A Guide to Strata Titles

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You should refer to the:

• Strata Titles Act 1985 (the Act) as amended; and
• Strata Titles General Regulations 1996 (STGR) as amended, for details.

These publications are available from the State Law Publisher’s website www.slp.wa.gov.au.

Landgate is able to provide strata information relating to:

• document and Plan registration, and
• understanding boundaries between strata lots and common property

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1 Introduction

This guide is produced as a community service by the Western Australian Land Information Authority (Landgate) to give the community a basic understanding of strata titling principles. It is a summary only of the law as at 20 July 1997 and should not be taken as a precise guide to the law on strata titles. You should refer to the *Strata Titles Act 1985* (the Act) as amended and the *Strata Titles General Regulations 1996* (STGR) as amended, for details.

Residential strata schemes provide grouped housing with a community atmosphere. This combined with smaller areas, such as gardens to maintain, and the use of common facilities, such as bores and swimming pools, can make strata schemes attractive for many people. Strata schemes are also practical for industrial and commercial developments.

The cost of buying into strata schemes is usually comparatively less than the cost of buying into non-strata freehold title properties. This is because all the buildings are part of a single scheme and the planning requirements are relaxed. This reduces costs by allowing larger buildings on smaller lots and shared services such as electricity, gas, sewerage and water. The outcome of this is that people are able to purchase better quality housing and/or in a better area than they might be able to in the non-strata freehold environment.

Day to day living costs can also be lower in strata schemes because shared services often mean that the cost of maintenance, such as painting, is reduced. Strata schemes also have the option of strata company insurance which is generally cheaper than individual insurance. Utility costs such as shire and water rates are also generally less expensive in strata schemes.

There may be occasional problems associated with strata living, but most of those problems, such as disagreements with neighbours, can also exist in the non-strata freehold title environment. The advantage of strata living is that mechanisms such as by-laws and the State Administrative Tribunal (SAT) exist to assist in the reconciliation of disputes.
2 Buying a strata unit

As with any purchase of property, the rule of "buyer beware" applies. However when purchasing strata titled properties, the vendor is required by law to provide certain notifiable information about the scheme before the purchaser signs the contract to buy the property (see sections 69(A) and 69(B) STA).

This information includes:

- Form 28 - Disclosure Statement (this information can form part of the contract);
- Form 29 - Buying and Selling a Strata Titled Lot (this may contain, or have attached, the standard by-laws);
- a copy of the registered or proposed strata/survey-strata plan, in particular drawing attention to any information that relates specifically to the lot being purchased;
- the unit entitlement of every lot within the scheme and the total unit entitlement. If the scheme is not registered, the proposed unit entitlements;
- a copy of any by-laws, either registered, or yet to be registered, that vary the standard by-laws; and
- in the case of a proposed scheme, the proposed by-laws where they vary the standard by-laws.

Where the strata/survey-strata plan has not been registered, the original proprietor must also provide additional information which includes:

- Details and costs of any service agreements to be entered into by the strata company, including any pecuniary interests held by the original proprietor in agreements to provide the services;
- The proposed budget of the strata company in its first 12 months and the estimated contributions to levies by the purchaser during that period; and,
- Details of any leases, licences, exclusive use, or privileges, granted over common property.

If the vendor has failed to give the purchaser information that substantially complies with the requirements of Section 69 or 69C of the Act, and at the time required by that section of the Act, the purchaser has a right to avoid the contract (see section 69D STA).

With new developments the original proprietor is required to convene and hold a meeting of the strata company within three (3) months after the registration of the strata plan, whether or not he is a proprietor at the time he does so. Penalty: $2000 (see regulation 23 (STGR) and section 49 STA).
3 Strata development

Local government authorities and the Western Australian Planning Commission (WAPC) are responsible for the zoning, planning and approval process for the creation of strata schemes. Listed below are the basic steps required to complete development of a strata scheme.

1. Check with your local authority to determine if the property is zoned for a strata development.

2. If the strata development is residential, contains a maximum of five (5) lots and is 2,500 square metres or less, a preliminary application is made to the local government authority. Otherwise, it is made to the WAPC. A licensed surveyor can provide a detailed site plan. (see regulation 15 (STGR))

3. All survey-strata schemes require WAPC approval.

4. Once the building plan is approved in principle, a building licence is required from the local government authority before the commencement of building. Building plans and specifications are also required (does not apply to survey-strata schemes).

5. The strata plan is prepared by a licensed land surveyor after the buildings have been fully completed, including fences and driveways (does not apply to survey-strata schemes).

6. The strata/survey-strata plan is lodged at Landgate where a strata plan number is issued, if not already pre-allocated.

7. The strata plan is approved by the local authority and the WAPC (if applicable).

8. An application is lodged at Landgate to register the strata plan. The duplicate title must be produced at this stage. A new Title is then issued for each lot created by the strata plan.

There are a number of factors that can complicate the process and it is often advisable to consult appropriate professionals, such as planning consultants, conveyancers, as well as licensed land surveyors, to ensure the process is completed without unnecessary delay and/or additional cost.

You should also check the title for your property to ensure there is nothing preventing the strata titling, or subdivision of the land, such as a restrictive covenant.
4 Types of schemes

Two types of schemes are permitted under the Act, strata schemes and survey-strata schemes. The comments in this guide apply to both strata schemes and survey-strata schemes, unless indicated otherwise.

4.1 Strata Schemes

This is the original form of "strata scheme", or "strata plan", commonly known as a "building strata". At least one (1) building must be shown on these strata plans and the boundaries of the strata lots, including the height of the lots (stratum), are defined by reference to the building. Prior to 30 June 1985, lots could only be within a building. After that date, part of the lot could also be the land outside the building and may also include the building structure.

The lot boundaries are shown on the floor plan of the strata plan and the wording on the floor plan must be read in conjunction with the sketch to ascertain the lot boundaries (see also section 16 of this guide – What you own individually and what is common property).

4.2 Survey-Strata Schemes

The Act created a new form of strata scheme known as a "survey-strata scheme".

No buildings are shown on a survey-strata plan, even though there may in fact be buildings on the survey-strata lots.

The boundaries of survey-strata lots are surveyed by a licensed land surveyor and shown on the survey-strata plan. The lots on a survey-strata plan look much the same as lots that are shown on surveys (deposited plans, plans and diagrams) for non-strata freehold titles.

Survey-strata lots may, or may not be limited in height. The height of a lot may be limited for a number of reasons, for example, to protect a neighbour's view.

If there is a height limitation, it will be shown on the survey-strata plan and referenced to the Australian Height Datum (AHD).

Survey-strata schemes may have common property. If there is any common property in a survey-strata scheme, it is separately numbered as a lot and prefixed with the letters CP.

The other features and obligations which apply to strata schemes also apply to survey-strata schemes, e.g. by-laws, common property, strata company and structural alterations (see section 7A STA).
5 Unit entitlement

See section 14 of the Act

The Act defines unit entitlement as establishing the following:

(a) The voting rights of a proprietor
(b) The undivided share of each proprietor in the common property
(c) The proportion payable by each proprietor of contributions levied under Section 36 (see also section 21.1 of this guide – Strata levies).

Strata plans show the relative proportion of each owner's share in the scheme. This is called unit entitlement and is set by a Licensed Valuer. In a strata scheme, the unit entitlement of strata lots is calculated to take into account the capital value of buildings on strata lots, as well as the land (whether it is common property or individually owned). The unit entitlement of survey-strata lots is calculated on the unimproved site value of the lots and ignores the value of any buildings on the lot.

The Act allows for the unit entitlement to be changed in some circumstances. Refer section 8 of this guide – Re-subdivision – and to the following sections of the Act:

• Merger of land and/or buildings (Part II – Strata schemes and survey-strata schemes, Division 2A)
• Reallocation of unit entitlement by resolution (section 15)
• Reallocation of unit entitlement by Land Valuation Tribunal (section 16)
• Conversion to survey strata plan (Part III – Variation, termination and conversion of schemes, Division 3)
• Order for variation of unit entitlement (section 103H).
6 **Single tier strata schemes**

Single tier strata schemes are ones where no lot is above another lot, that is, the floor of one (1) lot cannot be the ceiling of another lot. Multistorey blocks of flats/units are not single tier strata schemes, but a two storey unit such as a two storey townhouse/villa is generally still a single tier strata scheme.

In some circumstances, the Act allows schemes to be single tier schemes, even if parts of lots, such as balconies, or other parts of buildings overhang other lots. These overhangs are called Permitted Boundary Deviations, as defined in regulation 37A (STGR).

7 **Merger and conversion**

Owners in single tier strata schemes registered before 1 January 1998 may use a simplified process using the options outlined in Part II and Part III of the Act (see extract below).

**Part II – Strata schemes and survey-strata schemes, Division 2A of the Act**

- Option 1 merger of buildings into the strata lots
- Option 2 merger of land into strata lots
- Option 1 and 2 merger of buildings and land into strata lots and/or;

**Part III – Variation, termination and conversion of schemes, Division 3 of the Act**

- Option 3 Converting to survey-strata

For details on how to merge common property or convert to a survey-strata scheme, you may obtain an appropriate brochure from Landgate’s Customer Service team (see section 30 – Further reading, for details).

Owners in single tier schemes merging buildings and/or land into strata lots or converting to survey-strata, must engage a Licensed Land Surveyor.

All other schemes registered after the 1 January 1998 can achieve the same results by the standard re-subdivision process.

7.1 **Capital Gains Tax implications to consider**

The conversion of common property may have capital gains tax implications for some strata owners. Please contact your taxation adviser or the Australian Taxation Office for further information.
8 Re-subdivision

See sections 8, 8A, 8B, and 8C of the Act

Subject to the passing of appropriate resolutions, lots on a strata, or survey-strata plan may only be further subdivided by a re-subdivision plan of the same type, that is, a strata lot may only be re-subdivided by another strata plan and a survey-strata lot may only be re-subdivided by another survey-strata plan. A licensed land surveyor will be required to make the appropriate changes to the strata, or survey-strata plan which must be lodged and examined by Landgate before being acted upon.

In some cases the unit entitlement may change and a Licensed Valuer will be required to do a new schedule of unit entitlement.

A Form 20 – Application for Re-Subdivision (STGR) is registered at Landgate to effect these changes. In some cases, a Form 23 – Disposition on Re-Subdivision (STGR) will also be required.

9 Restrictions

See sections 6 and 6A of the Act

Restrictions may be added to, varied or removed with appropriate consents and lodgement of appropriate documents with Landgate. Restrictions on strata plans under sections 6 and 6A of the Act are not registered as by-Laws. A Form 19 – Notice of Resolution to Vary, Remove or Add a Restriction (STGR) is to be used. The appropriate consents from local government and the WAPC may also be required.

