

Guidance Notes

Application for Community Division

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

Section 223J of the Real Property Act 1886 (RPA) allows the Registrar-General to reconcile boundaries as shown on titles with the boundaries of the land occupied. There are, however, limits on its use. This is because the provisions of Part 19AB of the RPA specifically deal with the re-arrangement of boundaries. Section 223J should, therefore, only be applied when it is inappropriate to use Part 19AB.

Part 19AB has a wide ambit. This means that the scope for section 223J is quite narrow. It should be limited to minor changes to boundaries.

Initial enquires regarding applications under section 223J are to be directed to Plans Client Advice Officer (ph 08 8423 5000). Preliminary approval must be obtained before proceeding with the application.

GENERAL GUIDELINES

An application must be made to the Registrar-General for the amendment of the relevant certificates of title.

The application must be accompanied by, if not already lodged, a fully certified survey plan defining the boundaries to be reconciled.

Any amendment under s 223J is to:

- * Be within a specified distance unless otherwise approved by the Registrar- General
 - metropolitan¹ areas 200 millimetres or less
 - non-metropolitan² in the form of a ratio of >1:500
- * Accommodate substantial occupation that a reasonable person would take to be the boundary of the title
- * Accommodate long standing occupation (minimum of 30 years) unless the circumstances of a particular case warrant a lesser period and
- * Should not involve easements, unless accompanied by an application to vary the easement

APPLICATION

A combined application and declaration is to be made³, to the Registrar-General on Form B2 with a prefix of RT.

The application:

- * Will be numbered on lodgement to enable tracking of the application through the Lands Titles Office
- * Certifications in relation to verification of identity, client authorisation, retention of evidence and correct and compliant do not apply.
- * Must be submitted to RevenueSA prior to lodgement. Where consideration has been paid the amount must be reflected in the declaration.
- * Does not require registration or new title fees

¹ 'Metropolitan' is defined as a parcel of land that is situated amongst others of similar size within a closely settled area.

² 'Non-metropolitan' is rural land that does not involve a parcel of land less than 0.50ha in size.

³ Annexures A, B, C, and D are the suggested wording for applications and consents for lodgement with the Lands Titles Office

The combined application and declaration are to be dated and signed by the registered proprietors of the land affected and be witnessed by a person authorised by law to take such declaration. The witness need not include details required by section 267 of the RPA.

Parties who have or claim an estate or interest in the land must consent either within the application, or on an Annexure Form B1 to be attached to the application. The signatures of consenting parties need not be witnessed.

Each application is considered carefully and must satisfy the guidelines as provided above. It is important that the 223J provision is only utilized when it is appropriate and is not an avenue to avoid the planning processes and division under Part 19AB.

PLAN

Either a Filed Plan (F) or a Division Plan (D) can be used for amendments under section 223J, however a Division Plan can only be used when the plan also involves the division of land. The requirements for the applicable plan are set out in the Plan Presentation Guidelines and can be lodged with the appropriate fees.



Land Services SA *ACN 618 229 815*

PHONE 1800 648 176 or 8423 5000 FAX 8423 5090 EMAIL communications@landservices.com.au

VISIT Level 9, 101 Grenfell Street, Adelaide SA 5000 POST GPO Box 543, Adelaide SA 5001

landservices.com.au

APPLICATION FOR RECTIFICATION OF BOUNDARIES

(Pursuant to section 223J of the Real Property Act 1886) To the Registrar-General

We AB of [insert address] and CD of [insert address] being the registered proprietors of an estate in fee simple in the whole of the land comprised in Certificates of Title Register Book

Volume Folio and
Volume Folio

respectively apply for the correction (or amendment) of the common boundary between the land comprised in the said certificates of title from the position delineated thereon to the position indicated on F (a copy of which is attached hereto).

In support of the above application we do solemnly and sincerely declare:

1. That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.
2. That no monies are to change hands for the purposes of this reconciliation. (or) The amount of(words and figures) was paid by AB to CD for the purposes of this reconciliation [The applicable wording to be shown]

And we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Dated the day of 20
 Declared and subscribed)
 at by the said)
 AB this day of)
 20)

before me:)

 JP, Commissioner (etc.)

Declared and subscribed)
 at by the said)
 CD this day of)
 20)

before me:)

 JP, Commissioner (etc.)



APPLICATION FOR RECTIFICATION OF BOUNDARIES

(Pursuant to section 223J of the Real Property Act 1886) To the Registrar-General

We AB of [insert address] and CD Pty. Ltd. (ACN 123 456 789) of [insert address] being the registered proprietors of an estate in fee simple in the whole of the land comprised in Certificates of Title Register Book

Volume Folio and
Volume Folio

respectively apply for the correction (or amendment) of the common boundary between the land comprised in the said certificates of title from the position delineated thereon to the position indicated on F (a copy of which is attached hereto).

Dated the day of 20

Signed by AB in)
the presence of)

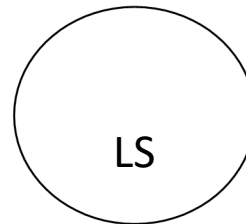
.....

