STR-01 Strata/Survey-Strata Plans

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1 General

The Strata Titles Act 1966 was enacted to provide for the registration of title to individual units in a multi-storey building. It was subsequently amended to include duplex or other horizontal development. The Strata Titles Act 1985 (STA) repealed the 1966 Act but made provision for the continuance of strata schemes created by the earlier Act. The STA was substantially amended by the Strata Titles Amendment Act 1995, which came into operation on the 14 April 1996.

The STA, as amended, contains a number of provisions, some of which are:

- disposition statements to facilitate strata/survey-strata plan registration and re-subdivision
- the addition, variation or removal of restrictions as to the use of a strata lot
- the re-subdivision of strata lots and/or common property
- the consolidation of two or more strata lots
- the variation of unit entitlement
- the registration of an order by the State Administrative Tribunal
- the enlargement of the common property
- the reduction of the common property and
- management statements.

These matters are dealt with particularly in subsequent paragraphs. Some of the words and phrases used in this chapter require definition, and these are:

parcel – means the whole of the land comprised in a strata / survey-strata plan;
lot – means a lot shown as such on a strata / survey-strata plan;
common property in a strata plan - means so much of the land for the time being as is not comprised in a lot shown in the plan and land leased to increase the area of common property;

common property in a survey-strata plan - means the lot or lots shown as common property, designated by the letters CP and land leased to increase the area of common property;

unit entitlement - determines the quantum of the undivided share of each proprietor in the common property;

scheme - means a strata scheme or a survey-strata scheme; and

strata company - means the management committee charged with control, and preservation of the common property and jointly owned assets of the unit or lot owners. Whereas technically all the lot proprietors constitute the company, in large complexes a smaller, elected committee or council usually carries out the day to day management function.

Before a strata plan can be registered there must be a building or buildings erected on at least one of the proposed strata lots which make up the parcel of the Strata Plan. In the case of a survey-strata plan there is no requirement for a building or buildings to be erected. If part of a building, wall or other significant improvement is built such that it crosses over the boundary between the subject land and an abutting lot, the encroachment must be recorded on the plan.

Connections to buildings, walls and other types of significant improvements that are close to, but do not cross over, the boundary of the subject land may be recorded on the plan at the surveyor’s discretion.

2 Strata/Survey-Strata Plans – Elements in Common

Each Strata/Survey-Strata Plan has the following elements in common:

- a title or heading stating whether it is a strata plan or a survey-strata plan
- a description of the land in the parcel (i.e. a TLA description)
- the name of the scheme
- the address of the parcel
- a schedule of unit entitlement for each of the lots
- a certificate from a licensed valuer that the unit entitlement reflects both the aggregate and individual values of the lots by not more than 5% variation either way
- schedules, to permit endorsement of memoranda of dealings affecting the strata / survey-strata plan
- the name and address of surveyor to be shown
- an indication as to the existence of a management statement and
- a cross-sectional diagram may be drawn on the plan to assist in illustrating the lot boundaries.

Easements and restrictive covenants created under Part IVA of the TLA may be shown on the plan.
3 Strata Plan – Additional Elements

In conjunction with the elements in common with survey-strata plans referred to above, a strata plan has the following additional elements:

- a location plan showing the building in relation to the external boundaries of the parcel

- a certificate from a licensed surveyor, either negating internal and external encroachments or certifying that an appropriate easement has been granted for an external encroachment and will be lodged with the Registrar of Titles

- an occupancy permit or a building approval certificate

- a floor plan illustrating the lots and part lots outside the building (if any) and distinguishing them by number with the floor area of each lot and part lot, and if necessary, the extent of the vertical and horizontal boundaries (cubic space)

- if the boundaries of the lots or part lots comprising buildings are fixed by reference to the inner surface of the walls, ceiling and floor or by the external surface of the building, then a statement to that effect in the form prescribed by the Strata Titles General Regulations 1996 (ST GR) must be contained on the plan

and

- a certificate showing an endorsement of approval by the Western Australian Planning Commission, or delegated authority, on the plan (there are some exemptions—see Regulation 15 in the Strata Titles General Regulations 1996).

4 Survey-Strata Plans – Additional Elements

In conjunction with the elements in common with strata plans referred to above, a survey-strata plan has the following additional elements:

- a survey plan of the parcel that defines the lots and common property lots by dimension and survey information

and

- an endorsement of approval by the WAPC on the plan.

5 Searching a Strata Lot

When making a search of the ownership of a lot on a strata/survey-strata plan it is essential that:
- the strata title is searched to obtain current ownership and encumbrances (see also paragraph 6.3.6 below)

- the original strata/survey-strata plan is searched for encumbrances and amendments not shown on the title

and

- the records (if any) of the Strata Company are perused.

Note: These can be viewed with the consent of a lot proprietor by contacting the secretary of the Strata Company or the Strata Manager.

6 Strata Title

A strata title is a title for a lot on a Strata/Survey-Strata Plan and includes a share in any common property in the scheme. Anything occurring on or in respect of common property affects every title in the scheme.

A strata title contains a notation in its second schedule referring to interests notified on the Strata/Survey-Strata Plan. This means there could be other interests that are not recorded on the title that may benefit or encumber the common property or strata lot. Therefore, a strata title must always be searched in conjunction with the Strata/Survey-Strata Plan (see also paragraph 6.3.5 above).

7 Production of Duplicate Strata Titles

Generally, only those duplicate certificates of title (if any) actually required for amendment need to be produced at the time of registration of a dealing on strata titles.

Strata titles created and registered under the Strata Titles Act 1966 (ie: created and registered before 1 July, 1985) all show the quantum of the unit entitlement for that lot.

Where the registration of a dealing results in an amendment of the unit entitlement, all duplicate certificates of title (if any) created and registered under the Strata Titles Act 1966 are to be produced. These titles will be cancelled and new titles created and registered (free of charge) referring to a unit entitlement as set out on the strata/survey-strata plan.

Should a strata/survey-strata plan be terminated, all the duplicate certificate of titles (if any) for the strata/survey-strata lots must be produced for cancellation.

On a strata/survey-strata plan of re-subdivision or consolidation only those duplicate certificate of titles (if any) affected by the re-subdivision or consolidation are required to be produced.

When any of the merger and conversion options in the Strata Titles Amendment Act 1996 are used, the production of the duplicate certificates of title (if any) is not required. They will be amended when they are lodged at Landgate for the purpose of a dealing.
8 Also see

- SUB-01 Subdivision