

STP-03 Common Property

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1 Common Property (formerly section 1.2.3 of the Practice Manual)

All strata schemes and many survey-strata schemes contain common property. Where Strata Plans have incorporated all ground surface of the parcel as part of the lots and attempted to eliminate common property, the defined cubic space above or below a floor level, the subsoil, and air space comprise the common property.

2 Leasing of Contiguous Land (formerly section 18.9 of the Practice Manual)

In order to increase common property, a strata company may take a lease of land contiguous to the parcel, provided the land is not subject to a mortgage, charge or another encumbrance. To accept the lease, the strata company must pass a resolution without dissent (or a unanimous resolution in a two-lot scheme). The leasehold interest becomes common property during the term of the lease and the strata company becomes responsible for payment of the lease and the compliance with the lease conditions.

If the lease is registered, the Registrar of Titles will place a notation on the Strata/Survey-Strata Plan to the effect that the leasehold land is part of common property for the term of the lease.

A strata company can, pursuant to a resolution without dissent (or in the case of a two lot scheme, by unanimous resolution), in agreement with the lessor, surrender a lease. When the surrender is registered, notice of the surrender will be endorsed on the Strata/Survey-Strata Plan.

3 Lease of Common Property within a Scheme (formerly section 18.10 of the Practice Manual)

A strata company may grant a lease of common property (section 19(2) of the STA). A lease for a period greater than three years must be registered on the strata/survey-strata plan.

On registration, such a lease must:

- show the strata company as lessor
- be accompanied by a Form 14 under the ST GR;
- be accompanied by the consent of the local government

and

- where the term (including extensions) exceeds the relevant period set out in regulation 38 of the ST GR, be endorsed with the consent of the Western Australian Planning Commission before it is executed (see section 136 of the P & D Act).