

Strata Titles Practice Manual



Strata Titles Practice Manual for Western Australia

Edition 7.0

January 2011

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Table of Content

1.	Introduction to the Strata Titles Practice Manual	31
1.1	The Nature of Strata and Survey-Strata Schemes	32
1.2	Basic Strata Principles.....	33
1.2.1	Strata Lots must be always within the Parcel Boundary	33
1.2.2	Strata Company as an Entity Deals with Common Property	33
1.2.3	Common Property	33
1.2.4	Strata Title	33
1.2.5	Strata/ Survey-Strata Schemes Can Only be Over One Parcel of Land.....	33
1.2.6	Re-subdivisions of Common Property.....	33
1.2.7	Unit Entitlement is Not the Same as a Property Valuation.....	33
1.2.8	A Title Can Not be issued in the Name of the Strata Company.....	34
1.2.9	Dividing Fences (sections 123 & 123B)	34
1.2.10	Walls.....	34
1.2.11	Party Walls	34
2.	History of the Strata Titles Act.....	35
2.1	History of the <i>Strata Titles Act 1966</i>	36
2.2	The Community Titles Advisory Committee.....	39
3.	Types of Plans and Unit Entitlements	41
3.1	Types of Plans.....	42
3.2	Strata Plans.....	42
3.3	Vacant Lot Strata Plans.....	43
3.4	Survey-Strata Plans.....	44
3.5	Unit Entitlement of Strata and Survey-Strata Schemes.....	44
3.6	Unit Entitlement Requirements.....	45
3.7	Valuer’s Certificate for a Strata Plan.....	46
3.8	Valuer’s Certificate for a Survey- Strata Plan	47
3.9	Valuer’s Checklist.....	48

4.	Obtaining Approvals.....	49
4.1	The First Steps	50
4.2	Small Schemes that Do Not Require WAPC Approval	52
4.3	Local Government Preliminary Determination	52
4.4	Strata Plan Option for Non-Residential and More Than Five Residential Lots.....	53
4.5	Vacant Lot Strata Plans.....	54
4.6	Survey-Strata Plans.....	54
4.7	Large Developments	55
4.8	Forms	55
5.	The Role of Government Agencies	57
5.1	Government Involvement in Strata and Survey- Strata Schemes	58
5.2	Local Government Planning Approval	58
5.3	Western Australian Planning Commission’s Role.....	60
5.3.1	Strata Plans:.....	60
5.3.2	Survey-Strata Plans and Vacant Lot Strata Plans:	61
5.3.3	The <i>Planning and Development Act 2005</i> (P & D ACT).....	62
5.4	Referrals by WAPC and Local Government under Delegation	63
5.5	Appeal Provisions for LG and WAPC (Review)	64
5.5.1	Section 26 of the STA	64
5.5.2	Section 27 of the STA	64
5.5.3	Sections 142, 143 and 144 of the P & D Act (formerly Section 24 of the TP&D Act)	64
5.6	Reconsideration of Conditions.....	64
5.7	Local Government– Exemption from WAPC Referral.....	65
5.8	The Water Corporation’s Role	67
5.9	Deferment of Water Corporation Headworks Charges	68
5.9.1	Memorials.....	69
5.9.2	Removing the Memorials.....	69

6.	Easements, Covenants, Exclusive Use By-Laws and Restrictive Use.....	71
6.1	Easements and Covenants	72
6.2	Ownership of Parcels	73
6.3	Execution of Documents by Strata Companies	73
6.4	Execution of Documents by Proprietors	74
6.5	Easements over Encroachments and Easements of Support	74
6.6	Easements on Strata Plans	75
6.6.1	TLA Easements.....	75
6.6.2	P & D Act Easements (formerly T P & D Act)	76
6.7	Easements on Survey-Strata Plans.....	77
6.7.1	STA Easements.....	77
6.7.2	TLA and P & D Act Easements	77
6.8	TLA Easements on Strata and Survey-Strata Lots Where an Instrument is Lodged with the Plan	78
6.8.1	Easements that do not meet the terms in Schedule 9A of the TLA	78
6.8.2	Consents Required.....	79
6.9	Measuring Easements on Strata Plans and Survey- Strata Plans.....	79
6.10	Implied Easements	79
6.11	Restrictive Covenants.....	80
6.12	Registration of Amendments to By-Laws.....	82
6.13	Management Statements	83
6.14	Exclusive Use	84
6.15	Exclusive Use By-Laws Sketches.....	84
6.16	Restrictive Use	85
6.17	Age Restriction	85
6.18	Varying, Adding or Removing a Restrictive Use.....	86

7.	Management Statements and Staged Schemes.....	87
7.1	Management Statements	88
7.2	Local Government and WAPC Involvement with Management Statements.....	89
7.3	Staged Schemes	89
7.4	Management Statements for Staged Schemes	90
7.5	Accompanying Information for a Staged Strata Plan.....	91
7.6	Re-subdivision of a Staged Strata Scheme	92
7.7	Accompanying Information for a Staged Survey-Strata Plan.....	92
7.8	Creation of Easements on Strata Plans of Re-subdivision	92
8.	Surveys of Strata Schemes.....	93
8.1	Accountability and Accuracy.....	94
8.2	Surveying Requirements for Strata and Survey-Strata Plans.....	94
8.3	Re-Establishment of Parcel Boundaries on Strata Plans.....	95
8.4	Building Boundaries on Strata Plans	95
8.5	Standard Wording to be used on Strata Plans	96
	8.5.1 Standard Wording for all Strata Plans.....	96
	8.5.2 Additional Wording- “vacant” lots only.....	98
8.6	Part Lots Outside Buildings	99
8.7	Encroachment on Strata Plans.....	100
8.8	Depicting Easement Dimensions on Strata Plans	101
8.9	Creation of Roads and Road Widening on Strata Plans.....	102
8.10	Car Stackers.....	103



9.	Surveys of Survey-Strata Schemes	105
9.1	Surveying of Survey-Strata Schemes.....	106
9.2	Survey Standards and Re-Establishment.....	107
9.3	Marking of Survey-Strata Schemes	107
9.4	Stratums, Heights and AHD	108
9.5	Encroachments and Building Connections	108
9.6	Depicting Easement Dimensions.....	109
9.7	Field Notes for Survey-Strata Schemes	109
9.7.1	Lodging a Field Book for all Survey Plans	109
9.7.2	What Field books are to Show	109
9.8	Creation of Roads and Road Widening on Survey-Strata Plans.....	110
9.9	Deferred Final Marking/Referencing of Survey-Strata Schemes	111

10.	Drafting Guidelines Common to All Strata Titles Act Plans	113
10.1	Common Guidelines	114
10.2	TLA Guidelines	114
10.3	Drafting Requirements.....	114
10.4	Plan Forms and Use.....	115
10.5	Scale	116
10.6	Orientation	116
10.7	Line Styles	116
10.8	Text Styles.....	117
10.9	Measurement Presentation	117
10.10	Road Names	118
10.11	Areas	118
10.12	Abuttals	119
10.13	Enlargements and Displaced Data	121
10.14	Cross-Sections	121
10.15	Schedule of Interests and Notifications	121
10.16	CSD Files	126
10.17	Depth Limits and Crown Allotment Boundaries	126
10.18	Mineral Reservations.....	127
	10.18.1 Reservations in Crown Grants	127
	10.18.2 Lands Affected by Section 15 of the Public Works Act 1902	127
	10.18.3 Mineral Reservations in Transfers.....	128
10.19	Vesting Lots.....	129
10.20	Automatic Road Dedications	131
10.21	Surveyor’s Check List for Strata and Survey-Strata Plans	132

11.	Drafting of Strata Plans	137
11.1	Other Guidelines in Chapter 10	138
11.2	Components of a Strata Plan	138
11.3	The Location Plan.....	138
11.3.1	Single Tier Schemes	138
11.3.2	Multi Tier Schemes.....	139
11.4	Floor Plan	141
11.5	Surveyor’s Certificate	142
11.6	Local Government Certificate	143
11.7	WAPC Certification Form 26	144
11.7.1	Form 26 Paragraph (i) Certificates	144
11.7.2	Form 26 Paragraph (ii) Certificates	144
11.8	Measurement Contents	145
11.9	Describing Cubic Space	145
11.10	Large Plans (Rural or Staged).....	145
12.	Drafting of Survey- Strata Plans.....	147
12.1	Other Guidelines in Chapter 10	148
12.2	Surveyor’s Certificate	148
12.3	Certificate of Verifying Surveyor	149
12.4	Pegs	149
12.5	Other Information.....	149
12.6	Encroachments, Building Connections	150
12.7	Easements	150
12.8	Western Australian Planning Commission Certificate.....	150

13.	Registration Processes	151
13.1	Registration of Plans	152
13.1.1	Lot Synchronisation	152
13.1.2	Requests to Expedite the Processing Of Plans and Documents	153
13.2	Lodgement and Registration Procedures at Landgate	155
13.3	Production of Duplicate Titles	157
13.4	Characteristics of Strata Titles.....	158
13.5	Problems that Impact on Registration.....	159
13.6	Effect of Registration	160
13.7	Purple Titles or Undivided Share Titles	160
13.8	Conversion of Share (Purple) titles to Strata Titles.....	161
13.9	Disposition Statements for Tenancies in Common	162
13.10	Mergers, Re-Subdivisions and Consolidations	162
14.	After Registration	163
14.1	Strata Company.....	164
14.2	Sales Disclosure of Strata Properties (Part V of STA).....	164
14.3	Notifiable Information.....	165
14.4	Supply of Information by Strata Company	165
14.5	Standard By-Laws	166
14.6	Correction of Errors on Registered Plans	166
14.7	Searching a Lot	166
14.8	Re-allocation of Unit Entitlement on a Strata or Survey-Strata Plan.....	167
14.9	Re-allocation of Unit Entitlement by State Administrative Tribunal	168
14.10	Change of Unit Entitlement by Order of State Administrative Tribunal ...	169
14.11	Discharge of Variation of Easements Created Under Section 5D by Notation on Survey-Strata Plans	169
14.12	Adverse Possession and Strata Titles	170

15.	Merger of Common Property and Lots in Single Tier Strata Schemes	173
15.1	Merger of Common Property and Lots	174
15.2	General (Division 2A of Part II of STA)	174
15.3	Drafting Guidelines	175
15.4	Drafting Standards.....	175
15.5	Annotation	176
15.6	Surveyor’s Certificate	176
	15.6.1 Buildings.....	176
	15.6.2 Town Planning.....	177
15.7	Errors Found on Previously Registered Plans.....	177
15.8	Stratum Wording on Mergers	177
15.9	Written Documentation to Accompany the Plan	178
15.10	Easements	178
15.11	Existing Easements	179
15.12	Restrictive Use	179
15.13	Encroachments on Mergers	179
15.14	Unit Entitlement on Mergers.....	179
15.15	Mergers without Using a Surveyor.....	180
	15.15.1 Where buildings shown on the plan are joined:	180
	15.15.2 Where buildings are shown as not being joined:.....	180
	15.15.3 What to show on the copy of the plan	181
	15.15.4 The Notice of Resolution	181
15.16	Points to Consider	182
15.17	Registration	182

16.	Conversion to Survey-Strata Plans	183
16.1	General (Division 3 of Part III of the STA)	184
16.2	General Drafting Guidelines	184
16.3	Headings	185
16.4	Surveyor’s Certificate	185
	16.4.1 Survey requirements	185
	16.4.2 Town Planning.....	186
16.5	Easements	186
16.6	Unit Entitlement on Conversion to Survey-Strata Plans	186
16.7	Easements	187
16.8	Existing Easements	188
16.9	Mineral Reservations.....	188
16.10	Various Other Matters – See Mergers	188

17.	Re-Subdivision and Consolidations	189
17.1	Re-subdivision of Strata Plans	190
17.2	Plans of Re-subdivisions of Strata Plans.....	191
17.3	Drafting Guideline.....	191
17.4	Surveyor’s Certificate	192
17.5	Local Government Certificate	192
17.6	Consolidation of Strata Lots	193
17.7	Merger Sketch Plans and Conversion to Survey-Strata Plans	193
17.8	Re-subdivision of Survey-Strata Plans	194
17.9	Consolidation of Survey-Strata Lots	195
17.10	Registration Procedures for Re-subdivision of Strata or Survey-Strata Plans	195
	17.10.1 Registration	195
	17.10.2 Consents	196
17.11	Disposition Statements for Plans of Re-subdivision	197
17.12	Registration Procedures for Consolidation of Two or More Strata or Survey-Strata Lots.....	198
17.13	Creating Easements on Plans or Re-subdivision and Consolidation	199
17.14	Creating Roads and Widenings.....	199
17.15	Creating Vesting Lots	199

18.	Acquisitions and Disposals	201
18.1	Acquisition of Additional Common Property	202
18.2	Purchase and Amalgamation of Closed Roads or Crown Land.....	203
18.3	Registration Procedures for Amalgamation of a Closed Public Road or Other Crown Land	204
18.4	Amalgamation of Closed Private Roads or Ways.....	204
18.5	Acquiring Additional Land by Transfer.....	205
18.6	Conversion of Lots to Common Property.....	206
18.7	Transfer of Part of the Common Property.....	207
18.8	Subdivisions Involving Strata Schemes.....	208
18.9	Leasing of Contiguous Land.....	208
18.10	Lease of Common Property within a Scheme	209
18.11	Taking (formerly known as Resumption)	209
18.12	Variation of Survey-Strata Schemes on Taking.....	210
18.13	Taking of Part of a Strata Lot.....	210
19.	Building Additions.....	211
19.1	Requirements for Building Additions in Strata Schemes	212
19.2	Requirements for Building Additions in Survey-Strata Schemes	213
19.3	Procedures to Obtain Consent	213
19.4	Local Government Approval.....	214
19.5	Actual Building Construction.....	214

20.	State Administrative Tribunal	215
20.1	The State Administrative Tribunal (SAT)	216
20.2	Applications to the State Administrative Tribunal	216
20.3	Orders of the State Administrative Tribunal	217
20.4	Appeals	218
20.5	Registration of an Order of the State Administrative Tribunal.....	218
20.6	Procedures in Relation to Retirement Villages	218
21.	Termination of a Strata/Survey-Strata Scheme	219
21.1	Termination of a Strata Scheme	220
21.2	Termination by Unanimous Resolution.....	220
21.3	Variation upon Damage or Destruction.....	221
21.4	Termination by Taking of the Whole of the Parcel.....	221
21.5	Termination by Order of District Court	221
21.6	Termination of a Survey-Strata Scheme.....	222
21.7	Cancellation of a Strata/Survey-Strata Plan	224
22.	Appendix A, B, C & D	225
22.1	Appendix A: Index of Flow Charts	226
22.2	Appendix B: Types of Easements Created on Plans.....	237
22.3	Appendix C: Table of Plan Examples	238
22.4	Appendix D: Guidelines for Electronic Lodgement of Strata/ Survey-Strata Schemes	243



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Document Amendment Register

Edition	Date Amended	Amended By
Edition 0.0	September 1998	Ron Acott
Edition 1.0	July 1997	Ron Acott
Edition 1.1	July 2000	Ron Acott
Edition 1.3	July 2000	Ron Acott
Edition 2.0	September 2001	Eric Horlin
Edition 3.0	August 2006	Terry Hawser
Edition 4.0	January 2007	Terry Hawser
Edition 5.0	July 2007	Terry Hawser, Nick Kitin & Matt Pestell
Edition 6.0	January 2008	Michael McCarthy, Nick Kitin & Matt Pestell
Edition 6.1	January 2009	Michael McCarthy
Edition 6.2	July 2009	Michael McCarthy
Edition 6.3	January 2010	Michael McCarthy
Edition 6.4	August 2010	Michael McCarthy

Changes to Edition 6.4

This Edition 7.0 (January 2011) replaces the previous Edition 6.4 (August 2010). Changes and additions have been made to various chapters and therefore it is highly recommended that you dispose of any electronic copies or hardcopies of previous editions of the manual and replace it in its entirety with Edition 7.0.

Every effort has been made to identify and correct any spelling or typing errors.

The Manual

Changes have been made to the following Chapters:

4.8.1 Strata Forms

5.7 Local Government- Exemption from WAPC

10.4 Plan Forms and Use

13.2 Lodgement and Registration Procedures at Landgate

14.12 Application for Title by Possession (Adverse Possession) involving Strata/Survey-Strata Schemes

15.4 Drafting Standards

17.14 Creating Roads and Widening

Appendices

New addition:

Appendix A: index of Flow Charts- Figure 9A- Letter of Acknowledgement for the Registration Date (Lot Sync)

Appendix D: Guidelines for Electronic Lodgement of Strata/Survey-Strata Plans & Field Books.

Plan Examples

New additions:

Plan Example 54

Plan Example 55

Plan Example 56

Changes have been made to:

Plan Example 39



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Preface to Edition 7.0

This Edition 7.0 (January 2011) replaces Edition 6.4 (August 2010).

The process to register a Strata/Survey-Strata Scheme and obtain titles can be a complex path with different variables affecting each strata development. Each scheme, whether residential, commercial or mixed use, has varying requirements that make it unique. This Manual has been prepared primarily as a guide to assist Surveyors and the surveying community in the preparation of all Strata/Survey-Strata plans for lodgement and subsequent registration.

Edition 7.0 continues to promote “Best Practice” in the preparation and presentation of all Strata/Survey-Strata plans lodged for registration. It is a guide, supplementary to governing Acts and Regulations currently in force.

This Manual has been reviewed and where necessary has been updated to further enhance the quality and useability of the information contained within. Of particular importance is the inclusion of the requirements for replacement plans after successful Adverse Possession claims involving land in a Strata/Survey-Strata Scheme.

In addition, with the implementation of the etDP process, Landgate now captures all emails and attachments for ePlans in its Electronic Document Record Management System (EDRMS). To enable Landgate to integrate emails into EDRMS a standard email format is required. The detail of the required format has been highlighted in this edition of the manual.

I acknowledge the tremendous commitment of Landgate staff in the maintenance of this manual and the great work being carried out associated with the audit and registration of Strata/Survey-Strata Schemes in Western Australia.

Jean Villani

Delegate for Registrar of Titles

January 2011

Glossary of Terms

Automatic Merger

The merger of common property, which forms part of a building into part of a strata lot (in certain existing single tier strata schemes after 20 January 1997).

AHD

The Australian Height Datum.

Battle-Axe Subdivision

A subdivision where there is a lot behind another lot, the rear lot having street access via a narrow strip of land that runs down the side of the front lot. The shape of the rear lot is something like an axe, hence the term “battle-axe”.

By-laws

Refers to Schedule 1 and 2 by-laws set out in the STA and additional, alternative or amended by-laws that are recorded on a Strata or Survey-Strata Plan.

Case

A number allocated to a dealing to enable it to be tracked through the Landgate computer system, and, if there is more than one document, it is usually the number of the first document.

Certified Correct

The notation in the heading panel on the Strata/ Survey-Strata plan indicating that a plan has been examined/audited but usually awaiting a Release Letter to the WAPC. See also “Examined”.

Certified Correct and Sent to WAPC

The status of a plan where the Release Letter has been received and the plan is at WAPC for endorsement of approval prior to being placed In Order for Dealings.

Common Property in a Strata Plan

The land (including buildings) and airspace that is not comprised in a lot and may include land leased by a strata company to increase the area of the common property.

Common Property in a Survey-Strata Plan

Where each lot is shown as a common property lot and includes the air space above and the land below any survey-strata lot that is limited in height. Service pipes, tubes and wiring are also included as part of the common property. Where common property can be defined on the ground as a lot it is designated by the letters “CP” followed by the lot number.

Conversion

The conversion of an existing strata scheme into a survey-strata scheme.

Crown Land

Land that is administered under the *Land Administration Act* (i.e. it is not freehold land).

CSD File

Digital spatial information lodged by the surveyor with each Survey-Strata Plan. This data allows automatic mathematical checks of the survey information on the plan. CSD is an acronym for Cadastral Survey Data.

CTAC

Community Titles Advisory Committee- a representative group appointed to review and improve the *Strata Titles Act 1985*.

Dealing

A document or documents lodged at Landgate to record a transaction affecting land. Dealings can be a single application or a complex series of documents. Each document is given a number and the time and date of lodgement is recorded on each document so as to determine its priority in the Register Book.

Dedicated Road

A road or street dedicated to public use. This land is Crown Land under the control and management of the local government.

Development Approval (DA)

Sometimes known as Planning Consent is the consent given by local government to the developer of a property. It indicates that the proposal conforms to planning and building requirements of the local government. It should not be confused with conditional Planning Approval given by WAPC.

Disclosure

Information that a vendor must give to a purchaser of a strata titled property.

Disposition

A method of rearranging ownership between existing registered proprietors and replaces transfers normally required to implement such changes.

DLI

Department of Land Information. Now known as the Western Australian Land Information Authority (Landgate).

DPI

Department of Planning and Infrastructure (superseded by the Department of Planning and The Department of Regional Development and Lands).

Duplicate Title

The certificate of title issued by Landgate to the registered proprietor of a lot. If it is subject to a mortgage, the mortgagee usually holds the duplicate title until the mortgage debt is paid. It is often referred to as a "Dup C/T". Recent amendments to the TLA now allow the issue of duplicate titles to be optional (i.e. a proprietor may request that no duplicate title be issued).

Easement

An encumbrance over land that attaches certain rights in favour of another parcel of land, lot within a strata scheme or government agency subject to certain conditions. Easements run with the land and are not confined to a certain proprietor. They can be created by deed, resumption, or under statutory provisions on a deposited plan or Strata/Survey-Strata Plan or can be implied. They can also be created to the benefit of government instrumentalities (called an easement in gross) or between lots (sometimes called a reciprocal easement).

Examined

The notation in the heading panel on a Strata/Survey-Strata Plan, if followed by a date and indicating that the plan has been examined and that dealings in respect of lots on the plan can proceed but may be subject to certain conditions. See also “Certified Correct”.

General Survey Regulations

The Licensed Surveyors (Guidance of Surveyors) Regulations 1961.

Green Title

A title to freehold land that is not strata titled. It is the closest tenure to complete ownership in Western Australia. The term evolved from the historical practice of colouring the sketch on the certificate of title green. The preferred terminology is now “Freehold Title”.

Implied Easements

Various types of easements that the STA automatically puts in place to protect the proprietors’ interests in buildings and services.

In Order for Dealings (IOFD)

The Deposited Plan or Strata/Survey-Strata Plan has been audited by Landgate Officers and where necessary has been approved by the WAPC and all requirements satisfied. Dealings may be lodged.

Instrument

A document such as a transfer, lease, mortgage or easement.

Location Plan

The part of a Strata Plan that shows the parcel of land, buildings located on the parcel and parts of lots that are external to the building.

Landgate

The Western Australian Land Information Authority- trading as Landgate. Formerly known as the Department of Land Information (DLI).

Management Statement

A document provided for by section 5C and Schedule 2A of the STA that allows additional or special by-laws to be put in place on registration of the Strata/Survey-Strata Plan. These by-laws are registered with the plan. They then become effective as by-laws of the strata company.

Merger of Buildings

Building structures that are common property in single tier schemes registered before January 1 1998 can become part of a lot by registering a Notice of Resolution (see also automatic merger).

Merger of Land

Land that is currently common property in single tier strata schemes can be merged with existing strata lots. This option is only applicable to single tier Strata Plans registered before 1 January 1998.

Monument

A term used in surveying for a solid brick, or masonry wall or other permanent structure that may be used to reference lot boundaries.

Original Title

The title (for a lot) held at Landgate on which all registered transactions affecting the lot are recorded. This title is matched with the duplicate title when any dealings are lodged for registration. Both original and duplicate certificates of title will be updated to record the new transaction. The original title should always be checked at Landgate before any dealing is lodged for registration.

Parcel

The whole of the land comprised in a Strata/Survey-Strata Plan.

PAW

A pedestrian access way that on creation becomes freehold land in the name of the Crown.

P & D Act

The *Planning and Development Act 2005* proclaimed on 9th April, 2006.

Planning

Department of Planning.(formerly the Department of Planning and Infrastructure- DPI)

RDL

Department of Regional Development and Lands .(formerly the Department of Planning and Infrastructure- DPI)

Referee

The former Strata Titles Referee appointed under the STA to resolve disputes. The role abolished by the establishment of 'SAT' the State Administrative Tribunal 30 December 2004.

Registration

A dealing being recorded by date, time and number at Landgate on the TLA Register.

Revested

Land removed from the freehold system (TLA) and vested as Crown land (*Land Administration Act, 1997*).

ROW

A right of way shown on a plan or diagram that is normally private land over which the owners of other lots within the subdivision have rights to pass.

SAT

The State Administrative Tribunal that replaced the Strata Titles Referee 30 December 2004 to resolve strata disputes.

Scheme

A strata scheme or a survey - strata scheme.

Single tier strata schemes

A strata scheme where there is no part of a lot above another except in some cases for permitted boundary deviations. See section 3(1) of the STA and regulation 37A of the STGR.

SLS

State Land Services. The SLS is part of the Department of Regional Development and Lands (RDL).

SmartPlan Spatial Viewer

The digital replacement of Landgate's analogue Public Plans. It provides online tools for searching, displaying and printing spatial data together with its associated tenure information.

SmartRegister

Western Australia's automated title registration process that supports a digital register in a text title format with an associated "sketch of the land" (usually a survey plan).

Strata Company

The body formed automatically on registration of a Strata or Survey-Strata Plan. The strata company is responsible for the control and preservation of the common property and comprises all of the proprietors of lots on the plan. In large schemes a smaller elected council usually carries out the day to day management functions. A strata company under the 1966 STA was called the "body corporate".

Strata Council

The council elected by the lot proprietors to manage the scheme for the benefit of all proprietors. The council varies in size depending on the number of lots in the scheme. In small schemes all the registered proprietors may form the strata council.

Strata Manager or Strata Management Company

A commercial organisation employed by the strata company to advise and manage the affairs of the strata company. Alternatively, the strata company may appoint a proprietor in the scheme to act as the strata manager. The manager's duties may or may not include the day to day running of the complex. A Strata Management Company should not be confused with the strata council or strata company. The Manager's powers are limited to the specifications of the contract under which the Manager is engaged.

Strata/Survey-Strata

An expression used in the STA in sections which apply to both a strata scheme and a survey-strata scheme.

STA

Strata Titles Act, 1985 as amended (In some contexts it includes the *Strata Titles Act, 1966*).

STGAR

Strata Titles General Amendment Regulations 2006. Note: included in and forming part of the STGR.

STGR

Strata Titles General Regulations, 1996 as amended.

TLA

Transfer of Land Act, 1893 as amended.

TLA Survey Regulations

The Regulations for the Guidance of Surveyors Practising under the *Transfer of Land Act, 1893* as amended.

T P & D ACT

Town Planning and Development Act, 1928– repealed by the P & D Act on 9 April 2006.

Unit Entitlement

Determines the amount of the undivided share of each proprietor in the common property, the entitlement to voting, the liability for levies (subject to any by-laws under section 42B of the STA) and other liabilities, and the share of each proprietor in the event of a termination of the scheme.

Vacant Lots

Lots on a Strata Plan that do not depict buildings being constructed on them. In some circumstances there may be buildings in existence but not shown on the Strata Plan.

Vested

Refers to land set aside on plans for public purposes such as reserves for recreation, drain reserves, ROWs and PAWs etc. They are usually created as a condition of WAPC subdivisional approval. Such land is transferred automatically to the Crown in accordance with the P & D Act (Not to be confused with Crown land).

WAPC

Western Australian Planning Commission, Department of Planning (Planning).

Water Corporation

Includes other water authorities licensed by the Office of Water Regulation.



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1. Introduction to the Strata Titles Practice Manual

1.1 The Nature of Strata and Survey-Strata Schemes

The *Strata Titles Act, 1966* was the first strata titles legislation in Western Australia. It was introduced to permit certificates of title to be issued for parts of buildings. In effect blocks of home units were subdivided by a Strata Plan, resulting in a title being issued for each lot in the building. Because of the close nature of the living environment and the mutual dependence of one lot on another, the Act set up processes and structures to cope with that environment and to promote harmonious co-existence.

In a strata or survey-strata scheme individual proprietors may own portions of the land, buildings, air and soil comprising the lot; but any part not individually owned is common property.

The main advantage of a strata scheme for a building is that it gives the security of a title for a defined lot plus an interest in the common property. This protects the equity of the owner and any mortgagee of the lot overcoming the problems suffered by the only previous alternatives, tenancies in common or company shares.

The STA provides the vehicle to put in place the lots, common property and management control necessary for an orderly use of the land. The STA standard by-laws ensure standards of behaviour, building maintenance and management are maintained.

An STA subdivision allows the occupiers to share services and facilities and to agree to mutually beneficial restrictions.

The STA provides the best option for multi storey buildings or buildings sharing a parcel of land. Also, because of the nature of the tenure the initial costs for a developer are substantially less for a STA subdivision than for a TLA subdivision and this has made it an attractive development alternative.

Land use in older urban areas is changing, resulting in land owners seeking ways to redevelop their properties. Strata titling is an accepted process in this situation for residential, commercial and industrial land and has gained acceptance in historic building renovation schemes and in rural and resort developments.

1.2 Basic Strata Principles

1.2.1 Strata Lots must be always within the Parcel Boundary

Strata lots always remain within the confines of the parcel boundaries. Encroachments that extend beyond the parcel boundary are treated as common property.

1.2.2 Strata Company as an Entity Deals with Common Property

The strata company is the entity which deals with the common property. This entity may acquire or dispose of common property or create and surrender easements or leases.

1.2.3 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.

1.2.4 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 also 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 lot. Therefore a strata title must always be searched in conjunction with the Strata/Survey-Strata Plan.

1.2.5 Strata/ Survey-Strata Schemes Can Only be Over One Parcel of Land

The land parcel over which the scheme fits must be a whole or complete land parcel i.e. it cannot be in separate portions. In some cases a Deposited Plan of amalgamation of more than one parcel is the forerunner to registering a Strata/Survey-Strata Plan eg. where party wall lots are involved on parent titles, the party wall lot(s) must be included into the new subdivisional lot with the interests (easements for party wall rights) either being brought forward, removed or modified as applicable.

1.2.6 Re-subdivisions of Common Property

Where any common property is re-subdivided, the resulting title will be issued in the name of all of the registered proprietors. This may cause problems, particularly in large schemes, because of the requirement to obtain consents of all mortgagees and the signatures of all proprietors.

1.2.7 Unit Entitlement is Not the Same as a Property Valuation

There is often confusion both in the industry and by lot proprietors on the valuation a licensed valuer undertakes when calculating unit entitlement. Basically unit entitlement is a comparison of relative values between the lots in the scheme in proportion to the aggregate. The tolerances of these values can be 5% more or less. However, in some 1966 Act schemes, unit entitlements may have no relationship to relative values. The STA contains provisions which in certain circumstances allow unit entitlements to be varied from time to time.

1.2.8 A Title Can Not be issued in the Name of the Strata Company

The Act does not permit a title to be issued in the name of the strata company; rather it is issued in the name of all of the registered proprietors as tenants in common. However, in most cases the Strata Company can act as the transferor or as the party to a specific action.

1.2.9 Dividing Fences (sections 123 & 123B)

Fencing in most single tier strata schemes comes under the *Dividing Fences Act, 1961* in line with a normal green title situation. This means that the fencing between lots is the responsibility of adjoining lot owners. If the lot adjoins common property, then responsibility is shared between the lot owner and the strata company. However, in some strata schemes and in many survey-strata schemes the strata company may have by-laws that determine fencing responsibilities. In other cases, there may have been a decision made by the strata company to retain ownership of all of the fences in the scheme. In such cases the strata company is the “owner” of the fences and owners of land adjoining the parcel must deal with the strata company in relation to the repair or replacement of those fences.

Where a fence on a lot abuts common property the “owner” of the common property is the strata company and the responsibility for that fencing is shared between the lot owner and the strata company.

High Rise Schemes

In schemes that are not single tier strata or survey-strata schemes, fencing (whether internal or external) is usually the responsibility of the strata company.

1.2.10 Walls

Walls on Strata Plans can have various meanings and interpretations regarding ownership. Walls on a Strata Plan are indicated by either parallel lines or by thicker lines than other lines on the plan. Walls of buildings may include doors, windows and structures where they divide lots from lots or common property. If there is a wall on the parcel that is not shown on the plan, then its position in respect of boundaries of lots and common property will determine ownership (i.e. the wall may be entirely within a lot and is therefore owned by the proprietor of that lot). The maintenance and upkeep of the wall of a building or a retaining wall that is situated on a strata lot can impact on the support for a building on an adjoining lot. This type of situation may be covered by section 11(a) (i) of the STA.

The boundaries of lots may be designated by the standard boundary definition wording contained in the STA or by an appropriate wording in respect of walls forming the boundary, e.g. “west face of wall is boundary” or “centreline of wall is boundary”. The wording on the floor plan sheet in respect of lot boundary definitions may also cover the boundaries of lots. If there is no wording on the floor plan to indicate the boundary, the wall is regarded as common property.

1.2.11 Party Walls

A party wall is a dividing building wall between lots. The boundary may be the centre plane of the wall or if the wall is common property the outside surfaces of the wall. These types of walls are covered by the implied easements under section 11 of the STA.

A common wall means either a party wall, common property wall or a wall used by adjoining lots. It does not necessarily need to be associated with a building.

2. History of the Strata Titles Act

2.1 History of the *Strata Titles Act 1966*

The *Strata Titles Act, 1966* came into operation on 1 November 1967. It was “An Act to facilitate the Subdivision of Land in Strata and the Disposition of Titles thereto, and for incidental and other purposes.”

This Act was designed to overcome the problem of share or company titles where a proprietor’s interest was not defined by a title to a specific part of the parcel. The 1966 Act allowed for a strata lot to be created with boundaries defined by the Act as the centre plane of the walls, floors and ceilings. On registration of the Strata Plan, a certificate of title was issued for each lot which included common property.

The 1966 Act proved deficient in several areas:

- Unit entitlements were allocated by the property developer or surveyor and were not necessarily based on the relative values of the lots.
- A lot could not include land outside of the building.
- Lot boundaries as defined by the Act were unsatisfactory.
- There were no easy dispute resolution provisions.
- Standard by-laws were deficient.
- It was not possible to re-subdivide land in a strata scheme.
- Exclusive use by-laws could not be registered.

In the early 1980s, a Law Reform Commission of Western Australia Report recommended substantial changes to the existing Act.

The 1966 Act was repealed and replaced by the *Strata Titles Act, 1985* and it is the current Act. The main changes were:

- Boundaries of lots on all Strata Plans became the inner surfaces of the walls, floors and ceilings.
- Lot boundaries could be defined by a variety of wordings on new Strata Plans.
- Unit entitlement was determined by a licensed valuer on the basis of relative values of the lots.
- It was possible to include part of the land outside of a building as part of the lot.
- It was possible to re-subdivide lots and common property.
- It was possible to consolidate lots.
- Exclusive use by-laws must be registered.
- Lots could be created without buildings on them (Vacant Lots).
- A Strata Titles Referee was appointed for dispute resolution.
- The standard by-laws were revised.
- A 12 month period from the appointment date (1 July 1985) was given to register any unregistered Strata Plans lodged under the 1966 Act. This was later changed and an extension was given to 30 June 1987.

Notice was sent to the owners of the affected Strata Plans that if not registered by 30 June 1987 the Strata Plan would become Null & Void. In effect those strata plans are now treated as cancelled Strata Plans.

In 1992 a Consultative Committee consisting of industry representatives was formed by the then Department of Land Information to recommend legislative changes. This Committee formulated changes over the next 5 years that were designed to improve the Act to meet modern community expectations.

A notable change considered beneficial to all strata lot owners was the compulsory requirement for common insurance by the strata company. This compulsory insurance coverage was for building replacement and public liability and was designed to protect all lot owners.

This consultative process resulted in the *Strata Titles Amendment Act 1995* being passed by Parliament in 1995 and proclaimed on 14 April 1996.

The main changes were:

- The introduction of Survey-Strata Plans.
- Management statements.
- New plan and document forms.
- Compulsory disclosure of information on the sale of strata properties.
- Standard by-laws for all strata companies.
- New types of resolutions.
- Stronger powers for the Referee.
- Standard Schedule 1 and 2 by-laws common to all schemes.
- The ability to register within a 12 month period, 1966 STA by-law resolutions that created exclusive use and other rights or privileges that could not have been previously registered.

As a result of these changes the issue of compulsory common insurance became a focus of intense community debate. This caused considerable political pressure that resulted in a "Task Force" being appointed by the Government. The job of this group was to develop legislative methods of overcoming community concerns at the changes.

This resulted in legislation being passed in December 1996 and being proclaimed on 20 January 1997.

The main changes introduced were:

- Automatic changes to single tier strata schemes of 5 lots or less so the boundaries were changed automatically to the external surfaces of the buildings unless an owner in the scheme objected prior to 20 July 1997.
- The option to merge common property land with lots by resolution and without local government or WAPC consent in schemes registered before 1 January 1998.
- The ability to convert existing Strata Plans registered before 1 January 1998 by unanimous resolution to Survey-Strata Plans without local government or WAPC consent.
- The option of individual insurance.
- The choice of opting out of insurance cover.

These changes have given lot owners simple and cheap solutions to having common property included as part of their lots. This, combined with the individual insurance changes has provided more flexibility to strata lot owners to select what they consider best for their scheme.

Since these changes the Strata Titles Consultative Committee has been disbanded and a group known as the Community Titles Advisory Committee (CTAC) has been appointed.

2.2 The Community Titles Advisory Committee

The role of the Community Titles Advisory Committee is to continue to improve the legislation to meet industry and community needs.

The committee has representatives from:

- Landgate
- The Department of Planning
- The State Administrative Tribunal (the Department of Justice)
- Western Australian Municipal Association
- Water Corporation
- Real Estate Institute of Western Australia
- Spatial Science Institute
- Law Society of Western Australia
- Australian Institute of Conveyancers WA Division Inc
- Urban Development Institute of Australia (Western Australian Division Inc)
- Strata Titles Institute of Western Australia
- Representatives of owners of lot(s) in single tier and multi-tier strata schemes
- Chairperson appointed by the Hon Minister for Lands
- A reference group involving numerous organisations was identified to assist the Committee.

The Committee is currently considering the following issues:

- Upgrading the STA.
- Conciliation service.
- Termination of schemes.
- Staged developments.
- Multi-tiered schemes and Management Statements.
- The ability to strata part of a building.
- Leasehold strata.
- Separation of title and subdivision issues from management and resolution of dispute issues.



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3. Types of Plans and Unit Entitlements

3.1 Types of Plans

There are two types of plans under the STA, each using different lot boundary definitions:

1. Strata lots are cubic space or spaces (i.e. three dimensional) referenced to a building which is shown on the Strata Plan.

and
2. Survey-strata lots are defined by dimensions and survey information similarly to a TLA subdivision. They may be restricted vertically or may be unlimited in height and depth.

A title is issued for each lot created on these plans. This title provides the basis for recording transactions affecting the ownership and interests in relation to the lot. The Strata/Survey-Strata Plan is used to record information about the lots and their boundary definition and 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.

There are four other types of plan which affect previously registered Strata Plans (i.e. amending that plan). They are plans of re-subdivision and consolidation, merger sketch plans and conversions to Survey-Strata Plans. They are detailed in [Chapter 15](#), [Chapter 16](#) and [Chapter 17](#).

3.2 Strata Plans

“Strata Plan” is a term used in reference to all strata schemes where buildings are used to define all or some lot boundaries. Every strata scheme created before 14 April 1996 is referred to as a Strata Plan unless it has subsequently been converted to a Survey-Strata Plan.

The term “Strata Plan” is used for strata schemes where either all of the buildings have been constructed or where one or some buildings are constructed and the remaining lots are vacant cubic space lots (i.e. lots that do not contain any buildings).

Strata plans are described as such in the title block of the plan form and should contain the:

- land description identifying the parcel;
- name of the scheme;
- address of the parcel;
- location plan and floor plan;
- certificate from a licensed surveyor;
- certificate of the Western Australian Planning Commission (unless the Strata Plan comes within the exemptions referred to in [Chapter 4](#));
- certificate of the local government; and
- schedule of unit entitlement certified by a licensed valuer .

Strata plans also reflect certain rights, benefits and encumbrances that may have been on the land before it was strata titled or that may have been created by new documentation, such as a deed creating a right of carriageway. If there is a reservation or right benefiting the scheme it will be shown on the front or main sheet of the Strata Plan. Examples are: benefits of a right of support and rights of access to adjoining land.

Encumbrances such as drainage easements, rights of carriageway and rights of support, etc., which affect the strata lots and common property are recorded in the encumbrance schedule on the Strata Plan and where of a spatial nature are shown in an Interests and Notifications Schedule, and depicted on the Location Plan or appropriate Floor Plan (see [Plan Example 1](#)).

3.3 Vacant Lot Strata Plans

“Vacant Lot” Strata Plans are Strata Plans that create lots which need not have buildings constructed on each of the lots. However, there must be at least one building on the parcel. Buildings may be contained within a lot or lots or may be situated on common property. Developments of this type are usually in older urban areas and are used to subdivide parcels which have an existing building on the land. Their other main use is for staged developments where the parcel is re- subdivided in stages, leaving one lot vacant until re- subdivided further at a later stage.

These types of plans must proceed through the full referral process. See Sections 142, 143, 144 and 151 of the P & D Act (formerly section 24 of the T P & D Act). See [Plan Example 2](#). When the vacant lots are built on, there is no requirement under the STA to upgrade the Strata Plan to show the new buildings.

However, as purchasers and lending institutions are uneasy about a Strata Plan not depicting what is actually built on the property, and, as the unit entitlement of each lot should be revised, it would be prudent to upgrade a vacant lot Strata Plan to show the building once it is constructed. This can be achieved by using either the merger option available under section 21Q of the STA provided the Strata Plan relates to a single tier strata scheme and was registered prior to 1 January 1998, or a re-subdivision to include the building on the Strata Plan. Part of each of these processes involves an amendment to the unit entitlement of each lot.

Revision of the unit entitlement protects each proprietor’s share in the whole of the property, should the scheme be terminated or buildings destroyed and ensure that the proportion of levies and other contributions is fair and equitable.

A type of strata scheme, known as “vacant airspace strata”, has been attempted by some developers. Titles are sought for lots on a Strata Plan either for:

- lots above the ground unsupported by the ground or any structure; or
- airspace lots where the only structure around those lots consist of concrete slabs forming or being part of the upper and/or lower limits of the lots.

Following advice from the Crown Solicitor’s Office that such Strata Plans are not authorised under the STA, the Department of Planning has recommended to the WAPC that the approval of “vacant airspace strata” schemes be withheld.

3.4 Survey-Strata Plans

On Survey-Strata Plans, dimensions provided by a licensed surveyor define the lot boundaries in the scheme. The valuation upon which unit entitlement is based and the survey will relate solely to the value of the land. It will not involve the valuation of any structure or other major improvement. A Survey-Strata Plan may limit the horizontal boundaries of lots by referencing their limits to the Australian Height Datum (AHD). It is not possible to create survey-strata schemes in which one lot is above or below another Lot, unless that Lot is a Common Property Lot (CP) (see [Plan Example 3](#), [Plan Example 4](#) and [Plan Example 29](#)).



Note

Plan Examples 3 and 4: Where a CP Lot is intended to restrict the height of another Lot, if there is an existing building on the land, then a notation should show reference to a stated surface of that building.

Survey-Strata Plans are described as such in the heading. They are processed through the full planning approval process under Part 10 of the P & D Act (formerly Part III of the T P & D Act) and must contain the:

- land description identifying the parcel;
- name of the scheme;
- address of the parcel;
- a plan of the scheme;
- field book number (necessary since 31 March 2003);
- certificate from a licensed surveyor; and
- schedule of unit entitlement certified by a licensed valuer.

3.5 Unit Entitlement of Strata and Survey-Strata Schemes

The unit entitlement of lots on strata schemes and survey-strata schemes has an important role in determining a proprietor's equity in a scheme, a proprietor's contribution toward levies and a proprietor's voting power. Occasionally unit entitlement may need reviewing to ensure that proprietors and mortgagees' interests are protected.

Unit entitlement valuations should not be confused with a property valuation. Rather it is a valuation in equity based on the relationship between the lots in the scheme.

3.6 Unit Entitlement Requirements

Lots created in either a strata scheme or survey-strata scheme must be allocated a unit entitlement by a licensed valuer. Unit entitlement is very important as it represents the proprietor's share in the whole of the parcel. Should the scheme be terminated, the resultant title in the case of a Strata Plan will be issued in the name of all the proprietors in undivided shares proportional to their unit entitlement. A proprietor whose unit entitlement is incorrect may therefore be seriously disadvantaged.

Unit entitlement is also used to determine the levies a proprietor must contribute to the management of the scheme and to indicate the proprietor's share in the common property.

In strata schemes a proprietor may improve his lot with building additions and alterations which may result in a higher property valuation. Steps should be taken to amend the unit entitlement to reflect these changes.

Schemes registered between 1966 and June 1985 had unit entitlements allocated by the surveyor or developer, not by a licensed valuer. Consequently they do not always reflect the correct proportion of the valuation of the lot to aggregate value of all of the lots.

The 1985 STA provides for a licensed valuer to allocate unit entitlement of each lot based on the value of the lot in proportion to the total value of all lots in the scheme. This proportion must not vary by more than 5% more or less from the value the lot bears to the aggregate value of all of the lots. Unit entitlement must be expressed in whole numbers. The valuer's certificate is valid for a period of 2 years from the date of the valuer signing and dating the certificate. If the Strata Plan or Survey-Strata Plan is not registered within this time frame then the valuer's certificate lapses. The Landgate computer system automatically will indicate the status of the Strata/Survey-Strata Plan as "lapsed" and either a new certificate or redating and signing of the original certificate will be required before registration proceeds.

3.7 Valuer's Certificate for a Strata Plan

A licensed valuer must certify unit entitlement for a Strata Plan based on capital value within the meaning of the *Valuation of Land Act 1978*. This means valuing the buildings and improvement on the lots together with the land content. The appropriate unit entitlement is proportioned for each lot. The valuer's certificate is valid until registration of the plan or until the certificate on the unregistered plan becomes "lapsed" (2 years form date of signing). Once the Strata Plan is registered the unit entitlement will remain in force until action is taken to vary it. A STGR Form 3 should be used. Alternatively it is possible to incorporate the certificate on the Strata Plan.

When using a STGR Form 3, the description of the parcel and building should be the same as the land description on the title, followed by a description of the buildings. This should match the surveyor's and local government's certificates.

An anomaly occurs when the strata scheme contains a "vacant lot", a lot that has no building constructed on it. The Strata Plan will contain a certificate from a licensed valuer that certifies that the unit entitlement is based on the value of the lots containing buildings compared to those not containing a building. This is satisfactory until buildings are constructed on the vacant lots. Unless a re-subdivision, merger or a change in unit entitlement is effected, the various unit entitlements will be out of proportion to the unit entitlements which should apply in the changed circumstances.

The following are typical examples of how to describe the Parcel and Building on the Form 3:

- Lot 10 on Diagram 12345 Five single storey Brick and Colourbond Roof residential units.
- Lot 20 on Deposited Plan 54321 Ten concrete panel and iron commercial units.
- Lot 30 on Deposited Plan 50001 A mixed residential and commercial multi storey complex.
- Lot 40 on Diagram 34567 A single storey brick and tile residential unit and one vacant lot.



