

# Chapter 11

## AMALGAMATION OF ADJACENT STRATA PLANS

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- 1102 DEFINITION OF ADJACENT
- 1103 EFFECT OF AMALGAMATION
- 1104 DEVELOPMENT APPROVAL IS NOT REQUIRED
- 1105 THE APPLICATION FOR AMALGAMATION
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### AMALGAMATION OF ADJACENT STRATA PLANS

#### 1101 DEFINITION OF AMALGAMATION IN THIS CONTEXT

← SEE S.16

Amalgamation means the joining (merging) together of two or more adjacent strata plans to form one new strata plan. Amalgamation as used here should not be confused with the principle of amalgamation as defined in Part XIXAB of the Real Property Act. In that Act, amalgamation means the merging together of a number of contiguous allotments to form a new single allotment. It is a form of de-subdivision or a means of reversing land division.

Although amalgamation here means the merging together of strata plans, units in the new scheme are unaffected and cannot be changed in any physical way by this process.

← SEE PARA 1108

There may be a possibility that some units will need to be renumbered.

← SEE PARA 1015

#### 1102 DEFINITION OF ADJACENT

The term "adjacent" here needs to be considered. For the purposes of the Strata Titles Act, land is considered to be adjacent to other land if the land:-

← SEE S.3 & PARA 910

(a) abuts on the other land;

or

(b) is separated from the other land only by-

(i) a road, street, footpath, railway or thoroughfare,

or

(ii) a reserve or other similar open space.

#### 1103 EFFECT OF AMALGAMATION

Amalgamation takes place on deposit of a fresh strata plan lodged with an application.

← SEE S.16(3)

Upon deposit of the amalgamation plan:

▪ merging strata corporations are dissolved and a single new strata corporation is created.

← SEE S.16(3)(e)

▪ The assets and liabilities of the previous corporations vest in the new corporation formed by the deposit of the plan.

← SEE S.16(3)(f)

It is therefore important that the assets and liabilities are uniform in each scheme prior to amalgamation, otherwise some units owners may find themselves liable for the debts of others or make claim to profits to which they are not entitled. An alternative solution may be, by unanimous resolution, to resolve that those assets and liabilities remain with the units to which they originally lay.

Because the Act provides that a plan of amalgamation is a fresh plan, some encumbrances registered over common properties must be taken into consideration prior to amalgamation. E.g., a caveat lodged in respect of common property in a scheme can not subsist over the amalgamated scheme. A caveat must be withdrawn or otherwise satisfied prior to lodgement of the application for amalgamation.

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1103 Under the Real Property Act, a caveat cannot be relodged over the new plan without leave of the Supreme Court. A lease lodged in respect of portion of common property will need to be surrendered and relodged over the same portion of common property in the new plan. In the case of a Statutory Encumbrance that is binding on successors in title, a new agreement will need to be lodged over the new plan, where it is intended to apply to the entire common property of the amalgamated scheme or the encumbrance will apply only to portion of the new common property over which it was originally registered. ← SEE S.16 (2)(d) AND (3)

Units will remain unaltered and will be amended to reflect the new plan number and where necessary new unit numbers. Encumbrances registered on certificates of titles for units will remain unaffected by amalgamation. ← SEE PARA 1106

Amalgamation is seen as beneficial to adjacent schemes that would prefer to unite into one Corporation. There are known instances where adjacent sites are, by mutual arrangement managed as if one scheme. It is not uncommon to find that these schemes hold joint meetings with a chairperson in charge and one management committee elected.

This is, of course, illegal as each scheme must have its own officers and convene their own meetings. It makes sense that these strata schemes should amalgamate.

Amalgamation can also be used to facilitate staged development. This concept is discussed later. ← SEE Ch. 12 PARA 1202

### 1104 DEVELOPMENT APPROVAL IS NOT REQUIRED

As in the case of amalgamation under Part XIXAB, The Land Division Certificate of the Development Assessment Commission is not required. Amalgamation is not defined as development in the Development Act 1993.

