



Guide to termination of WA strata schemes

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Using this guide

This guide is produced by Landgate - the Western Australian Land Information Authority – to provide a summary of the process for terminating a strata titles scheme.

Information is presented under the following sections to help you find the information that you're looking for:

- **Introduction to key concepts**
- **Type 1 process: Termination by the sole owner**
- **Type 2 process: Unanimous termination that is owner-initiated**
- **Type 3 process: Termination without unanimous support**
- **Appendix 1 to 6: See contents page for topics covered**

You can easily move between pages and return to the contents page at any time by selecting these interactive buttons at the bottom of each page:



You may find it helpful to have a copy of this guide with you if contacting Landgate for further information. Our webchat support service is useful if you like to keep reading while asking questions.

This guide is a summary of the law and should not be taken as a precise guide to the law on strata titles. In all matters, readers may wish to seek legal advice from an independent legal practitioner.

For a more complete understanding of the law and regulations relating to terminations, you should refer to the:

- *Strata Titles Act 1985* (the Act), as amended in 2018.
See part 12: Termination of strata titles scheme.
- Strata Titles (General) Regulations 2019 (the regulations).
See part 15: Termination proposals.

Both the Act and regulations are available at www.legislation.wa.gov.au and reflect the changes to WA strata law that took effect on 1 May 2020.

Understanding the notations

The below notation styles are included throughout this guide to help direct you to further information in a) the Act, b) the regulations or c) both.

a) The Act.

The guide includes notations like [s182(2)] to let the reader know the text has summarised part of the legislation. The 's' is short for 'section', which means the section can be found in the Act – in this case, at section 182, sub section (2).

b) The regulations.

The guide includes notations like [r137(3)]. The 'r' stands for 'regulation', which means you should refer to the actual regulations – in this case, at regulation 137, sub regulation (3).

c) Both the Act and the regulations.

These combined notations present like this [s178(4)(a), r107].

References to strata forms

Landgate strata forms are named in full within this guide to help you find them on our website: landgate.wa.gov.au (search under strata forms).

For more information

For more information on terminating a strata titles scheme, please refer to Landgate's website, in the Land Titles Registration Policy and Procedure Guides - STR-06 Termination, Variation or Expiry of a Strata Titles Scheme.

This online guide provides information on the approved forms provides guidance on the approved forms required to be lodged with Landgate for the termination of a strata titles scheme, and the accompanying documents that may be required.



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Introduction to key concepts

Strata titles schemes in WA

A strata titles scheme exists where a single parcel of land has been subdivided into lots, which can be owned by different people. The scheme may or may not include common property, which is owned by all the owners as tenants in common. Each of the lots can be mortgaged, bought, owned or sold by whoever owns it. This means the land the scheme sits on is quite different to a 'green title' parcel of land, that is, a whole piece of land which has not been subdivided.

Strata titles schemes will be called 'schemes' in this document and include both strata and survey-strata schemes.

The new form of strata tenure introduced to WA on 1 May 2020 - leasehold schemes - can also be terminated using the same processes outlined in this document. However, they are subject to some additional requirements.

[\(For more information on terminating leasehold schemes, see Appendix 1\).](#)

What it means to terminate a scheme

Terminating a strata scheme means to 'bring to an end' all the existing lots, so the underlying land can be subdivided in a different way. This can mean a different number of lots or a different layout. If a strata scheme is to be redeveloped, the old scheme will generally need to be terminated first.

Reasons for terminating a scheme

Termination and redevelopment of strata scheme land might be an appealing option for a few different reasons.

Many Western Australian strata scheme buildings are ageing and costing owners large amounts in maintenance. At the same time, strata scheme land is being increasingly sought-after in the State for redevelopment opportunities.

These situations can lead to interest in terminating a scheme – particularly if the land is worth more if it were subdivided in a different way to its current layout.

For example, if the scheme is comprised of buildings which are old and run down and the costs of maintaining it are increasing:

- this could make a new scheme with a similar number of lots an attractive development option; or
- it may be that the allowed density in the area has increased since the scheme was first built and a new scheme could have additional lots.

Another reason could be the owners may want to change the type of scheme they are in. For example, in some cases it is possible to convert from a strata into a survey-strata scheme, or vice versa.

The three types of termination

On 1 May 2020, amendments were made to the *Strata Titles Act 1985* to ensure there was a complete, transparent process, which must be followed to implement a termination. These amendments resulted in three distinct paths for owners to terminate their scheme.

These are set out from easiest to the more complex:

1. The sole owner wants to terminate

This is the easiest way to terminate a scheme. The termination process is straightforward when all lots are owned by the same person. For example, a developer may have bought all the lots in the scheme.

The developer needs an endorsed plan of subdivision from the Western Australian Planning Commission for the land to cease being subdivided by the strata titles scheme, so it becomes one parcel of land instead of having strata lots on it.

The developer can then apply to the Registrar of Titles at Landgate to terminate the scheme. Once the scheme is terminated, the parcel of land can be put to its new use.

If a developer ever wants to terminate a scheme, buying all the lots is the easiest path to do so because then the needs of multiple parties do not need to be addressed as part of the termination process.

2. All the owners want to terminate – an ‘owner-initiated unanimous proposal’

When there is more than one owner in the scheme and all owners agree at the outset that the scheme should be terminated, there is a process to formalise this unanimous agreement.

Schemes of all sizes can use this process to terminate. It is up to the owners to follow the process because if they have unanimously agreed at the vote on the full termination proposal, the decision is not reviewed by the State Administrative Tribunal (SAT).

When the owners unanimously agree to terminate a scheme in this way, there are forms required to be lodged with Landgate that set out the strata company unanimously agreed to terminate the scheme. Documentation such as the outline or full proposal are not required to be lodged with Landgate.