Note

The address of the parcel may or may not be shown as part of the description

3.8 Valuer's Certificate for a Survey- Strata Plan

A licensed valuer's certificate is valid for 2 years or until registration of the Survey-Strata Plan. Once the Survey-Strata Plan is registered the unit entitlement will remain until some further action is taken to vary it. The valuer is required to certify that unit entitlement is derived from site value within the meaning of the *Valuation of Land Act 1978*. This means:

1. value of the buildings and improvements on the lots is not taken into consideration when calculating unit entitlement; and
2. common property lots are to be numbered on the schedule of unit entitlement but will not be separately valued and will not have any unit entitlement allocated to them; and
3. a STGR Form 3 can be used or alternatively the Form 3 can be incorporated into the body of the sketch plan.

When using a STGR Form 3 the description of the parcel should be the same as the land description on the title followed by a description of the amount and type of lots within the scheme. For example:

“Lot 20 on Deposited Plan 45678 comprising of five Survey-Strata Lots and one Common Property Lot.”



Note

The address of the parcel may or may not be shown as part of the description

3.9 Valuer's Checklist

Valuer's Certificate Form 3

- Delete "strata" or "survey-strata" according to the type where it appears on the form.
- Lot numbers and unit entitlement filled in.
- Aggregate filled in.
- Description of land parcel.
- Description of buildings for a Strata Plan only.
- Sum of unit entitlement to agree with aggregate.
- Valuer's name.
- Form signed and dated.

4. Obtaining Approvals

4.1 The First Steps

At the commencement of the project, the developer of the property should consider what product will best suit the requirements of the completed scheme, whether a TLA subdivision or one of the options under the STA. The Strata/Survey-Strata Plan forms the foundation of every strata scheme. It is important that at the commencement of the project the correct plan type is used as it dictates the type of processing, servicing, time frame and rights and duties of owners.

The role of planning approval for strata schemes is distributed between local government and the Western Australian Planning Commission (WAPC). Different degrees of responsibility apply for different types of scheme. For this reason the term “planning approval” can apply to an approval by either of these bodies. The term “development approval” is specific to local government; and the term “subdivisional approval” is specific to the WAPC. These two latter terms have been used in most cases in this manual in preference to the generic “planning approval” although that term is used where the generic use is intended, or where such use is not ambiguous.

One of the first steps in developing a property, whether it is the renovation of an existing building or the development of vacant land, is to consult the local government. These agencies are responsible for planning at the “grass roots” level and consequently have information on local issues and special requirements. Development requirements may vary between local governments.

Most local governments have a Town Planning Scheme in place governing land use and zoning. From a property owner’s perspective, land usage and zoning control the purpose for which the parcel of land may be used. For example the parcel may be zoned commercial and be limited to use as an office/showroom.

The local government can provide advice on:

- Zoning;
- Residential Planning Codes;
- council policy;
- WAPC requirements;
- Building Code of Australia;
- fire requirements on buildings; and
- heritage building limitations.

A Town Planning Scheme will specify the land usage and requirements for proposed lots. The following are some of the basic matters dealt with by a scheme:

- commercial or residential;
- grouped or single dwellings;
- density ratio concessions;
- vehicle access and number of car parking bays per lot.

Local governments may also have further controls in the form of the Residential Building Code, which are commonly called the “R Codes”. The R Codes define residential density and specify:

- open space or plot ratio requirements for new lots;
- building setbacks from the front, side and rear boundaries;
- lot sizes;
- privacy specifications with respect to openings overlooking abutting lots and for light and air; and
- heights of buildings.

After consultation with the local government on these types of issues, a development application may be necessary to indicate whether the proposed development will meet the Town Planning Scheme and R Code requirements. More information on development applications is provided in [Chapter 5](#).

The Water Corporation should also be approached for information on:

- water connection requirements;
- sewerage connections;
- easements to protect sewers; and
- reticulation specifications.

Once this information is obtained and considered, the financial aspect, market demand, logistics and feasibility of the project can be reviewed and a decision reached. If it is decided to proceed with the development, there are two options:

- submit an application for proposed subdivision (Subdivisional Approval) directly to the WAPC (Freehold and Survey-Strata scheme); or
- for small projects and for projects with small lot sizes, obtain from the local government, planning approval in the form of a Development Approval (this is not subdivisional approval).

When this has been obtained an application for subdivisional approval can then be submitted to local government (where delegated by the WAPC) or submitted to the WAPC (where no delegation has been given) or it can run concurrently with the development approval to local government.

4.2 Small Schemes that Do Not Require WAPC Approval

Small strata scheme developments (except for survey-strata) that fit certain criteria are exempt from WAPC approval. These exemptions are basically for five (5) residential lots or less, where all of the buildings are constructed on a land parcel of no more than 2500m². More details on the exemptions are detailed in [Chapter 5.7](#).

Most small grouped dwelling projects are processed by this method because the building licence can be issued and construction commenced in a much shorter time frame than when using the full planning approval process that is required for a survey-strata or “vacant lot” Strata Plan. Another significant difference in using this method is that the servicing of the lots is incorporated as a part of the building process. This may result in more efficient configurations of common water, sewerage and electrical services.

Headworks charges, cut-ins for sewer and water and reticulation of the services become part of the building process. The developer liaises with the Water Corporation on these matters. Electrical, gas and other services also become part of this action rather than the planning process. In these cases local government ensures the development conforms to planning and servicing requirements as well as certifying on the local government certificate (Form 7) that the building and parcel is of sufficient standard for strata titling.

4.3 Local Government Preliminary Determination

After submissions of plans and specifications for a building licence, an application may be made to the local government for a determination under section 24 of the STA stating that, if the building is constructed in accordance with the plans and specifications, it will be of sufficient standard to be brought under the STA. The local government may charge fees for this determination. This preliminary determination is not to be confused with the certificate granted under section 23 of the STA to accompany a Strata Plan lodged for registration. A determination under section 24 of the STA is binding on the local government for two years.

4.4 Strata Plan Option for Non-Residential and More Than Five Residential Lots

Strata plans that are not exempt from WAPC approval under STGR Regulation 15 require certificates from both the local government and WAPC. These types of Strata Plans generally are:

1. residential developments involving more than five lots; and
2. all non residential developments.

A development in this category can be treated in one of two ways:

1. The buildings can be constructed or existing buildings renovated and the strata plan submitted to local government for local government approval and WAPC approval (under delegation to local government).

or

2. A sketch or architectural plans of the proposed development or redevelopment (including the development approval) may be submitted to the Local Government. A letter stating either the progress of construction or, that the construction is completed should accompany the application. This provides guidance to the Local Government for referrals. After due consideration and possibly referrals to various government agencies such as the Water Corporation and Western Power the Local Government may issue a certificate that may or may not be subject to conditions. Buildings are constructed or renovations completed and the local government can then give its certification.

Both processes require all buildings and services to be completed before final certification is granted. Usually, the first method is used for small developments and the second method for larger residential or commercial projects. The second method enables the Local Government to ensure density requirements fit the planning scheme for the area. The Local Government may refer the application to other government agencies for comment and may grant conditional approval.

The local government planning and building requirements must also be met before its certification can be given.



Note

Although the WAPC has delegated its power to determine built strata applications to all local governments, it retains call in powers where it determines the type of development or land is within an area of state or regional significance.

4.5 Vacant Lot Strata Plans

Vacant lot Strata Plans are a hybrid type of plan. At least one of the lots must have a building constructed on it. This type of plan is a vital tool for staged developments and for owner-developers of small projects. The advantage is the ability for a title to be issued for a lot that is a definable cubic space that does not contain a building at the time of registration of the Strata Plan. Consequently on staged developments, the remaining land after the completion of each stage remains as a vacant lot with the developer being the registered proprietor. The title for the vacant lot can be transferred and mortgaged, making it an attractive method of land development to both big and small developers.

The process to develop a vacant lot Strata Plan involves both WAPC and local government certification. It may be advisable to apply for and obtain development approval from the local government before applying for WAPC approval. Because vacant strata lots are processed under Sections 142, 143, 144 and 151 of the P & D Act (formerly section 24 of the *Town Planning and Development Act*), full referral to government agencies is necessary, in the same manner as a survey-strata or TLA subdivision title application.

The time frame to allow for (WAPC) subdivision approval is 90 days from the date of application. However, if planning consent (development approval) has been previously obtained from the local government and approaches made to government servicing agencies in expectation of approval of the application, the time can be cut significantly.

As a building or buildings will be involved, inspection and certification by the local government are also required. This can be put in motion in anticipation of WAPC approval by applying to the local government toward the end of the (WAPC) subdivisional approval process.

The type of strata scheme, known as “vacant airspace stratas”, are not considered authorised under the STA. The Department of Planning has recommended to the WAPC that the approval of “vacant airspace strata” schemes be withheld (see [Chapter 3.3](#)).

4.6 Survey-Strata Plans

Developments of this type are processed in the same manner as TLA subdivision applications.

An application is made to the WAPC on a form that is accompanied by a sketch of the proposed subdivision. This application is then referred by WAPC for comment to all relevant government agencies.

If the application is successful the developer can proceed to commence subdivisional works. A survey-strata subdivision does not involve any building construction. Titles can issue for vacant lots. As the development progresses, liaison between surveyors, engineers, various contractors and government agencies (who may have sought conditions to be imposed for subdivisional approval) is necessary to enable the appropriate clearances to be obtained. These clearances are obtained either at the completion of the subdivisional works or by the developer depositing a bond with the agency. This system varies depending on the agency and project size.

4.7 Large Developments

The process for large or unusual developments is far more complex. A planning consultant, architect or licensed surveyor should be engaged to design the proposed development and to liaise with Local Government, the WAPC and government agencies as to conditions. The negotiations involved can be lengthy and complex as other factors such as foreign capital limitations, prospectus approval from the Australian Securities and Investments Commission, money in lieu of open space or removal of contaminated waste from the site may require the involvement of lawyers, financiers, and federal government agencies.

4.8 Forms

Throughout this manual there are constant references to “forms”.

4.8.1 Strata Forms:

With the introduction of e-Strata's in July 2005, Strata and Survey-Strata Plans can be lodged at Landgate as PDF files. An e-Plan Kit is available from Landgate/Survey Channel/Quick Links which contains relevant templates for Strata/Survey-Strata Plan lodgements. Surveyors are encouraged to use these templates when preparing plans as they include Chapters consistent with the Standard Plan Process. Provision has been made for digitally signed Certificates by Surveyors and Valuers.

The *Strata Titles General Amendment Regulations 2006* (STGAR) gazetted 24 January 2006 introduced significant changes to certain Strata/Survey-Strata Forms. Traditional forms 1, 2, 4 and 34 formerly contained in Schedule 3 of the STGR 1996 have been deleted enabling Surveyors to prepare forms based on the e- Plan Kit by electronic means as described above and in a form approved by the Registrar of Titles.

Where Forms 3, 5, 6, 26 (when signed by WAPC), 35, 36 and 38 (as set out in the STGR) are required as part of the plan Landgate will only accept an “interactive” PDF (i.e. file that has form fields and a digital signature). Forms 3, 5, 6, 35 & 38 may be incorporated into the appropriate Plan sheet if possible.

Landgate will accept a “scanned” signed copy of the Form 7 and Form 26 lodged as a PDF file. Surveyors are advised that the original archival hardcopy of these forms can be produced on any “print quality” paper, and that “goatskin parchment” is not required.

It is the Surveyor's responsibility to ensure that the legibility of the scanned signed copy of Forms 7 and 26 is sufficient to meet Landgate's scanning requirements; otherwise the forms will be rejected.

The Form 8 (no digital signature) will only be accepted as a PDF file. All other forms including forms 25, 27, 30, 31, 32, 33 and 37 as set out in the STGR should be prepared on white A4 size 90 gsm paper and be attached to or form part of a B4 or B2 cover sheet (TLA document forms available from Landgate or State Law publishers).

4.8.2 WAPC Forms:

A STGR Form 24 is an application form for approval of a Strata Plan. However, an application to the WAPC for survey-strata subdivision must be made on a WAPC Form 1A.

4.8.3 Title Registration Forms:

These are forms used to register Strata/Survey-Strata Plans, to apply for new titles on a plan or diagram or to register land transactions at Landgate. They can be purchased from the State Law Publisher.

4.8.4 Others:

The Water Corporation and local government also have various in-house forms and checklists that are used for processing various types of applications. These types of forms vary from agency to agency.



5. The Role of Government Agencies

5.1 Government Involvement in Strata and Survey- Strata Schemes

The planning and development approval process controls land development in Western Australia. Various Acts, regulations and policies dictate the responsibilities of government agencies that approve these projects.

Strata title developments now comprise one third of development in this state. As urban and rural land use changes with modern planning concepts the strata title is playing a significant role in providing flexibility in development. The process and the time frame for approval has become an important factor in determining the method of development.

Flow charts and approximate time frames of the process through the major government agencies are detailed in Appendix A.

5.2 Local Government Planning Approval

In most urban projects one of the first steps is to gain a Development Approval from the local government. This approval is to indicate that buildings and infrastructure can be located on the property and that it will conform to specified requirements set out in the Residential Design Codes and Town Planning Schemes.

In local government, responsibility for developments is broken into two components:

1. planning issues and responsibilities; and
2. building responsibilities.

The planning issues are under the control of the planning section of the local government which is responsible for ensuring any proposed development complies with the Town Planning Scheme, Residential Planning Codes and other local government requirements that fit the urban character. This encompasses minimum lot sizes, open space requirements, privacy, access, aesthetics and issues that deal with amenities and appearance of the completed development.

The structural component of the development is the responsibility of the building section of the local government whose role is to ensure the structure conforms to the Building Code of Australia and various local government by-laws.

The development application form has details to be completed by applicants or their representative and must be accompanied by basic building plans showing the design of the proposed buildings, access, levels, etc.

Local governments have varying requirements for development approval, but the following information may be required:

1. A site plan showing the existing buildings.
2. Contours and ground levels.
3. Floor levels of the proposed building.
4. Retaining walls or embankments.
5. Layout and dimensions of car parking.
6. Tree types and heights.
7. Location and dimension of open space.
8. Information from adjoining land on:
 - location of buildings and all windows facing the proposed development;
 - location of access ways and crossovers; and
 - ground levels and floor levels of adjoining land and buildings.
9. Drawings of proposed buildings showing floor plans, elevations, sections and to include:
 - proposed use of buildings;
 - all external openings;
 - any solar heating or air conditioning devices; and
 - relationship of proposed floor levels and existing ground levels.
10. Copies of specifications showing material type and colour of building construction, driveways, fences and retaining walls.
11. Other information local government requires.

On payment of a fee, an application for a development approval is considered by the planning section of the local government and applicants are notified of the result. A development approval (DA) is normally valid for two years but this may vary according to the proposal.

One of the requirements of a development approval is to ensure that the development will meet the open space or plot ratio specifications of the Residential Planning Codes. On Survey-Strata Plans and "vacant lot" Strata Plans this requirement is reinforced by having a management statement (by-laws) registered on the plan, including within its terms, a by-law stating that the development must conform to the development approval issued by the local government.

5.3 Western Australian Planning Commission's Role

Processing of strata title projects through various government agencies is governed by the type and size of the scheme and by the requirements of the STA.

5.3.1 Strata Plans:

Under Section 25 of the Strata Titles Act 1985 strata plans are required to be approved by the Western Australian Planning Commission, unless exempt under Regulation 15 of the Strata Titles General Regulations 1996 (see [Chapter 5.7](#)).

On 26 May 2009, the WAPC resolved to delegate its power to issue a certificate of approval under Section 25 of the Strata Titles Act 1985 to all local governments, except for those applications that:

- propose the creation of a vacant lot;
- propose vacant air strata lots in multi-tiered strata scheme developments (these, however, are inconsistent with the provisions of the Strata Titles Act and the WAPC has received legal advice not to approve this type of scheme);
- where, in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing, relate to
 - (i) a type of development
 and/or
 - (ii) land within an area, which is of state or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest for the WAPC to determine the application.

An instrument of delegation regarding these arrangements was made under Section 16(3)(e) of the *Planning and Development Act 2005* and gazetted on 9 June 2009.



Note:

Delegation under Section 16 of the P&D Act does not exempt Strata Plans from the requirement of a STGR Form 26 certificate.

Where, in accordance with the notice of delegation, the WAPC has notified the local government in writing, or the local government has notified the WAPC in writing that the type of development and/or land is within an area which is of state or regional significance, the local government will forward the form 24 application to the WAPC for determination and approval. In this instance the WAPC will sign the Form 26 and will refer a copy of the approved plan to the local government to ensure consistency of approved plans.

In the past the Form 26 was able to be incorporated into the Location Plan of the strata plan. However, it is now better suited and required to have the Form 26 separate from the Location Plan for those strata plans that have been delegated to local government (see [Plan Example 53](#)).

5.3.2 Survey-Strata Plans and Vacant Lot Strata Plans:

Survey-Strata Plan and vacant lot Strata Plan applications to the WAPC are controlled by the provisions of Part 10 of the P & D Act (formerly Part III of the *Town Planning and Development Act*). These types of applications undergo the full planning referral process.

Applications for Survey-Strata Plan (WAPC) approvals require a fully completed Form 1A plus 8 copies of the proposed plan (for 40 lots or less) or 12 copies of the plan (for more than 40 lots). Applications for Vacant Lot Strata Plans are made on a STGR Form 24 and must be accompanied by 6 copies of the plan.

The WAPC will then refer the application to Local Government and service providers for comment and recommendations. They have up to 42 days to respond to the application and may request conditions be imposed on any approval given by the WAPC.

A report and recommendation is prepared for WAPC, taking into account relevant WAPC policies, local and regional planning scheme provisions, comments from referral agencies and any other relevant matters. The WAPC may approve the application with or without conditions or refuse the application. This determination may take up to 90 days (Section 143(2) P&D Act) from the date of receipt of the application.

All Strata/Survey-Strata Plans are first lodged at Landgate for audit. After audit, Vacant Lot Strata Plans and Survey-Strata Plans will be "Certified Correct". Once the applicant has obtained the necessary clearance certificates (see [Chapter 5.4](#)), the surveyor will send a "Release Letter" to Landgate requesting the plan be forwarded to WAPC for approval endorsement.



Note

Surveyors are requested not to forward Release Letters to Landgate until the Strata/Survey-Strata plan has been lodged at the "plan.reg" email address. The Release Letter can be included as an attachment in the lodgement email if all clearances are at hand.

5.3.3 The *Planning and Development Act 2005* (P & D ACT)

Throughout this manual there are various references to the *Town Planning and Development Act 1928* (T, P & D Act). With the commencement of the P & D Act on the 9th April, 2006, the T P & D Act was repealed so all new Strata/Survey-Strata Plans lodged for registration after that date must where applicable show reference to the P & D Act.

Following is a brief summary of significant sections of the P & D Act that impact on strata/survey-strata plans:

1. Section 146 of the P & D Act provides that the Registrar of Titles cannot issue Certificates of Title or Register certain Plans where a “title application” is not made within prescribed periods. For the purpose of section 146, the P & D Act definition of a “lot” does not include a lot in relation to a strata scheme or a lot in relation to a survey-strata scheme and therefore strata/survey-strata plans are excluded from the provision of Section 146.
2. Section 150 of the P&D Act provides the WAPC the mechanism to impose Road Access Conditions. Conditions imposed as a restriction or prohibition on land abutting a road is to be shown in an Interests & Notifications schedule as a Covenant (see [Plan Example 52](#)).
3. Section 152 of the P & D Act (formerly section 20A of the T P & D Act) – provides for the “Vesting” of Lots directly on the Strata/Survey-Strata Plan. Dual numbering of Strata/Survey-Strata Plans with vesting lots is no longer allowed. (see [Chapter 10.19](#) and [Plan Example 7 and 51](#)).
4. Section 165 of the P & D Act (formerly section 12A of the T P & D Act) – provides the WAPC with the power to impose a “Notification” to be recorded on a Certificate of Title as a warning to “Factors Affecting the Land”.
5. Section 167 of the P&D Act and Regulation 33 of the *Planning and Development Regulations 2009* (formerly Regulations 5, 6, 7, 8 and 9 of the *Town Planning and Development (Easement) Regulations 1983*) provides for the automatic creation of certain easements for Sewerage, Drainage, water Supply, Irrigation, Electricity, Gas Supply and Telecommunications Supply (see [Plan Example 52](#)).

Existing easements created prior to 1 July 2009 under Regulations 5, 6, 7, 8 and 9 of the *Town Planning and Development (Easement) Regulations 1983* are to be brought forward as and remain as Reg 5, 6, 7, 8 and 9 (see [Plan Example 12](#) and [Plan Example 46](#)).

6. Section 168 (1) & (2) of the P & D Act (formerly section 295 (5) of the *Local Government Act 1995*) – provides that land on a plan, including a Strata/Survey-Strata Plan shown as a new road can be dedicated as a road. It is important to note that the creation of roads on Strata/Survey-Strata Plans is a completely new provision (see [Chapter 8.9](#) and [9.8](#)).
7. Section 168 (3) of the P & D Act (formerly section 28 (3) of the T P & D Act) – provide that land on a plan, including a Strata/Survey-Strata Plan shown as a “Road Widening” will dedicate as part of a road (see [Chapter 8.9](#) and [9.8](#)).

5.4 Referrals by WAPC and Local Government under Delegation

It is mandatory for the WAPC to consult with other government agencies on an application for a proposed subdivision. This consultation process is known as a “referral”. The responses received from the agencies are considered by the WAPC who may or may not choose to make the recommendations a condition of subdivision. The WAPC has statutory power to override conditions recommended by the agencies. Alternatively, it may impose other conditions.

After consideration by the WAPC, the approval of the proposed subdivision may be granted subject to certain conditions. This form of approval is known as “conditional approval”.

If the developer proceeds with the proposal then there are various conditions that must be met and a “clearance certificate” must be obtained from each of the appropriate agencies to certify that the conditions have been met before final approval can be given by the WAPC.

Referrals are always made to the following government agencies:

- Water Corporation;
- Western Power; and
- Local Government (where necessary).

The WAPC may consult with various other government agencies with respect to a subdivision application for a survey-strata or “vacant lot” strata development. Listed below are the agencies and common types of issues that they may be consulted on:

1. Main Roads WA, on matters relating to future expansion of major roads or proposed main roads and on access to lots created on major roads.
2. The Environmental Protection Authority (EPA), on a variety of matters from water quality, soil erosion, toxic soils on old factory sites to the impact the proposal would have on wetlands.
3. The Department of Agriculture, on the impact the proposal would have on the land use and how it would affect adjoining rural properties.
4. Fire & Emergency Services Authority of WA, on matters such as fire breaks and the positioning of fire hydrants.
5. The Health Department could be asked to comment on matters such as septic tank requirements and on other matters affecting public health.
6. The Department of Conservation & Land Management (CALM) may be consulted on matters that impact on wild life, forestry and National Parks.
7. The Heritage Council of WA will be consulted on applications that affect heritage classified buildings.
8. The Department of Water (ratified 1 January 2006 - formerly the Water & Rivers Commission) may be consulted on the impact which a subdivision may have on the water catchment, rivers and creeks near the proposal.
9. The Swan River Trust could be consulted on a proposal’s impact on water quality in the Swan River.

The WAPC does not consult with every agency on every proposal. Rather it is selective and consults where appropriate. The process is designed to ensure that all the facts are available to enable the WAPC to make an informed decision on the proposal.

The time limit for comment by other agencies is 42 days (see section 142(2) of the P & D Act), but extensions may sometimes be required if research is necessary by an agency. After all comments are received, the WAPC evaluates the proposal and either approves the subdivision subject to conditions or refuses the application. The timeframe for a decision is 90 days (see section 143(2) of the P & D Act) from date of lodgement of the application.

5.5 Appeal Provisions for LG and WAPC (Review)

The STA provides for appeal provisions against both the WAPC and local government should an applicant for strata development be aggrieved by a decision. Appeals (referred to as “a Review”) may be directed to the State Administrative Tribunal (SAT) located at Level 4, 12 St George’s Terrace, Perth or via the internet at www.sat.justice.wa.gov.au/.

SAT has a very comprehensive website where an Applicant may make an e Form application online via “SAT Wizard” and navigate to the specific issue required.

5.5.1 Section 26 of the STA

enables the local government to refuse an application for certification on certain grounds. If the application has been refused on planning principles the application to review the decision may be made to the SAT (formerly adjudicated by either the Minister for Local Government or the Town Planning Appeal Tribunal). See section 26(4) of the STA. The time limit for lodging an application to SAT is set out in the “SAT Wizard”.

5.5.2 Section 27 of the STA

enables the WAPC to refuse an application for a certificate for a Strata Plan. If the application has been refused an application to review the decision may be made to the SAT (formerly adjudicated by the Town Planning Appeal Tribunal) see section 27 (3) (a) of the STA. The time limit for lodging an application to SAT is set out in the “SAT Wizard”.

5.5.3 Sections 142, 143 and 144 of the P & D Act (formerly Section 24 of the T P & D Act)

enables the WAPC to deal with and refuse an application for a certificate for a Survey-Strata Plan lodged under section 145 of the P & D Act (formerly section 20AA of the T P & D Act). If the application is refused an application to review the decision may be made to SAT (formerly adjudicated by the Town Planning Appeal Tribunal). The time limit for lodging an application to SAT is set out in the “SAT Wizard”.

5.6 Reconsideration of Conditions

It is also possible to request a reconsideration of a condition within 28 days of the conditional approval being granted.

Applications for reconsideration are in the form of a letter to the WAPC stating the reasons for reconsideration. The WAPC will then review the conditions.

5.7 Local Government– Exemption from WAPC Referral

Strata plans that meet certain exemption requirements do not require approval from the WAPC. These must fit the following criteria as set out in Regulation 15 of the STGR:

1. Each proposed lot is to have one dwelling constructed on it.
2. No more than 5 dwelling units.
3. Residential developments only.
4. The land parcel to be 2500m² or less in area.
5. Under, and conforming with a Town Planning Scheme or within a townsite.
6. Strata plans fitting these requirements are processed and approved by the local government.



Note

In cases where a 2 to 5 lot built strata scheme creates a Lot or Lots to vest in the Crown, under Section 152 of the P & D Act WAPC approval delegated to Local Government is required (see Chapter 10.19)

Prior to commencing construction of new buildings, Development Approval and a building licence are required from the local government.

As well as local government approval, building plans need approval from the Water Corporation for sewerage and water connection points. This may involve extension of drains and reticulation, connection fees, headwork charges and associated inspections. In rural areas there may be other forms of waste disposal that can be utilised. The Water Corporation can advise on these requirements and charges.

Western Power may also be involved in arranging electricity connections. A common condition that may be imposed is a requirement for underground power which must be connected before the local government can certify the Strata Plan.

Alinta Gas and Telstra are other servicing agencies that can be involved in servicing developments during the construction stage as common service trenches may be used during construction to contain all of the services.

Sometimes where major power lines or gas pipes are close to the proposed lot boundaries, easements in favour of the appropriate government agency may be a condition of approval.

On completion of construction, an application for a strata certification is made to the local government. This application must be accompanied by:

1. a local government fee;
2. a copy of the Strata Plan;
3. a licensed surveyor's certificate;
4. a copy of the valuer's certificate; and
5. proof of servicing compliance.

The local government building surveyor arranges for a site inspection of the development. When making inspections of this type the building surveyor has obligations that are dictated by the Building Code of Australia, local government policy and the requirement under the STA that the building is of sufficient standard to be strata titled. After the inspection and recommendation has been made the Chief Executive Officer or a Delegated Officer signs the local government certificate.

Other than the Chief Executive Officer, only an Acting Chief Executive Officer or a person duly delegated under section 23(5) of the STA may sign the Certificate. The notation 'For' Chief Executive Officer' is not an acceptable endorsement (see Chapter 11.6).

Surveyors may lodge the original Strata Plan as an e-Strata at Landgate prior to obtaining the local government Certificate (Form 7 in the STGR). This enables the Plan to be audited while the Certificate is being obtained. Surveyors using this method of lodgement must lodge the Form 7 with the Application to Register the Strata Plan. However, if the Form 7 is available at the time the Plan is lodged in Landgate then the Certificate should accompany the Plan.

Landgate will accept a scanned signed Form 7 as part of an e-Strata provided the Surveyor retains the original Form 7 as evidence.

Delays to this process can be caused by a variety of minor deficiencies such as:

- incomplete landscaping;
- fly screens not fitted;
- crossover not in place;
- downpipes not connected to soak well; and
- exhaust fans not flumed.

There is no requirement under the STA to delay approval of the plan for these types of minor variations. Rather, it is other Acts, Regulations and local government by-laws that dictate these requirements.

5.8 The Water Corporation's Role

Water, drainage and sewer services are essential requirements of modern land development. To ensure this standard is maintained, various conditions are imposed on the proposed development by the WAPC on advice from the Water Corporation.

Listed below is a summary of typical Water Corporation requirements, some of which could be applicable on a proposed strata/survey-strata subdivision:

- Payment of water, sewerage and drainage headworks charges.
- Payment of deferred water service.
- Payment to disconnect an existing service.
- Payment for relocation of existing service.
- Engaging a licensed plumber to relocate water plumbing within the proposed lot boundary.
- Engaging a licensed plumber to construct a dormant water line with standpipe within 600mm of the boundary and extending 500mm into the strata lot.
- Payment for a cut-in junction.
- Engaging a licensed plumber to realign the property sewer within 600mm of the boundary.
- In older urban areas sewer capacity tests may be required.
- Engaging a licensed plumber to construct an internal property sewer within 600mm of the boundary and extending 500mm into the strata lot.
- Engaging a licensed plumber to arrange for sewer junction to be “brought in” and/or “brought up” within the lot boundary.
- Engaging a licensed plumber to extend the existing property sewer a minimum 500mm inside the boundary of the strata lot.
- Engaging a licensed plumber to connect the existing buildings to the Water Corporation's sewers (600mm from boundary).
- Engaging a licensed plumber to provide a service connection point on the existing property sewer to service the strata lot.
- Engaging a licensed surveyor to show “use restriction for buildings over sewers” on the Strata/Survey-Strata Plan sheet.

Because Survey-Strata Plans and some lots on vacant lot Strata Plans may have few or no buildings constructed on the land the servicing is put in place by the developer of the land as a condition of subdivision approval. This means conforming to the Water Corporation conditions of subdivision approval. When these conditions are completed a clearance of the conditions is provided to the applicant.

5.9 Deferment of Water Corporation Headworks Charges

In an effort to reduce costs and improve the availability of developed residential land, changes were made in 1996 to the way the Water Corporation collect water charges and headworks contributions for newly subdivided land. The *Taxes and Charges (Land Subdivision) Legislation Amendment Act 1996* became effective on 1 July, 1996.

The Act amended the *Land Tax Assessment Act 1976*, the *Water Agencies (Powers) Act 1984*, the *Water Boards Act 1904* and the *Water Services Co-ordination Act 1995*.

Developers of residential land may apply to the Water Corporation for:

- Exemption of charges for residential lots created by subdivision approved by The Western Australian Planning Commission after 30 June, 1996.
- Deferral of headworks contributions for subdivisions that have headwork contributions unpaid after 30 June, 1996.

In order to obtain a deferral of headworks contributions the developer must agree to a Memorial being placed in favour of the Water Corporation, over each lot where it is proposed to defer headworks contributions.

The deferral applies only if the lot:

1. is not serviced and is not a habitable lot;
2. is created to be used solely or principally for residential purposes; and
3. has an area of not more than 2000m² or if its area is more than 2000m², is to be used for a building or group of buildings that:
 - is solely for residential purposes; and
 - contains a number of separate residential units.

For the purposes of the *Taxes and Charges (Land Subdivision) Legislation Amendment Act 1996* the definition of a lot only includes a lot in a survey-strata scheme. Payment is deferred until the lot becomes serviced, becomes a habitable lot one year after the plan is approved by WAPC.

It is also possible to defer headworks charges on Strata Plans containing vacant lots. However, in this type of deferral, the Water Corporation lodges a caveat which is endorsed on the title to record the deferral.

5.9.1 Memorials

The Memorials mentioned in Chapter 5.9 can be either lodged in document form or created automatically on the lodgement of the plan (see [Plan Example 8](#)).

5.9.1.1 Manual Memorial

Memorials lodged in document form will follow the same procedures and incur costs as for any other document lodged at Landgate. The land description must make reference to the parent title and plan. The Memorial will be endorsed on the parent title and brought forward onto the new titles for the lots when an application for new titles is lodged.

5.9.1.2 Automatic Memorial

When a plan is lodged with an endorsement and section 67B of the *Water Agencies (Powers) Act 1984* or section 62D of the *Water Boards Act 1904* applies to certain lots:

- the lodging party pays a memorial fee;
- Landgate staff will check that the fee has been paid and if not will issue a notice to the lodging party;
- the parent title will be endorsed with a notation that either section 67B or section 62D applies; and
- when the plan is registered and an application for new titles lodged, Landgate will ensure that the new titles have a Memorial endorsed upon them.

5.9.2 Removing the Memorials

5.9.2.1 Manual Memorial

Those Memorials lodged in document form will be removed by the lodging of a Withdrawal of Memorial form.

5.9.2.2 Automatic Memorial

Memorials lodged automatically will be removed by the lodging of an application requesting the Registrar to remove a Memorial created either by section 67B of the *Water Agencies (Powers) Act 1984* or section 62D of the *Water Boards Act 1904*.

For each Memorial removed a registration fee applies.



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6. Easements, Covenants, Exclusive Use By-Laws and Restrictive Use

6.1 Easements and Covenants

Amendments to both the *Strata Titles Act 1985* (STA) and the *Transfer of Land Act 1893* (TLA) have made it possible to create easements and covenants over land in the same ownership. This has numerous advantages where a developer may put in place easements and covenants for various purposes over the subject land at the time of registration of the plan.

The STA and the TLA contain standard wordings that can eliminate the need for any written documentation. However, it is also possible to vary the terms of these easements or covenants or provide for specific needs by an instrument that is in the form of a deed.

It is also possible to create easements and covenants in gross automatically under Part IVA of the TLA, to meet local government and planning requirements. Service authority easements can be created under section 167 of the *Planning and Development Act 2005* (P & D Act- formerly section 27A of the TP&D ACT). Road Access Conditions covenants can be created under Section 150 of the P & D Act.

Strata Plans lodged for registration can create:

- a TLA short form easements and covenants under Part IVA of the TLA by notation on the plan;
- a covenant (Road Access Conditions) under Section 150 of the P&D Act;
- easements under section 167 of the P & D Act (formerly section 27A of the TP&D ACT); or
- easements and covenants by deed or transfer.

Survey-Strata Plans lodged for registration can include:

- easements under Regulations 14E to 14I of the Strata Titles General Regulation (STGR- created under Section 5 (D) of the STA);
- short form easements and covenants under Part IV A of the TLA;
- a covenant (Road Access Conditions) under Section 150 of the P&D Act;
- easements under section 167 of the P & D Act (formerly section 27A of the TP&D ACT); or
- easements by deed or transfer.

Strata/Survey-Strata Plans of Re-subdivision can include:

- a covenant (Road Access Conditions) under Section 150 of the P&D Act;
- easements under section 167 of the P & D Act (formerly section 27A of the TP&D ACT).

Strata/Survey-Strata Plans of Consolidation:

- a covenant (Road Access Conditions) under Section 150 of the P&D Act;
- easements under section 167 of the P & D Act (formerly section 27A of the T P & D Act).

[Appendix B](#) lists the types of TLA and STA easements that may be created on each type of plan.

It is not possible to automatically create section 5D STA or section 136C TLA easements such as 'Right of Carriageway' on Strata/Survey-Strata Plans of re-subdivision or consolidation.

However, the location of easements to be created spatially by Document after the Plan is registered may be depicted on the plan of re-subdivision or consolidation provided they are clearly defined on the Plan but not recorded in the 'Interests and Notifications' schedule. This will avoid the need for the lodgement of a separate 'Interest Only' Deposited Plan (see [Plan Example 9](#)).

Easements that are created under the TLA or the STA need to be shown in a schedule on the plan (see [Chapter 10.15](#)) and by broken lines, dimensions and angles on the sketch. Original easements and covenants being brought forward that have a spatial nature also need to be shown (see [Plan Example 10](#)).

Easement and Restrictive Covenant documents executed in respect of strata/survey-strata schemes are subject to the normal requirements. Some issues that have caused problems are discussed in the following paragraphs ([Chapters 6.2](#) to [6.5](#)).

6.2 Ownership of Parcels

Although a strata company may execute a document, in accordance with section 20(1) of the STA, creating and accepting the benefit of or surrendering easements or restrictive covenants, it does so as the representative of the registered proprietors of the lots and who are therefore the owners of the common property. The strata company does not own any lots or common property. Ownership of the parcel is held by the registered proprietors of the lots (sections 17 and 4(4)).

If the ownership of all lots in a strata/survey-strata scheme is identical to that of another parcel of land then the two parcels are held in the same ownership.

In accordance with common law principles, easements and restrictive covenants can only be created when the dominant and servient tenements are in separate ownership. Easements or restrictive covenants created on subdivisions under Part IV A of the TLA or section 5D of the STA are statutory exceptions to that principle.

Registration of a transfer of at least one strata/survey-strata lot to another person is one way of breaking the unity of ownership between two parcels.

6.3 Execution of Documents by Strata Companies

Any easements or restrictive covenants under section 20 of the STA can only be executed by the strata company pursuant to a resolution without dissent or (in the case of a two lot scheme) by a unanimous resolution. A unanimous resolution can only be achieved at a duly convened general meeting of the strata company of which the requisite notice specifying the proposed resolution has been given.

Even if Schedule 1 by-law 11(5) has been modified by a management statement (section 5C and 42) to provide for a lesser period than 14 days notice, a strata company can only pass a resolution without dissent, or a unanimous resolution, if at least 14 days notice is given. This means that even if notice is given on the date of registration of the plan, the earliest day on which the meeting could be held is the 16th day after registration of the Strata Plan.

Any consents referred to in section 20 (4) of the STA will also have to be obtained.

6.4 Execution of Documents by Proprietors

The formalities of execution by strata companies of documents creating easements or restrictive covenants means that such documents cannot be lodged at the same time as applications for registration of Strata/Survey-Strata Plans.

Grants or acceptance of grants of easements and restrictive covenants between the owner of a proposed strata/survey-strata and the owner of another property can be made by reference to an annexed copy of the proposed Strata/Survey-Strata Plan and registered before the Strata/Survey-Strata Plan.

6.5 Easements over Encroachments and Easements of Support

Section 22 of the STA provides that where part of a strata development, such as a roof, wall or building foundation is built upon adjacent land, an appropriate easement for that part of the roof, wall or foundation which encroaches onto that other land must be put in place before registration of the Strata Plan may proceed.

One of the appropriate easements is an easement of support for the part of the building erected on the dominant tenement for that portion of roof, wall or foundation of the said building erected upon the servient tenement. This type of easement recognises that that portion of the roof, wall or foundation belongs to the owner of the servient tenement. Persons considering using this type of easement should obtain legal advice ([see Plan Example 11](#)).

It may be more appropriate to effect a subdivision which adds that part of the adjacent land subject to the “encroachment” to the parcel. Refer to section 166 of the P & D Act. This will require the cooperation and consent of the owner of the adjacent land.

Easements in respect of “encroachments” must be executed and dated prior to the date of the licensed surveyor’s certificate (section 22 (i) (c) (iii)) and must be lodged for registration before the application for registration of the Strata Plan.

In the case of an easement for support from part of a wall or building on the servient tenement, the easement document must be lodged with, but preceding the application for registration of the Strata Plan. Surveyors must ensure that the easement is granted prior to them signing a Form 5 of the STGR.

6.6 Easements on Strata Plans

6.6.1 TLA Easements

Section 65, Part IVA section 136C and Schedules 9 and 9A of the TLA refer to the following types of “standard” easements:

1. Right of carriageway
2. Right of footway
3. Water supply purposes
4. Drainage purposes
5. Gas supply purposes
6. Transmission of electricity by overhead cables
7. Transmission of electricity by underground cables
8. Transmission of television signals
9. Party wall rights
10. Eaves and gutters
11. Sewerage purposes
12. Parking of motor vehicles.

These easements can stand alone or may be varied by an instrument to suit particular circumstances. Provision should be made to indicate this in the Schedule of Interests and Notifications on the Strata Plan (see Chapter 10.15). These types of easements can be created to apply to individual lots on the Strata Plan (see [Plan Example 12](#)). Land external to the scheme may also receive the benefit of an easement. Easements other than those listed above can be created to meet the particular requirements of a scheme using an instrument. The type of easement must be specified in the schedule.

If an instrument is to be lodged, it must be at the same time as the plan is lodged or there must be indication on the plan that an instrument will be lodged as part of the registration process.

The alternative method of creating easements is to use the traditional method of a deed of easement or transfer by registration on the title. An easement of this type will usually require an ‘Interest Only’ Deposited Plan (formerly ‘Easement Only Deposited Plan’) to be lodged depicting the extent of the easement.

6.6.2 P & D Act Easements (formerly T P & D Act)

Section 167 of the P & D Act (formerly section 27A of the TP&D ACT) provides for the automatic creation of service authority easements in gross on registration of the plan. The statutory wording of these various easements is set out in regulation 33 of the *Planning and Development Regulations 2009* which came into operation on 1 July 2009.

Where there is a requirement to create section 167 P & D Act easements on Strata Plans that are exempt from the requirement of approval by the WAPC, then it is important for Surveyors to note that the P & D Act makes no provision for those plans to be endorsed by the WAPC.

Surveyors are not required to provide a CSD file when creating section 167 P & D Act easements on a Strata Plan as they will be captured manually by Landgate during the lodgement/audit process.

Where a building encroaches upon an existing section 167 P & D Act easement, Surveyors must identify at the earliest possible moment the need to have the easement extinguished, partially extinguished or varied in height so that no building part lot (including balconies) is encumbered by the easement. Failure to identify and negotiate the modification of that easement will cause unnecessary financial cost and delays for the developer.

In the case where an easement encumbers the basement carbay part lot of a multitier scheme, the easement may be limited in height (metres AHD) to the undersurface of the basement ceiling. This will enable the service authorities to maintain and access the easement.

From time to time surveyors may encounter lightweight structures e.g. carports, pergolas etc (non building part lots) that hang into or over Section 167 P&D Act easements. Contact should be made with the service authority benefiting from the easement. A partial extinguishment may be required or a letter from the service authority consenting to the structure being within the easement. This letter should be lodged with the strata plan so as to alert Landgate's strata plan auditors that matter has been attended to.

6.7 Easements on Survey-Strata Plans

Easements on Survey-Strata Plans can be created in four ways:

1. Automatically under the STA
2. Automatically under the TLA
3. Automatically under the P & D Act (formerly T P & D Act)
4. By deed or transfer.

6.7.1 STA Easements

Easements created pursuant to section 5D of the STA enable easements to be created automatically on registration of the Survey-Strata Plan. Although only the abbreviated name of the easement needs to be shown on the plan, the terms of the easements are prescribed in Regulations 14E to 14I of the STGR. The wording contained in the STGR includes maintenance and indemnity clauses.

It is also possible to vary the terms of these easements by lodging a memorial or instrument with the plan.

These types of easements are confined to the subject land, i.e. it is not possible to benefit land outside of the scheme or a service authority.

The following standard easements may be created under section 5D of the STA:

1. Vehicle Access Easement under Regulation 14E of the STGR (see [Plan Example 3](#)).
2. Light and Air Easement under Regulation 14F of the STGR.
3. Party Wall Easement under Regulation 14G of the STGR (see [Plan Example 13](#)).
4. Intrusion Easement under Regulation 14H of the STGR (see [Plan Example 7](#), [Plan Example 10](#) & [Plan Example 45](#)).
5. Pedestrian Access Easement under Regulation 14I of the STGR.

These types of easements can only be used on Survey-Strata Plans. However, the Vehicle Access Easement can also be created on merger “sketch plans” in a strata scheme- see section 21W of the STA. If special conditions are required the standard form of the easements may be varied by lodging an instrument that sets out the specific conditions before the plan is registered.

Easements created under section 5D of the STA may be varied or discharged under section 5F (see [Chapter 14.11](#)).

6.7.2 TLA and P & D Act Easements

Section 167 of the P & D Act (formerly section 27A of the TP&D ACT) provides for the automatic creation of service authority easements in gross on registration of the Survey-Strata Plan. The statutory wording of these various easements is set out in Regulation 33 of the *Planning and Development Regulations 2009* which came into operation on 1 July 2009 (see [Plan Example 52](#)).

6.8 TLA Easements on Strata and Survey-Strata Lots Where an Instrument is Lodged with the Plan

The TLA refers to some easements in a “short form”. The terms of these easements are set out in detail in Schedule 9A of the TLA.

6.8.1 Easements that do not meet the terms in Schedule 9A of the TLA

Where an easement that is required does not meet these terms, an “instrument” varying the terms of the easement can be lodged with the Strata/Survey-Strata Plan. The instrument must be in the form of a deed, prepared on a TLA form B2 and must be capable of registration. It must also be stamped by the State Revenue Department and must contain:

1. the registered proprietor’s name and address of both the burdened and benefited land;
2. a description of the land to be burdened by the easement;
3. a description of the land to be benefited by the easement or the beneficiary if it is an easement in gross;
4. an operative clause describing the easement and stating that the rights are created pursuant to section 136C of the TLA;
5. any limitations associated with the rights;
6. any encumbrances over the land burdened by the easement (absolute caveats must be withdrawn to allow registration of the instrument);
7. date of execution of the easement;
8. all of the required consents; and
9. signed by all parties and witnessed.

Where an instrument is used, it may be lodged with the Strata/Survey-Strata Plan or it may be lodged with the application to register the Strata/Survey-Strata Plan. The land burdened by the easement must be contained within the plan. However, land benefited by the easement can be outside of the land the subject of the Strata/Survey-Strata Plan. All duplicate certificates of title receiving the benefit of the easement must be produced and be accompanied by an application for the benefit of the easement to be shown on the title of the land receiving the benefit.

If an instrument is to be lodged, it must be at the same time as the plan is lodged or there must be indication on the plan that an instrument will be lodged as part of the registration process.

6.8.2 Consents Required

An easement cannot be created under Part IVA of the TLA with or without an instrument unless accompanied by the written consent of:

1. every person having a registered interest in any land that is burdened by the easement or covenant (i.e. mortgagees, chargees and lessees);
2. every caveator of any land burdened by the easement or covenant;
3. every person having a registered interest in any land that is benefited by an easement or covenant (i.e. mortgagees, chargees and lessees); and
4. every caveator in respect of any land that would be benefited by the easement.

If after lodgement and before registration of the easement, the encumbrances on the land have been modified then the consents must be amended to reflect the current status at the time of registration of the plan. The consents will be attached to the application document that registers the Strata/Survey-Strata Plan.

6.9 Measuring Easements on Strata Plans and Survey-Strata Plans

Easements created under section 136C of the TLA automatically on Strata Plans are shown on the floor plan sheet of the Strata Plan by broken lines. Where the easements are created over common property or outside buildings they and those created under section 167 of the P & D Act (formerly section 27A TP&D ACT) should be depicted on the location plan. Easements on Survey-Strata Plans must be shown on the lots or common property lots that are affected. The easement's extent is to be measured to normal survey standards providing sufficient dimensions to enable accurate establishment of the easement's boundaries. This extent may be vertical as well as horizontal. It is important that depiction of this information is easily understood so that there will be no grounds for boundary disputation in the future (see [Plan Example 12](#)).

