

Safeguards for the termination of schemes

Currently, under the *Strata Titles Act 1985* (the Act) there are three ways a strata scheme can be terminated.

Most people know that a strata scheme can be terminated when all the owners vote (by unanimous resolution) to terminate.

What most people don't know is that under the Act there are two other ways a strata scheme can be terminated:

1. one owner can apply to the District Court for an order (under section 51 of the Act) deeming that a resolution to terminate is unanimous, provided that:
 - a special resolution was reached and
 - the person applying was part of the majority who voted to terminate.
2. one owner or one mortgagee can apply to the District Court for an order to terminate a scheme (under section 31 of the Act).

In September 2016, the District Court ordered the termination of a strata scheme, even though a majority of owners (by unit entitlement) opposed the termination.

The current Act has inadequate safeguards for owners in relation to the termination of a scheme because just one owner or one mortgagee can go to the District Court under section 31 of the Act and seek an order to terminate a strata scheme and:

- no detailed proposal is required to be prepared or even given to other owners before launching the District Court action;
- no vote is required before applying to the District Court;
- vulnerable owners are given no additional assistance or additional safeguards to help them in responding to the District Court action; and
- the Act provides no guidance to the District Court on how it should assess a termination application.

There will come a point when the cost to maintain an ageing and run down strata building exceeds the ability of the owners to pay the escalating maintenance costs. The majority termination of schemes process will enable owners in such a situation to terminate the scheme and receive fair market value for their lot before the building becomes unsafe.

The majority termination process will:

- introduce safeguards for owners
- introduce a termination process that is transparent, reasonable and requires a vote and
- require a full procedural and fairness review by the State Administrative Tribunal (Tribunal) to consider all owners' views.

Overview of the majority termination process

Majority termination process is more than just a vote

There is a whole transparent process that must be followed and that process includes key safeguards for owners.

The termination process that must be followed if an owner wishes to terminate a scheme is:

- an owner (called the applicant) who wants to terminate the scheme must prepare a detailed proposal containing the sort of information every owner would need to make an informed decision on whether to terminate a scheme. The Regulations will specify what information needs to be in the termination proposal.
- the applicant must serve the termination proposal on all owners, all mortgagees and on the strata company.
- the owners must be given at least three months to consider the proposal before any vote is taken.
- after waiting at least three months, a general meeting can be held and that meeting must be properly called.
- at the general meeting, a vote must be properly taken.
- if the proposal is supported by the required majority and the applicant still wants to terminate, the applicant must then submit the proposal to the Tribunal for a procedural and fairness review.

Majority termination cannot occur without a Tribunal review.

Vote required before Tribunal Review

The vote required to ratify a termination proposal before a Tribunal review is:

- for schemes of four or more lots, 75 per cent of lot owners must vote in favour
- for three lot schemes, owners of at least two lots must vote in favour.
- for two lot schemes, an owner of at least one lot must vote in favour.

Termination can only proceed by order of Tribunal

No majority termination proposal (that has secured the required vote) can proceed without an order from the Tribunal.

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The Tribunal can only order that a scheme be terminated if it is satisfied of three key things:

- the termination process was properly followed and
- every owner will get fair market value for their lot (eg: apartment) and
- the proposal to terminate is just and equitable.

Extensive guidance will be provided in the Act to assist the Tribunal in deciding whether the proposal is just and equitable.

What the Tribunal is to consider when assessing whether a proposal is just and equitable

The Act will provide the following guidance for the Tribunal to assist in deciding whether the proposal is just and equitable. The Tribunal **must** consider:

- the extent of the majority in favour of terminating the scheme
- the benefits to owners (individually and as whole) of terminating
- the detriment to owners (individually and as whole) of terminating
- the views of all owners and mortgagees
- the views of an affected local government or relevant planning agency
- whether there is a more appropriate order the Tribunal could make, such as the strata company repairing the strata building instead of terminating.

The Tribunal may also consider:

- the age and condition of the buildings and the cost to maintain those buildings
- the ability of owners to maintain or refurbish the buildings
- whether a different outcome would be obtained if the votes were cast using unit entitlement
- whether proxies, or other instruments to cast a vote have been used in the best interest of the owner
- the use being made of the buildings
- the rights of occupiers including tenants
- the amount of money in the strata company's reserve fund account and
- the impact of taxes and stamp duty on owners if the scheme was terminated.