Unanimous termination proposals are easier and less costly than the next process, where one or more parties do not agree the termination should go ahead.

Note: For schemes of four lots or less the decision to terminate must always be unanimous for the termination to proceed.

3. The majority of the owners want to terminate, but one or more do not

For schemes of five lots or more, it is possible to terminate if the majority of the lot owners wish to terminate the scheme, but one or more lot owners disagree.

However, this process involves a comprehensive set of safeguards, including an independent review by SAT.

SAT cannot confirm a termination resolution unless it is satisfied the termination process was properly followed, the proposal is just and equitable, and every owner will receive fair market value for their lot or a ‘like-for-like’ exchange.

This is the most involved and expensive way to terminate a scheme. It puts protections in place for each lot owner, considers the needs of any vulnerable lot owners, and seeks to ensure any objecting owner is not unfairly treated.

The different parties involved in a termination

The different parties involved in a termination proposal (and referred to throughout this guide) are outlined below.

Affected person

'Affected person' is a term used to describe the parties listed below, who would be affected by the proposed termination of a scheme, because they have some sort of interest in the strata scheme.

The 'affected persons' are:

- every owner and occupier of the scheme
- registered mortgagees – these are usually banks
- any person who has lodged a caveat on a lot
- anyone who is a lessee, tenant or mortgagee who is recorded in the roll kept by the strata company. [s178(4)(a), r107]

The role of affected persons in a termination is to understand what a termination would involve and make decisions which result in the best outcome for them.

Given the affected person needs to know what is going on when a termination happens, they have a right to receive:

- the full proposal
- the assessment of the independent advocate and an invitation to attend the presentation
- a copy of the application to SAT (if the proposal goes to the SAT review stage).

Only owners and mortgagees are entitled to receive the outline proposal [s174(3)]. If the proposal does go to the SAT review stage, affected persons are entitled to be heard or make written submissions to SAT.

The strata company

The strata company is a body corporate established when the scheme was registered and is comprised of all lot owners in the scheme.

The main role of the strata company in the termination process is to act as the point of communication between the proponent and the affected persons. That is, the proponent serves the documents relating to the termination on the strata company.

The strata company then ensures affected persons receive this documentation (the proponent pays for the costs involved in this). On numerous occasions during the termination process, the strata company must lodge notices with the Registrar of Titles to ensure people searching for titles of the lot become aware of a termination proposal and its status.

The strata company has a role in engaging the independent advocate and independent vote counter. If meetings are called to discuss or vote on the proposal, the strata company must ensure the required notices are sent out. The strata company can charge the proponent reasonable fees to cover its costs for undertaking required activities. 'Reasonable' is not defined by the Act, but the strata company should keep in mind they should be able to explain why the costs incurred were reasonable.

The proponent

The proponent is the person proposing the scheme be terminated.

The proponent can be:

- the owner of a lot
- someone with a contractual right to purchase a lot
- a body corporate formed by two or more such persons.

The proponent provides all the substance around what is proposed, for the consideration of the strata company and affected persons.

The role of the proponent in the termination process is to put forward a workable termination proposal, which clearly sets out every aspect of what is proposed to happen. To meet this objective, the proponent must meet the requirements of the Act and regulations in serving on the strata company key documentation explaining how the termination will proceed.

The proponent has to meet various expenses to support the proposal, such as those expenses the strata company has in addressing the termination, and the funding to be made available for all lot owners to respond to the proposal. This includes any expenses relating to the subdivision process, such as application fees.

Lot owners

Lot owners are the people who own a lot in the scheme.

The strata company must give lot owners the required documentation involved in the termination process. The primary role of the lot owner is to consider if the termination proposal provides the best outcome for them.

Their individual actions throughout the process might include:

- At the outline stage, voting on whether the proposal has enough merit to go to the full proposal stage.
- Considering what level of professional advice they should seek, if any - using the funding made available by the proponent.*
- Considering whether they meet the definition of vulnerable owner, and if they wish to access the additional funding this entails. The lot owner may make representations to the independent advocate that they qualify for the additional funding, or even make representations directly to the proponent that they qualify for the extra funding on the basis that they are a vulnerable person.*
- Attending meetings where the termination proposal is discussed and putting forward their view.
- Reading the assessment provided by the independent advocate and attending the presentation.
- At the vote on the full proposal, casting their vote on the termination proposal.
- If the matter goes to SAT*, giving their views on the merit of the proposal.
- If they do not support the proposal and it goes to the SAT review stage, considering how they will use the additional funding provided to engage legal representation, and how they will express their objections. *

* Important note: Funding and a SAT review will not be features of a unanimous owner-initiated termination. There is no funding for these proposals to minimise the costs to owners, who have all agreed to terminate. As there are no owners voting against the proposal, there is no review by SAT.

Vulnerable persons

In a termination process which is not unanimous, owners who are identified as vulnerable are entitled to more funding than other lot owners.

Their vulnerability can be determined from a wide range of factors, such as age, illness, trauma, disability or financial disadvantage. These factors can have the potential to impair their ability to consider and make an informed decision in relation to a termination proposal.

Vulnerable persons get additional funding for ancillary services to help put them in a position where they are not disadvantaged by their vulnerability. For example, this could include the services of an Auslan interpreter for a person who is hearing impaired, or transportation services for a person who is mobility impaired.

There are two potential pathways for a person to be identified as vulnerable:

- the independent advocate identifies them as such; or
- the lot owner in question applies to the proponent to be recognised as vulnerable, and the proponent then recognises them as vulnerable.

The criteria for what constitutes vulnerability is further outlined in Appendix 2 of this guide.

The independent advocate

The independent advocate is a person who is independent of both the strata company and the proponent, and has a role in considering the termination proposal and helping vulnerable lot owners.

