Converting to Survey-Strata

Strata Title explained - Conversion option 3
CONVERTING TO SURVEY-STRATA

Conversion from Strata Scheme to Survey-Strata Scheme 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 your strata scheme to a survey-strata scheme at any time. For schemes registered after this date, conversion is not an option.

In a strata scheme only the buildings are shown on the strata plan. In a survey-strata scheme no buildings are shown on the plan and all of the land boundaries are fully surveyed.

Some other features of a survey-strata scheme are:

- All buildings situated on a lot in a survey-strata scheme are part of that lot, so the problems of common property in buildings are removed.
- There are fewer restrictions on carrying out building alterations in a survey-strata scheme.
- The strata company is only required to take out joint insurance of any common property in a survey-strata scheme; and
- The unit entitlement is calculated differently to strata schemes, which may affect your rights and responsibilities in the scheme.

Before You Start

Before you commence the process of converting to a survey-strata scheme, you should consider the following:

- You will need to obtain a copy of your strata plan from Landgate or your local conveyancer.
- You will need to make enquiries with your Local City Council to see if the lots created will comply with your Local Councils ‘Residential Design Codes of Western Australia Requirements’, or ‘R’ Codes.
- Are any of the other conversion options in the Landgate ‘Strata Titles Explained’ booklet more suitable for your scheme? If so, obtain the relevant kit.
- 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 any 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 a Strata Scheme to a Survey-Strata Scheme by Resolution

Step 1. Agree to the Ownership Changes
Call 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 will include employing a licensed Valuer and licensed Surveyor.

Step 2. Obtain a Survey-Strata Plan and Surveyor’s Certificate
You must employ a licensed Surveyor to prepare and certify a survey-strata plan. Make sure all unit owners approve of the details when it is completed.

Step 3. Obtain a Valuer’s Certificate
Strata and survey-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 unimproved value of the land in a survey-strata scheme. This differs from strata schemes, where the unit entitlement is based on the value of the land and buildings in the scheme.

Unit entitlement determines your rights and responsibilities in 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 Unanimous Resolution

You must pass a unanimous resolution (i.e. all unit owners must agree).

Failure to properly pass a unanimous resolution will mean that the changes made to your strata scheme may have no legal standing if challenged in future, so it is very important that this process is followed.

Unanimous Resolution 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 a copy of the new survey-strata plan.

• Pass a resolution to convert the strata scheme to a survey-strata scheme.

• The wording of the resolution must be the same as the wording set out in Form 37. 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 a unanimous resolution, all unit owners (or their proxies) must attend the meeting and vote in favour of the change. If a mortgagee of any unit has given written notice of its mortgage to the strata company, the mortgagee is required vote to instead of the owner of that unit.

• Passing of the resolution should be recorded in the minutes of the meeting.

• If any owner votes against the resolution, application cannot 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 Conversion to a Survey-Strata Scheme (Form 37)

You must complete and sign a ‘Notice of Resolution of Conversion to a Survey-Strata Scheme’ document (Form 37) 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.

a) It transfers common property to individual ownership.

b) It allows individual encumbrances, such as mortgages, to cover the land owned by the individual owner after the change of ownership has happened.

c) 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 a registered interest (called encumbrance) against any unit in your scheme must give their written consent to the new unit entitlement schedule. 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 easements are being created on the survey-strata plan.

Under the terms of your mortgage or any other encumbrance, you may be obliged to obtain the consent of your bank or other person before converting to a survey-strata scheme. This 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 of Resolution Document (Form 37) (step 5).
- Disposition on Merger of Land or Conversion to a Survey-Strata Scheme (Form 39) (step 6).
- Any separate letters of consent (step 7).
- Survey-Strata plan (step 2).
- Valuer’s Certificate and Surveyor’s 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 at the Landgate Website www.landgate.wa.gov.au.

Where to Lodge the Documents
The documents can be lodged with Landgate at:
• 1 Midland Square, Midland
• Perth Branch Office, Ground Floor, Mt Newman House, 200 St Georges Tce, Perth

Office hours for lodgement are 8.30am to 4.30pm
Notice of Resolution of Conversion to a Survey-Strata Scheme

Strata Titles Act 1985
Section 31D

The Owners of;
303 & 305 Aberdeen Street, Northbridge

Strata Plan No. 12345 hereby certify that on the 23/04/2008, the following resolution was passed as a unanimous resolution —

1. That the strata scheme be converted to a survey-strata scheme, as depicted on the survey-strata plan tabled for the purposes of this resolution.

   The owners acknowledge —
   (a) that the unit entitlement for a survey-strata scheme is determined on site value; and
   (b) that they are aware that this is different from the capital value, which is the basis on which the unit entitlement is determined for a strata scheme.

   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.

2. That an easement or easements relating to —
   *(a)* Vehicle Access Easement
   *(b)* Intrusion Easement
   *(c)* Light and Air Easement
   *(d)* Party Wall Easement
   *(e)* Pedestrian Access Easement

   (in terms of section 31G of the Act) be created, as depicted on the sketch plan tabled for the purposes of this resolution.

3. The *height and/or depth of survey-strata lot(s) ........................................
   is or are limited to .................................................................
   ..........................................................................................

Resolution No. 1 converts the strata scheme to a survey-strata scheme.

The owners acknowledge that the effect of the conversion is to change the basis on which unit entitlement is set.

Resolution No. 2 allows you to create certain easements on the plan. Your surveyor will be able to advise which, if any, are appropriate to your scheme.

Delete all or any, as the case may be.

Resolution No. 3 allows you to limit the height and depth of the lots, if required, such as to protect a view.

Delete if it does not apply.
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 ..................; or
*(b) a Notice of Resolution of Conversion to a Survey-Strata Scheme dated
...23/09/2006... 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
...23/09/2006...

(A) LOTS
LOT NO. FULL NAME IN WHICH LOT IS TO VEST ENCUMBRANCES (Document & Number)
1 JANET ANNE JONES
2 JOHN SMITH Mortgage J123456

(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 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.

Delete whichever of (a)
or (b) does not apply.
Para (a) will not apply
where no money or other
property 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.
Complete this panel if some consideration is being paid.

Encumbrancers such as your bank (if you have a mortgage) must consent here. (Step 7)

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 2 to 5 lot scheme.

Ensure the document is dated.