

Registrar General's Guidelines for Strata Schemes

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1 Introduction

The Registrar General's Guidelines for Strata Schemes are an initiative of NSW Land Registry Services (NSW LRS). Their intention is to establish NSW LRS requirements for strata scheme plans and thereby reduce delays by minimising the raising of requisitions on documents lodged for registration. The guidelines are based upon the requirements of the legislation and the [Lodgment Rules](#). They set out information needed by surveyors, solicitors and others in the preparation of strata scheme plans and associated instruments.

1.1 What is a strata scheme?

All strata schemes are depicted in strata plans. The strata plan is a subdivision of a parcel of Real Property land into separate lots and common property. Strata plans differ from conventional subdivisions in various ways:

- all lots are defined as a cubic space and must be limited in height and depth.
- every strata plan must have a building on the parcel.
- the lots are defined on the floor plan by the building or other permanent structures within the parcel.
- everything within the parcel which does not form part of a lot is common property.
- it is the responsibility of the owners corporation to maintain and repair common property.
- the owners corporation is a body corporate of all of the lot owners in a scheme.
- each lot in a strata plan is allocated a unit entitlement based upon its value relative to the other lots in the scheme. The unit entitlement represents that lot's share of the common property.

1.2 Legislation

With regard to strata plans in NSW LRS, the relevant legislation includes, but is not limited to, the following:

- [Strata Schemes Development Act 2015](#)
- [Strata Schemes Development Regulation 2016](#)
- [Strata Schemes Management Act 2015](#)
- [Strata Schemes Management Regulation 2016](#)

2 Requirements for a strata plan

See schedules 10 - 14 of the [Lodgment Rules](#).

All strata plans must be prepared by a land surveyor registered under the *Surveying and Spatial Information Act 2002*.

A strata plan can only subdivide fee simple land (including leasehold land) under the *Real Property Act 1900* (Torrens Title).

A strata plan can subdivide one or more lots in a deposited plan (if it is more than one lot they must be contiguous). This plan is known as the base plan.

The base plan must be a plan of survey which has connections to at least two Permanent Survey Marks.

A strata plan may not subdivide:

- a qualified or limited title
- a lot in a neighbourhood plan, or
- a perpetual lease from the crown.

The parcel to be subdivided must have a building or part of a building within its boundaries. Section 4 *Strata Schemes Development Act 2015* provides a definition for a building as follows:

'Building', in relation to a strata scheme or a proposed strata scheme, means a building containing a lot or proposed lot, or part of a lot or of a proposed lot, in the scheme or proposed scheme.

It is the opinion of NSW LRS that a building must be a permanent structure, with walls, a structural base and a structural cover.

3 Types of strata plans

3.1 Strata plan

This is the original plan and the scheme commences upon its registration.

3.2 Strata plan of subdivision

Section 13 and 14 *Strata Schemes Development Act 2015*

This plan subdivides lots, lots and common property or common property to create new lots or new lots and common property.

3.3 Strata plan of consolidation

Section 15 *Strata Schemes Development Act 2015*

This plan consolidates two or more lots in to a single lot. If there is common property which is a wall floor or ceiling which separates the previous lots this may be included as part of the consolidated lot. This land will vest in the name of the owner of the consolidated lot.

3.4 Building alteration plan

Section 19 *Strata Schemes Development Act 2015*

This plan depicts the boundaries of lots where the manner in which they were previously defined has changed. This includes:

- where a structure which was previously used to define a lot boundary has been demolished
- where a structure has been constructed and that structure now coincides with a lot boundary.

4 Components of the plan

All plans contain administration sheets and plan drawing sheets. See [Strata scheme forms](#) page.

Note This chapter provides information relating to the original strata plan only. Later chapters will deal with strata plans of subdivision and consolidation etc.

4.1 Administration sheets

As the name indicates these sheets contain administrative information concerning the strata plan. Administration sheets must be prepared on strata plan forms appropriate to the plan purpose and execution. The administration sheets are numbered separately from the plan in the format Sheet 1 of (x) Sheets, Sheet 2 of (x) Sheets etc. where (x) is the number of sheets in the series.

4.1.1 Strata plan form 3.01 and 3.02

3.01 should be used for the **original plan in a scheme** when the strata certificate is executed by an accredited certifier.

3.02 should be used for the **original plan in a scheme** when the strata certificate is executed by a local council.

3.01 or 3.02 will always be sheet 1 of the administration sheets. They contain various panels to provide the following information:

- Sheet numbering
- Registration details (Office Use Only)
- Strata plan number (Office Use Only)
- Plan Heading (identifying the land to be subdivided)
- LGA, Locality, Parish and County
- Whether the strata scheme is to be freehold or leasehold
- The Address for Service of Documents (on the owners corporation)
- The by-laws to be adopted by the scheme
- Surveyor's Certificate
- Strata Certificate.

4.1.2 Strata plan form 3.07

This form will always be sheet 2 of the administration sheets. It contains various panels showing the following information:

- Sheet numbering
- Registration details (Office Use Only)
- Strata plan number (Office Use Only)
- Valuer's Certificate
- Schedule of Unit Entitlement
- Surveyors reference.

4.1.3 Strata plan form 3.08

This form may be used if there is insufficient space on the preceding sheet for signatures and or the schedule of unit entitlements. It should always follow sheet 2 and the sheet(s) numbered accordingly. It contains various panels showing the following information:

- Sheet numbering
- Registration details (Office Use Only)
- Strata plan number (Office Use Only)
- Any information which does not fit on the preceding pages of the administration sheets
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Statements relating to Development Contracts and Management Statements where applicable
- Signatures and seals – see section 22 *Strata Schemes Development Act 2015*
- Surveyors reference.

4.1.4 Generally

The administration sheets will consist of at least three pages. A maximum of five annexure sheets, using strata plan form 3.08, may be added. If further annexure sheets are required approval must be sought from the plan and title advisor.

The administration sheets are numbered separately from the plan drawing sheets.

4.2 Plan drawing sheets

The drawing sheets must be prepared at A3 size on Plan Form 1. They must include a location plan and a floor plan. The floor plan must be prepared on a separate sheet to the location plan.

4.2.1 Location plan

The purpose of the location plan is to show the relationship between the building(s), lots external to the building(s) and the parcel boundaries.

4.2.2 Floor plan

The purpose of the floor plan is to define the vertical and horizontal boundaries of the lots in the strata plan. These boundaries are defined as structural boundaries, line boundaries or stratum statements.

5 Preparing the plan

[Administration sheets](#) all strata plans lodged for registration must be accompanied by administration sheets.

[Location plan](#) must be prepared on Plan Form 1 in accordance with schedules 10 and 12 of the Lodgment Rules.

[Floor plan](#) must be prepared on Plan Form 1 in accordance with schedules 10 and 12 of the Lodgment Rules.

[Structural boundaries](#) are boundaries which are defined by a structure and must be shown by thick lines.

[Line boundaries](#) are boundaries which are not defined by a structure and must be shown by thin lines.

[Stratum statements](#) are required if a lot is not limited in height and or depth by a structure.

[Buildings forming part of the lot](#) when it is intended that the buildings form part of the lot and not common property.

[Encroachments](#) in some case the building which is the subject of the strata scheme may encroach on the adjoining land.

[Affecting interests and section 88B instruments](#) Section 38(1) Strata Schemes Development Act 2015 provides that a section 88B instrument may be lodged with a strata plan, a strata plan of subdivision or strata plan of consolidation.

5.1 Administration sheets

All strata plans require administrative information to be provided. This information includes certificates, schedule of unit entitlement, schedule of street addresses, statements, signatures etc. The administration sheets contain various panels for the provision of this information.

The administration sheets for a strata plan will always consist of at least 3 sheets, being Strata Plan Form 3.01 or 3.02, Strata Plan Form 3.07 and Strata Plan Form 3.08. These sheets must be numbered as sheets 1, 2 and 3 respectively. If there is insufficient space on sheet 3 for the information required extra sheets may be added. All sheets must be numbered appropriately in the upper right corner.

The administration sheets are registered as part of the plan and when a copy of the registered plan is ordered the administration sheets will also be provided.

5.1.1 Strata plan form 3.01 and 3.02

One of these forms will always be sheet 1 of the administration sheets for the first plan of a strata scheme. It is the responsibility of the surveyor to complete all panels on this form except the Strata Certificate and the Office Use Only panels for the strata plan number and registration details.

5.1.1.1 Sheet numbering

Insert the total number of sheets of the administration sheets.

5.1.1.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note. If the plan has a pre-allocated plan number or was pre-examined the SP number maybe completed.

5.1.1.3 Plan heading

The plan heading is the panel containing the words, "PLAN OF SUBDIVISION OF". This must be completed by inserting the identity of the land being subdivided. The first plan in a scheme will always be a subdivision of a lot(s) in a deposited plan(s).

5.1.1.4 LGA, Locality, Parish and County

The current Local Government Area, Locality, Parish and County should be shown in the appropriate position.

5.1.1.5 Freehold or Leasehold Scheme

Strike out the inapplicable word (Freehold or Leasehold) to indicate the intended type of Strata Scheme.

5.1.1.6 Address for Service of Documents

The panel must show an address for service of documents on the owners corporation. The address should be an Australian postal address including a postcode (the address may differ from the location of the scheme).

5.1.1.7 By-laws

The administration sheets must indicate the by-laws intended to be adopted for the scheme. There are 2 options for completing this panel. Either model by-laws as set out in schedule 3 *Strata Schemes Management Regulation 2016* or provide a list of strata by-laws lodged with the plan.

If it is intended to adopt the "model by-laws for residential schemes", strike through "The strata by-laws lodged with the plan" and either A or B as required in regard to "Keeping of animals" and "Smoke penetration".

If it is not intended to adopt the model by-laws the statement regarding the model by-laws should be struck through. A list of by-laws must be lodged for registration with the plan. The by-laws must be prepared on Approved Form 7.

5.1.1.8 Surveyor's certificate

This panel must be completed and executed by a registered land surveyor.

All appropriate information should be entered and the inapplicable information should be struck through.

- Insert the name of the surveyor in the space after I,
- Insert the company name after of, if there is no company insert the locality of the business.
- If there are no encroachments, strike through the statements regarding encroachments completely.
- If there are encroachments on a public place, strike through item (b).
- If there are encroachments on land which is not a public place, strike through (a) and enter the creating instrument for the easement which has been created within part (b).
- Sign and date the certificate.
- Insert the surveyor ID as provided by BOSSI.
- Insert the surveyor's reference (maximum of 25 characters). The reference must be identical to that shown on the plan to provide a link between the documents. Following the surveyor's reference information in brackets may be added indicating version numbers of the document. This may vary between the plan and the administration sheets.

Before execution a surveyor must be satisfied that the plan complies with all the parts of the certificate. Attention is drawn to schedule 1 *Strata Schemes Development Act 2015*.

5.1.1.9 *Strata certificate*

5.1.1.9.1 Accredited Certifier

If the strata certificate is to be completed by an accredited certifier SP Form 3.01 should be used.

- The strata certificate should only be issued where the date of the valuer's certificate is no more than two months before the day on which the application is made for the strata certificate. See clause 7 *Strata Schemes Development Regulation 2016*.
- Insert the name of the accredited certifier after 'I'
- Insert the accreditation number
- If the plan is not part of a development scheme strike through statement (a) otherwise leave (a) intact
- If the building does not encroach on a public place strike through statement (b).
- If the building encroaches on a public place and the local council has granted a relevant planning approval in regard to the encroachment leave statement (b) intact.
- If the relevant planning approval contains a condition that utility lots are to be created insert the relevant lot numbers within statement (c).
- If there are no utility lots to be created strike through statement (c).
- Insert the certificate reference. This reference should relate to the certifier or council records.
- Insert the relevant planning approval number and the authority that issued it, if applicable.
- Sign and date the certificate.

5.1.1.9.2 Local Council

If the strata certificate is to be completed by a local council SP Form 3.02 should be used.

- The strata certificate should only be issued where the date of the valuer's certificate is no more than two months before the day on which the application is made for the strata certificate. See clause 7 *Strata Schemes Development Regulation 2016*.
- Insert the name of the local council

- If the plan is not part of a development scheme strike through statement (a) otherwise leave (a) intact
- If the building does not encroach on a public place strike through statement (b).
- If the building encroaches on a public place and the local council does not object to the encroachment leave statement (b) intact.
- If the local council is imposing a condition that utility lots are to be created insert the relevant lot numbers within statement (c).
- If there are no utility lots to be created strike through statement (c).
- Insert the certificate reference. This reference should relate to the certifier or council records.
- Insert the relevant planning approval number and the authority that issued it, if applicable.
- Sign and date the certificate and strike through Authorised person or General Manager as appropriate.

This certificate is completed and executed on behalf of the council by an Authorised Person or General Manager.

5.1.2 Strata plan form 3.07

This approved form is to provide the schedule of unit entitlement and the valuer's certificate.

5.1.2.1 Sheet numbering

Insert the sheet number and the total number of sheets of the administration sheets.

5.1.2.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number may be completed.

5.1.2.3 Valuer's certificate

The valuer's certificate is to certify the schedule of unit entitlement. This must be completed by a qualified valuer by inserting their name and signing and dating in the appropriate spaces. The date of the certificate must precede the date of the strata certificate but not by more than 2 months.

5.1.2.4 Schedule of unit entitlements

The schedule of unit entitlements must be shown in the appropriate panel in accordance with clause 7 *Strata Schemes Development Regulation 2016*.

The schedule must contain two vertical columns. The first should show the lot numbers in numerical sequence and the second should show the unit entitlement for each lot. The final row must show the aggregate of the unit entitlements.

All unit entitlements must be expressed in whole numbers.

Note Successively numbered lots with the same unit entitlement may be grouped in abbreviated form.

It is the responsibility of the surveyor to show the schedule of unit entitlements, however the unit entitlements must be based upon the market value of the lots in accordance with [schedule 2 Strata Schemes Development Act 2015](#) and determined by a qualified valuer.

If there is insufficient space on this sheet the schedule may be continued on Strata Plan Form 3.08

5.1.2.5 Surveyor's reference

Enter the surveyor's reference as on sheet 1.

5.1.3 Strata plan form 3.08

This form is to be used as an annexure to the preceding pages of the administration sheets. It will include information as follows:

- any information which cannot fit in the appropriate panels of the preceding administration sheets
- schedule street addresses
- statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- statements regarding development contracts and management statements
- signatures and seals which are required in accordance with section 22 *Strata Schemes Development Act 2015*.

5.1.3.1 Sheet numbering

Insert the sheet number and the total number of sheets of the administration sheets.

5.1.3.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number may be completed.

5.1.3.3 Schedule of unit entitlement

If the Strata Plan Form 3.07 does not have sufficient space to show the entire schedule of unit entitlement it should be continued on this sheet. The continuation of the schedule should appear before any other information.

