Part 40 – Surrender of High-Density Development Easement

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Part 40 – Surrender of High-Density Development Easement

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.

Practice

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 Certificates of Title for both of the affected lots (if issued) must be deposited for cancellation.

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). Where a mortgagee has ‘consented’ to the surrender by lodging the duplicate Certificate of Title for cancellation, the Form 18 – General Consent is not required.

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

Lodgement fees are payable and a duty notation is required

Forms

General Guide to Completion of Forms

For general requirements for completion of forms see part 59 – Forms, esp ¶[59-2000].
# Surrender of High-density Development Easement

**FORM 40 Version 1**  
**Page 1 of 1**

**Surrender of High-density Development Easement**

**Dealing Number**  
OFFICE USE ONLY

1. **Dealing number of High-density Development Easement being surrendered**  
   712345678

2. **Lot on Plan Descriptions of Affected Land**  
   LOT 3 ON SP123456  
   County: STANLEY  
   Parish: CHUWAR  
   Title Reference: 15432099
   LOT 6 ON SP134587  
   County: STANLEY  
   Parish: CHUWAR  
   Title Reference: 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

   / / …………………………………………………………………………………………..Execution Date  
   Registered Owner’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  
   Registered Owner’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 40

Item 1

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

Item 2

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

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.

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 60 – Miscellaneous, esp ¶[60-0900] ff.

Case Law

Nil.

Fees

Fees payable to the titles registry are subject to an annual review. See the current:

• Land Title Regulation 2005 – Schedule 2, item numbers 2(h) and 2(m);

Cross References and Further Reading

Part 39 – High-Density Development Easement

Part 60 – Miscellaneous, ¶[60-0900] ff
Notes in text

[40-9050]

Note ¹ – This part does not apply to water allocations.

Note ² – This part does not apply to State land.