Compensation safeguards for every owner

The termination proposal must provide minimum levels of compensation for every owner.

- every owner must receive fair market value for their lot, which means they must be paid the open market price for their lot.
- the applicant seeking to terminate the scheme must also pay owners their removal expenses, if the owner needs to incur expenses to remove items from the lot as a result of the termination.
- if a strata owner is running a business on their lot, the applicant must pay compensation for losses to the business caused by relocating as a result of the termination.
- the termination proposal can also include an offer to provide the owner with a replacement lot (so they can keep living in the same area).

Safeguards for vulnerable owners

Vulnerable owners will be given additional protection. The person seeking to terminate a strata scheme must provide funding to vulnerable owners to respond to the proposal. Vulnerable owners can then use that funding to:

- pay for legal advice on the termination proposal.
- pay for expert reports including obtaining a valuation report for their lot.
- pay for expert advice on the taxation and financial implications of the termination.

The Regulations will:

- define who is a vulnerable owner
- specify what amount needs to be set aside for each vulnerable owner and
- specify what the vulnerable proprietor can use that money for.

If there is an argument about who is a vulnerable owner, the Tribunal will decide.

State Administrative Tribunal

The State Administrative Tribunal will hear termination matters

Under the current Act, strata scheme termination applications must be heard in the District Court. Reforms will mean that the State Administrative Tribunal (the Tribunal) will hear:

- applications to terminate under the new majority termination process. The Tribunal will review every majority termination proposal.
- disputes arising from a termination. The Tribunal will only review a unanimous vote for termination where there is a dispute.

If a party to a termination proceeding is not satisfied with the Tribunal's order to terminate or not terminate a scheme, that person may apply to the Court of Appeal (Supreme Court) to appeal the decision.

Unanimous termination process

Terminating a scheme with unanimous support

A unanimous resolution to terminate the scheme will require a termination proposal to ensure the strata company has set out what will happen after the scheme is terminated.

Currently the Act doesn't require lot owners to agree on how the proceeds and liabilities will be divided up, and how decisions will be made after the strata company has been terminated. This means the termination of a scheme can be approved and lodged, without key details being worked out. Reforms will mean a unanimous resolution to terminate the scheme must now deal with:

- the sale or disposition of any property the strata company owns
- the distribution of the strata company assets and how much each person should get from that distribution
- the discharge of the strata company's liabilities
- whether anyone is liable to contribute to discharging the strata company's liabilities and what proportion each must pay

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- the voting power of anyone getting money from the distribution of strata company assets or giving money to discharge the strata company liabilities at a strata company meeting
- the administration, powers, authorities, duties and functions of the strata company
- the winding up of the strata company, including the appointment, powers, authorities, duties and functions of any person to carry out the winding up.

Majority termination process

Every strata and survey-strata scheme can use the majority termination process

All strata or survey-strata schemes will be able to use the majority termination process.

A lot owner or mortgagee can put forward a termination proposal

Any lot owner or registered mortgagee can prepare a termination proposal and serve it on the strata company. A developer won't be able to put a termination proposal directly to the strata company (unless the developer owns a lot in the scheme) but may help a lot owner or mortgagee to prepare the termination proposal. After the termination proposal is served on the strata company, the strata company must then serve a copy of the proposal on every lot owner and registered mortgagee.

The termination proposal must contain key information

The termination proposal must have key information that sets out how the process works, how lot owners will be compensated, and other information about demolition, construction and any other arrangements.