The Act allows a restriction which requires that lots may be only, or predominantly, occupied by retired persons to be registered on a strata plan, or a survey-strata plan, either at the time it is registered or registered at a later date after passing the relevant resolutions. Other restrictions may also be registered on the plan. (Note: these restrictions are shown on the strata plan and are not recorded as by-laws under the Schedule of Encumbrances.

Care should be exercised in creating restrictions as poorly drafted areas may cause unexpected problems. It may be advisable to have a lawyer, strata consultant or other professional draft the restriction.
10 Access to services such as water and sewerage

The Act allows sharing of access to services such as water, sewerage and electricity and often these services pass through common property and other lots in the scheme. To ensure continuity and maintenance of these services within the scheme, the Act allows access (implied easements) under sections 11 and 12 to common property and lots for maintenance of the existing services (see section 12A STA and regulations 37A and 37B STGR).

11 Strata company

See section 32 of the Act

The strata company (also referred to as the Body Corporate) comes into existence automatically on the registration of the strata/survey-strata plan when the titles are issued. Other than holding the first annual general meeting (see section 20.8 – General meetings in this guide), no expenditure, or action by the owners is required to form it. All owners of lots on the strata/survey-strata plan are automatically members of the strata company.

There is no requirement to register a strata company with the Australian Securities & Investments Commission.

11.1 Duties of strata companies

See section 35 of the Act

Some of the principal duties of strata companies are to:

• enforce the by-laws;
• control and manage the common property for the benefit of all proprietors; and
• properly maintain and, where necessary, renew and replace the common property, including the fittings and fixtures used in connection with the common property.
12 Strata councils

The Act recognises that in some schemes, it may be impractical for all owners to participate in the day to day management of the scheme and therefore provides for the strata company to be operated by a council of owners.

The strata company is run by the council in accordance with the conditions specified in the Act, the by-laws in force for the strata scheme at that time and subject to any restriction imposed or direction given at a general meeting of the strata company.

The council may delegate to one (1) or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation (see schedule 1, by-law 8 STA).

The by-laws in Schedule 1 provide that if there are three (3) or less owners, the council consists of all owners. A council may consist of between three to seven (3-7) owners as determined by the strata company. If there are more nominations than the number of councillor positions, the council must be elected (schedule 1, by-law 4).

Members of the Council of Owners do not acquire any privileges by virtue of their election to it, or because they become office bearers of the council. They are required to carry out their duties for the benefit of all owners, without favour.

Details of standard by-laws which apply to all strata schemes, unless the strata company has amended them, are outlined in Section 28.1 – Standard by-laws within this guide. Some key by-laws that may be of interest include:

- the council of the strata company is constituted (by-law 4),
- how council members are elected (by-law 5),
- what the duties of the council office bearers are (by-law 6) and
- meetings of council (by-law 8).

The Chairman, Secretary and Treasurer of the strata council hold the same respective positions of the strata company (see schedule 1, by-law 7).

Further information on the duties of the office bearers of the strata company is contained in schedule 1, by-laws 9 and 10 of the Act.

To ensure that your scheme is managed efficiently, it is imperative that owners form an effective council. This will ensure that the duties of the strata company are carried out and if a strata manager is employed to carry out some of the duties of the strata company, the council of owners would then effectively instruct and monitor the manager.

If you are unhappy with the way your scheme is run, a possible solution is to stand for election to the council, so you can participate in the day to day running of the scheme.
13 **Strata company name**

Section 32 of the Act requires the strata company name to be in a specific format, which is – ‘The Owners of (insert the name of the scheme as shown on the strata plan) Strata Plan Number (insert the number of the strata plan)’.

In schemes created before 14 April 1996, the name of the building is used instead of the name of the scheme. See the example below.

14 **Common seal**

See section 32 of the Act

Strata companies can only sign documents using a common seal which is usually affixed in the presence of at least two (2) members of the council of the strata company (see schedule 1, by-law 15 STA).

- A common seal should contain the name of the strata company (exactly as shown on the strata/survey strata plan) and the strata/survey strata plan number. Generally any rubber stamp manufacturer will be able to make the rubber stamp, refer to the example shown below.
- Council members attesting to the affixing of the seal should sign, then print their names in full (clearly) underneath their signatures.
- Only one (1) co-proprietor of a lot can sign as a member of council (see schedule 1, by-law 4(6) of the Act).
- Where a member of council is a delegated by a corporation and attesting the affixing of the seal they should sign, print their name in full and also include the following under/alongside their printed name “As authorised signatory for (name of corporation) as delegated under section 45 (2) of the Act”.

Name of Building or Name of Scheme, whichever is applicable.
15 **Strata managers**

Larger strata schemes often employ strata managers to assist the council to carry out some of the duties of the strata company. The strata manager may be a company or an individual. This does not remove the need for a strata council. Rather, it may increase the need for one, to ensure the strata manager is effectively instructed and monitored.

While the strata manager is the servant of the strata company, the quality and level of service the strata company receives from the strata manager often depends on effective instruction and control of the strata manager by the strata company, or the strata council (see schedule, 1 by-law 8)

The only powers strata managers have, are those given to them by the strata company. Generally, the strata manager cannot make decisions on behalf of the strata company and cannot do anything that requires a resolution of the strata company.

15.1 **Contract of employment and provision of services**

When employing strata managers, strata companies should ensure that:

- The services required to be provided by the strata manager are clearly set out in the service contract.
- All owners have a clear understanding of the role and services that are to be provided by the strata manager.
- Lines of communication between the parties are clearly set out (generally all communications should be between the strata council and the strata manager, and be in writing).
- The strata council monitors the performance of the strata manager.
- The strata council continues to undertake any responsibilities it has retained.

Contracts with strata managers should generally be for a relatively short term, such as a year, so if the strata manager does not meet the required level of service, their services can be easily terminated.

15.2 **Transfer of management contracts**

Strata managers sometimes transfer their management portfolios to other managers. If you do not want this to happen without your consent, that requirement should form part of the contract for the service.

15.3 **What to do if you are unhappy with your strata manager**

If you think your strata manager is not meeting its contract obligations, you should check the contract to ensure that the services in question are in fact required to be performed by the strata manager. You should also ensure that the strata manager has been advised of the need to carry out the particular duties.

If it is ascertained that the strata manager is failing to meet contract obligations, the strata council should request in writing that the duties be performed as per the contract.
15.4 Where to complain if you are unhappy with your strata manager

Strata management, at present is not a regulated industry. However, many strata managers are real estate agents, or members of the Strata Community Australia Western Australia (SCA(WA)) formerly known as the Strata Titles Institute of WA (STIWA).

If the strata manager is a real estate agent, in the first instance you should take your complaint to the principal of the real estate agency.

If that fails to resolve the situation, the strata council may re-direct their complaint to:

Department of Commerce
Consumer Protection
Level 2
140 William Street
PERTH WA 6000
Tel: 1300 304 054
email: consumer@commerce.wa.gov.au.

Consumer Protection is now the statutory authority responsible for regulating real estate agents under the Real Estate and Business Agents Act 1978. Consumer Protection may conciliate in the dispute or take disciplinary action against the agent, as appropriate. In certain circumstances, Consumer Protection can also require agents to refund fees or commissions paid to consumers.

In addition to taking the matter to Consumer Protection, if the strata manager is a member of the Real Estate Institute of Western Australia (REIWA), the strata council may also take the complaint to REIWA. REIWA’s contact details, as at the date of this publication, are:

REIWA
PO Box 8099
SUBIACO EAST WA 6008
Tel: +61 (0)8 9380 8222

If the strata manager is a member of SCA(WA), the strata council may take the complaint to that organisation, after having approached the Principal of the strata management company. SCA(WA)’s contact details, as at the date of this publication, are:

SCA (WA)
PO Box 8105
SUBIACO EAST WA 6008
Tel: +61 (0)8 9381 7084.

If you, as an individual, consider that your strata complex is not being managed properly by the strata council, then you may apply to the SAT to have the matter resolved.
15.5 If you wish to terminate your strata management contract

Before you take action to terminate your strata management contract, you should:

• ensure the contract for the service allows you to do so; and

• ensure that arrangements are put in place to carry out services previously carried out by the strata manager, for example, have you selected a new strata manager and do you need further authority to approve the expenditure necessary to employ the new strata manager?

You may need to seek legal advice before you terminate the contract.
16 What you own individually and what is common property

The most common scenario for two to five (2-5) lot single tier schemes is for the buildings to be individually owned. However, this depends on when the scheme was registered.

In schemes registered before 30 June 1985, the outside areas are usually common property.

In schemes registered after 30 June 1985, part or all of the outside areas may be individually owned, they could also be common property or a combination of both.

To understand what you own, it is essential that you obtain and examine a current copy of your strata plan and seek advice on its interpretation.

16.1 Common property

Common property is property which is jointly owned by all of the owners in the strata scheme and is not contained within any lot (see section 3 STA).

Many strata owners believe that there is no common property in their scheme, and that they own the whole of “their strata unit” (for example, the building in which they live) and the surrounding garden and carport area.

However, in many cases this is not correct!

Due to changes to the Act, and different ways in which strata plans have been prepared, a number of individual ownership/common property scenarios exist. In many cases, some part, if not the whole, of the building structure is common property.

16.2 Schemes created before 30 June 1985

In schemes created prior to 30 June 1985, the building and areas outside the buildings are common property, unless:

- there has been a strata plan of re-subdivision lodged changing the lot boundaries;
- the boundaries of the lots in a two to five (2-5) lot single tier strata scheme have been moved to the external surfaces of the buildings on 20 July 1997, pursuant to the automatic merger provisions of the Strata Titles Amendment Act 1996; or
- the boundaries of the lots in a single tier strata scheme have been moved by resolution of the strata company at some time after 20 January 1997, pursuant to the provisions of the Strata Titles Amendment Act 1996.

16.3 Schemes created after 30 June 1985

After 30 June 1985, it was also possible to own buildings and outside areas.

From 30 June 1985, the Act allowed for variation of the standard provisions to include individual ownership of buildings and land outside, as well as the cubic space inside the building. This has led to a number of combinations of individual ownership and common property.

Some examples are:

- individual ownership of the buildings and areas inside and outside the buildings;
• individual ownership of the inside and outside areas, but only part of the buildings, for example, the walls, but not the roof; and
• ownership of the inside and outside areas, but not any part of the building.

The scheme requirements dictate the mix of individual ownership and common property.

16.4 Changes which commenced 20 July 1997

One change to the Act which became effective on 20 July 1997 automatically moved the boundaries of the lots, or part lots within buildings shown on the strata plan, to the "external surfaces of the buildings" in single tier schemes of five (5) lots or less.

