

Registering a strata plan in NSW

Have you got a property you want to strata title? Here's a rundown of the steps involved in the state of New South Wales. **Peter Cerexhe**

CONVERTING a set of flats into strata title takes them out of a single title and into the realm of multiple separate titles which can be sold off individually and independently. That gives the investor great flexibility and should lead to an increase in the value of the total property, although this isn't a certainty.

It's not something you do lightly unless you're ready to start selling. Each 'flat' or lot becomes rated by council and water authorities in its own right, leading to an overall increase in rates, charges and possibly land tax. If you hang on to some units and sell others you'll have to share responsibility with the new owners – you'll no longer have a free hand to do what you like. You might even be out-voted!

The starting point is your local council. Go to the town planning department and check the property zoning: is it residential? Can you subdivide to create a strata plan? What approvals do you need from council? Check fees and the time it will take to get approval.

Next stop is the land surveyor. This is the person who'll work out what can fit within the site while meeting council's requirements and the requirements for registration of a strata plan. This is also the person who might be able to squeeze four lots onto your site when it looks like you can only fit three.

If you're developing an existing building or set of buildings then the surveyor is a good person to put in charge of the project. The surveyor will act on your behalf to get the strata conversion development approval (DA) from council, draw up the strata plan and accompanying documentation and get this registered.

On the other hand, if you're dealing with a vacant block of land your lead expert will probably be your architect or draughtsperson. After you've discussed

marketing strategies for the units with your estate agent (size, design, level of finishes and fittings, layout, floor space ratios, car parking etc.), the architect will draw up the plans and DA based on his/her knowledge of council requirements and your needs. The architect will get a surveyor involved to prepare survey information for the DA.

FEES

Surveyor

Each strata needs to be considered on its merits in terms of the survey costs. As a guide only, the approximate survey fees for various cases may be:

Case 1: Strata plan preparation for four units in an existing building where a redefinition survey is required: \$7000 to \$8000. This would include preparation of the DA by the surveyor and obtaining council approval (but no council or registration fees).

Case 2: Strata plan preparation for four new units constructed on a vacant block where a redefinition survey is required: \$5000 to \$6000. This wouldn't include preparation of the DA, as that would normally be done by the architect for this style of development.

Case 3: Strata plan preparation for four new units on a vacant block where no redefinition survey is required and where the Development Consent has been previously issued: \$2000 to \$3000.

Registrar General

To lodge a strata plan which creates no more than two lots: \$1000.

To lodge a strata plan which creates more than two lots: \$1200.
Plus for each lot created: \$120.
Plus for each 'dealing' (such as a document creating an easement): \$90.



"If your development involves the construction of new dwellings it's prudent to make it known to council at the time of lodgement of your DA that you intend to strata the development, otherwise you might find you have to double up on some authority application fees," warns Greg Goodman, president of the Institution of Surveyors New South Wales Inc. and managing director of Goodmans, an Illawarra surveying firm.

SEPP 10

There are three particular issues when developing a set of existing flats:

1. Increased and improved fire safety standards.
2. If your existing building already lacks certain council approvals, this will come to light during council's handling of the DA. This too could be expensive and might threaten your overall plans. For example, you might already have inadequate car parking.
3. SEPP 10

The surveyor will sort out the fire safety requirements with council. In a perfect world you'll have worked all this out before anyone puts pen to paper and costs you too much money. You might want to get your surveyor, architect or town planning consultant to check you have all the necessary approvals before heading to council.

'SEPP 10' – the name given to *State Environmental Planning Policy No. 10* (which commenced July 6, 1984, amended January 2000) – is something you might not be expecting to contend with. It affects any residential flat building, hostel or boarding house to be converted to strata.

"When dealing with an existing residential flat building it's important to consider the impact of SEPP 10," warns Greg Goodman. "The aim of this planning instrument is to soften the loss

of low rental housing statewide by strata conversions of existing low rental residential buildings. If this situation affects your particular block it will be necessary to obtain written information from a real estate agent about the recent rents in that block and compare this rental to the low rental definitions contained in the policy for that size and style of accommodation in the area."

