

STP-03 Common Property

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The common property in a strata titles scheme is:

- that part of the parcel of land subdivided by the strata titles scheme that does not form part of a lot in the scheme; and
- temporary common property.

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. The Strata/Survey-Strata Plan is used to record actions affecting the common property and in some cases the lots. This type of information can vary from rights and encumbrances to by-laws of the strata company. There is no title for common property as the strata title for each lot in a strata titles scheme also contains the lot owner's share in the common property within the scheme. If a strata plan identifies an encroachment outside the parcel that is to be controlled and managed as common property, the encroachment is to be regarded, for this Act, as if it were common property.

1 Temporary Common Property

In order to increase common property, a strata company may accept a lease of:

- a lot in the scheme or
- land that is contiguous to the parcel or separated only by a road, railway or waterway.

This land is known as temporary common property and is not to be subject to a mortgage, charge or other encumbrance. The leasehold interest becomes common property during the term of the lease and the strata company becomes responsible for payment under the lease and compliance with the lease conditions.

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

land is portion of the contiguous land, the Registrar of Titles will require this portion to be depicted on an Interest Only Deposited Plan.

A strata company can, in agreement with the lessor, surrender a lease. This notice of the surrender will be endorsed on the Scheme Plan.

2 Lease of Common Property within a Scheme

A strata company may grant a lease of common property (section 93(2)(c) of the STA). A lease for a period greater than three years may be registered on the scheme plan .