



STRATA TITLES

explained

OWNERSHIP OF LAND
Conversion Option 2



Government of
Western Australia

OWNERSHIP OF LAND

Conversion of Ownership of Land from Common Property to Individual Ownership 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 ownership of the land shown on your strata plan from common property to individual ownership.

Where there are between two to five units in a single tier strata scheme registered before the 20th July 1997; or six months after the registration of a strata plan (registered between 20th January 1997 and 31st December 1997) then the land shown on the plan will have automatically converted to individual ownership; unless any owner made an objection to Landgate.

This option may be used even if an owner had previously objected to the automatic conversion of the land; if the prior circumstances that stopped the conversion have changed.

Before You Start

Before you commence this process, you should consider the following points:

- Obtain a copy of your strata plan from Landgate or your local conveyancer.
- Do you want to also convert buildings shown on your strata plan from common property to individual property? (Conversion option 1); or convert to a survey-strata scheme? (Conversion option 3)
- 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 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 Common Property Land to Individual Ownership by Resolution

Step 1. Agree to the Ownership Changes

Have 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 may include employing a licensed Valuer and licensed Surveyor.

Step 2. Obtain a Sketch and Surveyor's Certificate

In most cases, if you wish to change the ownership of land and/or add buildings to your strata plan, a sketch must be prepared and certified by a licensed Surveyor.

When no Surveyor's Certificate is Required

If you only wish to change the ownership of land i.e. not add buildings to your strata plan, you can do so in some cases without the need for a Surveyor's Certificate or sketch; although a Valuers Certificate is still required. This is done by describing in words the change of ownership in your resolution. According to definition, a 'resolution' is your formal expression of intention. It is made after voting by your strata company/or all the lot owners in a two to five lot scheme. The resolution should make reference to a diagram to aid clarity.

For example, in a duplex where both units are joined and the boundary between them is a straight centre wall, you may be able to state in your resolution: 'The boundary between the part lots external to the buildings shown on the strata plan now being the centre line of the wall between lots one and two as shown on strata plan No., produced to the front and rear boundaries of the property. See attached diagram'.

A diagram should be prepared by drawing a black line on a photo copy of the location plan of the strata plan. The diagram should show the lot numbers on each individually owned piece of land. The diagram should be signed by two strata council members with the seal of the strata company, or be initialled by all owners in a two to five lot scheme.

The same wording that you use in your resolution must also be shown at 1(c)(ii) in Form 32 and you must delete 1(c)(i) in the Form 32. An example of this form and the required deletions is shown on page 9 of this guide.

The general guidelines to changing boundaries without a Surveyors Certificate are:

- Land boundaries can only be defined by:
 - a) Describing straight lines between points on the buildings and/or parcel boundaries shown on the location plan of the strata plan.

and/or

- b) Describing lines produced from a point on a building and/or parcel boundary shown on the location plan of the strata plan e.g. a line produced along the centre line of a wall separating lots.
- Distances and areas cannot be stated
 - Broken lines shown on strata plans are unsurveyed and cannot be used to align boundary changes.
 - New boundary lines must be drafted in black pen, to a quality acceptable to the Registrar of Titles.
 - No Vehicle Access Easement can be created under section 21W of the *Strata Titles Act* (for motor vehicle access, parking or turning).

If you think your situation fits in these guidelines, you should then consult the survey Advice Officer at LANDGATE to confirm your non-requirement of a Survey Certificate before you do anything else.

Step 3. Obtain a Valuer's Certificate

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 value of the land and buildings in the scheme.

Unit entitlement determines your rights and responsibilities within 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 Resolution Without Dissent

Failure to properly pass a resolution without dissent will mean that the changes to your scheme may have no legal standing if challenged in the future, so it is very important that this process is followed.

Where there are only two units in your scheme, you must pass a unanimous resolution; i.e. both of you must agree.

