

Application for the Variation of Order of Priority

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.

All panels must be completed or struck through. If insufficient space, use approved annexure sheets. If more than one page is used, each must be numbered consecutively, e.g. 1-10, 2-10; 1/10, 2/10 or 1 of 10, 2 of 10.

All handwriting must be clear and legible in permanent, dense, rapid drying black or blue ink.

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 LTO panel form standards.

MORTGAGE OR ENCUMBRANCE LOSING PRIORITY

Mortgage/Encumbrance losing priority to be stated. Refer by number or full description (e.g. "Mortgage dated from A to B lodged contemporaneously herewith").

LAND DESCRIPTION

All affected CERTIFICATE(S) OF TITLE (CT) and/or CROWN LEASE(S) (CL) must be stated.

e.g. "Whole of the land in CT Volume _____ Folio _____"
or "Whole of the land in CL Volume _____ Folio _____".

MORTGAGOR/ENCUMBRANCER

Full name(s) and current address(es) to be stated. If the mortgagor's/encumbrancer's name has altered an Application to Note Change/Correction of Name must be lodged prior to the application.

APPLICANT - MORTGAGEE/ENCUMBRANCEE

The full name(s) and current address(es) of all mortgagee(s)/encumbrancee(s), for all instruments gaining or losing priority, must be stated. If the names have altered an Application to Note Change/Correction of Name must be lodged prior to the application.

Do not include those mortgagees/encumbrancees of mortgage(s)/encumbrance(s) who are not losing or gaining priority.

CONSENT - MORTGAGOR/ENCUMBRANCER

Consents, other than those by common seal, must be witnessed, but do not need to comply with Section 267 of the *Real Property Act 1886*.

CONSENT OF PARTIES HOLDING INTERVENING INTERESTS

The consent of the holder of any intervening interest (e.g. a Lease) is required.

Consents, other than those by common seal, must be witnessed, but do not need to comply with Section 267 of the *Real Property Act 1886*.

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)
- e. If a provision of the *Real Property Act 1886* requires or permits some other person to provide certification under section 273 – that person (e.g. an employee of a body corporate that is a mortgagee)

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

The first two listed certifications do not apply where the Prescribed Person is the mortgagee (or an employee of a body corporate that is a mortgagee).

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*.

ANNEXURE

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

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 appropriate panel in the body of the instrument;
- 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.

FORM A5 (Version 3)



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