

Variation of By-Laws

September 2021





About our Land Services Team



John Ikonmopoulos is a Property Examiner within Land Services SA. He has over 24 years of experience in numerous areas of Land Information Services and has worked on various projects. Current areas of focus are examining division applications and studying to become a Registered Conveyancer.

Sandy Beaglehole is a Property Examiner within Land Services SA. She has over 37 years of experience in numerous positions within Land Services SA and has spent the last 7 years as a Property Examiner.



Jaymie Heinrich is a Property Examiner within Land Services SA. She has over 17 years of experience in numerous positions within Land Services SA and has recently commenced in the role as a Property Examiner.



Why are we doing this?

- Assist in educating the industry by providing regular training updates
- Assist in reducing requisitions across your business
- Removing any areas of concern
- Setting your business up for success



Contents

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- ❖ Pre-Lodgement Requirements
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Variation of By-Laws

By-laws are a compulsory document for all new Community Schemes. So why would you be amending the By-laws of an existing scheme?

Amending a Community Plan

Example: The exemptions under section 35(1) of the Community Titles Act no longer apply

Amending a Community Plan that has been converted from a Strata Plan

- Examples:
- Penalties
 - Keeping animals
 - Insurance responsibilities

At the request of the Community Corporation or an Order of Court

- Examples:
- Amend existing rules
 - Introduce new rules

At the point of filing the amended by-laws become active, the prior by-laws are superseded and no longer shown on the title.



Variation of By-Laws

Pre-Lodgement Requirements

Special Resolution

Pursuant to Section 39 of the Community titles Act the By-Laws may be varied by a [special resolution](#)

A special resolution must be passed at a duly convened meeting.

Confirm if a unanimous resolution is required for the change being made

For further information refer to the Community Titles booklet prepared by the legal services commission at the following website:
<https://lsc.sa.gov.au/>

Limited time to lodge

Must lodge with the Registrar-General within **14 days** after the passing of the resolution by the Corporation

Maintain consistency

The varied By Laws of a scheme [must not be inconsistent](#) with any Scheme Description and Development Contract for that scheme.

The varied By Laws of a scheme [must not be inconsistent](#) with any By-Laws, Scheme Description or Development Contract of prior or subsequent schemes



Variation of By-Laws

Lodgement Requirements

1

A completed LF2 document
with the Form 5
certification

2

A complete copy of the
new varied by-laws with
Form 10 certification and
Form 5 certification

3

A copy of the minutes to
the meeting with Form 5
certification or the court
order

4

Registration fee



Form LF2

Heading

Strike through the inapplicable

Instrument Affected

Insert the number of the previous By-laws. If this is a Strata Scheme that has adopted the Community Titles Act (by way of lodging a LR document) then there may be no number as the 'Articles' were the previous 'rules'.

Certification

Form 5 Certification

* Strike through the inapplicable

~~*NOTICE OF AMENDMENT OF SCHEME DESCRIPTION-~~

~~*NOTICE OF VARIATION OF BY-LAWS~~

~~*APPLICATION TO FILE VARIATION OF DEVELOPMENT CONTRACT~~

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

INSTRUMENT AFFECTED

PLAN No.

To the Registrar-General,

I, [insert name and address], being an officer of Community Corporation No [insert number of corporation]

Incorporated certify that—

- (a) the copy of the by-laws attached to this certificate is a true copy of the by-laws as varied by special/unanimous [strike out whichever is not applicable] resolution of the corporation on [insert date of resolution]; and
- (b) the copy of the resolution attached to this certificate is a true copy of the resolution referred to in paragraph (a).

Date:

Signed:



New By-laws

Full set of the By-Laws to be produced with the required amendments

Top left

TERMS OF INSTRUMENT

By-laws

NOT CHECKED BY LAND SERVICES SA

Development No. 123/C001/21

Top right

Note: New (most recent) Development No. if more than one.

COMMUNITY CORPORATION NO. 12345 INC.

By-laws

101 Grenfell Street, Adelaide SA 5001

Certified correctly prepared in accordance with the requirements of the Community Titles Act 1996 by the person who prepared the document/an officer of the community corporation

Date

Name

Address.....

Signature.....

This is the copy of the by-laws referred to in the attached certificate

.....

Signature of officer

Form 10 certification

To be put on front page of new By-Laws

Strike out the inapplicable

Form 5 certification

To be put on front page of new By-Laws



Meeting Minutes

REQUIREMENTS FOR THE MINUTES OF THE MEETING

Certification

Form 5 Certification:
"This is the copy of the resolution of the corporation referred to in the attached certificate."
and signed by the officer certifying the copy

Proceedings of the meeting

Evidence to be provided:

- ✓ That a duly convened meeting has taken place within 14 days prior to the lodgement of the dealing
- ✓ That a Quorum was present at this meeting as per Section 83 of the Community Titles act 1996
- ✓ The voting results of the motion to amend the by laws

Voted changes

Disclosure of all changes:

- Option 1
The minutes of the meeting describe all changes in detail
- Option 2
A complete copy of the amended by-laws that were sighted at the meeting are included as an appendix to the minutes.