6.10 Implied Easements

Sections 11 and 12 of the STA provide for implied easements to cover various rights so that services and structural needs are protected automatically. On registration of a Strata/Survey-Strata Plan and plans of re-subdivision, merger and conversion all services and buildings are automatically covered by the implied easement provisions of the Act.

Implied easements cover such things as the passage and provision of water, sewerage, drainage, gas, electricity, garbage, artificially heated or cooled air, heating oil and other services which includes lines and wires for telephone, radio and television services. Every lot is automatically benefited and burdened by these easements. All lots are benefited and burdened by easements for subjacent and lateral support and for the right to be sheltered by all such parts of the building as are capable of affording shelter. Consequently, under section 39(1) of the STA, the strata company or its agents have the right to enter and maintain the services to lots.

Section 12A of the STA covers the rights of a lot proprietor to enter another lot to inspect repair or replace a "permitted boundary deviation" as specified by section 3AB of the STA. A lot proprietor in a single tier strata scheme (as defined by section 3(1) of the STA) may enter a neighbour's property with vehicles and equipment to maintain, repair or replace that deviation. It is recommended that owners exercising this right give due notice in writing of the intended entry to their neighbour and on completion return the property to its original state.

6.11 Restrictive Covenants

These are a restriction on the land and can be utilised for such things as building restrictions, height restrictions and limitations on building materials, aesthetics and similar controls on appearance. These types of covenants can be between lots within a strata/survey-strata scheme or benefits may be given to land outside the scheme. They may be created by notation on the Strata/Survey-Strata Plan by using Part IVA (section 136D) of the TLA.

An important feature of section 136D covenants is that they have effect even while the land burdened and benefited are in the same ownership.

Alternatively, restrictive covenants may be created under section 129A of the TLA using an instrument. It is also possible to benefit land outside of the scheme by utilising this method. This means a strata/survey-strata lot may be encumbered by a covenant, but land outside the scheme may benefit from that covenant (see [Plan Example 49](#)).

Section 129BA of the TLA enables restrictive covenants to be created for the benefit of government agencies, even if the benefit would not be in respect of land. As a condition of subdivision a local government may impose a restriction to prevent access onto all or part of an abutting road (see [Survey and Plan Manual Chapter 14.27](#)). The surveyor should clearly mark the portion of the road boundary affected with capital letters such as A and B to indicate where the restriction is to apply and the covenant is to be endorsed in the Interests and Notifications schedule (see [Plan Example 49](#)).

A local government may also impose a section 129BA of the TLA restriction as a condition of subdivision over a portion of a proposed lot abutting a Right of Way, Way or Lane in order to prevent new developments taking place over a prescribed portion of the subject land. Such restrictions are usually used to accommodate future widening of the "Right of Way". Surveyors must show the extent of the restrictive covenant spatially on the plan and endorse the covenant in the Interests and Notifications Schedule. (see [Plan Example 10](#), [Plan Example 14](#) & [Plan Example 45](#)).

Section 150 of the P&D Act came into operation on 1 July 2009 and allows Road Access Conditions, imposed by WAPC, to be endorsed on Strata/Survey-Strata Plans. Conditions imposed as a restriction or prohibition on land abutting a road is to be shown in the Interests & Notifications schedule as a "COVENANT" (see [Plan Example 52](#)).

Regulation 30 of the *Planning & Development Regulations 2009* is used to impose Road Access Conditions. A Road Access Condition must be identified and labelled with such a notation as A – B. Details of the restriction or prohibition and to whom or what it applies and when and in what circumstances, is to be noted in the **COMMENTS** field of the Interests & Notifications schedule on the plan.

The covenantee can only be one of the following:

1. Western Australian Planning Commission
2. Commissioner of Main Roads
3. Minister administering Public Works
4. Local Government

Landgate would expect however, that should a planning condition relate to “Control of Access”, then the automatic tools under Regulation 30 would be used rather than the continued use of Section 129BA of the TLA.



Note:

Section 150 of the P&D Act does not replace Restrictive Covenants created under Section 129BA of the TLA but should be depicted in the same manner.

A Road Access Condition covenant can be modified or discharged under Regulation 32 of the Planning & Development Regulations 2009 by application to WAPC. When consent has been granted, an application is made to the Registrar of Titles to modify or discharge the covenant accordingly and make any entries or endorsements that may be necessary to evidence the modification or discharge.

Any modification of a spatial nature would require an Interest Only Deposited Plan to accompany the Application to modify the covenant.

An appeal to SAT is available to an applicant if WAPC refuses a request to modify or discharge a Road Access Condition covenant.

6.12 Registration of Amendments to By-Laws

A strata company may pass by-laws that control various aspects of strata living and the scheme. These by-laws can be for:

- the companies corporate affairs;
- any of the matters specified in schedule 2A of the STA;
- any of the matters set out in sections 42A and 42B of the STA;
- the establishment of a fund for administrative purposes in the case of a two-lot scheme (section 36A (3) of the STA);
- the inclusion of obligations of the kind referred to in section 36A(i) of the STA
- the exclusion of obligations contained in sections 35, 35A and 36 of the STA in the case of 3, 4 or 5 lot schemes (section 36B (1) of the STA); and
- other matters relating to the management, control, use and enjoyment of the lots and any common property.

The by-laws set out in Schedules 1 and 2 to the STA are deemed to be by-laws of all strata companies, unless there are variations registered on the Strata/Survey-Strata Plan, either in the form of a management statement (see section 5C of the STA) or subsequently recorded after being adopted by the strata company. Whenever an additional by-law is adopted it must be specified as either an addition to the strata companies schedule 1 or schedule 2 by-laws (section 42(2a) of the STA). The difference is important because different voting provisions apply for making changes to Schedule 1 and Schedule 2 by-laws. By-laws may be amended, repealed or added to:

- by a resolution without dissent (or unanimous resolution in the case of a two-lot scheme) for Schedule 1 by-laws;
- by a special resolution, for Schedule 2 by-laws; or
- in accordance with any order of a court, tribunal or any written law.

Registration of by-laws or changes to by-laws is achieved by lodging a "Notification of Change of By-laws" at Landgate. The notification of change of by-laws must be set out substantially in the manner of Form 21 of the STGR, which may be formatted on ordinary sheets of white A4 size paper attached to a TLA Form B4 or typed on a blank instrument form B4 with additional form B1 pages if required.

A strata company can only pass such a resolution and any resolution necessary to authorise execution of the documents and execute such documents, at the earliest, on the 16th day after registration of the Strata Plan (registration date is counted as day one).

Amendments to by-laws must be registered and recorded on the Strata/Survey-Strata Plan within three (3) months of the passing of the resolution adopting those amendments. The three (3) months commences from the date the meeting was held. Certain by-laws can be made by a strata company at the request of a local government or a government agency and may be expressed to require that agency's consent to an amendment or repeal of the by-law [section 42(2d)].

No by-law, amendment or repeal of a by-law may operate so as to restrict any transfer, lease, mortgage or other dealing with any lot or modify or destroy any easement implied or created under the STA. Definitions of a "resolution without dissent", "special resolution" and "unanimous resolution" are outlined in sections 3(1), 3AC, 3B, 3B and 3CA of the STA.

6.13 Management Statements

A management statement (refer to [Chapter 7](#)) may accompany a Strata Plan or Survey-Strata Plan and can only be registered at the same time as the plan. The existence of a management statement will be indicated on the plan. Management statements can be an integral part of the planning process and may be required as a condition of approval. A management statement usually accompanies the plan through the development process, as it will become an essential feature of the plan.

The other use of the management statement is in its application for staged developments where the details of the proposed completed development are disclosed as by-laws, thus enabling purchasers to be aware of the nature of the completed development. The benefit to the developer is that it is not necessary to obtain resolutions and consents from lot owners as each stage is developed, however Developers must ensure they comply with the requirements set out in Regulations 36 and 37 of the STGR.

Management statements can be lodged by the developer at the same time as the plan or can be lodged at any time before registration. Upon registration, management statements have effect as a set of by-laws.

If a developer decides to remove or dispense with a management statement after a Strata/Survey-Strata Plan has been endorsed with the approval of the WAPC and placed 'In order For Dealing' then registration of the plan can not take place until written consent of the WAPC is obtained acknowledging the removal of the management statement.

6.14 Exclusive Use

Section 42(8) of the STA allows a strata company by a resolution without dissent (or unanimous resolution in the case of a two-lot scheme) to create a by-law to grant exclusive use and enjoyment of, or special privileges to, a lot proprietor of all or part of the common property. These rights are not the same as ownership. The lot proprietor must consent in writing to the terms of the by-law and this consent should be retained with the strata company records.

By-laws for exclusive use or special privilege may contain conditions such as requirements for maintenance and repair or the payment of money to the strata company.

The portion of the common property that is subject to exclusive use or special privilege must be clearly defined by a sketch that contains sufficient information to accurately define the affected area.

The areas of exclusive use or special privilege may be described in a narrative form provided they can be plotted in reference to the lot boundaries. In this circumstance a sketch is not required.

A by-law granting exclusive use or special privileges is not effective until it is recorded on the Strata/Survey-Strata Plan at Landgate. This is effected in the same manner as for a notification of change of by-laws, and must be effected within three (3) months from the date of the relevant meeting.

The STA section 19(12) specifies that by-laws granting exclusive use or special privileges do not require the consent of the WAPC or the local government.

The relevant by-law can be amended or repealed by a resolution without dissent (or unanimous resolution in the case of a two lot scheme).

6.15 Exclusive Use By-Laws Sketches

Boundary definitions of exclusive use or special privilege areas can be defined by a combination of brick walls or other permanent monuments and dimensions. There must be sufficient information on the sketch to identify the relevant areas. In cases where the relevant areas are car-bays or similar areas independent of a building, dimensions tying these areas to a building or the parcel boundary must be shown.

Although there is no requirement for a surveyor to prepare these types of sketches, it may be in the best interests of all concerned to use professionals for sketch preparation and measuring to avoid disputation at a later date.

Surveyors preparing exclusive use sketches should treat them in much the same manner as preparing a floor plan sheet. The paper size should be A4 as it is part of the Form 21, which will become a registered document. There must be sufficient dimensioning or notation to clearly identify the exclusive use areas. A north point, scale, scale bar and heading containing strata scheme details are to be shown. The sketch should also tie in by dimension or notation the exclusive use portions to a building or the parcel boundary. Stippling, hachuring or identification by notation may be used. Colours must not be used.

The annexure containing the sketch must state clearly in bold lettering the lots obtaining the rights and the portions of common property over which those rights apply.

6.16 Restrictive Use

Under section 6 of the STA, Strata or Survey-Strata Plans can be endorsed with a restriction, the use to which the parcel or part of the parcel may be put. In most cases, these restrictive uses are related to land use and could be a condition of planning approval. These types of restriction can be used in much the same way as a by-law but they should not be confused with an easement.

Examples of Restrictive use in commercial properties may, for example, restrict the type of business that can be conducted on each lot. In residential schemes, it may be used to restrict occupancy to people of a certain age.

Some of the common types of restrictive uses are:

- restriction on occupancy to people who are “retired persons” (section 6A of the STA);
- restriction on occupancy of the lots by a proprietor to three (3) months a year;
- portions of land restricted by construction of buildings over sewer mains; and
- restrictions over specific lots in a commercial scheme, e.g. in a medical centre, each lot is restricted to a specialised use such as optician, physiotherapist, pharmacist, etc.

Surveyors adding restrictive use to the plan should use an endorsement that clearly specifies the restriction type, the lots or parts of lots affected and the section of the STA that allows the restriction. If it affects part of the land, the affected part is to be defined by broken lines and dimensions in the same manner as an easement boundary and notated accordingly in a Schedule of Interests and Notifications on the Plan (see [Plan Example 15](#)).

The advantage of using restrictive use provisions is in the ability to specify the restriction on the plan and to state the section of the Act that relates to the restriction. There are also benefits from a planning perspective because variation or removal requires local government or WAPC consent.

A penalty of \$2000 and daily penalty of \$200 may be imposed where a proprietor, occupier or other resident of a lot contravenes the restrictive use.

A restriction of the kind referred to in Section 6 and 6A of the STA is a restriction as to use, or use and occupation of a lot, not a restriction on ownership of a lot.

6.17 Age Restriction

Section 6A of the STA allows use of lots to be restricted to occupancy only or predominantly by “retired persons” as defined by that section. When preparing such endorsements under that section, the definitions of “retired persons” and “spouse” in section 6A (3) should be borne in mind.

It is advisable to consult the relevant local government as to the wording it prefers for age restrictions.

6.18 Varying, Adding or Removing a Restrictive Use

A restrictive use can be added to, varied, or removed from a Strata/Survey-Strata Plan. The following is required to implement these types of changes:

1. Resolution without dissent or, in the case of a two lot scheme, a unanimous resolution.
2. Local government consent.
3. WAPC consent if the plan was approved by that agency.

Registration of the variation, addition or removal of a Restrictive Use is achieved by the lodgement of an Application form A5 that is accompanied by a certificate from the strata company in the manner of a STGR Form 19. This form states that the appropriate resolution has been passed, and should also be accompanied by consents from the local government and WAPC (if applicable). Where a part only of the parcel is affected, a sketch of the restriction must also accompany the form. This sketch must clearly identify the affected part by dimensions in a similar manner to an easement boundary definition.

A common mistake with restrictive use is when surveyors attempt to vary the restrictive use boundaries on a merger or re-subdivision plan without realising the need for the necessary resolutions, consents and documentation. This type of error regularly occurs on the “building over sewer” restrictive use. In accordance with Section 66(1)(a) of the Metropolitan Water Supply, Sewerage and Drainage Act 1909, written consent must be obtained from the Water Corporation prior to the erection or construction of any building, wall, fence or obstruction within land that is subject to a Section 6 (1) use restriction prohibiting any building over a sewer.

Plans of re-subdivision showing any variation, addition or removal of restrictive use for the subject lots cannot be registered unless supported by a STGR Form 19. This again is a common mistake by surveyors and developers who assume that an endorsement on the Plan is sufficient.

7. Management Statements and Staged Schemes

7.1 Management Statements

Management statements can be used to put in place by-laws that may be required as a condition of approval by WAPC or local government or may be put in place by the developer of the project to put by-laws in place before registration of the Strata/Survey-Strata Plan. A management statement cannot be applied to a scheme after registration of the Strata/Survey-Strata Plan.

For example, architectural or theme by-laws can be included, as can by-laws, to ensure that open space, plot ratio or building height limitations can be imposed. These types of by-laws can also be used to allow a developer to maintain certain building standards and dwelling styles as the project progresses. In three (3) to five (5) lot schemes, exemptions from certain management requirements that are currently automatic for two lot schemes, can be put in place by the original proprietor using a management statement.

The management statement must be signed by the Original Proprietor and by each person who has a registered interest in or is a caveator in respect of the parcel. On registration of the Strata/Survey-Strata Plan, the by-laws contained in a management statement become effective without a meeting to adopt those special by-laws.

Management statements can be utilised in staged developments. By putting in place by-laws disclosing plans and specifications of the proposed completed development it is not necessary to convene general meetings or obtain mortgagees' or proprietors' consents to resolutions for each stage provided Developers comply with the requirements set out in Regulations 36 and 37 of the STGR.

The management statement sets out the by-laws of the strata company which are to have effect under sections 42, 42A and 42B together with amendments and repeals referred to in section 42(2) and may include by-laws in relation to the types of matters listed in schedule 2A.

They are the:

- amendment or repeal of schedule 1 by-laws and schedule 2 by-laws;
- additional by-laws to either Schedule 1 or Schedule 2;
- control or preservation of a "theme";
- architectural & landscaping guidelines, and plot ratio & open space requirements;
- management and use of common property and special facilities;
- proposed re-subdivision of a scheme;
- fencing obligations;
- maintenance of services;
- insurance of common property;
- safety and security;
- carrying on of a business and trading activities by a strata company; and
- resolution of disputes prior to applications being made to the Strata Titles Referee.

Generally, management statements provide for flexibility. Care should be taken when preparing by-laws not to confuse them with easements and restrictive use provisions and not to conflict with sections of the STA. It should also be noted that by-laws created in these documents can not override the STA, planning laws, local government by-laws or other legal land use or building controls.

By-laws included in a Management Statement may be amended in accordance with section 42 or as otherwise provided in the Act. The strata company which is formed on registration of the Strata/Survey-Strata Plan, may amend, repeal or add those by-laws by appropriate meeting procedure.

7.2 Local Government and WAPC Involvement with Management Statements

Government agencies may require specific by-laws to be included in a management statement as a condition of approval of a scheme. In these instances the appropriate agency will require a copy of the management statement before confirming its approval to the scheme.

For Survey-Strata schemes, vacant Lot built strata schemes and built strata schemes requiring WAPC approval that have not been delegated to local government-

the WAPC will also need to ensure the by-laws are in place before endorsing approval of the plan by sighting a copy of the management statement.

For built strata schemes requiring WAPC approval that have been delegated to local government-

the local government will need to ensure the by-laws are in place before endorsing approval of the plan by sighting a copy of the management statement.

The removal of a management statement from a plan placed "in Order For Dealings" requires the written consent of the endorsing authority (local government or the WAPC).

7.3 Staged Schemes

A staged strata scheme is one which is implemented as an initial subdivision followed by re-subdivisions. The final intention and detail are set out in a management statement before the Strata Plan is registered – so as not to mislead initial purchasers. Either a vacant lot Strata Plan or a Survey-Strata Plan may be used for a staged scheme.

7.4 Management Statements for Staged Schemes

If a management statement affects a strata/survey-strata scheme, it will be shown on the Strata/Survey-Strata Plan by the panel on the plan being ticked to show that a management statement accompanies the plan. The actual management statement is prepared on a STGR Form 25.

It enables an original proprietor to disclose the nature of the proposed stages and completed development and provides purchasers and mortgagees with information to enable an informed decision to be made on whether to invest in the development. Regulations 36 and 37 of the STGR set out the requirements for sufficient compliance by a plan with the management statement. The by-laws in management statements can be amended in the same way as other by-laws.

Basically, the following scenario indicates how the system operates:

1. A management statement is registered at the same time as the plan.
2. At the completion of each stage, a Strata Plan of re-subdivision is completed.
3. The surveyor certifies that the plan of re-subdivision fits the proposed plan disclosed in the registered by-laws within parameters specified in STGR Regulation 36.
4. A new valuation certificate is completed.
5. Local Government and WAPC certificates, if applicable, are completed.
6. STGR Form 20 is executed. The Form 20 has provision for the strata company to certify changes in unit entitlements and to the re-subdivision, provided it conforms to the by-laws that originally disclosed the future stages.
7. Disposition Form or transfers, if required.
8. Application for re-subdivision and subsequent transactions lodged at Landgate.

7.5 Accompanying Information for a Staged Strata Plan

Management statements lodged for registration of a staged Strata/Survey-Strata Plan must include additional information. STGR Regulation 37 specifies the requirements for plans and specification information accompanying management statements for staged developments. This information must be submitted in A4 or A3 size paper and if possible printed on the front and back of each page. Every page or annexure (front and back) must be clearly numbered.

Large architectural plans can be broken down to A3 size with clearly marked joining points so they could be fitted together to form a composite plan, if needed.

The following information must be lodged as part of the management statement. It is to be clear and legible and at a scale acceptable to the Registrar of Titles (see [Chapter 10.5](#)):

- Proposed location plan of the completed development.
- Proposed floor plan of the completed development.
- Licensed valuer's certificate STGR Form 27.
- Architectural plans of the buildings including every storey (or, if every storey is the same, a plan of one storey with a note that every storey is the same).
- At least two elevations of external fronts.
- One or more transverse or longitudinal sections.
- The heights of each storey.
- Levels of ground.
- Approximate relative levels of the lot on which the building or other improvements are to be constructed with respect to any adjoining street, way or lot.
- A description of materials to be used in the construction of the walls floors and roof.
- Any by-law created under clause 8(a) of Schedule 2A needs to have a warning stating that any proposed re-subdivision is not binding on the WAPC, local government or any other government agency.

The proposed location and floor plans should indicate clearly the dimensions of each stage. The proposed unit entitlement of each stage should indicate the proposed unit entitlement of the whole scheme at the end of each stage. Specifications and plan details of the interior are not required. Large cumbersome architectural plans and excessive specifications will not be accepted.

7.6 Re-subdivision of a Staged Strata Scheme

On completion of each stage, a Strata/Survey-Strata Plan must conform to what was specified in the management statement.

Therefore the Strata/Survey-Strata Plan must have:

- the same number of lots as shown on the management statement;
- a variation of no more than 10% in the area of each lot for that stage;
- the same configuration of the lots and common property;
- the same unit entitlement of the lots after each stage; and
- the same easements or other encumbrances or restrictions.

7.7 Accompanying Information for a Staged Survey-Strata Plan

Management statements for staged survey-strata schemes should contain the following information:

- A valuer's certificate and schedule of unit entitlement for each stage.
- Proposed Survey-Strata Plans of various stages of the development.
- Any proposed additional or varied by-laws.
- Additional by-laws may also contain architectural plans and specifications of proposed buildings, to be constructed on the lots.
- Any by-law created under clause 8(a) of Schedule 2A needs to have a warning stating that any proposed re-subdivision is not binding on the WAPC, local government or any other government agency.

7.8 Creation of Easements on Strata Plans of Re-subdivision

Only easements created automatically under section 167 of the P & D Act (formerly section 27A T P & D ACT 1928) can be created on Strata Plans of Re-subdivision (see [Chapter 6.1](#)). The approval of the WAPC is generally required (see [Plan Example 40](#)) however, for small strata schemes resulting in 2 to 5 lots that qualify for an exemption under Regulation 15 of the STGR, the P & D Act makes no provision for those plans to be endorsed with the approval of the WAPC.

Unlike re-subdivisions of Survey-Strata Plans there is no requirement for Surveyors to provide a CSD file when creating section 167 P & D Act easements on Strata Plans of re-subdivision as they will be captured manually by Landgate during the lodgement/audit process.

8. Surveys of Strata Schemes

8.1 Accountability and Accuracy

The nature of the definition of boundaries on strata schemes is different from all other types of subdivision. This may be the reason why there was less statutory regulation of surveys of those schemes than for other subdivisions. However, Strata Schemes lodged for registration after 24th January 2006 are required to be certified by a Licensed Surveyor in the form of Regulation 54 of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 provided the Surveyor has signed his certificate on or after that date. This Certificate must be shown on all Strata/Survey-Strata Plans; Plans of Re-subdivision; Plans of Merger and Conversion and Plans of Consolidation (see [Chapters 11.5](#), [15.6](#), [16.1](#), [16.4](#), [17.4](#), [17.8](#) and [17.9](#)).

Individual strata lots are usually very small and the unit value of the land (and buildings) is high. So although the nature of the boundary definition is different, the need for accuracy of definition can be among the greatest of any type of subdivision and the consequences of errors or mistakes can be serious.

Adverse consequences to a proprietor can be compounded by the nature of strata titles tenure, because the proprietor does not have a simple relationship with proprietors of adjoining parcels, but must act through the strata company, with all of its limitations.

Although the Surveyor faced little statutory obligation prior to 24th January 2006, it is important that the surveyor does not treat strata surveys lightly, but uses professional ethics and puts in place an individual quality control process to ensure a high standard of survey. Surveyors must now follow the regulations of a TLA survey.

Unlike TLA plans and diagrams, strata and Survey-Strata Plans are part of the title Register Book and once registered cannot be varied, amended or terminated without due registration procedures. It is therefore important that accurate information be incorporated into both the survey and the drafting components of any Strata/Survey-Strata Plan.

8.2 Surveying Requirements for Strata and Survey-Strata Plans

The survey requirements for each plan type are different because of the variation in the type of development. Consequently, many of the decisions in regard to referencing, pegging and marking rely on the surveyor's professional judgement. There are, however, regulations in place for the responsibility, accountability and consequences of certification under the Licensed Surveyors Act.

Surveyors should note that each plan type has a different certification because a Strata Plan relates mainly to "monuments" and a Survey-Strata Plan relates mainly to survey measurements.

Certification on a Strata Plan is to ensure strata lots are within the parcel and, if a building or attachment encroaches beyond the parcel, then the appropriate easement or consent has been granted. The plan must show at least one building on the parcel (see [Plan Example 11](#)).

The certification of a Survey-Strata Plan is to certify the accuracy of the plan and compliance with the survey regulations.

8.3 Re-Establishment of Parcel Boundaries on Strata Plans

Surveys for Strata Plans require re-establishment of the parcel boundaries (based on rigorous pickup as for TLA subdivisions), followed by the positioning of the buildings and part lots that are external to the building or buildings.

On the occasions where significant excess or any deficiency is discovered during a re-establishment survey a field book needs to be lodged. If necessary, the surveyor may lodge a "Redefinition Plan" to show the correct dimensions and area and an application for a new title can be made. A "Redefinition Plan" is necessary when the differences are outside the 'margin of error' covered by section 155 of the TLA.

Connections of buildings to the boundary of the parcel should be to cadastral re-establishment standard.

Street corners used for pickup should be referenced or protected and it is prudent to place a strategic reference mark near the scheme.

Survey work performed on a Strata Plan can result in a combination of measurements, monuments and height dimensions to define the horizontal and vertical lot boundaries. In certain circumstances (as prescribed by Regulation 8(2) of the Licensed Surveyors (Guidance of Surveyors) Regulations, 1961) a field book may have to be lodged.

Connections to standard survey marks may need to be made in accordance with guidelines under Regulation 22A of the Licensed Surveyors (Guidance of Surveyors) Regulations, 1961.

8.4 Building Boundaries on Strata Plans

It is recommended that strata be related to AHD wherever practical, especially in larger schemes, staged schemes and vacant lot schemes. Maintenance of views is an emotive issue, and there is potential for confusion or mistake when building construction extends over several years and involves more than one surveyor – a problem which is overcome if AHD is used as standard practice.

section 3(2) of the STA specifies the horizontal and vertical boundaries of the cubic space that can form each of the lots. This section also provides for variation of the boundaries of the cubic space to accommodate a specific circumstance. When a variation occurs, the boundaries described must relate to a wall, floor or ceiling. However, section 3AB of the STA accommodates boundary definitions for "single tier strata schemes", by allowing boundaries in some cases, to extend to the external surfaces of buildings.

The STGAR Regulation 37AA sets out the manner by which the boundaries of buildings that are not part of a single-tier scheme are described on a floor plan under section 3 (2) (b) of the STA.

Therefore, all multi-tiered schemes that do not adopt Section 3 (2) (a) of the STA must show a statement that the horizontal and vertical boundaries of Lots or Part Lots within buildings shall be the inner surface of the walls, the upper surface of the floor and the under surface of the ceiling or unambiguously in any other case (see [Chapter 8.5](#) and [Plan Example 50](#)). This Regulation also applies to strata schemes exempt from the requirements of the WAPC.

8.5 Standard Wording to be used on Strata Plans

The Regulations now provide a standard wording to be placed on the floor plan to clarify the building lot boundary. All new Strata Plans must bear a statement as to the building lot boundary. The wordings for these definitions are stated in Regulation 5A (a) and (b) of the STGR.

❖ **Note**

This applies to new Strata Plans and merger plans (see section 5(1) (aa) of the STA).

8.5.1 Standard Wording for all Strata Plans

This compulsory requirement for all modern plans will leave older Strata Plans with no cubic space boundary definition stated on the floor plan. In these cases the boundaries are defined by section 3(2) (a) of the STA.

Strata plans can no longer dispense with written statements for defining the boundaries that are specified in the STA. Previously it was implied that if no wording was stated the boundary definition was as per the Act. There are now 2 standard wordings that can be used for the common types of building boundary definitions.

Certain schemes will need obvious variations to wordings to fit specific circumstances. It is important that retaining walls, garden brick or stone walls and walls that extend from a building are defined so there is no confusion on ownership. Section 3(2) (b) of the STA allows for the wordings to meet specific needs.

Surveyors preparing new Strata Plans should be aware that plans lodged for registration should, where possible, comply with the standard wording as specified in sections 3AB and 5 of the STA and in Regulation 5A(a) and (b) of the STGR.

For a single tier scheme the following wording should be used if the building and attachments are to be included as part of the lot (all merger plans must have the following wording and this cannot be varied):

“The boundaries of the lots or parts of the lots which are buildings shown on the Strata Plan are the external surfaces of those buildings, as provided by section 3AB of the *Strata Titles Act 1985*”.

and if applicable,

“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”.

In the case where part lots are created outside the building a wording similar to the example below should be used:

“The stratum of the part lots external to the buildings extends between 5 metres below and 10 metres above the upper surface level of the lowest ground floor of the main building located on each respective lot, except where covered”.

This will ensure the cubic space above the buildings remains as “common property” (see [Plan Example 16](#)).

Surveyors and developers may however endeavour to include the “common property” above the buildings as part of the Strata Lot. The following wording or similar may be used on the floor plan of the Strata Plan:

“The stratum of the part lots, including the cubic space above and below the part lots comprising buildings, is limited between 5 metres below and 10 metres above the upper surface level of the lowest ground floor of the main building appurtenant to their corresponding Lot number, including where covered” (see [Plan Example 17](#)).

Surveyors may wish to seek legal advice as to the use of the above wording.

“5 metres below and 10 metres above” is only used as a sample. Surveyors must look at each scheme and select the appropriate dimensions.

If it is intended to keep the structure as common property or if it is a high rise building the following wording must be used:

“The boundaries of the lots or parts of the lots which are buildings shown on the Strata Plan are the inner surfaces of the walls, the upper surface of the floor and the under surface of the ceiling, as provided by section 3 (2) (a) of the *Strata Titles Act 1985*” (see [Plan Example 18](#))

and for part lots that are external to the building a wording similar to the following should be used:

“the stratum of the part lots external to the buildings extends between 5 metres below and 10 metres above the upper surface level of the lowest ground floor of the building located on each respective lot except where covered”.



Note

The above wording is a guide only and may not be appropriate for Part Lots labelled Courtyard; Carbay; Terrace; Balcony etc. Every cubic space outside the building that forms a Part Lot must be clearly defined with reference to stated surfaces (see [Plan Example 1](#) and [Plan Example 6](#)).

Because of the many variations in strata schemes a surveyor may find it necessary to vary the stratum wordings to accommodate the client’s requirements.

The above descriptions may not be appropriate so section 3(2) (b) of the STA may need to be used. Surveyors should use their professional judgment and where appropriate obtain legal advice to select the appropriate wording so there is no confusion as to the boundaries.

While the STGAR Regulation 37AA describes the manner in which Section 3 (2) (b) of the STA will apply to multi-tiered schemes, no specific wording has been prescribed. Surveyors must not use the term “as provided by Section 3(2) (b)” in their wording statement on floor plans of this nature.

The statement should commence with “Under Section 3 (2) (b) of the STA the boundaries of the Lots or part Lots which are buildings shown on the Strata Plan are” or similar wording.

Where the Strata development is complete and makes no provision for future development or re-subdivision, Surveyors may find it more appropriate to prepare plans using Section 3 (2)(a) of the STA.

Where a “vacant lot” Strata Plan is created in a single tier scheme and there is no part lot external to the existing building or buildings (i.e. the whole of the lot is the building) two stratum descriptions are to be used. One description must state one of the standard forms contained in STGR number 5A (a) or (b) and the other must specify the cubic space of the vacant lot by reference to the floor level of a building on another lot.

8.5.2 Additional Wording- “vacant” lots only

As a guide, the wording may read:

“The stratum of Lot 2 extends between 5 metres below and 10 metres above the upper surface level of the lowest ground floor of the building erected on Lot 1”

or similar wording that clearly and unambiguously defines the Lot (see [Plan Example 2](#)).

There are no Regulations for defining height by Australian Height Datum (AHD) but in certain strata schemes a more precise datum for horizontal height definition may be critical. If possible surveyors should:

- use heights above AHD to define all of the strata lots (if practical this is the preferred method); or
- reference floor levels between buildings within the scheme.

If surveyors wish, they may reference AHD level to the floor of a building so the stratum of the scheme can be linked to AHD. This is advisable where accurate height definition is critical or where a building or part of a building is to be demolished and reconstructed. Surveyors should use their professional judgement on these issues. This type of information should be shown on the floor plan.

8.6 Part Lots Outside Buildings

- There is provision for the boundaries of parts of lots outside of the buildings to be defined by the surveyor by a combination of dimension and reference to buildings. It is important for a surveyor to maintain professional standards when using monuments for defining boundaries.
- It is recommended that monuments that can easily be shifted or changed should not be used for defining boundaries as this may lead to disputation between lot owners in the future.
- An example is the use of “edge of brick paving”, where most brick paving is held in place by a mortar mix. In cases where the survey costs of measuring intricate curves and tangents becomes unreasonable the notation method could be used in conjunction with other referencing methods.
- Whenever practical, dimensions to external part lots or to vacant lots should not rely on azimuth of a building, but should be based on a surveyed azimuth related to the parcel boundary. If this cannot be shown on the plan, it could be recorded in a field book.
- Part lots outside buildings, and vacant lots, may at the discretion of the surveyor be wholly or partially marked. The same types of marking can be used as for a TLA subdivision. The marks may be shown and described on the plan if this does not clutter the plan.
- Part Lots labelled ‘Balcony’ are to be treated as Part Lots outside the buildings and as such must be defined both vertically and horizontally especially if they are uncovered. A common notation on plans is “edge of concrete slab is boundary”. Surveyors must ensure that cubic space of balconies is clearly defined when adopting Section 3 (2) (a) and 3 (2) (b) of the STA (see [Plan Example 18](#)).
- Carbays in basements of multi-tiered buildings are to be treated as Part Lots outside the building as quite often their vertical boundaries are defined by walls, pillars, columns and dimensions. Both the horizontal and vertical boundaries of these Part Lots must be clearly set out on a floor plan to prevent disputation by Lot owners as to what is part of the Lot and what is ‘Common Property’ (see [Plan Example 19](#)).

8.7 Encroachment on Strata Plans

When buildings or parts of a building within a proposed scheme encroach beyond the parcel boundaries, the surveyor must depict this information on the plan. An appropriate easement (see [Chapter 6.5](#)) or local government consent, as the case may be, must be obtained before registration of the plan (see [Plan Example 11](#)).

The encroachment should be clearly defined by measurement. If the encroachment is not a wall then the nature of the encroachment must be stated eg awning, gutter, etc. If the encroachment is onto adjoining land a deed of easement must be granted by the owner of the land encroached upon prior to the surveyor signing the Form 5 certificate.

The easement must be registered before or at the time of registration of the Strata Plan and included as an endorsement on the Location Plan form of the Strata Plan shown as an easement (see [Plan Example 20](#)).

When the encroachment is onto a public road, street or way, local government consent must be obtained and this will be reflected in the certification of the local government. The local government can approve of encroachments that project up to 230mm (see section 400 of the *Local Government Miscellaneous Provisions Act, 1960* and in some circumstances, awnings, verandas and cantilevers. Larger encroachments require approval from the Minister for Local Government.

Problems will arise where the encroachment is onto a private street or ROW. In such cases the best solution is to arrange for the closure and amalgamation of this portion with the applicant's title, if practicable.

If a building on adjoining land encroaches onto the applicant's land the Surveyor should inform the applicant of the encroachment, and the encroachment should be shown on the Strata Plan to warn a purchaser.

In certain circumstances in the past, balconies were allowed to be built over roads by the authority of the local government; however there was no formal way of acquisition of the balcony and its airspace.

In December 2002 the Government Land Policy titled "Balconies: Tenure above roads and other Crown lands" gave State land services the power to deal with balconies over roads. From that time developers were advised to purchase the airspace from the State of Western Australia.

A Management Statement was required to be registered with such strata schemes setting out how the balcony structure and airspace should become a strata lot by re-subdivision when legislation is enacted to enable acquisition. This practice is no longer allowed.

Government Land Bulletin No.5 (which superseded Government Land Bulletin No.2 July 2001) was issued in June 2003 to provide advice in relation to the policy on construction of building encroachments into airspace over roads and other Crown land. Until legislation is enacted to address liability and tenure issues, balconies encroaching over roads and other Crown land will not be approved in new strata developments.

Where balconies are to be included in new strata developments they should be located within the parcel boundaries to ensure that the land below the balcony remains in private ownership.

State Land Services excludes “Minor Encroachments”, as defined in an annexure to Government Land Bulletin No.5, from the rigorous approval and tenure process. Surveyors should note that both the “Mandurah Ocean Marina (Stage 1) Project” and the “Bunbury Marlston Waterfront Project” predates Department of Planning’s Balcony Policy and therefore balconies are allowed to be constructed over roads in these two areas (see [Plan Example 18](#)).

However it must be noted that a management statement should still accompany such Strata Plans as described in the preceding paragraph (see [Plan Example 21](#)).

Failure to describe how encroaching balconies are to be dealt with in a management statement may impact on the resale value of a Strata Lot.

Under no circumstances should a Developer construct balconies over adjoining freehold land unless they have entered into an agreement to purchase that portion of adjoining land.

8.8 Depicting Easement Dimensions on Strata Plans

It is possible to create easements (see [Chapter 6](#)) under section 136C of the TLA automatically on Strata Plans. As the floor plan sheets contain dimensions and lot boundary definitions, easements showing dimensions should also be shown on these sheets by broken lines and dimensions.

The area affected by an easement must be measured to normal survey standards to provide sufficient dimensions to enable accurate establishment of its limits. Where a building or monument forms part of the easement boundary, dimensions must also be shown for such boundaries. These dimensions may be vertical as well as horizontal. It is important that this information is clear so that there will be no grounds for disputation in the future. Cross sectional views should be used to clarify vertical limits (i.e. horizontal boundaries as outlined in section 3(2) (a) of the STA).

Digital data (CSD file) is not required for Strata Plans that include easements in gross or easements under Section 167 of the P & D Act (see [Chapter 10.16](#)). Easements will be captured manually by Landgate during the lodgement / audit process.

8.9 Creation of Roads and Road Widening on Strata Plans

Changes to the *Town Planning and Development Act 1928* (T P & D Act) in 1996 allowed for the automatic creation of Road Widening upon Registration of the Strata Plan under Section 28 (3) of the T P & D Act. However there has been no provision to create “Roads” on Strata Plans until the commencement of the P & D Act on the 9th April 2006.

Road Widening are now created under Section 168 (3) of the P & D Act and “Roads” are created under Sections 168 (1) and 168 (2) of the P & D Act (formerly Section 295 (5) of the *Local Government Act 1995*) (see [Chapter 5.3](#)). Surveyors must follow the same guidelines as those for Deposited Plans when seeking approval to create roads on Strata Plans.

❖ **Note**

The requirement in Section 295(5) of the Local Government Act 1995 for roads to be over 6 metres in width has been removed.

Strata Plans are line drawings only, therefore pegs and non standard marks along Roads and Road Widening are not to be shown on the Location plans or Floor Plans. Surveyors should make a notation on the Location Plan:

“For survey and pegging information refer to Field Book

as a Field Book must accompany Strata Plans creating both Roads and Widening. Where there is a requirement to create roads and widening on Strata Plans that are exempt from the requirement of approval by the WAPC then it is important for Surveyors to note that the P & D Act makes no provision for those plans to be endorsed by the WAPC (see [Plan Example 34](#)).

Unlike Survey-Strata Plans there is no requirement for Surveyors to provide a CSD file when creating Roads or Widening on a Strata Plan as they will be captured manually by Landgate during the lodgement/audit process. Section 168 (9) of the P & D Act provides that roads do not form part of the parcel within a Strata Scheme.

8.10 Car Stackers

A recent trend in built strata schemes has been the introduction of Car Stackers - a mechanical device that allows one or more motor vehicles to be stacked one above another for parking purposes.

Car Stackers are a space efficient way of providing parking within a strata scheme where insufficient space exists for the creation of conventional parking bays. In effect it allows two or more vehicles to be parked in a space that would normally only be able to accommodate a single vehicle.

It is important to seek legal advice before commencing development of a strata scheme that will incorporate Car Stackers

One of two options to incorporate Car Stackers into a strata scheme may be used:

Option 1

The area in which the Car Stacker is to be located must be shown on the strata plan as common property. Bylaws setting out the use of the Car Stacker or granting exclusive use rights to particular lot owners within the scheme would be required to be registered. This option can be used in both single tier and multi tier schemes.

Option 2

The cubic area containing the Car Stacker is defined as part lots. As the cubic space of one part lot sits upon another part lot cubic space mutual easements must be granted to allow the vehicle of the TOP part lot to pass through the cubic space of the BOTTOM part lot when entering and leaving the Car Stacker. In this option it is advisable that the car stacker structure and all its related parts be common property. Bylaws (Management Statement) governing the use and maintenance of the car stacker structure (common property) must be registered. It must be clearly stated on the strata plan that the car stacker structure and all its related parts are common property (see [Plan Example 47](#)). This option cannot be used for single tier schemes.



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9. Surveys of Survey-Strata Schemes

9.1 Surveying of Survey-Strata Schemes

The survey for a Survey-Strata Plan is an authorised survey as defined in the *Licensed Surveyors Act 1909*. It (the survey) must be carried out by a licensed surveyor with a current practising certificate. A Survey-Strata Plan needs to be certified by a surveyor eligible to verify survey documents (see [Chapter 12.3](#)).

Surveyors should note that the certification of a Survey-Strata Plan is similar in content and therefore in responsibility, accountability and consequences to that of a certification under the *Licensed Surveyors Act* (LSA). The surveyor certifies to the correctness and to compliance with the regulations, and the significance of that must not be overlooked. This is very different from the certification of a Strata Plan.

Surveys for survey-strata schemes of more than 10 serviced lots where roads are created, or where common property lots are used as roads, must be lodged in accordance with the Special Survey Area (SSA) guidelines (available from www.lslb.wa.gov.au/). (see [Plan Example 44](#)).

Surveys for a survey-strata scheme within an existing SSA must be lodged in accordance with the SSA guidelines: i.e. lodge a Fieldbook and not a Survey Sheet (see SSA guideline 10.0).

The following guidelines apply to both new survey-strata schemes and conversions to survey-strata from a traditional strata scheme under Part III, division 3 of the STA.

Lots created on a Survey-Strata Plan may be unlimited in height and depth (i.e. no AHD is necessary) or may be limited in height and depth using AHD levels. If limited in height and depth, the lot must have common property above and below it (see [Plan Example 3](#), [Plan Example 4](#) and [Plan Example 29](#)). Section 4(1c) prevents cubic space lots being created on top of each other unless allowed by regulations. No regulations have been made for section 4(1c). It is not appropriate to use a “permitted boundary deviation” on a Survey-Strata Plan as these may only be used in a single tier strata scheme.

It is possible, and encouraged, to include cross sectional drawings to illustrate the boundaries of lots on the plan. Survey-Strata Plans and their field books will be recorded on the survey index plan (plan number, prefixed by “SP” and generally a field book number).

9.2 Survey Standards and Re-Establishment

The survey for a Survey-Strata Plan should be to a standard equivalent to that for a TLA survey. This enables it to be used for re-establishment of later adjacent or nearby TLA surveys (and it should be considered by any later TLA survey).

A survey for a Survey-Strata Plan should comply with the regulations under the LSA and TLA and specifically those dealing with:

- pegging or other marking of lot corners and boundaries for the public;
- referencing of lot corners;
- accuracy; and
- recording of field notes.

The surveyor should be guided by the Survey and Plan Practice Manual, particularly chapters 3 and 4.

Connections to standard survey marks may need to be made in accordance with guidelines under Regulation 22A of the Licensed Surveyors (Guidance of Surveyors) Regulations, 1961.

Digital data (CSD file) is required with each Survey-Strata Plan for audit purposes. All lots should be captured as freehold lots. Easements and three dimensional lots are to be captured in two dimensions (plan view) only.

9.3 Marking of Survey-Strata Schemes

1. On large survey-strata schemes, common property used as a road should be referenced as required for roads by the general survey regulations or guidelines.
2. General survey regulation 24A and TLA survey regulations 23, 32 and 35, dealing with protection of pickup, apply equally to survey-strata schemes.
3. In numbering the pegs of a Survey-Strata Plan, the "CP" prefix should be included on common property lots.
4. All new lot corners must be pegged, marked with non standard marks or noted why they cannot be marked ie "Corner Inaccessible".
5. Existing parcel corners where not marked are considered to be original.

9.4 Stratums, Heights and AHD

If the Survey-Strata Plan refers to a stratum, this must be related to Australian Height Datum, and a connection should also be made to a physical reference datum on or near the site. This height reference mark should be recorded in the field book (see [Plan Example 4](#) and [Plan Example 29](#)).

This (AHD) requirement also applies to “intrusion easements”. The AHD is to be applied to a stated surface, i.e. a floor level of a building or ground level on the scheme or a ssm or Water Corporation Manhole adjacent to the scheme, on a cross sectional drawing to define the area of intrusion (see [Plan Example 10](#)).

9.5 Encroachments and Building Connections

1. Encroachments by walls or attachments to walls or buildings discovered in the survey of a Survey-Strata Plan must be disclosed and the implications should be resolved before registration of the plan.
2. Improvements of a permanent nature (i.e. buildings and brick, concrete, masonry or stone walls) within one metre of a surveyed boundary should always be located and recorded in the field book. They are excellent reference marks.
3. Connections to buildings and walls are regarded as monuments, and have precedence over measurements, so the recording of such connections will allow the surveyor’s intention to prevail in the future if discrepancies are found (see [Plan Example 14](#)).
4. Where buildings are constructed within the scheme boundaries and there is an encroachment onto other survey-strata lots within the scheme the automatic easements under STGR Regulation numbers 14F, 14G and 14H should be used to protect survey-strata lots rights. Surveyors preparing plans containing this information should make the information depicted “user friendly” by indicating sections in a similar manner to architectural plans (see [Plan Example 10](#)).
5. Any connections to buildings or substantial improvements shown on the plan or in the field book will be understood to be to reference mark accuracy unless stated otherwise.

9.6 Depicting Easement Dimensions

Easements created on Survey-Strata Plans, whether under the STA or the TLA, must be shown on the survey-strata by broken lines and must be dimensioned sufficiently to define the easement area. The horizontal component must also form part of the Cadastral Survey Data (CSD) file. Where there are stratum limits, and unless they are simple, cross sections should be used to illustrate such limitations (see [Chapter 10.14](#)). It is permissible to reference easement height limits to a monument such as a footing or floor slab but AHD must be used. Although Regulation 14B of the STGR specifies certain dimensioning requirements, a surveyor should use professional judgement and provide sufficient measurements to establish the extent of the easement (see [Plan Example 10](#)).

Where a condition of Subdivision stipulates that an easement be created to Electricity Networks Corporation (formerly Western Power Corporation) under the *Energy Operators (Powers) Act 1979*, Surveyors must ensure that the easement as depicted on the plan agrees with the intent of the easement as shown in the document. A cross sectional drawing of pre-existing and any proposed buildings within the easement area should be incorporated as part of the plan to sufficiently identify their position (see [Plan Example 46](#)).

9.7 Field Notes for Survey-Strata Schemes

9.7.1 Lodging a Field Book for all Survey Plans

As from 31 May 2003, it became a condition of registration to lodge a Field Book for all Survey-Strata Plans. This requirement also applies to surveys of Re-subdivision and conversions to Survey-Strata Plans. Surveyors searching Landgate records must be aware that prior to this date the majority of Survey-Strata Plans may not have been supported by a registered Field Book.

9.7.2 What Field books are to Show

Field books are to show:

- details of re-establishment of alignments;
- additional reference marks placed;
- connections to improvements within one metre of the parcel boundary;
- connections to the Geodetic Network; and
- any other requirements according to the Surveyors General Regulations.



