

Customer Information Bulletin

BULLETIN No. 213
23 APRIL 2012

COMMONLY OCCURRING ERRORS IN STRATA DOCUMENTATION

Landgate has adopted a proactive approach in assisting lodging and preparing parties to reduce the number of documents being requisitioned.

A recent internal survey of the documents currently on hand indicated a high incidence of simple errors that could have been prevented. A thorough review of the documents before lodgement will assist in reducing the turn around times and the issuing of a requisition notice which attracts a penalty fee.

This Customer Information Bulletin outlines some commonly occurring errors in regard to the preparation of strata documents for lodgement, and clarifies the correct way to prepare and lodge these documents.

Background Information: Strata Company Name

Each Strata/Survey-Strata Plan that is registered by virtue of section 32 (1) of the Strata Titles Act 1985 (STA) has a name. For the older Strata Schemes it is shown as the "Name of the Building". For the newer Strata Schemes it is "Name of Scheme".

When preparing strata documents for lodgement it is important to note that only the details that are shown on the Strata /Survey-Strata Plan Name of Building or Name of Scheme are to be shown.

For those imaginative developers, this may consist of a name "Riviera Views". Alternatively the name of the scheme may only be shown as an address, for example

"11a, 11b & 11c Lawler Street, South Perth".

Unless otherwise required by the Strata Title General Regulation 1996 Forms, the "Address for Service of Notices" or "Address of Parcel" is not to be shown as part of the "Name of the Scheme" unless the address is also the name of the scheme.

1. The Common Seal:

All Strata Companies are required to have a common seal, refer to section 32 (2) of the Strata Titles Act 1985 (STA). The common seal of the strata company is affixed to the various approved forms as provided for in the Strata Titles General Regulations 1996 (STGR).

Documents are to be sealed by means of a **rubber stamp** only. Derivatives of adhesive labels or computer generated pieces of paper pasted to a document **will not be accepted**.

The common seal must at all times **be legible** to enable a sufficiently clear enough copy to be reproduced from the Landgate scanning process.

The **details on the common seal** must reflect **the same details** as shown on the **Strata/Survey-Strata Plan** being the "Name of the Building" or the "Name of Scheme".

As per section 32 of the STA:

The Owners of [the name of the scheme] and the number of the strata/survey-strata plan allocated to it by the Registrar of Titles.

e.g. The Owners of Riviera Views Strata Plan Number 8067 Common Seal.

The common seal can be either **round, oval, square** or **rectangular**, but must only contain the details as required above.

Please check prior to affixing the Common Seal to any strata documentation that all details of the name of building / scheme are correct and the digits of the Strata Plan number have not been transposed. Where the strata plan name is two words, ensure the common seal reflects the same information and there are no extra dots, dashes, hyphens, commas and quotations added.

2. Correct Execution of documents

(i) Affixing the seal

Schedule 1 By-Law 15 of the Strata Titles Act 1985 states:

The common seal of the strata company shall at no time be used except by authority of the council previously given and in the presence of the members of the council or at least 2 members of the council, who shall sign every instrument to which the seal is affixed, but where there is only one member of the strata company his signature shall be sufficient for the purpose of this by-law.

Council members are made up from the owners of the lots in the scheme, no other person is authorised to sign on behalf of the strata company. The designation of the Council Members is required to be shown underneath their signatures.

The **Regulated Forms** under the STGR are found in Schedule 3 of the Regulations. Note that Forms 10 to 17 inclusive and Forms 19 to 21 inclusive are required to have the Common Seal affixed.

(ii) Sole Owner is one member

Where there is only **one member** of the strata company, ie. a sole proprietor, then that person can assist Landgate's Registration staff by identifying themselves as such by noting underneath their signature "Sole Owner" and printing their name underneath their signature when executing on behalf of the strata company.

(iii) Sole owner is a company

A Corporation may chose to execute their documents in a variety of ways under section 127 of Corporations Act 2001. In this instance it is still the **common seal of the Strata Company** that is

used.

The use of a **Corporation Common Seal** will lead to a **rejection notice** being sent with the only exception being a Form 25 Management Statement as the strata company has not come into existence at that time.

Section 45 of the Strata Titles Act 1985 states:

Corporate body may be chairman, secretary, treasurer or council member

(i) A corporation is eligible to be chairman, secretary or treasurer of the strata company or a member or alternate member of the council.