Examination by Land Services SA

Although the header states “TERMS OF INSTRUMENT NOT CHECKED BY LAND SERVICES SA” there are some legislative requirements that we ensure have been met.

Checked by LSSA:

- **Registrar-General’s requirements** – Requirements such as headers and a comprehensive index are met.
- **Mandatory matters** – All mandatory matters are addressed, refer to section 34(2) of the Community Titles Act 1996.
- **Exemptions** – Exemptions are only shown if applicable, refer to Section 35 of the Community Titles Act 1996.
- **Restrictions on by-laws** – By-laws are consistent with Section 37 of the Community Titles Act
- **Enforceability** – No mention of additional rules carrying the same enforceability as the by-laws, refer to NTLP 176.
- **Certifications** – The Form 5 and Form 10 certifications are correctly shown.
- **Consistency** – There are no inconsistencies with prior lodged dealings of this scheme and with other tiers.
- **Other areas of concern** – While checking the above requirements, other areas of concern may be noticed



However, LSSA is not responsible for any inaccuracies.



Summary of Key Points

Certifications

Form 5 certification is required to be shown on the Application to the RG, the copy of the new By-Laws and the copy of the Resolution

Form 10 certification is required to be shown on the new by-laws

Complete copy of the By-Laws

A complete copy of the By-Laws is to be attached in the correct format in accordance with the Registrar-General's requirements

14 days to lodge

The variation of By-Laws must be lodged with Land Services SA within 14 days of the resolution being passed

Must remain consistent

The varied By Laws of a scheme must not be inconsistent with any other LFs of this scheme or any subsequent and prior schemes



Evidence of the Special Resolution

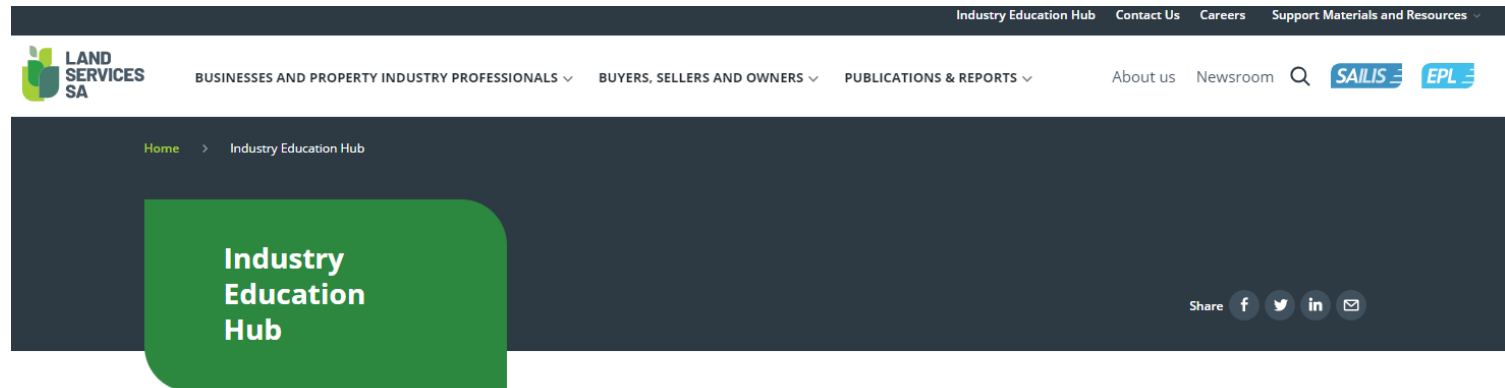
Provide proof of a duly convened meeting, Quorum and voting results

Note: If pursuant to an Order of Court, a copy of the court order is to be attached instead

Evidence of the changes voted on

Either list all changes in full within the minutes or attach a copy of the By-Laws sighted at the meeting

Industry Education Hub



Hot Tip: Keep updated on LSSA's webinars and video's

Industry Education Hub

Land Services SA partner with the SA Government and relevant Industry Bodies to deliver a range of Educational Materials to support property industry professionals.

This webpage is dedicated to the publication of Industry Education Materials to assist conveyancing professionals. The first set of materials consists of a series of short training videos focusing on key requirements of eConveyancing in the lead up to 3 August 2020, the date set for mandating of eConveyancing in South Australia.

These videos have been published by topic to enable practitioners to select and watch videos relevant to them at their convenience.

eConveyancing Series

Training Video	Relevant Support Materials
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An aerial photograph of a suburban neighborhood, showing numerous houses with varying roof colors and styles, interspersed with lush green trees. The entire image is covered with a semi-transparent green overlay. The word "Questions" is written in white, bold, sans-serif font, positioned to the right of a short vertical white line.

Questions

