

# Part 40 – Surrender of High-Density Development Easement

LAND TITLE PRACTICE MANUAL

Updated: 21 June 2021



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# Part 40 – Surrender of High-Density Development Easement<sup>1,2</sup>

## [40-0000] General Law

A high-density development easement is wholly extinguished by the registration of a surrender of that high-density development easement. As the high-density development easement benefits and burdens both lots, the registered owners of both affected lots must execute a surrender of the high-density development easement. The owner of one of the affected lots cannot, alone, effect the surrender of a high-density development easement.

## [40-1000] Legislation

### Reference to the registrar of titles in the *Land Title Act 1994*

Refer to [0-8100].

## [40-2000] Practice

### [40-2000] Surrender of High-density Development Easement

The owners of both of the affected lots must together execute the Form 40 – Surrender of High-density Development Easement.

The consent, in Form 18 – General Consent, of any registered mortgagees of the affected lots must also be lodged. Further, the consent of any lessee that receives a benefit from the high-density development easement is also required (s. 90(3) and (4) of the *Land Title Act 1994*).

A high-density development easement may not be partially surrendered.

Lodgement fees are payable and a duty notation is required

## [40-4000] Forms

### [40-4000] General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms, esp. [59-2000].

Dealing Number

Duty Imprint



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**1. Dealing number of High-density Development being surrendered**

712345678

**Lodger** (Name, address, E-mail & phone number)

BROWN & CO.  
34 QUEEN STREET  
BRISBANE QLD 4000  
info@browns.com.au  
(07) 3224 5398

**Lodger Code**  
(if any)  
123

**2. Lot on Plan Descriptions of Affected Land**

LOT 3 ON SP123456

**Title Reference**

15432099

LOT 6 ON SP134567

16253266

**3. Registered Owners**

DAVID JOHN TYSON

MICHAEL WAYNE SMITH

**4. Surrender/Execution**

**\* Surrender**

The registered owners surrender the High-density Development Easement in item 1 so that the High-density Development Easement is extinguished.

**Witnessing officer must be aware of his/her obligations under section 162 of the *Land Title Act 1994***

..... signature

..... full name

..... qualification

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /  
**Execution Date**

.....  
**Registered Owner's Signature**

..... signature

..... full name

..... qualification

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /  
**Execution Date**

.....  
**Registered Owner's Signature**

## Guide to Completion of Form 40

### [40-4010] Item 1

Insert the dealing number of the high-density development easement being surrendered (e.g. 701233245).

### [40-4020] Item 2

Insert the lot on plan descriptions of the affected land. The Title reference for the lots must also be inserted.

### [40-4030] Item 3

Insert the full names of the registered owners of the affected land. If the registered owners of both lots affected by the high-density development easement are the same, the names of the registered owner/s must be inserted twice. If the registered owner is a tenant in common, all tenants in common must join in the one surrender and not surrender the high-density development easement individually.

### [40-4040] Item 4

All registered owners of the lots the subject of the high-density development easement being surrendered must execute as required. Separate executions are required for each registered owner, even if they are the same for of both lots.

See also Part 61 – Witnessing and Execution of Instruments or Documents, esp. [61-3000] *ff*.

## [40-7000] Case Law

Nil.

## [40-8000] Fees

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see [60 8000].

## [40-9000] Cross References and Further Reading

Part 39 – High-Density Development Easement

Part 61 – Witnessing and Execution of Instruments or Documents *ff*

### [40-9050] Notes in text

Note <sup>1</sup> – This part does not apply to water allocations.

Note <sup>2</sup> – This part does not apply to State land.