### 1105 THE APPLICATION FOR AMALGAMATION

The Act provides for the strata corporations involved in the amalgamation to make application to the Registrar-General for amalgamation of their respective strata plans to form a single new plan. The application must be in the form approved by the Registrar-General and is prescribed in a Notice to Lodging Parties No.55 dated 26 July 1988. It is reproduced in Appendix A to this Chapter. ← SEE S.16(2)

The application must be:-

- certified correct for the purposes of the Real Property Act, for it is under this Act that the application will be registered. Certification can only be made by a solicitor or licensed land broker as the person deriving benefit is the strata corporation, a company.
- executed under the common seals of the Strata Corporation. The Act does not require signatures to the fixing of a common seal, but can be done if required by corporation articles. The point is not policed by the Lands Titles Registration Office. ← SEE S.16(2)(a)
- must be endorsed with a statement to the effect that the application is made in pursuance with unanimous resolutions duly passed at properly convened meetings of the strata corporations. This declaration is built into the approved form. See Appendix A. ← SEE S.16(2)(b)

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- 1105 ■ must be endorsed with the consent of all persons having a registered estate or interest (**other than the registered proprietors**) in the units. The Act does not require consent of owners of encumbrances registered in respect of the common properties. These encumbrances should be surrendered/discharged prior to and substituted after amalgamation as discussed on Para 1103. ← SEE S.16(2)(c)

There are a number of items that must be produced with the application.  
Viz,

- the fresh plan depicting the units (some may need to be renumbered where the units of each scheme are numbered from No.1). ← SEE S.16(2)(d)(i)
- all duplicate certificate of title for all of the units and common properties involved in the amalgamation. These will be amended as regards unit number (where necessary) and plan number and reissued. Any manual (paper) titles still in existence will be cancelled and reissued as TATS (computerised) titles. ← SEE S.16(2)(d)(ii)
- new articles of the Corporation, unless in accordance with Schedule 3 of the Act. ← SEE 16.(2)(d)(iii)  
New articles will only be necessary where some amendment had been made to Schedule 3 of the Act by one or more of the corporations.
- such other documentary material as the Registrar-General may require.
- a certificate of a licensed valuer certifying that the unit entitlements of the new plan are correct. ← SEE S.16(2)(d)(ia)

Note that unit owners need not consent. The form must be stamped by the Stamp Duties Office.

- 1106 **UNIT NUMBERING PRIOR TO AMALGAMATION** ← SEE MANUAL OF SURVEY PRACTICE SECTION 21 PARA 4.2.1
- In all schemes, unit numbering should always start with Unit 1. However, where there is an intention to amalgamate a scheme with another as part of staged development, unit numbers may commence at a number that is consecutive to the highest unit number of the scheme to which it will be amalgamated. Duplicated unit numbers cannot be tolerated in any plan. Staged development is discussed in Chapter 12.

- 1107 **OUTER BOUNDARY SURVEY MAY BE REQUIRED**
- An outer boundary survey will not be required except in those cases where the Registrar-General considers it necessary. E.g. one scheme may not have had the benefit of a prior outer boundary survey and a conflict in data between their outer boundaries is evident. Encroachments over adjacent land become apparent on survey of the outer boundary. Where in doubt, an enquiry should be made at the Survey Section counter of the Lands Titles Registration Office.

- 1108 **THE PLAN OF AMALGAMATION** ← SEE S.16(3)
- The Act provides for the deposit of a fresh plan and the general requirements of the Registrar-General in respect of strata plans will apply.
- Some of the provisions relating to the deposit of a strata plan will also apply to a plan of amalgamation. E.g., In the absence of planning approval easements can only be created by way of grant (not Form 9A) and the provisions for encroachments in Section 7(6) of the Act cannot apply over public land.. Similarly, roads and reserves cannot be vested on deposit of the amalgamation plan.