After a full proposal has been served, the strata company engages an independent advocate. If the termination process is not an owner-initiated unanimous process, the independent advocate must be either a lawyer or a person who provides social services. In comparison, to lessen costs in an owner-initiated termination, the strata company can decide what qualifications are appropriate for the independent advocate.

The role of the independent advocate includes identifying any owners who fall into the definition of 'vulnerable person'. These parties can receive additional funding, if the termination proposal is not an owner-initiated termination proposal.

Another role of the independent advocate is to review the full termination proposal and whether it contains all the information it is supposed to. They are to form a view on whether the termination proposal appears feasible and fair to owners of lots, and whether the arrangements for tenants are appropriate. The independent advocate gives this assessment to the strata company and presents it to the affected persons.

The trustee

In a termination process which is not unanimous, the proponent must engage a trustee, who is responsible for administering a trust, to ensure they are available to all owners for:

- advice connected with the termination
- ancillary services for vulnerable persons.

The proponent must ensure there is adequate money in the trust to meet these expenses. If the termination proposal goes to the SAT review stage, the trust will also fund dissenting owners for representation services and ancillary services for vulnerable persons (again, this funding is paid for by the proponent).

The trustee must pay costs or expenses to lot owners for services connected to the termination proposal, unless the maximum amount for funding would be exceeded for that lot [r135].

The trustee who is administering the trust must be independent of both the proponent and the strata company, and funding must not be provided for services obtained from the proponent or an associate. [r136, r139(2)]. It is important the trust funds are used for their intended purpose and not compromised by other interests.

For more information about the trust and how money is paid out of it, please see Appendix 3.

The independent vote counter

The strata company must appoint an independent vote counter to record the votes on the full proposal. The vote counter must be independent of both the strata company and the proponent.

The role of the independent vote counter is to allow the vote to be taken with some degree of privacy, avoiding the potential for bullying or coercion.

Having made a record of the votes, the vote counter must notify the strata company of:

- the number of votes for and against the proposal - without identifying how people voted.
- whether the vote was unanimous – if it is, the termination can proceed without the SAT review (remember, a two to four lot scheme can only terminate unanimously).
- whether confirmation of the resolution by SAT is required – that is, whether it achieved at least 80% of the vote but doesn't have 100% in favour.

The independent vote counter may charge a strata company a reasonable amount for remuneration and expenses incurred by them in exercising their functions. 'Reasonable' is not defined by the Act, but the vote counter must be able to explain why they are charging these amounts.

The State Administrative Tribunal

The State Administrative Tribunal (SAT) in Western Australia deals with a broad range of administrative, commercial and personal matters. In a termination process, SAT has a role in reviewing a 'termination resolution' which is not unanimous.

Towards the end of the termination process, the strata company votes on the full proposal. It may be that the vote achieves at least 80% support but does not have 100% in favour. It could be because one or more lot owners are dissenting (that is, they have voted against the termination proceeding). It could also be because an owner has abstained from voting.

In the absence of 100% support - the termination resolution needs to be reviewed and confirmed by SAT.

SAT can only confirm the termination resolution if strict safeguards have been met. These safeguards include that the termination process must have been properly conducted and that no dissenting owner will be worse off.

The Registrar of Titles

The Registrar of Titles at Landgate (the Registrar) is an independent statutory officer, responsible for the administration and maintenance of WA's land titles register.

The Registrar's role in the termination process is to record any notification received in relation to the process. This is to help ensure anyone seeking to buy into a scheme can find out if a termination process is underway. If a termination process has started, ultimately the Registrar will record either that it can go no further, or the scheme has in fact been terminated.

Tenants

A tenant is a person occupying a lot or common property within the scheme. There are a range of provisions intended to protect tenants throughout the termination process.

The full proposal must describe in detail what is proposed in terms of the contractual rights of tenants. Tenants are to receive a copy of the full proposal. The assessment the independent advocate makes on the full proposal must include whether the arrangements made for tenants are appropriate. Tenants also receive notice if an application has been made to SAT for confirmation of the termination resolution and have the right to be heard in the proceedings.

SAT must consider the interests of tenants when deciding whether the termination proposal is just and equitable. In termination processes which do not go to SAT - because they involve a sole owner or the vote is unanimous - tenants have a right to have a dispute about a termination proposal heard in SAT.

The three different pathways to terminate are described in more detail in the following sections of the guide.

Types one and two describe a termination when there is complete support for the proposal – either by a sole owner or multiple owners.

Type three sets out the full termination process, when full support for the proposal is not guaranteed.



Type 1 process: Termination by the sole owner

Overview

If all the lots are owned by one owner, the process to terminate is simple and involves very few steps. The owner must obtain formal approval from the Western Australian Planning Commission to 'subdivide' the scheme land so it becomes one parcel of land instead of having strata lots on it.

Once this approval is obtained, and any applicable conditions have been met, the owner can apply to the Western Australian Planning Commission to endorse their subdivision proposal. Once this endorsement is received, the owner can apply to the Registrar to terminate the scheme.

► Use this form:

[Application for termination of a scheme by single owner or unanimous agreement.](#)

Because there is only one owner, there is no need to consider how the asset is to be divided amongst different owners. That's why this process is less complex than when there is more than one owner or where there isn't 100% support for the proposal.

This way of terminating does not require:

- that owners, mortgagees and others are given notices and documentation such as an outline proposal and a full termination proposal
- meetings or occasions where a vote is required
- the appointment of an independent advocate, independent vote counter or trustee
- a review by SAT.

However, the owner does need to consider the position of tenants if the termination would prematurely end their leases. The Act provides for them to take a dispute with the owner to SAT, in relation to the termination.

The owner will also need to do everything necessary to wind up the strata company for the scheme.