Some of the key information which must be in a termination proposal includes:

- an overview of the termination proposal for the scheme
- prescribed information about the majority termination process and the rights of owners
- a full and frank statement by the applicant of the intended use of the parcel (the land the scheme is on) after termination (eg: plans for redevelopment of the scheme)
- details of any planning approvals, or other authorisations required before the redevelopment can start
- details of the terms of settlement for each owner including the amount to be paid and if the owner will have a right to buy back into the scheme
- details of whether owners have been offered a comparable alternative lot appropriate for the needs of that proprietor on a nearby site.
- a valuation of the scheme and each lot
- a statement of assets and liabilities of the strata company
- how the assets, liabilities and common property of the scheme will be dealt with
- details of how the strata company will be dissolved
- proposed entitlements for any new scheme, such as replacement lots in the new scheme
- a structural engineering report on the state and condition of buildings within the scheme
- a quantity surveyor's report estimating the cost to repair or maintain the buildings and improvements comprised within the scheme
- what amount of money will be set aside by the person making the termination proposal to pay for vulnerable people within the scheme to get expert advice and advocacy
- details of which structures will be demolished
- information about any arrangements made with a developer or other people

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The owners will have 3 to 12 months to consider the proposal

Lot owners will have at least three months to consider the termination proposal before the vote, which should be held within 12 months of the proposal being served.

Meeting and vote of the strata company

The meeting of the strata company where owners vote on the termination proposal must be properly called and conducted. The minutes of any meeting held by a strata council or sub-committee must be kept. Minutes of any strata company meetings where the termination proposal is discussed or voted on must be kept.

Any lot owner who has a relationship (business, family or otherwise) with the person making the termination proposal must tell the other owners details of that relationship.

There will be one vote cast per lot. 'Unfinancial' owners (those who have not paid levies) will still have a vote.

Who is entitled to vote?

A registered mortgagee won't be able to vote on the termination proposal (only lot owners can vote) but they will be able to speak at the meeting if they are present and want to object or comment. A registered mortgagee will also be able to have their views heard at the Tribunal if the termination proposal is approved by the strata company.

If the vote fails

If the strata company holds a vote on the termination proposal but it doesn't get the required majority, then the termination proposal expires.

Six month grace period for strata companies if a termination proposal fails

Where a termination proposal has expired, no termination proposal may be served on the strata company for a period of 6 months. In addition, the strata company may apply to the Tribunal for an order extending the bar on the service of termination proposals by up to 2 years.

If the termination proposal is ratified by the required vote

If the termination proposal is ratified by the required vote, the strata company has 14 days to:

- serve a notice on every lot owner and registered mortgagee. The notice must include the fact that the termination proposal will go to the next stage, which is a review by the State Administrative Tribunal. The notice will include a copy of the termination proposal as well as the minutes from the meeting where the termination proposal was passed.
- lodge a notification with the Registrar of Titles noting the strata company has ratified a termination proposal. This information will be recorded on every Certificate of Title in the scheme as well as on the plan.

This will ensure every lot owner, registered mortgagee and anyone searching the title records for the scheme is aware a termination proposal has majority support of the strata company and is now in the review phase.

State Administrative Tribunal review

If the required majority vote in favour of the proposal has been obtained, it will be reviewed by the State Administrative Tribunal (the Tribunal).

Application to the State Administrative Tribunal

The strata company (or a lot owner) will have 12 months to lodge an application with the Tribunal to review the ratified majority termination proposal. An application to the Tribunal to review a majority termination proposal must include:

- a copy of the ratified termination proposal
- minutes of the meeting where the termination proposal was passed and minutes of other meetings where the termination proposal was discussed
- a copy of every Certificate of Title in the scheme
- a copy of the scheme plan
- a copy of the by-laws and
- other information required by the Regulations.

Unanimous vote

If the termination proposal passes with a 100 per cent vote in favour, the proposal is passed by a unanimous resolution and doesn't need to go through the Tribunal process.

State Administrative Tribunal to consider views of all affected parties

During the review by the Tribunal every owner, mortgagee, occupier or tenant in the scheme will have a right to express their views for or against the termination proposal. An affected local government or other relevant planning body will also be able to have their say, and the Tribunal will be able to call on anyone else who might need to be heard during the proceedings to give their view/opinion.

The State Administrative Tribunal must be satisfied of three key things

The Tribunal must be satisfied of three key things before ordering a majority termination to proceed.