Section 88B instrument

If it is the intention to create affecting interests upon registration of a section 88B instrument lodged with the plan, the panel must contain a statement as follows:

'Pursuant to section 88B Conveyancing Act 1919 it is intended to create the following affecting interests'

The list of affecting interest to be created as shown in Part 1 of the section 88B instrument should be provided after the statement.

If it is intended to release affecting interest the statement should be modified accordingly and the affecting interests to be released as shown in Part 1A of the instrument should be listed.

5.1.3.4 Schedule of street addresses

The Registrar General requires the surveyor to comply with the Surveyor General's Directions and provide a schedule of addresses for the lots in the strata plan.

The schedule must be in the format described in [Surveyor General's Direction No.7](#) (see clause 3.25 Table 6) and submitted to NSW LRS in the administration sheets ([approved form 3.08](#)) immediately following the schedule of unit entitlement.

Addresses must be provided for:

- common property;
- each new lot in a strata plan;
- a strata plan of subdivision;
- a strata plan of consolidation

It should be noted that the address for the common property may differ from the address for service of documents.

If an address or part of an address is not available, this should also be indicated in the schedule.

5.1.3.5 Staged Development

If the plan is stage one of a staged development it must be accompanied by a strata development contract and the administration sheets must include a statement as follows:

"THIS PLAN IS SUBJECT TO A STRATA DEVELOPMENT CONTRACT WHICH IS FILED WITH THE STRATA PLAN"

5.1.3.6 Part Strata Parcel

If the plan is a part strata development it will include a Strata Management Statement and the administration sheets must include a statement as follows:

"THIS PLAN IS SUBJECT TO A STRATA MANAGEMENT STATEMENT WHICH IS FILED WITH THE STRATA PLAN".

Note If a registered Strata Management Statement already exists for the building there is no requirement for this statement.

5.1.3.7 Signatures and seals

This administration sheets must be executed in accordance with section 22 *Strata Schemes Development Act 2015*.

5.1.3.8 Surveyor's reference

Enter the surveyor's reference as on sheet 1.

5.2 Location plan

The location plan must be prepared on [Plan Form 1](#) in accordance with schedules 10 and 11 of the following [Lodgment Rules](#). It must show the following:

- a northpoint (directed upwards)
- the external boundaries of the land being subdivided and their lengths
- the external limits of the building and any other structures used to define the lots on the floor plan
- the identity of the building by indicating the street number, the number of levels and the materials of its external construction

- the boundaries of any lots not within the building (these should not be dimensioned)
- when a building containing lots is within 2 metres of a parcel boundary, connections must be provided from the building to the parcel boundary
- when a lot external to a building is within 2 metres of a parcel boundary, connections must be provided from the structural feature used to define the lot to the parcel boundary. These connections should correspond to those used on the floor plan to define the lots. The connections must be sufficient to establish that any lot boundaries are along or within the parcel boundaries.
- if the boundary of a lot coincides with the parcel boundary the plan may indicate this in lieu of showing connections from a building or structural feature.

Note All connections must be perpendicular from specific points on a structure or prolongations of the face of the structure.

- the identities of the adjoining lands.
- if an [encroachment](#) exists sufficient information to indicate the extent and nature of the encroachment.

Note See also [Part strata development](#) page.

- sufficient information to define the site, nature and origin of all existing affecting interests which affect the parcel
- sufficient information to define the site and nature of all affecting interests which are to be created upon registration of the plan and will affect the common property.

Panels are provided at the bottom of the plan form for administrative information:

- the surveyor's name
- the date of the plan
- the surveyor's reference. This must be identical to the reference shown on the administration sheets with exception of any information shown after the reference in brackets such as indicating a version number of the document.
- the plan heading. This must be identical to the plan heading on the administration sheets.
- the Local Government Area, Locality and reduction ratio of the plan.

To ensure clarity all lettering on Plan Form 1 should have a minimum height of 2.5 mm.

5.3 Floor plan

The floor plan must be prepared on [Plan form 1](#) in accordance with schedules 10 and 12 of the [Lodgment Rules](#).

All lots in a strata plan must be a cubic space. The boundaries which define each lot fall into two categories:

- vertical boundaries, these are defined by lines on the floor plan which relate to structures.
- horizontal boundaries, these are defined by a structural surface, such as a floor or ceiling, or a stratum statement relating to a structural surface.

There are rules to be applied when showing the lot boundaries.

The boundaries can be defined on the floor plan in three ways:

- [Structural boundaries](#) (shown by thick lines)
- [Line boundaries](#) (shown by thin lines)
- [Stratum statements](#).

5.3.1 Preparing the floor plan

The floor plan must be prepared on a separate sheet to the location plan and show the following:

- A north point (directed upwards).
- The boundaries of all lots and part lots by continuous (ie unbroken) lines. The boundaries which are defined by a structure must be shown by thick lines and the boundaries not defined by structures are shown by thin lines.
- Boundaries which are not defined by a structure are referred to as line boundaries. Line boundaries must be either a prolongation of a structural surface or perpendicular from a specific point on a structural surface. Alternatively they may be defined by connections which are either a prolongation of the structural surface or perpendicular from a specific point on a structural surface.
- Stratum statements for those parts of the lots which do not have structural cover and or a structural base to define their horizontal boundaries (ie upper and lower limits).
- The lot number for each lot or part lot. Part lots must be identified as such. Lot numbering must be consecutive and commence with lot 1.
- An area for each lot or part lot. Part lot areas should be shown in brackets and a total area must be shown within or relevant to the most significant part of the lot. The total area must be the mathematical aggregate of the separate parts. The plan may include a statement indicating the areas are approximate. See schedule 10 [Lodgment Rules](#).
- The site and description of all easements which affect the lots and are to be created upon registration of the plan.
- Separate floors of the building must be shown from the lowest level to the highest level.
- Sufficient information to define the extent of any encroachment which is intended for the use of the adjoining strata lot.
- All occupations within an external part of a lot and within 1 metre of any lot boundary must be shown or referred to. The floor plan should indicate the materials and nature of the occupation and indicate if it forms common property or part of the lot. This is not required for fencing within the meaning of the *Dividing Fences Act 1991*.
- Any other notes which indicate items which are within the air space of a lot are to form common property and not part of the lot. Example "The hot water service within the courtyard of lot 1 is common property and not part of the lot."

5.3.2 Numbering of levels in floor plans

To ensure that the plan may be read in conjunction with the building it is recommended that each level be numbered consecutively and comply with the rule that they be shown from the lowest to the highest level.

It will generally be accepted to number each level using similar to the following examples.

1, 2, 3, 4, 5 etc.

Ground, 1, 2, 3, 4, 5 etc.

Basement 2, Basement 1, Ground, 1, 2, 3 etc.

There may be variations to these examples to allow for mezzanine floors or other situations.

If it is the intention of the surveyor to omit a number from a sequence the Floor Plan must include a clear statement identifying which level(s) are not included in the plan.

Provided the strata plan includes a statement that clearly indicates that a level has been intentionally omitted, the prior approval of the Registrar General is not required.

Example: Floor Levels 4 and 14 are intentionally omitted in the floor numbering.

The statement should appear on the sheet(s) of the floor plan which depict the level immediately preceding and following the omitted number.

In the event a Council contacts NSW LRS post registration of Strata Plan asserting that the Planning Authority guidelines have not been complied with, NSW LRS will direct the Planning Authority to contact the Building Professional Board with their concerns.

To ensure clarity all lettering on strata plan form 2 should have a minimum height of 2.5 mm.

5.4 Structural boundaries

All structural boundaries which are defined by a structure must be shown by a thick line. The thick line must relate to the face or edge of a permanent structure.

5.4.1 What is acceptable as a structural boundary?

- The face of a wall of a building.
- The face of a free standing wall.
- The edge of a concrete slab.
- The edge of a roof.
- The edge of a balcony, terrace or patio etc.
- Chain link mesh which is fixed between concrete columns or walls and ceilings and floors.
- Edge or face of kerbing.

In some case it may be beneficial to add a note to the thick line depicting a boundary so there is no confusion regarding what it represents. Some examples are as follows:

- Edge of carport roof.
- Western edge of concrete kerb.
- Southern face of wall.
- South-western corner of column.

5.4.2 What is unacceptable as a structural boundary?

- Fences.
- Edge of pavers which are not permanently fixed.
- Natural boundaries.
- Fixtures or appliances (air conditioners, hot water services, and gas or water meters).

5.5 Line boundaries

Boundaries which are not defined by a structure are called line boundaries.

- They must be shown by thin lines and must be dimensioned. The thin lines must be clearly distinguishable from the thick lines used to define structural boundaries.
- They must be defined by reference to the building or other structural feature within the parcel and shown on the location plan.
- The boundaries must be defined by prolongations of structural surfaces, right angles from specific points on structural surfaces or connections which are prolongations or at right angles.
- Boundaries may also be defined by the centreline of a wall or line of columns or the prolongation of a centreline of wall or line of columns.
- When boundaries are from the corner of a column or wall special consideration should be given if the corner is chamfered or bevelled. Appropriate notes and or diagrams should be provided.

5.5.1 Unacceptable definitions of boundaries

- At right angles to a curved structure such as a round column
- Defined using intersecting lines. That is where two boundaries of fixed lengths are each fixed at one end and the other end is fixed by their intersection. Although this is mathematically possible it is not acceptable for a strata plan.
- Prolongations of structures which are not visible e.g. The prolongation of an internal wall to define an external boundary.

5.6 Stratum statements

All lots in a strata plan are a cubic space and must be limited in height and depth. Stratum statements are required if a lot is not limited in height and or depth by a structure. Lots which are within a building are generally accepted to extend from the upper surface of the floor to the lower surface of the ceiling. If this is the case no stratum statement is required.

5.6.1 When is a statement required?

A stratum statement will be required for all lots outside a building which are not fully covered by a structure or do not have a structural base for their entire area. These areas of the plan should be uniquely identified and stratum statements provided for each unique area. Part lots which are outside a building generally fall into four categories with their requirements for stratum statements as follows:

- A statement is required for the height and depth.
- A statement is required for height only because a structural base exists for its entire area.
- A statement is required for the depth only because a structural cover exists for its entire area.
- No statement is required if the area has a structural base and cover for its entire area.

5.6.2 Maximum limit

The maximum limit for the height or depth limit of a lot defined by a stratum statement acceptable to NSW LRS is 50 metres. If there is a requirement to exceed this limit an application should be put to the Plan and Title Advisor at plan-info@nswlrs.com.au for approval.

5.6.3 Composition of the stratum statement

All stratum statements are comprised of 3 parts.

- The unique description of the part of lot it relates to e.g. Courtyard, Balcony, Terrace etc.
- The datum which the boundary is related to. The datum must be a stated structural surface within the parcel.
- The boundary's relationship to the datum. This is a distance in metres above or below the datum.

It is possible to describe both the upper and lower limits of a lot in a single statement. If the stratum limits are complex it is recommended that separate statements be provided so the lot is clearly defined.

5.6.4 The unique description

Each part of a lot which requires a stratum statement must have a unique description. If there are several parts with the same stratum limits they may be given the same description.

Generally they are described as architectural feature, such as balcony, courtyard, terrace etc. However they may also be designated with an alpha character.

It is generally accepted by NSW LRS that some descriptions would indicate that the area has a structural base and will not require a stratum statement for their lower limit.

5.6.5 The datum

The datum must be a permanent structural surface within the parcel. The most commonly used datum is the upper surface of a floor. Most structures used for a datum will have an upper and lower surface. It will be necessary to indicate a specific surface. Although when a surveyor is on site there may be no doubt regarding which surface is to be used as the datum, the examiner in NSW LRS must be certain the boundaries have been defined without ambiguity.

When selecting the datum the surveyor should ensure that it is suitable. Some points which should be considered include:

- Is the datum level?
- Is there only one level to a floor? Sometimes the floor of a dwelling may have 2 or more.
- Refer to the upper surface at the front door or another specific point if there is more than one level.

- Is the datum likely to be altered in any way? Tiles may be added to balcony floor which may cause doubt as to the position of a stratum limit. Refer to the material of the floor, e.g. Concrete, Tiles, Timber etc.
- In many cases a garage will have the most substantial floor. This would be an excellent datum as also it is unlikely it will be covered by carpet or other flooring at a later date.
- Are there any structures within the stratum limits? Eaves and gutters may partly cover a balcony. If this is the case a rider may be added to the statement.

Balconies are limited in height to 3 metres above the upper surface of their concrete floor **except where covered within this limit.**

5.6.6 Commonly used terms

The following are some commonly used terms to describe areas outside of the building:

Courtyard, Garden Area, Yardspace

It would not be expected that these areas have a structural base or are fully covered and statements would be required.

Balcony, Patio, Porch, Veranda, Terrace, Deck, Car Space

It would be expected that these areas have a structural base but are not necessarily fully covered

Carport

It would be expected that this area would be fully covered by a structure but not necessarily have a structural base.

The above descriptions are examples and suggestions only. The surveyor should select an appropriate description for parts of the lot which require statements. A description may be as simple as designating the area with an English alpha character.

5.6.7 Describing the datum

In most case a structure such as a floor of ceiling will have two surfaces. The statement must be related to either the upper surface or lower surface. Examples:

- the upper surface of the ground floor of the respective dwelling
- the upper surface of the garage floor of the respective lot
- the lower surface of the eaves which partly covers them

The relationship of the boundary should be a distance in metres above or below the datum.

- The courtyards are limited from (X) below to (Y) above the upper surface of the ground floor of the residence.
- The balcony is limited in height to the horizontal projection of the underside of the eaves which partly cover it.

5.6.8 Acceptable datum

The datum used for the stratum statement must be a permanent structure within the parcel. The structure should be horizontal unless a specific point is indicated. Most permanent floors or ceilings

are acceptable as a datum. It should be noted that pavers and similar items are not acceptable unless they are fixed to a structural base.

In some circumstances there may be a structure which partly covers an area with a stratum statement such as the eaves of a building. In other cases there may be a structure beneath the ground but within the stratum limits. These structures must be considered when composing the stratum statement. A common phrase added to a stratum statement is except where covered. Examples:

- Courtyards are limited from 5 below to 10 above the upper surface of the ground floor of the adjoining dwelling except where covered.
- Balconies are limited to 3.5 above the upper surface of their concrete floor except where covered.
- Terrace is limited to 3 above the upper surface of the floor of the respective garage except where covered.
- Courtyard are limited in depth to 3 below the upper surface of the floor of the adjoining unit except where there is a concrete base and in height to 8 above the upper surface of the floor of the adjoining unit except where covered.

5.6.9 Example stratum statements

The following is a list of examples of stratum statements. They are not intended to be copied to floor plans as written. Their intention is to provide a guide as to the format of a statement and provide some examples of various descriptions. The surveyor preparing the plan should consider carefully the content of all stratum statements for each plan specifically.