For more information

[See the Act at Division 4 – termination by single owner, section 191.](#)

Type 2 process: Unanimous termination that is owner-initiated

Overview

If every owner in the scheme has agreed the scheme should be terminated, it is possible to terminate using the unanimous owner-initiated process.

Lot owners might want to terminate in this way if they wish to have an interest in the new scheme going forward. Otherwise, the process of selling to a developer to use the 'single owner' termination process is a simpler process with fewer steps.

Schemes of four lots or less can only terminate on a unanimous basis.

When everyone in the scheme agrees at the outset to proceed using the owner-initiated process to terminate the scheme, the process involves some reduced costs. The key one being the proponent does not need to provide funding to lot owners for independent advice or representation. This enables owners to avoid the cost of providing this funding to themselves. If any owner requests funding, the termination proposal must be withdrawn. It is not possible to 'swap' to the other process, so any termination must start again from the beginning.

In an owner-initiated termination, the strata scheme must unanimously vote to terminate the scheme on three occasions:

1. before the termination outline is prepared
2. on the termination outline itself
3. on the full termination proposal.

▶ **The result is the strata company can lodge the following form with the Registrar**
[Application for termination of a scheme by single owner or unanimous agreement](#)
 - which formalises their final unanimous vote and the termination can proceed.

It is not necessary to lodge the termination documentation (for example, the outline, full proposal, independent advocate assessment) with the Registrar.

While the unanimous owner-initiated process involves reduced costs, in most aspects it follows the same steps as the third type of termination process - termination without unanimous support.

No external review of a unanimous owner-initiated termination

An important consideration within the unanimous owner-initiated process is that there will be no review by an external party. For this reason, the strata company must carefully consider the steps for termination set out in the Act and regulations.

Because the owners have unanimously agreed to terminate, there is no review of the termination proposal by SAT. The strata company lodges a form with the Registrar, which sets out the scheme has unanimously agreed to terminate. This will be taken as evidence in the registration process the scheme has met the requirements for a unanimous vote.

Other features

A special outline proposal is required to support a unanimous owner-initiated termination proposal:

- It must explain that the termination proposal will only proceed if it has the unanimous support of owners of lots in the strata titles scheme.
- It must clearly include that there are special protections - the 'dissenting owner protections' (which apply in non-unanimous situations) - which will not be included on the grounds that the termination will be unanimous.

► For more information

[See form: Annexure B - Matrix of dissenting owner protections.](#)

All lot owners must understand what these protections are and that they willingly agree to not have them as part of the process.

The outline proposal must set out that all owners are entitled to ask for the dissenting owner protections, but if they do so, effectively it means the process is no longer unanimous and the proponent must withdraw the proposal.

- An owner-initiated proposal includes reduced standards for the termination infrastructure report, compared to the non-unanimous process.

A full proposal is required

A full proposal must declare the proposal can only proceed with the unanimous support of owners.

- It will explain what unanimous support means and declare the termination proposal will not be modified after a termination resolution is passed, unless the modification has the unanimous support of owners.

Modified role of the independent advocate

There is no funding made available to vulnerable owners via an independent advocate through this termination pathway.

- That is because all owners have unanimously agreed to terminate. (This is in contrast with the type three termination process which starts without a unanimous agreement to terminate amongst the owners. Therefore, in the type three termination the independent advocate has a stronger role to play in identifying vulnerable owners and informing them about funding that can be made available for advice and representation).
- The strata company may pay the independent advocate for their services but they are not obliged to. (In this type of termination, the independent advocate only needs the qualifications deemed suitable by the strata company).

The termination

This type of termination process does not need to be considered by SAT.

After the vote of the full proposal, an [Application for termination of a scheme by single owner or unanimous agreement](#) form can be made to the Registrar for the termination of the scheme:

- This must be accompanied by the diagram or plan of survey endorsed with the approval of the Western Australian Planning Commission.
- If applicable, a statement is to be included on how each item registered or recorded for the scheme in the register is to be dealt with, and disposition statements, instruments or documents necessary for that purpose, in addition to the fee fixed by the regulations [s193].

When the Registrar has registered the termination of the scheme, the certificates of title for all of the lots are cancelled. The lots and common property cease to exist, and the land becomes a parcel of land, which is not subdivided by a scheme [s195].

This is the end of the termination process and the land can then be redeveloped.

It is always preferred that a scheme be terminated unanimously. Where this is not viable, refer to Type 3: Termination without unanimous support.



Type 3 process: Termination without unanimous support

Overview

This type of termination process, available only to schemes of five lots or more, features comprehensive safeguards including an independent review by the State Administrative Tribunal (SAT) if there are any dissenting owners.

This full process must be followed unless:

- there is a single owner, or
- the owners agree to follow the unanimous owner-initiated process.