1. The procedural steps set out in the legislation to obtain majority support for a termination proposal must have been complied with and in particular that:
 - the termination proposal contains the key information as set out in the legislation
 - the termination proposal was served on:
 - all owners of lots within the scheme
 - all registered mortgagees of lots within the scheme
 - the strata company.
 - the meeting which gave rise to the required vote in support of the termination proposal was properly convened and properly run
 - the vote in favour of the termination proposal was properly held

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- the termination proposal does indeed have the required level of support (75 per cent of lot owners within a scheme of four or more lots; two proprietors in a scheme with three lots; one proprietor of a scheme with two lots).
2. That each lot owner will receive fair market compensation for their lot. The definition of fair market compensation for a lot will be set out in the legislation.
 3. The approved termination proposal is just and equitable

What the State Administrative Tribunal must consider when reviewing a majority termination proposal

In deciding whether a termination proposal should go ahead the Tribunal must consider:

- The extent of the majority in favour of terminating the scheme
- The benefit to owners (individually and as whole) of terminating
- The detriment to owners (individually and as whole) of terminating
- The views of all owners and mortgagees
- The views of an affected local government or relevant planning agency
- Whether there is a more appropriate order the Tribunal could make, such as the strata company repairing the strata building instead of terminating.
- The use of any proxy vote, power of attorney or similar instrument to cast a vote. Such proxies, power or attorney or other instrument must be used during a vote on a termination proposal in the best interests of the lot owner. The Tribunal may declare that a vote of an owner is reversed when that vote is cast by a person holding a proxy or other instrument, (including a power of attorney) and that vote is cast against the interests of the owner. The Tribunal may order the termination proposal is not ratified if the Tribunal is satisfied that the reversal of such a vote would result in the termination proposal not being ratified.
- The unit entitlement of the lots within the scheme and whether a poll vote would have failed to ratify the termination proposal. The Tribunal may order that the termination proposal is not ratified if the Tribunal is satisfied that a poll vote would not have ratified the termination proposal.

What the State Administrative Tribunal may consider when reviewing a majority termination proposal

The things the Tribunal may also consider when reviewing a termination proposal include:

- the age of the scheme
- the condition of the building(s)
- the amount of money in the reserve fund account
- whether the lot owners are able to maintain or refurbish the scheme instead of terminating
- financial comparisons between maintenance, repair and replacement
- other expenses to lot owners if the termination goes ahead, such as taxes, stamp duty, relocation costs and other necessary expenses
- use being made of the buildings (eg whether their condition means they can't be used)
- whether there are any tenant occupiers in the scheme and their rights

Orders the State Administrative Tribunal can make in review of majority termination proposal

The Tribunal will have the power to make orders when reviewing a termination proposal which include:

- for the scheme be terminated according to the termination proposal

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- not terminating the scheme
- any order the Tribunal considers necessary in relation to termination of the strata scheme
- the termination proposal be revised (subject to the applicant's agreement)
- orders that are required to give effect to the termination proposal, such as to complete a transfer or vacate a lot
- verifying that an owner is vulnerable, and may have access to the funds provided for within the termination proposal, to seek advice and advocacy in relation to the termination proposal.

If the Tribunal makes an order for the scheme to be terminated the strata company must prepare and lodge documents at Landgate for registration. The scheme won't be terminated until all the documents are registered.

Making sure that the termination proposal is carried out

If one or more of the lot owners doesn't comply with the Tribunal termination order, the Tribunal will be able to make further orders to ensure the termination proposal can actually be carried out. The Tribunal can only make further orders after the strata company has obtained the termination order from the Tribunal and registered it at Landgate.

Where the termination proposal sets out that after termination, the land will be collectively sold to a developer, the Tribunal can order that every lot owner transfer their lot on the terms set out in the termination proposal (the owner will still receive the required fair market value compensation, or, if they took up the offer, a like for like replacement lot).

What happens after a scheme has been terminated

The scheme will be terminated when the termination documents are registered at Landgate

The scheme isn't terminated until all the termination documents are registered by Landgate. The termination documents include:

- the ratified termination proposal
- the order of the Tribunal that the scheme is terminated in accordance with the termination proposal
- a new plan of subdivision (which has WA Planning Commission approval) that sets out what will happen to the parcel after the scheme terminates
- any duplicate Certificates of Title for the lots in the scheme
- discharge of any encumbrances and withdrawal of any caveats.

Other documents the strata company might lodge with the termination application include a Disposition Statement setting out what the lot owners will own in the new scheme or parcel. The strata company will only lodge one of these if the lot owners don't want to own the parcel as tenants in common, according to their unit entitlement. A valuer must provide a certificate setting out the current unit entitlement and what interests are created/disposed of.

