completed in the normal manner with the effect on estate or interest column including the words 'Amendment to Lot Entitlement for Lot ...'

Amending Unit Entitlements

Where a deposited strata plan is being amended pursuant to the lodgement of forms AP6 or A7 and the amendment also changes an existing unit entitlement for the plan, the following information is required to be attached to the panel form:

- Evidence of the application being made pursuant to a unanimous resolution of the corporation as required under section 12(2)(a) of the *Strata Titles Act 1988* (STA)
- Consents of parties set out in section 12(2)(b) of the STA

Note: If the only amendment is a change in unit entitlements form AP2SP must be lodged - see Guidance Notes for AP2SP for requirements.

Evidence of Unanimous resolution

² Being the Presiding Officer, Treasurer or Secretary of the Community Corporation, being an owner of a Lot.

The required evidence is a copy of the minutes showing that the relevant resolution was passed unanimously, certified by an officer³ of the corporation.

The Registrar-General's required form of certification to be placed on the copy of the minutes is:

This is the copy of the resolution of the corporation referred to in the Application

.....
[Signature of the person certifying]

Consents

Consents are required from an Encumbrancee (eg. Mortgagee or Lessee) of any unit where there has been a change in the unit's entitlement for an AP6 on a Form 3 or in the Form A7 panel form.

The Forms are to be completed in the normal manner with the effect on estate or interest column including the words 'Amendment to Unit Entitlement for Unit ...'

5. Part 19AB and Community Title Act Workshop Notes

To assist clients in the preparation of division documents, the workshop notes given by the Property Examiners on Part 19AB and the Community Titles Act are available on our Internet site at

<http://www.landservices.sa.gov.au/5Publications/2Publications-Industry-Professional/>.

Original signed

John Zaccaria
DEPUTY REGISTRAR-GENERAL

³ Being the appointed Presiding Officer, Treasurer or Secretary of the Strata Corporation, being an owner of a Unit.