(a) Courtyards are limited from 5 below to 10 above the upper surface of the ground floor of the adjoining dwelling except where covered.

(b) Courtyards are limited in height to 8 metres above the upper surface of the ground floor of the adjoining dwelling except where covered within this limit.

(c) Courtyards are limited in depth to 3 below the upper surface of the ground floor of the adjoining dwelling except where the basement roof exists below.

(d) Courtyard are limited in depth to 3 below the upper surface of the floor of the adjoining unit except where there is a concrete base and in height to 8 above the upper surface of the floor of the adjoining unit except where covered.

(e) Balconies are limited to 3.5 above the upper surface of their concrete floor except where covered within this limit.

(f) Balconies are limited in height to the horizontal projection of the underside of the eaves which partly cover them.

(g) The Terrace is limited to 3 above the upper surface of the floor of the respective garage except where covered.

5.7 Buildings forming part of the lot

In most plans the external walls, the floors, roofs and ceilings of a building will be common property. In some cases the developer may request a plan where the building standing on each lot forms part of

the lot and is not common property. The location plan in these circumstances will not differ from that of a normal plan. The floor plan will be different from a normal plan in the following ways:

- The walls will be shown by thick broken lines unless they form a lot boundary.
- There will be only one floor plan regardless of the number of levels in the building. The floor plan will represent the perimeter walls of the building at ground level.
- It should include a statement indicating:

'The structure of the building standing on each lot, including walls, floors, ceilings and roofs, forms part of the lot and is not common property.'

- No vincula or reference to part lots will be used as there are no separate parts of the lots.
- The plan must have a statement indicating that the building forms part of the lot and is not common property.
- If a common wall exists the plan must indicate its status i.e. The Common Wall is Common Property or Boundary is Centreline of Common Wall.
- The area will be calculated at ground level only regardless of the number of levels.
- A stratum statement should be provided for the whole of the lots. The stratum statement should take into account the height of the building. Consideration should also be given to any possible vertical extensions of the building.
- It is recommended that the following statement be added:

'Any service line within one lot servicing another lot is common property.'

In some case the building on a lot may overhang another lot in the scheme. There is no need to create an easement for this overhang if the statement indicates the building forms part of the lot upon which it stands. However, consideration should be given to creating an easement to allow access for maintenance purposes.

The plan must contain connections from the building to define the lot boundaries as in normal plans.

5.7.1 When not all of the buildings form part of the lot

Schemes have been registered where some of the building form part of the lot and the remainder are common property. This is a practice which is now discouraged by NSW LRS.

It is the opinion of this office that it may cause friction among lot owners due to confusion regarding the responsibility of maintaining the buildings and have a detrimental effect on the management of the scheme.

While a plan prepared in this fashion may meet the criteria for registration it may not be within the spirit of the legislation. If there is an intention to lodge a plan for registration which has some but not all of the buildings forming part of their respective lots then prior approval must be sought. The request for approval should be addressed to Manager strata plan section and should contain enough information to explain the circumstances and that any affect it would have on the unit entitlements was considered. It may be desirable to create specific by-laws regarding the maintenance of the buildings which form part of the common property.

5.8 Encroachments

In some case the building which is the subject of the strata scheme may encroach on the adjoining land. The surveyor must indicate the details of the encroachment in the certificate. The extent and nature of the encroachment must be indicated on the location plan.

- If the encroachment is over a public place, which includes a road, public reserve or drainage reserve it must be accepted in the Strata Certificate.
- If the encroachment is over private land an appropriate easement to permit it to remain must be created by a plan of survey and the creating instrument indicated in the surveyors certificate.

It is possible for the internal walls of a building to extend beyond the parcel boundaries this may be with a balcony or a bay window. The plan must show the lot boundary as a thin line and have connection from the part of the building inside the parcel to establish its position. If it is intended that the part of the land inside the building but outside the parcel boundary is intended for the use of the adjoining lot the plan should have an appropriate notation, see section 39 *Strata Schemes Development Act 2015* and clause item 3(g) of schedule 12 of the [Lodgment Rules](#).

5.8.1.1 Example

The part of the first floor which encroaches over the parcel boundary is for the exclusive use of the adjoining lot. The provisions of the act apply to this area other than those relating to ownership and certificate of title.

5.9 Affecting interests and section 88B instruments

Affecting interests include:

- Easements
- Profits à prendre
- Restrictions on the use of land
- Positive covenants.

Section 88B *Conveyancing Act 1919* provides for the lodgment of an instrument with a deposited plan which enables the creation and release of easements and profits à prendre or the creation of restrictions and positive covenants upon the registration of the plan.

Section 38(1) of the *Strata Schemes Development Act 2015* provides that a section 88B instrument may be lodged with a strata plan, strata plan of subdivision or strata plan of consolidation.

A section 88B instrument with a strata plan, a strata plan of subdivision or strata plan of consolidation may create affecting interests burdening or benefiting:

- lots and common property within the scheme
- land outside the scheme when the land is held under the provisions of the *Real Property Act 1900*, provided the site definition complies with the requirements for a compiled plan .

5.9.1 Defining the site of affecting interests

The sites of any affecting interests to be created must be defined by rectangular offsets from the building or other structural feature in the same manner as lot boundaries.

- Affecting interests which affect lots must be depicted on the floor plan.
- Affecting interests which affect common property are generally depicted on the location plan. However if the easement affects land within a building it may be more practical to depict the site on a floor plan.
- Affecting interests which affect land outside the strata scheme should be depicted on the location plan.

If the site of the affecting interests is difficult or impractical to define by offsets an exemption should be sought from the Plan and Title Advisor to show bearings and distances.

A section 88B instrument with a strata plan, strata plan of subdivision or strata plan of consolidation may also release easements and profits à prendre.

6 After the scheme has commenced

[Actions](#) which may take place after the commencement of the scheme.

[Strata plan of subdivision](#) may subdivide lots only, common property only or lots and common property to create new lots or new lots and common property.

[Subdivision of lots only](#) information and requirements.

[Subdivision of lots and common property](#) new lots may include land that was formerly common property, formerly lots or a combination of lots and common property.

[Subdivision of common property only](#) new lots will include land that was formerly common property.

[Administration sheets \(subdivision\)](#) for a strata plan of subdivision will always consist of at least 2 sheets.

[Strata plan of consolidation](#) A strata plan of consolidation may affect lots only or it may include the part of the common property.

[Strata plan of building alteration](#) must be lodged when the manner in which a strata lot boundary is defined has been changed by the removal of a structure or the building of a structure.

[Consolidation or change of by-laws](#) after registration of a strata plan by-laws are adopted as indicated on the administration sheets.

[Change of address for documents](#) the address for service of documents on the owners corporation is indicated on the common property title.

[Change of unit entitlements](#) may be made in several ways.

[Add land to a scheme](#) the owners corporation may obtain additional land and add it to the common property in the scheme.

[Remove land from a scheme](#) the owners corporation may dispose of part, but not all, of the common property in the scheme unless it is a scheme which forms part of a community scheme.

[Easements](#) which burden or benefit lots or common property may be created, released and varied in the same manner as other Real Property land.

[Restrictions on the use of land](#) which burden or benefit lots or common property may be created, released and varied in the same manner as other Real Property land.

[Redefinition of a strata parcel](#) if the original base plan of a strata scheme has been found to be unreliable.

[Positive covenants](#) which burden common property may be created, released and varied in the same manner as other Real Property land.

[Lease of part of the common property](#) the owners corporation may lease part but not all of the common property for a term up to but not exceeding 5 years.

[Termination of a strata scheme](#) an owner of a lot, a mortgagee or a covenant chargee may make application to the Supreme Court to terminate the strata scheme.

[Conversion of a strata lot to common property](#) it is possible to convert the whole of a strata lot to common property.

6.1 Actions

Upon registration of a strata plan the strata scheme commences and the following actions occur:

- The prior title is cancelled.
- The plan and administration sheets are processed to be placed on public record, including the affixing of the Registrar General's Seal and the date.
- The owners corporation comes into existence.
- All common property vests in the owners corporation and a certificate of title is issued for the common property, see section 24 *Strata Schemes Development Act 2015*.
- A certificate of title is created for each lot in the plan which will issue in the name of the registered proprietor of the prior title.
- The initial period commences.

After a strata scheme has commenced there are many actions that can take place and affect the scheme. Some of these actions may not take place during the initial period unless an order is obtained from the NSW Civil and Administrative Tribunal.

Actions which may take place after the commencement of the scheme include:

- [Strata plan of subdivision](#)
- [Strata plan of consolidation](#)
- [Building alteration plan](#)
- [Change of By-laws](#)
- [Change of address of the owners corporation](#)

- [Change the unit entitlements](#)
- [Add land to a scheme](#)
- [Remove land from a scheme](#)
- [Redefinition of a strata parcel](#)
- [Easements](#)
- [Restrictions on the use of land](#)
- [Positive covenants](#)
- [Lease part of the common property](#)
- [Conversion of a strata lot to common property](#)
- [Termination of a strata scheme \(including strata renewal\)](#)

6.2 Strata plan of subdivision

A strata plan of subdivision may subdivide lots only, common property only or lots and common property to create new lots or new lots and common property. A strata plan of subdivision is given a new plan number. Any lots are identified as lots in this plan but form part of the original scheme. Any new common property is contained in the original common property title. A common property title is not issued in terms of the new plan. If the plan subdivides or creates common property [Approved form 10](#) (PDF 8 KB) must be provided on the administration sheet unless it has been provided previously and the second schedule of the common property title indicates the initial period has expired.

6.2.1 Location plan

A strata plan of subdivision differs from the original strata plan in that a location plan may not be required. A location plan will not generally be required for:

- A subdivision of lots only.
- Subdivision of lots and common property which is totally within the original building or further than 2 metres from the parcel boundary.

A location plan may be required when:

- A subdivision includes common property where the new lots are outside of the building and within 2 metres of the parcel boundary.
- The original building has been extended, contains lots and is within 2 metres of the parcel boundary.

This information is a guide only. Due to wide variations in strata plans they must each be assessed on their own merits regarding the requirements for a location plan. If you have any doubts you should contact NSW LRS for advice.

If a location plan is required it is prepared in the same manner as an original location plan.

6.2.2 Floor plan

The floor plan is prepared in the same manner as the original floor plan. However there are some other things to consider:

- It is only required to show the new lots to be created and the adjoining information.
- In some circumstances it may be desirable to show the entire floor of a building so it is clear where the lots are situated.
- The lot numbering must be consecutive and commence with the next available number for the scheme.

6.3 Subdivision of lots only

- The new boundaries must be clearly defined within the old lots and do not include common property.
- Special consideration should be given to any stratum statements. If they are not related to the same datum there may be doubts as to whether they also include part of the common property.
- The plan may create common property. This is not defined on the floor plan and automatically vests in the owners' corporation.
- The Administration sheets must be executed by the registered proprietors of the lots being subdivided and any mortgagees, lessees etc. as required by section 22 *Strata Schemes Development Act 2015*. The owners corporation do not need to execute as a registered proprietor.
- If the original developer still owns one or more of the lots involved in the subdivision a certificate in accordance with [Approved Form 10](#) must be lodged. The certificate must indicate that the initial period has expired or the developer still owns all the lots in the scheme.
- If the plan creates common property the administration sheets must contain the following certificates from the owners corporation:
 - [Approved form 10](#) certifying that the initial period has expired (unless the certificate of title for the common property contains a notification this has been lodged previously) or certifying the original proprietor still owns all of the lots.
 - [Approved form 11](#) certifying that they agree with the new schedule of unit entitlement.
 - [Approved form 12](#) certifying that it passed a special resolution consenting to the subdivision.

6.4 Subdivision of lots and common property

- The new lots may include land that was formerly common property, formerly lots or a combination of lots and common property.
- The administration sheets must be executed by the registered proprietors of the lots being subdivided and any mortgagees, lessees etc. as required by Section 22 *Strata Schemes Development Act 2015*.
- The administration sheets must also contain the following certificates from the owners corporation:
 - [Approved form 10](#) certifying that the initial period has expired (unless the certificate of title for the common property contains a notification this has been lodged previously) or certifying the original proprietor still owns all of the lots.
 - [Approved form 11](#) certifying that it passed a special resolution agreeing with the new schedule of unit entitlement.

- [Approved form 12](#) certifying that it passed a special resolution agreeing to the subdivision.
- If a new lot contains land which was formerly common property a Transfer must be lodged and in registrable form before the plan can be registered. The legislation does not permit the owners' corporation to own land other than common property.
- The Transfer must be from the owners' corporation to another party. The other party must be identical to the registered proprietor of the other part of the lot. The Transfer must be accompanied by a certificate in [Approved Form 13](#) certifying that the owners corporation passed a special resolution agreeing to the execution of the Transfer.

6.4.1 More information

See our Land dealing information on [Transfer](#) requirements.

6.5 Subdivision of common property only

- The new lots will include land that was formerly common property.
- The administration sheets must contain the following certificates from the owners corporation:
 - [Approved Form 10](#) certifying that the initial period has expired (unless the certificate of title for the common property contains a notification this has been lodged previously) or certifying the original proprietor still owns all of the lots.
 - [Approved Form 11](#) certifying that it passed a special resolution agreeing with the new schedule of unit entitlement.
 - [Approved Form 12](#) certifying that it passed a special resolution consenting to the subdivision.
- The legislation does not permit the owners' corporation to own land other than common property. A Transfer must be lodged and in registrable form before the plan can be registered.
- The Transfer must be from the owners' corporation to another party. The Transfer must be accompanied by a certificate in [Approved Form 13](#) certifying that the owners corporation passed a special resolution authorising the execution of the Transfer.

6.5.1 More information

See our Land dealing information on [Transfer](#) requirements

6.6 Administration sheets (subdivision)

6.6.1 Strata plan form 3.03 and 3.04

One of these forms will always be sheet 1 of the administration sheets for **strata plan of subdivision**. It is the responsibility of the surveyor to complete all panels on this form except the Strata Certificate and the Office Use Only panels for the strata plan number and registration details.

6.6.1.1 Sheet numbering

Insert the total number of sheets of the administration sheets.

6.6.1.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number maybe completed.

6.6.1.3 Plan heading

The plan heading is the panel containing the words, "STRATA PLAN OF SUBDIVISION OF". This must be completed by inserting the identity of the land being subdivided. This will be either strata lots, strata lots and common property or common property only.

6.6.1.4 LGA, Locality, Parish and County

The current Local Government Area, Locality, Parish and County should be shown in the appropriate position.

6.6.1.5 Freehold or Leasehold Scheme

Strike out the inapplicable word (Freehold or Leasehold) to indicate the intended type of Strata Scheme.

6.6.1.6 Surveyor's certificate

This panel must be completed and executed by a registered land surveyor.

All appropriate information should be entered and the inapplicable information should be struck through.

