

Application for Community Division

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 notes on Community Titles available at www.sa.gov.au/landservices.

GENERAL INFORMATION

- * Form ACT is to be used for an applicant to apply to the Registrar-General for the deposit of a plan of community division pursuant to the *Community Titles Act 1996*.
- * At the time of lodgement of the ACT in the Lands Titles Office (LTO), the Development Assessment Commission certificate, if applicable, must be current.
- * The ACT must be assessed for stamp duty prior to being lodged in the LTO.
- * A land valuer's certificate, certifying that the schedule of lot entitlements is correct must be lodged with the ACT (see Community Titles Regulations, Form No.2). The land valuer is to insert the community plan number on the lot entitlement sheet.
- * If the name of an applicant or consenting party has altered an application amending their name should precede the ACT, if applicable.
- * 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.

EXPLANATION OF FORM

Heading

Insert the community plan number, if known and the development number.

Type of Scheme

New/Existing -

An existing scheme is a building unit scheme in existence as at 22 February 1968.
All other schemes are new schemes.

Primary/Secondary/Tertiary -

Denotes the level of the community plan lodged

Land description

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

- Land being divided by the community plan
- Land affected by the creation, variation, extinguishment of a right of way or easement
- Land affected by any encroachment.

Applicants

Insert the full name and address of the applicants, being the registered proprietors of the land being divided.

Address of Corporation

Insert the postal address for the site as shown in the DAC certificate.

Application to the Registrar-General

In (3) cross through those documents not accompanying the ACT.

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 community division. This includes titles issuing for lots and Common Property in the community plan, Certificates of Title affected by any Encroachment or affected by the creation, variation or extinguishment of an easement and any Easement(s) in Gross.

Parcel Identifier/CT reference

Insert the land description for all new titles being issued e.g. Lot 1, Common Property CP 23456, 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 deposit of the community plan.

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 there are no estates or interests, insert "Nil".

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

Set out the actions required to affect the applicant's interest on deposit of the community plan, e.g. creation, extinguishment or variation of an easement.

Consideration/Value to be included for stamp duty purposes

Schedule of Easements created by deposit of the accompanying plan of community division

- * 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. In the circumstances where there are no easements to be created, strike through both statements.
- * SHORT FORM – do not express in full, as the easement set out in the accompanying plan(s) will be created on the deposit of the 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 easement 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 for the Deposit of a Plan of Community Division

- * Parties required to consent to the community division include:
 - a. Registered interest(s) of the land being divided.
 - b. Registered proprietor(s) and registered interest(s) for any affected land outside of the community plan e.g. existing easement's position being varied.
 - c. Registered proprietor(s) of the land affected by any encroachment.
- * If a lease is being extended, reference should be made to a parcel defined in a lease plan filed for that purpose, the lease is to be over and separate consents forms will be required from the lessee and lessor.
- * See Notice to Lodging Parties (NTLP) 171 & 179 regarding deregistered encumbrances
- * See NTLP 158, 161 & 179 regarding adjustment of statutory encumbrances

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 by selecting or removing the statement(s) shown or if the statements do not cover the situation insert the applicable wording. Note: If statutory encumbrance (e.g. Land Management Agreement) is adjusted additional certification is required. See NTLP 158.
- * If there is no effect insert NIL. Do not use N/A
- * Insert Consideration/Value for Stamp Duty purposes.

Consent to the deposit

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).

If the executing party is a private person, pursuant to Section 267 of the RPA the witness must be aged 18 years or over and must know the applicant 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 it may execute in any manner permitted by law.

CERTIFICATION

Any inapplicable certification statement(s) must be deleted.

Certification statements must be made by a prescribed person, 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 certifications apply where the Prescribed Person is a registered conveyancer or legal practitioner.

The first listed certification does not apply where the Prescribed Person 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 ACT (Version 1)



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