Resolution Without Dissent 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 any relevant sketches and the Valuer's Certificate.
- Pass a resolution to change the ownership of land from common property to individual ownership.
- The wording of the resolution must be the same as the wording set out in Form 32. 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 the resolution, the owners (or their proxies) of at least half of the units (who have at least half the unit entitlements) must be at the meeting. If a mortgagee of any of the units has given written notice of their mortgage to the strata company the mortgagee has the right to vote instead of the owner of that unit. In a two unit scheme the mortgagee is required to vote if they have given written notice of their interest in the lot to the strata company.
- The resolution without dissent is passed if no owner votes against it:
 - a) At the meeting; or
 - b) by writing to the strata company (or other owners if there are two to five units in your scheme) within 28 days after the meeting.
- This means you can't sign or lodge your documents at Landgate until after this period has passed unless all unit owners voted in favour of the resolution at the meeting.
- If there are only two units in your scheme, all owners must vote in favour of the resolution.
- Passing of the resolution should be recorded in the minutes of the meeting.
- If any owner votes against the resolution, an application may 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 Merger of Land (Form 32)

You must complete and sign a 'Notice of Resolution of Merger of Land' document (Form 32) 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;

1. It transfers common property to individual ownership.
2. It allows individual encumbrances, such as mortgages, to cover the land owned by the individual owner after the change of ownership has happened.
3. 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 an interest registered (called encumbrances) against any unit of which the proportionate or pro rata unit entitlement will decrease after the change of ownership happens, must give their written consent to that decrease. 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 easement is being created on the sketch.

Under the terms of your mortgage or any other encumbrance, you may be obliged to obtain the consent of the bank or other person before making the ownership changes to your property. This consent 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 on the Landgate website at www.landgate.wa.gov.au.

Where to Lodge the Documents

The documents can be lodged with Landgate at:

- 1 Midland Square, Midland
- Perth Business 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 32
NOTICE OF RESOLUTION OF MERGER OF LAND
Strata Titles Act 1985
Section 21S

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

The Owners of,
.....303 & 305 Aberdeen Street, Northbridge.....

Date of Resolution.

Strata Plan No. ... 12345... hereby certify that on the ...28/09/2006..., the following resolution was passed as a ~~*resolution without dissent~~/unanimous resolution (in the case of a two-lot scheme) —

Resolution No. 1 allows you to;
(a) show additions to existing buildings shown on your strata plan;
(b) add new buildings to your strata plan
(c) change land from common property to individual property
-Delete whichever of (a), (b) or (c) does not apply.
-If (c) applies, delete (i) or (ii).

1. That the strata plan be amended as follows —

~~** (a) to show an extension or alteration to an existing building shown on the strata plan, as depicted on the sketch plan tabled for the purposes of this resolution;~~

~~** (b) to include a building on the strata plan, as depicted on the sketch plan tabled for the purposes of this resolution; or~~

** (c) to merge land that is common property into a lot or lots on the strata plan —

* (i) as depicted on the sketch plan tabled for the purposes of this resolution; or

* (ii) by

**2. That the horizontal boundaries of the land in the lots on the strata plan are —

~~** (a) the existing horizontal boundaries shown on the strata plan; or~~

* (b) ... 5 ... metres above and ... 10 ... metres below ... the upper surface of the lowest ground floor in the building shown on the plan as forming part of the lot, or if there is no building shown on the plan on that lot, in the building on the lowest lot number shown on the plan...

Resolution No. 2 must only be completed if you have passed resolution No. 1(c).
This resolution requires that you set the height and depth of the cubic air and soil space of the lots. Delete whichever of (a) and (b) does not apply.

~~**3. That an easement or easements relating to motor vehicle access, parking or turning (in terms of section 21W of the Strata Titles Act 1985) be created, as depicted on the sketch plan tabled for the purposes of this resolution.~~

Delete this if no Vehicle Access Easements are being created.

~~**4. 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.~~

Delete this if there is no change to the schedule of unit entitlement, as certified by the valuer.

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

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 ...27th September 2006, or~~

~~*(b) a Notice of Resolution of Conversion to a Survey Strata Scheme dated~~

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 ... 27th September 2006.....

(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

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.~~

Date of Resolution.

Delete (b).

Date of Valuer's certificate

Show who owns each lot number and list any encumbrances affecting that 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.

Show any encumbrances over common property as shown on the strata plan.

Delete whichever of (a) or (b) does not apply. Para (a) will apply where no money or other 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 such as money is being paid for splitting up the common property.

*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*..... attorney of Trust Bank LTD
in the presence of 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 —

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 two to five lot scheme.

Members of Council

SIGNATURE OF PROPRIETOR

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

In the presence of

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

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

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

Occupation ...Public Servant.....

SIGNATURE OF PROPRIETOR

.....*J Smith*.....

In the presence of

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

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

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

Occupation ...Public Servant.....

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.