- Insert the name of the surveyor in the space after I,
- Insert the company name after of, if there is no company insert the locality of the business.
- If there are no encroachments, strike through the statements regarding encroachments completely.
- If there are encroachments on a public place, strike through item (b).
- If there are encroachments on land which is not a public place, strike through (a) and enter the creating instrument for the easement which has been created within part (b).
- Sign and date the certificate.
- Insert the surveyor ID as provided by BOSSI.
- Insert the surveyor's reference (maximum of 25 characters). The reference must be identical to that shown on the plan to provide a link between the documents. Following the surveyor's reference information in brackets may be added indicating version numbers of the document. This may vary between the plan and the administration sheets.

Before execution a surveyor must be satisfied that the plan complies with all the parts of the certificate. Attention is drawn to schedule 1 *Strata Schemes Development Act 2015*.

6.6.1.7 Strata certificate

6.6.1.7.1 Accredited Certifier

If the strata certificate is to be completed by an accredited certifier SP Form 3.03 should be used.

- The strata certificate should only be issued where the date of the valuer's certificate is no more than two months before the day on which the application is made for the strata certificate. See clause 7 *Strata Schemes Development Regulation 2016*.
- Insert the name of the accredited certifier after 'I'
- Insert the accreditation number

- If the plan is not part of a development scheme strike through statement (a) otherwise leave (a) intact
- If the building does not encroach on a public place strike through statement (b).
- If the building encroaches on a public place and the local council has granted a relevant planning approval in regard to the encroachment leave statement (b) intact.
- If the relevant planning approval contains a condition that utility lots are to be created insert the relevant lot numbers within statement (c).
- If there are no utility lots to be created strike through statement (c).
- Insert the certificate reference. This reference should relate to the certifier or council records.
- Insert the relevant planning approval number and the authority that issued it, if applicable.
- Sign and date the certificate.

6.6.1.7.2 Local Council

If the strata certificate is to be completed by a local council SP Form 3.04 should be used.

- The strata certificate should only be issued where the date of the valuer's certificate is no more than two months before the day on which the application is made for the strata certificate. See clause 7 *Strata Schemes Development Regulation 2016*.
- Insert the name of the local council
- If the plan is not part of a development scheme strike through statement (a) otherwise leave (a) intact
- If the building does not encroach on a public place strike through statement (b).
- If the building encroaches on a public place and the local council does not object to the encroachment leave statement (b) intact.
- If the local council is imposing a condition that utility lots are to be created insert the relevant lot numbers within statement (c).
- If there are no utility lots to be created strike through statement (c).
- Insert the certificate reference. This reference should relate to the certifier or council records.
- Insert the relevant planning approval number and the authority that issued it, if applicable.
- Sign and date the certificate and strike through Authorised person or General Manager as appropriate.

This certificate is completed and executed on behalf of the council by an Authorised Person or General Manager.

6.6.2 Strata plan form 3.07

This approved form is to provide the proposed schedule of unit entitlement and the valuer's certificate.

6.6.2.1 Sheet numbering

Insert the sheet number and the total number of sheets of the administration sheets.

6.6.2.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number maybe completed

6.6.2.3 Valuer's certificate

The valuer's certificate is to certify the proposed schedule of unit entitlement. This must be completed by a qualified valuer by inserting their name and signing and dating in the appropriate spaces. The date of the certificate must precede the date of the strata certificate but not by more than 2 months.

6.6.3 Schedule of unit entitlements

The schedule of unit entitlements must be shown in the appropriate panel in accordance with clause 7 *Strata Schemes Development Regulation 2016*.

The schedule must contain two vertical columns. The first should show the lot numbers in numerical sequence and the second should show the unit entitlement for each lot. The final row must show the aggregate of the unit entitlements.

All unit entitlements must be expressed in whole numbers.

Note Successively numbered lots with the same unit entitlement may be grouped in abbreviated form.

6.6.3.1 Subdivides lots only

If the plan subdivides lots only and does not create common property the total of the unit entitlements of the proposed lots must be in the same proportion to the aggregate of the scheme as the lots which they subdivide. The unit entitlement for the lots which are not the subject of the subdivision must be in the same proportion to the aggregate as in the current schedule of unit entitlement.

6.6.3.1.1 Subdivides or creates common property

If the plan subdivides or creates common property the unit entitlement for all lots in the scheme may be altered and a completed [Approved form 11](#) (PDF 19.0 KB) must be provided on the administration sheets.

6.6.3.1.2 Subdivision of a development lot

If the plan is a subdivision of a development lot it is only required to show the proposed unit entitlement for each proposed lot in the plan and the aggregate. The aggregate must agree with the current unit entitlement for the development lot

It is the responsibility of the surveyor to show the proposed schedule of unit entitlement, however the unit entitlements must be based upon the market value of the lots in accordance with Schedule 2 *Strata Schemes Development Act 2015* and determined by a qualified valuer.

If there is insufficient space on this sheet the schedule may be continued on Strata Plan Form 3.08

6.6.3.2 Surveyor's reference

Enter the surveyor's reference as on sheet 1.

6.6.4 Strata plan form 3.08

This form is to be used as an annexure to the preceding pages of the administration sheets. It will include information as follows:

- any information which cannot fit in the appropriate panels of the preceding administration sheets
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*

- signatures and seals which are required in accordance with section 22 *Strata Schemes Development Act 2015*.

6.6.4.1 Sheet numbering

Insert the sheet number and the total number of sheets of the administration sheets.

6.6.4.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number may be completed.

6.6.4.3 Schedule of unit entitlement

If the Strata Plan Form 3.07 does not have sufficient space to show the entire schedule of unit entitlement it should be continued on this sheet. The continuation of the schedule should appear before any other information.

6.6.4.4 Section 88B instrument

If it is the intention to create affecting interests upon registration of a section 88B instrument lodged with the plan, the panel must contain a statement as follows:

'Pursuant to section 88B *Conveyancing Act 1919* it is intended to create the following affecting interests'.

The list of affecting interest to be created as shown in Part 1 of the section 88B instrument should be provided after the statement.

If it is intended to release affecting interest the statement should be modified accordingly and the affecting interests to be released as shown in Part 1A of the instrument should be listed.

6.6.4.5 Signatures and seals

This administration sheets must be executed in accordance with section 22 *Strata Schemes Development Act 2015*.

6.6.4.6 Surveyor's reference

Enter the surveyor's reference as on sheet 1.

6.7 Strata plan of consolidation

A strata plan of consolidation may affect lots only or it may include the part of the common property being a wall, floor or ceiling which separates those lots. A strata plan of consolidation is given a new plan number. The lots are identified as lots in this plan but form part of the original scheme. No new common property can be created.

6.7.1 Administration sheets

The Administration sheets must be executed by the registered proprietors of the lots being consolidated and any mortgagees, lessees etc. as required by Section 22 *Strata Schemes Development Act 2015*. The owners corporation will need to provide the certificate on the administration sheet if it is intended that a wall, floor or ceiling between the lots will become part of the new lot. See section 15(4) and (5) *Strata Schemes Development Act 2015*.

A schedule of unit entitlement is not required. The unit entitlements for lots as a result of a consolidation will be determined by the sum of the consolidated lots.

6.7.2 Strata plan form 3.05

This form will always be sheet 1 of the administration sheets for a strata plan of consolidation. It is the responsibility of the surveyor to complete all panels on this form except the Office Use Only panels for the strata plan number and registration details and the Certificate of Owners Corporation.

6.7.2.1 Sheet numbering

Insert the total number of sheets of the administration sheets.

6.7.2.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number maybe completed.

6.7.2.3 Plan heading

The plan heading is the panel containing the words, "STRATA PLAN OF CONSOLIDATION OF:". This must be completed by inserting the identity of the land being consolidated. This will be 2 or more strata lots. If common property is included in the consolidation the plan heading should include reference to the common property.

6.7.2.4 LGA, Locality, Parish and County

The current Local Government Area, Locality, Parish and County should be shown in the appropriate position.

6.7.2.5 Freehold or Leasehold Scheme

Strike out the inapplicable word (Freehold or Leasehold) to indicate the intended type of Strata Scheme.

6.7.2.6 Surveyor's certificate

This panel must be completed and executed by a registered land surveyor.

All appropriate information should be entered and the inapplicable information should be struck through.

- Insert the name of the surveyor in the space after I,
- Insert the company name after of, if there is no company insert the locality of the business.
- If there are no encroachments, strike through the statements regarding encroachments completely.
- If there are encroachments on a public place, strike through item (b).
- If there are encroachments on land which is not a public place, strike through (a) and enter the creating instrument for the easement which has been created within part (b).
- Sign and date the certificate.
- Insert the surveyor ID as provided by BOSSI.
- Insert the surveyor's reference (maximum of 25 characters). The reference must be identical to that shown on the plan to provide a link between the documents. Following

the surveyor's reference information in brackets may be added indicating version numbers of the document. This may vary between the plan and the administration sheets.

Before execution a surveyor must be satisfied that the plan complies with all the parts of the certificate. Attention is drawn to schedule 1 *Strata Schemes Development Act 2015*.

6.7.2.7 Certificate of Owners Corporation

This certificate must be completed if it is intended that a common property wall, floor or ceiling which separates the lots to be consolidated is intended to become part the new lot and vest in the name of the owner.

If this is not the intention the certificate should be struck through.

6.7.2.8 Strata certificate

A strata certificate is not required for a consolidation and has not been provided on the administration sheet.

6.7.3 Strata plan form 3.08

This form is to be used as an annexure to the preceding pages of the administration sheets. It will include information as follows:

- Any information which cannot fit in the appropriate panels of the preceding administration sheets
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals which are required in accordance with section 22 *Strata Schemes Development Act 2015*.

6.7.3.1 Sheet numbering

Insert the sheet number and the total number of sheets of the administration sheets.

6.7.3.2 Strata plan number, registration details

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number maybe completed

6.7.3.3 Schedule of unit entitlement

A schedule of unit entitlement and valuer's certificate are not required for a plan of consolidation. The unit entitlement for each new lot will be the sum of the unit entitlements for the lots which are consolidated.

6.7.3.4 Section 88B instrument

If it is the intention to create affecting interests upon registration of a section 88B instrument lodged with the plan, the panel must contain a statement as follows:

'Pursuant to Section 88B *Conveyancing Act 1919* it is intended to create the following affecting interests'.

The list of affecting interest to be created as shown in Part 1 of the section 88B instrument should be provided after the statement.

If it is intended to release affecting interest the statement should be modified accordingly and the affecting interests to be released as shown in Part 1A of the instrument should be listed.

6.7.3.5 Signatures and seals

This administration sheets must be executed in accordance with section 22 *Strata Schemes Development Act 2015*.

6.7.3.6 Surveyor's reference

Enter the surveyor's reference as on sheet 1.

6.7.4 Location plan

A location plan is not generally required.

6.7.5 Floor plan

The floor plan is prepared in the same manner as the original floor plan. However there are some other things to consider:

- It is only required to show the new lots to be created and the adjoining information.
- In some circumstances it may be desirable to show the entire floor of a building so it is clear where the lots are situated.
- The lot numbering must be consecutive and commence with the next available number for the scheme.
- If it is intended that a common property wall, floor or ceiling which separates the lots to be consolidated is intended to become part the new lot, the plan should not show the structure but include it as part of the lot.

6.8 Strata plan of building alteration

A building alteration plan must be lodged when the manner in which a strata lot boundary is defined has been changed by the removal of a structure or the building of a structure. See section 19 *Strata Schemes Development Act 2015*. The purpose of the plan is to redefine the relevant boundaries in the original position. The plan does not define land (i.e. lots or common property).

- No new boundaries are created
- The common property is not affected
- If it is the intention to alter the position of a lot boundary a [Strata plan of subdivision](#) should be lodged.

6.8.1 Location plan

A location plan is not required unless the new structure is within 2 metres of a parcel boundary.

6.8.2 Floor plan

The floor plan is prepared in the same manner as the original floor plan. However there are some other things to consider:

- It is only required to show the relevant parts of lots and the adjoining information.
- In some circumstances it may be desirable to show the entire floor of a building so it is clear where the lots are situated.

- The lot numbering must remain the same as immediately prior to the plan.
- It is not required to show areas.
- Boundaries previously defined by a face of a structure which has been demolished must now be defined by line boundaries.
- Boundaries which were previously defined by line only may now be defined by the face or another part of a structure.

6.8.3 Administration sheet

Building alteration plans require a surveyor's certificate and must be executed by the registered proprietor (and mortgagee etc) on either side of the subject boundary. This may include the owners corporation.

6.8.3.1 *Strata plan form 3.06*

This form will always be sheet 1 of the administration sheets for Building Alteration Plan. It is the responsibility of the surveyor to complete all panels on this form except the Office Use Only panels for the strata plan number and registration details.

6.8.3.2 *Sheet numbering*

Insert the total number of sheets of the administration sheets.

6.8.3.3 *Strata plan number, registration details*

These panels are for Office Use Only and should be left blank on plans lodged for registration.

Note If the plan has a pre-allocated plan number or was pre-examined the SP number maybe completed.

6.8.3.4 *Plan heading*

The plan heading is the panel containing the words, "STRATA PLAN OF BUILDING ALTERATION REGARDING THE BOUNDARIES OF:". This must be completed by inserting the identity of the land which has boundaries affected by the building alteration. This may include lot(s) and common property.

6.8.3.5 *LGA, Locality, Parish and County*

The current Local Government Area, Locality, Parish and County should be shown in the appropriate position.

6.8.3.6 *Surveyor's certificate*

This panel must be completed and executed by a registered land surveyor.

All appropriate information should be entered and the inapplicable information should be struck through.

- Insert the name of the surveyor in the space after I,
- Insert the company name after of, if there is no company insert the locality of the business.
- If the plan has been prepared because a structure has been demolished strike through the inapplicable parts (wall, floor, ceiling or common infrastructure) within item (1). Insert the appropriate lot(s) and strata plan number(s)
- If nothing has been demolished strike through item (1) completely.

- If the plan has been prepared because a structure has been constructed strike through the inapplicable parts (wall, floor or ceiling) within item (2). Insert the appropriate lot(s) and strata plan number(s). Complete the appropriate parts of (a), (b) and (c) or strike through if inapplicable.
- If nothing has been constructed strike through item (2) completely.
- If the structure described in item (2) does not encroach on a parcel boundary strike through item (3) completely..
- If the structure described in item (2) does encroach on a parcel boundary strike through parts (a) or (b) within item (3) as appropriate. If (b) is left intact insert the creating instrument for the easement. Strike through the inapplicable parts (wall, floor or ceiling) as appropriate.
- Sign and date the certificate.
- Insert the surveyor ID as provided by BOSSI.
- Insert the surveyor's reference (maximum of 25 characters). The reference must be identical to that shown on the plan to provide a link between the documents. Following the surveyor's reference information in brackets may be added indicating version numbers of the document. This may vary between the plan and the administration sheets.

