

Guidance Notes

Application for Amendment to Schedule of Lot Entitlements

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.

GENERAL INFORMATION

- * Form AP2CP is to be used to amend the Schedule of Lot Entitlements for a deposited Community plan:
 - By the Community Corporation pursuant to a unanimous resolution of the Corporation under Section 21 of the *Community Titles Act 1996* (CTA), or
 - In pursuance of an Order of Court under Section 59 of the CTA.
- * Where the application is made pursuant to an Order of Court, a copy of the sealed court order must accompany the application.

Note: As documentation requirements for an amendment pursuant to an order of court are to be determined by viewing the order, the following notes relate to Section 21 applications.

- * A land valuer's certificate, certifying that the schedule of lot entitlements is correct must be lodged with the form AP2CP (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 the Forms and Guidance Notes page.
- * A copy of the unanimous resolution, being a copy of the minutes, certified by an officer of the Community Corporation must be attached to the AP2CP. The form of certification is:

This is a copy of the resolution of the corporation referred to in the attached application.

.....

[Signature of officer of the Community Corporation]

- * If the name of a consenting party has altered, an application amending their name should precede the AP2CP form.
- * All handwriting must be in permanent, dense, rapid drying black or blue ink.
- * Each page must be numbered consecutively, e.g. 1 of 10, 2 of 10.
- * Each page must be printed double sided, where possible.

EXPLANATION OF FORM

Heading

If the application is not being lodged pursuant to an Order of Court strike through Section 59.

Application to Registrar-General

Insert the number of the Community Corporation and postal address of the corporation.

Note: Any change of address for the community site must be authorised by the local government authority by a letter attached to the application signed by an authorised officer of the authority.

- * Retain (1) if the Community Corporation is making the application under section 21 of the CTA.

- * If pursuant to an Order of Court retain (2) and insert the relevant information.
- * In (3) insert the number of the community plan the schedule of lot entitlements relates to.

Execution by Community Corporation

To be dated

Community Corporation to affix their common seal in accordance with Section 73 of the CTA.

The Community Corporation may instruct a practitioner to execute on their behalf under client authorisation. If they do so, the Community Corporation execution panel is to be struck through.

Consent for the Amendment of to the Schedule of Lot Entitlements

- * Consents are required from: -
 - At the time of lodgement of the AP2CP any waiting:
 - Transferee of community lot in the plan.
 - Encumbrancee (e.g. Mortgagee or Lessee) of an affected community lot in the plan.
 - Registered Encumbrance of an affected community lot in the plan – see Note.
 - The owner of a community lot in the plan who at the time of the resolution was passed was not an owner of the lot.

Note: An affected lot is one where the new lot entitlement is greater than $\pm 10\%$ of the proportion of the aggregate of the lot entitlements for the plan.

- * Where the corporation making the application is a primary or secondary corporation with a lot in the related plan divided by a secondary or tertiary plan respectively, see section 21(5) of the CTA for required consents.

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, etc)

Consent to amendment

Insert the number of the community plan the substituted schedule of lot entitlements is to be annexed to.

Must be dated.

Execution by consenting party

If the consenting party executing 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 consenting party).

Pursuant to Section 267 of the *Real Property Act 1886* (RPA), the witness must be aged 18 years or over and must know the applicant personally or have satisfied him or herself as to the identity of the applicant. 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.

Consenting parties may instruct a practitioner to execute on their behalf under client authorisation. Where consent forms exist for both execution by the consenting party and under client authorisation only the relevant consent form is required.

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

All certifications apply where the Certifier is a registered conveyancer or legal practitioner.

The second listed certification as regards Client Authorisation does not apply where the application is executed by the applicant.

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, copy of unanimous resolution

ANNEXURE

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

An annexure sheet to an instrument shall:

- a. be in the format of Form B1 and identified therein as an annexure to the parent instrument;
- b. be referred to in 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 the 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 of a 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 AP2CP (Version 3)



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