



STRATA TITLES

explained

CONVERTING TO SURVEY-STRATA
Conversion Option 3



Government of
Western Australia

CONVERTING TO SURVEY-STRATA

Conversion from Strata Scheme to Survey-Strata Scheme by Resolution

If your scheme is a single tier strata scheme which was created before the 1st of January 1998, you can take advantage of the option to change your strata scheme to a survey-strata scheme at any time. For schemes registered after this date, conversion is not an option.

In a strata scheme only the buildings are shown on the strata plan. In a survey-strata scheme no buildings are shown on the plan and all of the land boundaries are fully surveyed.

Some other features of a survey-strata scheme are:

- All buildings situated on a lot in a survey-strata scheme are part of that lot, so the problems of common property in buildings are removed.
- There are fewer restrictions on carrying out building alterations in a survey-strata scheme.
- The strata company is only required to take out joint insurance of any common property in a survey-strata scheme; and
- The unit entitlement is calculated differently to strata schemes, which may affect your rights and responsibilities in the scheme.

Before You Start

Before you commence the process of converting to a survey-strata scheme, you should consider the following:

- You will need to obtain a copy of your strata plan from Landgate or your local conveyancer.
- You will need to make enquiries with your Local City Council to see if the lots created will comply with your Local Councils 'Residential Design Codes of Western Australia Requirements', or 'R' Codes.
- Are any of the other conversion options in the Landgate 'Strata Titles Explained' booklet more suitable for your scheme? If so, obtain the relevant kit.
- Make sure that you will be able to legally continue to use the driveway and any other areas which are currently used by all of the unit owners.

- You may need to make by-laws to ensure the colour, appearance of the buildings or any other features of the scheme are maintained.
- Will the new boundaries be where you want them to be?
- Are you satisfied with any changes in unit entitlement, and how they will affect your rights and responsibilities in the scheme?

Steps Required to Convert a Strata Scheme to a Survey-Strata Scheme by Resolution

Step 1. Agree to the Ownership Changes

Call a meeting of the unit owners to decide which of the ownership options you wish to take advantage of and to authorise any expenditure required. This will include employing a licensed Valuer and licensed Surveyor.

Step 2. Obtain a Survey-Strata Plan and Surveyor's Certificate

You must employ a licensed Surveyor to prepare and certify a survey-strata plan. Make sure all unit owners approve of the details when it is completed.

Step 3. Obtain a Valuer's Certificate

Strata and survey-strata plans show the relative proportion of each owner's share in the common property (called unit entitlement). Unit entitlement is set by a licensed Valuer and is based on the relative unimproved value of the land in a survey-strata scheme. This differs from strata schemes, where the unit entitlement is based on the value of the land and buildings in the scheme.

Unit entitlement determines your rights and responsibilities in the scheme (e.g. contributions to levies and voting rights).

This conversion option may have the effect of changing the unit entitlement of the owners, which will affect your rights and responsibilities (e.g. higher or lower contributions to levies).

For this reason, a licensed Valuer must certify what the unit entitlements will be after the change of ownership happens.

Note: This may be arranged by your Surveyor

Step 4. Pass a Unanimous Resolution

You must pass a unanimous resolution (i.e. all unit owners must agree).

Failure to properly pass a unanimous resolution will mean that the changes made to your strata scheme may have no legal standing if challenged in future, so it is very important that this process is followed.

Unanimous Resolution Procedure

- A meeting of the strata company must be called and at least 14 days written notice must be given to all unit owners and / or any mortgagee who has given written notice of its mortgage to the strata company. The notice must state the time, date and place of the meeting, what the resolution will be and should include a copy of the new survey-strata plan.
- Pass a resolution to convert the strata scheme to a survey-strata scheme.
- The wording of the resolution must be the same as the wording set out in Form 37. You will need to fill in some details, suggestions are provided on the example copy of the form.
- To hold the meeting and vote on a unanimous resolution, all unit owners (or their proxies) must attend the meeting and vote in favour of the change. If a mortgagee of any unit has given written notice of its mortgage to the strata company, the mortgagee is required vote to instead of the owner of that unit.
- Passing of the resolution should be recorded in the minutes of the meeting.
- If any owner votes against the resolution, application cannot be made to the State Administrative Tribunal to obtain an order that the resolution was in fact passed.
- Before voting, consider the points raised under 'Before You Start' on page 1.

Step 5. Complete a Notice of Resolution of Conversion to a Survey-Strata Scheme (Form 37)

You must complete and sign a 'Notice of Resolution of Conversion to a Survey-Strata Scheme' document (Form 37) using the example copy as a guide. The details to be filled in on the form must be the same as the terms of the resolution passed by the owners.