Before execution, a surveyor must be satisfied that the plan complies with all the parts of the certificate. Attention is drawn to section 19 and schedule 1 *Strata Schemes Development Act 2015*.

6.9 Consolidation or change of by-laws

Upon registration of a strata plan by-laws are adopted as indicated on the administration sheets. See [Administration sheets](#) page.

As the scheme operates it may be desirable to the owners corporation to make changes to the by-laws. The changes may include:

- Creating new by-laws
- Repealing existing by-laws

Clause 24 *Strata Schemes Development Regulation 2016* requires that any change to by-laws must be lodged as a consolidation version of the by-laws. All current notifications of by-laws will be removed from the common property title and it will be updated to refer to the consolidated version. See [Consolidation of by-laws](#). The list of by-laws must be numbered appropriately.

The actions are all performed by the lodgment of a Real Property Act dealing form [Change of By-Laws form 15CH](#) (PDF 83 KB) with NSW LRS.

6.10 Change of address for documents

The address for service of documents on the owners corporation is provided on the administration sheets of the original strata plan for the scheme and recorded on the common property title

The owners corporation must decide at a general meeting if they wish to change the address. If this is the case the change must be lodged with NSW LRS on a Real Property Act dealing form [Change of address of owners corporation form 15CA](#) (PDF 555 KB).

Note The address will only be altered on the common property title. The plan will not be updated to show the new address.

6.11 Change of unit entitlements

Changes may be made to the unit entitlements of a strata scheme in several ways.

- Upon registration of a strata plan of subdivision or consolidation the schedule of unit entitlement must include the new lots. The sum of the unit entitlements for the new lots must equal the sum of the unit entitlements of the previous lots.
- When a strata plan of subdivision involves common property it is permitted to alter the unit entitlements for all of the lots in the scheme and change the aggregate. This will require the completion of the valuer's certificate and the provision of [Approved form 11](#) indicating the owners corporation has passed a special resolution agreeing to the changes.
- An order may be made by the Civil and Administrative Tribunal to reallocate the unit entitlements of a scheme if at the time the plan was registered they were unreasonable or over time they became unreasonable. See section 236 *Strata Schemes Management Act 2015*. The changes to the schedule of unit entitlement on the Register will require the lodgment of an [Order affecting a strata scheme](#) (Form 15SO).
- Upon registration of a Notice of [Conversion of Strata Lot to Common Property](#) (Form 15CD) the unit entitlement for the lot will be removed and the aggregate will be reduced by that amount. At the conclusion of a development scheme the owners corporation may consider that the schedule of unit entitlement does not reflect the market value of the lots, a revised schedule a revised schedule of unit entitlement may be lodged. A certificate signed by qualified valuer certifying that the unit entitlements of the lots are apportioned on a market value basis see [Approved Form 18](#). See section 90 *Strata Schemes Development Act 2015*. A [Request form 11R](#) should be lodged.

6.12 Add land to a scheme

The owners corporation may acquire additional land and add it to the common property of the scheme. See sections 25 and 26 *Strata Schemes Development Act 2015*.

6.12.1.1 *By Lease*

The owners corporation of a freehold or leasehold strata scheme may, by special resolution, accept a lease or sublease, or a transfer of lease or sublease, of land. The following applies:

- The land is contiguous to the strata parcel, or the owners corporation considers the land is otherwise relevant to the scheme (whether or not the land is within the parcel or is contiguous to the parcel).
- The land to be leased must not be subject to any mortgage, charge, covenant charge or writ. Any mortgage, charge, covenant charge or writ affecting the land must be released it before the registration of the lease.
- If the strata scheme is a leasehold strata scheme, the term of the lease or sublease must not expire after the term of the lease of the common property.

- The lease must be accompanied by a certificate from the owners corporation in [Approved Form 13](#).
- The lease must be executed by the owners corporation by affixing the seal and including the attestation clause as provided in [Approved Form 23](#).

6.12.1.2 By Transfer

The owners corporation of a freehold strata scheme may, by special resolution, accept a transfer of land. The following applies:

- The land must be contiguous to the strata parcel.
- The land to be added must be defined in a current deposited plan
- The plan may be a subdivision or consolidation showing the land to be added and the parcel as a single lot.
- The land to be added must not be subject to any mortgage, charge, covenant charge or writ. Any mortgage, charge, covenant charge or writ affecting the land must be released it before the registration of the transfer.
- The transfer must be accompanied by a certificate from the owners corporation in [Approved Form 13](#).
- The administration sheet of the plan must be executed by:
 - - the owners corporation by affixing the seal and including the attestation clause as provided in [Approved Form 23](#).
 - the registered proprietors of the land to be added.
- If the strata scheme forms part of a community scheme, appropriate dealings under the *Community Land Development Act 1989* may be additionally required.

6.12.2 More information

See our Land dealing information on [Transfer](#) requirements

6.13 Remove land from a scheme

The owners corporation may dispose of part, but not all, of the common property in the scheme.

If the strata scheme forms part of a community scheme, appropriate dealings must be lodged to amend the community scheme. See section 33(4) *Strata Schemes Development Act 2015*.

The land to be disposed of must be defined as a lot in a deposited plan (or part of a lot when consolidated with adjoining land).

The plan must be a subdivision showing the land to be removed as one lot and the remainder of the parcel as another lot.

It must meet all of the requirements for a plan of subdivision including a subdivision certificate. The administration sheet must be executed by the owners corporation by affixing the seal under [Approved Form 23](#).

The plan must be accompanied by a Transfer of the land from the owners corporation.

The Transfer must be accompanied by a certificate from the owners corporation in accordance with [Approved Form 13](#).

6.13.1 Dedication of roads

A plan of subdivision may be prepared to dedicate part of the common property as public road. The remainder of the scheme should be shown as a lot in the plan. See section 9 *Roads Act 1993* and Registrar Generals Direction for Deposited Plans. The consent from the owners corporation must be provided as in [Approved Form 13](#) on the administration sheet. Where the land to be dedicated forms part of a leasehold strata scheme, the consent of the lessor of the scheme is required.

If the strata scheme forms part of a community scheme, appropriate dealings must be lodged to amend the community scheme. See section 35(4) *Strata Schemes Development Act 2015*.

6.13.2 Dedication of public or drainage reserves

A plan of subdivision may be prepared to create part of the common property as a public reserve or drainage reserve. Common property may be dedicated as public reserve only if there is an adjoining public road or other public place giving access to the reserve by the public.

The lot or lots to become reserves should be identified as such on the face of the plan. The remainder of the scheme should be shown as a lot in the plan. See section 49 *Local Government Act 1993* and Registrar Generals Direction for Deposited Plans. The consent from the owners corporation must be provided as in [Approved Form 13](#) on the administration sheet. Where the land to be dedicated forms part of a leasehold strata scheme, the consent of the lessor of the scheme is required.

6.13.3 More information

See our Land dealing information on [Transfer](#) requirements

6.14 Redefinition of a strata parcel

When the original base plan of a strata scheme has been found to be unreliable it may be necessary to lodge a plan of redefinition of the strata parcel prior to the registration of a strata plan of subdivision or consolidation.

If a strata plan of subdivision or consolidation proposes to create lots that are external to a building and are within 2 metres of the parcel boundary or if structural changes to a building will result in a change to the offsets from the building to the parcel boundary the following will apply.

- If the base plan has been found to be reliable a report should be furnished by the surveyor to confirm this.
- If the base plan has been found to be unreliable a plan of redefinition must be lodged and registered prior to the registration of the strata plan.

If the strata plan of subdivision or consolidation does not require a location plan no report or redefinition plan will be required.

An owner's corporation may lodge a redefinition of the base plan at any time. If the changes to the parcel boundaries have any effect on the lot boundaries a strata plan of subdivision may be required.

6.14.1 Plan requirements

- The plan must be lodged as a deposited plan and meet the requirements of a redefinition.
- The plan heading should be 'Redefinition of Strata Parcel - SP_____'.

- The administration sheet must be executed by the owners corporation by affixing the seal under [Approved Form 23](#).

Note The plan cannot redefine the boundaries of the strata lots.

6.15 Easements

Easements which burden or benefit lots or common property may be created, released and varied in the same manner as other Real Property land. As lots in a strata plan are limited in height and depth consideration must be given as to whether the easement should burden lots and or common property.

The site of the easement must be defined in a deposited plan or a plan annexed to a Real Property Act dealing. In most cases the site may be defined by a compiled plan. When the easement site contains angles and steps it will be acceptable to use prolongations of and perpendicular offsets from the structures shown in the strata plan to define the site. Any concerns regarding acceptability of a compiled plan should be addressed to the Plan and Title Advisor at plan-info@nswlrs.com.au

When the easement is relating to the common property title the owners corporation must consent by providing the relevant documents as set out below.

6.15.1 Easements burdening common property

6.15.1.1 Creation of an easement

A Transfer which purports to create an easement which burdens common property must be executed by the owners corporation as transferor. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution.

A plan and section 88B instrument which purports to create an easement which burdens common property must be consented to by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution. This certificate should be provided on the administration sheet(s) of the plan in a signatures panel. The final sheet of the section 88B instrument should bear the seal of the owners corporation together with an attestation as in [Approved Form 23](#).

If it is not recorded on the common property title that the initial period for the scheme has expired a completed certificate from the owners corporation as in [Approved Form 10](#) must be provided. This certificate should accompany the dealing or be provided on the administration sheet of a plan.

6.15.1.2 Release or extinguishment of an easement

A Transfer which purports to release an easement which burdens common property must be accepted by the owners corporation as transferee. The acceptance should be as in [Approved Form 14](#) which certifies the passing of an ordinary resolution.

A cancellation or extinguishment of easement which burdens common property does not require consent of the owners corporation.

A plan and section 88B instrument which purports to release an easement over common property does not require consent of the owners corporation.

6.15.2 Easements benefiting common property

6.15.2.1 *Creation of an easement*

A Transfer which purports to create an easement which benefits common property must be accepted by the owners corporation as transferee. The acceptance should be as in [Approved Form 14](#) which certifies the passing of an ordinary resolution.

A plan and section 88B instrument which purports to create an easement which benefits common property does not require the consent of the owners corporation.

6.15.2.2 *Release or extinguishment of an easement*

A Transfer which purports to release an easement which benefits common property must be executed by the owners corporation as transferor. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution.

A cancellation or extinguishment of easement which benefits common property must be executed by the owners corporation as dominant tenement. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution.

A plan and section 88B instrument which purports to release an easement which benefits common property must be consented to by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution. This certificate should be provided on the administration sheet(s) of the plan in a signatures panel. The final sheet of the section 88B instrument should bear the seal of the owners corporation together with an attestation as in [Approved form 23](#).

If it is not recorded on the common property title that the initial period for the scheme has expired a completed certificate from the owners corporation as in [Approved Form 10](#) must be provided. This certificate should accompany the dealing or provided on the administration sheet of a plan.

6.15.3 Variation of an easement

A variation of an easement which burdens or benefits common property must be executed by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution. This certificate should accompany the dealing.

6.16 Restrictions on the use of land

Restrictions on the Use of Land which burden or benefit lots or common property may be created, released and varied in the same manner as other Real Property land. As lots in a strata plan are limited in height and depth consideration must be given as to whether the restriction should burden lots and or common property. When the restriction is relating to the common property title the owners corporation must consent by providing the relevant documents as set out below.

6.16.1 Restrictions burdening common property

6.16.1.1 *Creation of a restriction*

A dealing which purports to create a restriction which burdens common property must be executed by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution.

A plan and section 88B instrument which purports to create a restriction which burdens common property must be consented to by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution. This certificate should be provided on the

administration sheet(s) of the plan in a signatures panel. The final sheet of the section 88B instrument should bear the seal of the owners corporation together with an attestation as in [Approved Form 23](#).

If it is not recorded on the common property title that the initial period for the scheme has expired a completed certificate from the owners corporation as in [Approved Form 10](#) must be provided. This certificate should accompany the dealing or provided on the administration sheet of a plan.

6.16.1.2 Extinguishment of a restriction

An extinguishment of a restriction which burdens common property must be accepted by the owners corporation. The acceptance should be as in [Approved Form 14](#) which certifies the passing of an ordinary resolution.

6.16.2 Restrictions benefiting common property

6.16.2.1 Creation of a restriction

A dealing which purports to create a restriction which benefits common property must be accepted by the owners corporation. The acceptance should be as in [Approved Form 14](#) which certifies the passing of an ordinary resolution.

A plan and section 88B instrument which purports to create a restriction which benefits common property does not require the consent of the owners corporation.

6.16.2.2 Extinguishment of a restriction

A dealing which purports to release a restriction which benefits common property must be accepted by the owners corporation. The acceptance should be as in [Approved Form 13](#) which certifies the passing of a special resolution.

6.16.3 Variation of a restriction

A variation of a restriction which burdens or benefits common property must be executed to by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution. This certificate should accompany the dealing.

6.17 Positive covenants

Positive covenants which burden common property may be created, released and varied in the same manner as other Real Property land. The owners corporation must consent by providing the relevant documents as set out below.

6.17.1 Creation of a positive covenant

A dealing which purports to create a positive covenant which burdens common property must be executed by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution.

A plan and section 88B instrument which purports to create a positive covenant which burdens common property must be consented to by the owners corporation. The execution should be as in [Approved Form 9](#) which certifies the passing of a special resolution. This certificate should be provided on the administration sheet(s) of the plan in a signatures panel. The final sheet of the section 88B instrument should bear the seal of the owners corporation together with an attestation as in [Approved Form 23](#).

If it is not recorded on the common property title that the initial period for the scheme has expired a completed certificate from the owners corporation as in [Approved Form 10](#) must be provided. This certificate should accompany the dealing or provided on the administration sheet of a plan.

6.17.2 Extinguishment of a positive covenant

An extinguishment of a positive covenant which burdens common property must be accepted by the owners corporation. The acceptance should be as in [Approved Form 14](#) which certifies the passing of an ordinary resolution.

6.17.3 Variation of a positive covenant

A variation of a positive covenant which burdens or benefits common property must be executed to by the owners corporation. The execution should be as in [Approved Form 13](#) which certifies the passing of a special resolution. This certificate should accompany the dealing.

6.18 Lease of part of the common property

The owners corporation may lease part but not all of the common property for a term up to but not exceeding 5 years.

- A lease of part of a title in excess of 5 years requires a plan of subdivision and is not acceptable in relation to common property.
- If the part of the common property to be leased can be described as premises it may be leased for up to 25 years.
- The lease requires the owners corporation to pass a special resolution, which must be certified by the owners corporation on [Approved Form 13](#). The approved form must accompany the lease at lodgment.

