

Strata reforms – questions & answers

Q: What is a strata title or scheme?

A: Strata schemes provide for group housing or businesses where common use areas, such as lifts, stairwells, car parks, swimming pools and outdoor living spaces are jointly used and managed. Buying into a building under a strata scheme can be less costly than buying a freehold property and strata schemes are often more practical for industrial, retail and commercial developments.

Q: How many strata schemes are there in WA?

A: There are over 60,000 schemes in WA, with the vast majority having less than five lots. In many of these, the property owners also manage the shared areas. Two types of schemes exist in WA:

1. a strata scheme which must contain at least one building and the strata lots boundaries must be shown on the plan.
2. a survey strata scheme, which do not show buildings on the plan, and are surveyed by a licensed land surveyor.

Q: What is *the Strata Titles Act 1985 (WA)*?

A: The *Strata Titles Act 1985* (the Act) is an Act of the Western Australian Parliament that sets out processes and structures to manage mixed-use, high-density and shared living environments, and to promote harmonious co-existence. The Act bylaws aim to ensure standards of behaviour, building maintenance and management are maintained.

Q: Why is Landgate introducing the strata reforms?

A: By 2056, it is predicted WA will be home to more than 5 million people. We need to prepare for the increased demand in sustainable housing - including more cost-effective urban infill developments and community living options.

The State Government has identified strata reform as a key priority and Landgate has been tasked to deliver reforms, which will be delivered as a package comprising the *Strata Titles Amendment Bill 2017* and the *Community Titles Bill 2017*. The reforms will benefit planners, developers, strata owners and occupiers in WA, by providing:

- more options to subdivide and develop land to facilitate mixed-use, multiple use of schemes and shared infrastructure
- more options for owning title to land and buildings
- clarity of rights and obligations as a strata owner
- more strata housing
- better management and dispute resolution.

Q: What do the strata reforms include?

A: The main areas for reform are:

Community title - a new type of strata where multiple sub-schemes exist under a community title scheme. Community title will:

- deliver large scale precinct sized developments requiring flexible staging
- provide more amenities by sharing the cost across many sub-schemes
- deliver activity centres (Metrohubs) where people live, work and play
- mix residential, retail and commercial uses within one vibrant community
- combine uses with close proximity to workplaces, infrastructure and public transport creating better community lifestyles, rather than just housing developments.

Leasehold strata - a new type of strata where the strata scheme is set up for a fixed term (more than 20 years to 99 years) to:

- provide affordable housing options
- develop university land to deliver innovation hubs.

Staged strata - will enable existing strata schemes which are developed in stages to be delivered faster and cheaper by providing greater flexibility to vary those schemes and by cutting some of the red-tape faced by developers when consent to plan variations is required.

Improving the management of schemes - the reforms will also make strata better for the public by:

- strata managers will be regulated and made accountable
- building changes like the installation of solar panels on common property will be easier
- strata owners will benefit from improved management procedures.

Simplifying dispute resolution by:

- making the State Administrative Tribunal the one-stop shop for strata disputes
- strengthening the State Administrative Tribunal's powers to efficiently resolve strata disputes.

Giving better buyer information

To assist buyers to assess whether living in strata is right for them the reforms will give people buying into strata better information about their strata lot. The disclosure form will be easy to read and give guidance on important issues to consider about strata. Some of the better information buyers will receive include details of strata levies, a statement of the strata company accounts and a copy of the scheme by-laws.

Introduce safeguards for termination of schemes

At the moment, termination can be ordered now with just one owner applying to the District Court. The reforms will introduce safeguards requiring a transparent process to be properly followed along with a full procedural and fairness review by the State Administrative Tribunal.

Q: What is the most important element of the reform package?

A: All of the reforms are important.

- The reforms are packaged to help deliver more vibrant and sustainable housing options to Western Australians.
- The reforms will give developers the flexibility they need for more innovative developments, leading to more investment in the state.

- There will be better strata management arrangements that cater for the growing needs of Western Australia.
- Strengthening the powers of the State Administrative Tribunal will enable owners to have disputes dealt with independently and cost-effectively.

Q: Will community title enable better relationships between neighbours?

A: Introducing community title will enable better relationships between different users (eg. residential, retail, commercial) as their respective rights and obligations (for example levies and insurance) can be set out in separate schemes for separate uses under an overarching community corporation.

Q: How will the termination reforms work? Are older buildings under threat?

A: Not necessarily, the condition of a building not its age is a more relevant factor in determining whether a termination proposal should go ahead. At least 75 per cent of owners must vote in favour of a termination proposal before it can progress to the State Administrative Tribunal for review.

- The Tribunal will consider the condition of the strata complex, the ability of owners to refurbish it and the cost of repairs compared to ending the scheme.
- The Tribunal is not likely to order termination in respect of a well maintained older building, other factors excluded, but may do so in respect of a newer, poorly built and maintained building that is too expensive to repair.
- The Tribunal decides whether the proposal is fair to everyone involved.