.....

The common seal of CD Pty. Ltd.)
was hereto affixed in the)
presence of)

.....
Director

.....
Secretary



In support of the attached application dated [insert date] for rectification of boundaries I AB do solemnly and sincerely declare:

- 1. That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.



- That no monies are to change hands for the purposes of this reconciliation.(or) The amount of(words and figures) was paid by me to CD Pty. Ltd. for the purposes of this reconciliation [The applicable wording to be shown]

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Dated the _____ day of _____ 20

Declared and subscribed)
 at _____ by the said)
 AB this _____ day of)
 _____ 20)
 before me: _____)

.....
 JP, Commissioner (etc.)

In support of the attached application dated [insert date] for rectification of boundaries I XY of [insert address] do solemnly and sincerely declare:

- That I am the Director of CD Pty. Ltd. and I am authorised to make this declaration on its behalf.
- That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.
- That no monies are to change hands for the purposes of this reconciliation. (or) The amount of(words and figures) was paid by AB to CD Pty. Ltd. for the purposes of this reconciliation [The applicable wording to be shown]

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Dated the _____ day of _____ 20

Declared and subscribed)
 at _____ by the said)
 XY this _____ day of)
 _____ 20)
 before me: _____)

.....
 JP, Commissioner (etc.)



APPLICATION FOR RECTIFICATION OF BOUNDARIES

(Pursuant to section 223J of the Real Property Act 1886)

(Where South Australian Housing Trust is the registered Proprietor of both Certificates of Title)

To the Registrar-General

South Australian Housing Trust of [insert address] being the registered proprietor of an estate in fee simple in the whole of the land comprised in Certificates of Title Register Book

Volume Folio and
Volume Folio

apply for the correction (or amendment) of the common boundary between the land comprised in the said certificates of title from the position delineated thereon to the position indicated on F (a copy of which is attached hereto).

In support of the above application I AB of [insert address] conveyancer for the South Australian Housing Trust do solemnly and sincerely declare:

That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Dated the day of 20

Declared and subscribed)

at by the said)

AB this day of)

20)

before me:)

.....

JP, Commissioner (etc.)



CONSENT TO RECTIFICATION OF BOUNDARIES

I, EF of [insert address] the mortgagee under Memorandum of Mortgage No. [insert number] registered over the whole of the land comprised in Certificate of Title Register Book Volume Folio consent to the above (or, attached) application for rectification of boundaries dated [insert date].

DATED the day of 20

[Consenting party to execute in normal manner.]

I, GH of [insert address] the encumbrancee under Memorandum of Encumbrance No. [insert number] registered over the whole of the land comprised in Certificate of Title Register Book Volume Folio consent to the above (or, attached) application for rectification of boundaries dated [insert date].

DATED the day of 20

[Consenting party to execute in normal manner.]

I, EF of [insert address] the lessee under Memorandum of Lease No. [insert number] registered over the whole of the land comprised in Certificate of Title Register Book Volume Folio consent to the above (or, attached) application for rectification of boundaries dated [insert date].

DATED the day of 20

[Consenting party to execute in normal manner.]

I, GH of [insert address] as the caveator named in Caveat No. [insert number] registered over the whole of the land comprised in Certificate of Title Register Book Volume Folio consent to the above (or, attached) application for rectification of boundaries dated [insert date].

DATED the day of 20

[Consenting party to execute in normal manner.]

EXAMPLE OF APPLICATION BY PRIVATE INDIVIDUALS (FORM B2)

APPLICATION FOR RECTIFICATION OF BOUNDARIES
(Pursuant to section 223J of the Real Property Act 1886)

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.

To the Registrar-General

We ANNE KENYAN of 176 Barge Street Goolwa SA 5214 and ENID MARY SIMS of 176 Barge Street Goolwa SA 5214 being the registered proprietors of an estate in fee simple in the whole of the land comprised in Certificates of Title Register Book

Volume 6012 Folio 35 and
Volume 6012 Folio 36

respectively apply for the correction (or amendment) of the common boundary between the land comprised in the said certificates of title from the position delineated thereon to the position indicated on F601234 (a copy of which is attached hereto).

In support of the above application we do solemnly and sincerely declare:

1. That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.
2. That no monies are to change hands for the purposes of this reconciliation. **(or)** The amount of(words and figures) was paid by Anne Kenyan to Enid Mary Sims for the purposes of this reconciliation [**The applicable wording to be shown**]

And we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Dated the 15 day of October 2015

Declared and subscribed)
at Adelaide by the said)
ANNE KENYAN this) *A Kenyan*
15 day of October 2015)

before me:)

NE Sims
.....
JP

Declared and Subscribed)
at Adelaide by the said)
ENID MARY SIMS this) *EM Sims*
15 day of October 2015)

before me:

NE Sims
.....
JP



EXAMPLE OF AN APPLICATION BY A PRIVATE INDIVIDUAL AND A CORPORATION (FORM B2)

APPLICATION FOR RECTIFICATION OF BOUNDARIES

(Pursuant to section 223J of the Real Property Act 1886)

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.