This means that the building, including attachments, such as television antennae, water heaters and air conditioner etcetera, are individually owned. Building additions, added on carports and pergolas, are not included in this boundary change.

The change only occurred if no owner lodged an objection to it with Landgate before 21 July 1997, after which time, it was no longer possible to object to the automatic changes.

It should be noted, the change also affected schemes where the building was already individually owned, this is because it included attachments to the building that were not previously included in the definition of a lot.

The Capital Gains Tax implications described in section 7.1 of this guide also apply to the automatic boundary changes.

16.5 Changes to description of boundaries in the Strata Titles General Regulations

See regulation 37AA (Gazetted 24 January 2006 and amendment Gazetted 2 September 2011)

Any boundaries on new strata plans that are described in a manner defined under section 3(2)(b) of the Act will now be limited to the inner surfaces of the floor, walls and ceilings and in any other case, in a manner that unambiguously defines the cubic space and its location in relation to the relevant building.

For example, Multi-Tier Schemes. The subsequent amendment allows for buildings which are single tier and buildings which are multi-tier that are contained within the same strata plan to be defined differently.
17 Small scheme exemptions

See sections 36A and 36B of the Act

The 1995 amendments to the Act allowed small schemes to be exempt from some of the management requirements under the Act. The strata company for the scheme remains in existence, despite the exemptions for small schemes.

17.1 Two (2) lot schemes

See section 36A of the Act

Two (2) lot schemes are automatically exempt from the following requirements:

- to hold annual general meetings, after the first one (1) has been called by the original proprietor;
- to keep minutes of meetings and books of account;
- to prepare annual accounts;
- to have a separate mail box for the strata company;
- to keep a roll of lot owners, but each lot owner must notify the other owner of his or her address for the service of notices; and
- to establish an administrative fund, for example, a strata levy fund.

Owners of two (2) lot schemes may decide to comply with any of these requirements. However, if they decide to establish an administrative fund they must first pass a by-law to that effect.

17.2 Three to five (3-5) lot schemes

See section 36B of the Act

The same exemptions that apply to two (2) lot schemes may apply to schemes having three to five (3-5) lots if the strata company passes a by-law to that effect. The by-law must be made by a resolution without dissent. By-laws made to adopt the exemptions can be set aside by a new by-law passed by resolution without dissent.
18 Insurance

See sections 53 to 59 of the Act

The basic principle of insurance in strata schemes is to provide for joint insurance of common property, to ensure that owners are adequately covered against loss or damage arising from claims against the strata company that occur in or on common property.

You should consult your insurer to ensure you have adequate insurance cover for both individually owned lots and common property in your strata scheme.

18.1 Single tier strata scheme

In a single tier strata scheme the strata company must take out joint insurance of buildings (to their replacement value) and insure for public liability (for at least $5,000,000) in respect of common property unless:

(a) the only common property is the air above the lots and the soil below them, or fences; or
(b) the strata company decides by resolution without dissent (or unanimous resolution in a two (2) lot scheme) not to take out joint insurance.

Any owner can insist on joint insurance of common property at any time.

The strata company must also take out any other insurance required by law, for example, workers' compensation, if applicable, and any other risks which the strata company decides to insure against. This is the same as for non-strata freehold titled properties.

The owners can take out individual building and public liability insurance of their individual lots, unless the strata company decides by majority decision to take out joint insurance.

18.2 Non-single tier strata scheme

In a strata scheme which is not a single tier strata scheme (eg. a multi-storey/high-rise building), the strata company must take out the following insurances:

• building insurance for all buildings on the land in the scheme (except if there is an exemption under the STGR) to their replacement value; and
• public liability insurance for the common property, for at least $5,000,000, unless exempted by an order of the Strata Titles Referee.

The strata company must also take out any other insurance required by law, for example workers' compensation, if applicable, and any other risks which the strata company decides to insure against. This is the same as for non-strata freehold titled properties.

18.3 Survey-strata scheme

Where there is common property in a survey-strata scheme, the strata company must take out the following insurances:

• building insurance for any buildings on the common property, to their replacement value; and
• public liability insurance for the common property (if any), for at least $5,000,000.
The strata company must also take out any other insurance on common property required by law, for example workers compensation, if applicable, and any other risks which the strata company decides to insure against. This is the same as for non-strata freehold titled properties.

### 18.4 Increased premium

**See section 54 and 54A of the Act**

If the strata company has difficulty in obtaining reasonable insurance cover for any buildings due to some activity on a lot, the strata company may do one (1) of the following:

- give the owner of that lot notice in writing requiring the owner to stop carrying on that activity on the lot; or
- give the owner notice in writing requiring the owner to do certain works specified in the notice.

If the lot owner fails to comply with either of these requirements, the strata company may obtain an order from the SAT requiring compliance.

As an alternative to either of these requirements, the owner may be required to pay the amount by which any insurance premium is increased due to the activity carried on the lot.

If any insurance premium payable by the strata company (not only for building insurance) is increased solely due to some activity on a lot, the owner of that lot may be required to pay the amount of that increase.

### 18.5 Strata company fails to insure

**See section 103L of the Act**

If the strata company fails to take out any insurance required by the Act, an owner may take out that insurance in the name of the strata company. The SAT has power to make orders for that owner to be compensated for any payment made.
19  By-Laws and changes to them

See section 42 of the Act

The standard Schedule 1 and Schedule 2 by-laws contained in the Act are reprinted in section 28.1 and 28.2 of this guide.

19.1 Standard by-laws

The by-laws which apply to all new (from registration of the plan) and existing strata companies are:

- schedule 1 and 2 by-laws, which are printed in the schedules to the Act; and
- any management statement that may be registered and new or changes to existing by-laws (including by management statements) which are registered on the strata/survey strata plan.

19.2 New, amended or repealed by-laws

- In any two-lot strata/survey strata scheme, any resolution (including a resolution to amend, add or repeal a Schedule 1 or Schedule 2 by-law or any other by-law will require a unanimous resolution.

- In any other strata or survey-strata scheme:
  - Schedule 1 by-laws may only be amended, repealed or added to by a resolution without dissent (sections 3AC, 3C and 3CA STA).
  - Schedule 2 by-laws may be amended, repealed or added to by a special resolution (sections 3B, 3C and 3CA STA)

All new by-laws must specify whether the by-law is a schedule 1 or schedule 2 by-law and be consecutively numbered after the existing by-laws for the relevant schedule to which they belong.

By-laws may be made at the request of local government or other authorities. The by-law may not be amended or repealed without the consent of the requesting authority, if that requirement is specified in the by-law (see sec 42(2d) STA)

Many schemes draft their own by-laws. While the owners at the time understand what was intended, the by-laws may be interpreted differently by new owners. Many registered by-laws are ambiguous and may be unenforceable from a practical standpoint. It is therefore advisable to have by-laws drafted by an appropriate professional, or to seek legal advice.

Care should be taken not to make by-laws that are discriminatory, or that cannot be easily enforced.

_Recording of by-laws at Landgate does not guarantee their enforceability, either at law, or in practice._

19.3 Recording of by-laws

See section 42(4) of the Act

Any new by-law, amendment to, or repeal of, an existing by-law must be lodged at Landgate within three (3) months of the date of the meeting that passes the resolution. If you need to wait
28 days after the meeting for the resolution to be confirmed, the by-law must still be lodged at Landgate within three (3) months of the date of the meeting.

The by-law is not effective until reference is made on the registered strata plan.

19.4 Matters in by-laws

By-laws may be made in respect to any of the following matters, including exclusive use or enjoyment of, or special privileges in respect of, common property or any part of it:

- the corporate affairs of the strata company;
- any matter listed in schedule 2A to the Act;
- any matter relating to the management, control, use and enjoyment of the lots and any common property;
- exclusive use of common property;
- apportionment of strata levies;
- the plot ratio restrictions or open space requirements, and/or
- fines for breaches of the by-laws.

A strata company may provide for a penalty in a bylaw which may be imposed by SAT.

19.5 Exclusive use or special privileges by-laws

See section 42(8) of the Act

It is possible to create by-laws granting individual lot owners exclusive use and enjoyment of, or special privileges in respect of, common property or any part of it. Such by-laws will usually require a clear sketch plan of the relevant part of the common property and may be subject to conditions, including obligations to maintain and repair the relevant part of the common property or may be made subject to a payment or a combination of conditions and payment. A proprietor who would have the benefit of such a by-law must give written consent to the adoption of the by-law (see section 42 (8) STA).

To pass a by-law relating to exclusive use and/or special privileges in a two lot scheme a unanimous resolution is required and in any other scheme, a resolution without dissent is required.

Proprietors granted exclusive use are responsible for the repair and maintenance of their exclusive use area, unless the by-law states otherwise (see section 42(11)(b) STA).

19.5.1 “For the use of” statements on strata plans

Some strata plans have notations indicating certain areas are “for the use of” particular lots. These notations do not have any effect, unless an exclusive use by-law has been lodged to support them.

To lodge an exclusive use by-law, generally the document will require a suitably dimensioned sketch plan to support the proposed by-law (note: the sketch on the strata plan cannot be used). The sketch plan is usually prepared by a licensed surveyor.
19.6 Management statement

See section 5c of the Act

A document known as a "Management Statement" may be registered at the same time as the strata or survey-strata plan is registered. The Management Statement specifies by-laws which are to apply to the scheme from the time of registration and may include:

- restrictions on what types of houses or other buildings may be built on the lots or what activities may be conducted on the lots; and
- a plan of re-subdivision for future subdivision of a lot within the scheme.

The Act also specifies a number of other matters that can be provided for in Management Statements (see schedules 2 and 2A STA).

19.7 Orders by the State Administrative Tribunal

See sections 81 to 103R of the Act

The SAT may make various orders in relation to by-laws made by the strata company, or where the strata company has refused to make certain by-laws.
20 Resolutions

20.1 Types of resolutions

The STA provides for four (4) different types of resolutions which can be passed at general meetings of the strata company.

1. A unanimous resolution must be passed by all lot owners (or their proxies—see section 23 of this guide), or other persons entitled to vote (see section 3 of the Act).

2. Except in the case of a two-lot scheme, where a unanimous resolution is required, a resolution without dissent is passed, if:

   o The owners (or their proprietors) of not less than 50% of the lots in the scheme, who between them represent not less than 50% of the unit entitlements in the scheme, vote in favour of the resolution and:
   o No person votes against it at the meeting when it is voted on or within 28 days later. (see sections 3AC, 3C and 3CA STA)

   • If the proposed unanimous resolution or resolution without dissent is passed with amendment at a meeting, notice of that amendment must be given to each owner who was not present personally or by proxy at the meeting. If that notice is not given within 7 days after the meeting, the resolution will be of no effect (see sections 3C(2) and 3C(3) STA).