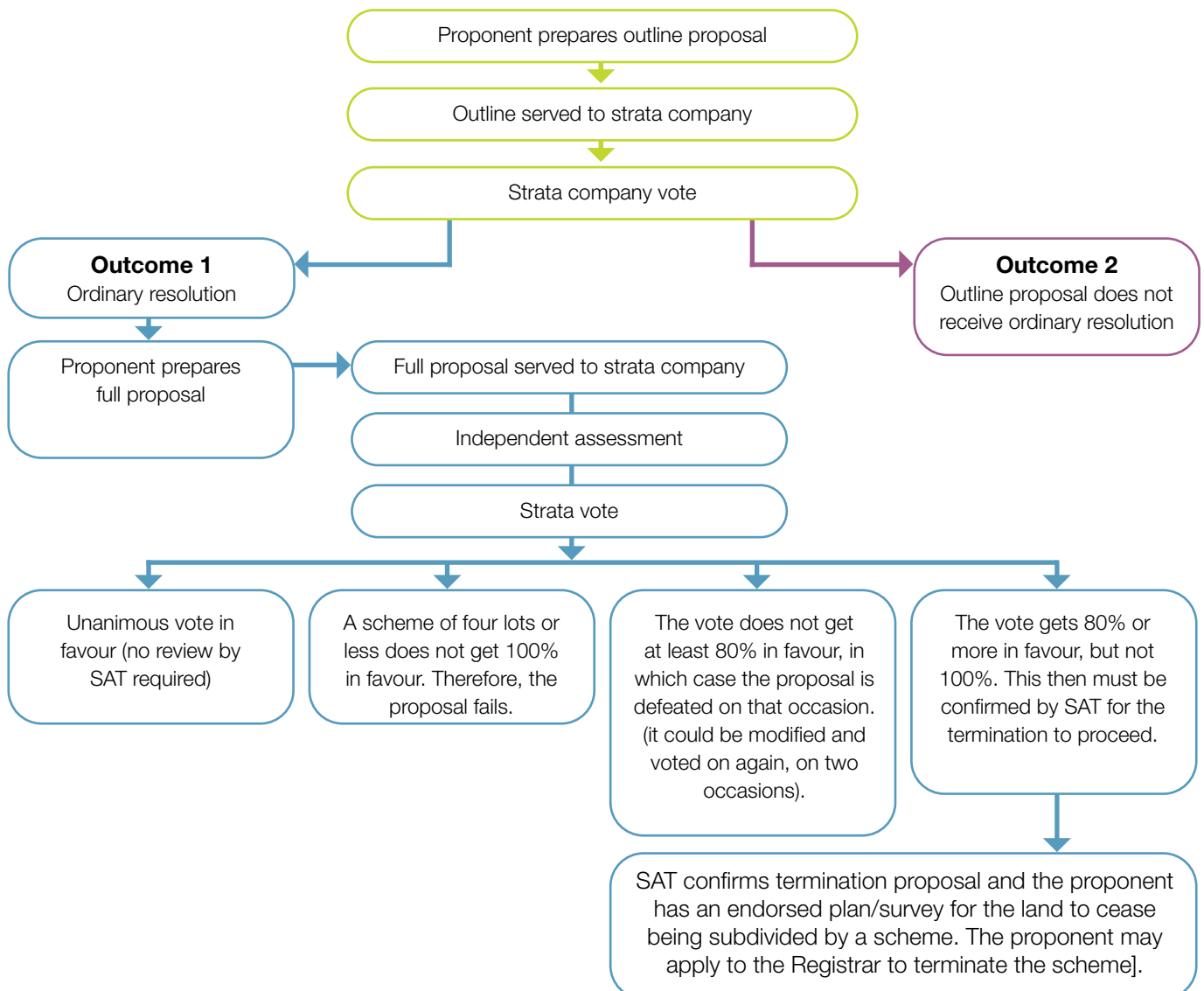
The process begins with the 'proponent', who is the person (or persons) proposing the scheme be terminated.

The proponent can be:

- the owner of a lot
- a person with a contractual right to purchase a lot
- a body corporate formed by two or more such persons.

The below chart provides a summary of the full termination process, when full support for the proposal is not guaranteed.

Summary of process



The outline stage

The proponent of a proposal to terminate a scheme must submit an outline of the proposal to the strata company for the scheme [s174].

The strata company must serve the outline on owners and mortgagees and lodge a notification with the Registrar within 14 days, then notify the proponent that these steps have been taken.

If the outline is modified in any way, the same process is to be used to notify all parties.

The outline must be in an approved form ([Termination Proposal – Outline](#)) and:

- specify the name and address of the proponent
- identify the scheme
- provide an explanation of the reasons for proposing termination, for example if it is difficult to raise money to undertake repairs
- describe generally any proposals for contracts to be offered to owners
- describe generally what is proposed in terms of subdivision and development of the land
- describe the planning approvals required and the extent to which the proposal does not comply with the planning regime that applies for the area
- indicate the stages and timeframes for progress of the proposal
- provide an explanation, in the approved form ([Annexure A - Explanation of the process and consequences of the termination](#)), of the termination of a scheme
- provide details of the funding that will be made available to owners for getting independent advice or representation.

[s179]

Statements in the outline proposal

The outline must state that if the termination proposal goes to the next stage, the proponent must make funding available to lot owners to enable them to get independent advice or representation in connection with the proposal.

The funding provided to owners is divided into two stages - the full proposal stage and the SAT confirmation stage.

In the full proposal stage:

- All lot owners can access \$1,500 for advisory services in relation to legal, taxation, financial and valuation advice obtained during the full proposal stage.
- Lot owners who are vulnerable persons can access \$3,000 for all advisory services and ancillary services obtained during the full proposal stage, plus \$1,000 extra for each additional vulnerable person who owns the lot.

The outline must set out what the money can be used for, and how and when that money can be obtained.

The outline must also set out that if there is a vote on the full proposal which is at least 80% in favour but there are one or more dissenting owners, then the proposal will be reviewed by SAT.

If this happens, funding in the SAT confirmation stage will be made available to support the representation of dissenting owners on the following basis:

- Lot owners who are not vulnerable can access \$3,000.
- Vulnerable owners can access \$9,000 for all representation services and ancillary services, plus \$2,000 for each additional vulnerable lot owner.

The outline must also give the name and contact details of the trustee who will administer the trust that holds these funds. If the trustee has not yet been appointed, the outline will set out that the name and contact details of the trustee will be provided if the proposal goes to the full proposal stage.

The outline must explain the strata company may charge the proponent reasonable fees to cover costs associated with responding to the proposal and require those fees to be paid before responding.