Note

Internal Lot details need not be shown.

9.8 Creation of Roads and Road Widening on Survey-Strata Plans

Much the same guidelines for creating Roads and Road Widening on Strata Plans (see Chapter 8.90) apply to Survey-Strata Plans. While the T P & D Act allowed the automatic creation of Road Widening on Survey-Strata Plans since 1996 under Section 28 (3) there has been no provision to create "Roads" on Survey-Strata Plans until the commencement of the P & D Act on the 9th of April 2006. With the repeal of the T P & D Act, Road Widening are now created under Section 168 (3) of the P & D Act (formerly Section 28 (3) of the T P & D Act). Roads formerly created only on Deposited Plans under Section 295 (5) of the LGA are now created under Sections 168 (1) and 168 (2) of the P & D Act (see [Chapter 5.3](#)).

Surveyors must follow the same guidelines as those for Deposited Plans when seeking approval to create roads on Survey-Strata Plans. NOTE:-The requirement in Section 295 (5) of the LGA for roads to be over 6 metres in width has been removed.

Roads and Widening on Survey-Strata Plans are to be set out and depicted on the plan as described in [Chapters 9.2 and 9.3](#).

Where common access is required within a Strata Scheme Surveyors should continue to use common property lots (CP...) to maintain the integrity of the Scheme. Only where planning approval requires that widening, an extension or creation of a public road be set out on the plan should Surveyors use Section 168 of the P & D Act. A CSD file must show the road in the same manner as that for deposited Plans.

Section 168(9) of the P & D Act provides that roads do not form part of the parcel within a Survey-Strata Scheme.

9.9 Deferred Final Marking/Referencing of Survey-Strata Schemes

Landgate has an approval system in place (under Regulation 26A of the *Licensed Surveyors (Guidance Surveyors) Regulations 1961*) that enables surveyors to defer the final marking/referencing of Survey-Strata schemes until after the civil development works have been completed.

The plan can be placed in order for dealings and allow the Registrar of Titles to issue certificates of title for lots on that plan after the surveyor has certified that the corners of all the lots on that plan have been marked and that the final marking will be completed within 14 days after practical completion of the development works.

An approval for deferred final marking/referencing (DFM) requires that a network of 'permanent' marks connected to the State Geodetic Network control the survey. Initial pegging of all of the lots on the Survey-Strata Plan will enable Landgate to endorse the Plan In Order for Dealings when final approval from WAPC has been obtained.

When the development works have been completed, permanent referencing and permanent survey and control marks in accordance with the regulations and the SSA guidelines (as applicable) can then take place.

Deferred final marking provides benefits for the developer and for the purchasers of lots within the subdivision. The developer can gain a cash flow which facilitates completion of the development works which in turn benefits the purchasers by improving the timeframes for occupation of the land.

Each purchaser also benefits by being able to settle at the original fixed price of the land, and by being able to commence the building process by engaging a builder and making application for a building license. The use of this procedure requires approval from the Inspector of Plans and Surveys (or delegate). The following information must be provided if an application for deferred final marking/referencing is to be considered:

1. A copy of the plan, or draft of the plan, or other graphic that shows the position, size and nature of the subdivision.
2. The date you expect to lodge the Survey-Strata Plan or date of lodgement if already lodged.
3. If fully bonded, the nature of the works being bonded and the bodies with which the bonds have been arranged.
4. If not fully bonded, the nature of the remaining works being bonded and the bodies with which the bonds have been arranged.
5. The date the bonds were in place, or are expected to be in place.
6. The date clearances are expected to be available.
7. The date dealings (eg application for new titles) are expected to be lodged,
8. The timeframe for practical completion.
9. The timeframe for final marking.
10. This information is used in considering the merits of the application, whether any special conditions are appropriate, and for follow up if necessary.

The standard conditions for this procedure are:

1. The development has adequate connections to the State Geodetic Network in accordance with 'Survey Practice Guidelines for Subdivisions within Special Survey Areas' (the guidelines).
2. The corners of all the lots are marked prior to the Survey-Strata plan being In Order for Dealings. Notification to Landgate is by an 'Initial Survey Certificate', similar to the form of the ISC in the guidelines stating that the marks are in place and referencing/final marking will be carried out when the subdivision has been completed.
3. Sufficient control points are placed in safe and protected positions to survive the development works.
4. Placement of referencing/final marking to be completed not more than 14 days after practical completion of the engineering and construction works.
5. A field book recording the referencing and renovation survey and a 'Final Survey Certificate' similar to the form of the FSC in the Guidelines to be lodged within 14 days of completion of fieldwork.
6. The Survey-Strata plan and field book(s) to be annotated:

"Reg. 26A' – final marking deferred (<Approval ID>, <Landgate file>)."

(see [Plan Example 48](#))

The surveyor must take reasonable steps to ensure that it is disclosed to purchasers of lots on the Survey-Strata Plan that access to the land may not be possible at the date of settlement, and to ensure that any changes to the timeframe for practical completion is advised to those purchasers.

Enquiries about using the deferred referencing or final marking procedures should be directed in the first instance to the Manager Survey Inspection on 9273 7114.

Applications can be e-mailed (preferred), faxed, or posted to the addresses below:

e-mail:

paul.beaver@landgate.wa.gov.au

fax:

(08) 9273 7669

mail:

Landgate
Att: Inspector of Plans and Surveys
PO Box 2222
Midland WA 6936

10. Drafting Guidelines Common to All Strata Titles Act Plans

10.1 Common Guidelines

Many guidelines for drafting apply to all plans under the STA, including:

- Strata Plans;
- Survey-Strata Plans;
- mergers;
- conversions to Survey-Strata Plans;
- Strata Plans of re-subdivision;
- Survey-Strata Plans of re-subdivision; and
- plans of consolidation.

For convenience, these common guidelines are recorded in this chapter. The variations and additional requirements applying to only one or a few types of plan are recorded in later chapters devoted to each type of plan.

10.2 TLA Guidelines

For easier recognition by users, it has been attempted to achieve uniformity in drafting practices and conventions between TLA plans and STA plans. The more commonly used conventions have been recorded in this chapter, but not those which are rarely needed.

Where a topic is not covered by these guidelines, it is suggested that there may be appropriate guidance in the Survey and Plan Practice Manual.

10.3 Drafting Requirements

As each development can differ, practitioners should use their professional judgment to produce a clear unambiguous product.

All plans must clearly depict the vertical and horizontal boundaries of each lot by either dimension or notation. Past confusion on lot boundaries could have been avoided if the information for lot definition had been clearly and simply depicted on the plan. This aspect of strata practice is increasing in importance as lot owners and purchasers become more discerning.

The compulsory disclosure requirements on the sale of strata properties (see [Chapter 14](#)), makes it essential that lot boundaries are clearly identified. The Act now requires lot boundaries to be identified on a copy of the Strata Plan at the time of sale. All information in relation to lot boundaries should be clearly identified. Cross sections and enlargements are encouraged to illustrate complex boundaries.

Prior to registration of a plan, purchasers must be notified of any changes to the plan, or proposed plan, as a sale may be avoided if this information is not provided.

10.4 Plan Forms and Use

The STGAR has deleted Forms 1, 2, 4 and 34 from the STGR effective from 24 January 2006. Forms 6 and 38 as shown in the STGR have also been re-designed by the STGAR to accommodate the requirement of Regulation 54 of the *Licensed Surveyors (Guidance of Surveyors) Regulations 1961*.

As part of the “Standard Plan process” introduced in July 2005 all plans lodged for registration after that time including re-subdivisions, consolidations, mergers and conversion to survey-strata are required to include a table for Version number and amendment schedule, the same as shown on Deposited Plans.

A company stamp or logo may be placed on the plan form. The stamp must not obscure detail on the plan.

There is no limit to the number of lots that may be depicted on a Strata or Survey-Strata Plan, if there is sufficient space available, but a clear concise image must be able to be reproduced. A location and floor plan can be placed on the same sheet of a Strata Plan. Provided there is sufficient space, a schedule of unit entitlement and valuer’s certificate or the surveyor’s certificate may also be placed on the plan sheet.

Strata and Survey-Strata Plans are uncoloured.

As from 1 February 2010, lodgement of hardcopy plans (plastic drafting film) ceased and is no longer an accepted form of plan lodgement. All plans are to be lodged electronically in PDF form via email to plan. plan.reg@landgate.wa.gov.au (see [Chapter 4.8](#)).

Pre-Allocation of Strata Plan Numbers

It is compulsory to use a pre-allocated number for each Strata/Survey-Strata Plan.

Surveyors must obtain from Landgate pre-allocated numbers for Strata and Survey-Strata Plans and field books.

Plan numbers and/or field book numbers will be pre-allocated to survey firms or practising licensed surveyors in batches of 10, 20 or 50 by applying to the Manager Plan Lodgement at Landgate via e-mail at plan.reg@landgate.wa.gov.au. The subject heading of each e-mail should be ‘Pre-allocated Numbers Request’. Landgate response is a reply e-mail advising the numbers that have been pre-allocated.

Surveyors must avoid using duplicated numbers for any plans or field books that they lodge. Surveyors should avoid applying for numbers they are unlikely to use within 6 months of the number being pre-allocated.

The surveyor must record the number used for any Plan or field book in the appropriate location/s within the survey document and also on the ‘Survey Lodgement Self Assessment’ form.

To avoid or minimise enquiries being made at Landgate about unlodged Plans and/or field books using pre-allocated numbers surveyors should stamp, or otherwise indicate on any copy of a Plan provided to a client or conveyancer that the copy is an ‘unlodged version’.

Pre-allocation provides Settlement Agents and lending institutions the opportunity to prepare their documents for registration prior to the Strata Plan being lodged at Landgate.

10.5 Scale

An appropriate metric representative fraction should be chosen and must be sufficiently large to enable all detail to be clear and legible. The preferred scales are:

1:50	1:300.
1:75	1:400.
1:100	1:500.
1:125	1:600.
1:200	1:800.
1:250	
Or multiples of 10 thereof	

Table 10.1: Appropriate representative Fractions

Because Strata Plans and Survey-Strata Plans are photo-reduced for search purposes, a graphical (bar) scale is to be depicted on the plan. This should be a basic scale bar drawn as a single line with the appropriate divisions.

Where a plan is lodged electronically; a notation should be made wherever a scale is noted showing at what scale the original drawing was prepared at eg: Scale 1:200 at A3 (see [Plan Example 1](#)) or alongside the Scale Bar (see [Plan Example 19](#)).

10.6 Orientation

The orientation on strata and Survey-Strata Plans is to be indicated by a north point arrow and should be 70mm long. It is preferable that the north point be parallel to the side edge of the form, but the orientation may be rotated in order to incorporate a best scale. The north point must not point generally downwards on the form. Location plans and floor plans must have the same orientation. All sheets of a Survey-Strata Plan must be on the same orientation.

10.7 Line Styles

When photo-reducing, reproducing or faxing Strata and Survey-Strata Plans, the line styles recommended below will ensure readability:

- Parcel boundary- 0.25mm;
- Internal lot boundaries that are not monuments- 0.25mm;
- Boundary lines that are monuments on Strata Plans- 0.5mm;
- All lot boundaries on Survey-Strata Plans- 0.25mm;
- Crown allotment boundaries (required for depth limits only-) broken 0.35mm; and
- Easement boundaries- broken 0.25mm.

10.8 Text Styles

When preparing the strata or Survey-Strata Plan the following should be used as a guide:

Lot Numbers of the subject	3.5mm or 5mm	Italic	Pt 5
Areas	2.5mm or 3.5mm	Italic	235m ²
Distances	2.5mm	Italic	20.12
Angles	2.5mm	Upright	97° 12' 30"
Abutting lot numbers	2.5mm or 3.5mm	Italic	45
Abutting plans	2.5mm or 3.5mm	Upright	D 56231
Street Names	3.5mm	Upright Upper Case	HAY STREET
Annotations	2.5mm	Upright Lower Case	east face of wall
Strata wordings	2.5mm	Upright Upper Case preferred	THE STRATA OF
Heading	3.5mm	Upright Upper Case	LOT 2 ON DIAGRAM
AHD levels	2.5mm	Upright Upper Case	13.12m AHD

Table 10.2: Text Styles and Size

The font used for these texts is to be of a type such that the first priority is optimum legibility of a reduced size copy. It should be an open style without serifs and with clear distinction between similar shaped figures and with a readily visible decimal point. The preferred font styles are Arial and Isocpeur.

10.9 Measurement Presentation

1. Distances should be shown in metres to the nearest 0.01 metre or 0.001 metre (see Chapter 11.8).
2. For distances less than one metre the decimal point should be preceded by a "0" (e.g. 0.75 not .75).
3. "0" need not be shown as the last character of a length, to the right of the decimal point (e.g. 15.10 is expressed as 15.1 and 15.100 is also expressed as 15.1).
4. Angles should be shown to the nearest second.
5. Nil seconds or nil minutes and seconds need not be shown (e.g. 170° 0'0" is expressed as 170° 170°11'0" is expressed as 170°11').

10.10 Road Names

Road names to be shown on Strata/Survey-Strata should primarily be obtained from the street Address information in SmartPlan (or MapViewer on Landgate). This information can further be verified against the street centreline data that is also available in MapViewer in the various MapType views in SmartPlan.

In addition the scanned images of the hard copy Survey Index Plans (SIP's) can also be viewed via the MapViewer, but it must be noted that maintenance of this series of plans no longer takes place.

Road names must be easily recognised on the face of the plan. The accepted abbreviation of road names is in the index of the StreetSmart road directory.

10.11 Areas

1. For areas less than 10,000 square metres, area is shown to the nearest square metre (e.g. 9446m²).
2. For areas of 10,000 square metres or greater, area is shown in hectares to four decimal places (e.g. 9.2713 ha). "0" need not be shown as the last character of an area to the right of the decimal point (e.g. 6.4500 ha to be shown as 6.45 ha).

Areas are to be shown for each lot, part lot or common property lot shown on the plan. For part lots the total area of all the parts should also be shown (in brackets) within the main part lot, which is normally the part lot forming or comprised in the building in the case of a Strata Plan, or the largest part lot in the case of a Survey-Strata Plan.

10.12 Abuttals

A Strata/Survey-Strata Plan must show as abuttals the number of any abutting lots for which certificates of title have issued at the time of lodgement of that plan. Lots on plans that have been lodged but not yet approved (shown on “lodged layer” of SCDB) must not be shown as abuttals unless sound knowledge is demonstrated by the surveyor that lodgement of dealings for those lodged plans is imminent.

The numbers of all current adjoining lots are to be shown with their plan numbers shown below them and prefixed P, D or DP. Where subdivisional Plans were subdivided into sheets for convenience Plan sheet numbers are to be included. E.g. P1234 (1). If the original Plan is a multi-sheet ‘Deposited Plan’ using the new Plan format, the sheet number should not be included because any or all of the sheets may contain relevant information.

If the abutting lot is the subject of a strata scheme, regardless whether it is a Strata Plan or a Survey-Strata Plan, the number should be placed (in brackets and prefixed SP) under the TLA plan number under that lot number.

Prior to 23 January 2004, abutting land coloured brown on surveys was generally labelled

“private Appurtenant”

or

“Private Non-Appurtenant”

depending on the circumstance. After this date the reference to implied rights could only be used when Section 167A of the TLA applied.

The following notes should be used as a guide to notations placed on Strata/Survey Strata Plans:

1. Abutting land coloured brown and labelled

“ROW”

created on an adjoining survey is to be labelled

“ROW”

and the survey number followed by

(“Coloured brown on Diagram/Plan”)

Section 167A TLA does not apply.

2. Abutting land coloured brown and labelled

“Road”

or with a road name if one exists, created on an adjoining survey is to be labelled

“Road”

or the road name and the survey number followed by

“Coloured brown on Diagram/Plan”

3. Abutting land coloured brown and unlabelled, created on an adjoining survey or on a parent survey will show the survey number followed by

“Coloured brown on Diagram/Plan”

Section 167A TLA does not apply (see [Plan Example 14](#)).

4. Abutting vested PAW’s and ROW’s, whether created on the parent survey or not, are considered for public use and hence labelled. The creating survey number is also shown.

5. Abutting land coloured brown and labelled

“ROW”

created on the parent survey is to be labelled

“ROW”

and the survey number followed by

“Coloured brown on Diagram/Plan”

Section 167A TLA does apply. This notation must be brought forward in the “Interests and Notifications” Schedule (see [Plan Example 10](#)).

6. Abutting land coloured brown and labelled

“ROAD”

or with a road name if one exists, created on the parent survey is to be labelled

“ROAD”

or the road name and the survey number followed by

“Coloured brown on Diagram/Plan”

7. Abutting railway reserves are labelled

“Railway”

and the plan number shown.

8. Abutting drain reserves are labelled

“Drain”

and the plan number shown.

In many country townships, for example Kalgoorlie, there are many public undesignated accessways created on Crown survey plans. These are shown with the Plan number and designated ‘Public ROW’ in brackets.

10.13 Enlargements and Displaced Data

In order to maintain clarity or overcome a lack of space, enlargements or ticking in detail may be used. The ticked in detail should be parallel to the line in the case of a linear measure and on the half angle in the case of an angular measure. Enlargements need not be drawn to scale (see [Plan Example 12](#)).

10.14 Cross-Sections

Cross-sections may be used to assist in clarifying lot boundaries. The sectional view must be identified on the plan view by lines of cut and referenced by alpha characters. The cross-section must reflect that cut. Horizontal boundaries (see section 3(2) (a) of the STA) must be referenced to a monument such as a floor, footing or AHD. The scale should be the same as for the floor plans and depiction of the cross section should contain enough measurements to clearly establish the boundaries.

On Strata Plans, the cross-section cut should be through the lots depicted on the floor plan. The cross-section is used to illustrate the horizontal boundaries of the lots (see [Plan Example 7](#)).

The scale should be large enough to show all detail clearly and the drafting convention should follow architectural methods.

Cross-sections on Survey-Strata Plans can be used to depict the limits of the cubic space forming the lots and for illustrating the extent of easement limits. It is permissible to include the outline of the walls and other structural information so that a lay person can identify the boundaries (see [Plan Example 14](#)).

10.15 Schedule of Interests and Notifications

It is now necessary to bring forward all existing easements and other interests of a spatial nature onto Strata/Survey-Strata Plans (see Survey and Plan Practice Manual).

To assist in identifying all the interests on a plan the details are to be recorded in a “schedule of interests and notifications”. Existing interests, apart from Mineral Reservations, that affect the whole of the land within the strata scheme, are not to be shown in the schedule as these are automatically carried forward within SmartRegister. The schedule is to contain a dividing line where all interests and notifications of a spatial nature being brought forward are listed chronologically above “the line” and all new interests and notifications are to be shown below “the line” together with any interests being spatially modified. A title under SmartRegister will contain all the “live” interests affecting that title in the Second Schedule. Surveyors will need to identify the best source for the spatial information of each interest and accurately plot the interests on the plan and include the item in the “schedule of interests and notifications”.

The heading of the schedule should always be “INTERESTS AND NOTIFICATIONS” regardless of whether it may contain only interests or notification(s).

Implied rights-of-way (refer Section 167A of the TLA) that have not been extinguished must be brought forward onto new plans and listed in the schedule of interests and notifications. The lots within the subject of the plan that have an implied benefit of the easement are to be shown in the schedule under “Benefit To” (see [Plan Example 10](#)).

Where a Part IVA of the TLA “Short Form” easement is being created on a new plan (with or without an instrument) its purpose must be described as per the relevant easement type listed in Column 1 of Schedule 9A of the TLA. Rights of carriage-way created under Section 136C of the TLA must be described in the “schedule of interests and notifications” as “Rights of Carriage-way”. Any Part IVA easements that do not use Schedule 9 or Schedule 9A must be described in the “schedule of interests and notifications” as “Easement” only.

Easements created on Survey-Strata Plans under Part 2A of the STGR (with or without an instrument) must be described in the “schedule of Interests and Notifications” as per the relevant “short form” easement type listed in Regulation 14A. The “dominant lot(s)” and “servient lot(s)” are to be listed in the “Land Burdened” and “Land Benefited” columns in the “schedule of interests and notifications”, respectively. Where it is necessary to note in a Survey-Strata Plan the apportionment of liability for the costs of upkeep of an area over which an easement is created, this may be done in the “Comments” column of the “schedule of interests and notifications” (see [Plan Example 3](#)).

The *Planning and Development Regulations 2009* require that Section 167 P&D Act easements on plans created on or after 1 July 2009 must be depicted in such a manner as to identify the easement holder and the associated purpose shown also (see table 10.4).

Surveyors should be aware that with the *Planning and Development Regulations 2009* commencing as of 1 July 2009, IRRIGATION easement has been included as a benefit to Water Corporation, UTILITY SERVICES (Drainage, Sewerage, Water Supply Services, Electricity, Gas Supply Services and Telecommunications Supply Services) easements can now be created to benefit a Utility Service Authority and there is no longer the provision to distinguish between above ground and below ground electricity.

Existing easements created under Section 27A of the Town Planning and Development Act 1928 and Section 167 of the *Planning and Development Act 2005*, prior to 1 July 2009, are to be labelled as per the Town Planning and Development (Easement) Regulations 1983 i.e. appropriate regulation number shown within a circle and the associated purpose shown (see [Table 10.4](#))

It is preferred that all other easements be labelled with a capital letter. The use of labels like “E-1”, “E-2” etc is also acceptable. The labels used in the graphic area of the plan are also to be shown in the “schedule of interests and notifications” (see [Plan Example 12](#)).

Easements that are created in documents and depicted on plans must be referred to in the schedule as “Easement” only.

Where the same portion of a Lot or common property is burdened by multiple easements there must be an individual endorsement for each easement in the ‘Interests and Notifications’ schedule. Multiple ‘Short Form’ easements cannot be combined (see [Chapter 12.7](#) and [Plan Example 38](#)).

Easements/Restrictive Covenants created pursuant to legislation must include a reference within the schedule to the section of the Act (or Regulation) under which they are created.

Where Instruments are used to define a “term”, an expiry date should be specified in the “comments” column.

It is important to ensure that the burden of existing easements and covenants of a spatial nature that affect the parcel of land (i.e. within the subject of the plan) are shown in the schedule. An endorsement on the existing title and instrument that is being referred in the schedule on the plan must not be interpreted or modified.

It is only necessary to bring forward (into the schedule) a benefit to land within the plan if that benefit has a spatial nature that exists on a sketch in a paper title or in a document, or on a previous plan and that benefit needs to be depicted on the plan. An example of a situation where a plan would need to show a benefit over land inside the plan is where a new lot contains land that was formerly within two previous lots and only one of those former lots had a benefit that is to be brought forward. Implied easements under Section 167A of the TLA are also an example of a situation where the benefit needs to be shown in the schedule and the appurtenance of the private right-of-way needs to be depicted on the plan (see [Chapter 10.12](#)).

It will not be necessary to bring forward onto the schedule any benefit to land outside the plan created by existing easements and covenants where the burden of the easement or covenant affects land inside the proposed plan. A reference is to be made in the schedule to the relevant parent document. Where subsisting benefits are associated with easements and covenants in gross, the beneficiary (as recorded in the original document or plan) must be shown.

If an existing easement or covenant burdening land outside the plan is being modified, in a spatial manner, by a document to be lodged with the plan, and a benefit (of a spatial nature) inside the plan needs to be identified, the benefit of that easement or covenant needs to be shown in the schedule on the plan (below “the line”).

[Table 10.3](#) lists the elements to be shown in the schedule.

The schedule should, wherever possible, be included with the location plan. If this is not practical, then the schedule may be shown on a separate sheet with references to labels and line-work depicting the interests shown on the location plan.

Where new Notifications under Section 70A of the TLA and Section 165 of the P & D Act along with Lots to be vested in the Crown under Section 152 of the P & D Act (see [Chapter 10.19](#)) and automatic Memorials under Section 67B of the *Water Agencies (Powers) Act 1984* or Section 62D of the *Water Boards Act 1904* are to be shown as a development condition they should be depicted below a dotted line in the Interests and Notifications schedule (see [Plan Example 7](#)).

Lots burdened by a Notification are to be shown but the “benefit to” column is to be left blank. The description used on the plan must match exactly the description used in the notification instrument. If the wording in the description of the notification is lengthy, it (the wording) should not be placed on the plan (see [Plan Example 2](#) and [Plan Example 18](#)).

Prior to 23 January 2004, Surveyors could refer to the parent parcel for land either burdened or benefited. Surveyors must now identify the individual Lots or common property within a scheme affected by any Interest or Notification. With Strata Plans where the whole of the parcel is subject to a benefit (Section 167A TLA) or burden (Mineral Reservation) the term “All Lots and common property” can be used. With Survey-Strata Plans the term “All Lots and CP3 (or similar)” can be used. (See STGR 6(1) (b)). Where only part of a lot is burdened, the reference should still be “Lot” not Pt Lot”.

Unlike Deposited Plans, existing mineral reservations such as Section 15 *Public Works Act 1902* (see [Chapter 10.18](#)) whether over part of the parent land or over the whole of the parent land must be shown above the line within the Interests and Notifications Schedule (see [Plan Example 16](#) and [Plan Example 23](#)).

Where only a portion of the parent land is affected by a mineral reservation, Surveyors must depict the subject portion but unlike easements, no dimensions are to be shown (see [Plan Example 5](#)). SmartRegister Titles for Strata and Survey-Strata Lots do not make reference to any mineral reservations that may affect such Lots.

Overcrowding of the graphic area of a plan is to be avoided as overcrowded plans are more difficult to comprehend. In some situations it may be worth placing all the graphic representations of the easements and covenants on a separate sheet of the plan, together with the schedule of interests and notifications.

Where easements, covenants and notifications (either new or existing) affect only a portion of a lot being created, the plan must show sufficient dimensions to unambiguously identify the land affected. Examples in the Survey and Plan Practice Manual indicate the requirements.

Type.	Where.	Show on Schedule.	Comments.
Existing Burden	Inside Plan	Yes	
Existing Burden	Outside Plan	No	Refer to original plan or document if necessary
Existing Benefit (Burden Inside)	Inside Plan	Only if Spatial Element in graphic (i.e. sketch in paper title or document, or previous plan)	
Existing Benefit (Burden Outside)	Outside Plan	Only if Easement or Covenant in Gross of a Spatial Element	Refer to original plan or document if necessary
Existing Benefit (Burden Inside)	Inside Plan	Only if Spatial Element in graphic (i.e. sketch in paper title or document, or previous plan)	Eg. Benefit to only part of new lot. S167A Implied Easements also
Existing Benefit (Burden Outside)	Outside Plan	N/A	
New/Modified Burden	Inside Plan	Yes	
New/Modified Burden	Outside Plan	N/A	
New/Modified Benefit (Burden Inside)	Inside Plan	Yes	
New/Modified Benefit (Burden Outside)	Outside Plan	Yes	
New/Modified Benefit (Burden Inside)	Inside Plan	Only if Instrument Lodged with Plan	Would require a plan for land being burdened as well
New/Modified Benefit (Burden Outside)	Outside Plan	N/A	

Table 10.3: Interests to include in Schedule

Subject	Purpose	Statutory Reference	Origin	Land Burdened/ Servient Lots	Benefit To/ Dominant Lots	Comments
5	EASEMENT (Drainage)	Sec 27A of the TP&D Act, Reg 5	DP38000	LOT / S	Local Government	
6	EASEMENT (Sewerage)	Sec 167 of the P&D Act, Reg 6	DP45000	LOT / S	Water Corporation	
7	EASEMENT (Above Ground Electric)	Sec 27A of the TP&D Act, Reg 7	DP38000	LOT / S	Western Power Corporation	
8	EASEMENT (Underground Electric)	Sec 167 of the P&D Act, Reg 8	DP45000	LOT / S	Electricity Networks Corporation	
9	EASEMENT (Gas)	Sec 167 of the P&D Act, Reg 9	DP45000	LOT / S	AlintaGas Networks Pty Ltd	
	EASEMENT (Right of Carriageway)	SEC 136C of the TLA	DP 49500	LOT 1	Lot 25 on DP 49500	
	EASEMENT (Vehicle Access)	Reg 14E of STGR	This Plan	LOT 2	LOT 1	Appointment of Liability of Upkeep (Lot 1 70%, Lot 2 30%)
33a	EASEMENT (Drainage)	Sec 167 of the P&D Act, Reg 33(a)	This Plan	LOT / S	Local Government	
33b	EASEMENT (Sewerage)	Sec 167 of the P&D Act, Reg 33(b)	This Plan	LOT / S	Water Corporation	
33c	EASEMENT (Electricity Supply)	Sec 167 of the P&D Act, Reg 33(c)	This Plan	LOT / S	Electricity Generation Corporation	
33d	EASEMENT (Gas Supply)	Sec 167 of the P&D Act, Reg 33(d)	This Plan	LOT / S	WA Gas Networks Pty Ltd	
33e	EASEMENT (Telecommunications Supply Services)	Sec 167 of the P&D Act, Reg 33(e)	This Plan	LOT / S	(show Utility Service Authority)	

Table 10.4: Example of Schedule- Interests and Notifications

10.16 CSD Files

CSD files complying with the normal CSD business rules are required for all Survey-Strata Plans and must include easements of a spatial nature. This CSD file requirement does not extend to covenants that have a spatial nature.

Surveyors are not required to provide a CSD file for Strata Plans that create roads, widenings, vesting lots and easements of a spatial nature. These components of the plan will be captured manually by Landgate during the lodgement / audit process.

10.17 Depth Limits and Crown Allotment Boundaries

A depth limitation in an original Crown Grant is regarded as a dimension of the land in a parcel. It is necessary to carry this dimension forward onto a Strata/Survey-Strata Plan (see [Plan Example 6](#)).

The bringing forward of original Crown allotment boundaries onto freehold plans is not required unless a depth limitation in the original Crown Grant or some other spatial element affecting the titles (eg. a notification) needs to be identified.

Where a depth limit from a Crown Grant applies to only part of a new lot the extent of the original Crown allotment that forms part or the whole of the subject of the plan must be shown (see [Plan Example 13](#)). If all the subject land for a plan has the same depth limitation the original Crown allotment boundaries need not be shown (see [Plan Example 6](#)).

Where the land parcel is subject to a depth limit, surveyors should endorse on the plan reference to the depth limit, e.g. "Limited in Depth to 12.19 metres", as digital titles for Strata schemes do not show depth limits.

10.18 Mineral Reservations

The introduction of the SmartRegister digital titles system has caused changes in the ways that mineral reservations are dealt with on titles and plans. The following outlines Landgate's requirements for the depiction of any mineral reservations affecting land on Strata/Survey-Strata Plans.

10.18.1 Reservations in Crown Grants

Mineral reservations contained in the original Crown Grants need not be depicted or recorded on plans. A SmartRegister title contains a prefatory statement that indicates that the land in the title is "subject to the reservations, conditions and depth limits contained in the original grant".

10.18.2 Lands Affected by Section 15 of the Public Works Act 1902.

Prior to 1953, Section 15 of the *Public Works Act 1902* excluded from resumptions all minerals except those necessary for the construction, support and maintenance of public works. Where minerals had been alienated and the land resumed, an undefined portion of the minerals remained unresumed causing problems for the then Titles Office determining what had and what had not been resumed.

Crown Grants issued after the introduction of the *Land Act in 1898* had all minerals reserved to the Crown. The position was (is) quite clear from then on. The earlier grants of land (including grants under the Deeds Office system), prior to 1898, where portion of the minerals were alienated remained a problem until in 1953 section 15 of the *Public Works Act* was amended to retrospectively provide that all minerals were included in any resumptions. Section 15 was repealed in 1997 and replaced by Section 164 of the *Land Administration Act 1997*.

Titles to land affected by this provision will show different endorsements depending on the circumstances involved. If the whole of the land is affected the endorsement may state; "save and except the rights to mines of coal or other minerals", or "the right to mines of coal or other minerals being excluded from the said land". If portion of the land in a title is affected the endorsement will usually state; "the right to mines of coal or other minerals being excluded from portion of the said land".

In the past Landgate indicated areas affected by Section 15 of the *Public Works Act* on the "working copy" plans (i.e. mini plans and duplicate diagrams). Today Landgate's imaging system provides copies of the working plans. These plans are no longer produced by Landgate and it has now become necessary to show the affected areas on the original deposited plans.

Working copy plans indicate affected areas in one of two ways. The affected areas are hachured and the plan annotated "Portion hachured subject to Section 15 of the *Public Works Act*". In some cases the unaffected areas are hachured and the plan annotated "save and except the portion hachured subject to Section 15 of the *Public Works Act*".

Some roads closed and amalgamated under the former *Road Districts Act 1919* were also subject to mineral reservations and are shown on "working copy" plans as affected by Section 15 of the *Public Works Act*.

Roads closed and amalgamated under the *Land Act 1933* or the *Land Administration Act 1997* are not affected by the provisions of Section 15 of the *Public Works Act*.

Where land affected by Section 15 of the *Public Works Act* has been revested in the Crown the provision no longer applies to the land revested. Lots that are revested are identifiable on the existing “working copy” plans by a “Revested” notation or a change in the parcel identifier (lot number) to a Crown allotment number.

When a parent parcel for a Strata/Survey-Strata Plan is affected by the former Section 15 of the *Public Works Act* (see [Chapter 10.15](#)) whether it is part of the land or the whole of the land affected, it must be recorded above the line in the Interests and Notifications Schedule (see [Plan Example 5](#), [Plan Example 13](#), and [Plan Example 16](#)).

In general, the mineral reservations depicted on the “working copy” plans affecting portions of titles must be brought forward. Portions of land affected by Section 15 of the *Public Works Act* are usually not dimensioned on titles or working plans. It is only necessary to plot affected portions on new plans by scaling distances from existing documents and using labels, line-work and where necessary (hachuring though not recommended), to clearly show the relevant portions. There is no need to include the information in CSD files.

10.18.3 Mineral Reservations in Transfers

Crown Grants that were registered in the name of the Commonwealth of Australia did not contain any mineral reservations. Where the Commonwealth disposed of land, the transfer affecting the sale normally contained the same mineral reservations as contained in a normal Crown Grant. Following registration of the transfer the Commonwealth would then transfer to the Crown in right of the State the reserved mineral rights.

By virtue of the *Midland Railway Company Acquisition Act 1963* the Minister for Western Australian Government Railways acquired all the property of the Midland Railway Company. The mineral rights granted or alienated to the Midland Railway Company become the property of the Crown on production of a vesting application by the Minister to the Registrar of Titles. Titles are usually endorsed “except and reserving metals minerals gems and mineral oil specified in Transfer No” or “save and except minerals vested in the Crown pursuant to the provisions of Section 4(5) of the *Government Railways Act*”. A title may or may not make reference to the relevant transfer document.

Where portion of the land in a Strata/Survey-Strata Plan is affected by a mineral reservation contained in a transfer, or vesting under Section 4(5) of the *Government Railways Act*, the portion so affected must be depicted on the plan in the same manner as outlined above for land affected by Section 15 of the *Public Works Act*. Where the whole of the land in the Strata/Survey-Strata Plan is affected see [Plan Example 23](#).

10.19 Vesting Lots

The *Planning and Development Act 2005* makes provision under Section 152 for Lots on Strata/Survey-Strata Plans to be “Vested in the Crown” directly from the plan. Historically the 1996 amendments to the T P & D Act allowed for the automatic vesting of land under Section 20A of that Act. However, that process was cumbersome and required the use of a “Dual numbered” Strata/Deposited Plans to enable the vested lot to be processed.

As of the 10th of April 2006, the use of “Dual numbered” Plans is no longer required as Section 152 of the P & D Act allows for automatic creation of a Crown Land Title (denoted LR) for the vested Lot or Lots upon registration of the Strata/Survey-Strata Plan.

Although 2 to 5 lot built strata schemes are normally exempt from WAPC approval, an anomaly now exists (brought about by the P&D Act) where a 2 to 5 lot built strata with a lot or lots to vest in the Crown, directly from the plan, is subject to the WAPC approval delegated to Local Government (see [Plan Example 51](#)).

Where a condition of approval by the WAPC requires land to vest in the Crown, the vesting Lots are to be shown depicting any one or more of the following purposes:

- Conservation or protection of the environment.
- An artificial waterway.
- A pedestrian access way (PAW).
- A right-of-way (ROW).
- A reserve for water supply, sewerage, drainage, foreshore management, waterway management or recreation.
- A public purpose specified in the condition and related to the subdivision.

Land vested under Section 152 of the P & D Act:

- Is Crown Land.
- Does not form part of a parcel comprised in a plan registered under the STA.
- Is to be taken to be reserved under Section 41 of the LAA for the purpose set out in the condition.
- May be dealt with in accordance with the LAA.

Vesting Lots depicted on Strata/Survey-Strata Plans must not be included in the Form 3 “Schedule of Unit Entitlement”. Surveyors should use a lot range that clearly show the vesting Lot is not part of the Strata scheme e.g. Lot 300, 301, 302 etc.

An Interests and Notifications schedule is required on the plan setting out details of the vesting. An endorsement in the “Comments” field should read

“Now LR Vol Fol” (see [Plan Example 7](#)).

When vesting lots are created they may be subject to:

1. Any easement created under Section 167 of the P & D Act.
2. Any easement created under Section 136C of the TLA.
3. Any existing encumbrance specified in a direction of the Minister responsible for the administration of the *Land Administration Act 1997* (LAA) or a person authorised in writing by that Minister for the purpose of Section 152, lodged with the Registrar of Titles on or before the vesting.
4. Any encumbrance prescribed, or a class prescribed by the P & D Regulations.

Some other interests or encumbrances over vesting lots will be considered by the appropriate Regional Manager in State Land Services (at RDL) on a case by case basis to determine whether it is acceptable to the Crown. The consent of the Regional Manager must be endorsed on the application to register the plan prior to lodgement. Those not acceptable must be removed prior to vesting.

Field books must be lodged at Landgate for surveys of Strata/Survey-Strata subdivisions that involve vesting land.

Unlike Survey-Strata Plans there is no requirement for surveyors to provide a CSD file when creating vesting lots on Strata Plans as they will be captured manually by Landgate during the lodgement audit process.

Pegs cannot be shown on Strata Plans. The following notation is required to be added to the plan in regard to survey marks:

“For Survey and Pegging Information see FB_____”

The vesting lot is depicted on the Location Plan fully dimensioned. The floor plans exclude the land contained in the vesting lot (see [Plan Example 25](#)).

A Crown Land Title (LR) will automatically be created for a vested Lot upon application to register the Strata/Survey-Strata Plan. When the application has been processed through SmartRegister to create the LR issuing to the “State of Western Australia”, automatic notices will be generated to have the Lot shown as Crown Land in SmartPlan and trigger action at RDL to commence reservation action.

The only fees applicable are those related to the STA.

10.20 Automatic Road Dedications

The 1996 amendments to the Town Planning and Development Act 1928 allowed only for automatic road dedications under Section 28(3) of that Act when registering a Strata/Survey-Strata Plan. Section 168 of the P & D Act now provides for the creation of Roads, Road Extensions and Road Widening on both Strata Plans (see Chapter 8.9) and Survey-Strata Plans (see [Chapter 9.8](#)).

Where a road, road widening or a road extension is depicted on a Strata/Survey-Strata Plan the land so depicted is automatically dedicated to the public use of road at the time the plan is registered under the STA. The land in the road widening/extension is never included in the strata/survey-strata scheme and therefore the land continues being dedicated road on termination of such a scheme.

All Strata/Survey-Strata Plans that include automatic road dedications must be accompanied by a field book for the authorised survey creating the road and a CSD file only if created on a Survey-Strata Plan (see [Chapter 9.8](#)).

Such plans must be approved by the WAPC before registration, except for those plans ordinarily exempt under Regulation 15 of the STGR (see [Chapter 8.9](#)).

10.21 Surveyor's Check List for Strata and Survey-Strata Plans

Before lodgement at Landgate, the following information needs verification:

Heading Block

- Strata/Survey-Strata Plan – appropriate deletion
- Sheet of sheets
- Management Statement – yes/no
- WAPC certificate prepared for signing and dating, if applicable (separate WAPC certificate Form 26 for built stratas delegated to local government)
- Land description as per title
- Title number
- Local government
- Index plan number
- Field book number, if applicable
- Scale
- Name of scheme (exclude post code if using an address)
- Address of parcel (include post code)

Drafting area

- Logo or Firm Name (not essential)
- Depth Limit

Location plan

- Surveyors' Certificate– Reg 54
- North point *
- Location Plan Annotation
- Scale and scale bar *
- Road name *
- Crown allotment boundaries and numbers * (if required for depth limits)
- Abuttals *
- Outline of buildings
- Outline of part lots external to the building
- Offsets to boundaries
- Encroachments shown
- Vesting land
- Automatic road dedications

Floor plan

- Strata/Survey-Strata Plan or appropriate deletion
- Sheet of sheets *
- North point
- Floor Plan Annotation (eg. Ground Floor Plan, First Floor Plan)
- Floor Plans overlay by sheet corners or common reference points
- Scale and scale bar
- Outline of buildings in thicker line work
- Part lots external to buildings
- Dimensions or annotation of lot boundaries *
- Part lot numbers correctly positioned (double check) *
- Areas *
- Total areas (check additions) *
- Easements position and dimensions *
- Schedule of Interests and Notifications *
- Stratum wordings
- Restrictive use if applicable *
- Other notes *
- CSD file for Survey-Strata Plans only

For Survey-Strata Plans, the items indicated by an asterisk above should be verified on the plan, as well as the following 2 items:

- Monuments referenced to boundaries
- AHD levels if applicable

Local government Certificate (Form 7 - Strata Plans only)

- Description of land parcel
- Description of buildings
- 1(a) or (b) deleted
- (3) deleted if no encroachments
- 4(a) or (b) deleted (check if accompanied by WAPC certificate)
- Form signed and dated by either CEO or delegated officer

Valuer's certificate (Strata/Survey-Strata Plan – appropriate deletion)

- Lot numbers and unit entitlement filled in
- Sum of unit entitlement to agree with aggregate
- Description of land parcel
- Description of buildings
- Name filled in
- Form signed and dated

Surveyor's certificate (Form 5 – Strata Plans only)

- Description of land parcel
- Description of buildings
- Name filled in
- Paragraphs (a) and (b) valid
- (c) deleted if no encroachments, or
- If (b) is deleted, (c) is valid
- (d) is deleted unless management statement for staged development applies
- Signed (by "Surveyor") and dated

WAPC certificate if applicable (Strata Plan only)

- Either paragraph (i) or (ii) deleted
- Submission date filled in
- Property description completed

Other

- Accompanied by Form 8
- Ministerial approval letter (which may be conditional) if appealed and no WAPC or local government certificates
- Urgent letter request

Surveyors Report

- Special Survey Area annotations
- Regulation 26A annotations
- Easements/covenants/interests to be modified/surrendered
- Advice received from Landgate officer
- Timing and Other Issues to Note

11. Drafting of Strata Plans

11.1 Other Guidelines in Chapter 10

Most drafting guidelines for Strata Plans are common to all plans under the STA. These have been recorded in [chapter 10](#). This chapter records only matters which do not apply to all other types of plan. For drafting requirements, this chapter should be read in conjunction with [chapter 10](#).

11.2 Components of a Strata Plan

A Strata Plan consists of a:

1. location plan;
2. floor plan;
3. schedule of unit entitlement and valuer's certificate;
4. licensed surveyor's certificate and local government certificate;
5. WAPC certificate, in certain cases;
6. dealings and encumbrance schedule; and
7. sometimes, an annexure sheet.

11.3 The Location Plan

The location plan is designed to show the perimeter of the land parcel, the buildings and the boundaries of part lots external to the buildings in relation to the parcel boundaries (see Reg. 5(1a) (d)). Scales and orientation must comply with the STGR. A location plan may be on a separate form or can be on the same sheet as the floor plan.

Where buildings are closer than 2 metres to a parcel boundary, offsets must be shown on the location plan. Any encroachments onto the adjacent parcel, or road or ROW must be clearly shown by a dashed line. Building connections and wall encroachments should be made to reference mark accuracy. The extent of the encroachment and type must be dimensioned and noted. Encroachments can be walls, gutters and eaves, awnings, plinths, corbels or other similar building attachments. The following sets out the options available for depiction of buildings on Location Plans in Built Strata Schemes.

11.3.1 Single Tier Schemes Option 1

Single Level Building – show Footprint

- Show building outline
- Show outline of part lots external to the buildings
- Show offsets/encroachments in any case where required

Option 2

Multi Level Building (Townhouse/Villa) – show Outline only (see [Plan Example 5](#))

- Show outline of building extremities only, including balconies
- Show outline of part lots external to the buildings
- Show offsets/encroachments in any case where required and label them i.e. 2nd Floor Balcony

Option 3

Multi Level Building (Townhouse/Villa) – show Outline of Building & Outline of Balcony (see [Plan Example 1](#))

- Show outline of building extremities & outline of balconies when viewed from above (ignoring eaves except for encroachments)
- Show outline of part lots external to the buildings
- Show offsets/encroachments in any case where required and label them i.e. 2nd Floor Balcony

11.3.2 Multi Tier Schemes

Option 4

Multi Level Building – show Outline only (see [Plan Example 6](#) and [Plan Example 19](#))

- Show outline of building extremities only, including balconies
- Show outline of part lots external to the buildings
- Show offsets/encroachments in any case where required and label them i.e. 2nd Floor Balcony, 10th Floor Plinth encr.

Option 5

Multi Level Building – show Outline of Building & Outline of Balcony (see [Plan Example 50](#))

- Show outline of building extremities & outline of balconies when viewed from above (ignoring eaves except for encroachments)
- Show outline of part lots external to the buildings
- Show offsets/encroachments in any case where required and label them i.e. 2nd Floor Balcony, 10th Floor Plinth encr

Option 6

Multi Level Buildings with Multiple Location Plans – show Outline of Building & Outline of Balcony (see example 18)

- Show outline of building extremities & outline of balconies on each Location Plan/Level
- Show outline of part lots external to the buildings
- Show offsets/encroachments in any case where required on each Location Plan/Level and label them.

A statement on the Surveyors Report (Chapter 3.6) for all Strata Schemes other than single level buildings will indicate the option adopted.

The location plan can be used as an aid for determining the common property. Any part of the parcel that is not included in a lot is common property.

The following information must be shown on location plans:

- perimeter of the parcel (but not notated as such)
- location
- offsets
- extent
- road names
- abutting lot numbers and survey numbers
- scale bar
- orientation (consistent with floor plans)
- depth limit
- vesting land
- Interests and Notifications schedule if applicable
- certificate showing Regulation 54 of the Survey Regulations

11.4 Floor Plan

The floor plan must be drawn at a scale and orientation indicated in the STGR. The orientation must be consistent with the location plan. The floor plan may be on a separate sheet or, space permitting, included with the location plan.

A “floor plan” is in reality a plan of the level or stratum and does not have to be confined to the floor of a building. It is in fact a plan view of the base of a cubic space forming a lot or parts of a lot.

The perimeter of a building forming the external surface of cubic space should be shown by a thick line to indicate the walls of the building. Lines that are buildings or monuments should be thicker lines or can be shown by parallel lines. Usually thinner lines that are dimensioned or partly dimensioned delineate boundaries of part lots that are external to a building.

The local government certificate refers to an inspection of the building and parcel shown on the Strata Plan. Surveyors should therefore depict the outline of the building to which the local government certificate is to apply. It may be useful in complex situations to assist lot identification by creating separate part lots for carports, garages, store sheds and verandas. There is no requirement to follow this practice or to specify the use of each of these part lots on the plan. However, it may be useful, particularly where the walls are to be common property.