6.19 Termination of a strata scheme

Application may be made to the Supreme Court to terminate the strata scheme by the parties referred to in section 135(1) *Strata Schemes Development Act 2015*.

It is also possible to terminate a strata scheme by lodging an application with the Registrar General on *Real Property Act* dealing [Termination of a strata scheme form 15ST](#) (PDF 228 KB). Attention is drawn to section 142 *Strata Schemes Development Act 2015*.

More information can be found on the NSW LRS fact sheet [Termination of a strata scheme by the Registrar General](#) (PDF 148 KB).

A freehold strata scheme may also be terminated pursuant to an order of the Land and Environment Court following the strata renewal process provided under Part 10 *Strata Schemes Development Act 2015*.

A freehold strata scheme may also be terminated following the Strata Renewal Process provided under Part 10 of the *Strata Schemes Development Act 2015*.

6.20 Conversion of a strata lot to common property

It is possible to convert the whole of a strata lot to common property.

This involves the lodgment of Real Property Act dealing form [Notice of conversion of strata lot to common property form 15CD](#) (PDF 585 KB).

More information can be found in the [RPA dealing](#) pages.

7 Staged development

Section 73(1) *Strata Schemes Development Act 2015* provides the following explanation of staged development:

The proposed development in stages of a parcel subject to a strata scheme consists of:

- the progressive improvement of the parcel by the construction of buildings or the carrying out of works on development lots, and
- the subsequent subdivision of each development lot and the consequential adjustment of the unit entitlement of lots in the scheme.

A staged development strata plan requires a developer to provide a disclosure document which indicates the proposed future developments within a scheme.

- The disclosure document is called a Strata Development Contract [Approved Form 8](#) and provides details of future subdivision of the parcel.
- All developments will have at least 2 stages and 1 development lot.
- Stage 1 is the original plan creating the scheme and includes the Strata Development Contract.
- The stages described in the contract begin with Stage 2.
- Each new stage must be a subdivision of a development lot.
- A new development lot may be created at each stage. The new development lot(s) must be indicated in the strata plan of subdivision in accordance with the Strata Development Contract. See section 73(2) *Strata Schemes Development Act 2015*.

7.1.1 From 1997 to present

- The legislation regarding staged development commenced 1 July 1997 to permit more flexible development of a strata scheme than was available.
- The disclosure document became known as a Strata Development Contract.
- The Strata Development Contract comprises the written description of the proposed development prepared on [Approved Form 8](#) (PDF 60 KB) and includes the concept plan(s).
- The contract permits the specified development without the owners corporation consent and without the initial period having expired.
- There can be 2 types of development, Warranted Development and Authorised Proposals
-

- Warranted development - the developer may be compelled to carry out.
- Authorised proposals - the developer is permitted to carry out, but not compelled.
- Authorised proposals can give numerous options for the development, for example:
 - up to a certain number of lots
 - buildings up to a certain number of levels
 - can also give selection of numerous proposals which the developer can pick from depending on market trends at the time
- The current provisions are found at Part 5 *Strata Schemes Development Act 2015* and Part 3 *Strata Schemes Development Regulation 2016*.

7.1.2 History prior to 1997

7.1.2.1 Pre March 1986

Prior to 1 March 1986 there was no legislation in place to govern staged development:

The developer could create an open space lot described as a Reserved Lot with the intention of subdividing this lot in the future.

However It was no different to any other lot:

- Required consent of Body Corporate, which was not guaranteed.
- If common property was created the initial period must be expired.
- Did not inform buyers in the initial stage what was proposed for the future development of the scheme.
- Overall this system was uncertain and did not work well.

7.1.2.2 1986 - 1997

- From March 1986 strata plans for staged strata incorporated a disclosure document known as a Development Statement.
- The reserve lot was then known as a development lot.
- The statement disclosed the developer's full intentions for the development lot.
- This permitted the developer to subdivide the development lot in accordance with the statement without the consent of the Body Corporate and without expiring the initial period.
- This system was also beneficial for buyers in the first stage as they knew exactly what was to be built in the future.
- However this system locked the developer into completing the development.
- Any change required the consent of the body corporate.
- This legislation did not permit vertical staging where the development lots were above or below other lots.
- It unreasonably disadvantaged the developer.

7.2 Preparing the plan

7.2.1 Stage 1

The initial plan in a staged development strata scheme is prepared in the same manner as a conventional strata plan. However, extra information is required as regards the development lot(s):

- The development lot(s) must be identified as such on the floor plan.
- The development lots must be numbered and have areas the same as any strata lot. The lot numbering must agree with the Strata Development Contract.
- A development lot is required for each stage. A new development lot may be created upon the completion of each stage provided this is indicated in the Strata Development Contract.
- In most cases development lots are an open space not containing any buildings. Appropriate stratum statements defining the upper and lower boundaries must be provided. These statements must be related to an appropriate datum, this may be a structural surface within another lot in the scheme.
- Careful consideration must be given to providing stratum limitations which are appropriate for the future development.

7.2.2 Subdivision

A plan of subdivision of a development lot may be prepared differently from a conventional strata plan of subdivision:

- There will always be a location plan.
- The location plan will show the boundaries with dimensions of the development lot.
- The floor plan must contain enough information to show the new lots are completely within the boundaries of the development lots. This is particularly relevant for any stratum statements. It is not permitted to subdivide common property in a staged development plan.
- It is not permitted to subdivide common property in a staged development plan without the consent, by special resolution, of the owners corporation. See section 76(5) *Strata Schemes Development Act 2015*.

7.2.3 Administration sheets

A staged strata plans uses the same administration sheets as a conventional strata plans.

[SP Form 3.01](#) for the original plan when the strata certificate is signed by an accredited certifier.

[SP Form 3.02](#) for the original plan when the strata certificate is signed by a local council.

[SP Form 3.03](#) for a strata plan of subdivision in a subsequent stage when the strata certificate is signed by an accredited certifier.

[SP Form 3.04](#) for a strata plan of subdivision in a subsequent stage when the strata certificate is signed by a local council.

7.3 Strata development contract

A Strata Development Contract is a disclosure document that indicates the details of the future development of the strata scheme. The Strata Development Contract is prepared as in [Approved Form 8](#) (PDF 258.6 KB) and must contain a concept plan.

A Strata Development Contract for a strata scheme is void to the extent that it is inconsistent with a Strata Management Statement for the scheme. See section 105(7) *Strata Schemes Development Act 2015*.

- The development contract gives an explanation of each stage of the development after the first stage (Stage 1).
- Stage 1 of the development is the first plan and does not need to be described in the contract.
- Each stage described in the Strata Development Contract can be identified as Warranted Development or Authorised Proposals:
 - - The developer is permitted and may be compelled to complete Warranted Development.
 - The developer is permitted to complete Authorised Proposals, but not compelled.
- When describing Authorised Proposals the contract may indicate several options which may be adopted.

The administration sheets of the plan should contain a statement as follows:

"THIS PLAN IS SUBJECT TO A STRATA DEVELOPMENT CONTRACT WHICH IS FILED WITH THE STRATA PLAN."

7.3.1 Concept plan

The Strata Development Contract must include a concept plan. The concept plan is required to separately illustrate the sites proposed for and the nature of buildings and works that will result from carrying out all of the permitted development, and identifying which is warranted development, see section 77 *Strata Schemes Development Act 2015*.

7.4 Preparing the Administration sheets

A staged strata plan uses the same administration sheets as conventional strata plans.

[SP Form 3.01](#) for the original plan when the strata certificate is signed by an accredited certifier.

[SP Form 3.02](#) for the original plan when the strata certificate is signed by a local council.

[SP Form 3.03](#) for a strata plan of subdivision in a subsequent stage when the strata certificate is signed by an accredited certifier.

[SP Form 3.04](#) for a strata plan of subdivision in a subsequent stage when the strata certificate is signed by a local council.

The strata certificate must indicate that the plan is part of a development scheme.

If the plan is stage one of a staged development it will include a Strata Development Contract and a statement as follows must be included:

“THIS PLAN IS SUBJECT TO A STRATA DEVELOPMENT CONTRACT WHICH IS FILED WITH THE STRATA PLAN”

The schedule of unit entitlement should only show the new lots in the strata plan or strata plan of subdivision.

8 Part strata development

Section 9(1)(b) *Strata Schemes Development Act 2015* provides for the subdivision of land which includes only part of a building.

Land which includes only part of a building may be subdivided into lots or into lots and common property. The land may consist of one current lot or two or more current lots (whether contiguous or not). This subdivision requires that the building is erected on a site of land held in fee simple.

This type of development involves a strata plan which subdivides a lot which only includes part of the building. The remaining part(s) of the building must exist within other parcel(s) of land. In many cases the parcel to be subdivided by the strata plan will be a stratum lot, limited in height and/or depth.

As per the *Strata Schemes Development Act 2015* the land, the subject of a plan of this nature is referred to as a “Part Strata Parcel”. A “Part Strata Parcel” for the purposes of this document is not necessarily a stratum lot (i.e. land limited in height and or depth).

The strata plan may subdivide 1 or more lots but must not include the entire building. If the lots which include part of the building in the stratum parcel are within a stratum subdivision they do not have to be contiguous. Any lots which are part of the subdivision but do not include the building must be contiguous to a lot that contains part of the building.

8.1.1 Subdividing a stratum lot

When the land to be subdivided is a stratum lot the plan of survey defining it may be complex and requires several pages. If this is the case it would be expected that the location plan will require a similar number of pages.

The first sheet of the location plan should show the entire parcel upon which the building is situated. Subsequent sheets will provide plans defining the various boundaries at all levels. If required cross sections may be utilised to clearly depict boundaries.

8.1.2 Strata management statement

All part strata developments must have a strata management statement unless the requirement is waived by the Registrar General. See [Strata Management Statement](#).

8.2 Preparing the plan

The strata plan is prepared in the same manner as any other plan. However, consideration should be given to the position of the building(s) relative to the parcel boundaries.

8.2.1 Location plan

Strata plans based upon a stratum lot, as with all strata plans, must clearly define the parcel boundaries on the location plan. In this regard if the plan of survey required several sheets to define the boundaries of the subject land the location plan will require the same number of sheets.

The first sheet of the location plan will generally provide a definition of the external boundaries of the stratum lot. Subsequent sheets may show the boundaries of the parcel at varying levels as required.

8.2.2 Floor plan

The floor plans are prepared in the same manner as a regular strata plan. Consideration must be given to showing the current adjoining information as it is possible for a strata lot to adjoin a parcel which is not within the scheme. Also it is pointed out that all lots must be defined from structures within the parcel, it is not acceptable to define a lot from a structure within land outside the scheme.

8.3 Easements

Generally easements may be created as required by a section 88B instrument and are defined in the same manner as a regular strata plan.

8.3.1 Easements for Subjacent and Lateral Support and Shelter

Section 106 *Strata Schemes Development Act 2015* provides for the creation of easements for subjacent and lateral support and for shelter. The easements are created automatically by the registration of a relevant plan affecting and appurtenant to the relevant parcels in the building. NSW LRS enters the following notification in the register for these plans:

EASEMENT FOR SUBJACENT AND LATERAL SUPPORT AND EASEMENT FOR SHELTER IMPLIED BY SECTION 106 STRATA SCHEMES DEVELOPMENT ACT 2015

8.3.1.1 Existing Building Management Statement and Easements under the Conveyancing Act

If the strata plan affects land which is subject to a Building Management Statement, the title will include the following easement notification:

EASEMENT FOR SUBJACENT AND LATERAL SUPPORT AND EASEMENT FOR SHELTER IMPLIED BY SECTION 196K CONVEYANCING ACT 1919

Upon registration of the strata plan, the easement notification referring to section 196K *Conveyancing Act 1919* will be removed and replaced with the notification referring to s.106 *Strata Schemes Development Act 2015*.

8.3.2 Right of Vehicular Access, Right of Personal Access and Easements for Services

Schedule 5 *Strata Schemes Development Act 2015* provides terms for Right of Vehicular Access, Right of Personal Access and Easements for Services. These easements may be created by their provision in a section 88B instrument. Section 107(7) *Strata Schemes Development Act 2015* provides that the site of an easement created for a specific service need not to be shown on the plan. The section 88B instrument should indicate that the easement for service affects the whole of the lot. The schedule indicates responsibilities relative to maintenance and repair and the proportion of liability of the cost of maintaining the easement in good order.

The terms, as mentioned above, of these easements may be varied by lodgment of a variation of easement under the *Real Property Act 1900*. The request must be executed by every person having an estate or interest in the land burdened and benefited by the easement.

8.4 Strata management statement

All part strata developments must have a Strata Management Statement (SMS) prepared in accordance with [Approved Form 9](#).

The Registrar General may waive the requirement for a SMS in the following circumstances:

- when the building the subject of the subdivision is erected on a lot in a community scheme and the remainder of the building is within community property
- when a SMS has been registered and is still in force for the building and its site
- when a Building Management Statement (BMS) has been registered and is still in force for the building and its site, provided the BMS meets the requirement of a strata management statement. In these circumstances the BMS is taken to be the SMS for the building and its site (section 108 *Strata Schemes Development Act 2015*).
- on the direction of the Minister on grounds that are considered sufficient.

See section 99(2) *Strata Schemes Development Act 2015*.

It is possible to register a BMS over several lots upon which a building is situated without the involvement of a strata plan. The BMS is prepared in the same manner as an SMS.

If a BMS exists for lots which contain a building, it will cease to have effect upon registration of a SMS for the same building. See section 196J(1) *Conveyancing Act 1919*.

Reference to a BMS will be removed from the register upon registration of an SMS.

The SMS must be executed as required by section 104 *Strata Schemes Development Act 2015*.

9 Leasehold strata plan

The *Strata Schemes Development Act 2015* enables land to be subdivided into a leasehold strata scheme.

Plans which are intended to be registered as a leasehold scheme are prepared in the same manner as a freehold scheme with the following differences:

- the administration sheets must indicate it is a leasehold strata scheme
- there must be leases for each of the proposed lots and the common property in the scheme.

9.1.1 Leases

If it is the intention to create a leasehold strata scheme, the plan must be supported by leases for each of the lots and the common property.

9.1.2 Existing leases to remain

The leases for the lots may have commenced prior to registration of the plan and if the following criteria are met it may be possible for these leases to subsist for the lots after the scheme has commenced:

- The terms of the leases must be expressed to expire on the same day. If there is an option to renew it must be consistent for all leases.
- Each lease must be for a part of the parcel that corresponds to a lot shown in the plan. This must be supported by evidence.
- There must be a lease for the common property lodged for registration. The term of the lease must be expressed to commence upon registration of the plan and to expire at the same time as the leases for the lots. If there is an option to renew it must be consistent with the leases for the lots.