Q: Will these reforms force people for example, the elderly and ill, to leave their homes if majority of owners agree to a redevelopment proposal?

A: WA's termination reforms contain key safeguards.

- All majority vote termination proposals will be subject to review by the State Administrative Tribunal.
- The Tribunal will determine whether the proposal is fair.
- Vulnerable owners will be given additional protection and assistance.
- During the Tribunal's review, all owners will be able to put forward their views.
- The Tribunal will consider whether something other than termination is appropriate, such as an order requiring owners to contribute to repairs and maintenance.
- The Tribunal will only approve a termination if all owners get fair compensation.
- The Tribunal will have extensive powers to modify termination proposals such as fixing a minimum price and/or changing the terms and conditions of sale.
- The termination proposal must provide for owners to be given access to advice and advocacy on how to handle the termination proposal.
- The Tribunal's decision can be appealed in the Supreme Court.

Q: What do you mean by fair compensation?

A: The State Administrative Tribunal will assess all termination proposals to make sure they are fair to all owners.

- The Tribunal will take into account the views of owners who are concerned about their options after leaving a strata property.
- If the Tribunal believes some owners will be unfairly disadvantaged, the proposal will not go ahead.

Q: Will a person be offered an equivalent strata unit in the new development or in the same area?

A: Where the termination proposal sets out that after termination, the land will be collectively sold to a developer, the State Administrative Tribunal can order that every lot owner transfer their lot on the terms set out in the termination proposal which could include the offer of a like-for-like replacement lot.

Q: How are WA termination reforms different to those in New South Wales?

A: WA's termination reforms are for WA's needs. They are based on feedback from consultation and extensive research nationally and internationally.

Q: Is the Government pandering to the interests of property developers by introducing the termination of schemes by majority vote?

A: No. The consultation paper, prepared by Landgate about the strata reforms, received strong public support for termination by majority vote. Some of the feedback also included that there needed to be safeguards put in place. The reforms provide a way to resolve a deadlock when there is a clear majority in favour of a termination and exceptional circumstances exist that would make it unfair to the majority if a termination did not proceed. Older or poorly maintained buildings may require more maintenance than is economically practical.

Q. What are the key benefits of the reforms?

A. Strata reforms will help deliver a number of key priorities.

- Smart density with amenity: community title, leasehold strata and the improved strata schemes can all be used to fully develop activity centres where people work, live and play close to public transport and above train stations supporting the development of Metronet and Metrohubs.
- Affordable housing: leasehold strata provides affordable housing in other parts of the world and can do so here in WA.
- Economic growth: having more development options (community title and leasehold) and streamlining the development process (improved staged development) has led to rapid economic growth in other states.
- The reforms will deliver new development options to help drive economic growth.

Q: What are you doing about strata disputes?

A: Dispute resolution is a key part of the reforms. Different types of dispute can currently be heard in four different forums.

The dispute resolution reforms will make the State Administrative Tribunal the central forum for strata disputes. This will mean more efficient and cost-effective dispute resolution. The Tribunal's powers will be strengthened to streamline procedures.

Q: Have you proposed an increase in the insurance premiums and why?

A: Landgate has proposed to increase the minimum public liability insurance coverage from \$5 million to \$20 million dollars. The reasons for this are:

- most managed schemes already have at least \$20 million cover
- \$5 million is no longer considered sufficient to cover potential liabilities and costs in the case of damage, injury or death claims
- the requirement for \$5 million cover was imposed in 1995 (over 20 years ago) and is now regarded as out of date
- in WA many strata insurance companies do not offer public liability cover for less than \$10m
- Landgate understands that the increase in premium will be about \$10 per unit, per year.

Q: Why aren't you addressing other issues like pets, parking and smoking?

A: These issues did not form part of the original reform proposals. However, they were raised in the consultation process. No specific reform proposals have been made because:

- strata companies can already create by-laws to address how they regulate these issues
- the broader management and dispute resolution reforms will help manage these issues.

Q: How have you engaged strata owners in the consultation process?

A: Owners were consulted in a number of ways.

- Landgate conducted an extensive publicity campaign that included advertising across Western Australia, online promotions and social media posts.
- Copies of the consultation paper were made publicly available by post, email or on Landgate's website and strata owners were encouraged to provide feedback.
- Landgate liaised with Strata Community Australia WA.
- The details of the proposed reforms have been available on Landgate's website since February 2016.

Q: Why has the reform taken so long?

A: This is an important, complex set of reforms.

- Landgate has taken care to consider all feedback received during the public consultation and consultation with industry professionals and other government agencies
- The *Strata Titles Act 1985* has not been changed since the 1990s. There was a significant amount of work to do.
- Landgate did not rush into making changes to suit the timetables of industry groups, but carefully considered all options to recommend reforms that would best suit the needs of all Western Australians who invest, live and work in strata.