In cases where there is more than one floor level, each level must be able to be superimposed on the other levels. Separate sheets for each level can achieve this or two floor plan levels may be depicted on the same sheet provided appropriate registration marks (e.g. a common point of overlay or part of the parcel boundary) are placed on each level to enable superimposition. If using the latter method, the scale must be common and the detail clearly shown.

If a lot consists of more than one part then the lot number shown on each of the parts must be prefixed by “Pt” (see regulation 6(4)) to indicate that there are other parts forming the lot. The area of each part lot should be shown close to the “Pt” lot number. If possible, the lot number and area should be within that specific part of the lot. If, due to lack of space this is not possible the “Pt” lot number and area can be shown externally and then ticked in to indicate the designation of that part. Areas of all the parts should be added to give a total area, which should be shown in brackets within the main “Pt” lot, which is normally, the actual part lot forming or comprised in the building.

All parts of a lot should be contained within the one sheet, if possible. Alternatively, join marks and notations should be used so, if needed, the floor plan sheets may be compiled to create the scale version of the complete lot or “Pt” lots. If patios, carports, pergolas, enclosed rooms, storage rooms or similar structures are to be included as part lots they must be shown on the floor plan (see Regulation 37C of the STGR).

Floor plans are designed to show the basis of calculation of the cubic space of the lots. Common property generally should not be shown on the floor plan. The STGR do not permit extra information in the form of broken lines or notations that indicate letterboxes, driveways, carports, garden areas or similar information that is not used for defining lot boundaries.

VOIDS are an integral part of a floor plan and usually denote the air space where stairways form part of a first or second floor in buildings such as Villas and Town houses. They may be labelled “Void” or “Stairs” and defined by either pecked lines or solid single lines. While “VOIDS” form part of the Lot, their area is excluded from the area calculated for that level. Where there is some doubt as to the ownership of abutting voids, Surveyors should label each void with the corresponding Pt Lot identifier. In some instances it may be beneficial to label common property as “Void – Common Property” to ensure there is no conflict as to ownership of such areas (see [Plan Example 24](#)).

11.5 Surveyor's Certificate

As from the 24th of January 2006, all new Strata Plans lodged for registration at Landgate must have a certificate signed by the Surveyor under Regulation 54 of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961. This Certificate is in addition to the requirement of Form 5 of the STGR and ensures the Surveyor is fully accountable for the correctness of the Strata Plan (see [Plan Example 25](#)).

Correct certification by surveyors plays a key role in the strata titling system as it signifies that certain parameters are met before registration. It is therefore important that surveyors delete the inappropriate paragraphs on the surveyor's certificate (STGR Form 5) to reflect the true situation of the proposed scheme.

Strata plans, because of their building content must have a surveyor's certificate stating that all strata lots on the plan are within the land parcel boundary and that all buildings are contained within the parcel boundary. If the buildings extend beyond the parcel boundary the encroachments must be clearly shown on the plan. In the case of encroachments onto other land the applicant must provide proof that the appropriate easement has been granted.

If there is an encroachment onto a public road or right of way, local government approval or ministerial consent must have been given. This type of consent is reflected in the local government certificate. If the encroachment is onto private road or R.O.W. steps should be taken to close and amalgamate that portion of land with the subject parcel.

The surveyor's certificate also contains a paragraph applicable only to staged schemes where by-laws under Schedule 2A item 8 of the STA specify the criteria for each of the stages. That paragraph is only pertinent to re-subdivisions and when it applies must comply with the information originally disclosed in the management statement (which at that stage will have been the by-laws of the strata company).

Surveyors need to check the re-subdivision plan against the proposed plans in the management statement. It must meet the following criteria to ensure sufficient compliance with the management statement (see [Chapter 6.13](#)):

- The same number of lots as depicted in the by-law.
- Areas of lots cannot vary from that shown in the by-law by more than 10%.
- Lot configuration and common property must be the same as in the by-law.
- Unit entitlement must be the same as disclosed in the by-law.
- No easements or encumbrances shown on the plan of re-subdivision which will adversely affect any lots or common property.
- The same proposed buildings depicted in the by-laws but not shown on the re-subdivision.

On a simple Strata Plan paragraphs (a) and (b) of the STGR Form 5 are usually the only applicable paragraphs and paragraphs (c) and (d) are struck through.

The local government certificate should also accord with the surveyor's certificate in respect to encroachments onto public roads or right of ways.

The surveyor's certificate reflects the information shown on the Strata Plan. The description of the parcel should be similar to the land description on the title, followed by a description of the building. The description of the building should include the number of lots, the main materials used in construction and the proposed use of the parcel, e.g., "Four, single storey, brick and tile, residential dwellings".

Surveyors may choose to incorporate their Form 5 Certificate into the Plan form or print their own form provided they comply with the words as set out in the STGR. Where paragraphs such as (c) and (d) are inappropriate, they need not be printed. See STGR Regulation 13.

11.6 Local Government Certificate

All Strata Plans must have a local government certificate unless there has been an appeal to the Minister for local government. In that case, a Ministerial certificate must accompany the plan to certify that the appeal has been upheld.

The description of the building and parcel must be the same as in the surveyor's and valuer's certificates.

The local government certificate (STGR form 7) follows the requirements of sections 23(1) and (2) of the STA. It states, that the building and parcel shown on the plan have been inspected and that these are consistent with the approved building plans and specifications, and that the building is of sufficient standard (paragraphs (1) (a) and (2)) to be brought under the STA. Regulation 39 of the STGR provides information as to the meaning of "sufficient standard".

The certificate also states that if there is an encroachment onto a public road, street or way (paragraph (3)) that the local government does not object to the encroachment. The final paragraph in the certificate relates to compliance with conditions imposed by the WAPC (if applicable).

Local government officials should ensure that the paragraphs on the certificate which do not apply should be struck out.

The local government certificate is to be dated and signed by the Chief Executive Officer or an officer duly delegated that function under section 23(5) of the STA. Officers signing these certificates should indicate their status near the signature i.e. "Delegated Officer Section 23(5)". Certificates signed "For" or "Per" Chief Executive Officer will not be accepted by Landgate (see [Chapter 5.7](#)). Details on how Form 7 will be accepted at Landgate are set out [Chapter 5.7](#).

Strata plans or certificates that are creased, folded, damaged or stamped will not be accepted for lodgement at Landgate. Local governments should ensure that documents are treated carefully, as they may be held responsible for any damage.

11.7 WAPC Certification Form 26

Strata plans that do not fit the exemption criteria, as specified in Regulation 15 of the STGR, must be accompanied by a certificate (Form 26) endorsed correctly by Local Government (delegate under Section 16(3)(e) of the P&D Act 2005) or the WAPC (not delegated) (see [Chapter 5.3](#)).

Form 26 certificates are not considered to be part of the strata plan. The Form 26 should be separate from the Location Plan (see [Plan Example 53](#)).



Note

For instances where the WAPC does not delegate its powers for approval to local government, the Form 26 can be incorporated into the Location Plan (see [Plan Example 11](#)).

Surveyors have the choice of the following options:

1. lodge the Form 26, Form 1C and Form 7 at the local government. Wait for the signed Form 26 (along with the signed Form 7) to return from the local government and lodge at Landgate as a scanned PDF with other forms of the strata plan; or
2. lodge the strata plan at Landgate and at the same time send the Form 26 and Form 1C (with the Form 7) to the local government. In this option, Landgate will conduct a full audit of the strata plan and sign it "In Order For Dealings" subject to lodgement of Forms 7 & 26.

Surveyors should note on the Surveyors Report whether a strata plan is subject of the delegation and if the Form 26 is lodged with the strata plan.

Effectively, this removes the strata plan from the Standard Plan process (see Appendix A Figure 7). From a surveyors accountability perspective, it is still Landgate's preference that final strata plan approval by either the local government or the WAPC be based on a Landgate audited Certified Correct copy of the plan.

11.7.1 Form 26 Paragraph (i) Certificates

Where the Commission endorses a Form 26 – paragraph (i) certificate, each relevant page of the Strata Plan should be signed by the signatory for the Commission.

11.7.2 Form 26 Paragraph (ii) Certificates

Where the Commission endorses a Form 26 – paragraph (ii) certificate, each relevant page of the Strata Plan must be signed by the signatory for the Commission.

It is the responsibility of the lodging party to ensure that the correct certificate is included with the plan to be signed by a signatory of the Commission.

11.8 Measurement Contents

Information shown on a Strata Plan must be sufficient to establish lot boundaries of every lot. Some surveyors follow the practice of showing a fully dimensioned plan with measurements to two (2) or three (3) decimal places and angles to 1". Whilst this may appear to be of a high standard, the reality of measuring walls, fences and other monuments to this accuracy is not necessary for Strata Plans. The requirements of the STA and STGR have been designed to provide sufficient dimensioning or notation to define the lot extremities.

On a Strata Plan there must be sufficient information shown to establish lot boundaries. There is no requirement to show full dimensioning. However, if the plan is fully dimensioned, distances and areas must agree with the parent "Freehold" information. Where certain Special Survey Areas (SSA) and Redevelopment Authority Deposited Plans show dimensions to three (3) decimal places, Surveyors should prepare Strata Plans to the same accuracy.

11.9 Describing Cubic Space

The use of Section 3(2) (b) of the *Strata Titles Act 1985* when describing cubic space must refer to a wall, floor or ceiling or structural cubic space within the building to which the plan relates and cannot refer to "external surface of building" or "roof".

Where the underside of a roof forms part of the ceiling, and it is intended that the roof form part of the cubic space, the upper boundary of a lot could be described by specifying a distance above the ceiling so that the roof fits within that measurement. However this definition will not enable inclusion of any part of the roof that extends beyond the line of the inner surface of the walls (see [Chapter 8.4](#)) and (see [Plan Example 26](#)).

11.10 Large Plans (Rural or Staged)

Occasionally, problems are encountered when the detail and coverage of the Strata Plan will not fit the A3 size format. Each case should be considered on its merits. The plan must be clear and easy to understand. If possible, the whole of a part lot should be confined to one sheet.

The pictorial representation should be carefully planned. It may overlap numerous sheets, so the plan sheets should be laid out and then an appropriate scale used to meet the criteria listed above. Join marks may be used on lot or parcel boundaries so that it is possible to piece together the complete picture.



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12. Drafting of Survey- Strata Plans

12.1 Other Guidelines in Chapter 10

Most drafting guidelines for Survey-Strata Plans are common to all plans under the STA. These have been recorded in chapter 10. This chapter records only matters which do not apply to all other types of plan. For drafting requirements, this chapter should be read in conjunction with [Chapter 10](#).

12.2 Surveyor's Certificate

The Surveyors Certificate Form 6 of the STGR has been deleted by the STGAR and replaced by a Certificate signed by the Surveyor under Regulation 54 of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961. This ensures the Surveyor is fully accountable for the correctness of the Survey-Strata Plan in the same manner as is required for a standard deposited plan (see [Chapter 8.1](#) and [Chapter 11.5](#)).

If the Survey-Strata Plan is a re-subdivision it must also be endorsed with the Regulation 54 Certificate. In respect to staged developments where the original Survey-Strata Plan has a Management Statement and complies with Regulation 36 of the STGR then the Surveyor must also endorse a Form 6 from the STGAR (now included in the STGR) (see [Plan Example 44](#)). Where the original Survey-Strata Plan does not have a Management Statement or where the information disclosed under a bylaw created under Schedule 2A item 8 of the STGR does not comply sufficiently with the re-subdivisional plans, then no Form 6 is required to accompany the plan.

The re-subdivision must comply with proposed plans disclosed in a by-law and fit certain parameters such as in Regulation 36 of the STGR. Briefly these parameters are:

- the same number of lots and common property lots as depicted in the by-law;
- areas of lots cannot vary from those shown in the by-law by more than 10%;
- configuration of lots and common property lots must be the same as disclosed in the by-law;
- unit entitlements must be the same as disclosed in the by-law; and
- any easements shown on the plan of re-subdivision will not adversely affect any lots or common property.

12.3 Certificate of Verifying Surveyor

The Directions to Surveyors under Regulation 5 of the Licensed Surveyors (*Transfer of Land Act 1893*) Regulations 1961 define a Survey Document as “any plan, (including its component digital record), including but not limited to compiled plans and Survey-Strata Plans”. The directions require that any Survey Document that is certified by a licensed surveyor, who is not eligible to verify Survey Documents at the time the document is lodged at Landgate, must be verified and countersigned by a licensed surveyor who is so eligible, in accordance with the directions. The certificate in the following table must be added to the plan and signed by the verifying surveyor.

I _____ being eligible, in accordance with the Land Surveyors' Licensing Board's requirements, to verify survey documents have checked this plan (and its digital record) by _____ (Licensed Surveyor) and I verify that the plan is error free and consistent with the field record and digital record and complies with the Landgate Practice Manuals, except where good reason has been shown to the contrary, and with all regulations applicable to it.

Date: _____ Signed: _____
(Licensed Surveyor)

12.4 Pegs

New boundary pegs must be recorded on the plan, as should descriptions of any variations from standard (Regulation) marking. Where the position of original or existing pegs has been adopted, there is no need to show those pegs on the plan. The position of each peg that is not placed exactly at a corner of a lot should also be recorded (see [Plan Example 3](#), [Plan Example 8](#), [Plan Example 9](#) and [Plan Example 10](#)).

12.5 Other Information

Because the Survey-Strata Plan must be sighted by the purchaser of a lot it is desirable to make the plan as useful as possible for this purpose, including minimising the amount of technical information on the plan.

For this reason (unlike TLA plans) the following information should NOT be shown on Survey-Strata Plans:

- orig and per orig annotations; and
- OM, MF, MFR, MGR etc annotations.

For the same reason, it is essential to show any pegs that are necessarily out of position, any non-standard marks and any building connections on the plan (see [Plan Example 8](#), [Plan Example 9](#) and [Plan Example 22](#)). Enlargements should be used where the situation cannot clearly be depicted on the main body of the graphics.

12.6 Encroachments, Building Connections

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 (see [Chapter 6.5](#), [Chapter 8.2](#), [Plan Example 10](#) and [Plan Example 23](#)).

12.7 Easements

The easements that can be created on a Survey-Strata Plan are set out in Part 2A of the STGR and include easements for vehicle access, light and air, party wall rights, intrusion by a structure and pedestrian access. Easements can also be created using the provisions of the TLA as set out in Part IVA of that Act.

Multiple easements over the same portion of a Lot must be recorded individually in the "Interests and Notifications" Schedule. This will result in Strata Titles issuing with multiple endorsements and enable each easement to be dealt with individually should the need arise to have an easement modified or extinguished (see [Chapter 6.7](#), [Chapter 10.15](#) and [Plan Example 38](#)).

12.8 Western Australian Planning Commission Certificate

All Survey-Strata Plans must go through the full planning referral process as required by the WAPC. This means referral to appropriate government agencies for conditional consents. For a Survey-Strata Plan the certification is referenced to section 25B (2) of the STA. The WAPC reference number must be endorsed onto the plan.

Section 25(1) of the STA must not be quoted in the Plan Form for WAPC certificates as this relates only to Strata Plans, Strata Plans of Re-subdivision and Strata Plans of Consolidation.

The "Standard Plan Process" was introduced in July 2005. All Survey-Strata Plans must be lodged with Landgate for audit (see [Chapter 5.3](#)). Once the plan is "Certified Correct" and the necessary "Release Letter" is obtained by Landgate, the plan will be sent to the Department of Planning for endorsement of the WAPC approval.



13. Registration Processes

13.1 Registration of Plans

An application to register a Strata/Survey-Strata Plan can only be lodged at Landgate once the plan is placed “In Order for Dealings”. Unless the Strata/Survey-Strata Plan and documentation are lodged under Landgate’s Lot Synchronisation process (see [Chapter 13.1.1](#) and [Figure 9](#) in Appendix A). Changes to the registration process introduced in July 2005 (see [Chapter 5.3](#), [Chapter 5.7](#) and [Chapter 12.8](#)) made it necessary that all plans whether Strata/Survey-Strata; Re-subdivision or consolidation be lodged and audited to a registerable standard prior to any application being lodged.

An application to register the plan must be accompanied by the duplicate Certificate of Title for the original land parcel along with any forms and additional documents necessary for registration. Such forms may include Forms 3 and 7 of the STGR. Additional documents may include:

- a Management Statement;
- an Application to modify a Restrictive Covenant; or
- an Application to vary or discharge an Easement.

All specific pre-requisites to register a plan will be noted on the Strata/Survey-Strata Plan. The Surveyor will be notified once the plan is placed “In Order for Dealings” and agents acting for the owner should obtain a copy of the plan prior to any attempt to lodge a TLA Application A8 to register the plan.

13.1.1 Lot Synchronisation

From 1 June 2010, Landgate will allow the lodgement of Strata/Survey-Strata Plans using the Lot Synchronisation (Lot Sync) process.

Lot Sync reduces the processing time for the issue of new Certificates of Title. This is achieved by using earlier lodgement of registration documents, parallel processing and different timing points when auditing the Plan and examining the documents. To provide an opportunity for all developers, Landgate is also including into the process Plans not requiring Western Australian Planning Commission (WAPC) endorsement.

Lot Sync has been initiated by Landgate as part of its commitment to improve the supply and availability of land to market. It is intended to align Landgate with other agencies, utilities and stakeholders with regard to the registration of new lots. Using the Lot Sync process to lodge a Plan ensures Certificates of Title will be issued as close as possible to the WAPC endorsement date for the plan of subdivision.

Lot Sync is voluntary and is intended as an alternative method for parties to lodge Plans and documents; it does not replace the current lodgement process. However, under the reforms being introduced by Landgate’s iLand Program, Landgate may, at some time in the future, only allow the Lot Sync process for the lodgement of subdivisional Plans.

13.1.1.1 Lot Sync Business Process

When lodging Plans using Lot Sync (see [Figure 9](#) in Appendix A), all registration documents (except for the production of the duplicate certificate of title) must be lodged within five working days after the Plan is lodged. The duplicate certificate of title must be produced prior to the Plan being placed In Order For Dealings.

If there is any non compliance with the rules the Plan will not be audited using Lot Sync and the documents will not be examined until the Plan is In Order For Dealings.

13.1.1.2 Lot Sync Rules

1. Lodgement of Plans

- “Lot Sync” must be noted in the email subject heading when lodging the Plan and the Surveyors Report.
- For Strata Plans, forms 3, 7 and 26 (if applicable) must also be submitted at Plan lodgement.

2. Lodgement of Registration Documents

- All required registration documents, including the Application for Title, to complete the issue of titles by the Registrar must be lodged at Landgate within five working days of the Plan lodgement. If the registration documents are not lodged at Landgate within that time, the Plan will not be processed as Lot Sync.
- A signed letter of acknowledgement for the document registration date must also be submitted by the lodging party (see [Figure 9A](#) in Appendix A).

13.1.1.3 Costs

1. Under Lot Sync the normal lodgement fees for both Plans and registration documents will be applied.
2. Any Plan and registration document errors will be subject to the normal requisition fees as per the published schedules.

13.1.2 Requests to Expedite the Processing Of Plans and Documents

Landgate has had a longstanding policy where customers or their representatives could request that a plan and/or document (outside of Landgate’s existing Fast Track process) be expedited provided the request was supported by evidence of:

- a pending settlement (e.g.: a signed offer and acceptance); or
- a written submission clearly identifying the circumstances for the request (e.g.: financial hardship).

A review of the existing policy was undertaken to clarify the circumstances in which consideration will be given to the expedition of the processing of documents and plans as well as the supporting evidence required. The outcome of this review is the:

Requests To Expedite The Processing of Plans and Documents Policy

This new policy replaces all existing policies and is designed to provide fairness and equity to all parties while enabling decisions relating to the expedition of plans and documents to be made in an accountable and transparent manner. It is also important that all associated decisions are properly documented and regularly audited.

The new policy specifies the following:

1. All requests for priority must be made in writing (including fax and email) addressed to the Registrar of Titles.
2. Priority for the processing of documents or plans may be approved by the Registrar or a delegated officer of the Registrar in circumstances where:
 - (i) the written consent of all parties that have a direct interest in the dealing is obtained; **and**
 - (ii) it is demonstrated that:
 - a party to the dealing will experience financial hardship if the documents or plans are dealt with in Landgate's standard turnaround times; **or**
 - the contract/s specify a definitive date for settlement.
3. For all requests to expedite documents or plans the following evidence requirements apply:
 - (i) a detailed written explanation as to the circumstances of the matter; **and**
 - (ii) a signed letter of consent from each party that has a direct interest in the dealing.

The following additional evidence is also required dependent upon the basis for the request:

- (i) Financial Hardship
 - (a) any evidence that may substantiate a claim of financial hardship including such items as copies of correspondence from financial institutions (which may take the form of an original, photo or faxed copy of a letter on the financial institutions letter head); **and / or**
 - (b) an original statutory declaration from the person making the request (a photo or faxed copy of a statutory declaration will be accepted with the request to expedite the processing of plans and documents but the original signed declaration must be forwarded to Landgate within 2 working days).

Any statutory declaration made must clearly set out the reasons for and the details of the financial hardship.

- (ii) Definitive Settlement Date

A certified copy of the "offer and acceptance" clearly showing the definitive settlement date, this can include a copy of the signed application for the issue of new titles in relation to a plan (the offer and acceptance can be certified by a person eligible to witness a statutory declaration in Western Australia).

4. The evidence provided for expediting a plan will also be sufficient evidence to give priority to the issue of new titles.

Standard Audit Procedure for Strata/Survey-Strata Plans

Following plan lodgement, Strata/Survey-Strata Plans are audited in the following order:

1. Where Department of Planning requires the certified correct plan be forwarded to the WAPC prior to the expiry date of the preliminary planning approval.
2. Plans lodged with release letters (including Lot Sync process – see Notice to Surveyors T2/2010), dealt with in lodgement date order.
3. “Lot Sync process” plans with lodged applications for new titles, dealt with in plan lodgement date order.
4. All other plans dealt with in lodgement date order.

The “Requests to Expedite the Processing of Plans and Documents Policy” will be applied for any request to expedite the auditing of any Strata/Survey-Strata Plans.

13.2 Lodgement and Registration Procedures at Landgate

Plans are to be lodged electronically in PDF form (see [Chapter 4.8](#) and [Chapter 10.4](#)) via email to plan.reg@landgate.wa.gov.au and must be supported by a pre-allocated plan number. See [Appendix D](#). Surveyors (or agents) must also complete a Survey Lodgement Self Assessment form (available on e-Plan kit) in PDF form. This procedure requires the lodging party to self assess the required fees (automatically calculated by PDF form) and lodge the form at the same time as lodgement of plan at Landgate.

A Surveyors Report must also accompany all Strata/Survey-Strata plans to show the “Intention of the Plan” and in particular show any conveyancing issues required to register the plan. In the report, Surveyors must outline such matters as surrender/extinguishment/modification/variation/discharge of easements, covenants or other interests; termination of strata schemes; forms lodged with the plan and delegation of WAPC approval. The report can also be used to indicate whether advice on matters relating to the plan has been given.

All Survey-Strata Plans must be accompanied by a separate digital data file in the cadastral survey data (CSD) format, on a floppy disc, CD or e-mailed to plan.reg@landgate.wa.gov.au. For CSD requirements refer to [Appendix 5 of the Survey and Plan Practice Manual](#).

The lodgement of Field Books for Survey-Strata Plans (see [Chapter 9.7.1](#)) is compulsory and must coincide with the lodgement of the Plan. The onus is on the Surveyor to ensure there is no delay in providing the Field Book as it is an essential requirement and allows the plan to be processed for auditing. Surveyors are advised that Strata/Survey-Strata Plans lodged with Landgate, which require a field book will not be audited until that field book has also been lodged. Plans without the necessary field book(s) will lose priority and be given a status of “Stopped” on SmartPlan. Although field books are not always audited in detail, some elements are always cross matched with the plan. Surveyors cannot assume the registered Field Books from previous Surveyors are sufficient to support their Survey-Strata Plan.

After lodgement, the Strata/Survey-Strata Plans are entered onto Landgate computer records via SmartPlan. An electronic image of each plan (excluding re-subdivisions and consolidations) is provided and the status “Lodged Subject to Examination” is recorded for searching purposes.

Once the plan has been audited, in accordance with the STA, STGR, various other legislations and the Strata Titles Practice Manual, it is placed “In Order For Dealings” provided there is no requirement for the WAPC approval (see [Chapter 5.3](#)).

Survey-Strata Plans, Vacant Lot Strata Plans and Built Strata Plans requiring WAPC approval that have not been delegated to local government will display a status of “Certified Correct” pending the submission of a Release Letter or “Certified Correct and sent to WAPC”. When the WAPC has approved and endorsed the plan it is couriered back to Landgate and placed “In Order For Dealings”.

Built Strata Plans requiring WAPC approval and delegated to local government will be certified correct and placed “In Order For Dealings” subject to lodgement of necessary certificates (Forms 3, 7 & 26).

Any requirements that must occur before the plan can be registered will be noted on the plan in the In Order For Dealings panel e.g. Creation of easements, modification of Restrictive Covenant, approval of parent Deposited Plan or termination of prior strata scheme etc.

In relation to encumbrances affecting the parcel, prior to registration of the Strata/Survey-Strata Plan the following should be noted:

- Mortgages, charges, leases and caveats of the whole of the land in the parcel will be brought forward and shown on the title for every lot on the plan.
- Mortgages, charges and leases of part of the land in the parcel should be removed before the registration of the Strata/Survey-Strata Plan can be completed. However, it is possible to bring forward a mortgage as to portion only provided the mortgagee acknowledges the loss of its power of sale over the whole parcel.
- Caveats as to a portion of the parcel should be withdrawn unless it can be shown that the land affected by the caveat can be defined. In the latter case, the caveat will be brought forward on the title to the particular lot or lots affected by the caveat.
- Restrictive covenants are brought forward only on the Strata/Survey-Strata Plan.

Easements will be treated in the following manner:

- Where there are easements which are over common property and common property lots those easements will be brought forward on to the Strata/Survey-Strata Plan only;
- Easements affecting part lots outside the building on a Strata Plan, or affecting a lot or lots on a Survey-Strata Plan will be brought forward on the plan and shown as an encumbrance on the relevant title.
- An easement which affects a building on a Strata Plan must be removed or varied to the extent necessary to free the building from that easement unless the nature of the easement is consistent with the use of the part of the strata lot encumbered.

On the registration of the Strata/Survey-Strata Plan, separate titles are automatically issued for each lot on it in the name of the applicant. No separate application for titles is needed. No titles are created and registered for common property in Strata Plans or for common property lots in Survey-Strata Plans.

Where the parent title is held by tenants in common, a disposition statement (form 22 of STGR) may accompany the Application A8 to register a Strata/Survey-Strata Plan to distribute ownership of the new Lots among the tenants in common. Joint tenants cannot use a disposition statement to distribute ownership of new Lots. To break the tenancy a transfer to "Tenants in Common" must be registered prior to the Application and Disposition Statement for the Strata/Survey-Strata Plan.

13.3 Production of Duplicate Titles

The process of registration of all transactions affecting freehold land including strata titles requires the duplicate title (if issued) to be produced for recording the transaction. It is now optional for a duplicate title to be issued on land transactions, so there may or may not be a duplicate title in existence. If no duplicate has been issued, the original title will indicate that fact.

On a Strata/Survey-Strata Plan of re-subdivision or consolidation only those duplicate certificates of title (if any) affected by the re-subdivision or consolidation are required to be produced.

Mergers and conversions from Strata to Survey-Strata Plans do not require production of the duplicate titles. Instead, the changes are recorded on the original title on the basis that, when a future transaction takes place on the property and the duplicate title (if any) is lodged, then when that transaction is registered, the duplicate title will be upgraded to reflect the changes.

13.4 Characteristics of Strata Titles

The introduction of digital titles saw all original strata titles from the 1966 and 1985 Acts converted in a back capture program. The wording and lay-out was simplified to display the current digital format. Reference to specific unit entitlement for each lot was amended to read “together with a share in any common property as set out on the Strata Plan” or (Survey-Strata Plan) whichever the case.

Where in the past strata titles made reference to depth limits and mineral reservations, these notations are no longer endorsed on the strata title. The Strata/Survey-Strata Plan should be searched to see if depth limits and mineral reservations apply to the land (see [Chapter 10.17](#) and [Chapter 10.18](#)).

When a land transaction takes place on any old format Strata Title, the existing duplicate title will not be re-issued as it will be replaced by a digital title. Any amendments to unit entitlement can be recorded on the Strata/Survey-Strata Plan without the previous necessity to produce the duplicate title.

Areas on Strata Plans

It is important for Strata Lot owners and Surveyors to understand the plane at which Lot areas have been calculated over the course of time.

The 1966 STA provided that all building lot areas were calculated to the centreplane of the external walls. With the introduction of the 1985 STA all existing lot areas were without exception defaulted to the “inner surface of the walls”. However, Surveyors were then permitted to calculate areas to the external surface of the building part lot walls. For the first time the STA also provided for part lots to be created external to the buildings and a variety of notations were placed on the floor plans to indicate how lot areas were calculated.

Amendments to the STA in 1996 introduced Section 3AB of the STA where all existing “single tier” schemes of 2 to 5 lots (unless subject to an objection under Section 21 O of the STA) automatically had their building part lot areas converted to the external surface of the walls.

It must be noted that there was no provision to re-calculate the areas of existing strata schemes either at 1985 or at 1996. Therefore when preparing a Merger of Building (see [Chapter 15](#)) Surveyors must carefully research the existing Strata Plan to determine exactly at what plane areas were calculated.

13.5 Problems that Impact on Registration

Some property developers reach the registration stage of the Strata/Survey-Strata Plan only to encounter a problem that should have been foreseen earlier. It is possible in most cases to anticipate these problems and take action well in advance to avoid delays.

Some possible problems that can be overcome by simple forward planning include:

- Amalgamations of traditional (TLA) title lots (STGR Reg. 7) – land on a strata or a Survey-Strata Plan must be amalgamated into one parcel of land before registration of the plan.

This means a deposited plan of amalgamation is required if there is more than one lot or location forming the land in the scheme. This is required, as, in the event of termination of the scheme, a title must be issued for a definable land parcel.

- Mortgages – where a mortgage is only over a portion of the land in a strata/survey-strata scheme as a result of an amalgamation of traditional title lots, it is common practice for the mortgage to be extended to cover the whole of the land in the Strata Plan.

However, if a mortgagee does not wish to discharge the existing mortgage and register a new mortgage over the whole parcel it is possible for “portion only” of the land to be security for the mortgage.

In these cases the mortgagee must acknowledge in writing the loss of power of sale over those parts of the land excluded from the mortgage.

- Encroachments (sections 22(1) (c) & 23(1) (d) of the STA) can cause some difficulties unless action is taken early in the project. Where an encroachment is onto a public road or right of way, local government consent is required.

By taking action to obtain this consent early in the project, delays in obtaining approval can be avoided. For encroachments onto adjoining parcels, an easement must be granted by the owner of the other property before the surveyor signs the certificate.

In most instances this requires negotiation with the owner and preparation of an easement document. This should be acted on immediately the situation is known so that a grant of easement can be obtained in time.

- Restrictive covenants – a search of the title will indicate the existence of any such covenants. Encumbrances should be searched and checked for any impediment that may result in modification of the covenant. The common types of covenants that cause problems are:
 - (i) Limits on the number of dwellings on the parcel;
 - (ii) Setting a minimum floor area for each unit; and
 - (iii) Existing easements – if a building shown on the Strata Plan is constructed over an area subject to an easement, it is likely that a surrender or partial surrender of the easement will be necessary. If this is discovered during construction, action needs to be taken to organise the surrender, variation, extinguishment or partial extinguishment of that easement in anticipation of registration. This situation is common with Water Corporation easements in gross.

13.6 Effect of Registration

When a Strata/Survey-Strata Plan has been registered, the lots on it may devolve, be transferred, mortgaged, leased or otherwise dealt with in the same manner as land under the provisions of the TLA.

Each lot on the Strata/Survey-Strata Plan is burdened by and has the benefit of implied easements of support, the provision of services, such as water and electricity, through pipes, wires, etc. for the time being existing in the land. There are also implied easements for rights of shelter from those parts of any building capable of affording shelter, access for maintenance to certain buildings and all other reasonable ancillary rights to make easements effective (Sections 11 to 13 of the STA).

The common property and common property lots are held by the proprietors of the lots as tenants in common, in shares proportional to the unit entitlement of their lots.

As soon as a Strata/Survey-Strata Plan is registered it immediately and automatically creates a strata company by the name of "The Owners of (name of the scheme) Strata or Survey-Strata Plan (registered number)". Although a strata company is a separate legal entity and a body corporate it is not subject to the Corporations (Western Australia) Act, 1990.

13.7 Purple Titles or Undivided Share Titles

The term "purple title" relates to an undivided share title of a whole parcel of land. The actual colloquialism stems from the past practice of colouring the sketch on the title purple to distinguish them from "green" titles. They were used for issuing share titles for high rise buildings prior to the STA being implemented, as well as in circumstances where a co-owner wanted a certificate of title showing only that proprietors undivided share in a piece of land. Their biggest failing is that the title is for a share in the whole of the property, not for a specific part. Lenders were reluctant to advance money to purchasers, as their security could not be tied to an identifiable part of the property. Consequently other agreements needed to be in place to enable occupancy of a specific unit.

With the introduction of the STA, a title could be issued for a defined part of a parcel such as a lot in a building. This has resulted in the decline of purple titles used for this purpose. "Share" (purple) titles are still used occasionally for tenancy titles, particularly in rural areas.

13.8 Conversion of Share (Purple) titles to Strata Titles

When persons contemplate the conversion of property held in undivided shares to strata titles, all the tenants in common must agree to the change.

In the case of a Strata Plan, the proprietors should commence their enquires at the local government to ensure that the building or buildings are suitable to be subdivided into lots under the STA. Approval of the WAPC is also required, unless exempt under regulation 15 in the STGR.

In the case of a Survey-Strata Plan, an application should be made to the WAPC. The WAPC will refer this application to the local government and any relevant public authorities and government agency. The WAPC may reject or approve the application or approve it subject to certain conditions being complied with.

In certain circumstances, the conversion may result in difficulties when the licensed valuer prepares a schedule of unit entitlement for the Strata Plan, if the unit entitlement does not match the undivided shares. A compromise or agreement will need to be reached between the lot owners before the matter can proceed.

When the proprietors have received the necessary approval(s) (see [Chapters 5.2, 5.3 and 5.4](#)), they should instruct a Licensed Surveyor to prepare the Strata/Survey-Strata Plan and lodge it at Landgate for audit. Final approvals from the Local Government may be obtained while the plan is being audited. Strata/Survey-Strata Plans requiring WAPC approval will follow the “Standard Plan Process” as outlined in [Chapter 5.3](#).

An application on a TLA Form A8 is required to register the Strata/Survey-Strata Plan and to create and register the titles for the lots on the plan. This application can only be lodged once the plan is placed “In Order for Dealings”. All the proprietors of the lots must sign the application.

A disposition statement (Form 22 of the STGR) may be lodged within the application and forms part of the application in order to disperse the interests within the strata scheme (see [Chapter 13.9](#)).

13.9 Disposition Statements for Tenancies in Common

The STA makes provision for a disposition statement to be lodged within an application to register a Strata/Survey-Strata Plan.

The purpose of a disposition statement is to instruct the Registrar of Titles to create for each proprietor a title to the lot to which that proprietor is entitled without the need for the lodgement of transfers. It also indicates what strata/survey-strata lots or common property will be affected by pre-existing encumbrances (if any) that are to be brought forward on to the new title.

No additional Landgate registration fees are required for a disposition statement but it must be stamped at the State Revenue Department (Stamp Duties Division).

Regulation 20 of the STGR sets out an abbreviated procedure for the conversion of tenancies in common into strata ownership.

The disposition statement should be set out in the manner of STGR Form 22. It must be signed by the applicant (the registered proprietors of the parcel) and it requires the written consent of encumbrancers and caveators whose interest is being brought forward onto the various strata/survey-strata lots and common property.

The consents can be endorsed in the appropriate section of the disposition statement or in a letter attached to it and addressed to the Registrar of Titles. Consents given by letter must clearly describe the nature of the consent.

The disposition statement cannot be used to:

- partition ownership of the lots created on the plan other than between the proprietors of the land the subject of the plan;
- totally remove an encumbrance or an entire interest in an encumbrance; or
- re-allocate any encumbrance to any lot if the encumbrance was not previously registered over a part of the land now comprised in the lot.

In any of the above circumstances, appropriate documents must be lodged to effect the intention of the parties.

13.10 Mergers, Re-Subdivisions and Consolidations

The registration of mergers, re-subdivisions and consolidations are covered at [Chapters 15.17](#) and [17.10 to 17.12](#).



14. After Registration

14.1 Strata Company

After the completion of the registration process, there are various obligations under the STA that require implementation by the original proprietor. The following paragraphs briefly outline some of these requirements but Part IV of the STA sets out the management obligations in detail.

On registration of the Strata/Survey-Strata Plan, the strata company comes into existence. Within 3 months of registration the original proprietor of the parcel is required to call the first annual general meeting of the strata company. At this meeting the strata council is elected, levies raised if needed, insurance decisions resolved and other matters associated with the scheme agreed.

The original proprietor must deliver all plans, specifications, certificates, books of account and other documents relating to the scheme.

In two lot schemes there is no statutory requirement for annual general meetings (AGM). However the first AGM must be held. In 3 to 5 lot schemes, a by-law may be passed and registered on the plan exempting the strata company from having to conduct further AGMs. In all other schemes AGMs must be held and on occasions extraordinary meetings may be necessary.

Every scheme of whatever size, should keep minuted records of all decisions affecting the scheme. These records may be required for disclosure to prospective purchasers under section 69 of the STA. They may be kept by all proprietors in small schemes or, by the secretary of the strata company in larger schemes or, if more convenient, retained by the management agents, if any.

Strata Companies in large schemes may find it advisable to have office bearers' liability insurance, as decisions made by the strata council are subject to legal liability.

14.2 Sales Disclosure of Strata Properties (Part V of STA)

A proprietor selling a lot or proposed lot in a strata or survey-strata scheme must provide certain information to intending purchasers of the property ("notifiable information"). This information is about an owner's obligations in owning a strata lot. It may also include information about proposed future development plans, recently passed by-laws, levies and strata management details.

Certain changes to this information that happen between the date of the contract and the settlement of the purchase must also be disclosed to the purchaser before settlement. Where this information, or changes to it, are not disclosed to the purchaser, it is possible for the purchaser to withdraw from the sale prior to settlement. It is therefore vital that changes to any of the notifiable information between the listing of the property for sale and settlement of any sale are kept current.

14.3 Notifiable Information

Section 69 of the STA contains compulsory disclosure provisions making it obligatory for a vendor to provide among other things, information specified in the STGR about the responsibilities and obligations of living in a strata scheme (disclosure statement). This information must be supplied to the purchaser before the purchaser signs any contract to purchase a strata or survey-strata lot.

STGR Form 28 sets out the disclosure statement that has two parts. Part 1 is for all strata title transactions and Part 2 is for additional disclosure when the vendor is the original proprietor.

STGR Form 29 contains the additional information that is to be given by every vendor to a purchaser. It explains the major implications of owning a strata titled property.

In any civil proceedings arising out of the contract the onus of proof that the disclosure statement was given shall lie upon the vendor (refer STA section 69(4)).

Failure to give the disclosure statement to a purchaser will result in the purchaser having the right to void the sale, right up to the time of settlement. The purchaser does not have to give any reason for avoiding the contract. All monies paid by the purchaser under the contract must be refunded by the vendor.

If the vendor provides a disclosure statement after the contract is signed but before the purchaser gives notice of avoidance of the contract, the purchaser's right to avoid the contract must be exercised within 7 working days of receiving the information.

There are also specific provisions in Section 70 of the STA relating to the payment of deposits and how they must be dealt with if a relevant building has not been completed and strata titled when the contract is signed.

14.4 Supply of Information by Strata Company

The records of a strata company are not a public record.

An application under Section 43 of the STA, made in writing by any proprietor or mortgagee of a lot, or any person authorised by them, requires the strata company to do one or more of the following:

- Inform the applicant of certain details of the members of the strata council.
- Make available for inspection certain records of the strata company.
- Certify as to certain financial matters, details of any insurance policies maintained by the strata company, and certain transactions or by-laws affecting the common property.

The fees payable for such an application are detailed in the STGR (Schedule 1 Section 4).

14.5 Standard By-Laws

The STA contains a set of standard by-laws that are deemed to be applicable to every strata and survey-strata scheme. These are set out in and are known as Schedule 1 and 2 of the STA. These by-laws can be repealed, added to or varied to suit each individual scheme. These variations can be made at the time of registration of the plan by the original proprietor of the parcel using a management statement (section 5C). After the Strata/Survey-Strata Plan is registered, by-law changes need to be discussed and voted on at a General Meeting of the strata company. To be effective any changes must be registered on the plan within 3 months of the meeting at which those changes were agreed.

Changes to the by-laws are recorded on the encumbrance schedule of the Strata/Survey-Strata Plan. If a recent resolution has been passed, it must be recorded in the strata company minutes.

14.6 Correction of Errors on Registered Plans

Occasionally errors are discovered on registered Strata/Survey-Strata Plans. Because the Strata Plan on registration becomes part of the Register, and titles have been issued, the plan cannot be easily amended. However, a Commissioner of Titles' order called a "Direction to Amend" may correct it. All evidence relating to the error is submitted to the Commissioner of Titles for consideration. This information may take the form of statutory declarations and letters from affected parties. If in the opinion of the Commissioner of Titles the error is one that is apparent on the plan, and the evidence supplied supports the correction then an order to amend the plan and titles is usually issued. Each case is considered on its merits.

Where the error is not obvious on the plan it may prove quicker and more appropriate to re-subdivide the scheme. In either case the Surveyor should contact the Strata Plan Audit Team or Landgate's Survey Advice Officer to seek advice as to the most appropriate action to take and the likely timeframes involved.

Section 129A (2) of the STA, and Regulation 12 of the STGR, set out the requirements for amendments to lodged plans.

14.7 Searching a Lot

When making a search of the ownership of a lot on a Strata/Survey-Strata Plan it is essential that:

1. A search be made of the plan to identify the lot in question.
2. Details of the certificate of title to the lot will be endorsed in the second schedule "interests notified on the Strata Plan".
3. The Strata/Survey-Strata Plan will show any Management Statement, Notification of change of by-laws and additional encumbrances and benefits not shown on the title to a lot. Benefits to the land that have a spatial nature are usually endorsed on the location plan.
4. If an encumbrance or benefit is recorded on the title or on the plan, a search should be made of the relevant documents as there could be important information contained in the documents that impact on the scheme.
5. In addition to searches of the title and other registered documents it is important to search the strata company records. These can be viewed with the consent of a lot proprietor by contacting the secretary of the strata company and paying the appropriate fee. The records may be held by a strata manager employed by the strata company. The strata company secretary can advise you of this.

14.8 Re-allocation of Unit Entitlement on a Strata or Survey-Strata Plan

Unit entitlements in Strata Plans are based on the relative capital (improved) values of the lots while unit entitlements in Survey-Strata Plans are based on site values only.

Where the unit entitlement of a lot becomes more than 5% out of proportion to the relative value of the lot, the strata company can, if it has passed a resolution without dissent (or a unanimous resolution in the case of a two-lot scheme), apply to rectify the matter by registering a new schedule of unit entitlement, under Section 15 of the STA.

The application by a strata company on a TLA Form A5 should be accompanied by:

- a certificate from the strata company in the manner of STGR Form 11;
- the written consent of every person or corporation (other than the registered proprietor) with a registered interest in a lot affected by the change of unit entitlement. A caveator is deemed to have a registered interest in this instance (Section 15(5) of the STA); and
- a certificate from a licensed valuer, substantially in STGR Form 3; and, if the strata scheme was created and registered under the STA 1966, the duplicate certificates of title (if any) are to be produced so a new title can be issued reflecting the current wording.

Strata titles issued between 1966 and June 1985 specified the actual unit entitlement in the land description of the title to each lot. Strata titles issued after June 1985 refer to the schedule of unit entitlement contained in the Strata Plan. The latter method enables changes to unit entitlement on the plan without requiring the duplicate titles to be produced. If older titles are involved, they will need to be produced so unit entitlement changes can be amended on the titles. If all the titles in the scheme are produced, new titles using the “modern” format can be issued.

Upon the registration of an amended schedule of unit entitlement, the amended share of a proprietor in the common property shall, by operation of law, be deemed to be subject to any pre-existing encumbrances registered or caveats lodged against his or her lot.

14.9 Re-allocation of Unit Entitlement by State Administrative Tribunal

An owner of the strata company may seek re-allocation of unit entitlement by the SAT (formerly adjudicated by the "Land Valuation Tribunal", (see Section 16 of the STA). An eForm application can be made online at www.sat.justice.wa.gov.au (see [Chapter 5.5](#)). This application is to be accompanied by a certificate (Form 12 of the STGR) from the strata company stating it has by special resolution authorised the application.

A certificate given by a licensed valuer certifying the value of a lot identified in the certificate has varied by more than 5% in relation to another lot identified in the certificate is also required. A notice of the application shall be served on persons who did not vote or voted against the resolution authorising the application.

The SAT may also direct notice be served on persons having an interest in the proceedings.

The SAT may make an order varying the unit entitlement set out on a Strata/Survey-Strata Plan.

If a special resolution cannot be obtained, a proprietor of a lot may make an application to the State Administrative Tribunal (SAT) under section 98 of the STA. The SAT may exercise the functions of the strata company in appropriate circumstances.

Notice of an application to the SAT must be served in accordance with section 16 (3) of the STA.

Registration is achieved by producing a certified copy of the order of the SAT with an application made by the strata company or by the lot proprietor on a TLA Form A5.

If the strata titles were created and registered under the STA 1966 and contain the unit entitlement specified in the land description of the title then the duplicate certificates of title for all the lots are to be produced and new certificates issued with the modern wording.

14.10 Change of Unit Entitlement by Order of State Administrative Tribunal

An Application can be made to the SAT for an order to vary unit entitlement. This application can be made by:

- a proprietor;
- registered mortgagee; or
- the strata company.

Under section 103H of the STA the SAT (formerly adjudicated by the Strata Titles Referee) may, in appropriate circumstances, grant an order varying the unit entitlement. This order and amendment takes effect when it is registered on the Strata or Survey-Strata Plan.

14.11 Discharge of Variation of Easements Created Under Section 5D by Notation on Survey-Strata Plans

Section 5F of the STA as amended provides for the discharge or variation of easements created by notation on a Survey-Strata Plan.

14.11.1 Discharge

An easement created on the Plan may be discharged by an instrument (prepared on a form B2) signed by each person who has a registered interest in, or is a caveator in respect of, the dominant lot and must be accompanied by the written approval of the Western Australian Planning Commission.

❖ **Note**

An easement created on the Plan is automatically discharged by the termination of the survey-strata scheme.

14.11.2 Variation

The registered proprietors of the land burdened and benefited by an easement created on the Plan may vary the terms of the easement by an instrument (prepared on a form B2) signed by each person who has a registered interest in, or is a caveator in respect of, the dominant lot and the servient lot and must be accompanied by the written approval of the Western Australian Planning Commission.