There are special protections to stop schemes from being inundated with outline termination proposals. These include:

- Once a strata company has already committed to considering a termination proposal (having voted at the outline stage to consider it), then no further outline can be received until that proposal cannot proceed further.
- The strata company can decide by ordinary resolution that no further termination proposal can be submitted – this prohibition can last for 12 months.
- The strata company can apply to SAT for a prohibition on termination proposals. SAT can prohibit proposals for whatever period of time it considers appropriate.

Once the outline has been given to all owners and registered mortgagees, within three months the strata company must vote on whether to progress to the next step, to give consideration to a full termination proposal.

If the strata company voted by ordinary resolution in favour of the outline, the proponent can make an application to the Western Australian Planning Commission for approval of a plan of subdivision for the parcel to cease being subdivided by a strata titles scheme, prepared by a licensed surveyor.

Moving towards the full proposal

Once approval of a plan of subdivision has been obtained from the Western Australian Planning Commission, the proponent can then prepare and submit a full proposal for the termination to the strata company ([Form: Termination Proposal - Content of Full Termination Proposal](#)).

The proponent has 12 months from the ordinary resolution to submit the full termination proposal. They have such a long time as the documentation required is quite involved.

The full proposal must include various documents [s179]:

- the outline proposal
- the approved plan of subdivision
- a statement of the strata company's current assets, liabilities and any legal proceedings
- a termination infrastructure report and valuation report (see Appendix 4 for more information)
- the name and contact details of the trustee if these were not included in the outline of the termination proposal, or if these have changed [r137(3)].

The full proposal must include a detailed description of what is proposed:

- in terms of contracts to be offered to owners
- to happen on termination, in terms of the discharge, withdrawal, removal or bringing forward of registered mortgages over the lots and other estates and interests
- to happen in terms of the contractual rights of occupiers
- in terms of subdivision and development of the land following termination and the planning approvals required
- for stages and timeframes, including when vacant possession is expected to be required
- for any temporary relocation of owners of lots
- any necessary steps to wind up the strata company, including the realisation of assets and the discharge or transfer of liabilities
- to happen to tenants who have leases.

When the strata company gets the full proposal

Once the strata company has received a full proposal, it must serve it on all affected persons, as well as lessees, tenants or any occupier of common property in the scheme within 14 days. It is served on lessees as well because they will be affected if the termination goes ahead. (Note that they do not receive the outline because it is only indicative of a proposal that might go ahead).

The strata company must lodge the notice of receipt of the proposal with the Registrar, so any person who is thinking of buying into the scheme can find this information.

As with the outline proposal, if the full proposal is modified, all the parties interested in the scheme need to be notified of the modification. However, no modification can be made within 14 days of the vote on the full proposal. This is to allow everyone enough time to consider what is proposed, and if necessary, discuss it and seek advice.

Strata company to engage independent advocate

A strata company which receives a full proposal must engage an independent advocate, whose role includes identifying owners who are vulnerable persons, for whom additional funding will be made available.

Also, if a vulnerable person requests this assistance, the independent advocate will:

- refer them to independent providers of advice or representation
- assist them in obtaining benefits under the trust.

The independent advocate also has the role of reviewing the full termination proposal. In doing so, it is not the intention for the independent advocate to be an expert in law, real estate markets, subdivision, land valuation and predicting future consumer behaviour. The role of the independent advocate is for them to be an informed and independent party who can consider the full termination proposal and make a considered and reasonable assessment of it – giving a viewpoint to provide guidance, which should be valuable to affected persons.

The independent advocate's assessment of the full proposal must address whether it contains all the information it was supposed to contain, under section 179. It must include their view on whether the termination proposal appears feasible and fair to owners of lots, and whether the arrangements for tenants are appropriate.

The independent advocate must provide a copy of the assessment to the strata company, giving the strata company enough time to provide a copy of the assessment to affected persons at least seven days before the presentation. The strata company must ensure the proponent is given a copy within seven days, and either offer to or provide a copy of the assessment to each affected person.

The independent advocate (and whoever assists them), must respect privacy and not disclose any personal information obtained, except:

- with the relevant person's consent
- with the consent of, or at the request of, SAT
- to a person assisting the independent advocate, for the purpose of fulfilling the functions required of them
- with the consent of the administrator or guardian, if one has been appointed to the person in question
- if it is required by the regulations or any other law.

The independent advocate can be paid a maximum amount of \$13,000 plus \$1,000 for each lot in the scheme. They can employ or engage a range of other people to assist them, but they must stay within this funding limit. However, they can perform their role for less, or even no payment. The strata company is to pay the remuneration of expenses incurred by the independent advocate and may charge to the proponent reasonable fees in recovery of the expenses of the independent advocate [s189].

Funding during the full proposal stage

The full proposal funding stage starts when an owner of a lot is served with notice of the full proposal by the strata company [s178(4)(a)].

The lot owners may access the funding for advisory services when the full proposal is served. However, vulnerable owners have to be recognised as such by the proponent before receiving the additional funding. They may receive funding for services obtained before they were recognised as a vulnerable person [r149].

As set out in the outline stage, lot owners who are not vulnerable can access up to \$1,500 for advisory services. An owner of a lot is to provide evidence of a cost or expense in support of a claim for payment from the trust.

In the full proposal funding stage, vulnerable owners can access up to \$3,000 for advisory and ancillary services. If more than one owner of a lot is vulnerable, there is an additional \$1,000 for each additional vulnerable person.

The end of the full proposal funding stage occurs when the voting process has concluded because one of the following has occurred:

- the vote passed unanimously; or
- it was not unanimous but achieved the 80% majority, meaning it is subject to confirmation by SAT; or
- the final allowable vote of three votes has occurred and failed to get 80% in favour, or more than six months has passed since the proposal was served; or
- the proponent gives notice under section 186(1) that the termination proposal is withdrawn.

