Ownership of land

Strata Title explained - Conversion option 2
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 buildings shown on the plan will have automatically converted to individual ownership; unless any owner made an objection to Landgate.

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
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.
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.
Step 8. Lodge the Documents at Landgate

To enable the changes to be properly recorded on your strata plan, you must lodge at Landgate:

- Notice or Resolution Document (Form 32) (step 5).
- Disposition on Merger of Land (Form 39) (step 6).
- Any separate letters of consent (step 7).
- Sketch (step 2).
- Valuer’s Certificate and if required, Surveyors Certificate (steps 2&3).

You do not have to produce your Certificate of Title to Landgate to record the change, however there are registration fees payable when lodging the documents.

Where to get Help

The Land Registration Centre within Western Australian Land Information Authority (Landgate) at 1 Midland Square, Morrison Road, Midland, is available to provide advice and guidance on strata titles matters by phone or personal attendance.

This help is available 8am – 5pm Monday to Friday.

The telephone numbers are:
Strata Advice Line  +61 (0)8 9273 7373
Fax  +61 (0)8 9273 7651
Email  lrc@landgate.wa.gov.au

No assistance is available at the Landgate Perth Branch Office.

Non-Government Assistance

Assistance is also available from industry professionals such as licensed Surveyors, Settlement Agents, Solicitors, licensed Valuers and Strata Managers.
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

Office hours for lodgement are 8.30am to 4.30pm.
Form 32
NOTICE OF RESOLUTION OF MERGER OF LAND
Strata Titles Act 1985
Section 21S

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

Strata Plan No. ...12345... hereby certify that on the ...28/09/2006... the following resolution was passed as a resolution without dissent:

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).

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.

Delete this if no Vehicle Access Easements are being created.

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

The Common Seal of the Owners of;
Strata Plan No. was affixed hereto on the, in the presence of —

<table>
<thead>
<tr>
<th>Members of Council</th>
<th>OR **</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full name of proprietor</td>
<td>Full name of proprietor</td>
</tr>
<tr>
<td>... JANET JANE JONES ...</td>
<td>... JOHN JAMES SMITH ...</td>
</tr>
<tr>
<td>Signed ... Janet Jones ...</td>
<td>Signed ... J Smith ...</td>
</tr>
<tr>
<td>Full name of proprietor</td>
<td>Full name of proprietor</td>
</tr>
<tr>
<td>... ... ... ... ... ...</td>
<td>... ... ... ... ... ...</td>
</tr>
<tr>
<td>Signed ... ... ... ... ... ...</td>
<td>Signed ... ... ... ... ... ...</td>
</tr>
</tbody>
</table>

*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.**

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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.

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.
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 *(a) 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 anything 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

<table>
<thead>
<tr>
<th>By whom</th>
<th>To whom</th>
<th>Consideration</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*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
SIGNATURE... P Chan...
Witness... A Milne...
Name... Amy Milne...
Address... 103A High Street, Fremantle
Occupation... Bank Officer

Peter Chan, duly appointed
attorney of Trust Bank LTD
ACN 012 345 678 under

(ADDITIONAL CONSENTS AS REQUIRED)

DATED THIS 27th DAY OF March 2006

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
J A. Jones
Signature of Proprietor
J Smith

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.

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

(Step 7)

Ensure the document is dated.

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.