

# **<sup>1</sup>Part 37 – Surrender of Carbon Abatement Interest**

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# <sup>1</sup>Part 37 – Surrender of Carbon Abatement Interest

## General Law

[37-0000]

Section 97U of the *Land Title Act 1994* and section 373Y of the *Land Act 1994* provide that the registrar may register a surrender of carbon abatement interest on lodgement of an instrument or document which surrenders the interest. On registration of the surrender the interest is surrendered to the extent shown in the instrument or document.

## Legislation

[37-1000]

The functions of the Chief Executive under the *Land Act 1994* relating to the keeping of registers are carried out by the Registrar of Titles under delegation made under s. 393 of that Act.

## Practice

### Surrender of Carbon Abatement Interest

[37-2000]

A carbon abatement interest may be surrendered by registering a Form 37 – Surrender of Carbon Abatement Interest. The interest may be partially surrendered to the extent shown in the form or fully surrendered.

A surrender of a carbon abatement interest is executed by the grantor and grantee and lodged in a Form 37 – Surrender of Carbon Abatement Interest.

If the carbon abatement is to be only partly surrendered, the surrendered portion must be capable of precise definition. If the surrendered portion is not capable of precise definition, the area to be surrendered, or the area to remain subject to the carbon abatement interest, must be defined by a plan of survey drawn in accordance with direction 6 of the Registrar of Titles Directions for the Preparation of Plans. Alternatively the carbon abatement interest should be fully surrendered and a new carbon abatement interest created.

The consent of the relevant Minister on Form 18—General Consent is required to be deposited if the area to be surrendered is:

- (a) land within a State forest, timber reserve or forest entitlement area—the Minister administering the *Forestry Act 1959*; or
- (b) freehold land held as a deed of grant in trust, land subject to a lease or land subject to a licence or a reserve—the Minister administering the *Land Act 1994*.

Alternatively, if the State is a party to the Form 37 (i.e. a grantor) and executes the Form 37 as a grantor, the consent on a Form 18 is not required.

**Note:** When a carbon abatement interest, granted over a term lease over a State Forest, is being either fully or partially surrendered, two Form 37s are required to be lodged with one Form 37 dealing with the surrender from the State lease title and the other Form 37 dealing with the surrender from the State forest title.

**Note:** If the title subject to the carbon abatement interest is also subject to an administrative advice, Notice of Carbon Farming Initiative Project under the *Carbon Credits (Carbon Farming Initiative) Act 2011* (Cth), and the carbon abatement interest is being fully surrendered from the

subject title, a Form 14—General Request to remove the administrative advice should also be lodged with the Form 37—Surrender of Carbon Abatement Interest.

Lodgement fees are payable and a duty notation is required.

## Forms

### General Guide to Completion of Forms

[37-4000]

For general requirements for completion of forms see part 59 – Forms.

Dealing Number

Duty Imprint



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**1. Dealing number of Carbon Abatement Interest being surrendered**

723651098

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

TOWN & CO.  
SOLICITORS  
45 ADELAIDE STREET  
BRISBANE QLD 4000  
mail@town&.com.au  
(07) 3227 9850

**Lodger Code**  
490

**2. Lot on Plan Description**

LOT 37 ON RP857601

**Title Reference**

13894001

**3. Grantor**

KRISTINA MARIA JOHNSON

**4. Grantee**

IVAN GEORGE JOHNSON

**5. Surrender/Execution**

**Surrender of Carbon Abatement Interest**

\***Full Surrender** The Carbon Abatement Interest in item 1 is surrendered from 19/12/2012.

\***Partial Surrender** The Carbon Abatement Interest in item 1 is surrendered from \_\_\_\_/\_\_\_\_/\_\_\_\_

\*so far as relates to the land in item 2.

\*so far as relates to part of the Carbon Abatement Interest area identified on/as \_\_\_\_.

\* delete if not applicable

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

.....signature

.....full name

.....qualification

\_\_\_\_/\_\_\_\_/\_\_\_\_  
**Execution Date**

.....  
**Grantee's Signature**

**Witnessing Officer**

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

.....signature

.....full name

.....qualification

\_\_\_\_/\_\_\_\_/\_\_\_\_  
**Execution Date**

.....  
**Grantor's Signature**

**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 37

### Item 1

[37-4010]

Insert the dealing number of the carbon abatement interest to be surrendered.

### Item 2

[37-4020]

The description of the lot should be 'Lot [number] on [Plan reference]'. The 'Title Reference' for each lot must also be completed.

### Item 3

[37-4030]

Insert the full name of the grantor.

### Item 4

[37-4040]

Insert the full name of the grantee.

### Item 5

[37-4050]

At Item 5, there are paragraphs applicable to a full and to a partial surrender. When completing the Form, the paragraph not applicable to the situation is to be ruled through.

The grantor and the grantee must execute the form.

## Case Law

[37-7000]

Nil.

## Fees

[37-8000]

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

- <sup>2</sup>Land Title Regulation; and
- <sup>3</sup>Land Regulation.

## Cross References and Further Reading

[37-9000]

Part 59 – Forms

### Notes in text

[37-9050]

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

Note <sup>2</sup> – This numbered section, paragraph or statement does not apply to freehold land.

Note <sup>3</sup> – This numbered section, paragraph or statement does not apply to State land.