   • An owner who owes any contribution or other money to the strata company is not entitled to vote on an ordinary resolution or a special resolution (see section 3D and Schedule 1 by-law 14(6) STA).

In most cases the Act requires a unanimous resolution to any two (2) lot scheme resolution.

3. A special resolution is passed if those lot owners, or other persons entitled to vote, who vote:

   • in favour of the resolution have no less than 50% of the lots in the scheme OR have no less than 50% of the unit entitlement in the scheme; and

   • against the resolution do not have 25% or more of the unit entitlement in the scheme OR 25% or more of the lots in the scheme (see section 3B STA)

In schemes having three to five (3-5) lots, a special resolution will be passed:

   • In a 3 lot scheme, if there are 2 lots in favour and those lots have between them not less than 50% of the aggregate unit entitlements;
   • In a 4 lot scheme, if there are 3 lots in favour and those lots have between them not less than 50% of the aggregate unit entitlements of all lots; and
   • In a 5 lot scheme, if there are 4 lots in favour and those lots have between them not less than 50% of the aggregate unit entitlements of all lots (see section 3B(3) STA).

4. An ordinary resolution is any resolution which is not required to be passed as one (1) of the previous resolutions. The schedule 1 by-laws in the STA provide that, unless a poll is called, an ordinary resolution is passed by a simple majority of persons entitled to vote and who vote (including proxies) on a show of hands at a meeting of the strata company (see schedule 1, by-law 12(6) STA).
• A poll vote is countered on the unit entitlement of each owner as shown on the strata plan. A poll vote can be requested by any present and entitled to vote at the meeting. See also section 20.2 – Voting for resolutions, of this guide.

20.2 Voting for resolutions - unanimous, special and without dissent

See schedule 1, by-law 14 (3) of the Act

The votes for any of these resolutions may be cast either personally, or by proxy:

• at a meeting of the strata company; or
• by notice in writing to the strata company (or other owners if there are two to five (2-5) units in your scheme) within 28 days after the meeting.

20.3 Notice of proposed resolutions - unanimous, special and without dissent

A minimum of 14 days’ notice must be given for unanimous resolutions, resolutions without dissent and special resolutions (see schedule 1, by-law 11(5) STA).

20.4 Amended resolutions

See section 3C(2) of the Act

If a special, or without dissent resolution is passed with amendment, the strata company must within seven (7) days after the meeting, serve a copy of the amended resolution on the lot owners who were not present in person or represented by proxy at the meeting.

20.5 Quorums at general meetings

Attendance by half of the persons entitled to vote (either in person, or by proxy) constitutes a quorum (see Schedule 1, by law 12 (3) STA).

20.5.1 Quorum in a two (2) lot scheme

All proprietors or their proxies are required for a quorum in a two (2) lot scheme.

The SAT has power to make orders in respect to the failure of a proprietor in a two (2) lot scheme to attend a general meeting of a strata company.

20.6 Voting at general meetings

Subject to any by-law varying the Schedule 1 by-laws, the voting procedures at general meeting are set out in the Schedule 1 by-laws contained in section 28.1 of this guide (see schedule 1 by-law 14 STA).

Lot owners who have not paid their strata levies or other monies owed to the strata company cannot vote at general meetings of the strata company, unless the vote requires a unanimous resolution, or a resolution without dissent (see schedule 1, by-law 14(6) and section 3D STA).
20.7 Orders by the State Administrative Tribunal or District Court

A lot owner may apply for an order from the SAT or the District Court in specified circumstances if a necessary resolution required by the Act is not passed.

20.8 General meetings

The first annual general meeting of the strata company must be held by the original proprietor within three (3) months of the registration of the strata or survey-strata plan. At this meeting, the developer must provide relevant plans, specifications and documents to the strata company. This includes insurance policies, building plans and drawings showing locations of water and drainage pipes and electrical wiring (see section 49 STA).

Subsequent annual general meetings must be held each year with no more than 15 months passing between meetings (see schedule 1, by-law 11 STA).

Additional general meetings (extraordinary general meetings) can be held if required.

Certain schemes can be, or are exempted from holding annual general meetings (see Section 17 – Small scheme exemptions of this guide and sections 36A and 36B STA).

The schedule 1 by-laws contained in Section 28.1 of this guide detail the requirements for conducting general meetings.
21 Management

21.1 Strata levies and fees

Levies are apportioned in the same proportion that the unit entitlement of each lot bears to the total unit entitlement of the scheme. The strata company can also pass a by-law which allows strata levies to be apportioned on some other basis, which must be specified in the by-law (see section 42B of the Act).

If there is no common property, there may be no need to raise levies.

The strata company can charge interest at a rate of 15% per annum (at date of printing) on unpaid levies and can take court action to recover unpaid levies from lot owners (see section 36(4) STA and regulation 26 STGR).

The strata company may charge fees for the provision of information under section 43 of the Act. A list of the fees is shown in schedule 1(4) of the STGR.

21.2 Expenditure by council

See section 47 of the Act and regulation 29

At the time of printing, the maximum amount of expenditure which the council of a strata company may spend per lot for particular maintenance work or other matters without going to a general meeting is:

- $65 per lot as currently prescribed at date of printing (see section 47 STA and regulation 29 of the STGR).
- The amount prescribed per lot may be increased by a special resolution of the strata company, within a budget passed at a meeting of the strata company or by an order of SAT.

21.3 Exceptions

There are certain circumstances in which the limit does not apply. One (1) exception is where notice of the proposed expenditure is given to all lot owners and first mortgagees and is not objected to by those owners and mortgagees who have 25% or more of the lots or unit entitlement in the scheme. The objections must be received within 14 days after the notice is given.

SAT can also authorise expenditure in an emergency.

21.4 Expenditure approval at general meetings

If any of the exceptions do not apply, then before the council may exceed the expenditure limit it must be approved at a general meeting of the strata company. If the proposed expenditure is for the performance of work or to purchase goods, at least two (2) tenders must be presented at the meeting (see section 47 STA)
21.5 Validation of expenditure authorised by budget

Prior to the changes to the Act in 1996, there was not an exception for expenditure authorised as part of the strata company's budget. However, the Act now provides that any amount spent previously which was authorised by a budget is valid.
22 Roll to be kept by the strata company

See section 35A of the Act

Every existing and new strata company must keep a roll, unless it is exempted in the case of small schemes.

The roll must contain the following particulars:

• the number of the strata plan or survey-strata plan;
• the name and address of every lot owner;
• the name and address of any mortgagee which has notified its interest to the strata company;
• the name of any tenant of any lot which has been notified to the strata company; and,
• the address for the service of notices which has been notified to the strata company by any lot owner or mortgagee.
• the name and address of any agent employed by the strata company.

23 Proxies

An owner may appoint another person to act as a proxy. The appointment of the proxy must be in writing and may be either general, or specific (see schedule 1, by-law 14 (4) STA).

23.1 Certain persons cannot vote as proxy

See section 50A of the Act

Except in certain circumstances, a person may not vote as a proxy at a meeting of a strata company, or the council on a motion which relates to a management contract with the strata company, if that person has a financial interest in the contract.
24 **Service contracts**

The strata company may enter into contracts for services, subject to the normal expenditure provisions of the Act (see section 47 STA)

24.1 Unfair or excessively long service contracts before 14 April 1996

See section 39A of the Act

If a strata company, or a lot owner believes a continuing contract which was in existence on 14 April 1996 for the provision of services to the strata company is unfair, or excessively long, it may apply to the SAT for an order terminating, or shortening the contract.

The SAT may include in the order, an order for the payment of any money, by any party, to adjust the rights of the parties.

24.2 Service contracts after 14 April 1996

Some service contracts entered into after 14 April 1996 may be terminated after five (5) years in certain circumstances.
Building alterations

See section 7 of the Act

This section deals only with building alterations on lots, and not common property. Various local government authorities may also have differing requirements in respect to building approvals.

The term "alterations" is used to cover the construction, alteration or extension of a structure on any lot by the lot owner (see regulations 30 to 35 STGR).

New buildings and alterations to buildings can usually be shown on the strata plan by a merger in schemes registered before 1 January 1998 (see section 7 STA), or by a strata plan of re-subdivision in schemes registered after that date. It is not a requirement of the Act that new buildings be shown on the strata plans. However, failure to show these changes may result in incorrect unit entitlements, inappropriate maintenance responsibilities, difficulties in selling the property and other problems.

25.1 Strata schemes

See sections 7 and 7B of the Act

25.1.1 Approval for structural alterations

The alterations of any structure on a strata lot must be approved by the other lot owners in writing or the strata company by a resolution without dissent at a general meeting.

25.1.2 Application to strata company; other owners

A lot owner wishing to carry out alterations on a lot must serve an application on the other lot owner in a two (2) lot scheme, or the strata company in any other case.

The application must contain the following details:

- the open space or plot ratio requirements of the local authority which apply to the strata scheme as a whole and the particular lot;
- if carrying out the alterations will exceed those requirements, the percentage and area by which these will be exceeded;
- if carrying out the alterations will not exceed those requirements, a statement to that effect;
- the location and dimensions of the structure when it is completed in relation to any existing structure on the lot or to the boundary of the lot;
- any contravention of any by-law which is likely to occur as a result of carrying out the alterations;

and if the lot is not a vacant lot:

- the materials to be used in the alterations;
- the colours of the structure which will be visible from outside the lot;
- the method of construction of the alterations and the work plan or schedule for carrying out the alterations; and
- any likely interruption or interference with any easement of support or for services automatically granted under the Act.
This is a summary of the details which are required to be included in the application. You should refer to regulation 34 of the STGR which sets out in detail what must be provided with the application.

25.1.3 Notice of meeting

The strata company must call a meeting within 35 days to consider the application. The notice of the meeting must have contained in it the statement set out in regulation 30 of the STGR.

That statement must also be read out at the meeting by the chairperson.

25.1.4 Grounds for refusing application

See section 7(5) of the Act

A lot owner may only refuse or vote against the application on one (1) or more of the following grounds, and not on any other ground:

- the carrying out of the alterations will breach the open space or plot ratio requirements for the lot; or,
- will contravene a by-law of the strata company;

and if the lot is not a vacant lot, the carrying out of the alterations:

- will result in a structure that is visible from outside the lot that is not in keeping with the rest of the development;
- may affect the structural soundness of a building; or,
- may interfere with any easement of support or for services automatically granted under the Act.

25.1.5 Disclosure of grounds

See section 7B(6) of the Act

A lot owner must disclose the ground on which he or she refuses or votes against the application. If the ground is a contravention of a bylaw, the owner must disclose the by-law which will be contravened.