The presentation by the independent advocate

The independent advocate must review the full proposal and provide the strata company with an assessment of it. The independent advocate is to make a presentation of their assessment, which is open to all affected persons at a time and place arranged with the strata company.

The strata company must give affected persons at least seven day's notice of the presentation [r113], and it must also be at least seven days before the vote on the full proposal.

The strata company must ensure affected persons can attend and participate in the presentation by telephone or electronic means if they want to. The strata company must also make an electronic copy of the audio or audio-visual record available to any affected person who requests it, free of charge.

Considering the full proposal

After receipt of a full proposal, one or more general meetings of the strata company must be convened to consider it.

To make sure people can express their views freely, the strata company may decide by ordinary resolution that:

- the proponent is to leave the meeting while the proposal is discussed, or
- if the proponent is not a member of the strata company, they are to be absent for the entire meeting.

All affected persons must be given a reasonable opportunity to make submissions to the proponent and the strata company.

The council of the strata company may discuss a termination proposal with the proponent and let the other owners know about those discussions, including any additional information provided. The strata council may make recommendations to the owners of the lots in the strata titles scheme regarding the proposal. However apart from this, the legislation does not give the strata council any additional powers in relation to the proposal.

A full proposal cannot be submitted to a strata company:

- if more than 12 months have passed since the strata company voted for the outline.
- if SAT has prohibited full proposals being served on the strata company (if the strata company had applied to SAT for this).

The vote on the full proposal

The strata company must vote on the full proposal between two to six months after receiving it. This time limit was chosen to give all parties enough time to consider the facts and to seek their own advice, but short enough to avoid everyone in the strata company being in a state of uncertainty for a long time.

Before the vote can take place, the strata company must serve a 'voting notice' on all lot owners that the termination proposal is to be put to a vote. The voting notice must include details such as how the vote will be conducted, the closing date for it and the name of the independent vote counter. If the proponent is not a lot owner, they must also receive the voting notice.

There can be up to three votes taken on the same proposal. Modifications can be made to the proposal in between, to make it more likely to get the required level of support.

There is only one vote per lot, no matter what the unit entitlement of the lot is. This approach was taken to ensure every owner's voice is heard. If someone has a more valuable property with a higher unit entitlement, it doesn't give them more say than any other party.

The outcome of the vote

There are four potential outcomes of the vote:

- there is a unanimous vote in favour, so no review by SAT is required
- a scheme of four lots or less does not get 100% in favour, in which case the proposal fails
- the vote does not get at least 80% in favour, in which case the proposal is defeated on that occasion (noting it could be modified and voted on again, on two occasions)
- the vote gets 80% or more in favour, but not 100% – this is a 'termination resolution', which must be confirmed by SAT for the termination to proceed.

(See Appendix 5 for more detail about how details of the vote are conveyed to various parties.)

The funding for the SAT confirmation stage starts when the termination resolution is passed, subject to the confirmation of SAT.

Although section 126(a) of the Act allows the registered first mortgagee of a lot (for example, this will usually be a bank) to cast a vote on behalf of the owner of the lot for some matters in the 'Act', this does not apply in relation to the vote on the termination proposal.

Once the strata company knows a termination resolution is passed, including whether a confirmation by SAT is required, it must notify the Registrar of this, as well as the proponent [182(11)(a) and (b)(i)]. The strata company must also let the trustee know.

If the vote was unanimous, this information informs the trustee that no further money will be released, because there will be no SAT confirmation stage of funding. However if the vote passed subject to confirmation by SAT, the trustee needs to know this so they can provide to SAT details of all payments made in the first funding stage. This must be done within seven days after receiving notice from the strata company that an application has been made to SAT. The trustee will also be on notice that the SAT confirmation stage funding has commenced, and the dissenting owners will be entitled to further funding being released from the trust.

SAT's review of the termination resolution

To start the SAT review, the proponent must apply within 28 days of the vote, unless SAT grants an extension [s183].

What must be provided to SAT – by the proponent

Materials provided by the proponent to SAT include:

- the outline termination proposal
- the full proposal for the termination of the strata titles scheme
- all written submissions made to the proponent
- the approval of the plan of subdivision, which was required prior to the full proposal
- details of payments made to the strata company to cover its expenses in responding to the termination proposal (for example, in sending out copies of the full proposal to all affected persons)
- details of the arrangements and payments made for independent advice or representation for owners
- the list of owners who were identified as vulnerable that the independent advocate provided to the proponent.

A full list of what the proponent must provide to SAT is included in s183(3) and r125.

What must be provided to SAT – by the strata company

The strata company must provide the following to SAT:

- a record of the vote identifying the vote for each lot and the date it was cast, and a tally of the votes
- minutes of all meetings of the strata company or council where the termination proposal was considered
- all written submissions made to the strata company
- the scheme plan, scheme bylaws and schedule of unit entitlements for the scheme [183(6)(c)]
- other details about the strata company, such as its roll, records, accounts, leases and licenses, (see r126 for full list)
- the independent advocate's assessment of the full proposal, including the audio or audio-visual copy of it.

Once the application has been made to SAT, the strata company will receive a copy or notice of the application [s183(4)]. The strata company must serve notice of the application on each owner or registered mortgagee of a lot and any occupier of the scheme and give the Registrar notice of the application in the approved form, within 14 days.

If all or part of the parcel of the scheme is or is included in a retirement village, the strata company must serve notice of the application on the Commissioner, as defined in the *Retirement Villages Act 1992*.

Objecting owners can access up to \$5,000 from the trust for representation by a legal practitioner to assist them at this stage. Vulnerable owners can receive up to \$9,000 for all representation and ancillary services to assist them to attend, understand and participate in the SAT proceedings. If more than one vulnerable person is an owner of the lot, there can be \$2,000 provided for each additional vulnerable owner.