Once the termination documents are registered at Landgate, every lot and any common property are terminated at the same time and at that point the scheme is terminated. After the scheme has been terminated, Landgate will notify other agencies and valuation services.

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Unanimous termination

Unanimous termination – on termination lot owners will either be tenants in common or have a disposition statement

After a strata scheme or survey-strata scheme is terminated, lot owners can either:

- own the parcel as tenants in common (according to their unit entitlement)
- lodge a Disposition Statement setting out what each lot owner will own
- convert to freehold title and keep the current boundaries in a survey-strata scheme

Currently when a strata scheme is terminated, the lot owners become tenants in common in shares proportional to their unit entitlement. This means that every owner has a share in the parcel, and their share will be based on how much their strata lot was worth before the scheme was terminated. Reforms will make this the case for survey-strata schemes as well.

The unit entitlement of a strata scheme is based on how much the lot is worth, whereas the unit entitlement of a survey-strata scheme is based on the site value. The site value is the value of the land the lot sits on, which doesn't take into account any house or building on the lot. This means, in a survey-strata scheme, the lot owners share after the scheme is terminated, doesn't factor in what they have built on their lot.

If the lot owners in a strata or survey-strata scheme don't want to use unit entitlement to decide what their share will be, they have the option of using a Disposition Statement.

Survey-strata title lots can be converted directly into freehold title with the lot boundary lines in the same place. If the survey-strata company wants to do this they can lodge a new plan (which shows the boundary lines in the same place). If there is a common property lot, they will own that land as tenants in common. Any plan to do this will need approval from the WA Planning Commission, and the scheme may have to meet certain planning conditions.

Termination in a community title scheme

As the name implies, a community title scheme involves a community of schemes in a single land parcel or single building.

A [community title scheme](#) will have member schemes which can each have their own lots, common property, by-laws and a strata company. Each member scheme will exist within the community title scheme (community scheme). A community scheme can either have two layers, where the community strata and survey-strata scheme are members of the community scheme. Or a community scheme can have three layers where the community strata and survey-strata schemes are members of the secondary community scheme(s) which are in turn members of the community scheme.

Because there are multiple member schemes inside a community scheme, there are two different ways a termination can take place. Termination in a community scheme can either mean:

1. Termination of the whole community scheme (and all its member schemes) at once.
2. Termination of one or more of the member schemes (but leaving the rest of the community scheme operating).

The process to terminate will be different depending on whether it is the whole community scheme or only one or more of the member schemes being terminated.

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Terminating the whole community scheme

If a community scheme is terminated every member scheme will be terminated as well.

Unanimous termination

A community scheme will be able to terminate using the unanimous vote process.

If every lot owner in the community scheme votes in favour of the termination (that includes every lot owner in every member scheme) then the scheme can terminate. In this scenario the termination does not need to be reviewed by the State Administrative Tribunal.

Majority termination

Termination of a community scheme may be also use the same majority termination process as strata and survey-strata schemes, with some additional requirements, where a termination proposal is to be prepared and provided and all of the procedural steps are followed.

Termination proposal

Every lot owner must receive the proposal and vote directly (rather than through their member scheme).

A termination proposal can be put forward by any lot owner, the community corporation or a body corporate for a member scheme in the community corporation. A termination proposal will be given to every lot owner in a community scheme. That is, a community lot owner as well as all lot owners in every member scheme. The lot owners will then have at least three months to consider the proposal before the community corporation holds a vote.

Every lot owner will vote directly on the termination proposal at a meeting of the community corporation. This is unlike the usual voting process in a community corporation where lot owners vote in their member scheme and then the member scheme votes in the community corporation.

At least 75 per cent must vote in favour of the termination

To ratify a termination proposal at least 75 per cent of all lot owners in the community scheme must vote in favour of the termination proposal. Each lot will have an equal vote. The vote on a termination proposal will not be a poll vote (a vote using the unit entitlement of each lot).

If at least 75 per cent of all lot owners in the community scheme vote in favour of the termination, the proposal will go to the State Administrative Tribunal for review. If less than 75 per cent vote in favour of the termination proposal, then the proposal expires.

