

Guidance Notes

Application for Amendment of a Deposited Strata Plan

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 AP6 is to be used to amend a deposited Strata Plan by the addition of portion of an allotment within the strata site or removal of land from the strata site pursuant to section 12(8) of the *Strata Titles Act 1988* (STA) and Part 19AB of the *Real Property Act 1886* (RPA).

Note: Where the amendment:

- a. Involves no changes to the extent of the strata site or the addition of the whole of an Allotment, Form A7 must be used.
 - b. Changes only unit entitlements, Form AP2SP must be used.
- * Any amendment to the deposited Strata Plan is to be made pursuant to a unanimous resolution of the Strata Corporation.
 - * Where the amendment involves land being removed or portion of an allotment being added a plan of division (DP) and the amended Strata Plan must be lodged.
 - * At the time of lodgement of the AP6 with Land Services SA (LSSA) the State Commission Assessment Panel (SCAP) certificate(s), if applicable, must be current. Separate SCAP certificates are required for the amended strata plan and for any DP.
 - * The AP6 must be assessed for stamp duty prior to being lodged in the LSSA.
 - * If the name of an applicant or consenting party has altered an application amending their name should precede the AP6, if applicable.
 - * A land valuer's certificate, certifying that the schedule of unit entitlements is correct must be lodged with the AP6. The land valuer is to insert the strata plan number on the unit entitlement sheet. Refer to Notice to Lodging Parties no.158 for the prescribed form of the certificate. The unit entitlement sheet is available on the Forms and Guidance Notes page.
 - * If there is no change to the unit entitlements a certification to that affect is required from a land valuer. See Notice to Lodging Parties No.158 for form of certification.
 - * Where the unit entitlements for a strata plan have changed a copy of the unanimous resolution, being a copy of the minutes, certified by an officer of the Strata Corporation is to be attached to the AP6. 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 Strata Corporation]"

- * 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 strata plan and, if applicable, DP:

- 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 parcels in the strata plan affected by the amendment and the land in the accompanying DP, if applicable. (if portion of certificate of title describe precisely eg; Unit 1 in SP 5000 being portion of the land in CT Vol 5000 Folio 2)
- Land affected by the creation, variation, extinguishment of a right of way or easement.
- Land affected by any additional encroachments.

Applicant(s)

Insert the full name and address of the:

- Strata Corporation
- Registered proprietor(s) of adjoining land for the land being added or removed from the strata site.

If the name of the registered proprietor for the land being added or removed has altered, an application amending their name should be lodged prior to the AP6, if applicable.

Any change of address of the Corporation must be authorised by the local council either by inclusion in the SCAP certificate or by letter attached to the AP6 signed by an authorised officer of the council.

Application to Registrar-General

In (1):

- * Insert the number of the strata plan being amended.
- * 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.

If the Unit entitlements are not being changed, strike through (2).

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 affected units in the strata plan, Common Property, Allotments in the DP, Public Roads, Reserves, 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. Unit 2, Common Property, CT 5678/23, Allotment 2

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

Easements and Estates or Interests

State all of the registered interests against the affected parcel after registration of the AP6.

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 strata plan and, if applicable, deposit of the DP 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 the Plan of Strata Division and the Deposit of the Plan of 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. If no easements 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 the deposit of the DP and amendment of the deposited strata 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 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 Strata Plan

Persons who must consent include:

- a. Registered interest(s) of the units affected by the amendment and the land in the DP.
 - b. Registered proprietor(s) and registered interest(s) for any affected land outside of the strata site and the DP e.g. Existing easement's position being varied.
 - c. Registered proprietor(s) of the land affected by a new encroachment as a result of the amendment.
 - d. Registered proprietor(s) and registered interest(s) of any existing unit where their unit entitlement has changed.
 - e. Registered Proprietor of a unit for the land being added to or removed from.
- * If a lease is being extended, this should be defined precisely, the lease is to be over and separate consents forms will be required from the lessee and lessor.

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 striking through the statement(s) shown or if the statements do not cover the situation insert the applicable wording e.g. Amendment to unit entitlement for unit 23. 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 amendment

In (1):

- * Insert the number of the strata plan being amended in (a).
- * If there is no change to the unit entitlements cross through (b).

Must be dated.

EXECUTION BY APPLICANTS AND CONSENTING PARTIES

Strata Corporation to affix their common seal.

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 it may execute in any manner permitted by law.

Applicants and consenting parties may instruct a practitioner to execute on their behalf under client authorisation. If they do so, the applicant execution panel is to be struck through. 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
- 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 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.

The first two listed certifications do 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. unit entitlement sheet, copy of unanimous resolution

ANNEXURE

It will be necessary to use an annexure sheet (Form B1) if there is insufficient space 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 AP6 (Version 3)