

Chapter 2

STRATA'S DEFINED

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CHAPTER 2 STRATA'S DEFINED

201 THE STRATA CONCEPT

The strata title system was originally established in South Australia to cater for the issue of separate certificates of title for attached homes (maisonettes) without need to go through the lengthy procedures of land division. Although it was anticipated that the legislation would be used for other purposes, the degree of success and diversity in which it has been used must have come as a surprise to the legislators.

202 STRATA DIVISION DEFINED

A strata scheme is, as distinct from the division of land into allotments, the division of land into at least 2 units (approved under the planning system for a particular land use) and common property.

← SEE STA 5.5(6)&(7)

203 Common property is land and artefacts shared in common with other owners. It may comprise open space, space set aside for a specific but common use such as access, parts of the structure (walls, roof, foundations etc), gardens, barbecues and so on.

204 A strata scheme is administered by a corporation, which is a company established under the Strata Titles Act for the purpose. Each unit owner becomes a member of the corporation.

← SEE SS. 8 (2)(C) AND 8. (4)

205 Advantages of strata ownership include the issue of a certificate of title under the Torrens System for each unit and the common property and the ease in which each unit can be dealt with (mortgage, lease, transfer etc.) and the democratic right provided by the legislation to all unit owners to have a say in the administration of their scheme. Some disadvantages are that disputes between unit owners or owners and the corporation are not always easily resolved and that unit owners sometimes do not have the capabilities to act as corporation officers and hence run the scheme in accordance with the law.

← SEE S.8 (2)(b)

← UNITS ARE AN ALLOTMENT WITHIN THE MEANING OF S.223la (1)(a) OF THE RPA

206 The Strata Titles Act does however, provide for the appointment of an administrator by the Supreme Court or the appointment by the strata corporation of a person to assist it in its duties.

← SEE SS. 37 AND 23(6)

207 ADVANTAGES OVER PARTY WALL SCHEMES

A strata scheme has an advantage over alternative methods of community ownership, such as party wall schemes (eg. maisonettes), leasehold or company title systems.

Eg. Party wall type systems can only be created through a land division process and may be more expensive to establish. There is also no corporate body to control matters of common interest such as the overall maintenance of the structure. See Chapter 1 for a discussion on the advantages of strata schemes over leasehold and company title systems.

← SEE PARA'S 108 & 109

208 TYPES OF STRATA SCHEMES

The nature of strata schemes so far deposited in the Lands Titles Office are somewhat varied.

From enquiries received in the Lands Titles Office, the variety may become wider than was originally contemplated when the Act was rewritten in 1988.

Generally speaking, Strata Schemes can be categorised into the following:

STRATA FACTS

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1. **RESIDENTIAL** Home Units - single story, medium and high rise.
 2. **COMMERCIAL** Offices, shops, medical centres, car parking stations, hotel/motel units
 3. **INDUSTRIAL** Factories, warehouses, etc.
 4. **RECREATIONAL** Boat marinas, caravan parks (and in one case the grand stand at a large suburban oval).

209 **MIXED LAND USE STRATA DIVISIONS**

A combination of two or more of the above categories within a single strata scheme must be given great thought and caution exercised before putting into effect. Administration problems can occur when differing interests conflict within a scheme. Examples of this have occurred where residential units exist over the top of shopping units in an arcade. More than one attempt has been made to implement such a scheme and all have been abandoned due to predictable administration problems perceived by the developer.

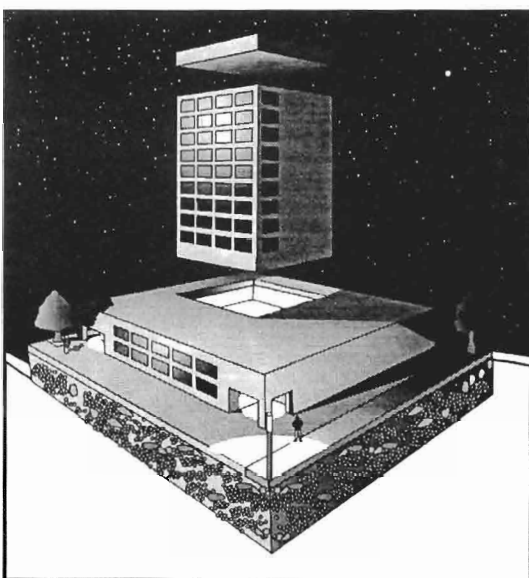
210 **STRATA DIVISION IN A STRATUM ALLOTMENT**

One solution is to create separate strata schemes one on top of the other. Although somewhat complex to create, the method is to divide the land by conventional land division into stratum allotments (one above the other) and to convert each allotment into separate strata schemes.

Easement rights of support, access and essential services (such as water supply, air conditioning etc.) will need to be registered on the certificates of title for the allotments at the time of making the relevant applications to the Registrar-General for deposit of strata plans. Agreements for the maintenance and administration of the structure will need to be put in place.

211 **DIAGRAMMATIC REPRESENTATION OF STRATUM DIVISION**

The following diagram, Figure 2, shows this concept in principle. If the conveyancer is not a solicitor, legal advice on how to establish such a system is highly advisable:



- ☞ Roof can be part of either Strata Plan 1 or 2.
- ☞ Tower can be strata Plan 2
- ☞ Podium can be Strata Plan 1

Figure 2
"EXPLODED" VIEW OF THE MULTIPLE STRATA SCHEME CONCEPT.

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Figure 3 THE "GRAND" AT GLENELG.

The Ramada Grand Hotel at Glenelg, see Figure 3, was the first development to use this concept in this State.

The wing on the right above the second storey level and below the roof structure, is a strata scheme.