The State Administrative Tribunal will review majority termination proposals

If at least 75 per cent of lot owners in the community scheme vote in favour of the termination proposal, then an application must be made to State Administrative Tribunal (the Tribunal) to review the proposal.

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When reviewing a majority termination proposal for a community scheme, the Tribunal will need to be satisfied of the same things they would when looking at the termination of a strata or survey-strata scheme.

During the Tribunal's review of a majority termination proposal for a community scheme, it must consider the same things as a majority termination proposal of a strata or survey-strata scheme.

What happens after the community scheme has been terminated?

When a community scheme has been terminated:

- all secondary community schemes (if any) within that community scheme will be terminated
- all community strata and survey-strata schemes within that community scheme will be terminated.

What happens after the secondary community scheme has been terminated?

A secondary community scheme may be terminated. The effect of this is that all member community strata schemes and community survey-strata schemes (the member schemes) are also terminated.

The termination of a secondary community scheme:

- does not result in the termination of the community scheme
- does not result in the termination of other secondary community schemes (if any) within the community scheme
- does not result in the termination of community strata schemes or community survey-strata schemes, which are not members of the terminating secondary community scheme.

What happens when a community strata or survey-strata scheme has been terminated?

When a community strata or survey-strata scheme is terminated it:

- does not result in the termination of the community scheme
- does not result in the termination of secondary community schemes (if any) in the community scheme
- does not result in the termination of other community strata or survey-strata schemes in the community scheme.

Member schemes

A member scheme can either be a community strata scheme or survey-strata scheme or a secondary community scheme. If the member scheme is a secondary community scheme it might also contain its own member schemes, which will also terminate when the secondary community scheme terminates. The process to terminate a member scheme is slightly different depending on whether the member scheme contains its own member schemes or not.

Unanimous termination of a member scheme

A member scheme will be able to terminate using the unanimous resolution process. This process will be a little different to the unanimous termination process for an entire community scheme. To terminate a member scheme the consent from the community corporation as well as the other

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member schemes is needed. Terminating a member scheme won't require every lot owner in the community title scheme to vote in favour.

A unanimous resolution to terminate a secondary community scheme requires that:

- every lot owner in the secondary community scheme must vote in favour
- 100 per cent of the members of the community scheme vote in favour of the termination proposal at a meeting of the community corporation.

A unanimous resolution to terminate a community strata or survey-strata scheme requires that:

- every lot owner in the community strata or survey-strata scheme must vote in favour
- 100 per cent of the members of the community scheme vote in favour of the termination proposal at a meeting of the community corporation
- if the community strata or survey strata scheme is a member of a secondary community corporation, then 100 per cent of the members of the secondary community scheme vote in favour of the termination proposal at a meeting of the secondary community corporation.

A member of a community corporation or secondary community corporation can be either a lot owner or the body corporate of a member scheme.

If a unanimous resolution to terminate a member scheme passes, it does not need to be reviewed by the State Administrative Tribunal.

Majority termination of a member scheme

A member scheme will also be able to use the majority termination process. The majority termination process will be adapted to take into account both the lot owners as well as the member schemes.

Every lot owner must get a copy of the proposal and vote on it

A termination proposal can be put forward by any owner in the member scheme, the body corporate of the member scheme, or a member of that member scheme. A termination proposal will be given to every lot owner in a community scheme that is: a community lot owner as well as all lot owners in every member scheme. A copy will also be given to the community corporation, the body corporate for the member scheme which is terminating, as well as any secondary community corporation the terminating scheme is a member of.

The lot owners will then have at least three months to consider the proposal before the community corporation holds a vote.

Any lot owner whose scheme may be terminated will vote directly on the termination proposal at a meeting of the member scheme. This will include all lot owners in the member scheme. If the member scheme contains its own member schemes, then lot owners in those schemes will also vote directly on the termination proposal.

Majority vote required to ratify proposal to terminate member schemes

The vote required to ratify a termination proposal for a secondary community scheme is:

- 75 per cent or more of all lot owners within the secondary community scheme vote in favour of the termination proposal and
- more than 50 per cent of the members of the community scheme vote in favour of the termination proposal.