9.1.3 Existing leases to be replaced

If there are lease(s) for all or part of the land in the proposed scheme these may be replaced by new leases for the lots providing the following criteria is met:

- The replacement leases are expressed to be in substitution for the existing leases.
- There must be a lease for the common property.
- The terms of the leases must be expressed to commence upon registration of the plan and to all expire at the same time. If there is an option to renew it must be consistent for all leases.
- All leases must be lodged for registration.

9.1.4 No existing leases

Leases must be prepared for each lot and the common property in the strata plan.

The leases must meet the following criteria:

- The terms of the leases must be expressed to commence upon registration of the plan and to all expire at the same time. If there is an option to renew it must be consistent for all leases.
- All leases must be lodged for registration.

In regard to the preceding items see section 11 and 12 *Strata Schemes Development Act 2015*.

9.1.5 Execution of leases

All leases should be executed by the registered proprietor of the freehold title as lessor.

The lease for the common property should be executed by the developer on behalf of the (proposed) owners corporation.

The leases for the lots must be executed by the lessees. This will either be the developer or the intended registered proprietor of the leasehold estate for each lot.

9.2 Dealing with the titles

The titles for lots in a leasehold strata plan may be dealt with in the same as any other strata lots with regard to transfers, mortgages, covenants and the creation of easements etc. All of the actions may be performed in the same manner as a freehold strata plan.

9.2.1 Dealing with common property

The creation or variation of easements, restrictions and positive covenants over common property is addressed in section 34 *Strata Schemes Development Act 2015*.

9.2.2 Strata plan of subdivision

A strata plan of subdivision may be registered affecting a lot or lots and or common property. The plan must meet the same requirements as a strata plan of subdivision of a freehold scheme and also requires execution by the lessor of the scheme.

The plan must be accompanied by leases for the new lots being created. These leases must be identified to commence upon registration of the plan and expire at the same time as the existing lease(s). Any option of renewal must be identical to the existing leases. The replacement leases must contain provisions confirming that they are in substitution of the existing lease(s). The existing lease(s) will be determined upon registration of the plan and substitute leases. See section 12 *Strata Schemes Development Act 2015*.

There is no requirement to provide a new lease for the common property regardless of whether the boundaries change or not.

9.2.3 Strata plan of consolidation

Two or more lots in a leasehold strata scheme may be consolidated by the registration of a strata plan of consolidation. The plan will must meet the same requirements as a consolidation of a freehold scheme and also requires execution by the lessor of the scheme.. A replacement lease must be lodged for each new lot (see Section 15(2) *Strata Schemes Development Act 2015*).

9.3 Expiring the leases

Upon the leases being determined or reaching their expiration date:

- the strata scheme will be terminated
- the owners corporation is dissolved
- all rights and liabilities in regard to the owners corporation are now vested in the former owner(s)
- NSW LRS will, as soon as practicable cancel all of the relevant titles and record an appropriate notification on the former title for the parcel.

In regard to the expiration of leases see section 148 - 150 *Strata Schemes Development Act 2015*.

10 Registration of the strata plan

10.1 Freehold strata plan

Upon registration of a freehold strata plan under the *Strata Schemes Development Act 2015* the following actions occur:

- The prior title is cancelled.
- The plan and administration sheets are processed to be placed on public record, including the affixing of the Registrar General's Seal and the date.
- The owners corporation comes into existence.

- All common property vests in the owners corporation and a certificate of title is issued for the common property, see section 24 *Strata Schemes Development Act 2015*.
- A certificate of title is created for each lot in the plan which will issue in the name of the registered proprietor of the prior title.
- The initial period commences.

10.2 Leasehold strata plan

Upon registration of a strata plan under the *Strata Schemes Development Act 2015* the following actions occur:

- A notification is entered on the prior title referring to the strata plan and associated leases.
- The leases for the common property and each lot are registered and placed on public record.
- Any existing lease(s) on the freehold title which have been replaced by a new lease are automatically extinguished and removed from the title.
- The plan and administration sheets are processed to be placed on public record, including the affixing of the Registrar General's Seal and the date.
- The owners corporation comes into existence.
- All common property vests in the owners corporation as lessee and a certificate of title is issued for the common property.
- A certificate of title is created for the leasehold estate of each lot in the plan which will issue in the name of the lessee(s).
- The initial period commences.

11 Titles in a strata plan

Upon registration of the plan certificates of title are created for each lot and the common property. The lots comprise the land as defined on the floor plan(s). The common property comprises all of the land in the strata scheme which is not part of a lot.

11.1 Common property title

The common property title contains a first and second schedule like any other folio and a schedule of unit entitlement.

11.2 The first schedule

The registered proprietor of the common property is always the owners corporation of the scheme and it is not necessary to indicate this on the folio. The first schedule contains the address for service of documents for the scheme.

11.3 The second schedule

The second schedule contains information and encumbrances the same as any other folio of the register. Notifications which may appear include; Easements, Restrictions, Covenants, Positive Covenants, Leases etc. There will also be a notification indicating the by-laws which affect the scheme.

Note The common property title cannot be affected by Mortgages, Charges, Covenant Charges or Writs.

11.4 The Schedule of Unit Entitlement

The Schedule of Unit Entitlement appears after the second schedule. It indicates the entitlements for each current lot in the scheme and an aggregate.

11.5 Titles for the lots

The titles for lots in a strata plan contain a first and second schedule like any other folio.

11.5.1 The first schedule

The first schedule indicates the registered proprietor(s) for the lot and tenancy if required.

11.5.2 The second schedule

The second schedule contains information and encumbrances the same as any other folio of the register. Notifications which may appear include; Easements, Restrictions, Covenants, Positive Covenants, Mortgages, Leases etc. The first notification on the title for a strata plan lot will always be INTERESTS RECORDED ON REGISTER FOLIO CP/SP (X) where (X) is the number of the scheme of which the lot forms part. This indicates that there may be notifications on the common property title which the lot is also subject to.

12 Miscellaneous

[By-laws](#) a plan intended to be registered as a strata plan must indicate the by-laws intended to be adopted.

[Car stackers](#) is a term used to describe a machine for the storage of motor vehicles.

[Company title](#) is term used to describe a conventional title held by a company whose shareholders occupy the building(s) in accordance with articles of the company.

[Execution by owners corporation](#) by affixing the seal of the owners corporation and completing an attestation clause.

[Initial period](#) defined by Section 4 of the Strata Schemes Management Act 2015.

[Mortgages, leases and caveats etc. affecting part](#) see section 22 Strata Schemes Development Act 2015 for registration information.

[Permitted survey information](#) a surveyor should apply in writing to use survey information on a strata plan to define lot or easement boundaries.

[Pre 1974 plans](#)

[Utility lots](#) for the use of a proprietor or occupier of a lot, not being another utility lot, in the same scheme.

12.1 By-laws

Section 10 *Strata schemes Development Act 2015* states that a plan intended to be registered as a strata plan must indicate the by-laws intended to be adopted.

The by-laws adopted will be either "Model by-laws for residential strata schemes" as described in Schedule 3 *Strata Schemes Management Regulation 2016* or by-laws as provided in [Approved Form Z](#) and lodged with the plan.

By-laws can provide guidelines regarding behaviour and should assist the smooth running of a scheme.

12.1.1 Common property rights by-laws

By-laws may also confer certain rights or privileges. These are known as "common property rights by-laws" (previously referred to as Exclusive Use By-laws). These may provide that part of the common property is for the exclusive use of a specified lot or lots. See Division 3 part 7 *Strata Schemes Management Act 2015*.

If it is intended to provide a by-law granting exclusive use of part of the common property to a lot the relevant part should be clearly described within the by-law. If required a sketch plan may be included as part of the document.

It should be noted that it is not the responsibility of NSW LRS to determine whether by-laws are correctly drafted and enforceable. In some circumstances requisition may be raised if in the opinion of the office the by-laws require revision.

12.1.2 Change of by-laws

If any by-laws are to be repealed, replaced or added after the scheme has commenced this can be recorded in the register by lodgment of a [Consolidation/Change of by-laws](#).

If a by-law relates to a lot which is the subject of a plan of subdivision or consolidation a change of by-laws should be prepared and lodged if it is intended that the by-law is to continue for the new lot description.

12.2 Car stackers

Car stacker is a term used in this document to describe a machine for the storage of motor vehicles. Their purpose is to provide more spaces for the storage of vehicles than conventional parking methods would provide.

The style of the stackers varies greatly but in most cases will resemble an elevator style of structure for a car. The machine enables 2 or more cars to be parked in the area of a single car space by raising or lowering one vehicle so subsequent vehicles may be parked above or below it.

Consideration must be given by the surveyor and developer when a strata scheme contains a car stacker. The plan should clearly indicate whether the machinery forms part of a particular lot or is common property. If it is common property consideration should be given to creating common property rights by-laws indicating which lots may use it and maintenance responsibilities.

There may be many factors to consider as to the status given to a car stacker:

- A stacker may wholly for the use of one lot to park two or more cars. In this case it would be logical that the machinery and the space it occupies is identified as part of the lot.
- A stacker may be for the use of two lots to park one car each. In this case the option could be to make the space occupied by the stacker common property and create common property rights by-laws in favour of the appropriate lots. Alternatively the area could be defined as two lots, one above the other and create appropriate easements to allow each lots use of the relevant part of the other lot.

It should be noted that a car stacker is not considered to be a permanent structure and lots should not be defined by reference to a car stacker.

The variables for the inclusion of car stackers in a strata scheme are unlimited. The above are just examples of the most basic situations. The main issues to be considered is giving the lot owners the right to park their cars legally and indicating if the machinery is common property or part of a lot. This should resolve any doubts regarding maintenance. Advice may be sought from the NSW LRS if there are any doubts regarding this subject.

12.3 Company title

Company title is a term used to describe a conventional title held by a company whose shareholders occupy the building(s) in accordance with articles of the company. The company may find it desirable to create a strata scheme over such a title. In order to do this the following steps must be undertaken.

The strata subdivision of a building currently under company title is no different to any other strata subdivision of land owned by a company. The steps are as follows:

1. Make a development application to the local council.
2. Engage a surveyor to prepare a strata plan and provide a surveyors certificate.
3. Obtain a completed strata certificate from the council or an accredited certifier.
4. Lodge plan with NSW LRS. The plan must meet all of the current requirements and the appropriate fees must be paid.
5. The plan should be executed by the company as the registered proprietor.
6. On registration of plan, individual Certificates of Title are issued for each lot in the strata plan in the name of the company. A Certificate of Title for the common property is also issued.
7. Transfers are required to transfer the title for each lot from the company to the appropriate lot owners.
8. The transfers will require marking at Revenue NSW prior to lodgement.
9. The appropriate lodgement fees will be payable on lodgment of the transfers.
10. Any existing mortgages would also need to be addressed to ensure they are recorded on the appropriate title.

12.4 Execution by owners corporation

An owners corporation must execute all documents by affixing the seal of the owners corporation and completing an attestation clause as provided in [Approved Form 23](#). Section

273 *Strata Schemes Management Act 2015* provides details regarding the requirements for affixing the seal.

12.5 Initial period

Section 4 of the *Strata Schemes Management Act 2015* provides the following definition:

"Initial period" of an owners corporation of a strata scheme means the period:

(a) commencing on the day the owners corporation is constituted, and

(b) ending on the day there are owners of lots in the strata scheme (other than the original owner) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement.

12.5.1 Restrictions during the initial period

Section 26 of the *Strata Schemes Management Act 2015* outlines various actions which are not permitted during the initial period. The actions relevant to NSW LRS include but may not be limited to the following:

- Strata plan of subdivision which includes common property or creates common property.
- Conversion of a lot to common property.
- Transfer or lease of part of the common property.
- Creation of an easement burdening common property.
- Release of an easement benefiting common property.
- Dedicating part of common property as a public road, public reserve or drainage reserve.
- Change of by-laws. Section 140 *Strata Schemes Management Act 2015* places restrictions on the making, amendment or repeal of by-laws during the initial period.

If a document is lodged at NSW LRS which intends to perform one of the above actions it must be accompanied by a certificate from the owners corporation in [Approved Form 10](#) (PDF 7.9 KB) unless the common property title contains a note in the second schedule that a certificate has been lodged previously.

12.6 Mortgages, leases and caveats etc. affecting part

If the land being subdivided by a strata plan contains a mortgage, charge, covenant charge, lease, writ or caveat which only affect part of the subject land, consents to the registration must be provided as per section 22 *Strata Schemes Development Act 2015*.

Further to this evidence should be provided indicating which lots in the new strata plan will be affected by the encumbrances.

In the case of leases or caveats this evidence should be provided in the form of a statutory declaration.

12.7 Permitted survey information

Generally all lot boundaries in strata plans which are not defined by a structure must be defined by their relationship to a structure. This relationship must be a prolongation of a surface or at right angles to that surface. In some circumstances it may be desirable and more efficient to define lot boundaries by the use of bearings and distances. This is only acceptable with the prior approval of NSW LRS.

A surveyor should apply in writing to use survey information on a strata plan to define lot or easement boundaries. Permission will only be granted in cases where it is difficult to define the boundaries in the usual manner. The request should be addressed to the Plan and Title Advisor at plan-info@nswlrs.com.au and should explain the reasons for the request. It is recommended that a copy of the plan be included. If permission is granted, the surveyor will be provided with a reference number which should be added to the surveyor's reference on the plan.

12.8 Pre 1974 plans

The *Strata Schemes (Freehold Development) Act 1973* commenced on 1 July 1974 and replaced the previous legislation *Conveyancing (Strata Titles) Act 1961*. Transitional and savings provisions were contained in the new legislation which had effect upon previously registered plans. One of the most significant changes involved the relocation of some boundaries from the centreline of a structure (i.e. wall, floor or ceiling) to the face or faces of the structure.

The original legislation provided that the boundary between separate lots or between lots and common property was the centreline of the dividing structures being walls, floors or ceilings. Upon the commencement of the new legislation on 1 July 1974 these boundaries, for previously registered plans, moved to the inner face of the walls, the upper surface of the floors and the lower surface of the ceilings. The structure then became common property. Any walls or other structure which are between separate parts of the same lot remain as part of the lot and are not common property. This occurs even if the structure is shown on the plan. The most common example where these provisions create an issue is the wall within a lot between the living area and a balcony; in this case the wall and any door or window will remain as part of the lot and not become common property.

In some circumstances the plan may show a note indicating that the boundary is the centre (or face) of a structure. In this case the boundary remains in that position and is not relocated as described above.

With regard to plans registered prior to 1 July 1974:

- Any structures between separate parts of the same lot are part of the lot and are not common property.
- A structure between separate lots or between a lot and common property is common property.
- If the plan described by a note the location of a boundary relative to structure the boundary was not relocated.

Careful consideration should be given to any actions involving plans prepared prior to 1 July 1974.