14.12 Adverse Possession and Strata Titles

Land under the Transfer of Land Act 1893 may be made the subject of an Application for Title by Possession (also known as an Adverse Possession claim) see Section 222 of the *Transfer of Land Act 1893*. Generally speaking the Applicant must be able to show adverse possession of the claimed land for a period of 30 years (refer to paragraph [9.1.2 of the Land Titles Registration Practice Manual](#)).

The first Strata Plan was registered on 2 May 1968 and some strata schemes have been in place for more than forty years. This means situations may arise more frequently where an application for title by adverse possession involves land in a Strata/Survey-Strata Scheme.

When a strata company passes an “exclusive use” by-law, it must be with the consent of the owners or a majority of the owners and in circumstances where the Strata Company is acting on behalf of all owners in passing the by-laws. This means the use of exclusive areas is by consent (and not adverse) and the limitation period for adverse possession does not begin to run.

All Applications for Title by Possession are at the discretion of the Commissioner of Titles.

If an application is successful, the Applicant will be entitled to become the registered proprietor of the land subject to the Application for Title by Possession.

14.12.1 An Application for Title by Possession involving Strata/Survey-Strata Schemes will usually fall into one of the following categories:

1. Type A - FREEHOLD / STRATA

Where the Applicants lot is freehold land and the land being claimed is the whole or part of a strata/survey-strata lot or common property (see [Example 56](#))

2. Type B - STRATA / FREEHOLD

Where the Applicants lot/land is the whole or part of a strata/survey-strata lot or common property and the land being claimed is freehold land.

3. Type C - STRATA (SCHEME A) / STRATA (SCHEME B)

Where the Applicants land (strata/survey-strata lot or common property) is within a Strata/Survey-Strata Scheme (Scheme A) and the land being claimed (whole or part of a strata/survey-strata lot or common property) is within an abutting Strata/Survey-Strata Scheme (Scheme B).

4. Type D - STRATA (SAME SCHEME)

Where the Applicants lot and the land being claimed are within the same Strata/Survey-Strata Scheme.

14.12.2 Requirements for replacement plans after successful claims involving land in a Strata/Survey-Strata Scheme:

If there is a successful Application for Title by Possession involving land in a Strata/Survey-Strata Scheme, then, generally speaking, the successful applicant will be required to provide the following plans (the Commissioner of Titles has some discretion in relation to these requirements)

1. Types A, B & C

- A redefinition Deposited Plan showing the outcome of the new lots created i.e. a new Freehold Lot for the extended land parcel (Applicants land plus the claimed land) and a new Freehold Lot for the diminished land parcel (balance of the lot minus the claimed land)
- A new Location Plan (for Building Strata) or Sketch Plan (for Survey-Strata)
- A new Floor Plan (for Building Strata) where the strata lot has been affected. If Common Property only has been affected a new Floor Plan may not be required

2. Type D

- A new Location Plan (for Building Strata) or Sketch Plan (for Survey-Strata)
- A new Floor Plan (for Building Strata) where the strata lot has been affected. If Common Property only has been affected a new Floor Plan may not be required

In addition, The Commissioner of Titles may require a new Form 3 Licensed Valuers Certificate for Types A, B, C & D.

Lodgement fees apply for the redefinition DP and replacement strata plans.



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15. Merger of Common Property and Lots in Single Tier Strata Schemes

15.1 Merger of Common Property and Lots

This chapter explains in detail how to merge buildings and common property into lots on certain Strata Plans. This process allows changes to lot boundaries to conform to owners' perception of their property ownership of many single tier strata schemes registered before 1 January 1998. For schemes registered after this date only the normal process of re-subdivision can effect such changes to lot boundaries. These options were introduced by the *Strata Titles Amendment Act 1996*, which came into force on 20 January 1997.

15.2 General (Division 2A of Part II of STA)

Under section 21M of the STA automatic mergers of buildings or parts of buildings that were previously common property for 2 to 5 lot single tier strata schemes occurred on the 20th July 1997 unless an objection was lodged before that date under section 21O of the STA.

Strata Plans affected by these automatic changes have had the floor plan stamped to indicate that the new boundaries of lots which were previously the inner surfaces of the building walls, floors and ceilings are now the external surfaces of those buildings.

However, in some cases where a lot owner has lodged an objection to the automatic changes, the former boundaries remain. For single tier strata schemes of more than 5 lots, the common property buildings can be included as part of the lots (merger) by an appropriate resolution under section 21F of the STA, followed by the registration of a Notice of Resolution document.

Mergers can be used in a variety of ways that allow a strata company registered before 1st January 1998 to change the Strata Plan to reflect the current perceived ownership of buildings and land that is common property. This permits buildings or parts of buildings that are common property to be included as part of a lot.

It also enables the plan to be upgraded to reflect new buildings or building additions not previously shown on the Strata Plan. Finally, it can be used to include in a lot land that is common property (see [Plan Example 27](#)).

These changes can be achieved without local government or WAPC approval. In most cases to enable this to happen, a surveyor must certify as to certain matters such as compliance with any relevant Town Planning Scheme and that a building licence has been issued for building additions. A licensed valuer is also required to certify to the appropriate unit entitlement of the scheme for the change to be made.

Easements for Vehicle Access, Parking and Turning can be created when mergers are effected (see [Plan Example 28](#)). However, it is not possible to create other types of easements. The implied easements for support, services and shelter created under sections 11 and 12 of the STA remain in place and section 12A of the STA provides further rights for owners whose boundaries are changed under section 3AB of the STA.

There is no time limit as to the use of the merger option. It may be utilised at any time in the future but may only be used once in the lifetime of the scheme. This option is only available for strata schemes registered before 1 January 1998.

It must be noted that once a merger has been effected, the Strata Company may still exercise the right to "convert the Strata Plan to a Survey-Strata Plan" (see [Chapter 16](#) and [Plan Example 31](#)).

To achieve a merger (incorporating common property land into a lot, including a building extension, or a building not shown on the Strata Plan), the lot owners must have a meeting recording their agreement to the boundary changes.

If this agreement is reached a surveyor and valuer must be employed to prepare the plan and assess the new unit entitlements. On completion of these tasks, another meeting of lot owners must be held to pass a resolution without dissent (or unanimous resolution in a two lot scheme) agreeing to the new plan and the unit entitlements and to execute the STGR Forms 32 or 33 and 39.

No lodgement fees are payable to Landgate on lodgement of the “sketch plan” and those forms.

15.3 Drafting Guidelines

Most drafting guidelines for mergers are common to all plans under the STA. These have been recorded in [Chapter 10](#). Other drafting matters specific to Strata Plans are recorded in [Chapter 10](#). For drafting requirements for mergers, this chapter should be read in conjunction with [Chapter 10](#) and [Chapter 11](#).

The guidelines in this chapter should be used generally and are not to be taken as fixed standards. As each scheme is unique, each plan is also unique. Guidelines are intended to allow flexibility to allow boundaries to be clearly depicted.

15.4 Drafting Standards

Appropriate forms are available for Forms 3, 35 and 36 from the [e-Plan kit](#). The A3 template for Mergers is available only from the [Survey Channel](#) on My Landgate.

Plans should be prepared to the standards required on a re-subdivision. All merger plans (referred to as “sketch plans” – see section 21T of the STA) must contain a location plan depicting the position of the buildings and part lots external to the buildings, and a floor plan (see [Plan Example 27](#)).

If in a two (2) to five (5) lot scheme, it is intended to show a building that has been constructed on a “vacant lot”, there must be a merger “sketch plan” showing all buildings and all part lots comprising the parcel.

In larger schemes it is permissible to show only the affected portions of the scheme on a location and floor plan where it is not practical to show the complete scheme. Surveyors should however ensure that all necessary amendments to the Strata Scheme are carried out on the Merger Plan as that option is available only once and further amendments can only be achieved by a Strata Plan of Re-subdivision (see [Chapter 17](#)).

The compulsory disclosure requirements on the sale of strata properties (see [Chapter 14](#)), makes it essential that lot boundaries are clearly identified. The Act now requires lot boundaries to be identified on a copy of the Strata Plan at the time of sale. All information in relation to lot boundaries should be clearly identified. Cross sections and enlargements may be used to illustrate complex boundaries.

Prior to registration of a plan, purchasers must be notified of any changes to the plan, or proposed plan, as a sale may be avoided if this information is not provided.

15.5 Annotation

Wording in certain instances may also denote boundaries. This wording may only be described by reference to a monument that can be identified on the plan.

15.6 Surveyor's Certificate

STGR Form 35 is the form used for surveyors to certify that the lots fit certain criteria. In real terms, the surveyor is taking on certain responsibilities normally undertaken by local government and WAPC.

In addition to the STGR Form 35 Surveyors must as from the 24th of January 2006 (provided the surveyor has signed his certificate on or after that date) include a certificate signed under Regulation 54 of the Licensed Surveyors (Guidance of Surveyors) Regulations 1961 to ensure the correctness of the Strata Plan (see [Chapter 8.1](#)).

❖ **Note:**

The e-Strata kit contains current forms depicting Regulation 54.

The Surveyors responsibility when signing Form 35 can be broken into two categories:

1. Buildings.
2. Town Planning.

15.6.1 Buildings

If any building variation or the addition of a new building to the existing plan is depicted on a merger "sketch plan", the surveyor must certify that the addition has been the subject of a building licence under section 374 of the *Local Government (Miscellaneous Provisions) Act 1960* (see STGR Form 35 paragraph (a) (i)).

The surveyor must also check that the strata company or all of the proprietors of the lots have approved extensions; alterations or new buildings on the "sketch plan" (see STGR Form 35 paragraph (a) (ii)). The position of the buildings and offsets on the original location and floor plan sheets is the responsibility of the previous surveyor.

Depending on the circumstances, additional survey work may be necessary to establish the parcel boundary in relation to the buildings. The result may be that easements for support may be necessary (see STGR Form 35 paragraphs (b) (i) and (ii)).

15.6.2 Town Planning

A surveyor has specific responsibilities to ensure the newly created lots comply with certain requirements of any relevant Town Planning Scheme (STGR Regulation 14O). Briefly those requirements are:

- number of car parking bays per lot;
- rights to light and air;
- rights of support;
- private open space for each dwelling;
- pedestrian access to streets and common property;
- rights for access to storage areas, meters, etc.; and
- rights for services access.
- When making the certification, the surveyor must take into account:
 - provisions of the relevant Town Planning Scheme at time of signing the certificate;
 - development approval (if any);
 - effect on implied easements; and
 - effect on new or previous restrictive covenants.

As some schemes may not fit the criteria, surveyors may have to research these requirements before proceeding with the merger.

15.7 Errors Found on Previously Registered Plans

If in the course of a merger an error of a minor nature is discovered on the previously registered Strata Plan, the surveyor should contact the Strata Plan Audit Team or the Survey Advice Officer at Landgate to clarify what action is required to correct the error on the “new sketch plan”.

The “Surveyors Report” should be used to outline details of how the error will be rectified. Errors considered of a significant nature however may result in the necessity to terminate the scheme or re-subdivide the scheme or seek action for a “Direction to Amend by an Application to the Commissioner of Titles”. Errors of this nature may cause substantial processing delays and may impact upon other dealings on the Strata Lots (refer also [Chapter 14.6](#)).

15.8 Stratum Wording on Mergers

The Regulations now provide a standard wording to be placed on the floor plan sheet to clarify the extent of the lots. All Strata Plans must bear a statement as to the boundaries of lots that are comprised in a building. The wordings for these definitions are stated in STGR Regulation 5A. This applies to new Strata Plans and merger plans. Refer to section 5(1) (aa) of the STA. (see [Plan Example 27](#)).

15.9 Written Documentation to Accompany the Plan

Because of the variety of options available to lot proprietors exercising merger options, the documentation accompanying the “sketch plan” may be in several forms. For example in a larger scheme the resolution may state:

1. Boundaries of the buildings are to be moved to the external surfaces of the building.
2. Common property is to be merged in accordance with the plan.
3. Cubic space is to extend between 5 metres below and 50 metres above the floor of the building on a certain lot (note: such dimensions may be different from case to case).

Surveyors must check that the “sketch plan” accords with the resolution, eg if the resolution stated building additions are to be shown and the appropriate building licence has been issued, then the surveyor must verify this information and depict it on the plan.

15.10 Easements

The merger option enables a Vehicle Access Easement to be created on the Strata Plan under section 21W of the STA. This easement is for parking, turning and access (see [Plan Example 28](#)). Surveyors should ensure that the resolution agreeing to the merger included the creation of the easement. Other forms of easements on mergers are created by deed or transfer.

The area covered by the easement must be depicted on the floor plan sheet with broken lines and sufficient information to establish the easement boundaries. A “Vehicle Access Easement” (STGR regulation 14E) must be depicted on the “sketch plan” (see [Plan Example 28](#)).

A schedule of Interests and Notifications (see [Chapter 10.15](#)) must then be positioned on the plan form as specified in STGR regulation 14B (1) (b). The schedule should state the “dominant lots” and “servient lots” as well as the type of easement and regulation number. It is also possible to add to the schedule (in the “comments” column) the proportion of costs for maintenance over an easement by a specified percentage being recorded against the lots (STGR Regulation 14C (a)).

Subject	Purpose	Statutory Reference	Origin	Land Burdened/ Servient Lots	Benefit To/ Dominant Lots	Comments
	Vehicle Access Easement	Reg 14E of STGR	This Plan	LOT 2	LOT 1	APPORTIONMENT OF LIABILITY OF UPKEEP (Lot 1 70%, Lot 2 30%)

Table 15.1 - Example of Schedule

It is also possible to vary the terms of such an easement by lodging a memorial or instrument (see STGR Regulation 14C (b)) that specifies other matters relating to the easement. If this is the case then the sketch and schedule will remain basically the same but the instrument or memorial number must be recorded in the “origin” column of the schedule.

No other easement type, whether STA, TLA or LAA, may be created automatically on mergers.

15.11 Existing Easements

Easements created previously on any part of the common property merged with a lot will continue after the merger. These easements must be brought forward onto the merger plan. Easements already created by deed or transfer will encumber the titles to lots affected by them. The Strata Plan encumbrance schedule will still record the easement as an encumbrance against common property that is not merged.

Any airspace above a specified upper limit and any land below a specified lower level will remain as common property. In most cases an easement may continue to bind the strata company in so far as it applies above or below those levels.

15.12 Restrictive Use

A common mistake made with restrictive use in a merger is when surveyors attempt to vary the restrictive use boundaries on a merger plan without realising the need for the necessary resolutions, consents and documentation. This type of error regularly occurs on the “building over sewer” restrictive use. See [Chapter 6](#) for a comprehensive coverage of “Restrictive Use”.

15.13 Encroachments on Mergers

If, in the surveying of a merger plan, an encroachment of a building or attachment onto either a public road or right of way or onto an adjoining parcel is detected, the normal procedures that apply to a new Strata Plan apply in respect of the surveyor’s certification and the merger plan. This means that if there is an encroachment onto a public road or right of way the surveyor should check if approval has been granted by the local government. If the encroachment is onto an abutting parcel, an appropriate easement must be granted prior to the surveyor’s certification (see [Chapters 6.5](#) and [Chapter 8.7](#)). On the location plan of the merger plan, the size and nature of the encroachment must be shown.

There is provision on the surveyor’s certificate to accommodate encroachments. On the STGR Form 35, paragraph (b) (ii) provides for a certificate stating that encroachments are to be treated as for a new Strata Plan (under section 22(1) (c) of the STA).

15.14 Unit Entitlement on Mergers

Unit entitlement on mergers is based on capital value within the meaning of the Valuation of *Land Act 1978*. Strata companies or lot owners registering a merger are required to provide a certificate from a licensed valuer (Form 36 STGR). This certificate must state either that the unit entitlement is unchanged or that it has changed as set out in an attached schedule (Form 3 STGR). It may be appropriate to combine both the certificate and the schedule on the same form (see [Plan Example 27](#)).

15.15 Mergers without Using a Surveyor

15.15.1 Where buildings shown on the plan are joined:

In some cases, it is possible to merge land that is common property into lots without employing a surveyor (see section 21T (2) of the STA). This is achieved by using buildings and “monuments” depicted on the plan to describe, in writing, in the notice of resolution, the division of the land. Parcel boundaries can also be used for defining the boundaries. An example of this type of description may be:

“centreline of common wall produced to the rear and front parcel boundaries”.

However, it is not possible to create easements for vehicle access to show extensions to buildings or including buildings not shown on the plan without the involvement of a surveyor.

If there is no surveyor’s involvement, there will be no certification as to Town Planning requirements, development approval, access and other criteria which a surveyor would be required to check.

15.15.2 Where buildings are shown as not being joined:

In these cases, it may also be possible to merge land and buildings or merge portions of land by resolution, without employing a licensed surveyor. This type of merger should only be used where lots have individual vehicle access.

In most of these cases, the Strata Plan will show the lots forming the buildings as separated lots and will not depict the carports or garages. However they may in fact be covered by the main roof of the building, or they may be shown on the Strata Plan by dotted lines. If on the ground there is a brick wall or other substantial permanent monument dividing the carports or garages, it is possible to use the land merger option without employing a surveyor.

To achieve the merger in these cases it is necessary to acknowledge the existence of a “Substantial Permanent Monument” that can be used to define the dividing line between the lots in both:

- the notice of resolution document; and
- on the photocopy of the location plan.

The guideline for a lot owner to identify a permanent monument is that it be of brick, masonry or concrete construction (or any combination thereof) shown on the plan. The type of material and approximate height is to be included in the description. A monument may, for example, be:

double clay brick wall;	brick pillars;
single clay brick wall;	concrete pillars;
concrete block wall;	single brick wall with pillars;
masonry wall;	concrete walls; or
steel pillars fixed in concrete;	a combination of any of the above

Asbestos, steel sheet, wood, lattice, pergolas, star pickets, chicken wire, wire strand or other non permanent materials are not considered as monuments and cannot be used to fix boundaries.

15.15.3 What to show on the copy of the plan

The copy of the location plan attached to the Notice of Resolution document must show the length and position of the line representing the dividing wall or pillars. Each end of the line should be indicated by points marked "A" and "B". All boundary lines shown on the copy of the plan must be drawn in black and in the correct position in relation to the buildings.

The copy of the plan must be clear and neat (a faxed copy is not an acceptable standard).

A description of the monument e.g. "Line A-B is a single clay brick wall approximately 2 metres high" must be typed or printed neatly on the copy of the location plan. Listed below is information that must be on the copy of the plan:

- The position of points "A" and "B" indicated on the plan.
- A line "A-B" on the plan indicating the wall.
- A brief neatly typed or printed description of the division e.g. "centre line of wall produced to parcel boundaries".
- A line drawn on the plan matching the above description.
- The part lot numbers inside and outside the building indicating which parts form part of each lot.
- A notation stating the Strata Plan is not to scale.

It should be noted that the "monument" now forms the basis from which the boundary between the lots is defined. Therefore, changes or variations to the monument could result in problems with future boundary definition.

It should also be noted that it is not possible to add distance or angles to the copy of the Location Plan used in the merger (see Chapter 15.16 "Points to Consider").

It is important to note that the copy of the location plan is part of a document on the Register and that only clear legible information will be accepted. Any changes to the documents requires initialling by all parties

15.15.4 The Notice of Resolution

If a professional is not employed, then, in the Notice of Resolution form (Form 33), item 1(c) (i) should be deleted as the words "sketch plan" refer to a plan prepared and lodged by a licensed surveyor.

The written description of the merger must be typed or printed neatly in the item 1(c) (ii) panel on the Notice of Resolution form. This description must clearly identify the monument and how the boundary is defined in reference to that monument. It is also permissible to include additional information such as a copy of a site plan (A4 size) used at the time of construction that is further evidence of the monument and its position.

The Registrar of Titles may reject any Notice of Resolution in relation to a merger if any notice or related information is not of sufficient standard.

15.16 Points to Consider

Effecting a merger without employing a surveyor should only be done after careful consideration of the scheme and possible implications of the merger proposal. However, there are other considerations. For example:

- The fences may not coincide with the “centre line of the wall produced” to the land parcel boundaries (there may be a need to shift the fence).
- The resultant separate land areas after the merge may not be equal.
- The division of the common property may make it advisable to adjust unit entitlement.
- Accurate areas can only be calculated by a licensed Surveyor thus causing complications for Lot owners in future sale transactions.

15.17 Registration

STGR Form 32 must be used for mergers of land and STGR Form 33 must be used for mergers of building and land. Either a disposition form (STGR Form 39) or transfers of common property are required to dispose of the common property.

In simple terms, all of the lot proprietors are transferring their interests in the common property being merged with a particular lot to the proprietor of that lot. No stamp duty is payable unless there has been a payment for the transfer of those interests.

Strata companies or lot owners registering a merger are required to provide a certificate from a licensed valuer (Form 36 STGR). This certificate must state either that the unit entitlement is unchanged or that it has changed as set out in an attached schedule (Form 3 STGR).

The consents of all mortgagees and caveators are required in cases where the unit entitlement of a lot decreases on merger.

These forms must be correctly completed and must be lodged with the “sketch plan”. Care should be taken to ensure the dates on the forms correspond with the sequence of events that result in the registration of the “sketch plan”.

Landgate will forward a copy of the registered merger plans to the relevant local governments, and to the Water Corporation and Sewerage Authority.

Lodgement fees apply for:

- registration of the “sketch plan”
- notice of resolution
- disposition forms.



16. Conversion to Survey-Strata Plans

16.1 General (Division 3 of Part III of the STA)

An option available for lot owners in single tier strata schemes registered before 1 January 1998 is to convert the scheme to a survey-strata scheme (see section 31C of STA) allowing the boundaries to be re-aligned to include part or all of the common property into the lots. It may have advantages in certain schemes because buildings are not shown on a Survey-Strata Plan. A variety of easements can be used to protect existing rights. There is also no requirement for certification or approval from the WAPC or local government to effect the conversion.

Surveyors must not, under any circumstance, attempt to adjust boundaries between existing Strata Lots. Sections 31A-31K STA deal with the allocation of common property into existing Lots and the creation of certain supporting easements (see [Chapter 16.6](#)). A Strata Plan of Re-subdivision may need to be registered prior to the conversion to Survey-Strata if any discrepancy exists within the existing scheme.

The unit entitlement of lots on a survey-strata is based on site value (i.e. the buildings are not considered when assessing unit entitlement). This may be an important consideration that could have advantages or in some cases, disadvantages.

Surveyors should treat conversions as they would a normal Survey-Strata Plan. The same plan forms, drafting and surveying standards as needed on a new Survey-Strata Plan are required (see [Plan Example 30](#)).

There is a different surveyor's certification for these types of conversion. The STGAR (now included in the STGR) deleted paragraphs (a) to (c) from the former STGR Form 38 that specifies the surveyor's responsibilities and obligations when survey-strata conversion plans are submitted for registration (see [Chapter 16.4](#)).

Paragraphs (a) to (c) are now covered by the Surveyors Certificate Regulation 54 compulsory for all Strata/Survey-Strata Plans lodged for registration after 24th January 2006 provided the Surveyor has signed his certificate on or after that date (see [Chapter 8.1](#)).

It is not possible under these provisions to vary or change an existing Survey-Strata Plan to eliminate common property lots. A Survey-Strata Plan of re-subdivision is required.

This conversion option can be used only once. There is no time limit as to the use of this option.

It is also feasible to use the merger option and at a later stage convert the Strata Plan to a Survey-Strata Plan but these options are only available for strata schemes registered before 1 January 1998 (see [Chapter 15.2](#) and [Plan Example 31](#)).

16.2 General Drafting Guidelines

Most drafting guidelines for conversions to Survey-Strata Plans are common to all plans under the STA. These have been recorded in [Chapter 10](#). Other drafting matters specific to Survey-Strata Plans are recorded in [Chapter 12](#). For drafting requirements for conversions, this chapter should be read in conjunction with Chapters 10 and 12.

Both the standard Strata Plan form including the "Surveyors Certificate – Reg 54" and the current Form 38 of the STGAR (now included in the STGR) are available via the e-Strata kit from "Landgate" and should be used for conversions (see [Chapter 4.8](#)).

16.3 Headings

Some minor changes have been made to accommodate the conversion. In the box headed “PLAN OF”, for example, a description of the actual conversion is to be used (Regulation 8(1)), e.g. “LOTS 1, 2, 3 AND COMMON PROPERTY ON STRATA PLAN 12345”. There are no circumstances where a conversion plan can be registered without including the words “and Common Property” in the heading “Plan of”.

16.4 Surveyor’s Certificate

STGR Form 38 must be used for a surveyor’s certification of conversion to survey-strata. Care should be taken by surveyors to ensure their responsibilities are fully understood when certifying conversions. In some cases it may be prudent to seek legal advice as to the surveyor’s liability in respect of planning requirements. Surveyors must also certify all conversion plans with a “Surveyors Certificate – Reg 54” certificate (see [Chapter 8.1](#) and [Chapter 16.1](#)).

Section 31F(2)(c) provides that in respect of a conversion from strata to a survey-strata scheme under Division 3 of Part III of the STA the surveyor is required to certify that “a reference on the Survey-Strata Plan to a lot by a designated number is a reference to the lot designated by that number on the existing Strata Plan”. This means that it is not possible to include any part of a Lot on a Strata Plan into another Lot on a Survey-Strata Plan under the conversion to Survey-Strata process.

The inclusion of Part III in the STA was to enable division of common property between existing strata lot owners. It was not intended to enable subdivision of existing strata lots. If an existing strata lot is intended to be split between 2 or more survey-strata lots, then the procedures for termination of a strata scheme under Division 2 of Part III of the Act and the subsequent registration of a Survey-Strata Plan under Part II of the Act are applicable.

For surveyors who produce their own certificates on a word processor, there is extra flexibility to minimise the size of the form. It is permissible to exclude paragraphs in the certificate that do not apply thereby enabling the certificate to be better positioned on the plan form.

The STGR Form 38 states that as a result of a Notice of Resolution the surveyor certifies that the Strata Plan is converted to a Survey-Strata Plan and various criteria have been met. In real terms the surveyor is taking on certain responsibilities normally undertaken by local government and WAPC

These responsibilities can be divided into the following categories:

- Survey requirements.
- Town Planning.
- Easements.

16.4.1 Survey requirements

Survey work carried out on the conversion to survey-strata schemes must be in accordance with the Licensed Surveyors (Guidance of Surveyors) Regulations 1961. The survey guidelines for Survey-Strata Plans in [Chapter 9](#) apply. As from 31 May 2003 Field Books must be lodged for all Survey-Strata Plans including conversion to Survey-Strata (see [Chapter 9.7.1](#)) and conditions stated in guidelines 9.7.2 apply.

16.4.2 Town Planning

The surveyor has specific responsibilities to ensure the newly created lots comply with certain requirements of any relevant Town Planning Scheme (STGR Regulation 14O).

Briefly those requirements are:

- number of car parking bays per lot;
- rights to light and air;
- rights of support;
- private open space for each dwelling;
- pedestrian access to streets and common property;
- rights for service access; and
- rights for access to storage areas, meters, etc.

When making the certification, consideration is to be given to the following:

- provisions of the relevant town planning scheme;
- development approval (if any);
- effect on implied easements; and
- effect on new or previous restrictive covenants.

Surveyors may have to research these requirements before proceeding with the conversion as some schemes may not fit the criteria. Whilst surveyors may be able to legitimately sign a Form 38, they need to be careful not to create a situation where a conversion to Survey-Strata is undertaken and the resultant lots do not comply with the R-Codes. A Local Government may refuse to issue a building license for a non-complying lot in those circumstances. It may be prudent to seek legal advice as to a surveyor's liabilities in respect of planning requirements.

16.5 Easements

In some cases, easements may have to be created on the Survey-Strata Plan to meet the criteria specified in Regulation 14O. These easements are confined to lots and common property within the parcel.

16.6 Unit Entitlement on Conversion to Survey-Strata Plans

Unit entitlement on conversions to Survey-Strata Plans is based on site value within the meaning of the *Valuation of Land Act 1978*. The site value basis is a different concept to capital value so lot owners are required to have a unanimous resolution and consents from mortgagees to convert to a Survey-Strata Plan. A licensed valuer must certify a new schedule of unit entitlement on STGR Form 3.

16.7 Easements

Because Survey-Strata Plans do not show buildings, several types of easements may be used to protect various rights. Previously implied easements for services and support remain in place. (i.e. sewerage, water, electricity, gas, etc.) (see [Plan Example 31](#) and [Plan Example 32](#)).

The conversion option from a Strata Plan to a Survey-Strata Plan enables the following types of easements to be created on the Survey-Strata Plan:

- Vehicle Access Easement under Regulation 14E.
- Light and Air Easement under Regulation 14F.
- Party Wall Easement under Regulation 14G.
- Intrusion Easement under Regulation 14H.
- Pedestrian Access Easement under Regulation 14I.

These easements can be created between lots on the Survey-Strata Plan. Any easement must be depicted on the Survey-Strata Plan with broken lines and sufficient information to establish the easement boundaries. All other forms of easements on conversions can only be created by deed or transfer.

A schedule of Interests and Notifications (see [Chapter 10.15](#)) must then be positioned on the plan form as specified in STGR regulation 14B (1) (b). The schedule should state the “dominant lots” and “servient lots” as well as the type of easement, using the short form description, and regulation number. It is also possible to add to the schedule (in the “comments” column) the proportion of costs for maintenance over an easement by a specified percentage being recorded against the lots (STGR Regulation 14C (a)) (see [Plan Example 31](#)).

Subject	Purpose	Statutory Reference	Origin	Land Burdened/ Servient Lots	Benefit To/ Dominant Lots	Comments
	Vehicle Access Easement	Reg 14E of STGR	This Plan	LOT 2	LOT 1	APPORTIONMENT OF LIABILITY OF UPKEEP (Lot 1 70%, Lot 2 30%)
	Party Wall Easement	Reg 14G of STGR	This Plan	LOT 2	LOT 1	
	Intrusion Easement	Reg 14H of STGR	This Plan	LOT 2	LOT 1	APPORTIONMENT OF LIABILITY OF UPKEEP (Lot 1 100%)
	Light and Air Easement	Reg 14F of STGR	This Plan	LOT 2	LOT 1	

Table 16.1 - Example of Schedule

Surveyors must ensure the schedule clearly indicates the lots that are benefited and lots that are encumbered. It is also possible to vary the terms of the standard easement by lodging a memorial or instrument (STGR Regulation 14C (b)).

The sketch and schedule would remain as such but the instrument or memorial number would be recorded in the “origin” column of the schedule. No other easement types may be created automatically on conversions. It is possible to create an easement by deed between survey-strata lots in the conventional manner.

These types of easements are similar to a Section 167 P & D Act easement. They should be dimensioned and noted on the Survey-Strata Plan.

Easements for motor vehicle access, parking or turning, light and air, and pedestrian access are to be dimensioned by length and width (STGR Regulation 14B (1) (a) (i)).

Easements for intrusion are to be dimensioned by height, length and width and will therefore require a cross-sectional or elevation view (STGR Regulation 14B (1) (a) (ii)). A floor slab, concrete footing or similar monument can be used to reference the height dimension provided AHD is used as the datum.

Easements for party walls must be dimensioned by height, length and width or may be unlimited in height. If limited in height a cross-sectional or elevation view may be used (STGR Regulation 14B (1) (a) (iii)) and reference made to AHD.

16.8 Existing Easements

On conversion of a Strata Plan to a Survey-Strata Plan, easements created on the Strata Plan will be carried forward on to the new Survey-Strata Plan. Surveyors must bring forward all easements of a spatial nature onto the Survey-Strata Plan. Existing easements created by deed or transfer will encumber the titles of those that it affects as well as being recorded on the encumbrance schedule of the Survey-Strata Plan.

16.9 Mineral Reservations

On the conversion to a Survey-Strata Plan, a current search of the Strata Plan must be carried out to enable certain mineral reservations that run with the land parcel to be carried forward onto the Survey-Strata Plan (see [Chapter 10.18](#)).

16.10 Various Other Matters – See Mergers

In [Chapter 15](#) the topics of resolutions, restrictive use, encroachments and registration are dealt with (for mergers) in Chapters [15.2](#), [15.12](#), [15.13](#) and [15.17](#). With obvious changes, these items also apply to conversions.



17. Re-Subdivision and Consolidations

17.1 Re-subdivision of Strata Plans

Sections 8, 8A – 8C STA deal with Re-subdivision of schemes while Section 9 STA deals with consolidation of lots within a scheme. Strata plans may be re-subdivided to reflect changes that have been agreed to by the strata company. These types of plans are for boundary re-alignment, depicting a new building on a vacant lot, showing building additions on a lot or the creation of new lots from a lot or from common property or a combination of those variations.

Surveyors and Valuers alike must use the terminology “re-subdivision” (see Section 8 STA) instead of the term “subdivision” as previously described in the original 1985 Act (see [Plan Example 33](#)).

The plan of re-subdivision lodged for registration must include:

- the location plan depicting any new buildings or additions;
- the floor plan showing the newly created lots;
- the certificate of a licensed surveyor (where necessary);
- the schedule of unit entitlement of all the lots certified by a licensed valuer; and
- the provision for certificates from the local government (Form 7 and unless exempt from WAPC approval a Form 26 signed under delegation; where delegation has not been given, the WAPC will endorse the Form 26).

When the re-subdivision takes effect, new lot numbers will be created, superseding some or all of the previous lot numbers. The strata system of subdivision does not permit part lots to remain after re-subdivision. Therefore any lots that are affected by the re-subdivision are re-dimensioned, have new unit entitlements assessed and are allocated a new lot number. This results in whole lots always remaining in the strata scheme.

A common error by licensed Valuers when preparing the schedule of unit entitlement (Form 3 STGR) is the failure to describe all the lots and buildings within the scheme. Valuers often simply describe the lots that have been re-subdivided and only describe the new building(s) within the scheme. The comparison of unit entitlement is necessary for the entire scheme after re-subdivision or subsequent re-subdivisions (see [Plan Example 33](#)).

The re-subdivision plan is an addition to the existing plan and retains the same plan number. On registration of the re-subdivision the subdivided lots and common property are marked to record the changes and new titles are issued for the newly created lots. This recording of the transactions results in the Strata Plan and schedule of unit entitlement defining the current situation and the previous history.

The staged schemes described in [Chapter 7](#) are a pre-determined application of re-subdivisions.

17.2 Plans of Re-subdivisions of Strata Plans

The drafting and surveying requirements for a Strata Plan of re-subdivision are the same as for preparing a normal Strata Plan. Section 8A (b) and (c) of the STA specifies the need for a floor and location plan. This means a new floor plan is needed to show any new lot boundaries, but if there is no change to the outline of the building or part lots external to the building on the existing location plan, there is no requirement for a new location plan.

For staged developments, it is preferable to show the complete updated version of the location plan. This may be achieved by copying the detail from the current plan. The intention of this concept is to assist the owners and purchasers of lots, particularly in large schemes, to identify their lots in relation to the whole scheme.

Where a registered Strata Plan is endorsed with Section 3AB of the STA and subsequently the Local Government approves modification of that scheme to allow parts of a building to be built above another building, the following should be considered. Where a "Permitted Boundary Deviation" does not apply (see Regulation 37A STGR), Surveyors may override Section 3AB of STA with Section 3 (2) (b) of STA for the lots affected.

It must be noted that this situation is for existing schemes only and cannot be utilised for new Strata Plans lodged for registration.

Lot numbering must run sequentially as stated in Regulation 6 (1).

17.3 Drafting Guideline

Most drafting guidelines for re-subdivisions are common to all plans under the STA. These have been recorded in [Chapter 10](#). Other drafting matters specific to Strata Plans are recorded in [Chapter 11](#). So for drafting requirements for re-subdivision of Strata Plans, this chapter should be read in conjunction with chapters 10 and 11.

Floor plans of re-subdivision must show the relevant section of the STA that apply to the scheme i.e.: Sections 3AB; 3(2)(a) or 3(2)(b). It is no longer acceptable that building definition will automatically default to the inner surfaces of the walls i.e.: Section 3(2)(a).

Also, where a floor plan is stamped with the provisions of Section 3AB, Surveyors must bring forward this notation in accordance with the wording set out in the STGR (see [Plan Example 28](#)).

17.4 Surveyor's Certificate

Strata Plans of re-subdivision must be accompanied by a surveyor's certificate (STGR Form 5) which reflects the information depicted on the plan. The "Description of the Parcel & Building" should be completed as stated on the title for the parcel and should further state a description of the re-subdivision and buildings that were re-subdivided, e.g.

"Lot 50 on Plan 12345.

Re-subdivision of Lot 2 and common property.

A single storey brick and tile residential building".

Since the introduction of the "Surveyors Certificate – Reg 54" on the 24th January 2006, Surveyors must now certify their Plans with that Certificate (see [Chapter 8.1](#) and [Chapter 11.5](#)).

In the case of a staged development, where there is a registered management statement setting out the proposed completed development, the surveyor must also certify at (d) that the plan of re-subdivision complies with Regulation 36 of the STGR (see [Plan Example 35](#)).

If the original Strata Plan does not have a Management Statement setting out re-subdivisional information then the Surveyor must either rule out or delete (d) from the certificate (see Regulation 13(4)(b) of the STGR.

If the Strata Plan does have a Management Statement and Regulation 36 of the STGR cannot be complied with, then the Surveyor must rule out or delete (d) in the certificate. Consents must then be obtained in order to register the re-subdivision. Should an amendment be required to a bylaw in a Management Statement in order to comply with Regulation 36 of the STGR the appropriate action should be carried out prior to the lodgement of the re-subdivisional plans with Landgate.

The addition of a certificate under Regulation 54 of the Licensed Surveyors (Guidance of Surveyors) Amendment Regulations 1961 on the plan does not negate the requirement of a Form 5 of the STGR to be included in the plan.

17.5 Local Government Certificate

A local government Certificate (STGR Form 7) must accompany a Strata Plan of re-subdivision. This certificate must specify the normal requirements that the building and parcel are of sufficient standard, consent for encroachments has been granted and if the re-subdivision was subject to WAPC conditions then these conditions have been met, or that it was exempt from WAPC conditions.

Where the re-subdivision involves the creation of vacant Lots only and no buildings have been affected the Local Government should sign the Form 7 as if in relationship to the buildings for the entire scheme.

17.6 Consolidation of Strata Lots

Consolidation is the amalgamation of 2 or more lots into one lot. The relevant plans and accompanying certificates become part of the original plan. Strata plans of consolidation depict the consolidated lot. A floor plan is required showing the consolidated lot and a location plan is necessary if there are vacant lots or part lots external to a building.

The consent of the local government is required in the prescribed Form 18 of the STGR and must accompany the plan of consolidation when lodged at Landgate. Unless exempt from WAPC approval, the plan of consolidation must also have a Form 26 endorsed by the local government under delegation from the WAPC. Where no delegation given, the WAPC will endorse the Form 26.

In the past, there was no requirement for a Surveyor's Certificate however on the 24th January 2006 the "Surveyors Certificate – Reg 54" was introduced requiring Surveyors to certify their Plans with that Certificate (see [Chapter 8.1](#) and [Chapter 11.5](#)). There is no requirement for a Valuers Certificate to accompany the plan, as section 9 of the STA enables the Registrar of Titles to amend the Strata Plan and unit entitlement by adding together the unit entitlement of the lots. Occasions have arisen however where a Valuer has supplied a Certificate to accompany the consolidation plan.

Consolidation Plans are rarely used as; in most instances some common property is involved, resulting in a re-subdivision rather than consolidation.

17.7 Merger Sketch Plans and Conversion to Survey-Strata Plans

The merger and conversion options enable lot owners in a strata scheme registered before 1 January 1998 to add common property land or buildings or both to lots or to convert such Strata Plans to Survey-Strata Plans with survey-strata and common property lots. Plans of this type are not processed through the normal approval channels. In most cases a licensed surveyor certifies that these types of plans meet certain planning and building requirements. These provisions provide an opportunity to change boundaries to reflect perceived ownership of such lots. These plans are described in [Chapter 15](#) and [Chapter 16](#).

17.8 Re-subdivision of Survey-Strata Plans

Survey-Strata Plans may be re-subdivided to reflect changes that have been agreed to by the strata company. All Survey-Strata Plans of re-subdivision must be processed in accordance with Part 10 of the P & D Act 2005 (formerly Part III of the TP & D Act) which means full referral to government agencies. These types of plans are for boundary re-alignment, the creation of new lots from a “super” lot or common property lots, or a combination of those actions.

These types of plans follow much the same principles as a Strata Plan of re-subdivision with the following variations. Survey-Strata Plans of re-subdivision must go through the full planning referral process. The basic strata principle of whole lots must be adhered to. It is possible to create new common property lots on re-subdivision (see [Plan Example 44](#)).

The re-subdivision plan lodged for registration must have:

- a surveyed plan of the re-subdivision;
- a certificate from a licensed surveyor (where necessary);
- a schedule of unit entitlement certified by a licensed valuer; and
- provision for a certificate of approval from the WAPC.

As from the 24th January 2006, the addition of a certificate under Regulation 54 (see [Chapter 8.1](#) and [Chapter 11.5](#)) of the Licensed Surveyors (Guidance of Surveyors) Amendment Regulations 1961 has changed the composition and requirement of the Form 6 of the STGR.

Form 6 on Survey-Strata Plans of re-subdivision is only required where the plan has an existing Management Statement and there is a requirement at (b) to provide evidence that the plan does comply with Regulation 36 of the STGR (see [Plan Example 44](#)).

The drafting requirements and conventions for re-subdivision of Survey-Strata Plans are the same as for the normal preparation of a Survey-Strata Plan, as set out in [Chapter 10](#) and [Chapter 12](#).

The re-subdivision causes new lot numbers to be created superseding the previous lot numbers and any numbers allocated to common property lots. The re-subdivision is an addition to the existing plan and retains the same plan number.

On registration of the re-subdivision, the original subdivided lots and common property lots (if any) have notations placed on them (on the existing plan sheet) that they are now superseded (or partly superseded). New titles are issued for the newly created lots. No title will be issued for common property lots. In the above proceedings the lot numbers must be sequential. See Regulation 6(1)(a) of the STGR.

A common error by Licensed Valuers when preparing the schedule of Unit Entitlement (Form 3 – STGR) is the failure to describe all of the lots within the resubdivision scheme. All remaining existing lots as well as the new lots being created are to be valued.

17.9 Consolidation of Survey-Strata Lots

Lots in Survey-Strata Plans can be consolidated into one lot. Survey-Strata Plans of consolidation must depict the lots that have been consolidated. Like consolidation of Strata Lots (see [Chapter 17.6](#)) there is now a requirement for the Surveyor to certify the plan by adding a “Surveyors Certificate – Reg 54” to the plan (see [Chapter 8.1](#) and [Chapter 11.5](#)).

There is no requirement for a Valuers Certificate to accompany the plan as section 9 of the STA enables the Registrar of Titles to amend the Survey-Strata Plan and to add the unit entitlements together. There is a requirement that when the plan of consolidation is lodged at Landgate a certificate must accompany it from the WAPC (see [Chapter 17.12](#) for all registration requirements for consolidations) (see [Plan Example 39](#)).

17.10 Registration Procedures for Re-subdivision of Strata or Survey-Strata Plans

Strata or survey-strata lots and common property or common property lots or a combination of both may, by a unanimous resolution of the strata company and with the consent of the mortgagees and other encumbrancers, be re-subdivided by lodging an amended Strata/Survey-Strata Plan (called a Strata/Survey-Strata Plan of re-subdivision).

The plan sheets containing the amendments and the appropriate certificates must be lodged by the surveyor at Landgate and processed in accordance with the “Standard Plan Process” (see [Chapter 5.3](#)).

A Strata Plan may only be re-subdivided by a Strata Plan of re-subdivision and a Survey-Strata Plan may only be re-subdivided by a Survey-Strata Plan of re-subdivision.

17.10.1 Registration

An application to register the plan of re-subdivision is required. This is a STGR Form 20 which may be placed on a TLA Form B2 or B4.

The application and any transfers required to give effect to the re-subdivision may only be lodged once the plan is placed “In Order for Dealings”. A separate STGR Form 14 is not required, as the certification by the strata company to the transfer or acquisition of common property is set out in the application to register the re-subdivision.

The portion of a lot being transferred to enlarge an existing lot must be free of encumbrances and caveats and therefore such encumbrances will need to be removed to any extent necessary.

However, a disposition statement may accompany the application to register a Strata/Survey-Strata Plan of re-subdivision. If a disposition statement is utilised, the transfers required to give effect to the re-subdivision are unnecessary and the partial removal of encumbrances and caveats will not be required.

Where a strata/survey-strata lot has been enlarged or diminished by the process of re-subdivision, any encumbrances and caveats affecting the lot will automatically, by operation of law, be adjusted to the new dimensions of the lot.

The duplicate certificates of title (if any) for the land affected by the re-subdivision must be produced at Landgate with the application to register the plan of re-subdivision.

17.10.2 Consents

Unless the plan of re-subdivision sufficiently complies with what is disclosed in a registered management statement or By-law incorporating a plan of re-subdivision and change of unit entitlement, the following consents are required:

- The written consent of every person who has a registered interest (other than the registered proprietor) or who is a caveator in any lot which would be affected by the proposed re-subdivision.
- The written consent of every person who has a registered interest (other than the registered proprietor) or is a caveator in any lot that will have a change in its unit entitlement as a result of the re-subdivision.

These consents can be endorsed on the application or in a letter attached to it and addressed to the Registrar of Titles. Consents given by letter must clearly describe the nature of the consent:

“Re-subdivision of lot 10 on Strata Plan _____ to include common property as depicted on plan of re-subdivision signed by surveyor on _____.”

or

“The alteration of the unit entitlement of lot _____ on Strata Plan _____.”

While a plan of re-subdivision can be lodged in accordance with the terms of a registered management statement, it is not possible to file a management statement with an application to register the Strata/Survey-Strata Plan of re-subdivision.

17.11 Disposition Statements for Plans of Re-subdivision

Section 8B of the STA makes provision for a disposition statement to be filed with an application to register a Strata/Survey-Strata Plan of re-subdivision.

The purpose of the disposition statement is to effect boundary changes to lots and common property without the need for transfers of the portions involved or the partial discharge or removal of encumbrances.

No additional registration fees are required for filing a disposition statement but it must be stamped at the State Revenue Department (Stamp Duties Division). Regulation 21 of the STGR sets out the abbreviated procedure for registration of a disposition statement in respect of a plan of re-subdivision.

A disposition statement must be:

- set out in Form 23 of the STGR;
- executed under seal by the strata company and signed by the registered proprietors of the lots which are directly affected by the plan of re-subdivision; and
- consented to by the encumbrancers and caveators of the lots which are directly affected by the plan of re-subdivision.

These consents can be endorsed in the appropriate section of the disposition statement or in a letter attached to it and addressed to the Registrar of Titles. Consents given by letter must clearly describe the nature of the consent. For example:

Re-subdivision of lot 10 on Strata Plan _____ to include common property as depicted on plan of re-subdivision signed by surveyor on _____

If consent is given by a letter, the letter may also contain consents to re-allocation of unit entitlement.

A disposition statement cannot be used to:

- partition the ownership of a lot created on the plan of re-subdivision between the proprietors of the parcel being subdivided;
- totally remove an encumbrance or an entire interest in an encumbrance;
- re-allocate any encumbrance (e.g. mortgage, charge or caveat) to any other lot over which it was not previously registered; or
- change any person having a registered interest in an encumbrance (e.g. mortgage, lease or easement) or the proprietor the subject of a caveat (including the strata company).

In these circumstances appropriate documents must be prepared, executed and if necessary stamped before being lodged for registration.