If the grounds are not disclosed, the vote is ineffective.

25.1.6 Vacant lot

A vacant lot is one where, no house, premises, or other building has been constructed, even if draining, filling, clearing or retaining works may have been carried out on the lot.

25.2 Survey-strata schemes

See sections 7 and 7A of the Act

25.2.1 Approval for structural alterations

In a survey-strata scheme, the approval for alterations of any structure on a survey-strata lot is only required to be approved by the other lot owner in a two (2) lot scheme or the strata company if carrying out the alterations will breach the open space or plot ratio requirements for the lot.
If these requirements will not be breached, there is no requirement to get the approval of the other owner or the strata company unless a by-law, or management statement, provides otherwise.

In the case of the strata company, the approval must be given by a resolution without dissent at a general meeting.

25.2.2 Application to strata company or other owners

See section 7B of the Act

If the lot owner wishing to carry out the alterations is required to get the approval of the strata company or the other owners, he or she must serve an application on the strata company or the other lot owners.

The application must contain the following details, the:

- the open space or plot ratio requirements of the local authority which apply to the strata scheme as a whole and the particular lot;
- the percentage and area by which these will be exceeded; and
- the dimensions of the structure when it is completed.

This is a summary of the details which are required to be included in the application. You should refer to regulation 34 of the STGR which sets out in detail what must be provided with the application.

25.2.3 Notice of meeting

See section 7B(2) of the Act

The strata company must call a meeting within 35 days to consider the application, but no special statement is required to be contained in the notice of the meeting.

25.3 Requirements applicable to strata and survey-strata schemes

25.3.1 Plot ratio

The types of buildings and other improvements which are included in the definition of a "structure" are significant building works which will affect the open space or plot ratio requirements for the lot, or in the case of a strata scheme, require local government approval. You should refer to regulation 32 (in the case of a strata scheme) or 33 (in the case of a survey-strata scheme) of the STGR for a list of what is included.

Open space or plot ratio requirements are laid down by the local authority in relation to the area of the land (parcel) which comprises the whole of the strata or survey-strata scheme. These requirements set out the total area of all structures which may be constructed on the parcel. The balance must be kept as open space.

The method for calculating the open space or plot ratio requirement for each lot is set out in the Act, unless the strata company passes a by-law which sets out a different method.
25.3.2 Notice of decision

See section 7B(5) of the Act

The lot owner must be notified of the decision:
• within 42 days of service of the application, in a two (2) lot scheme; or
• within 77 days of service of the application, by the strata company.

In a strata scheme, the notice of decision must also set out the grounds on which the application was refused (see sections 7B (5) and (6) STA)

25.3.3 Approval deemed given

See section 7B(7) of the Act

Approval to an application is deemed to have been given, if notice of the decision is not given within the time periods set out in the above paragraph headed, "Notice of Decision", or in the case of a strata scheme, the grounds for refusal are not set out in the Notice of Decision.
26 State administrative tribunal and dispute resolution

The State Administrative Tribunal Act 2004 (STA Act) provides for the SAT to assist in the resolution of disputes in accordance with sections 83 to 121 of the Strata Titles Act (the Act).

Parties are encouraged to resolve the dispute between them or consider resolving any issues via mediation. This may resolve the dispute without further action and allows both parties to gain an appreciation of the issues under dispute and decreases the likelihood of ongoing conflict between the parties.

When disputes cannot be resolved informally, there is a formal process of dispute resolution provided through SAT.

There may be occasional problems associated with strata living, but most of those problems, such as disagreements with neighbours, also exist in the non-strata, freehold title environment. The advantage of strata living is that mechanisms such as by-laws and SAT exist to assist in the reconciliation of disputes.

If you as an individual, consider that your strata complex is not being managed properly by the strata council; then you may apply to SAT to have the matter resolved.

SAT is not able to provide advice on strata matters, other than how to complete applications for lodgement to SAT.

Once an application is brought to SAT, mediation is regularly used by SAT to assist the parties in resolving the issues in dispute.

26.1 Can I bring my dispute straight to SAT?

Importantly, before an application may be made to SAT, you must have complied with any procedure for dispute resolution contained in the STA or in the by-laws of the strata company.

26.2 What types of strata titles orders the SAT make?

Some of the orders which SAT may make are:

- To settle disputes or complaints in relation to a scheme.
- Varying the amount of strata levies or the manner in which these are to be paid.
- Granting a by-law for exclusive use in respect to any fixtures or fittings to be attached to the common property.
- Requiring a pet to be removed or some action to be taken to stop it being a nuisance.
- That a new by-law or an amendment to an existing by-law is invalid, or is repealed, or for the reinstatement of a by-law.
- Various orders in relation to by-laws made by the strata company, or where the strata company has refused to make certain by-laws.
- An order from SAT or the District Court in specified circumstances if a necessary resolution required by the Act is not passed.
• To proportion strata levies on basis other than unit entitlement
• For the lot owners in a two (2) lot scheme to comply with any of the requirements of the Act from which they would otherwise be automatically exempt under the terms of the Act.
• Appointing a person to attend and vote on behalf of a lot owner in a two (2) lot scheme who fails or refuses to attend a meeting of the strata company.
• Cancelling a special resolution in a scheme having three to five (3-5) lots where one of the lot owners did not vote in favour of the special resolution; terminating or shortening the term of a contract for the provision of services to the strata company, including a management contract, if the contract was made prior to 14 April 1996.
• Approving structural alterations to a lot where the lot owner has applied to the strata company for its approval but it has been refused.
• For the construction of structural alterations to be stopped or pulled down where a lot owner has carried out those alterations without the necessary approval of the strata company.
• To change the schedule of unit entitlement on the strata or survey-strata plan.
• To impose a fine for a breach of a by-law if the by-law specifies a fine for its breach.
• Requiring a lot owner to comply with a requirement of the strata company to stop an activity on his or her lot or to do certain works on the lot, for insurance reasons.
• Adjusting the strata levy contributions or requiring a credit to be given to a lot owner, who has taken out insurance which is the responsibility of the strata company to take out, effectively reimbursing a current or previous lot owner for an insurance premium, where that owner has taken out an insurance policy which is the responsibility of the strata company to take out.

26.3 How to apply to the SAT

The easiest way to apply to SAT is by using the SAT Application Wizard. Hard copy application forms can also be requested by contacting SAT. Contact details for SAT are outlined in this guide under section 29.1 – Where to get help.

Before you submit your application to SAT, there are a number of issues you may need to consider.

26.4 Evidence required to support SAT applications

Depending on the type of application you wish to submit, you may have to attach relevant documents to your application form.

When you have generated the ‘Overview’ document in the Application Wizard it will also have a download called a ‘Practice Note’. There are numerous practice notes and the Overview will have the specific practice note for your application. The practice note gives you details on how to complete the application, what supporting documents are required, how to serve the other parties (if required) and information about the hearing process and possible outcomes for your matter.

If you are unsure about what documents you need to lodge please contact SAT. Contact details for SAT are outlined in this guide under section 29.1 – Where to get help.
26.5 What to do with your SAT application

You can post or hand deliver your application, with the required fee (if applicable), to SAT.

By post: GPO Box U1991
PERTH WA 6845

In person: Level 6
565 Hay Street
PERTH WA 6000

In special circumstances, such as when an applicant lives in a remote location, SAT’s Executive Officer may agree to the application being emailed or faxed. If you have special needs please contact SAT to discuss.

You will also need to give copies of the application to the parties named in the application, in the required manner. See Serving the Application on SAT’s website (www.sat.justice.wa.gov.au) for more details.

Remember to keep a copy of the application for your records.

26.6 Is there any time limit on when I can make my application?

Depending on the type of application you are making, there may be a time limit on your application. You can view the Time Limits page for more information.

26.7 SAT decisions database

The SAT website provides access to a decisions database, which contains the outcome of decisions made by SAT. This database includes decisions made pursuant to the Strata Titles Act 1985. You may wish to check through the database for decisions that may be similar to a current dispute in your strata scheme; the documented decision may assist in the dispute resolution process. The decision database can be found at:

27 Answers to some commonly asked questions

1. When I bought my unit, I didn’t know I was buying a strata property. Why wasn’t I told it was a strata property?

Prior to the 1995 amendments to the Act, there was no compulsory requirement for a Real Estate Agent to advise a purchaser that the unit was subject to the Strata Titles Act 1985 (the Act), except if the lot was being sold by the original proprietor.

Under the 1995 amendments to the Act, every owner of a strata property who wishes to sell his or her property must disclose to all prospective purchasers certain information which may be given in a disclosure statement. (Form 28)

The Disclosure Statement, if used sets out clearly that the property is a strata property, and must have attached to it a copy of the strata or survey-strata plan and an information brochure called “Buying and Selling a Strata Titled Lot”, as well as other information relating to the strata or survey-strata scheme. (Form 29)

Alternatively, the disclosure information may be incorporated into the contract for sale instead of a separate Disclosure Statement being given.

2. I own a lot in a strata scheme established under the 1966 Strata Titles Act. When I bought my unit I thought I owned my garden and car bay, but now I’ve found out that these are common property. How can I own these areas as part of my lot?

If you live in a single tier strata scheme of two to five (2-5) units, the buildings shown on your plan automatically became part of the individual lots on 20 July 1997, unless an objection to the automatic change was lodged with Landgate.

The owners in your strata company can agree to merge the common property buildings and land to become part of the individual lots or to convert the strata scheme to a survey-strata scheme, if you live in a single tier strata scheme.

To do this, certain resolutions will need to be passed and documents registered at Landgate. To take advantage of the merger and conversion options, you may obtain the appropriate ‘How to’ information kit from Landgate’s Customer Service team (see section 30 – Further reading, for details).

3. Is there a simple method to convert my strata property to a conventional title, also known as a “non-strata freehold title”?

All of the lots in a strata or survey-strata scheme may be converted to conventional titles if:

- The scheme is terminated by a unanimous resolution of all of the lot owners; and
- The lots comply with the normal requirements for a conventional subdivision, such as minimum lot size and setbacks.

If you think your scheme may be suitable for conversion to non-strata freehold title, you should consult your local government authority (local council), a land development consultant, a licensed land surveyor or other relevant professional.
4. Does our strata company have to be registered at the Australian Securities Commission?

No, the strata company automatically comes into existence when the strata or survey-strata plan is registered at Landgate (see section 32 of the Act).

5. What control does the strata company have over activities by the lot owners on the common property?

Under the 1995 amendments to the Act, the standard by-laws in Schedules 1 and 2 to the Act will apply to all strata companies, unless specifically amended by the strata company.