Step 6. Prepare a 'Disposition on Merger of Land or Conversion to a Survey-Strata Scheme' (Form 39)

You must complete and sign a 'Disposition on Merger of Land or Conversion to a Survey-Strata Scheme' document (Form 39) using the example copy as a guide. This document has the following purposes.

- a) It transfers common property to individual ownership.
- b) It allows individual encumbrances, such as mortgages, to cover the land owned by the individual owner after the change of ownership has happened.
- c) You can show if one owner is paying money to another owner for a bigger share of the common property than previously held. If this happens, stamp duty will be payable and the Disposition document must be submitted to the Office of State Revenue for assessment and notation of payment of stamp duty before it can be lodged at Landgate.

Step 7. Obtain Consent from Your Bank or Other Persons

Any bank, mortgagee or other person having a registered interest (called encumbrance) against any unit in your scheme must give their written consent to the new unit entitlement schedule. This consent can be given either by signing the Form 39 or by a separate letter, which must be lodged at Landgate.

You should also get their consent if any easements are being created on the survey-strata plan.

Under the terms of your mortgage or any other encumbrance, you may be obliged to obtain the consent of your bank or other person before converting to a survey-strata scheme. This is not required to be lodged at Landgate.

Where to Get the Documents

The forms are available from Landgate at 1 Midland Square, Midland or the State Law Publisher at

10 William Street, Perth and at the Landgate Website www.landgate.wa.gov.au.

Where to Lodge the Documents

The documents can be lodged with Landgate at:

- 1 Midland Square, Midland
- Perth Branch Office, Ground Floor, Mt Newman House, 200 St Georges Tce, Perth
- Bunbury Regional Office, 61 Victoria Street, Bunbury

Office hours for lodgement are 8.00am to 4.30pm

Form 37
NOTICE OF RESOLUTION
OF CONVERSION TO A SURVEY-STRATA SCHEME

Strata Titles Act 1985
Section 31D

The Owners of;

303 & 305 Aberdeen Street, Northbridge

Name of building or scheme as shown on the strata plan.

Strata Plan No. 12345 hereby certify that on the 23/09/2006,

Date of Resolution.

the following resolution was passed as a unanimous resolution —

1. That the strata scheme be converted to a survey-strata scheme, as depicted on the survey-strata plan tabled for the purposes of this resolution.

Resolution No. 1 converts the strata scheme to a survey - strata scheme.

The owners acknowledge —

- (a) that the unit entitlement for a survey-strata scheme is determined on site value; and
- (b) that they are aware that this is different from the capital value, which is the basis on which the unit entitlement is determined for a strata scheme.

The owners acknowledge that the effect of the conversion is to change the basis on which unit entitlement is set.

That it consents to the schedule of unit entitlement for the scheme as set out in the schedule tabled for the purposes of this resolution.

*2. That an easement or easements relating to —

- * (a) Vehicle Access Easement
- * (b) Intrusion Easement
- * (c) Light and Air Easement
- * (d) Party Wall Easement
- * (e) Pedestrian Access Easement

Resolution No. 2 allows you to create certain easements on the plan. Your surveyor will be able to advise which, if any, are appropriate to your scheme.

Delete all or any, as the case may be.

(in terms of section 31G of the Act) be created, as depicted on the sketch plan tabled for the purposes of this resolution.

*3. The *height and/or depth of survey-strata lot(s)
is or are limited to

Resolution No. 3 allows you to limit the height and depth of the lots, if required, such as to protect a view.

Delete if it does not apply.

The survey-strata plan tabled for the purposes of these resolutions is to accompany this Notice of Resolution.

Details of the relevant rating authorities to be notified by the Registrar of Titles are as follows —

Local Government

Name ... CITY OF PERTH.....
 Address 141 St Georges Terrace, Perth, WA 6000.....

 Facsimile No. ... (08) 9265 3483.....

Water Authority

Name ... WATER CORPORATION (NORTH).....
 Address ... 629 Newcastle Street, Northbridge, WA 6007.....

 Facsimile No. ... (08) 9300 7293.....

Sewerage Authority

Name ... WATER CORPORATION.....
 Address ... AS ABOVE.....

 Facsimile No.

You must complete this section so that Landgate can notify other government authorities of the changes.

Note:
 In country areas, the Water Corporation may not be the water or sewerage authority.

The Common Seal of the Owners of,

.....
 Strata Plan No. was affixed hereto on the,
 in the presence of —

Can be signed by two council members with the common seal of the strata company;

Or

All of the lot owners in a two to five lot scheme.

.....