17.12 Registration Procedures for Consolidation of Two or More Strata or Survey-Strata Lots

The consolidation of strata/survey-strata lots on a plan (not being all the lots) is permitted by section 9 of the STA. Registration of a plan of consolidation is achieved by:

1. lodging a Strata Plan of consolidation endorsed with:
 - (i) a certificate of the local government (STGR Form 18); and
 - (ii) the consent of the WAPC, as delegated to the Local Government (unless exempt).

or

2. lodging a Survey-Strata Plan of consolidation to be endorsed with:
 - (i) the consent of the WAPC, and
 - (ii) lodging an application on a TLA Form A6 by the registered proprietor of the lots accompanied by:
 - (a) a letter or an endorsement on the document stating the full name, address and facsimile machine number of the local government and Water Corporation to which the Registrar of Titles is required to deliver a copy of the amended Strata/Survey-Strata Plan;
 - (b) the duplicate certificates of title to all lots affected by the consolidation(if any); and
 - (c) the written consent of any person or corporation who will have a registered interest in the new lot.

The following Landgate practice should be noted:

- Any encumbrances on lots which are consolidated will be brought forward onto the new title for each consolidated lot. Where the encumbrance is a mortgage previously over only one of the consolidated lots it will be brought forward as to the portion only of the new lot.
- Mortgagees may have difficulty in exercising their power of sale in such circumstances. Where each original lot was encumbered by a different mortgage a similar problem will arise.
- The endorsement of a mortgagee's consent to the consolidation will be taken as an acknowledgment of, and consent to, the new state of the Register.
- A caveat lodged by virtue of an unregistered TLA document must be withdrawn before the application for consolidation is lodged.
- The unit entitlement for the new lot is the sum of the unit entitlement of the old lots.
- Common property cannot be incorporated into a consolidation of two or more strata lots.

17.13 Creating Easements on Plans or Re-subdivision and Consolidation

Only easements under Section 167 of the P & D Act 2005 (formerly Section 27A T P & D ACT 1928) are permitted to be created on plans of re-subdivision (see [Chapter 7.8](#)) or plans of consolidation (see [Plan Example 40](#)).

There is no provision to create easements under Section 5D STA or Section 136C TLA on such plans.

Easements Created by Document After Registration

Easements such as “Right of Carriageway” proposed to be created by Transfer Document after the registration of a re-subdivision or consolidation can be depicted on the Strata/Survey-Strata Plan. They must however be defined in such a manner that clearly indicates they are not registered in conjunction with the plan (see [Chapter 6.1](#) and [Plan Example 9](#)).

It is not possible to create an easement at the time the plan is registered as there have to be different owners of the benefited and burdened lots before an easement can be created by a transfer document.

17.14 Creating Roads and Widenings

The commencement of the P & D Act on the 9th April 2006 has for the first time enabled the automatic creation of roads, road extensions and road widenings on plans of re-subdivision. See [Plan Example 54](#)

For re-subdivision of a Strata Plan, Surveyors should follow the guidelines as set out in [Chapter 8.9](#). Where the creation of roads involves a re-subdivision of a Survey-Strata Plan, Surveyors should refer to [Chapter 9.8](#). An application to register the plan of re-subdivision will cause the road or widening to become dedicated.

17.15 Creating Vesting Lots

The ability to create vesting lots under Section 152 of the P & D Act has been extended to include plans of re-subdivision. Surveyors should refer to the guidelines and procedures as set out in [Chapter 10.19](#) for both Strata Plans and Survey-Strata Plan



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18. Acquisitions and Disposals

18.1 Acquisition of Additional Common Property

A strata company may acquire extra land to add to the scheme in the form of common property. Methods by which land may be acquired include:

- the purchase and amalgamation of a closed public road;
- the purchase and amalgamation of a portion of Crown land;
- the purchase and amalgamation of a closed private road or ROW;
- the purchase of the adjoining land; and
- common property may also be acquired by lease of contiguous land.

The additional land may then become a lot or part of a lot by either re-subdivision or merger depending on the nature of the acquisition and the date when the Strata/Survey-Strata plan was registered.

18.2 Purchase and Amalgamation of Closed Roads or Crown Land

Prior to the implementation of the Land Administration Act, 1997 (LAA) on March 30 1998, dedicated roads were closed under Section 288A of the Local Government (*Miscellaneous Provisions*) Act 1960 (LGA) and amalgamated into freehold land under Section 118A of the *Land Act 1933*.

The above provisions have been combined into the LAA and appear as Sections 58 & 87 respectively. Principles remain basically the same, but the first 4 steps now are:

1. The initial approach by the owner or his/her surveyor to the relevant local government to ascertain whether or not it is willing to consider a road closure request.
2. Local government's compliance with Section 58 of the LAA and Regulation 9 of the Land Administration Regulations 1998 dealing with any objections and service authorities responses, formally resolving to close the road, and advising RDL (State Land Services - SLS) in writing.
3. The surveyor is to supply sketch plans showing the location of the road and the future disposition of the land after it has been closed. This will assist the Valuer General's Office in providing valuation advice to State Land Services– SLS.
4. On acceptance by the proponent of the purchase price plus stamp duty payable and any other costs associated with the proposal (including easements), State Land Services– SLS will arrange for road closure and amalgamation action to take place.

Acquisition of Crown land parcels is managed by SLS. In many cases where the land to be acquired, for example is a PAW or public road that is to be closed, SLS negotiates with the abutting proprietors before the closure occurs. This is to avoid the creation of small isolated parcels of Crown land.

SLS liaises with the local government, WAPC, and other government agencies on matters such as desirability of the closure, relocation of services and requirements for easements. In all instances involving the disposal of surplus crown land, SLS is obliged to offer the land at a price set by the Valuer General's Office.

Similar processes apply where there is an application to SLS for amalgamation of any portion of Crown land with the parent lot of a strata scheme. Surveyors will need to arrange with SLS for instructions to prepare a Deposited Plan show the "Land for Amalgamation" and a new compiled Lot for the existing Lot and the land being amalgamated.

18.3 Registration Procedures for Amalgamation of a Closed Public Road or Other Crown Land

Closed roads or Crown land may be included into an adjoining land parcel on registration of a Conveyance and Amalgamation Order under section 87 of the Land Administration Act, 1997. A new deposited plan is required showing the “outcome” of the amalgamation of the Crown land with the adjoining parcel. The area of amalgamated Crown land is depicted on this plan within an inset.

On registration, the additional land will become common property in the case of a Strata Plan. A merger, survey-strata conversion or re-subdivision is needed to enable this common property to become part of the lots, if that is desired. Alternatively it may remain as common property.

Where additional land becomes common property in a Survey-Strata Plan the land included is allocated the letters “CP” followed by the Lot number which is greater by one than the highest number of any Lot within the scheme. A re-subdivision of the scheme may follow where the CP Lot is to be distributed or developed.

18.4 Amalgamation of Closed Private Roads or Ways

Amalgamations of closed private roads or ROWs can be achieved in a number of ways:

1. By closure and amalgamation under sections 52 and 87 of the Land Administration Act, 1997.
2. By an application for closure and inclusion.
3. By Court order.

The procedures of section 52 of the Land Administration Act, 1997 and Regulation 6 of the Land Administration Regulations 1998 are similar to those described in Chapter 18.2 and Chapter 18.3 for public road closures, except that the relevant local government must take all reasonable steps to give notice to the holder of the subject land, and the holders of freehold land abutting the private street or right of way.

The procedure for inclusion by legal documentation is somewhat complex. The registered proprietor of the land can take action to close the ROW. This closure requires extinguishment of the rights of other land owners to use the ROW. This is achieved by obtaining the consents from the land owners (and mortgagees, and caveators) who have rights to use the ROW.

An application for the closure of the ROW together with these consents can then be lodged at Landgate. The closure will then be recorded on the title for the ROW. The resulting unencumbered land is then transferred to the strata company and becomes common property.

The Strata Plan’s location plan is amended to reflect this change. Because the additional land is common property, merger, survey-strata conversion or re-subdivision is needed to enable this common property to become part of the lots.

Where additional land becomes Common Property in a Survey-Strata scheme, the land included is allocated the letters CP followed by the lot number which is greater by one than the highest number of any lot within the scheme.

Another (rarely used) method of closure is to apply to the Supreme Court to seek an order to close a portion of a private road or way.

18.5 Acquiring Additional Land by Transfer

Under section 18 of the STA, a strata company may decide to purchase land contiguous to the scheme. To achieve this, a deposited plan must be prepared incorporating the land to be acquired with the existing scheme, together with a depiction of any residue land as a separate lot.

This deposited plan must be processed through the normal planning approval process until the plan becomes “in order for dealings”. The strata company must follow the requirements of section 18 of the STA, which eventually results in amendment of the Strata Plan or Survey-Strata Plan by the Registrar of Titles to reflect the additional land in the scheme (see [Plan Example 41](#)).

In the case of a Survey-Strata Plan the acquired land will be allocated the letters “CP” followed by the lot number which is greater by one than the highest number of any lot within the scheme including common property lots. A re-subdivision of the scheme may follow in order to adjust lot boundaries (see [Chapter 17](#) and [Plan Example 41](#)). The process requires:

- the strata company passing a resolution without dissent (or unanimous resolution in a two lot scheme);
- a transfer of the land to be acquired to the strata company; and
- the land that is to be transferred must be contiguous to the parcel that comprises the scheme and must be free of encumbrances.
- The transfer is to be lodged at Landgate accompanied by:
- the duplicate certificate of title of the land being transferred;
- an application for a new title for the residue/balance lot (if any); and
- a certificate from the strata company (STGR Form 13) which certifies that the resolution was passed.

18.6 Conversion of Lots to Common Property

Section 10 of the STA permits a lot within a scheme to be transferred to the strata company as additional common property. It is only possible to convert whole lots into common property. The strata company must call a duly convened meeting at which a resolution without dissent is passed agreeing to convert a lot or lots into common property provided the scheme consists of three or more lots. This action does not require a surveyor to prepare a plan.

If the lot being transferred is free of encumbrances, a transfer from the registered proprietor to the strata company is executed and can then be lodged at Landgate accompanied by:

- a certificate from the local government (STGR Form 9); and
- a certificate from the strata company agreeing (STGR Form 10) to the transfer.

On registration of the documents the Strata Plan will be amended to reflect the changes. The unit entitlement of the converted lot is cancelled, and the interests and operation of the encumbrances of the remaining lot proprietors are extended to include the additional common property.

In the case of a Survey-Strata Plan the converted lot will be allocated the letters “CP” followed by the lot number which is greater by one than the highest number of any lot within the scheme including common property lots (see Regulation 19 of STGR).

18.7 Transfer of Part of the Common Property

Section 19 of the STA permits land that is common property to be transferred by the strata company separately from the scheme. A deposited plan will be necessary to define the land to be transferred.

A duly convened General Meeting of the strata company must be held and a resolution without dissent or unanimous resolution in the case of a two-lot scheme passed agreeing to the transfer.

The portion of common property to be transferred must be defined by an approved survey. It is not possible to transfer part of the common property by description or sketch on transfer.

As an example of how to prepare the transfer, the land description and transferor panels of the document would contain the following information:

“Land: All that part of common property in Strata Plan 60000 as is comprised in Diagram 61616.”

Whereas in the case of a Survey-Strata Plan:

“Common property Lot 6 (CP) in Survey-Strata Plan 60000 as is comprised in Diagram 61616.

Transferor: The Owners of 18 Hay Street, Perth, Strata Plan 6000 of 18 Hay Street, Perth.”

The transfer must be accompanied by a Certificate (STGR Form 14) stating the necessary resolution was passed and that the appropriate consents were obtained. This certificate must be dated and sealed by the strata company.

Where common property on a Strata Plan or a common property lot on a Survey-Strata Plan being transferred comprises only part of the land in a deposited plan, then the transfer must be accompanied by an application for a new title for the residue/balance lot created. This application should be made using a TLA Form A6. The duplicate certificate of title (if any) for the other land owned by the applicant must be produced.

Where the common property or common property lot being transferred is the whole of the land in a plan or diagram of survey, an application (TLA Form A6) is not required to accompany the transfer.

On approval of the deposited plan, the Strata/Survey-Strata Plan will be amended to reflect the change in the parcel boundary and the encumbrance schedule will record the registration of the transaction.

As a survey is required for the portion being transferred, the consents from the WAPC required by Section 19(10) of the STA will be deemed to have been obtained when the deposited plan has been approved by the Inspector of Plans and Surveys.

18.8 Subdivisions Involving Strata Schemes

If a “multiple owner” freehold subdivision involves the transfer of a lot, or part of a lot, in a strata scheme the affected strata lot, or portion, must first be converted into common property before being transferred out of the strata scheme.

Similarly, where land is being transferred into a strata scheme by a freehold subdivision the land can only be included as common property.

The “balance lot” requirements for a freehold subdivision involving a strata scheme are:

- If only common property is involved in the land being transferred (in or out) then a new deposited plan showing the new freehold lots is to be lodged as in a normal subdivision. Landgate will amend the existing Strata/Survey-Strata Plan to reflect the change.
- Where it is intended that a new subdivision will involve the transfer of part or all of an individual lot or lots within a strata scheme then the scheme must be terminated or a Strata/Survey-Strata Plan of re-subdivision must be lodged converting the affected land into common property. A deposited plan can then be lodged for the subdivision, as outlined previously.
- If it is intended that land being transferred into a strata scheme is to be included in a particular strata lot, the land must first be included in the strata scheme as common property by a freehold subdivision plan followed by a Strata/Survey-Strata Plan of re-subdivision. This procedure also applies to amalgamations of Crown land with strata schemes (see [Plan Example 41](#)).

18.9 Leasing of Contiguous Land

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 other 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.

18.10 Lease of Common Property within a Scheme

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 STGR;
- 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 STGR, be endorsed with the consent of the Western Australian Planning Commission before it is executed (see Section 136 of the P & D Act).

18.11 Taking (formerly known as Resumption)

Land may be taken from a strata/survey-strata scheme under the provisions of Part 9 of the Land Administration Act, 1997 (replacing similar provisions in the Public Works Act, 1902). The parties affected are the strata company and the lot owners.

Where land is taken (Taking Order – see Sections 29, 29A & 29B of the STA where the terminology is “resumption”) from a strata/survey-strata scheme under part 9 of the *Land Administration Act 1997* the following requirements apply:

- A deposited plan must be lodged depicting the area of land to be taken together with any residual land in the strata scheme shown as a new lot.
- If the land being taken is common property only, Landgate will amend the existing Strata/Survey-Strata Plan to reflect the changes, including an amendment of the land description to show the new lot created on the deposited plan.
- If any of the land being taken involves land in a strata lot, the “relevant authority” must comply with section 29B of the STA and submit a new sheet for the Strata/Survey-Strata Plan that depicts the lots and common property remaining in the scheme (see Chapter 18.13). The new sheet must show the change in the land description (ie. the new balance lot created on the deposited plan) for the scheme. Note that the new sheet must use the existing strata lot numbers (see [Plan Example 42](#)).
- A new CSD file is required for any survey-strata scheme affected by a taking.

18.12 Variation of Survey-Strata Schemes on Taking

Where part of the land in a survey-strata scheme is taken, the District Court, on an application of the strata company, a proprietor or mortgagee of a lot may make an Order with respect to the variation of the scheme or the substitution for the existing scheme of a new scheme. Refer to Section 29A of the STA.

18.13 Taking of Part of a Strata Lot

Where a “Taking Order” under section 177 of the Land Administration Act, 1997 affects lots or parts of lots on a Strata Plan the lot owner and the strata company become involved because both the cubic space within the lot and the common property (air space and subsoil) are usually affected.

Replacement sheets depicting the situation after the land has been taken must be prepared and submitted to Landgate by the appropriate authority (see [Plan Example 42](#)). This means a replacement floor plan and location plan sheet is to be submitted for registration.

Surveyors must prepare replacement floor plans in accordance with guidelines pertaining to amendments introduced in 1996 i.e.: quote wording in relation to Sections 3AB and 3 (2) (a) STA. Unit entitlement may also vary so the surveyor should recommend to the client that unit entitlement might require adjusting.

19. Building Additions

19.1 Requirements for Building Additions in Strata Schemes

On registration of a Strata Plan, any buildings and services that are in place are part of the scheme. If at any time after registration, a proprietor of a lot in the scheme wishes to make improvements, additions or structural alterations to his lot or to construct a new building on his lot, various consents and approvals are required.

A lot proprietor may erect an extension to or make structural alteration to a lot with the prior written approval of the other lot proprietors in the scheme, subject to local government approvals. Where all of these consents cannot be obtained or it is difficult to contact all proprietors, the proposal can be submitted to the strata company for consideration at a General Meeting.

Except in the case of a two (2) lot scheme where a unanimous resolution is required, an approval by a resolution without dissent is required. A proprietor who objects to the proposal may only vote against the proposal on certain grounds (see Section 7(5) of the STA).

Objections to such proposals can only be made where the carrying out of the proposal:

- will breach open space and plot ratio requirements;
- will result in a structure visible from outside the lot which is not in keeping with the rest of the development;
- may affect the structural soundness of a building;
- may interfere with any implied easements created by sections 11 and 12 of the STA; or
- will contravene a by-law of the strata company.

If the proposal relates to a “vacant lot”, objections can only be made where:

- the proposal will breach open space and plot ratio requirements; or
- will contravene a by-law of the strata company.

The type of improvements that need this form of approval are any dwelling, shop, factory, commercial premises, garage, carport or any or other building whether free standing or annexed, where the construction needs approval by the local government or other authority. The area of the improvement is taken into account for determining plot ratio requirements.

19.2 Requirements for Building Additions in Survey-Strata Schemes

Unlike Strata Plans, Survey-Strata Plans do not show any buildings so that boundaries are not linked to buildings and unless there are prescribed grounds (limits or restrictions in specific by-laws of the strata company) there is no restriction as to dimensions, style, colours and materials, except as may be specified by local government or other authority.

However, any improvement to an existing structure or any new building in a survey-strata scheme must conform to the open space or plot ratio requirements for the lot.

The by-laws of the strata company may contain specific by-laws that confine building development to certain designs, colours and size. If the building or addition does contravene these requirements, approval for the purposes of the STA, must be obtained from the other proprietor in the case of a two (2) lot scheme or, in a larger scheme by a resolution without dissent from the strata company.

19.3 Procedures to Obtain Consent

There are certain procedures and time frames that need to be followed by a proprietor seeking approval for the erection of, alteration to, or extension of a structure. These are the requirement to serve an application setting out details of the proposal on either the strata company or, in the case of a two (2) lot scheme the other proprietor. The council of the strata company must then submit the application to a General Meeting of the strata company within 35 days of receipt of the application. If the council does not call a meeting within 14 days of receiving the application the proprietor seeking the approval may convene a General Meeting.

Procedures:

1. The notice of the meeting must contain a statement in the terms of Regulation 30 of the STGR.
2. At the meeting, the application should be tabled and debated. The chairperson must read to the meeting the statement as shown in Regulation 30.
3. A notice in writing of the decision must be given by the strata company to the applicant within 77 days after service of the application but, in the case of a two lot scheme a reply must be given by the other proprietor within 42 days.
4. If notice of a decision (and the grounds for the decision) is not given to the applicant within the time frame or the other proprietor in a two lot scheme refuses approval and the grounds for refusal are not given, the approval applied for is deemed to have been given (see section 7B(7) of the STA).

19.4 Local Government Approval

The STA does not override normal practices and procedures with respect to building licences. An application for a building licence can be made by the lot proprietor or, in certain circumstances where the structure is on common property, by the strata company.

There is no requirement under the STA for applications for building licences to indicate that the proper consents have been obtained from either the other lot owner or the strata company. The local government may wish to ensure these consents are in place before issuing a licence.

It is the responsibility of the person obtaining the licence to arrange the necessary consents. Failure to do so could result in the lot owner having to reinstate the premises to its former condition.

Other considerations for applications of this nature that need to be verified are:

- By-laws or management statements that may be in place for architectural styles and landscaping.
- Restrictive covenants encumbering the parcel which may contain building and design limitations,
- Restrictive covenants or covenants in gross that may benefit or restrict the building size, style and number of dwellings on the parcel forming the scheme.

This type of information is recorded on the Strata/Survey-Strata Plan's encumbrance schedule by document number and a brief description of the document type. It is recommended that a copy of the information contained in these registered documents accompany the building licence application so that the building surveyor is aware of the conflict with such by-laws or covenants.

19.5 Actual Building Construction

During the construction stage of the improvement, every effort should be made to ensure common property driveways and foot access is not restricted by building materials or builders' vehicles, plant or equipment. Details of this type of inconvenience should be detailed in the application to the strata company as well as an approximate time frame for the construction period. In some cases, strata companies may restrict the hours of work as a condition of approval.



20. State Administrative Tribunal

20.1 The State Administrative Tribunal (SAT)

The uniqueness of strata schemes, combined with the Australian culture of defined ownership, sometimes results in misunderstandings and consequential disputes between lot owners. The STA provides some relief in resolving these problems through the State Administrative Tribunal (SAT) which has powers to resolve disputes (formerly adjudicated by the Strata Titles Referee).

The State Administrative Tribunal (SAT) is located at Level 4, 12 St George's Terrace, Perth. It may also be contacted online at www.sat.justice.wa.gov.au where eForm applications are available. As a guide to applications to SAT, its website also provides access to decisions made in strata related disputes. It may be beneficial for applicants to seek legal advice prior to making an application to SAT in order to gain a satisfactory outcome.

20.2 Applications to the State Administrative Tribunal

Before making an application to the SAT an applicant must comply with any relevant dispute resolution procedures. The standard by-laws set out in Schedules 1 and 2 of the STA include provisions for the convening of, conduct of and voting at general and council meetings and the regulation of various activities.

By-laws in relation to procedures to be followed for the resolution of disputes as a prerequisite to the making of an application to the SAT may be adopted by a strata company or be set out in a management statement registered at the same time as the Strata Plan or Survey-Strata Plan.

The State Administrative Tribunal is only able to make orders if the STA (Enabling Act) gives the SAT power to do so. Even when the STA gives the SAT certain powers, the Act, in some instances, limits the Orders that the SAT can make, e.g. Section 121 limits the SAT's powers where the title to land is in question. An application to the SAT must set out:

- The section(s) of the Act under which the application is made.
- The terms of the Order sought.
- Reasons why it is thought the SAT is able to or should make the Order.

The SAT may request additional information and may make further enquiries and inspections. The SAT may dismiss an application if it is considered frivolous, vexatious, misconceived, or lacking in substance or if there is an unreasonable delay in compliance to a request for additional information.

Except in relation to an application for an Interim Order which is made in urgent circumstances, the applicant must serve a copy of the application to the Strata Company and every person and organisation named on the application. When the strata company receives that notice it must immediately serve a copy on:

- Each person who is a proprietor of a lot in the strata scheme.
- Any mortgagee of a lot who has given the strata company written notice of that mortgage.
- Each occupier of a lot who would be affected if the Order was made.
- Each person receiving a copy of the notice is entitled to make a written submission to the SAT in relation to the application.

20.3 Orders of the State Administrative Tribunal

The SAT's powers are set out in Part VI of the STA and in other parts of the STA (see Section 47(2) and 47(2a)). These powers include a general power to make orders (section 83 (1)). SAT may also make an Interim Order (section 82) if satisfied, on reasonable grounds, by reason of the urgent circumstances of the matter.

A person or party affected by a SAT Order may appeal the decision only if granted leave to appeal by the Court of Appeal of the Supreme Court or the Supreme Court itself. Section 95 of the *State Administrative Tribunal Act 2004* sets out the penalty for a person who fails to comply with an Order of the SAT.

Most applications are made under section 83(1) of the STA. Specific orders that the SAT can make (i.e. not made under section 83) include those related to:

- Insurance (sections 88, 101, 103J, 103K and 103L).
- By-laws (sections 93, 95, 97 and 100).
- Breaches of by-laws and payment of penalties (section 103I).
- Use of common property (sections 85 and 94).
- Personal property that is common property (sections 86 and 87).
- Buildings, structures and alterations (sections 103F and 103G).
- Strata company levies (sections 99 and 99A).
- Emergency expenditure (section 47(2)).
- Strata company meetings and resolutions (sections 97, 100, 103, 103B, 103C, 103D and 103M).
- Variation of unit entitlements (section 103H).
- Animals (sections 91 and 92).
- Contracts for service (section 103E).
- Various other orders may be made by SAT as set out in sections 89, 90, 98, 102, 103A and 103N-R.

Interim orders last for 3 months, or until the principal order is made; they can be renewed for a further 3 months.

20.4 Appeals

State Administrative Tribunal decisions can be subject to appeal. Generally, appeals can be made on a question of law. The procedures set out in Section 105 of The *State Administrative Tribunal Act 2004* allow an appeal to:

- the Court of Appeal (of the Supreme Court) if the decision was made by a tribunal that included a judicial member; or
- the Supreme Court in any other case.

The Court dealing with the appeal may:

- affirm, vary or set aside the decision of the Tribunal;
- make any decision that the tribunal could have made in the proceeding; or
- send the matter back to the Tribunal for reconsideration, either with or without the hearing of further evidence, in accordance with any directions or recommendations that the Court considers appropriate;

The Court may make any order it considers appropriate.

For further information refer to the SAT website www.sat.justice.wa.gov.au.

20.5 Registration of an Order of the State Administrative Tribunal

Orders made pursuant to Sections 93, 94, 99A, 100, 103A, 103H, 103J, 103P, 103Q and 103R of the STA must be registered at Landgate and they will take effect upon registration or at any later date specified in the order.

The SAT may also direct that any other order is required to be registered on the relevant Strata/Survey-Strata Plan.

Registration is achieved by producing a certified copy of the order attached to a TLA Form A5. A notation of the Order will be endorsed on the Strata/Survey-Strata Plan on the "Schedule of Encumbrances".

20.6 Procedures in Relation to Retirement Villages

Schemes affected by the *Retirement Villages Act 1992* have an endorsement to that effect noted on the encumbrance schedule of the Strata/Survey-Strata Plan. Prior to the SAT Act number 54 of 2004 all Retirement Villages disputes were dealt with under Section 77A of the STA and the Retirement Villages Dispute Tribunal, both of which were repealed by Act number 55 of 2004. All Retirement Villages dispute resolutions are now determined by SAT's standard appeal process.

21. Termination of a Strata/Survey- Strata Scheme

21.1 Termination of a Strata Scheme

A strata scheme can be terminated by unanimous resolution. The effect of the termination is to revert to the original land parcel with a title being issued in the names of all of the registered proprietors as tenants in common in shares proportional to their unit entitlement.

Easements created between strata lots inside the scheme and by-laws, etc will terminate at the same time as the registration of the STGR Form 15. Easements in gross and easements entered into by the strata company with parcels outside the scheme or, previously registered easements carry forward and are registered on the new title.

Where a strata scheme is to be terminated a new deposited plan depicting the parent parcel as a whole lot must be lodged if that parent parcel is not a whole lot or have a unique parcel identifier. The plan must show all subsisting interests of a spatial nature and in such cases a schedule of interests and notifications must be included. A CSD file must be lodged with the deposited plan.

21.2 Termination by Unanimous Resolution

The registered proprietors of lots in a strata scheme may resolve by unanimous resolution that the strata scheme be terminated. Where the parcel is not to be transferred, a TLA Form A5 signed by the strata company is required and must be supported by:

- a Notification of Termination of a scheme (STGR Form 15); and
- the (unencumbered) duplicate certificates of title if any for each of the strata lots.

The Registrar of Titles will terminate (cancel) the Strata Plan and a title will be created and registered for the parcel, in the name of all the proprietors as tenants in common in undivided shares proportional to the unit entitlements of their respective lots. The land description reverts to the underlying freehold parcel.

Where the whole of the parcel is to be transferred, the lot proprietors may by unanimous resolution direct the strata company to execute the transfer. The transfer is prepared in the name of the strata company as the transferor and must be supported by:

- a Notification of Termination of a scheme (STGR Form 15);
- a certificate of the strata company (STGR Form 14); and
- the unencumbered duplicate certificates of title (if any) for the strata lots.

Upon registration of the transfer, the Strata Plan is cancelled and a new title is created and registered in the name of the transferee in respect of the land transferred.

If only part of the underlying parcel is being transferred the transfer process must be supported by a new Deposited Plan. This Plan must show a Lot or Lots for the land being transferred and a Lot for the land to be retained by the Strata Lot owners. An application on a TLA Form A6 for a balance title must be lodged simultaneously with the transfer. This application must be in the name of all the lot proprietors.

21.3 Variation upon Damage or Destruction

Where a building is damaged or destroyed, the District Court may, on application by either the strata company, a proprietor or a registered mortgagee of a lot, make an order terminating the scheme. On receipt of an application on a duly executed TLA Form A5 together with a copy of the order, the Registrar of Titles will make the appropriate entry on the Strata Plan. The effect of the entry is the same as provided in the STA for termination of strata schemes (section 30) and survey-strata schemes (section 30A).

For a variation upon taking of part of the land in the parcel, see [Chapters 18.11 and 18.12](#).

21.4 Termination by Taking of the Whole of the Parcel

Land may be taken from a strata scheme under the provisions of Part 9 of the Land Administration Act, 1997 (replacing similar provisions in the Public Works Act, 1902).

Under section 29C of the STA, the Governor may, in an appropriate notice, declare that the strata scheme is terminated. The Registrar of Titles will register the land in the parcel in the name of the Crown or other authority in which the land has vested under the notice.

21.5 Termination by Order of District Court

The District Court may, on the application of the strata company or a proprietor or registered mortgagee of a lot within a scheme, make an order terminating a strata/survey-strata scheme. If an Order is made terminating the scheme, the strata company must register the Order by the lodgement of an application on a TLA Form A5 executed by the strata company that is accompanied by a copy of the Order of the District Court.

The Registrar of Titles will cancel the Strata Plan and a title will be created and registered for the parcel, in the name of all the proprietors as tenants in common in undivided shares proportional to the unit entitlements of their respective lots.

21.6 Termination of a Survey-Strata Scheme

While there may be certain advantages being an owner in a Survey-Strata Scheme as opposed to a Strata Scheme, Survey-Strata Lot owners are faced with a different set of rules when they resolve to terminate their scheme. Unlike Strata schemes where the unit entitlement is based on capital value, the unit entitlement for Survey-Strata schemes is based on site value and may be further complicated by the existence of Common Property Lots.

A duly convened meeting of the Strata Company must be held and unanimous resolution passed in order to terminate. Survey-Strata Schemes can only be terminated with the consent of the WAPC under Section 30A (2) (b) of the STA.

Where it is intended to convert Survey-Strata Lots to Freehold Lots by termination a Form 15 is registered together with a certificate by the WAPC consenting to termination. This is a rare occurrence, however the process must be supported by a Deposited Plan with the purpose of "Conversion" and signed by a Licensed Surveyor eligible to lodge plans at Landgate.

If no Field Book was lodged to support the Survey-Strata Plan to be terminated, a re-survey will be necessary and a Field Book for that Survey must be lodged. The "Conversion" plan must retain the same Lot numbers as depicted on the Survey-Strata Plan with Common Property Lots being amended by removing the "CP" prefix. The following notation must be endorsed on the Conversion Plan:

"CREATED FOR ISSUING OF CERTIFICATES OF TITLE UNDER THE
TRANSFER OF LAND ACT 1893 AND THE STRATA TITLES ACT 1985
FOLLOWING TERMINATION OF SURVEY-STRATA PLAN
_____. BY APPLICATION _____"

Certificates of Title under TLA will:

- Then issue for each former Survey-Strata Lot.
- Not issue for the common property Lots until a transfer under Section 30A (4) of the *Strata Titles Act 1985* is registered.

In most cases it is intended to terminate a Survey-Strata Scheme and proceed with a new development or convert the Lots in the Scheme back to what was the original parcel. Landgate requirements are as follows:

- Lodgement of a new Deposited Plan with purpose "Subdivision" depicting the proposed re-development.
- A new Field Book to support the new subdivision or where it is proposed to amalgamate the Survey-Strata Lots into the previously surveyed freehold parcel, no Field Book is required and the Deposited Plan may be "compiled" from original survey information. Approval of the Deposited Plan by the WAPC.
- Lodgement of an application for the new Title(s) the subject of the new Deposited Plan together with a Form 15 of the STGR and a certificate by the WAPC consenting to the termination of the Survey-Strata Scheme.

Surveyors should clearly indicate on their "Surveyors Report" the intention of the Plan. A "conversion" plan must still precede the plan of "Subdivision" however this "conversion" Deposited Plan can be created by a Landgate auditor provided the Surveyor pre-allocates a Deposited Plan number for that plan (see [Plan Example 43](#)).

Landgate will create a simplified “Conversion” Deposited Plan from the survey form of the Survey-Strata Plan as follows:

- by assigning a pre-allocated Deposited Plan number to a copy of the existing Survey-Strata Plan form.
- by adding in brackets, under the Common Property Lot numbers on the copy of the Survey-Strata Plan form the same Lot number, but without the “CP” prefix.
- by adding the following notation:

“DEPOSITED PLAN _____ CREATED FOR ISSUING OF
CERTIFICATES OF TITLE UNDER THE TRANSFER OF LAND ACT 1893
IN LIEU OF UNDER THE TRANSFER OF LAND ACT 1893 AND THE
STRATA TITLES ACT 1985 FOLLOWING TERMINATION OF SURVEY-
STRATA PLAN _____ BY APPLICATION _____
PRIOR TO ISSUE OF CERTIFICATES OF TITLE THE SUBJECT OF
DEPOSITED PLAN _____ BY APPLICATION _____ ”

Surveyors should note that only the Deposited Plan marked with the purpose “Subdivision” is to be endorsed by the WAPC.

The registration process is to lodge the “Notification of Termination of a Scheme” document (see Form 15 of the STA) simultaneously with the appropriate transfer(s) document for the former Common Property Lot(s) under Section 30A(4) of the STA and the Application to register the “Subdivision” Deposited Plan. Where the former Survey-Strata Lots are not in a single proprietorship appropriate Transfer documents are also required to effect the required ownership of the Lots on the “Subdivision” Deposited Plan.

Easements created on a Survey-Strata Plan under Regulations 14E to 14I of the STGR will automatically be discharged on the termination of a scheme in which it has effect. See Section 5F (1) (a) of the STA. These easements cannot be brought forward onto a Conversion Plan or a Deposited Plan marked with the purpose “Subdivision”.

Easements created under Section 167 of the P & D Act (formerly Section 27A of the TP&D ACT) may be brought forward onto the new Deposited Plans however should they no longer be required they must be “Extinguished” by an Application prior to the registration of a Notification of Termination.

Similarly easements created under Section 136C of the TLA may be brought forward provided they are not between lots within the scheme, in which case they must be “Discharged” by application under Section 136J of the TLA.

Easements created by document follow the same procedures and where necessary are to be surrendered by application. All existing easements affecting a Survey-Strata must be given careful consideration when the termination option is adopted.

21.7 Cancellation of a Strata/Survey-Strata Plan

For various reasons existing Strata/Survey-Strata Plans occasionally need to be cancelled:

- If a land owner has had a survey carried out to create a Strata Scheme and then decides that the scheme should not proceed, a written request to cancel the Strata Plan is required from the owner/s to the Supervisor, Strata Plan Audit, Landgate.
- If a previous Strata Plan was lodged but never registered (Application for new titles never lodged) and a new Strata Plan has been lodged over the same parent parcel (due to a change in the type of scheme, configuration or number of Lots), the previous Strata Plan must be cancelled.

The Surveyors Report (Chapter 2.5) can be used to request the cancellation of the redundant Strata Plan.

Any Authority that has an interest that would have been automatically created upon registration of the Strata/Survey-Strata Plan should be notified of the intention to cancel. A letter of acknowledgement should be obtained from any such Authority.

On receipt of a cancellation request, the Strata Plan is cancelled and SmartPlan is updated to show a status of "Cancelled". The Strata Plan is stamped to show Cancelled on all sheets.

The following Authorities are notified by letter of the cancellation:

- WAPC (Department of Planning)
- Local Government
- Valuation Services of Landgate
- State Revenue (Dept of Treasury and Finance)
- Water Corporation
- Western Power
- WestNet Energy

A letter is also sent to the owner or surveyor who requested the cancellation.

A fee is charged by Landgate for cancellation of the Strata/Survey-Strata Plan.

22. Appendix A, B, C & D

22.1 Appendix A: Index of Flow Charts

Figure 1	Local Government Approval Process- 2-5 Lots
Figure 2	WAPC Process delegated to Local Government for More Than 5 Lots
Figure 3	WAPC Process for “Vacant Lot” Strata Plans
Figure 4	WAPC Process for Survey-Strata Plans
Figure 5	Complete Strata/ Survey-Strata Process
Figure 6	Landgate Audit Process (Non – Lot Sync)
Figure 7	Standard Plan Process for Built Strata exempt from WAPC approval, Built Strata Requiring WAPC approval not Delegated to Local Government, Vacant Lot Strata & Survey-Strata
Figure 8	Plan Process for Built Strata requiring WAPC approval and Delegates to Local Government
Figure 9	Lot Synchronisation Process (Lot Sync)
Figure 9A	Letter of Acknowledgement for the Document Registration Date (Lot Sync)