There are a number of by-laws in Schedules 1 and 2 to the Act which control the use of common property by lot owners including:

- parking vehicles on common property;
- children playing on common property; and,
- the right to use common property in common with all other lot owners.

The strata company is required to enforce the by-laws (see section 35 of the Act).

6. Can I allow my car bay to be used by other people?

It depends on whether your car bay is part of your strata lot or is common property.

If the car bay is part of your strata lot, you may allow other people to use your car bay.

If the car bay is part of the common property, you may allow other people to use your car bay, only if the strata company has passed a by-law giving you exclusive use of it, or, the strata company has given you general or specific permission such as a lease to do so. A car bay is still common property even if you have the right to use it under an exclusive use by-law.

7. Can the strata company force me to remove my pet from my strata unit?

Yes, but only after the strata council has given you a notice requiring the pet to be removed (see schedule 2, by-law 12(c) of the Act). The strata company can seek an order from the SAT for the removal of the pet (see sections 91 and 92 of the Act). You cannot be forced to remove a guide dog (see section 42(15) of the Act).

8. Our strata company has appointed a Strata Manager. What powers does the Strata Manager have?

The strata manager has only those powers which are given to the strata manager in the agreement which appoints the manager. A strata manager cannot be given any powers other than those powers which are given to the strata company under the Act.

The strata manager may not do anything which requires a resolution of the strata company or council, until that resolution has been passed by the strata company or council.

9. Do the accounts of our strata company have to be audited?

There is no requirement in the Act for accounts of any strata company to be audited, because in some small schemes it may not be appropriate.

However, a strata company may pass a resolution or by-law which requires its accounts to be audited.
10. Can the strata company fine a lot owner if that lot owner breaches a by-law?

The by-laws may contain a provision for a fine (see section 42A of the Act) to be imposed for a breach of any particular by-law. The amount of the fine for any one (1) breach may not exceed $500.

The fine may only be imposed on any lot owner who has actually breached the by-law if an order for payment is made by the SAT (see section 103I of the Act).

11. Who is liable to pay for the upkeep and maintenance of dividing fences? (sec 123 STA)

For most schemes (single tier strata schemes and survey-strata schemes), unless an objection has been lodged or a by-law has been registered on the plan, then:

- if the fence divides a lot and the adjoining property (which is not part of the scheme), the owners of the lot and the adjoining property are liable;

- if the fence divides common property and the adjoining property (which is not part of the scheme), the strata company and the owner of the adjoining property are liable;

- if the fence divides two (2) lots in the scheme, the owners of those two (2) lots are liable; or

- if the fence divides a lot and common property in the scheme, the owner of that lot and the strata company are liable; if the fence divides common property in the scheme, the strata company is liable.

In other schemes, for example in a multi-tier scheme, the strata company is liable for these costs with the owner of the adjoining land.
28 Standard by-laws

Schedules 1 and 2 to the Act contain the standard by-laws which apply to all strata schemes unless the strata company has amended them. You should obtain a copy of the strata plan to ascertain if the standard by-laws apply.

28.1 Schedule 1 by-laws

Duties of proprietor, occupiers, etcetera

1. (1) A proprietor shall -

(a) forthwith carry out all work that may be ordered by any competent public authority or local government in respect of his lot other than such work as may be for the benefit of the building generally and pay all rates, taxes, charges, outgoings and assessments that may be payable in respect of his lot;

(b) repair and maintain his lot, and keep it in a state of good repair, reasonable wear and tear, and damage by fire, storm, tempest or act of God excepted.

(1a) A proprietor shall -

(a) notify the strata company forthwith upon any change of ownership, including in the notice an address of the proprietor for service of notices and other documents under this Act; and

(b) if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with his lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

(2) A proprietor, occupier or other resident of a lot shall -

(a) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment thereof by other proprietors, occupiers or residents, or of their visitors; and

(b) not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to any occupier of another lot (whether a proprietor or not) or the family of such an occupier;

(c) take all reasonable steps to ensure that his visitors do not behave in a manner likely to interfere with the peaceful enjoyment of the proprietor, occupier or other resident of another lot or of any person lawfully using common property; and

(d) take all reasonable steps to ensure that his visitors comply with the by-laws of the strata company relating to the parking of motor vehicles.

Power of a proprietor to decorate, etcetera

2. A proprietor may, without obtaining the consent of the strata company, paint, wallpaper or otherwise decorate the structure which forms the inner surface of the boundary of his lot or affix locking devices, flyscreens, furnishings, furniture, carpets and other similar things to that surface, if and so long as such action does not unreasonably damage the common property.

Power of a strata company regarding sub-meters
3. (1) Where the supply of gas or electricity to a lot is regulated by means of a sub-meter, the strata company may require the proprietor or other occupier of the lot to pay the strata company by way of security for the payment of charges arising through the sub-meter an amount not exceeding $200 and, if any amount so paid is applied by the strata company under sub-bylaw (2), to pay such further amount or amounts by way of such security as may be necessary to maintain the amount of the security as, subject to this sub-bylaw, the strata company may require.

Deposit $200

(2) The strata company shall lodge every sum received under this by-law to the credit of an interest-bearing account with an ADI (authorised deposit-taking institution) as defined in section 5 of the Banking Act 1959 of the Commonwealth and all interest accruing in respect of amounts so received shall, subject to this by-law, be held on trust for the proprietor or occupier who made the payment.

Interest bearing account

(3) If the proprietor or other occupier of a lot in respect of which a sub-meter is used for the supply of gas or electricity refuses or fails to pay any charges due for the supply of gas or electricity to that lot, the strata company may apply in payment of those charges all, or such part as is necessary, of any amount paid to the strata company by that proprietor or occupier under this by-law, including any interest that may have accrued in respect of that amount.

Fails to pay charges

(4) Where a person who has paid an amount under this by-law to a strata company satisfies the strata company that he is no longer the proprietor or occupier of a lot and that the strata company no longer has any liability or contingent liability for the supply of gas or electricity to that lot during the period when that person was a proprietor or occupier of the lot, the strata company shall refund to that person the amount then held on his behalf under this by-law.

Constitution of the Council

4. (1) The powers and duties of the strata company shall, subject to any restriction imposed or direction given at a general meeting, be exercised and performed by the council of the strata company and a meeting of the council at which a quorum is present shall be competent to exercise all or any of the authorities, functions or powers of the council.

Council acts as a strata company

(2) Until the first annual general meeting of the strata company, the proprietors of all the lots shall constitute the council.

Until first AGM see s46 s49

(3) Where there are not more than 3 proprietors the council shall consist of all proprietors and where there are more than 3 proprietors the council shall consist of not less than 3 nor more than 7 proprietors as is determined by the strata company.

No less than 3 no more than 7

(4) Where there are more than 3 proprietors the members of the council shall be elected at each annual general meeting of the strata company or, if the number of proprietors increases to more than 3, at an extraordinary general meeting convened for the purpose.

Council elected at general meeting. Only “proprietors” may be elected to Council. See also sec 45.

(5) In determining the number of proprietors for the purposes of this by-law, co-proprietors of a lot or more than one (1) lot shall be deemed to be one (1) proprietor and a person who owns more than one (1) lot shall also be deemed to be one proprietor.

Co-proprietors deemed as

(6) If there are co-proprietors of a lot, one (1) only of the co-proprietors shall be eligible to be, or to be elected to be, a member of the council and the co-proprietor who is so eligible shall be nominated by his co-proprietors, but, if the co-proprietors fail to agree on a nominee, the co-proprietor who owns the largest share of the lot shall be the nominee or if there is no co-proprietor who owns the largest share of the lot, the co-proprietor whose name appears first in the certificate of title for the lot shall be the nominee.

Co-proprietors only one (1) Co-proprietor is eligible
### Council members have one (1) vote

(7) On an election of members of the council, a proprietor shall have one (1) vote in respect of each lot owned by him.

### Removal of council member

(8) Except where the council consists of all the proprietors, the strata company may by special resolution remove any member of the council before the expiration of his term of office.

### Vacates office when...

(9) A member of the council vacates his office as a member of the council

(a) if he dies or ceases to be a proprietor or a co-proprietor of a lot;

(b) upon receipt by the strata company of notice in writing of his resignation from the office of member,

(c) at the conclusion of an annual general meeting of the strata company at which an election of members of the council takes place and at which he is not elected or re-elected;

(d) in a case where he is a member of the council by reason of there being not more than 3 proprietors, upon an election of members of the council (as a result of there being an increase in the number of proprietors to more than 3) at which he is not elected;

(e) where he is removed from office under sub-bylaw (8) of this by-law.

### Vacancy filled from within Council

(10) Any casual vacancy on the council may be filled by the remaining members of the council, except that, in a case where a casual vacancy arises because of the removal from office of a member under sub-bylaw (8), the strata company may resolve that the casual vacancy shall be filled by the strata company at a general meeting.

### Quorum of the council

(11) Except where there is only one (1) proprietor, a quorum of the council shall be 2 where the council consists of 3 or 4 members; 3, where it consists of 5 or 6 members; and 4, where it consists of 7 members.

### Continuing members may act as council unless no quorum

(12) The continuing members of the council may act notwithstanding any vacancy in the council, but so long as the number of members is reduced below the number fixed by these by-laws as the quorum of the council, the continuing members or member of the council may act for the purpose of increasing the number of members of the council or convening a general meeting of the strata company, but for no other purpose.

### All acts done by council done in good faith

(13) All acts done in good faith by the council shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any member of the council, be as valid as if that member had been duly appointed or had duly continued in office.

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**Election Of Council**

5. The procedure for nomination and election of members of a council shall be in accordance with the following rules.

### No more than 3, no less than 7

(1) The meeting shall determine, in accordance with the requirements of by-law 4 (3) of this schedule the number of persons of whom the council shall consist.

(2) The chairman shall call upon those persons present and entitled to nominate candidates for election to the council.
(3) A nomination is ineffective unless supported by the consent of the nominee to his nomination, given -

(a) in writing, and furnished to the chairman at the meeting; or

(b) orally by a nominee who is present at the meeting.

(4) When no further nominations are forthcoming, the chairman -

(a) where the number of candidates equals the number of members of the council determined in accordance with the requirements of by-law 4 (3) of this schedule, shall declare those candidates to be elected as members of the council;

(b) where the number of candidates exceeds the number of members of the council as so determined, shall direct that a ballot be held.

(5) If a ballot is to be held, the chairman shall -

(a) announce the names of the candidates; and

(b) cause to be furnished to each person present and entitled to vote a blank paper in respect of each lot in respect of which he is entitled to vote for use as a ballot-paper.