 Members of Council

OR **

Full name of proprietor ... JANET JANE JONES.....	Full name of proprietor ... JOHN JAMES SMITH.....
Signed . <i>Janet Jones</i> . . .	Signed . . . <i>J Smith</i>
Full name of proprietor	Full name of proprietor
Signed	Signed

* Delete whichever is inapplicable.
 ** This form may be signed by the strata company or all of the registered proprietors in a 2 to 5 lot scheme.

Form 39

DISPOSITION ON MERGER OF LAND OR CONVERSION TO A SURVEY-STRATA SCHEME

Strata Titles Act 1985

Sections 21V, 31H and Regulation 21A(1)(b)

We, the proprietors, persons having registered interests in and caveators of the land the subject of —

- ~~*(a) a Notice of Resolution of Merger of Land dated~~; or
- *(b) a Notice of Resolution of Conversion to a Survey-Strata Scheme dated ...23/09/2006... in respect of Strata Plan No ...12345... hereby confirm and consent to —
- (c) the disposition of the lots created by the Notice of Resolution together with the registered interests and caveats (if any) as set out in the tables below;
- (d) the disposition of registered interests and caveats (if any) against the common property (if any) as set out in the tables below; and
- (e) the proposed aggregate unit entitlement and the proposed allocation of unit entitlement set out in the certificate of licensed valuer dated ...23/09/2006...

Delete *(a)

Date of Resolution

Date of Valuer's certificate

Show who owns each lot number and list any encumbrances affecting the lot. State the type of encumbrance, Eg, Mortgage and the Landgate registration number of the encumbrance. Make sure the lot numbers, the names of the owners and any encumbrances are the same as on each owner's certificate of title.

(A) LOTS		
LOT NO.	FULL NAME IN WHICH LOT IS TO VEST	ENCUMBRANCES (Document & Number)
1	JANET ANNE JONES	
2	JOHN SMITH	Mortgage J123456

*Delete whichever is inapplicable.

(B) COMMON PROPERTY	
CP LOT NO. (if applicable)	ENCUMBRANCES (Document and Number)
	NIL

Show any Encumbrances over common property as shown on the Strata plan.

We, the proprietors of the lots the subject of the Notice of Resolution of *Merger of Land/Conversion to a Survey-Strata Scheme in respect of this Strata Plan hereby certify that —

- ~~*(a) there is no consideration, other than an interest in common property, for the passing of property under this statement or any thing referred to in item 2(18) or 7(13) in the Third Schedule to the Stamp Act 1921; or~~
- *(b) in addition to the passing of property under this statement, there is the additional consideration set out in the table below.

Delete whichever of (a) or (b) does not apply. Para (a) will not apply where no money or other property passes between the owners in exchange for ownership of property. If you delete (a), you must complete the table below and present this form to the Office of State Revenue for assessment of stamp duty.

CONSIDERATION paid or given or to be paid or given		
By whom	To whom	Consideration
N/A		

Complete this panel if some consideration is being paid

*Delete whichever is inapplicable.

CONSENT BY PERSONS HAVING REGISTERED INTERESTS AND CAVEATORS (IF ANY) (as required by sections 21T(1)(e) or 31E(1)(e) of the Act)

ENCUMBRANCE... Mortgage.....

Document No.J123456.....

Peter Chan, duly appointed

SIGNATURE..... *P Chan*.....
in the presence of

attorney of Trust Bank LTD
ACN 012 345 678 under

Witness..... *A Milne*.....

Power of Attorney J000111

NameAmy Milne.....

Address ... 103A High Street, Fremantle

Occupation ...Bank Officer.....

Encumbrancers such as your bank (if you have a mortgage) must consent here.

(Step 7)

(ADDITIONAL CONSENTS AS REQUIRED)

DATED THIS 27th DAY OF March 2006

Ensure the document is dated.

The Common Seal of the Owners of;

.....
Strata Plan No. was affixed hereto on the,
in the presence of —

Members of Council

SIGNATURE OF PROPRIETOR

SIGNATURE OF PROPRIETOR

..... *J. A. Jones*

..... *J Smith*

In the presence of

in the presence of

Witness..... *B Black*.....

Witness..... *B Black*.....

Name.....Brian Black.....

Name.....Brian Black.....

Address...69 Main Street, Highgate.....

Address...69 Main Street, Highgate.....

Occupation ...Public Servant.....

Occupation ...Public Servant.....

To be signed by: two council members with the common seal of the strata company AND the owners of any lot the boundaries of which are being changed;

Or;

All owners in a 2 to 5 lot scheme.

- TO BE SIGNED BY:
- STRATA COMPANY AND PROPRIETOR OF EACH AFFECTED LOT; OR
 - ALL PROPRIETORS IN A 2 TO 5 LOT SCHEME.

WHERE A PROPRIETOR SIGNS, THE SIGNATURE IS TO BE WITNESSED.