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1108 Where plans to be amalgamated have been physically altered or changed in some way, amalgamation can only proceed after the relevant strata plan(s) have been amended in accordance with an application for the amendment of a strata plan. Note: The plan will receive a new number. Figures 75 and 76 give an illustration of an amalgamation exercise. The need to renumber some units is assumed in the diagrams

← SEE MANUAL OF SURVEY PRACTICE SECTION 21.6

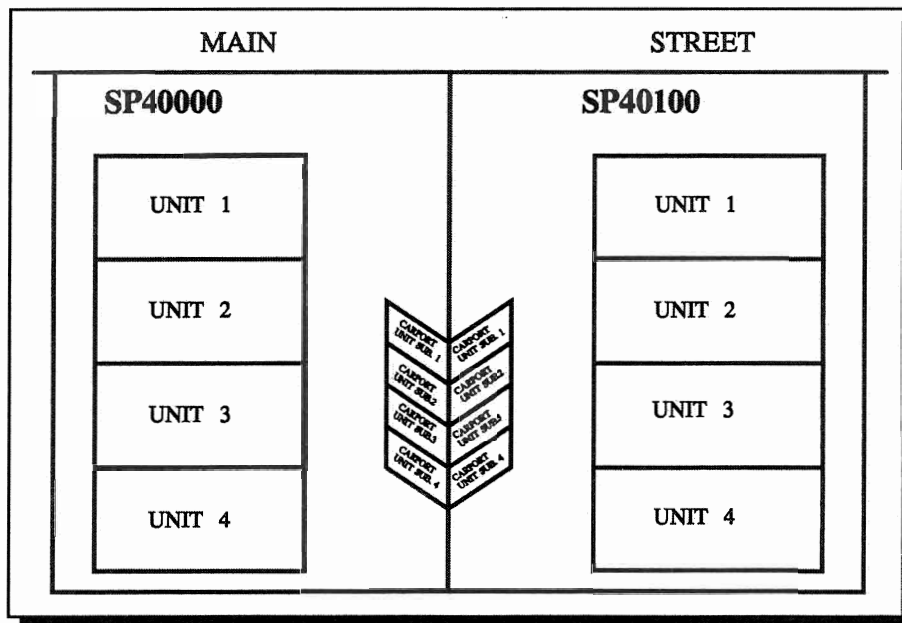


Figure 75 STRATA PLANS PRIOR TO AMALGAMATION

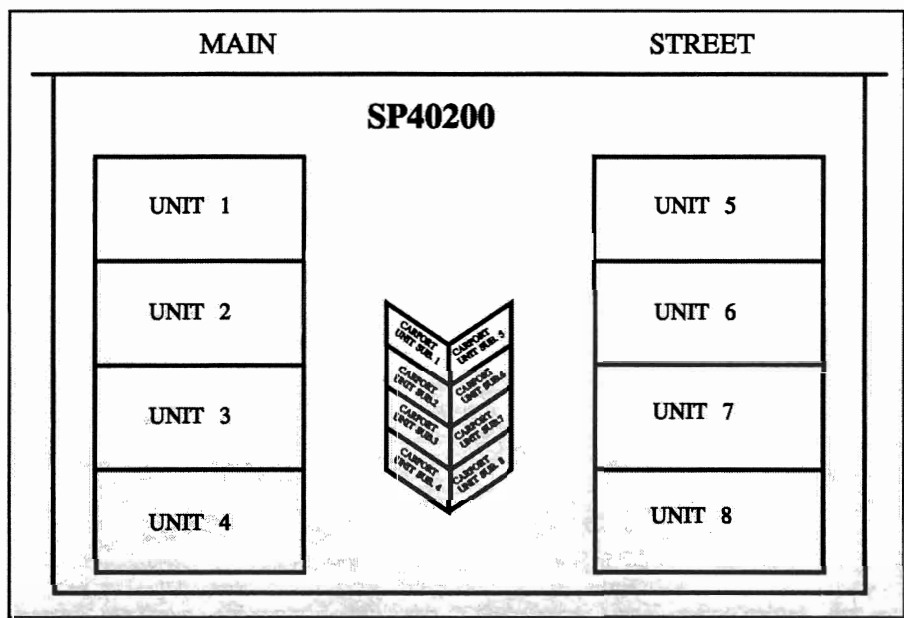


Figure 76 THE NEW STRATA PLAN AFTER AMALGAMATION

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## **1109 BOUNDARIES OF UNITS IN AMALGAMATION**

Upon amalgamation, boundaries of units will become those set out in Section 5(5), i.e. the inside face of walls and fences unless some explicit statement to the contrary is made on the plan.