To the Registrar-General

We ELAINE HAND of GPO Box 23 Adelaide SA 5001 and DOLLAR MORTGAGE PTY. LTD. (ACN

231 475 234) of 157 Third Avenue Klemzig SA 5087 being the registered proprietors of an estate in fee simple in the whole of the land comprised in Certificates of Title Register Book

Volume 6056 Folio 79 and

Volume 6103 Folio 36

respectively apply for the correction (or amendment) of the common boundary between the land comprised in the said certificates of title from the position delineated thereon to the position indicated on F 684567 (a copy of which is attached hereto).

Dated the 12 day of November 2015

Signed by ELAINE HAND in)
the presence of)

E Hand

.....

A Smith

.....

The common seal of DOLLAR MORTGAGE PTY. LTD)
was hereto affixed in the)
presence of)

BTs

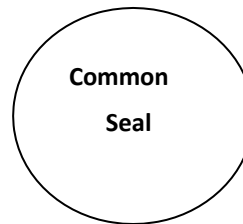
.....

Director

ATs

.....

Secretary



In support of the attached application dated 12 November 2015 for rectification of boundaries I ELAINE HAND do solemnly and sincerely declare:

That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.

That no monies are to change hands for the purposes of this reconciliation. (or) The amount of(words and figures) was paid by me to Dollar Mortgage Pty. Ltd. for the purposes of this reconciliation [The applicable wording to be shown]

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Declared and subscribed)
at Adelaide by the said)
ELAINE HAND this) *E Hand*
12 day of November 2015)
before me:)

A Smith
.....

JP

In support of the attached application dated 12 November 2013 for rectification of boundaries I BRIAN RITTS of 157 Third Avenue Klemzig SA 5087 do solemnly and sincerely declare:

3. That I am the Director of Dollar Mortgage Pty. Ltd. and I am authorised to make this declaration on its behalf.
4. That the correction (or amendment) is for the purpose of reconciling the boundaries shown in the said certificates of title with the boundaries of the land actually occupied.
5. That no monies are to change hands for the purposes of this reconciliation. (or) The amount of (words and figures) was paid by Elaine Hand to Dollar Mortgage Pty. Ltd. for the purposes of this reconciliation [The applicable wording to be shown]

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1936

Dated the 12 day of November 2015

Declared and subscribed)
at Adelaide by the said)
BRIAN RITTS this) *B Ritts*
12 day of November 2015)
before me:)

A Smith
.....

JP

EXAMPLE OF CONSENT BY A CORPORATION

FORM B1 (Version 1)

Attach to inside left hand corner

GUIDANCE NOTES AVAILABLE

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.

To be completed by lodging party	Office Use Only
ANNEXURE to RT dated 15.10.2015	NUMBER
over Certificate of Title Volume:6012 Folio:35 & 36	

Land: The whole of the land in CT Volume 6012 Folios 35 and
36 Parties: Alison Kenyan and Eddie Sims
Dealing: Rectification of boundaries

CONSENT TO RECTIFICATION OF BOUNDARIES

MONEY FUNDS PTY. LTD. (ACN 041 023 035) of 23 King Street North Adelaide SA 5006 the mortgagee under Memorandum of Mortgage No. 10234567 registered over the whole of the land comprised in Certificate of Title Register Book Volume 6012 Folio 35 consent to the attached application for rectification of boundaries dated 15 October 2015.

DATED the 15 day of October 2015

EXECUTED by

MONEY FUNDS PTY. LTD.

by the authority of the director

Y Zenith

.....

Sole Director/Secretary



EXAMPLE OF CONSENT BY A PRIVATE INDIVIDUAL

FORM B1 (Version 1)

Attach to inside left hand corner

GUIDANCE NOTES AVAILABLE

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.

To be completed by lodging party	Office Use Only
ANNEXURE to RT dated 15.10.2015	NUMBER
over Certificate of Title Volume: 6012 Folio:35 and 36	

Land: The whole of the land in CT Volume 6012 Folios 35 and
36 Parties: Alison Kenyan and Eddie Sims
Dealing: Rectification of boundaries

CONSENT TO RECTIFICATION OF BOUNDARIES

JOHN GRAEME CAIRNE of PO Box 56 Port Adelaide SA 5010 the Lessee under Memorandum of Lease No. 8234567 registered over the whole of the land comprised in Certificate of Title Register Book Volume 6012 Folio 36 consent to the attached application for rectification of boundaries dated 15 October 2015.

DATED the 15 day of October 2015

J G Cairne



Land Services SA [ACN 618 229 815](http://www.landservices.com.au)

PHONE 1800 648 176 or 8423 5000 FAX 8423 5090 EMAIL communications@landservices.com.au

VISIT Level 9, 101 Grenfell Street, Adelaide SA 5000 POST GPO Box 543, Adelaide SA 5001

landservices.com.au