The vote required to ratify a termination proposal for a community strata scheme or community survey-strata scheme which is a member of a community scheme is:

- 75 per cent or more of all lot owners within the community strata or survey-strata scheme vote in favour of the termination proposal and
- more than 50 per cent of the members of the community scheme vote in favour of the termination proposal.

The vote required to ratify a termination proposal for a community strata scheme or community survey-strata scheme which is a member of a secondary community scheme is:

- 75 per cent or more of all lot owners within the community strata or survey-strata scheme vote in favour of the termination proposal
- more than 50 per cent of the members of the community scheme vote in favour of the termination proposal
- more than 50 per cent of the members of the secondary community scheme vote in favour of the termination proposal.

If the termination proposal does not gain these requirements, then it expires.

The State Administrative Tribunal will review the ratified majority termination proposal

If the majority termination proposal is ratified an application must be made to the State Administrative Tribunal (the Tribunal) to review the proposal. The member scheme cannot be terminated without:

- an order from the Tribunal for the termination to proceed according to the ratified termination proposal and
- the termination being registered at Landgate.

When reviewing a majority termination proposal for a secondary community scheme or community strata or survey-strata scheme, the Tribunal will need to be satisfied of the same three things they would when looking at the termination of a strata or survey-strata scheme, with the additional views of the community corporation and its member corporations. Specifically that:

1. the proper procedure was followed
2. every lot owner will get fair market compensation for their lot
3. the termination is just and equitable to the majority of lot owners.

If the Tribunal is satisfied that these are met, then it can order the termination go ahead.

Termination in a leasehold strata title scheme

A leasehold strata title scheme may:

- expire at the end of the lease
- be terminated before the end of the lease
- be converted into a freehold strata title scheme
- be extended past the original expiry date.

The expiry of a leasehold strata scheme will happen automatically when the lease expires. Termination, conversion or extension of a scheme will always require consent from the strata

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company and the lessor. More information about how a leasehold strata title scheme can be converted or extended is set out in the [leasehold strata](#) section.

Expiry of a leasehold scheme

Every leasehold strata scheme will automatically be terminated when the lease expires. This doesn't require the strata company to vote or have the termination reviewed by the State Administrative Tribunal. Certain documents will be lodged at Landgate to show the leasehold strata scheme has been terminated because the lease has expired.

Unanimous termination

A leasehold strata scheme can be terminated before the expiry date if the leasehold lot owners unanimously consent to the termination. It also requires the lessor consent to the termination before it can proceed.

Majority termination

A leasehold strata scheme can also use the majority termination process. The same steps will need to be followed as for other strata or survey-strata schemes. However, the lessor (freehold landowner) must have a say on whether a leasehold scheme is terminated prior to the expiry of the strata leases. The owners of the lots will also receive fair compensation for their interest in their lot, if the scheme is terminated before the expiry of their strata leases. The majority termination of a leasehold scheme will ensure both the rights of the lot owners and rights of the lessor are protected.

To terminate a leasehold strata scheme using the new majority termination process:-

- the termination proposal must be prepared and served on the lot owners (lessees), the strata company and the lessor. The proposal can be prepared by a leasehold lot owner, registered mortgagee or the lessor
- the strata company and lessor have between 3-12 months to consider and make amendments to the termination proposal
- the strata company votes on the termination proposal, and the lessor decides whether to consent or not
- if at least 75 per cent of the leasehold lot owners vote in favour and the lessor gives their consent, then an application may be made to the State Administrative Tribunal (the Tribunal) to review the termination proposal
- when the Tribunal reviews the termination proposal they must be satisfied of the same things as they would be when looking at the termination of a strata or survey-strata scheme. When the Tribunal is considering whether the compensation is fair, it cannot order the termination to proceed unless each lot owner is to receive fair compensation for their lot. Fair compensation for each lot in a leasehold strata scheme is decided by:
 - assessing the fair market price for a lot within the leasehold scheme, taking into account the remaining time left to run on the strata lease for that lot
 - deducting any reasonable costs likely to be incurred by a lot owner in fulfilling the terms of a refurbishment clause contained within the strata lease or Management Statement, where that refurbishment has not been completed by the owner of the lot at the time the termination proposal is being reviewed
- the Tribunal hears the views of the lessor before ordering the termination.

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