

Guidance Notes

Application for Amalgamation of Community Plans

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

- * SM2 is to be used for two or more Community Corporations to apply to the Registrar-General for the amalgamation of their community plans and for the deposit of the accompanying plan of amalgamation pursuant to section 60 of the *Community Titles Act 1996* (CTA).
- * In the case of amalgamation of:
 - a. **primary plans** – the plans must be contiguous.
 - b. **secondary plans** – the secondary plans must form part of the same primary plan.
 - c. **tertiary plans** – the tertiary plans must form part of the same secondary plan.

NOTE – Community strata plans can only be amalgamated with another community strata plan but must also comply with the above requirements.

- * At the time of lodgement of the SM2 with Land Services SA (LSSA), the State Commission Assessment Panel (SCAP) certificate, if applicable, must be current.
- * The document must be assessed for stamp duty prior to being lodged in LSSA.

A land valuer's certificate, certifying that the schedule of lot entitlements is correct must be lodged with the SM2 (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 schedule is available on the Forms and Guidance Notes page.

- * If the name of a consenting party has altered, an application amending their name should be lodged prior to the SM2.
- * 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

Insert the number of the amalgamated community plans.

Land Description

Include the title references (e.g. Whole of the land in CT Volume..... Folio...) for the:

- Lots and common property of the community plans being amalgamated.
- Servient land for an existing easement where, as part of the amalgamation, the easement's appurtenance is being extended (Section 62 of the CTA).

Address of Corporation

Insert postal address for the new corporation. If this address disagrees with that given for one of the previous corporations, the change of address for the site must be authorised by the local government authority. This can be by letter attached signed by an authorised officer of the authority.

Applicants

Insert full names and address of corporations applying for the amalgamation of the schemes

Request by Applicant(s)

Insert the number of the community plans being amalgamated.

Schedule of Mode of Issue

Insert the relevant details for all of the new titles being issued as a consequence of the amalgamation.

Lot No./CT reference

Insert the land description for all new titles being issued. If the land is:

- a. A parcel in the plan of amalgamation, refer to only the Lot number or Common Property.
- b. Outside of the plan, show the land's title reference or land description.

Full name, address and mode holding

Show the full name, address and mode of holding (if required) of the proprietor(s) for the titles to be issued.

Note: With amalgamation the CTA does not provide for any variation to an existing mode of holding.

Estates or Interests

State all of the registered interests against the affected parcel after registration of the SM2.

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.

Execution by Community Corporations

Is to be dated and the execution by Corporations must conform to the prescribed formalities for affixing of the common seal (Section 73 of the CTA).

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

Consent to the Amalgamation of Community Plans
Consents are required from all persons set out in sections 61 and 62 of the CTA.

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 C.T...., Mortgagee 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, if any, e.g. Variation of easement (TG 9632145) to be appurtenant to the whole of the common property.

If there is no effect insert NIL. Do not use N/A.

Insert Consideration/Value for Stamp Duty purposes.

Consent to amalgamation

Insert the numbers of the community plans being amalgamated

Must be dated.

Execution by consenting party

If the consenting 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 consenting party.)

Pursuant to Section 267 of the *Real Property Act 1886* (RPA), the witness to consenting party's execution must be an adult (aged 18 years or over) who knows the consenting party personally or has satisfied him or herself as to the identity of the consenting party. The witness cannot be a party to the instrument. The witness must sign his or her name and print his or her full print, address and business hours telephone number legibly beneath their 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 consenting party is a body corporate, its execution must conform to any prescribed formalities.

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*.

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 shall:

- 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.

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 SM2 (Version 3)