(6) A person who is entitled to vote shall complete a valid ballot paper by -

(a) writing thereon the names of candidates, equal in number to the number of members of the council so that no name is repeated;

(b) indicating thereon the number of each lot in respect of which his vote is cast and whether he so votes as proprietor or first mortgagee of each such lot or as proxy of the proprietor or first mortgagee;

(c) signing the ballot-paper; and

(d) returning it to the chairman.

(7) The chairman, or a person appointed by him, shall count the votes recorded on valid ballot-papers in favour of each candidate.

(8) Subject to rule (9), candidates, being equal in number to the number of members of the council determined in accordance with bylaw 4 (3) of this schedule, who receive the highest numbers of votes shall be declared elected to the council.

(9) Where the number of votes recorded in favour of any candidate is the lowest of the numbers of votes referred to in rule (8) and -

(a) that number equals the number of votes recorded in favour of any other candidate; and

(b) if each of those candidates were to be declared elected the number of persons elected would exceed the number of persons required to be elected, as between those candidates, the election shall be decided by a show of hands of those present and entitled to vote.
Chairman, Secretary and Treasurer of Council

6. (1) The members of a council shall, at the first meeting of the council after they assume office as such members, appoint a chairman, a secretary and a treasurer of the council.

(2) A person –

(a) shall not be appointed to an office referred to in sub-by-law(1) of this by-law unless he is a member of the council; and

(b) may be appointed to one (1) or more of those offices.

(3) A person appointed to an office referred to in sub-by-law (1) of this by-law shall hold office until –

(a) he ceases to be a member of the council;

(b) receipt by the strata company of notice in writing of his resignation from that office; or

(c) another person is appointed by the council to hold that office,

whichever first happens.

(4) The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any meeting, the members of the council present at that meeting shall appoint one (1) of their number to preside at that meeting during the absence of the chairman.

Chairman, Secretary and Treasurer of a strata company

7. (1) Subject to sub-by-law (2), the chairman, secretary and treasurer of the council are also respectively the chairman, secretary and treasurer of the strata company.

(2) A strata company may at a general meeting authorise a person who is not a proprietor to act as the chairman of the strata company for the purposes of that meeting.

(3) A person appointed under sub-by-law (2) may act until the end of the meeting for which he was appointed to act.

Meetings of Council

8. (1) At meetings of the council, all matters shall be determined by a simple majority vote.

(2) The council may –

(a) meet together for the conduct of business and adjourn and otherwise regulate its meetings as it thinks fit, but the council shall meet when any member of the council gives to the other members not less than 7 days’ notice of a meeting proposed by him, specifying in the notice the reason for calling the meeting;

(b) employ on behalf of the strata company such agents and employees as it thinks fit in connection with the control and management of the common property and the exercise and performance of the powers and duties of the strata company;
(c) subject to any restriction imposed or direction given at a general meeting of the strata company, delegate to one (1) or more of its members such of its powers and duties as it thinks fit, and at any time revoke the delegation.

(3) A member of a council may appoint a proprietor, or an individual authorised under section 45 of the STA by a corporation which is a proprietor, to act in his place as a member of the council at any meeting of the council and any proprietor or individual so appointed shall, when so acting, be deemed to be a member of the council.

(4) A proprietor or individual may be appointed under sub-bylaw (3) of this by-law whether or not he is a member of the council.

(5) If a person appointed under sub-bylaw (3) of this by-law is a member of the council he may, at any meeting of the council, separately vote in his capacity as a member and on behalf of the member in whose place he has been appointed to act.

(6) The council shall keep minutes of its proceedings.

**Powers and duties of the Secretary of a strata company**

9. The powers and duties of the secretary of a strata company include -

(a) the preparation and distribution of minutes of meetings of the strata company and the submission of a motion for confirmation of the minutes of any meeting of the strata company at the next such meeting;

(b) the giving on behalf of the strata company and of the council of the notices required to be given under the Act;

(c) the supply of information on behalf of the strata company in accordance with section 43(1)(a) and (b) of the Act.

(d) the answering of communications addressed to the strata company;

(e) the calling of nominations of candidates for election as members of the council; and

(f) subject to sections 49 and 103 of the STA the convening of meetings of the strata company and of the council.

**Powers and duties of the Treasurer of a strata company**

10. The powers and duties of the treasurer of a strata company include -

(a) the notifying of proprietors of any contributions levied pursuant to the Act;

(b) the receipt, acknowledgment and banking of and the accounting for any money paid to the strata company;

(c) the preparation of any certificate applied for under section 43 of the Act; and

(d) the keeping of the books of account referred to in section 35 (1) (f) of the STA and the preparation of the statement of accounts referred to in section 35 (1) (g) of the Act.
General Meetings of a strata company

11. (1) General meetings of the strata company shall be held once in each year and so that not more than 15 months shall elapse between the date of one (1) annual general meeting and that of the next.

(2) All general meetings other than the annual general meeting shall be called extraordinary general meetings.

(3) The council may whenever it thinks fit and shall upon a requisition in writing made by proprietors entitled to a quarter or more of the aggregate unit entitlement of the lots convene an extraordinary general meeting.

(4) If the council does not within 21 days after the date of the making of a requisition under this by-law proceed to convene an extraordinary general meeting, the requisitionists, or any of them representing more than one-half of the aggregate unit entitlement of all of them, may themselves, in the same manner as nearly as possible as that in which meetings are to be convened by the council, convene an extraordinary general meeting, but any meeting so convened shall not be held after the expiration of 3 months from the date on which the requisition was made.

(5) Not less than 14 days’ notice of every general meeting specifying the place, the date and the hour of meeting and in case of special business the general nature of that business, shall be given to all proprietors and registered first mortgagees who have notified their interests to the strata company, but accidental omission to give the notice to any proprietor or to any registered first mortgagee or non-receipt of the notice by any proprietor or by any registered first mortgagee does not invalidate any proceedings at any such meeting.

(6) If a proprietor gives notice in writing to the secretary of an item of business that the proprietor requires to be included on the agenda for the next general meeting of the strata company, the secretary shall include that item on the agenda accordingly and shall give notice of that item as an item of special business in accordance with sub-by-law (5) of this by-law.

Proceedings at general meetings

12. (1) All business shall be deemed special that is transacted at an annual general meeting, with the exception of the consideration of accounts and election of members to the council, or at an extraordinary general meeting.

(2) Except as otherwise provided in these by-laws, no business may be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(3) One-half of the persons entitled to vote present in person or by duly appointed proxy constitutes a quorum.

(4) If within half an hour from the time appointed for a general meeting a quorum is not present, the meeting, if convened upon the requisition of proprietors, shall be dissolved and in any other case it shall stand adjourned to the same day in the next week at the same place and time and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the persons entitled to vote and present constitute a quorum.

(4a) Sub-bylaws (3) and (4) do not apply to a general meeting of a strata company referred to in section 50B.
The chairman, may with the consent of the meeting, adjourn any general meeting from time to time and from place to place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

Except where otherwise required by or under the Act, resolutions may be passed at a general meeting by a simple majority vote.

At any general meeting a resolution by the vote of the meeting shall be decided on a show of hands unless a poll is demanded by any proprietor present in person or by proxy.

Unless a poll be so demanded a declaration by the chairman that a resolution has on the show of hands been carried is conclusive evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

A demand for a poll may be withdrawn.

A poll if demanded shall be taken in such manner as the chairman thinks fit and the result of the poll shall be deemed to be the resolution of the meeting at which such poll was demanded.

In the case of equality in the votes whether on a show of hands or on a poll, the question is determined in the negative.

A person is not entitled to move a motion at a general meeting or to nominate a candidate for election as a member of the council unless the person is entitled to vote on the motion or at the election.

On a show of hands each proprietor has one (1) vote.

On a poll the proprietors have the same number of votes as the unit entitlements of their respective lots.

On a show of hands or on a poll votes may be given either personally or by duly appointed proxy.

An instrument appointing a proxy shall be in writing under the hand of the appointer or his attorney and may be either general or for a particular meeting.

A proxy need not be a proprietor.

Except in cases where by or under the STA a unanimous resolution or a resolution without dissent is required, no proprietor is entitled to vote at any general meeting unless all contributions payable in respect of his lot have been duly paid and any other moneys recoverable under the STA by the strata company from him at the date of the notice given to proprietors of the meeting have been duly paid before the commencement of the meeting.

Co-proprietors may vote by proxy jointly appointed by them and in the absence of such a proxy are not entitled to vote on a show of hands, except when the unanimous resolution of proprietors is required by the Act.
(8) On any poll each co-proprietor is entitled to such part of the vote applicable to a lot as is proportionate to his interest in the lot.

(9) The joint proxy (if any) on a poll has a vote proportionate to the interests in the lot of such of the joint proprietors as do not vote personally or by individual proxy.

Common seal

15. (1) The common seal of the strata company shall at no time be used except by authority of the council previously given and in the presence of the members of the council or at least 2 members of the council, who shall sign every instrument to which the seal is affixed, but where there is only one (1) member of the strata company his signature shall be sufficient for the purpose of this by-law.

(2) The council shall make provision for the safe custody of the common seal.
28.2 Schedule 2 by-laws

Vehicles
1. A proprietor, occupier, or other resident of a lot shall not park or stand any motor or other vehicle upon common property except with the written approval of the strata company.

Obstruction of common property
2. A proprietor, occupier, or other resident of a lot shall not obstruct lawful use of common property by any person.

Damage to lawns, etcetera, on common property
3. Except with the approval of the strata company, a proprietor, occupier, or other resident of a lot shall not –
   (a) damage any lawn, garden, tree, shrub, plant or flower upon common property; or
   (b) use any portion of the common property for his own purposes as a garden.

Behaviour of proprietors and occupiers
4. A proprietor, occupier, or other resident of a lot shall be adequately clothed when upon common property and shall not use language or behave in a manner likely to cause offence or embarrassment to the proprietor, occupier, or other resident of another lot or to any person lawfully using common property.

Children playing upon common property in building
5. A proprietor, occupier, or other resident of a lot shall not permit any child of whom he has control to play upon common property within the building or, unless accompanied by an adult exercising effective control, to be or to remain upon common property comprising a laundry, car parking area or other area of possible danger or hazard to children.

Depositing rubbish, etcetera, on common property
6. A proprietor, occupier, or other resident of a lot shall not deposit or throw upon that lot or any other lot or the common property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of another proprietor, occupier or resident or of any person lawfully using the common property.

Drying of laundry items
7. A proprietor, occupier, or other resident of a lot shall not, except with the consent in writing of the strata company -
   (a) hang any washing, towel, bedding, clothing or other article on any part of the parcel in such a way as to be visible from outside the building, other than for a reasonable period on any lines provided by the strata company for the purpose; or
   (b) display any sign, advertisement, placard, banner, pamphlet or like matter on any part of his lot in such a way as to be visible from outside the building.

