



Ownership of buildings and land

Strata Title explained - Conversion option 1 & 2

OWNERSHIP OF BUILDINGS AND LAND

Conversion of Ownership of Buildings and 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 buildings shown on your strata plan from common property to individual ownership. You may also choose to show additions to existing buildings on your strata plan, add new buildings to your strata plan, and/or change ownership of the land in your strata scheme from common property to individual ownership.

Where there are between two and five units in a single tier strata scheme registered before the 20th July 1997; or six months after the registration of your strata plan (registered between 20th January 1997 and 31st December 1997) then the buildings and land shown on the plan have automatically converted to individual ownership; unless any owner made an objection to Landgate.

This option may be used even if an owner had previously objected to the automatic conversion of the buildings or land; if the prior circumstances that stopped the conversion have changed.

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.
- Check that the buildings shown on your strata plan have not already been automatically converted to individual ownership.
- Is conversion to a survey-strata scheme (Conversion option 3) 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 (both inside and outside the buildings) 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 Buildings and Land to Individual Ownership by Resolution

Step 1. Agree to the Ownership Changes

Hold 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 Plan 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 unimproved value of the land 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 meeting, what the resolution will be, and should include the sketch and Valuer's Certificate.
- Pass a resolution to change the ownership of buildings and land from common property to individual ownership, and / or to add extensions to existing buildings, or new buildings to your strata plan.
- The wording of the resolution must be the same as used in Form 33. 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 of the unit entitlements) must be at the meeting. If a mortgagee of any units has given written notice of its 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 it has given written notice of its interest in the land 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 and Land (Form 33)

You are required to complete and sign a 'Notice of Resolution of Merger of Buildings and Land' document (Form 33), 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 are required to 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 Form from your Bank or Other Persons

Any bank, mortgagee or other person having an interest registered (called encumbrances) *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.

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 of Resolution Document (Form 33) (step 5).
- Disposition on Merger of Land (Form 39) (step 6).
- Any separate letters of consent (step 7).
- Valuer's Certificate, Sketch Plan and 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 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 8.30 am to 4.30 pm

Form 33

NOTICE OF RESOLUTION OF MERGER OF BUILDINGS AND LAND

Strata Titles Act 1985
Sections 21G, 21S

The Owners of,

...303 & 305 Aberdeen Street, Northbridge.....

Strata Plan No. 12345..... hereby certify that on the ...27th September 2006....., the following resolutions were passed as a *resolution without dissent/unanimous resolution (in the case of a two-lot scheme) —

1. **That in relation to the lots or parts of the lots which are buildings shown on the strata plan, the boundaries are to be fixed by reference to the external surfaces of those buildings, as provided for by section 3AB of the Strata Titles Act 1985.

**Where 2 lots have a common or party wall, or have buildings on them which are joined, the centre plane of that wall or the plane at which they are joined, is the boundary.

2. That the strata plan be amended as follows —

~~** (a) to show an extension or alteration to an existing building shown on the strata plan, as depicted on the sketch plan tabled for the purposes of this resolution;~~

~~** (b) to include a building on the strata plan, as depicted on the sketch plan tabled for the purposes of this resolution;~~

** (c) to merge land that is common property into a lot or lots on the strata plan —

* (i) as depicted on the sketch plan tabled for the purposes of this resolution; or

* (ii) by _____

**3. That the horizontal boundaries of the land in the lots on the strata plan are —

~~* (a) the existing horizontal boundaries shown on the strata plan; or~~

* (b) ... 10 ... metres above and ... 5 ... metres below the upper surface of the lowest ground floor in the building shown on the plan as forming part of the lot, or if there is no building shown on the plan on that lot, use the building on the lowest lot number shown on the plan.

~~**4. That an easement or easements relating to motor vehicle access, parking or turning (in terms of section 21W of the Strata Titles Act 1985) be created, as depicted on the sketch plan tabled for the purposes of this resolution.~~

~~**5. 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.~~

Name of the building or scheme as shown on the strata plan.

Date of resolution.

Resolution No. 1 changes buildings already shown on the strata plan from common property to individual property.

Delete this if the buildings are not joined in any way.

Resolution No. 2 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 either (i) or (ii).

Resolution No. 3 must only be completed if you have passed resolution No. 2 (c).
This resolution requires you to set the height and depth of the cubic air and soil space of the lots.
Delete whichever of (a) or (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.

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.

The Common Seal of the Owners of,

Strata Plan No. was affixed hereto on the,
 in the presence of —

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.

Members of Council

OR **

Full name of proprietor ... JANET JANE JONES.....	Full name of proprietor ... JOHN JAMES SMITH.....
Signed . . . <i>Janet Jones</i> . . .	Signed . . . <i>J Smith</i> . . .
Full name of proprietor	Full name of proprietor
Signed	Signed

* 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.

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 *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 any thing 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		
By whom	To whom	Consideration
N/A		

Complete this panel if some consideration such as money is being paid for splitting up the common property.

*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.....

Peter Chan, duly appointed

SIGNATURE..... *P Chan*.....
in the presence of

attorney of Trust Bank LTD
ACN 012 345 678 under

Witness..... *A Milne*.....

Power of Attorney J000111

NameAmy Milne.....

Address ...103A High Street, Fremantle

Occupation ...Bank Officer.....

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

(Step 7)

(ADDITIONAL CONSENTS AS REQUIRED)

DATED THIS **27th** DAY OF **March** 20**06**

Ensure the document is dated.

The Common Seal of the Owners of;

Strata Plan No. was affixed hereto on the
in the presence of —

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.

Members of Council

SIGNATURE OF PROPRIETOR

SIGNATURE OF PROPRIETOR

..... *J. A. Jones*

..... *J Smith*

In the presence of

in the presence of

Witness..... *B Black*.....

Witness..... *B Black*.....

Name.....Brian Black.....

Name.....Brian Black.....

Address...69 Main Street, Highgate.....

Address...69 Main Street, Highgate.....

Occupation ...Public Servant.....

Occupation ...Public Servant.....

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.



1 Midland Square, Midland WA 6056
PO Box 2222, Midland WA 6936

Telephone: +61 (0)8 9273 7373
Facsimile: +61 (0)8 9250 3187
TTY: +61 (0)8 9273 7571
email: customerservice@landgate.wa.gov.au

Updated: June 2018

lsandgate.wa.gov.au