Figure 1: Local Government Approval Process 2-5 lots

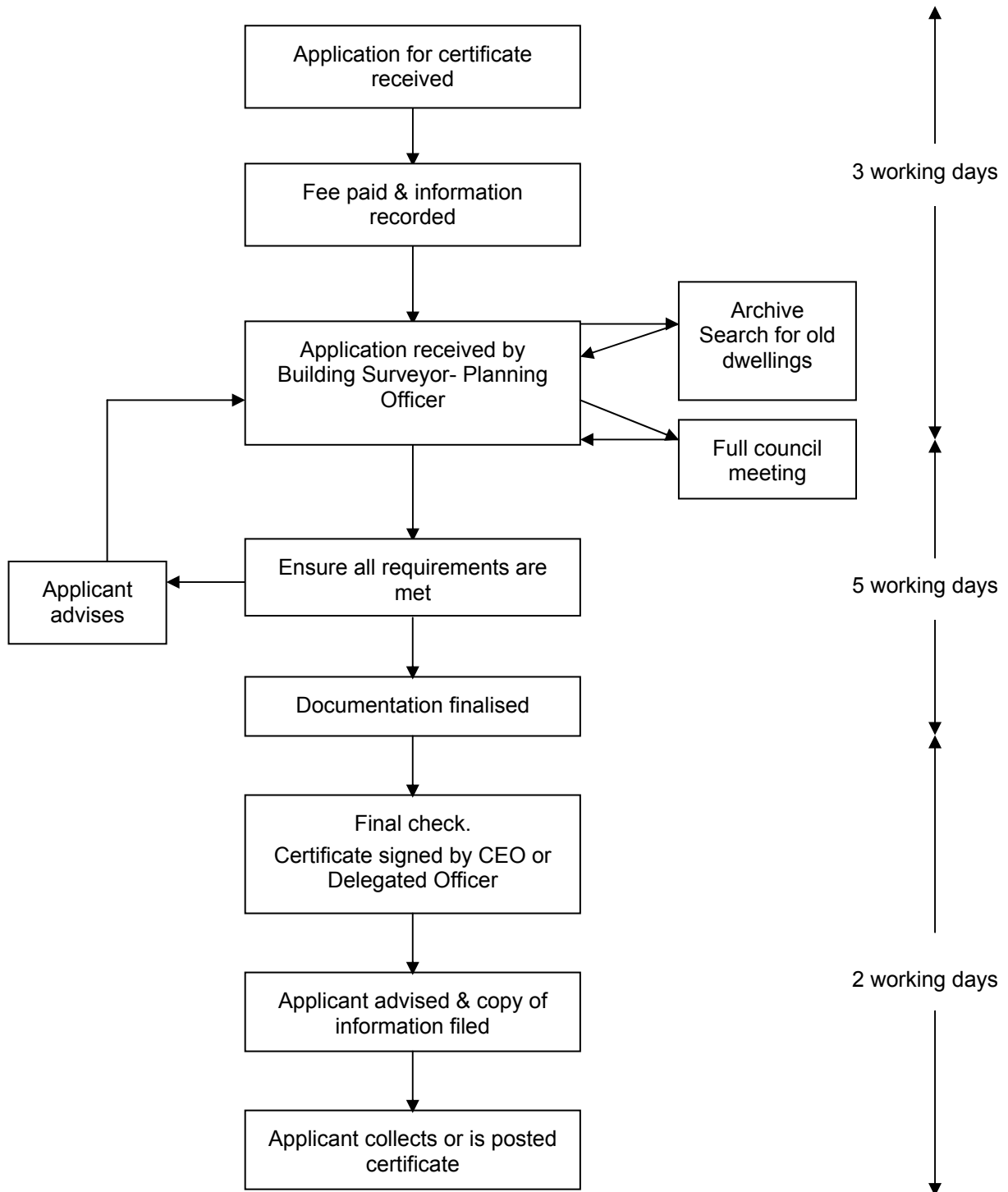


Figure 2: WAPC Process for More Than 5 Lots

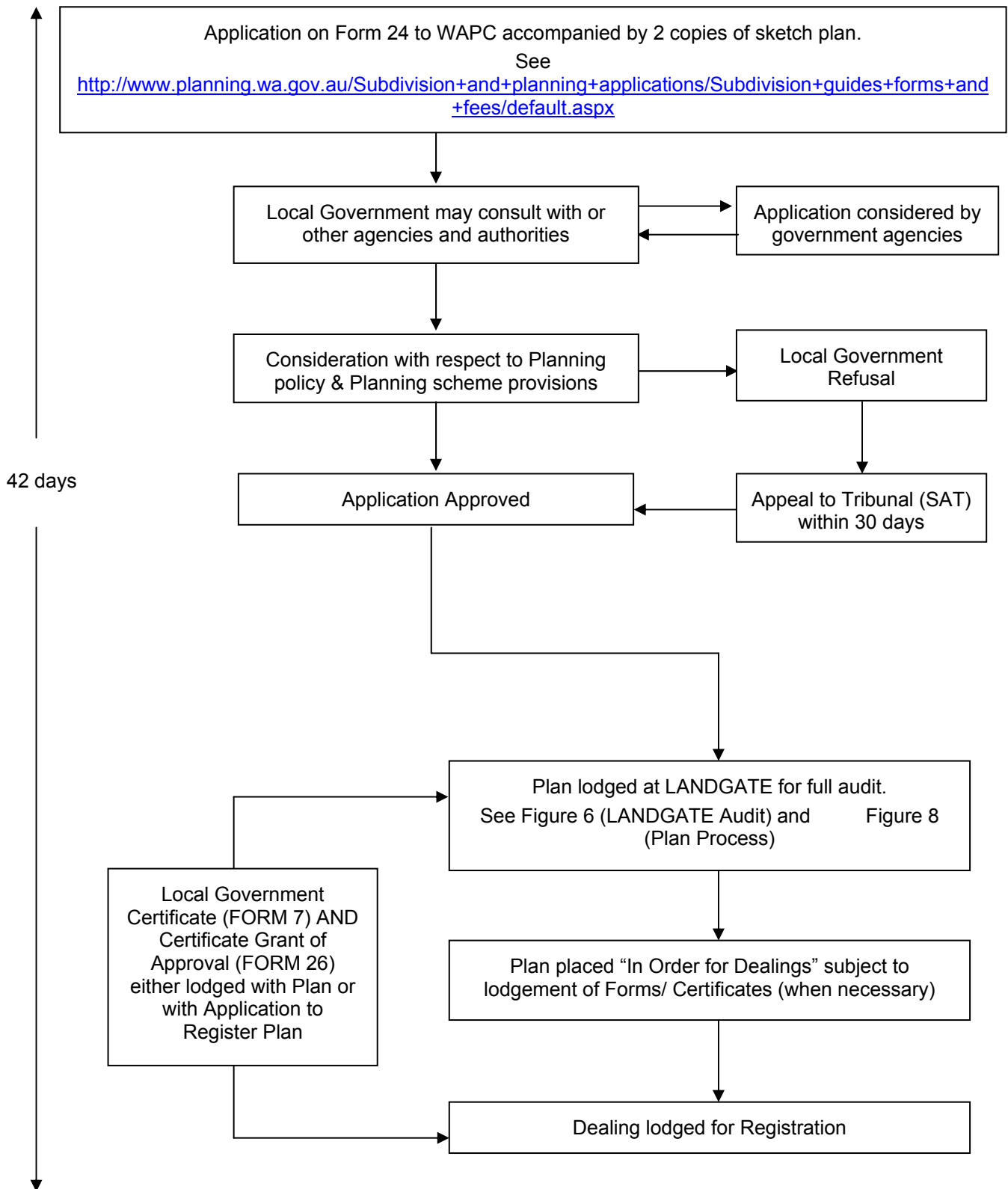


Figure 3: WAPC Process for “Vacant Lot” Strata Plans

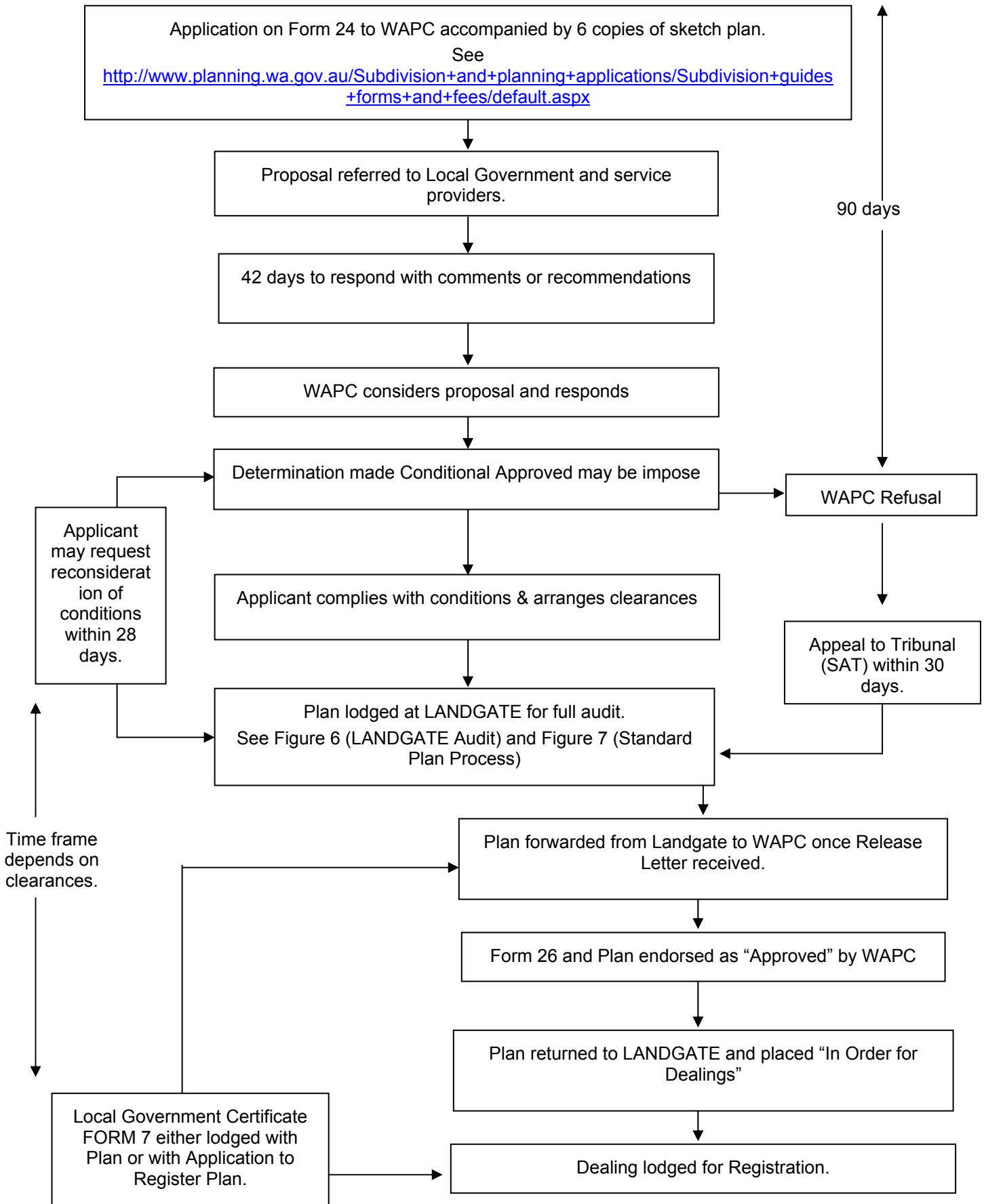


Figure 4: WAPC Process for Survey- Strata Plans

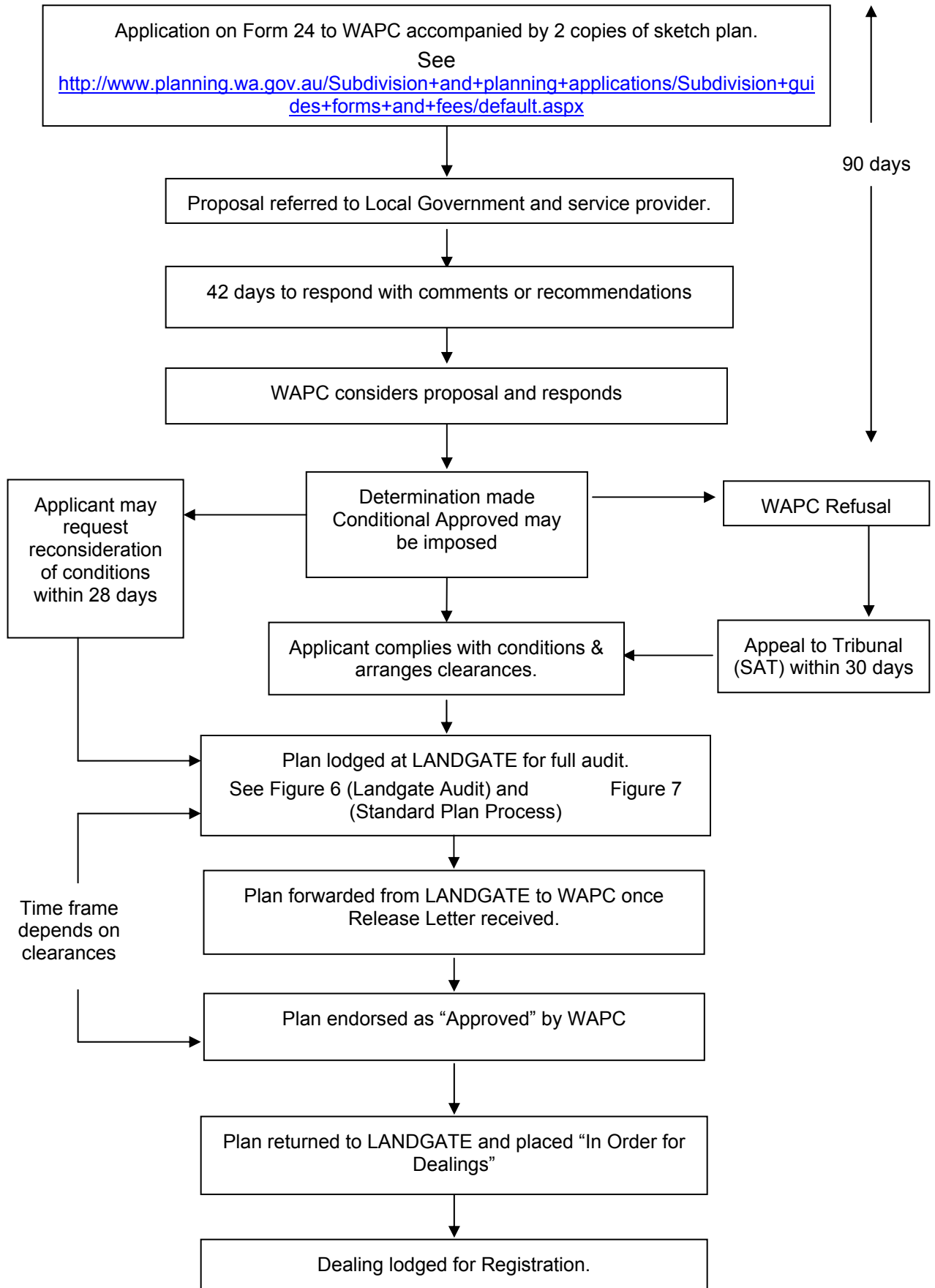


Figure 5: Complete Strata/ Survey- Strata Process

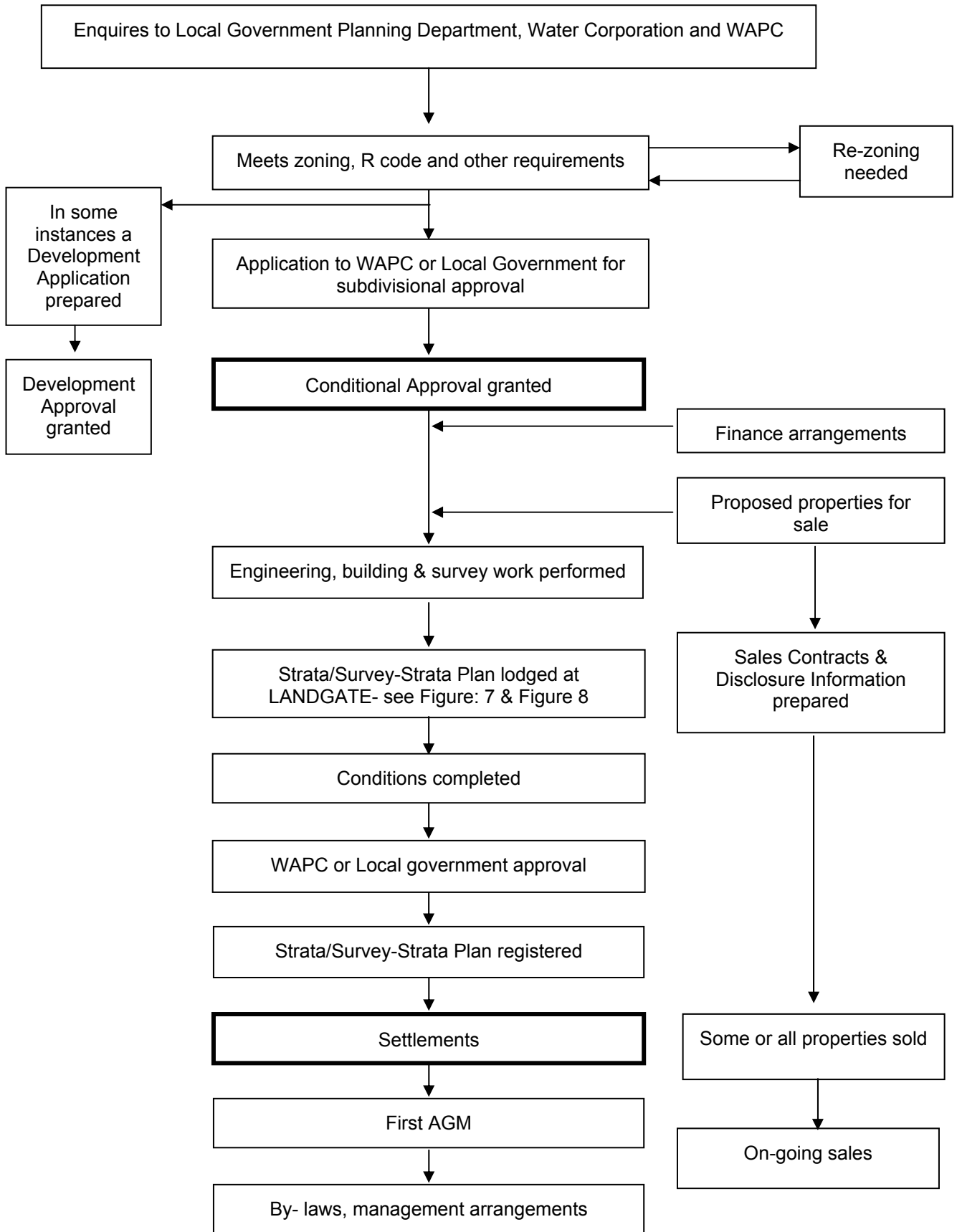




Figure 6: Landgate Audit Process

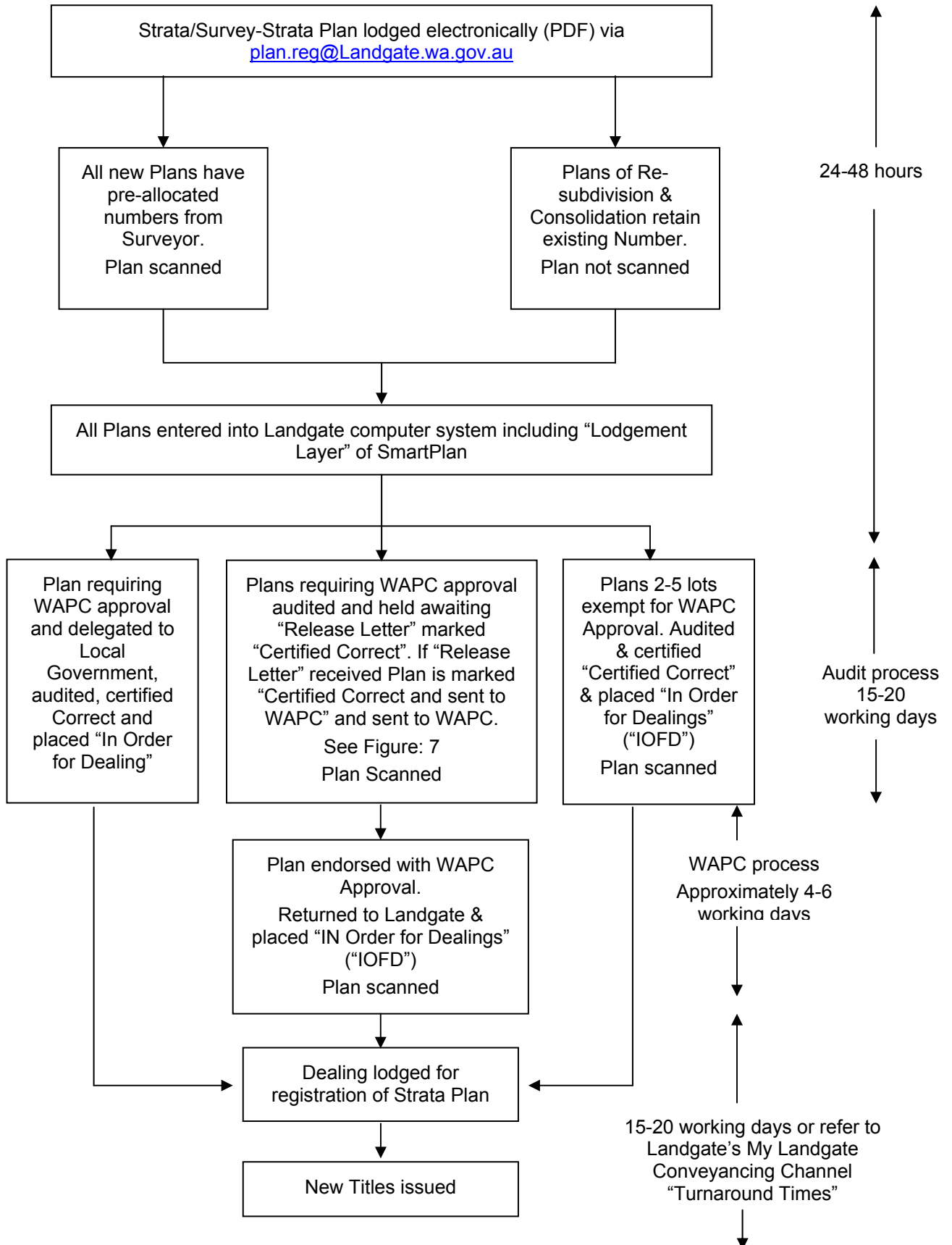




Figure 7 Standard Plan Process

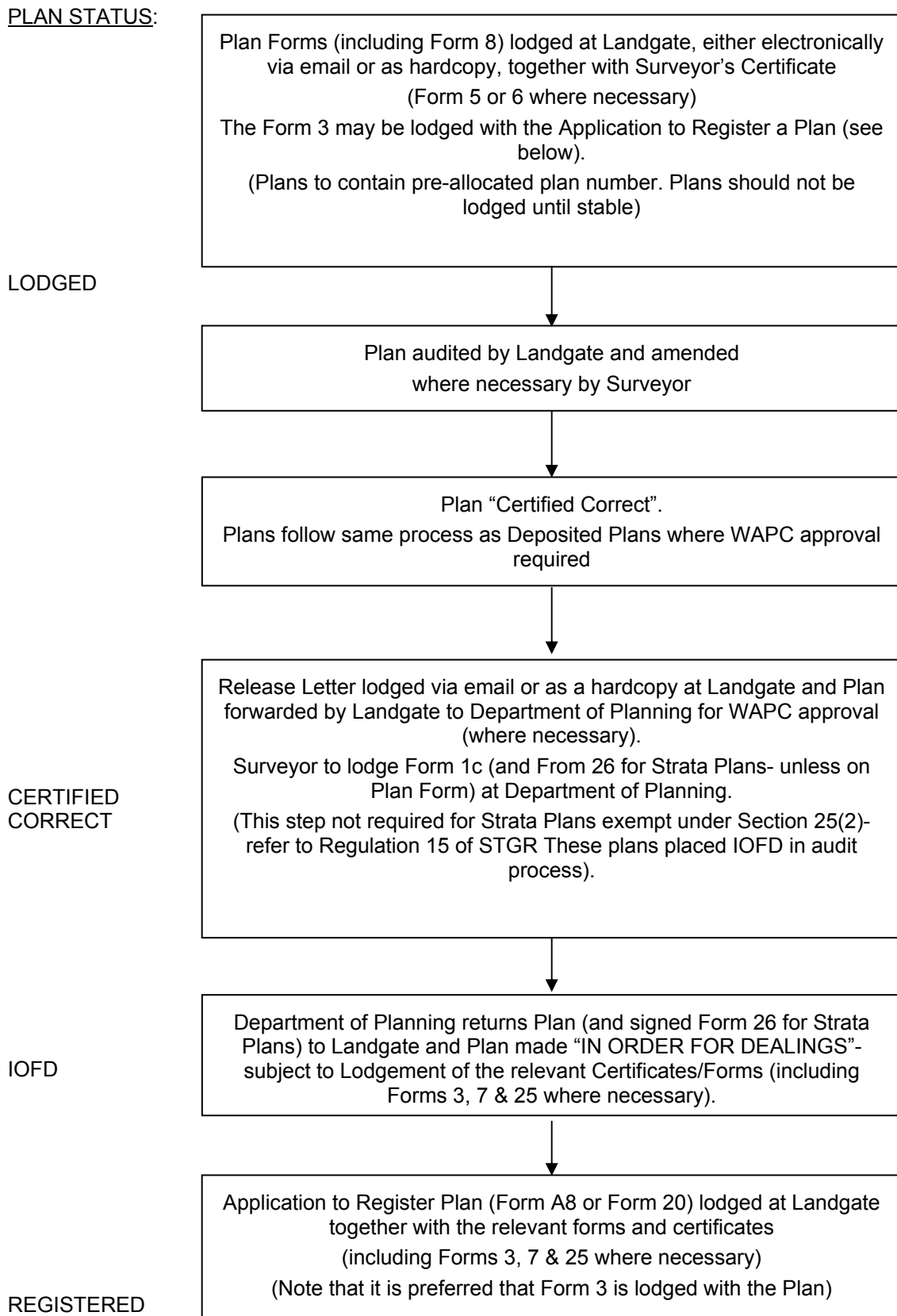




Figure 8: Plan Process for Built Strata requiring WAPC approval and Delegated to Local Government

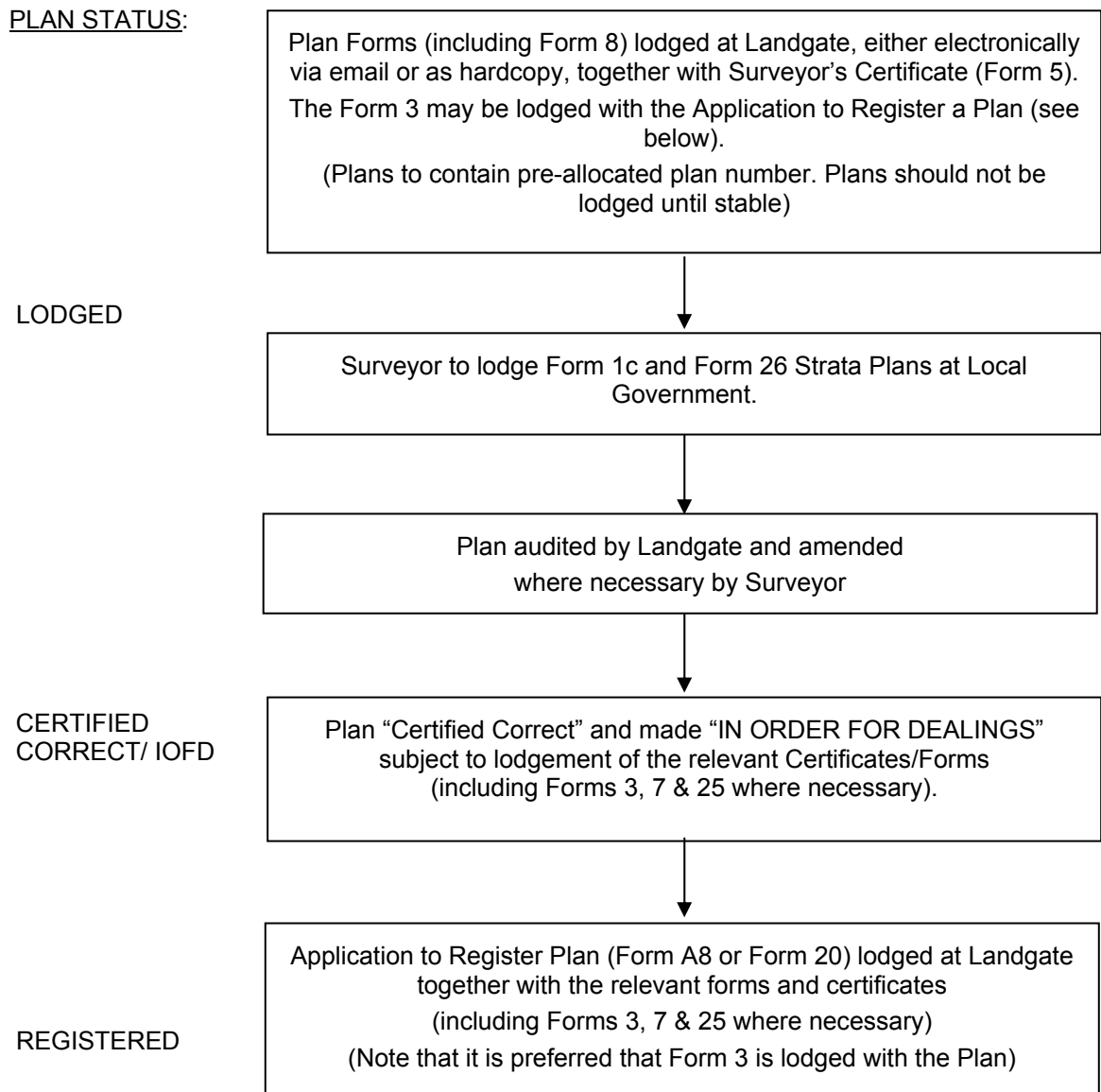


Figure 9: Lot Synchronisation Process (Lot Sync)

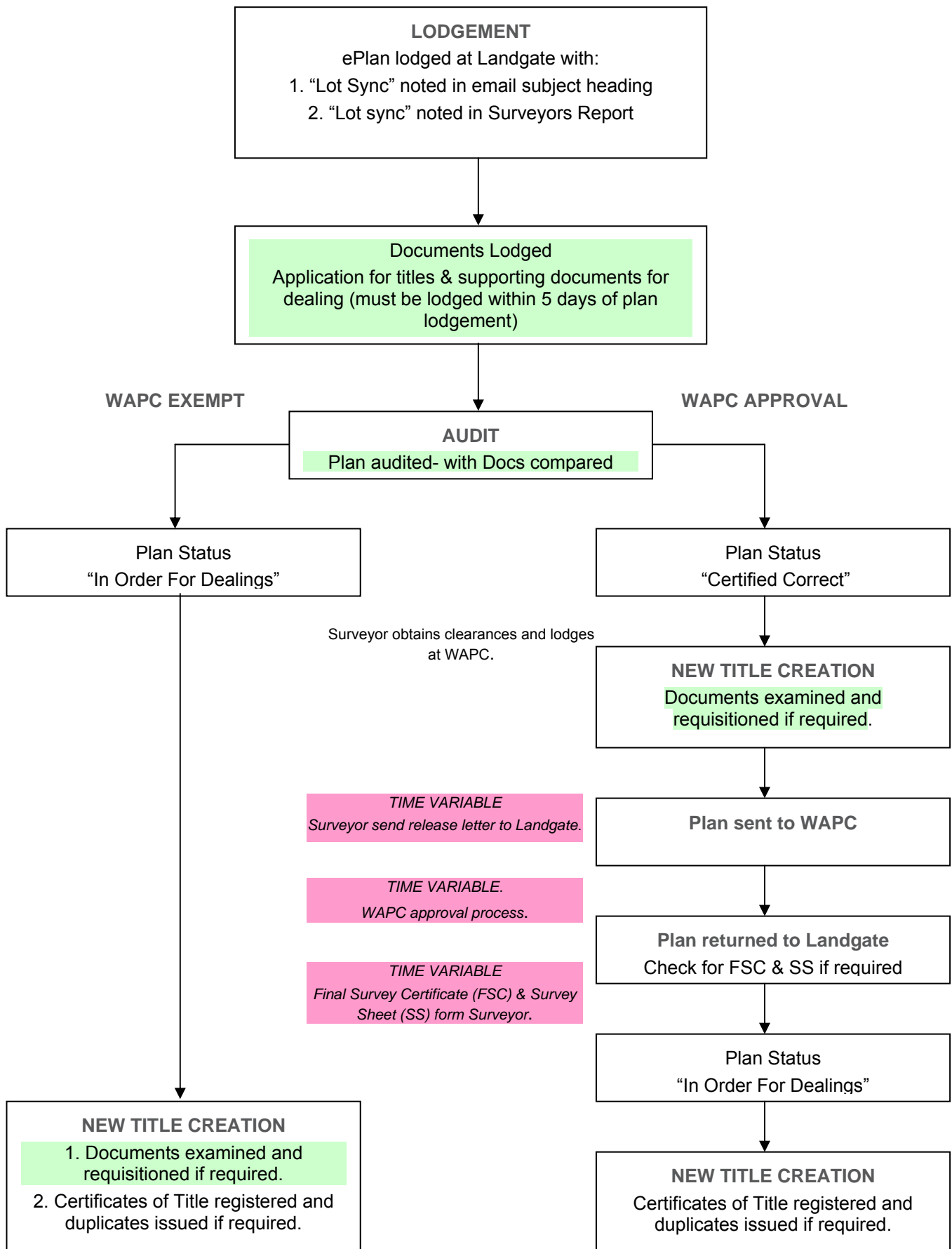




Figure 9A: Letter of Acknowledgement for the Document Registration Date (Lot Sync)

Landgate
Midland Square
Midland

I am the (Solicitor/Settlement Agent) for the applicant. I have authority to make and to authorise on behalf of such persons the following amendment.

I acknowledge that the registration date for the documents necessary to issue Certificates of Title and any following documents for SP will be altered to concur with the yet to be established "In Order for Dealings" date of the said Strata Plan.

Signed

Position

Date

22.2 Appendix B: Types of Easements Created on Plans

Plan Type.		Transfer of Land Act 1893.	Strata Titles Act 1985.
New Strata Plan	Easement Types	ROW, footway, water, drainage, gas, electricity, TV signals, party wall, eaves and gutters, sewerage, motor vehicle parking (Ss 65(2)&(3), Part IVA esp. s136C, Schedules 9 & 9A)	NIL
	In Favour Of	Any land or in case of local or public authority, in gross	N/A
	Consents	Yes	N/A
New Survey-Strata Plan	Easement Types	ROW, footway, water, drainage, gas, electricity, TV signals, party wall, eaves and gutters, sewerage, motor vehicle parking (Ss 65(2)&(3), Part IVA esp. s136C, Schedules 9 & 9A)	Vehicle Access, Light and Air, Party Wall, Intrusion, Pedestrian Access (Ss 5D-H & Regs 14A-14I)
	In Favour Of	Any land or in case of local or public authority, in gross	Any lot on Survey-Strata Plan
	Consents	Yes	Yes
Merger Sketch	Easement Types	NIL	Vehicle Access (S 21W & Reg 14E)
	In Favour Of	N/A	Any lot on Strata Plan <input type="checkbox"/>
	Consents	N/A	Encumbrancers of lots where decrease in pro rata unit entitlement
Conversion Plan	Easement Types	NIL	Vehicle Access, Light and Air, Party Wall, Intrusion, Pedestrian Access (Ss 5D-H & Regs 14A-14I)
	In Favour Of	N/A	Any lot on Survey-Strata Plan
	Consents	N/A	Yes

22.3 Appendix C: Table of Plan Examples

These examples are original Plans or appropriate parts of Plans that have been scanned. They are only intended to be indicative of that particular circumstance and may not necessarily reflect what is shown on the original Plan. The Plan forms and their presentation may not reflect Landgate's current requirements.

	Plan	Type	Description
1	49504	Strata Plan	Section 3AB, 136C TLA Easements, First Floor Balconies, Location Plan Option 3 Chapters 3.2, 8.5, 11.3
2	47494	Strata Plan	Vacant Lot, Section 3AB, CREATING, Section 165 P & D Act Notification, Location Plan Option 1 Chapters 3.3, 8.5, 10.15, 11.3
3	49202	Survey-Strata Plan	CP Lot Above, 167 P & D Act, Easement, Reg 14E Vehicle Access Easement with Apportionment of Upkeep Chapters 3.4, 6.7, 9.1; 10.15; 12.4
4	42648	Survey-Strata Plan	CP Lot Above Showing Portions of Variable Limits Chapters 3.4, 9.1, 9.4.
5	48384	Strata Plan	Valuers Certificate on Plan Form, Spatial Mineral Reservation, Offsets within 2 metres of Parcel Boundaries, First Floor Balcony and Void, Location Plan Option 2 . Chapters 4.8, 10.15, 10.18, 11.3.
6	46485	Strata Plan	Multi Tier, Encroaching Awnings, Right of Carriageway Limited in Height Under Building, Form 26 on Plan Form, Depth Limit, Location Plan Option 4 Chapters 5.3, 8.5, 10.17, 11.3, 11.7.
7	50325	Survey-Strata PLAN	Showing Section 152 P & D Act Vesting, Reg.14H Intrusion Easement. Chapters 6.7, 10.19
8	46602	Survey-Strata Plan	Deferment of Water Corporation Headworks Charges, Pegs Offset to Lot Boundaries. Chapters 5.9, 12.4.
9	43439	Re-Subdivision Survey-Strata Plan	Showing Notations and Spatial Easements to be Created After Registration. Chapter 17.14
10	48338	Survey-Strata Plan	Common Property Lot, Section 167A TLA Implied Easement, Intrusion Easement, Spatial Restrictive Covenant, Position of Buildings and encroachments. Chapters 6.1, 6.7, 9.4, 9.5, 9.6, 10.12, 10.15, 12.4, 12.6.
11	46481	Strata Plan	Notation of Easement Benefit (Encroachment), Form 26 on Plan Form, Airspace above Building as Common Property' Location Plan Option 1 . Chapters 6.5, 8.2, 8.7, 11.3, 11.7, 12.6.
12	45695	Survey-Strata Plan	Section 136C TLA Party Walls, Section 167 P & D Act. Chapters 5.3, 6.6; 6.9, 10.12, 10.15.

	Plan	Type	Description
13	45506	Survey-Strata Plan	Creating Reg 14G Party Wall Easements, Spatial Mineral Reservation, Spatial Depth Limit Chapters 6.7, 10.17, 10.18
14	47616	Survey -Strata Plan	Section 129BA of TLA Spatial Restriction, Placement of Buildings, Creation of Road Widening Chapters 6.11, 9.5, 10.12, 10.14
15	26771	Re-Subdivision of Strata Plan	Spatial Restrictive Use Section 6 (1) STA, Location Plan Option 2 . Chapter 6.16.
16	45682	Strata Plan	Section 3AB, Common Property Above Buildings, Spatial Mineral Reservation, Location Plan Option 1 . Chapters 8.5, 10.15, 10.18, 11.3.
17	48777	Strata Plan	Stratum Wording Including Cubic Space Above and Below Buildings, Location Plan Option 1 . Chapter 8.5, 11.3.
18	48325	Strata Plan	Multiple Location Plans (Location Plan Option 6), Section 3 (2) (a) STA, Management Statement for Encroaching Balcony. Notations Section 165 P & D Act & 70A TLA Chapters 8.5, 8.6, 8.7, 10.15, 11.3.
19	46493	Strata Plan	Car bays, Balconies, Courtyards, Location Plan Option 4 . Chapter 8.6, 11.3.
20	48476	Strata Plan	Easement for Right of Support, Location Plan Option 2 . Chapter 8.7, 11.3
21	48325	Strata Plan	“Management Statement” Dealing with Balcony over Road. Chapters 8.7.
22	48562	Survey-Strata Plan	Showing Notation Required when in a “Special Survey Area” (SSA) Chapter 9.1.
23	48041	Survey-Strata Plan	Mineral Reservation CREATED IN TRANSFER over Whole Parcel, Easements in “Interests and Notifications” Schedule, building connections. Chapter 10.15, 10.18, 12.6.
24	49223	Strata Plan	Showing Voids allocated to Lots for Clarity, Location Plan Option 2 . Chapter 11.3, 11.4
25	47130	Strata Plan	Showing Vesting Lot. Section 152 P & D Act Chapter 10.19.
26	46004	Strata Plan	Using Section 3 (2) (b) to define Cubic Space above and below Buildings where Section 3AB could otherwise be used, Location Plan Option 1 . Chapter 11.3, 11.9.
27	8937	Merger	Building and Land, Form 36 combined with Form 3 (Valuers Certificates), Location Plan Option 1 . Chapters 11.3, 15.2, 15.4, 15.8, 15.14.

	Plan.	Type.	Description.
28	452	Merger	Building and Land Creating Reg 14E Vehicle Access, Parking and Turning Easements, Location Plan Option 1 . Chapters 11.3, 15.2, 15.10, 17.3.
29	16943	Conversion Survey-Strata	Of Strata to Survey-Strata Creating Common Property (CP) Lots above and below Lots to Protect Views and Control Future Development. Chapters 3.4, 9.1, 9.4.
30	5817	Conversion Survey-Strata	Creating CP Lot for Common Access. Chapter 16.1
31	7302	Conversion Survey-Strata	After Merger Option had been Exercised, Creation of Reg 14G Party Walls, Reg 14H Intrusion, Creation of CP Lot. Chapters 15.2, 16.1, 16.4, 16.6.
32	6517	Conversion Survey-Strata	Creating Reg 14E Vehicle Access Easement, Reg 14G Party Wall Easements. Chapter 16.4
33	14384	Re-Subdivision of Strata Plan	Creates a Vacant Lot, Location Plan Option 1 . Chapter 11.3, 17.1
34	50979	Strata Plan	Shows Road Widening created under Section 168 (3) of the P & D Act. Chapter 8.9
35	39191	Survey-Strata Re-Subdivision	Re-Subdivision of "Canal" Development, Management Statement, Multiple Re-Subdivisions Inundated Lot Boundaries. Chapter 17.4
36	39106	Consolidation	Of Lots Within a Strata Scheme Not Requiring a Location Plan, showing overlay common point "c". Chapter 17.6
37	22873	Consolidation	Of Multiple Lots on a Strata Plan with Multiple Owners creating Multiple Lots of Consolidation on a Plan. Chapter 17.6.
38	48888	Survey-Strata Plan	Plan Showing Addition of New "Interests and Notifications" Schedule With Multiple Easements Over the Same Portion of a Lot Chapters 10.15, 12.7
39	44120	Consolidation	Of Survey-Strata Lots, Unit Entitlement Added together to Create Value for New Lot, No Valuer Required. Chapter 17.9
40	43564	Re-Subdivision Of Survey-Strata Plan	Plan creating extra lots & a CP Lot and 167 P & D Act Easement. Chapters 7.8, 17.13.
41	44996	Survey-Strata Plan	Plan showing Acquisition of Additional Common Property (CP4) Then Re-Subdivision of CP4 and Lot to Form a New Lot Spatial benefits within the scheme. Chapters 18.5, 18.8.

	Plan	Type	Description
42	31689	Replacement	Plan Upon Taking (Resumption) under Section 29B, STA. Chapters 18.11, 18.13
43	46139	Termination	Of Survey-Strata Plan and Conversion Deposited Plan 43896 Followed by Deposited Plan 43287. Chapter 21.6.
44	41146	Re-Subdivision of Survey-Strata Plan	Plan in a "Special Survey Area" where a FSC is required. Chapters 9.1, 12.2, 17.8.
45	47639	Survey-Strata Plan	Creating Reg 14H Intrusion Easement showing Elevation Sketch with relationship to Parcel Boundary, Existing Section 129BA of the TLA Spatial Restriction carried forward. Chapters 6.7; 6.11.
46	49343	Survey-Strata Plan	Easements: Existing <i>Energy Operators (Powers) Act 1979</i> and creating 167 P & D Act easement. Chapters 5.3, 6.7, 9.6 10.15.
47	51092	Strata Plan	Easement: 136C TLA Motor Vehicle Parking (Car Stacker). Extract from Management Statement dealing with Car Stacker, Location Plan Option 6 . Chapter 8.10, 11.3.
48	49422	Survey-Strata Plan	Survey carried out using Deferred Final Marking (Special Survey Area guidelines) DFM consent letter, Initial Survey Certificate and Final Survey Certificate. Chapter 9.9
49		Strata Plan	Spatial depiction of existing Restrictive Covenant. Existing Sec 129BA TLA spatial restriction brought forward, Location Plan Option 1 . Chapter 6.11, 11.3.
50		Strata Plan	Multi Tier scheme using STGR 37AA to define boundaries under Sec 3(2)(b), Location Plan Option 6 . Chapter 8.4, 11.3
51		Strata Plan	Showing Section 152 P & D Act- Vesting on 2 Lot Built Strata. Chapter 5.7, 10.19.
52		Survey-Strata Plan	Plan creating Section 167 P&D Act Regulation 33(b) Easement, Imposing Road Access Conditions under Section 150 P&D Act (Regulation 30 <i>Planning and Development Regulations 2009</i>) Chapter 5.3, 6.7, 6.11.
53		Strata Plan	WAPC approval delegated Local Government- Form 26 Chapter 4.4, 4.8, 5.3.

	Plan	Type	Description
54	51777	Re-subdivision of Strata Plan	Road widening created under Sec 168(3) P&D Act. Chapters 8.9, 17.14
55	61247	Strata Plan	Single Tier scheme (Stratum including Cubic Space above & below building part lots excluding portion of building above common property). Chapter 8.5.
56	51276	Replacement	Application for Title by Possession (Type A) Chapter 14.12.

22.4 Appendix D: Guidelines for Electronic Lodgement of Strata/ Survey-Strata Schemes

These guidelines have been adapted from those that appear in the Survey and Plan Practice Manual. Minor changes have been made to suit circumstances applicable to strata plans.

1. General

1.1. Lodging Strata/Survey-Strata Plans and Field Books Electronically

These Guidelines specify the practices for lodging Strata/Survey-Strata Plans and Field Books electronically at Landgate. For the purposes of these Guidelines Strata/Survey-Strata Plans lodged electronically are referred to as ePlans and field books lodged electronically are referred to as “p-FBS”.

1.2. Electronic Lodgement is compulsory for all Strata/Survey-Strata Plans

Electronic lodgement is compulsory for all Strata/Survey-Strata Plans. Surveyors may still lodge Field Books in an approved hardcopy format.

1.3. Option to lodge e-Plans is limited

Surveyors must have access to Adobe Acrobat to digitally certify ePlans (refer Guideline 3 below) and be registered with Landgate as a surveyor approved to lodge Plans electronically. To become registered, the surveyor’s ‘User Certificate’ must be exported to Landgate as a Form Data File (FDF) via email addressed to plan.reg@landgate.wa.gov.au. Landgate will use this certificate to verify the digital signature on the Plans signed by that surveyor. Landgate will contact the surveyor in the first instance to confirm the Certificate details. Landgate will also provide the surveyor with an ‘ePlan Kit’ to enable ePlans to be prepared in accordance with these Guidelines.

2. Approved ePlan Format

2.1. Pre-allocated SP's

Surveyors must obtain a pre-allocated Strata/Survey-Strata Plan number prior to lodgement (refer to [Chapter 10.4](#)). The Plan number must be shown on the Plan in the position designated on the Plan form.

2.2. ePlans must be vector and text based

Strata/Survey-Strata Plans lodged electronically to Landgate must be in a vector and text based Portable Document Format (PDF) file. PDF files based on images are not acceptable:

1. The document properties of the PDF file are to be filled out by assigning the SP number to the 'Title' (include 'sp' in lowercase followed by the number) and the surveyor's name as the Author (use first name initial, followed by a full-stop and space, then the surname). Insert in the 'Keywords' textbox whether the Plan is for a 'Strata' or 'Survey-Strata' plan.
2. Multi-sheet plans are to be included in a single PDF file with the sheets in numerical order. All sheets are to be orientated upright in landscape view.

2.3. Text within an ePlan

The text within an ePlan PDF file (including lot numbers, abutments, angles, distances and annotations) must be editable within Adobe Acrobat 7 (or higher). Landgate must be able to make minor amendments to the text in an ePlan. Landgate will not attempt to change any line-work within an ePlan – if changes to the line-work are necessary, the surveyor will need to make these adjustments and submit a replacement ePlan. The basic Plan forms need not be in an editable format but any information added to the forms must be editable.

The standard of drafting must comply with the requirements within the Strata Titles Practice Manual.

2.4. ePlan file size

The ePlan file sizes must not exceed 2 Mb. Individual sheets must not exceed 100 Kb for any A3 sheet. It is necessary to use the appropriate Acrobat Distiller settings for the size of the ePlan being created. The ePlan Kit includes documentation on how and where to install the settings files provided by LANDGATE.

2.5. CSD file

EPlans must be accompanied by a CSD file in accordance with Landgate's requirements. The CSD file is to be attached to the same e-mail used to lodge the ePlan.

3. Digital Signatures and Form Fields

3.1. The ePlan-Kit

The ePlan Kit includes templates of the form fields that must be inserted into Deposited Plans lodged electronically to Landgate. Table 1 lists the form fields that must be placed in the appropriate position within the title block of the Plan. The form fields must be named exactly (ie. taking into account case sensitivity) as shown within Table 1 and as per the templates included in the ePlan Kit provided by Landgate.

Table 1. Form Fields to include in an ePlan

Form field	Name	Type/format description
surveyor1	text Name of	Name of surveyor
surveyorsig1	signature	Surveyor's digital signature*
date lodged	text/date	Date the plan was lodged at Landgate
total fee	text/number	Lodgement fee paid
assessment	text/number	Receipt number
ManStat	text	Management Statement Yes or No
Cor	text	Landgate Cor. File
CCsig	signature	Auditor's digital signature
Registrar	signature	Registrar Approval
Applic	text	Application form number
WAPC Signature	text	WAPC approval number
IOFDtxt	text/date	"IOFD Subject to" text
IOFDsig	signature	Auditor's digital signature

*Refer to the ePlan Kit for instructions on placing these fields in multiple sheet ePlans.

Where surveyors or agents use their own Plan forms that differ from the standard Plan format, the templates for the form fields provided by Landgate may need to be adjusted to ensure the fields are positioned correctly on the ePlans. The ePlan Kit will also include instructions on how to place the form fields into ePlans. Note that different procedures will apply depending on the version of Adobe Acrobat used.

3.2. Surveyor to digitally sign ePlans

The surveyor must digitally sign the Regulation 54 certificate using Adobe Acrobat 'Self Sign Security' prior to lodging an ePlan. The digital signature should include a scanned image of the surveyors' signature.

3.3. Multi-sheet ePlans

For multi-sheet ePlans, each sheet must contain the surveyor's digital signature. The procedure for digitally signing a multi-sheet ePlan will vary depending on the version of Adobe Acrobat used.

3.4. Countersignature of surveyors

Where an ePlan needs to be countersigned by a surveyor eligible to lodge at Landgate, the countersigning surveyor must use a digital signature to certify the Plan in accordance with the Registrar's Directions (see [Appendix 9: Directions to Surveyors](#) of the Survey and Plan Practice Manual). The 'eligible surveyor' must also be registered with Landgate for lodging plans electronically (refer Guideline 1.3 above).

3.5. An ePlan must not be encrypted at the time of lodgement.

3.6. Backup copies

Surveyors must retain a backup copy of their digital signature profile file and be in a position to recall the password used to create the profile. Surveyors must ensure adequate measures are taken to protect the security of their digital signatures.

4. Lodgement Process for ePlans

4.1. Electronic Lodgement email address

Strata/Survey-Strata plans lodged electronically to LANDGATE must be sent via e-mail addressed to plan.reg@landgate.wa.gov.au.

4.2. Standard format to be adopted for Emails and Attachments

To assist Landgate to integrate emails received, it is requested that the following standard format be adopted for emails sent to plan.reg@landgate.wa.gov.au for the lodgement of Strata Plans.

Surveyors are requested to adopt the following:

- Only one Strata Plan is sent in each email to allow the contents of the emails to be managed and stored more efficiently;
- Information relating to a particular Plan, including the pdf of the Plan and the Surveyor's Report, are to be attached as individual documents – no zip file formats;
- A standard format to be used in the subject line/headings of the emails (see Table 1); and
- Uniform naming of the documents / information relating to a Plan. (see Table 2)

Landgate strongly encourages all plan related documents, such as release letters, to be sent via emails.

Table 1: Standard Email Subject Line/Headings

Type of Email	Email Subject Line/Headings
Lodgement of a new Strata Plan	Lodgement of SP***** For Lot Synchronisation Plans: Lodgement of SP***** - LOT SYNC If release letter included: Lodgement of SP***** - Release Letter
Lodgement of a Re-Subdivision SP	Lodgement of Re-Subdivision of SP*****
Lodgement of a Consolidation SP	Lodgement of Consolidation of SP*****
Lodgement of a Survey-Strata conversion	Lodgement of Survey-Strata Conversion of SP*****
Lodgement of a Merger	Lodgement of Merger of SP*****
Amended version of SP as per an Auditor's request	Amendment of SP***** With "Attention: Auditor's Name" in the contents of the email.
Replacement version of SP	Replacement of SP*****
Release Letters for SP	Release Letter for SP*****
STGR Forms for SP	Form * SP*****
Initial Survey Certificate for SP	ISC for SP*****
Survey Sheet & Final Survey Certificate for SP	Survey Sheet & FSC for SP*****

Table 2: Uniform Names for Documents Attached to Emails

Type of Attachment	Name of Attachment
SP regardless of whether it's a new, amended or replacement etc plan	SP*****
Survey Lodgement Self Assessment Form	Lodgement Form SP*****
CSD file	CSD File SP*****
Surveyor's Report	Surveyor's Report SP*****
Release Letter	Release Letter SP*****
Initial Survey Certificate for SP	ISC SP*****
Final Survey Certificate for SP	FSC SP*****
Various Forms for SP	Form * SP*****

4.3. Receipt advising e-Plan received

An automatic return email is sent to the lodging party when an eLodgement is received. Following reconciliation of the lodgement fee, Landgate will send a receipt advising that the ePlan has been lodged. Surveyors should retain this receipt for their records. If a receipt is not received by the surveyor within 3 working days, contact must be made with Landgate on 9273 7170 to ensure that the initial email was received lodgement.

5. Approved p-FB Format

Surveyors must obtain a pre-allocated field book number from Landgate prior to lodgement. The field book number must be shown in the p-FB in the position designated in the “Lodgement” section situated below the Surveyor’s Certificate inside the cover of the book.

Field books lodged electronically to Landgate must be in an A4 page size scanned “black and white” Portable Document Format (PDF) image file that is of a high standard of legibility. Scanning a field book in “black and white” at 300dpi would normally achieve the standard required. Vector graphics or text (converted to PDF) may be included in the p-FB. Landgate will reject a p-FB if the image quality is not of an adequate standard or the page sizes do not match with A4.

The “Document Properties” of the PDF file are to be filled out by assigning the field book number to the “Title” (include “fb” in lowercase followed by the number) and the surveyor’s name as the “Author” (use first name initial in upper-case, followed by a full-stop and space, then the surname with the first letter in upper-case and the remainder in lower-case).

Surveyors may include their own reference number within the “Keywords” textbox. This will allow a subsequent search to be made using that number if required:

- Multi-page field books are to be included in a single PDF file with the pages in numerical order. All pages are to be orientated upright in landscape view.
- p-FBs must not be encrypted at the time of lodgement.
- The p-FB file sizes should not exceed an average of 40 KB per page.
- Surveyors may include any relevant information in a p-FB that describes the survey. Pages created in CAD applications, pages or tables created in word processing or spreadsheets applications can all be converted to PDF and included in a p-FB where appropriate provided the pages do not exceed A4 size.

6. Surveyor's Certificate on p-FBs

Field books lodged electronically to Landgate must have the Regulation 17(2) certificate signed by the surveyor as part of the scanned image.

7. Lodgement Process for p-FBs

Field books lodged electronically to Landgate must be sent as an attachment in an e-mail addressed to lodge.fb@Landgate.wa.gov.au. The filename is to include the prefix "fb" (in lowercase) followed by the pre-allocated field book number and then the ".pdf" extension.

The e-mail used to lodge a p-FB must also include as an attachment a completed e-Lodgement Self Assessment Form (to obtain a copy of this form contact Landgate at the above e-mail address). This form must include the following information:

- Description of the Survey. This description is entered into SmartPlan and used for cross-indexing purposes.
- The pre-allocated field book number.

Landgate will send (via return e-mail) a receipt advising that the p-FB has been received and lodged. Surveyors should retain this receipt for their records. If a receipt is not received by the surveyor within 2 working days, contact must be made with Landgate on 9273 7423 to ensure that the e-mail was received.

8. Retention of Records

The Electronic Transactions Act 2003 (the Act) has strict requirements concerning the retention of records, especially for the 'First Party' to a transaction. Surveyors that lodge ePlans must ensure that they retain their copies of the documents such that they can be readily retrieved if necessary. Surveyors should also retain copies of any email/s related to the lodgement of ePlans. The Act allows for these records to be retained in electronic form if desired.