Storage of inflammable liquids, etcetera
8. A proprietor, occupier, or other resident of a lot shall not, except with the approval in writing of the strata company, use or store upon the lot or upon the common property any inflammable chemical, liquid or gas or other inflammable material, other than chemicals, liquids, gases or other materials used or intended to be used for domestic purposes, or any such chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.
Moving furniture etcetera, on or through common property

9. A proprietor, occupier, or other resident of a lot shall not transport any furniture or large object through or upon common property within the building unless he has first given to the council sufficient notice of his intention to do so to enable the council to arrange for its nominee to be present at the time when he does so.

Floor coverings

10. A proprietor of a lot shall ensure that all floor space within the lot (other than that comprising kitchen, laundry, lavatory or bathroom) is covered or otherwise treated to an extent sufficient to prevent the transmission therefrom of noise likely to disturb the peaceful enjoyment of the proprietor, occupier or other resident of another lot.

Garbage disposal

11. A proprietor or occupier of a lot -
   (a) shall maintain within his lot, or on such part of the common property as may be authorised by the strata company, in clean and dry condition and adequately covered, a receptacle for garbage;
   (b) comply with all local laws relating to the disposal of garbage;
   (c) ensure that the health, hygiene and comfort of the proprietor, occupier or other resident of any other lot is not adversely affected by his disposal of garbage.

Additional duties of proprietors, occupiers, etcetera

12. A proprietor, occupier or other resident shall not -
   (a) use the lot that he owns, occupies or resides in for any purpose that may be illegal or injurious to the reputation of the building;
   (b) make undue noise in or about any lot or common property; or
   (c) subject to section 42(15) of the Act, keep any animals on the lot that he owns, occupies or resides in or the common property after notice in that behalf given to him by the council.

Notice of alteration to lot

13. A proprietor of a lot shall not alter the structure of the lot except as may be permitted and provided for under the STA and the by-laws and in any event shall not alter the structure of the lot without giving to the strata company, not later than 14 days before commencement of the alteration, a written notice describing the proposed alteration.

Appearance of lot

14. A proprietor, occupier or other resident of a lot shall not, without the written consent of the strata company, maintain within the lot anything visible from outside the lot that, viewed from outside the lot, is not in keeping with the rest of the building.
29 Additional information

29.1 Where to get help

Landgate

Landgate can provide strata information relating to the following only:

- document and strata plan registration (for example, registration of a change of by-laws, forms for registering and obtaining titles for a new strata survey, termination of a strata scheme), and
- understanding and explaining common property and boundaries of individual strata lots

Importantly if you are seeking information about strata lot boundaries and/or what is common property, a copy of the strata plan will need to be obtained prior to making your enquiry. If you don't have a current copy of the strata plan at hand, a copy can be obtained online from Landgate (upon payment of a fee). Strata Plan/Survey Strata Plan Registration Information can be obtained from Landgate by the:

Tel: +61 (0)8 9273 7373
Regional Australia: 1300 365 288
email: customerservice@landgate.wa.gov.au
website: www.landgate.wa.gov.au

Please note: Landgate does not provide information relating to the interpretation of the Act or strata management enquiries, for information relating to these subjects refer to the contact information shown below.

Legal information and advice

There are a number of legal professionals that are offer services relating to strata matters.

- The Law Society of WA has an online database that provides contact details of lawyers providing services relating to strata matters (refer to its website: www.lawsocietywa.asn.au).
- SCA(WA)'s can provide contact details for legal practitioners that are also members of SCA(WA). Contact details are listed below.
  
  Tel: +61 (0)8 9381 7084 (please note this number cannot be called for strata advice).

- The Citizens Advice Bureau of WA may be able to provide information. Contact details are:
  
  Tel: +61 (0)8 9221 5711 – lines open Monday – Friday, 9.30am – 4pm (excluding public holidays)
website: www.cabwa.com.au

Alternatively, to contact a lawyer/solicitor consider an internet search (such as Google or Yellow Pages).
Strata consultants

There are a number of strata professionals (strata consultants/strata managers) that may be able to assist with strata information and guidance relating to strata matters in WA.

- SCA(WA) can provide contact details for strata consultants who are members of SCA(WA). Visit the SCAWA at:
  
  Tel:  +61 (0)8 9381 7084 (please note this number cannot be called for strata advice)  
  website:  www.wa.stratacommunity.org.au

- The Citizens Advice Bureau of WA may be able to provide information. Contact details are:
  
  Tel:  +61 (0)8 9221 5711 – lines open Monday – Friday 9.30am – 4.00pm  
  (excluding public holidays)  
  website:  www.cabwa.com.au

Alternatively to contact a strata consultant/manager consider an internet search (such as Google or Yellow Pages).

Valuation advice

If you require valuation advice for your strata lot or for any other reason related to strata living, you will usually require the services of a licensed valuer (for example to obtain a Form 3 for unit entitlement).

- The WA division of the Australian Property Institute may be able to assist you to contact a licensed valuer. They can be contacted by:

  Tel:  +61(0)8 9381 7288  

Alternatively, if you require valuation advice consider an internet search (such as google or yellow pages).

Subdivision (strata/survey strata) advice from licensed surveyors

If you are making enquiries about the subdivision of your property (by strata or survey strata) a licensed surveyor will be able to assist you in the subdivision process (required to submit the strata plans with Landgate).

- The Land Surveyors Licensing Board of WA can provide a list of licensed surveyors in WA.

  Website:  www.lslb.wa.gov.au/find-a-surveyor/

Alternatively, to find a licensed surveyor consider an internet search (such as Google or Yellow Pages).
Dispute resolution

Mediation is commonly considered to be a useful method to resolve disputes in strata schemes.

- The Citizens Advice Bureau of WA may be able to provide information. Contact details are:
  
  Tel: +61 (0)8 9221 5711 – lines open Monday – Friday 9.30am – 4.00pm (excluding public holidays)
  
  website: www.cabwa.com.au

Alternatively, to locate a mediation service provider, consider an internet search (such as Google or Yellow Pages).

**Note: Landgate does not have any judicial powers to assist in the dispute resolution process.**

If mediation has not been successful or not considered, you may wish to avail yourself of the dispute resolution process provided by the SAT (not for advice other than how to lodge an application). Contact details are:

- State Administrative Tribunal
  
  Level 6
  565 Hay Street
  PERTH WA 6000.
  
  Tel: +61 (0)8 9219 3111
  Facsimile: +61 (0)8 9219 3115
  
  website: www.sat.justice.wa.gov.au

29.2 Smoke alarm laws for existing dwellings

Since 1 October 2009, the STGR have been in place in Western Australia requiring existing dwellings to be fitted with hard-wired smoke alarms prior to sale and when a new residential tenancy agreement is signed for rental properties.

As of 1 October 2011, the requirement under the Building Regulations 1989 for smoke alarms will apply to dwellings made available for hire on a casual basis, such as holiday homes, bed and breakfast accommodation, guest houses and the like.

Further information about the requirement for smoke alarms or fire safety in the home please contact the Fire and Emergency Services Authority on +61(0)8 9323 9816 or visit www.fesa.wa.gov.au.

29.3 Installation of residual current devices (RCD’s) in residential premises

29.3.1 What is an RCD?

An RCD is a safety device that disconnects an electrical circuit when it detects an imbalance of electric current. RCD’s are extremely sensitive, disconnecting within 10 to 50 milliseconds of detecting a leakage current. This stops the flow of electricity through someone’s body to earth. RCD’s are required to be fitted at the meter box (main switchboard) or distribution board for the residence.
29.3.2 RCD Laws

The Western Australian Government implemented new RCD regulations in August 2009. The new legislation applies to people selling their homes and to landlords.

Every home sold or leased must be fitted with a minimum of two (2) RCD’s to protect the power and lighting circuits as part of an electrical installation.

When a new tenant takes up residency, landlords will need to install the devices before the lease agreement is signed. However, for homes with a continuing tenancy, landlords had until 8 August 2011 to fit RCD’s.

Strata owners should also be aware of the need to have RCD’s fitted to any Common Property lighting and/or power supply switchboards for their strata scheme.

For more information visit www.energysafety.wa.gov.au/RCD or call +61 (0)8 9422 5200.

29.4 Solar panels

Reducing your carbon footprint may not be as easy as you imagined. With strata schemes it is important to realise that you need consent of the strata company to make alterations to your lot.

Adding solar panels for either power or hot water systems may not be in keeping with the rest of the strata scheme.

Anyone wishing to fit solar panels to their building will need to consult with their strata company before erecting anything to the exterior of the building. It is important to consider obtaining appropriate engineering approvals to ensure that the load bearing capacity of the roof is also adequate.

29.5 New building defects

If you have recently purchased into a new strata scheme, and the building has developed leaks or cracks you should consult with the builder of the scheme. It may be possible to have these defects rectified by the builder if the building is under six (6) years old.

The Building Commission is the government body responsible for any disputes with the quality of the construction of the building or materials used. The Building Commission is located at:

Mason Building
303 Sevenoaks Street
CANNINGTON WA 6017
Tel: (08) 1300 489 099
Facsimile: +61 (0)8 6251 1501
Website: www.commerce.wa.gov.au/building-commission
Further reading

Landgate produces a number of strata title publications on the converting of common property to individual property and creating and changing by-laws. These booklets are available from the Landgate website at www.landgate.wa.gov.au.

A number of text books on strata titles are also available from independent book sellers.

The SAT has a publication outlining the requirements to lodge applications with SAT www.sat.justice.wa.gov.au.

Where to get forms and documents:
The documents and forms required to amend strata schemes and/or copies of strata plans are available online from Landgate’s website.

Copies of strata plans and any related documents (such as notification to amend by-laws) can also be obtained from Landgate’s online support section at:

Tel: +61 (0)8 9273 7373
email: customerservice@landgate.wa.gov.au
website: www.landgate.wa.gov.au

Please note: there are fees payable to obtain copies of strata plans and related documents.

Copies of the Act and STGR are available from:

State Law Publisher
10 William Street
PERTH WA 6000
Website:  www.slp.wa.gov.au

30.1 Where to lodge documents

Documents can be lodged with Landgate at either:

1 Midland Square
MIDLAND WA 6056 (corner of Great Northern Highway and Morrison Road)

or

Perth Business Office
Cloisters Building
Ground Floor
200 St Georges Terrace
PERTH WA 6000.

Office hours for lodgement of documents are 8.30am to 4.30pm.

Documents can also be lodged by post (include registration fees payable):

Landgate
Document Lodgement Section
PO Box 2222
MIDLAND WA 6936

Please note: registration fees are payable when lodging documents. Please contact a Customer Service Officer by telephone on +61 (0)8 9273 7373 to discuss the fee payable.