Part 34 – Extinguishment of Building Management Statements

Table of Contents

General Law ............................................................................................................................................... [34-0000]
Practice .................................................................................................................................................. [34-2000]
Forms
   General Guide to Completion of Forms........................................................................................ [34-4000]
   Guide to Completion of Form 34
      Item 1 ........................................................................................................................................... [34-4010]
      Item 2 ........................................................................................................................................... [34-4020]
      Item 3 ........................................................................................................................................... [34-4030]
      Item 4 ........................................................................................................................................... [34-4040]
Case Law ............................................................................................................................................. [34-7000]
Fees ....................................................................................................................................................... [34-8000]
Cross References and Further Reading ............................................................................................... [34-9000]
   Notes in text ................................................................................................................................... [34-9050]
Part 34 – Extinguishment of Building Management Statements

General Law

A building management statement (BMS) may be extinguished or partially extinguished by registering an extinguishment. Extinguishment or partial extinguishment only occurs on registration of an extinguishment that is signed by every registered owner or lessee under the Land Act 1994 of all of the lots to which the BMS applies.

A BMS is not automatically extinguished if one person becomes the owner of all the freehold lots or the lessee of all the lots under the Land Act 1994 to which it applies.

Practice

An extinguishment or partial extinguishment of a BMS is prepared in a Form 34 – Extinguishment of Building Management Statement.

A BMS may be partially extinguished to remove a lot that is not contained in, or does not contain, a building or part of a building.

For a full or partial extinguishment, the registered owner(s) of all the freehold lots or lessee(s) of all the lots under the Land Act 1994 to which the BMS applies must execute the BMS. However, where lots affected by the BMS form part of a community titles scheme the extinguishment may be signed by the body corporate. A certified copy of the resolution agreeing to the extinguishment of the BMS is to be deposited with the extinguishment.

For a full extinguishment of a BMS, the consents of all registered mortgagees to which the BMS applies are required (s. 54H(4)(b) of the Land Title Act or s. 294I(4)(b) of the Land Act). For a partial extinguishment, only the consents of registered mortgagees of lots to be removed from the BMS are required (s. 54H(4)(a) of the Land Title Act or s. 294I(4)(a) of the Land Act).

A BMS is not extinguished automatically if all of the lots come into common ownership. If all lots do come into common ownership and the owner(s) or lessees(s) under the Land Act intend to extinguish the BMS, an extinguishment must be lodged and registered.

Forms

General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms.
1. Dealing number of instrument/document being extinguished

723568901

2. Lot on Plan Description of affected land

<table>
<thead>
<tr>
<th>Title Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>LOT 143 ON SP900567</td>
</tr>
<tr>
<td>LOT 144 ON SP900567</td>
</tr>
</tbody>
</table>

3. Registered Owners/State Lessees
HIGHRISE DEVELOPMENT PTY LTD ACN 124 123 457

4. Execution

The Registered Owners/State Lessees identified in item 3 agree to the extinguishment of the building management statement in item 1.

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

<table>
<thead>
<tr>
<th>Signature</th>
<th>Full Name</th>
<th>Qualification</th>
</tr>
</thead>
<tbody>
<tr>
<td>W Smith, Director</td>
<td>WILLIAM THOMAS SMITH</td>
<td></td>
</tr>
<tr>
<td>P Jones, Secretary</td>
<td>PAUL JOHN JONES</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Signature</th>
<th>Full Name</th>
<th>Qualification</th>
</tr>
</thead>
</table>

Witnessing Officer
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)
Guide to Completion of Form 34

Item 1
Insert the dealing number of the BMS to be extinguished.

Item 2
Insert the ‘Lot on Plan’ descriptions of all lots comprised in the BMS with a parcel reference to identify each with one or more of the registered owners or lessee(s) under the Land Act 1994 in Item 3.

Item 3
Insert the full name(s) of all registered owner(s) or lessee(s) under the Land Act 1994 and refer to the lots in Item 2 by parcel number.

Item 4
Execute as required.

Case Law
Nil.

Fees
Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current:

- \(^2\)Land Title Regulation; and
- \(^3\)Land Regulation.

Cross References and Further Reading
Part 20 – Schedule, Enlarged Panel, Additional Page or Standard Terms Document
Part 32 – Building Management Statements

Notes in text
Note \(^1\) – This part does not apply to water allocations.
Note \(^2\) – This numbered section, paragraph or statement does not apply to State land.
Note \(^3\) – This numbered section, paragraph or statement does not apply to freehold land.