12.9 Utility lots

A council or accredited certifier may direct in a strata certificate that certain lots being created upon registration of the plan are to be affected by a restriction on use subject to section 63 *Strata Schemes Development Act 2015*. These lots are referred to as utility lots. This restriction is recorded in the second schedule of the folios as:

Lot title;

RESTRICTION ON THE USE OF UTILITY LOTS (SEE S.63 STRATA SCHEMES DEVELOPMENT ACT 2015)
Common property title

PURSUANT TO S.63 STRATA SCHEMES DEVELOPMENT ACT 2015 THIS STRATA SCHEME CONTAINS
UTILITY LOT(S)

The legislation indicates that the lot is to be used primarily for storage and not for human occupation also that a utility lot is for the use of a proprietor or occupier of another lot in the scheme which is not another utility lot.

See section 4 *Strata Schemes Management Act 2015* and section 63 *Strata Schemes Development Act 2015*.

12.9.1 Transfer

Utility lots may be transferred in the same manner as any other strata lot. The restriction does not prohibit any change in ownership.

12.9.2 Subdivision

If a strata plan of subdivision involves a utility lot, steps should be taken to have the restriction removed prior to registration of the plan. If it is the intention of the council that lots in the new plan are to be utility lots, the strata certificate must reflect this.

12.9.3 Consolidation

If a strata plan of consolidation involves a utility lot steps should be taken to have the restriction removed prior to registration of the plan unless all lots being consolidated are restricted. Where all of the lots being consolidated are utility lots the restriction should be carried forward on the new lot(s).

12.9.4 Release of Restriction

If it is intended to release a restriction from a utility lot a Request ([RPA Form 11R](#)) should be lodged. This request must be executed by the local council see section 64 *Strata Schemes Development Act 2015*.

13 Approved forms - instructions

Approved forms provide a standard wording for various executions, certificates and other documents relating to strata plans.

Approved forms 3 (Surveyors Certificate, for subdivisions and consolidations) and 5 (Strata Certificate) are part of the administration sheet 3 (Part 1). Approved form 4 (Surveyors Certificate, for building alteration Plans) is part of administration sheet 3B for Building Alteration Plans.

When approved forms 9 - 12, 23 or 29 are required to enable the registration of a plan they should be endorsed in the signatures panel of the administration sheets.

The following information provides instructions for completing selected strata plan approved forms. Go to [alphabetical list of approved forms](#) or [numeric list of approved forms](#).

All approved forms must be produced including all of the text. It is not permitted to omit any information. Inapplicable information should be struck through.

[Approved form 7 - Strata Plan by-laws](#) this form is required when a developer intends to create their own by-laws.

[Approved form 8 - Strata development contract](#) this form is for the provision of a strata development contract.

[Approved form 9 - Strata management statement](#) this form is for the provision of a strata management statement.

[Approved form 10 - Certificate re initial period](#) this form must be lodged together with any documents that upon registration will perform an action that is not permitted during the initial period unless they are in accordance with a development contract.

[Approved form 11 - Certificate that owners corporation agrees to the schedule of unit entitlement](#) this form must be lodged together with a schedule of unit entitlement for a strata plan of subdivision which involves common property.

[Approved form 12 - Certificate of owners corporation - agreeing to subdivision](#) must be completed by the owners corporation.

[Approved form 13 - Certificate of owners corporation - special resolution](#) .

[Approved form 14 - Certificate of owners corporation - creating a benefit or releasing a burden](#) .

[Approved form 15 - Notice by Council of proposed subdivision](#) .

[Approved form 18 - Revised schedule of unit entitlement](#) may be used to provide a revised schedule of unit entitlements upon conclusion of a development scheme.

[Approved form 23 - Attestation](#) this form is required in all situations where the seal of the owners corporation is affixed to a certificate or any other document.

13.1 Approved form 7 - Strata Plan by-laws

[Approved Form 7](#) (PDF 51.8 KB) is required when the developer intends to create their own by-laws upon registration of the plan.

The by-laws intended to be adopted must be listed in the appropriate space.

All the by-laws should be numbered.

Care should be taken to ensure all by-laws are clearly worded, able to be enforced and can be legally created. See Divisions 2 and 3, Part 7 *Strata Schemes Management Act 2015*.

It is not the responsibility of NSW LRS to check the by-laws for accuracy and correctness, however, a courtesy examination is often undertaken and requisitions may be raised to ensure an accurate document is registered.

NSW LRS may refuse to register a document they believe is inaccurate.

NSW LRS cannot provide advice regarding the wording of by-laws. It is recommended that legal advice is sought for this purpose.

If it is intended to adopt the model by-laws for residential strata schemes (either in whole or in part) as set out in Schedule 3 *Strata Schemes Management Regulation 2016* together with other by-laws, the full text of the by-laws to be adopted must be set out.

All the regular by-laws should be listed first followed by any common property rights by-laws.

13.2 Approved form 8 - Strata development contract

A Strata Development Contract [Approved Form 8](#) (PDF 285 KB) must be lodged with the first plan, stage 1, of a strata development scheme.

See [Strata Development Contract](#) within the Staged Development chapter.

13.3 Approved form 9 - Strata management statement

A Strata Management Statement [Approved Form 9](#) (PDF 15KB) must be lodged with the first plan which subdivides part of the land in a building.

See [Strata Management Statement](#) within the Part Strata chapter.

13.4 Approved form 10 - Certificate re initial period

[Approved Form 10](#) (PDF 7.9 KB) must be lodged together with any documents that upon registration will perform an action that is not permitted during the initial period unless they are in accordance with a development contract. These documents include but are not limited to:

- A strata plan of subdivision which subdivides common property or creates common property
- A dealing that will create or diminish common property. This includes creating an easement which affects common property or releasing an easement which benefits common property
- A change of by-laws which makes, amends or repeals a by-law (unless that by-law confers a right or imposes an obligation on all lots in the scheme equally). See section 140 *Strata Schemes Management Act 2015*.

Completion of this form indicates the initial period has expired or the original proprietor still owns all the lots in the scheme.

13.4.1 How to complete the form

13.4.1.1 *If the initial period has expired*

Strike through the second option.

13.4.1.1.1 If the original developer still owns all the lots in the scheme

Strike through the first option.

See [Approved form 23 - Attestation page](#) for the completion of the final part of this certificate.

13.5 Approved form 11 - Certificate that owners corporation agrees to the schedule of unit entitlement

[Approved Form 11](#) (PDF 61.5 KB) must be lodged together with a schedule of unit entitlement for a strata plan of subdivision which involves common property. See clause 4, Schedule 2 *Strata Schemes Development Act 2015*.

13.5.1 How to complete the form

Insert the date of the passing of the special resolution agreeing to the schedule of unit entitlement.

See [Approved form 23 - Attestation page](#) for the completion of the final part of this certificate.

13.6 Approved form 12 - Certificate of owners corporation - agreeing to subdivision

[Approved Form 12](#) (PDF 77.5 KB) may be endorsed on the administration sheet for a strata plan of subdivision which does not involve common property and is to be lodged with local council for the purpose of obtaining a strata certificate (except when the subdivision is of a development lot). The certificate may be provided but is not required. However, if the certificate is not provided the local council must send notice to the owners corporation as in [Approved Form 15](#).

[Approved Form 12](#) (PDF 77.5 KB) must be endorsed on the administration sheet:

- for a strata plan of subdivision which is to be lodged with an accredited certifier for the purpose of obtaining a strata certificate (except when the subdivision is of a development lot).
- for a strata plan of subdivision which involves common property and is to be lodged with a local council for the purpose of obtaining a strata certificate (except when the subdivision is of a development lot).

13.6.1 How to complete the form

- Insert the date of the passing of the resolution consenting to the subdivision. .
- Strike through the inapplicable statement

See [Approved Form 23 - Attestation page](#) for the completion of the final part of this certificate.

13.7 Approved form 13 - Certificate of owners corporation - special resolution

[Approved Form 13](#) is a certificate given by an owners corporation stating that it has passed a special resolution authorising a dealing or plan (which it must accompany) in instances including, but not limited to:

- Adding land to the common property by lease, sub-lease or transfer see section 25 *Strata Schemes Development Act 2015*
- Surrendering a lease or sub-lease of common property see section 27 *Strata Schemes Development Act 2015*
- Transferring or leasing part of the common property see section 33 *Strata Schemes Development Act 2015*
- Creating or varying an affecting interest which burdens common property see section 34(1)(a) *Strata Schemes Development Act 2015*
- Releasing or varying an affecting interest which benefits common property see section 34(1)(b) *Strata Schemes Development Act 2015*
- Dedicating part of the common property as public road, public reserve or drainage reserve see section 35 *Strata Schemes Development Act 2015*

The certificate must only be completed in circumstances where the resolution was passed after the expiration of the initial period or, the original owner owns all the of the lots in the strata scheme or, an order has been made by the Civil and Administrative Tribunal pursuant to section 27 of the *Strata Schemes Management Act 2015*, authorising the registration of the dealing or plan. The certificate does not replace the need for [Approved Form 10 – Initial Period](#).

Where the owners corporation is disposing of common property, it must also comply with s. 36(1)(c) *Strata Schemes Development Act 2015* which requires all unregistered interests in the common property being disposed of and of which the owners corporation has been notified to have been released.

13.7.1 How to complete the form

Insert the date the special resolution was passed.

See [Approved Form 23 - Attestation](#) for the completion of the final part of this certificate.

13.8 Approved form 14 - Certificate of owners corporation - creating a benefit or releasing a burden

[Approved Form 14](#) (PDF 7.9 KB) is a certificate given by an owners corporation stating that it has passed an ordinary resolution authorising a dealing or plan (which it must accompany) which:

- Creates an easement, a restriction on the use of land or a positive covenant that benefits the common property in the scheme or the whole parcel
- Releases an easement that burdens the common property
- Releases a restriction on the use of land or a positive covenant that burdens the common property or the whole parcel.

(See section 34(2) *Strata Schemes Development Act 2015*)

The certificate must only be completed in circumstances where the resolution was passed after the expiration of the initial period or, the original owner owns all the of the lots in the strata scheme or, an order has been made by the Civil and Administrative Tribunal pursuant to section 27 of the *Strata Schemes Management Act 2015*, authorising the registration of the dealing or plan. This certificate does not replace the need for Approved Form 10 – Initial Period.

13.8.1 How to complete the form

Insert the date the ordinary resolution was passed.

See [Approved Form 23 - Attestation](#) for the completion of the final part of this certificate.

13.9 Approved form 15 - Notice by Council of proposed subdivision

[Approved form 15](#) (PDF 8.0 KB) should be sent, by registered post, from a local council to notify an owners corporation of a proposed subdivision.

This is only required, in accordance with section 55(1) *Strata Schemes Development Act 2015*, when the council has not been provided with a certificate from the owners corporation in Approved Form 12 that the owners corporation have passed a resolution consenting to the subdivision.

Approved Form 15 is not required by NSW LRS and must not be endorsed on any lodged documents.

13.9.1 Take the following steps to complete

- Insert the name of the relevant council.
- Complete the name of the owners corporation by inserting the strata plan number of the scheme.
- Insert the number of days until a response is required (this must not be less than 21 days).
- Insert the date, the application number and the appropriate signature.

13.10 Approved form 18 - Revised schedule of unit entitlement

[Approved Form 18](#) (PDF 116.5 KB) may be used to provide a revised schedule of unit entitlements upon conclusion of a development scheme.

A revised schedule of unit entitlement must be lodged within 2 years after the conclusion of the development scheme. See section 90(2) *Strata Schemes Development Act 2015*.

A qualified valuer must complete the valuers certificate by inserting their name, signing and dating in the appropriate fields.

The owners corporation must insert the date of the passing of the special resolution.

See [Approved Form 23 - Attestation](#) for the completion of the final part of this certificate..

The form should be lodged with a RPA Request Form to change the unit entitlements and include a revised schedule of unit entitlement. The "Revised Schedule of Unit Entitlement" must be clearly identified as such, and should be prepared in a similar format to the schedule provided on the original plan.

13.11 Approved form 23 - Attestation

[Approved Form 23](#) (PDF 128.4 KB) is required in all situations where the seal of the owners corporation is affixed to a certificate or any other document. Most approved forms which require consent from the owners corporation have the attestation clause as part of the form.

13.11.1 Take the following steps to complete

- Complete the name of the owners corporation by inserting the strata plan number of the scheme.
- Insert the date the seal was affixed
- Affix the seal of the owners corporation.
- The person(s) attesting must sign in the appropriate space(s), print their name and their authority to attest.

Section 273 *Strata Schemes Management Act 2015* authorises the following person(s) to attest the affixing of the seal:

- where the owners corporation is comprised of only one owner, the seal must be affixed in the presence of that owner or the strata managing agent of the owners corporation;
- where the owners corporation is comprised of only two owners, the seal must be affixed in the presence of those owners or the strata managing agent of the owners corporation;
- where the owners corporation is comprised of more than two owners, the seal must be affixed in the presence of either:
 - two persons, being owners of lots or members of the strata committee, that the owners corporation determines for the purpose or, in the absence of a determination, the secretary of the owners corporation and any other member of the strata committee, or
 - the strata managing agent of the owners corporation.

A strata managing agent must also comply with the requirements of section 273(3) *Strata Schemes Management Act 2015*.

14 Amendment

See Registrar General's Guidelines for Deposited Plans chapter on [Amendment of a registered plan](#).

15 Strata schemes change log

30 Nov 2016	Approved Forms	Approved Forms replaced due to introduction of new strata legislation
30 Nov 2016	Administration sheets	Administration sheets updated for new strata legislation commencing 30 November 2016.
30 Nov 2016	Introduction of new strata legislation	Edits made to multiple pages due to introduction new strata legislation commencing 30 November 2016
17 Mar 2016	Alterations to plans prior to registration	bullet points edited to remove authority of surveyor's spouse where surveyor is deceased - 14 March 2016
01 Mar 2016	Amended Approved Form 30 and page	Approved Form 30 and the page Approved Form 30 - Revised schedule of unit entitlement were updated to replace "registered valuer" with "qualified valuer" due to the repeal of the <i>Valuer's Act 2003</i> .
03 Dec 2014	Redefinition of a strata parcel	new page and content
08 Mar 2011	Easements	new content - site of easement must be defined in a deposited plan...
08 Mar 2011	Line boundaries	new content - Line boundaries boundaries defined by centreline... new content - Unacceptable definitions (removed 8 March 2011)

02 Nov 2010	Administration sheets	new content - address for service of notices
11 Aug 2010	Location plan	new content - dot points 6 and 7
15 Jun 2010	Strata plan form 3 (part 1)	updated form - PDF and Word (2nd update July 2010)
15 Jun 2010	Administration sheets	Plan form 3 (part 1) - Bylaws
09 Mar 2010	Stratum statements	new content - Maximum limit
03 Mar 2010	Utility lots	new content - transfer, subdivision, consolidation and release of restriction
20 Oct 2009	Updated strata plan forms	Plan forms 3 (part 1 and part 2), 3A and 3B