(ii) A corporation may authorise an individual to perform on its behalf any function conferred by or under this Act on the corporation as chairman, secretary or treasurer of the strata company or as a member or alternate member of the council and may revoke authority of an individual so authorised...

To enable best practice procedures to be adopted, the Registrar is requesting that a person who is so authorised under section 45 (2) of the STA to execute on behalf of a Corporation either as the Sole Owner or as an elected Council Member provide the following execution statement under their printed name:

"A person authorised under Section 45 (2) of the Strata Titles Act 1985 to execute this document on behalf of "ABC" Pty Ltd."

3. Printing of names

Registration requirements for Corporations and Incorporations require the signatories to state their designation and print their name.

Forms relating to Merger and Conversion may be executed by Common Seal or by all of the proprietors in a 2 to 5 lot scheme having printed their name and signing it underneath.

The Registrar is requesting that all strata documents executed under seal of the strata company should have the **full name of the signatory printed underneath**. This will help to standardise registration practice and also serve as a means identifying who actually signed the document at a later stage.

4. By-laws

By-laws are the most common type of strata documents lodged for registration. Here are a few tips for getting it right:

(i) Ensure that by-laws documents:

- are submitted using the format of Form 21 as per the STGR and show the correct Schedule which they belong to.
- have been passed by the correct resolution for that Schedule.
- are numbered with the next consecutive number for that Schedule after taking into account any previously recorded by-laws for that strata plan.

- are specifically required to be lodged not later than 3 months after the passing of the resolution, under section 42 (4) STA. (Dependant on the type of resolution required to be passed and subject to the 28 day period after the meeting, the resolution is deemed to have been passed at the day of the meeting).
- are clear as to whether they are being lodged specifically to either add, amend or repeal a by-law. In some cases documents have been lodged without any clear indication as to whether all or some of the by-laws are being added or repealed.

(ii) Lodge by-laws documents before the three month expiry date to avoid them being rejected.

(iii) Whilst it is possible to do all three functions in the one document, each by-law being added, amended or repealed must be clearly identified so that there is no confusion as to what the purpose of the document is and which schedule the by-law belongs to.

(iv) By-laws cannot be made to create a "Restriction".

5. Restrictions

The correct method of adding, varying or removing a restriction is by lodging a Form 19 together with the necessary supporting evidence as required under the Section 6 (3a) of the STA.

Consent from the Local Government and possibly the WA Planning Commission as well, will be required.

6. Lodgement

All documents that are lodged for either registering or noting on a Strata/Survey-Strata Plan must comply with regulation 22 of the STGR and any other requirement for lodgement as specified by the Registrar of Titles.

Lodging parties should ensure that their documents are **Duplex** printed (ie: both sides of the paper to be used). This will avoid printing unnecessary blank pages and reduce data storage eg: a 50 page document with 25 blank pages.

7. Amendments to Schedule 1 and 2 By-Laws

Existing by-laws contained in Schedules 1 and 2 may be added, amended or repealed by using the Form 21 in the Strata Titles General Regulations 1996.

To make it easier for people to interpret the purpose of the document, it is requested that:

(i) immediately following the resolution statement for amending by-laws in Schedule 1, the Schedule 1 by-laws being added, amended or repealed are stated.

(ii) This should be immediately followed by the resolution statement for amending any Schedule 2 by-laws, followed by the Schedule 2 by-laws which are being added, amended or repealed.

(iii) The subsequent additional by-laws for Schedules 1 and 2 should be consecutively numbered in

accordance with the already existing numbered by-laws relating to that Schedule.

For example:

“ The Owners of Riviera Views Strata Plan Number 8067 hereby certifies-

- that by resolution without dissent duly passed at a meeting of the strata company on 23 May 2011 which became unconditional on 20 June 2011 the by-laws in Schedule 1 to the Act as they applied to the strata company, were added to as follows —

16. Exemption From Certain Provisions of the Act [state the by-law in full]

17. Exclusive Use of Common Property Lot 4 [state the by-law in full]

- that by special resolution duly passed at a meeting of the strata company on 23 May 2011 which became unconditional on 20 June 2011 the by-laws in Schedule 2 to the Act as they applied to the strata company, were repealed as follows —

Schedule 2 by-laws 1, 2, 3, and 14 are repealed.”

A handwritten signature in black ink, appearing to read 'Jean Villani', with a long horizontal flourish extending to the right.

Jean Villani
Director Registrations
Delegated Registrar of Titles