You must also lodge with council supporting information such as internal and external photographs, details of maintenance condition, fire safety situation, a description of adjoining properties and the surrounding locality. The 'Greater Metropolitan Region' affected by SEPP 10 can change but currently comprises Sydney down to

SEPP 10 doesn't apply to dual occupancy, or townhouses, terraces or semi-detached cottages, backpacker accommodation and motels.

Lodgement

Once you have council approval the documents can be prepared for lodgement with the Registrar General (RG). These documents comprise:

1. Floor plan – dividing the site into common property and lots/utility lots as defined.
2. Location plan – showing the block of land relative to street frontages and adjoining properties; provides dimensions and locations.
3. Schedule of unit entitlement – setting the unit entitlements, based on property

The titles should be available the day after registration. If your application is incomplete you can expect delays and requisitions from the RG.

Upon registration, who gets what?

Registration brings the common property into existence, which vests in the owners corporation. The common property must be free of mortgage, charge, lease, caveat etc. (s.18).

The RG creates a separate folio of the Register for the common property which will then be sent to the party which lodged the plan, while certificates for the individual lots will go to the mortgagee or the owner if there is no mortgagee. Lot titles go to the mortgagee or owner.

Now your strata plan is up and running you'll need advice... about calling the first meeting of the owners corporation.

Wollongong and up to Newcastle and out west to the Blue Mountains and Camden, plus Kiama, Lake Macquarie, Maitland, Port Stephens and Wyong, among others.

One of the SEPP 10 tests is whether there's sufficient comparable accommodation available. This test will be "conclusively" failed if the local vacancy rate is less than 3 per cent based on the vacancy rates published by the Real Estate Institute of NSW (clause 7 (5) of SEPP 10) in the quarter immediately preceding the lodgement of the DA.

"Council or the director-general of state planning might require a condition on approval for the strata conversion which would keep some of the lots/units available for low-rent accommodation," says Goodman.

"This is done by creating a Positive Covenant on the title to specify that various units must be kept in low rental tenure on the open market. The term of the Positive Covenant is limited and will generally apply only for three years.

"For example, in two blocks where my firm has been engaged to prepare the strata subdivision the planning requirement for restricted low-rental accommodation was 4 out of a planned 22 units, and 2 out of a set of 6."

values, for the lots; this affects how much each lot pays in levies and sets relativity for insurance.

4. Section 88 easement – documents creating rights of way, access for services, drainage, positive covenants and the like.
5. Strata Certificate from local council or accredited certifier under s.37A – saying the plan complies with the DA.
6. Certificate by a registered land surveyor certifying that each applicable requirement of Schedule 1A has been met; it must also identify any encroachment by the building.
7. By-laws statement – adopting either the standard by-laws set out in the legislation or other specified ones.
8. Name and address of the owners corporation for service of notices.
9. Various signatures, seals and statements.

In NSW the strata plan may be lodged electronically for registration with Land and Property Information. This system, called ePlan, has been around for the past four years or so and, apart from the land title, there are no paper documents filed at all.

If all your documentation is in order, you could expect a small strata subdivision to be registered within 15 to 20 working days of lodgement with the RG.

Now your strata plan is up and running you'll need advice from an estate agent and your solicitor about calling the first meeting of the owners corporation, insurance and generally how to extract yourself from your project and set it sailing off into the sunset. ■

Next month: how to register a strata plan in Queensland.

This article provides general information only – please contact an expert for up-to-date and accurate information for your individual situation.

CONTACT

Department of Lands
www.lands.nsw.gov.au
Registrar General

rgdirections.lands.nsw.gov.au/
This site has helpful notes and directions from the Registrar General for registering a strata plan

To get a copy of SEPP 10: go to
www.planning.nsw.gov.au/settingthedirection/housing.asp

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