

# Legal Q&A

## Your legal questions answered



**Geri Forsaith, licensed conveyancer with Sydney Property Conveyancing answers a reader's question on what steps to take when strata titling a block of units**

**Q** I found a block of units that's being sold under one title. If I buy this property and strata-title it separately, what's involved? What are the steps to take when buying a block of units?

**A** Changing an existing property from one Torrens title to several separate strata titles, which can then be sold individually, can increase the value of the total property – but be aware that this is not guaranteed.

When buying the property, have a plan on whether you're going to:

- buy and hold the property
- buy and sell off the separate strata units
- sell the units off-the-plan before registration of the strata plan

This is important because the decision you make may affect your financial outcome.

**Step 1.** Begin by contacting the local council and speak to a town planner about checking the zoning, as well as their requirements for approval of strata plan and the timing for strata approval. It will also be important to check on the number of car park requirements as the Development Control Plan (DCP) may have minimum requirements. The DCP may be available online at the council's website.

**Step 2.** Next, see a land surveyor. They will advise you on the exact size of the land and any encroachments by or upon the property plus any easements or covenants on the title. They will prepare your strata plan to comply with council's requirements and coordinate your development application (DA) and supporting documents. They will also attend to lodgment for registration of the draft strata plan at Land and Property Management Authority (LPMA) and prepare a plan of redefinition which may be required by LPMA.

**Step 3.** Contact all relevant authorities, for example, Sydney Water, to investigate requirements for separate metering for each lot and related costs.

**Step 4.** Arrange a pest and building inspection of the property with particular attention to the foundations, sewers and fire rating of walls. One of the main costs is

compliance with fire safety requirements, so be sure to get a quote for fire safety upgrades.

**Step 5.** Get your licensed conveyancer/solicitor to review the contract for sale and ensure you tell them of your intention of strata conversion. They will advise you on zoning, land tax, existing building compliance, heritage issues and, among other details, leases attached to the contract. A lease schedule will have the lease terms and may influence your decision to renovate if some leases are not due for expiry in the near future, as you won't be able to kick the tenants out!

### Two main issues in strata conversion

#### 1. Council approval

On processing of the DA, council will advise of required approvals, the main concern being fire safety standards which are controlled by the Building Code of Australia.

#### 2. SEPP 10

State Environmental Planning Policy No. 10 – Retention of Low Cost Rental Accommodation (SEPP 10) commenced on 6 July 1984, amended January 2000. This planning instrument aims to retain low-cost rental accommodation by allowing for councils to assess the possible impact of development on low-cost rental accommodation. Any residential flat building, boarding house or hostel for potential strata conversion may be affected so you would be wise to check the SEPP 10 requirements.

### Registration

When council has approved the DA, the following documents will be lodged at LPMA:

- Draft strata plan showing floor plan detailing individual lots/storage and carspace and common property
- Location plan showing the land and dimensions in relation to street frontages and adjoining properties
- Schedule of unit entitlement (UE), each of which is based on the size/value of each lot and gives voting rights to each owner and strata levies are based the UE.
- Section 88B Instrument – documents which create easements, access for services and drainage, rights of way, etc
- Certificate from council or private certifier confirming strata plan complies with the DA
- Draft by-laws adopting either standard by-laws pursuant to *Strata Schemes Management Act 1996* or others specified
- Contact details for owners corporation

Registration should take place within 2–4 weeks from date of lodgment and brings the common property into existence which vests in the owners corporation. The title for the common property is sent to the party who lodged the plan and certificate for each lot will be sent to the mortgagee or owner (if there is no mortgagee).

Contact: Land & Property Management Authority (LPMA), [www.lands.nsw.gov.au](http://www.lands.nsw.gov.au); or The Institute of Surveyors NSW, [www.isansw.org.au](http://www.isansw.org.au). To get a copy of SEPP 10, visit [www.northsydney.nsw.gov.au/resources/documents/AffordHousingFactSheet.pdf](http://www.northsydney.nsw.gov.au/resources/documents/AffordHousingFactSheet.pdf) or Sydney Water, [www.sydneywater.com.au](http://www.sydneywater.com.au)