However, Section 5(7) will still apply in as much as the boundaries, being walls and fences, between a unit and its unit subsidiaries must always be common property walls and fences unless the plan has an explicit statement to the contrary endorsed on it. Where unit boundaries were defined under the previous legislation as being the centre lines of walls, floor and ceiling and the new strata corporation wishes to retain these boundaries, a note to that effect must be placed in the annotation panel of the plan. If there are conflicting boundary definitions between buildings in an amalgamated scheme, disputes between unit holders may arise at some later date. Unit boundaries should be consistent throughout the scheme.

## **1110 EASEMENTS AND PLANS OF AMALGAMATION OF STRATA SCHEMES**

Easements are often a problem in amalgamation. The subject is discussed in full in Chapter 8.

← SEE PARA 818

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APPENDIX A

Form A.8  
(See Note 1)

## APPLICATION FOR THE AMALGAMATION OF STRATA PLANS

(Pursuant to the Strata Titles Act, 1988)

APPLICANTS (See Note 2)			
ADDRESS OF NEW CORPORATION (See Note 3)			
(See Note 4) <b>SCHEDULE OF MODE OF AMALGAMATION</b>			
STRATA PLAN NUMBER (EXISTING)	UNIT NUMBER (EXISTING)	CURRENT CERTIFICATE OF TITLE REFERENCE	PROPOSED UNIT NUMBER IN FRESH PLAN

THE APPLICANTS HEREBY APPLY FOR:

- (a) THE AMALGAMATION OF THE PLANS CONTAINED IN THE ABOVE SCHEDULE OF MODE OF AMALGAMATION
- (b) THE EXAMINATION AND DEPOSIT OF THE PLAN OF AMALGAMATION TO WHICH THIS APPLICATION RELATES
- (c) THE CONSEQUENTIAL AMENDMENT OF ALL CERTIFICATES OF TITLE FOR THE UNITS AFFECTED AND
- (d) THE ISSUE OF A NEW CERTIFICATE OF TITLE FOR THE COMMON PROPERTY FORMED BY THE AMALGAMATION

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WE THE UNDERMENTIONED OFFICERS OF THE SAID CORPORATIONS BEING DULY AUTHORISED TO AFFIX THE SEAL OF THE RESPECTIVE CORPORATIONS, HEREBY CERTIFY THAT THIS APPLICATION IS MADE IN PURSUANCE OF UNANIMOUS RESOLUTIONS DULY PASSED AT PROPERLY CONVENED MEETINGS OF THE AFORESAID STRATA CORPORATIONS

DATED

DAY OF

19

EXECUTION AND  
ATTESTATION

(See Note 5)

CONSENT OF ALL PARTIES (OTHER THAN UNIT HOLDERS) HAVING A REGISTERED  
ESTATE OR INTEREST IN THE LAND

(See Note 6)

FULL NAME, ADDRESS OF PARTIES	PARTICULARS OF ESTATE AND INTEREST AND RELEVANT UNIT NUMBER/COMMON PROPERTY	SIGNATURE/SEAL OF CONSENTING PARTIES	WITNESS

CONTINUED....



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CONSENT (CONTINUED)

FULL NAME, ADDRESS AND DESCRIPTION OF PARTIES	PARTICULARS OF ESTATE AND INTEREST AND RELEVANT UNIT NUMBER/COMMON PROPERTY	SIGNATURE/SEAL OF CONSENTING PARTIES	WITNESS

### SCHEDULE OF UNIT ENTITLEMENTS

Unit Entitlements must be in whole numbers

UNIT NUMBER	UNIT ENTITLEMENTS
AGGREGATE UNIT ENTITLEMENTS	10 000

REGISTERED ...../...../19

REGISTRAR-GENERAL