SAT will consider the process

SAT can only confirm a termination resolution if satisfied the process was properly conducted, and any objecting owner will receive fair market value for the lot or a like-for-like exchange for the lot.

SAT must find the termination proposal is just and equitable having regard to the interests of owners, occupiers, registered mortgagees, and other interest holders.

In determining whether an owner of a lot will receive fair market value for the lot, SAT must be satisfied the owner will receive an amount that is at least the amount of compensation that would be paid by a government entity acquiring the land (as per the *Land Administration Act 1997* for taking land without agreement). This could potentially include an extra amount to compensate the owner for the taking without agreement, which is not to be more than 10% of the amount offered, unless SAT is satisfied that exceptional circumstances justify a higher amount.

SAT cannot let the termination proposal go ahead if any objecting owner would be worse off. They must not be financially disadvantaged as a result of the termination, including by costs arising from:

- removal expenses
- disruption and reinstatement of a business
- liability for taxes such as capital gains tax
- conveyancing and legal costs.

If a like-for-like lot is being offered, SAT must consider whether its value, location, facilities and amenity compares with the owner's lot.

As part of the process, SAT must consider if there was any evidence of impropriety in the termination process, including for example if:

- proxy votes were exercised invalidly
- votes were affected by undue influence
- false or misleading information was included in the outline or the full proposal.

As part of the assessment, SAT must consider:

- the proportion of lots in favour and against the proposal, both by numbers of lots and unit entitlement
- the termination infrastructure report and options reasonably available to address any problems identified in it, such as the funds needed
- any arrangements for a lot owner to buy back into the subdivided land after redevelopment
- the benefits and detriments of the termination proceeding or not proceeding for all those whose interests must be taken into account.

SAT may modify proposal

If not satisfied that interested parties are being appropriately treated, SAT can modify the proposal. The modification must not be less advantageous to any owner, except to an owner in their capacity as the proponent.

These modifications may include a requirement for the proponent to make a payment to a party to a lease or tenancy agreement that will end due to the termination of the scheme. SAT can confirm the termination resolution subject for the proposal being modified in this way.

On confirming the termination resolution (with, or without modification), SAT can make the following orders:

- the owner of a lot must execute a transfer of ownership
- occupiers of the scheme must vacate it
- any estate, interest or right is discharged, withdrawn or brought forward as required, and the proponent is to make a payment for such action
- that a tenancy, retail lease or other lease or licence be terminated, and if so, the proponent is to make a payment to the party whose agreement was terminated.

At the end of the consideration of the termination proposal, SAT will either confirm the termination resolution, or decide not to. This triggers a requirement for:

- the strata company to lodge notice of the decision with the Registrar, and give written notice of the decision to each affected person
- the funding stage associated with SAT's confirmation to end.

If the termination proceeds

If the termination proposal can proceed, either because the vote on the full proposal was unanimous or because SAT confirmed the termination resolution, the proponent can make a request to the Planning Commission to:

- approve a diagram or plan of survey under the *Planning and Development Act 2005* section 145, and
- to endorse the approval of the plan of subdivision for the proposal obtained before the full proposal was developed [s184].

Once this endorsement is received, and any necessary steps to wind up the strata company have been taken, the proponent can apply to the Registrar for the termination to occur, provided this is done within 12 months of either:

1. the vote on the full proposal, if it was unanimous; or
2. the confirmation by SAT of the termination resolution.

When the Registrar has registered the termination of the scheme, the certificates of title for all of the lots are cancelled, all of the lots and common property cease to exist and the land becomes a parcel of land, which is not subdivided by a scheme [s195].

When the termination is not proceeding

The proponent may choose not to proceed with the termination at any time prior to the Registrar registering termination of the scheme and withdraw the proposal by written notice to the strata company [s186].

There are a range of different events, which mean the termination proposal cannot proceed, where the strata company has a duty to notify the Registrar of this fact.

These include if:

- the vote on the outline termination proposal does not get the required ordinary resolution, or doesn't happen within three months
- a vote on the full termination proposal was not taken within six months
- the proponent withdraws the termination proposal
- the vote on the full proposal was unanimous, but the proponent doesn't apply for the termination of the scheme within 12 months
- a termination resolution passes and requires confirmation of SAT, but:
 - o SAT decides not to confirm the resolution; or
 - o SAT confirmed the resolution, but the proponent doesn't apply for termination of the scheme within 12 months.



In any of these cases, the strata company must notify the following parties within 14 days that the proposal cannot proceed:

- The Registrar – who will record a withdrawal of all earlier notifications about the termination proposal
- Affected persons
- If a full proposal had been served, any tenants of the scheme
- The independent advocate
- The trustee [r127]

The strata company must then give written notice to the proponent and lot owners that the Registrar has been notified [s187]. Once owners have been notified the proposal has been withdrawn or cannot proceed further, no further claims can be made on the trust [r136(2) and (3)].

For easy reference, a list of all of the ‘notification events’ where the strata company must notify the Registrar of termination events are included at Appendix 6.

Appendix 1 | Terminating leasehold schemes – additional features

Leasehold is a new form of strata tenure, introduced by the WA strata reforms which took effect on 1 May 2020. The termination process (before the ordinary expiry of the scheme) is the same as for freehold strata / survey-strata schemes, with the following additional features:

The proponent must:

- submit an outline of the proposal to the owner of the leasehold scheme [s174 (1)(b)]
- submit the full proposal to the owner of the leasehold scheme [s178(1)(b)]
- notify the owner of the leasehold scheme of the date the full proposal was submitted to the strata company [s178(3)]
- notify the owner of the leasehold scheme if the proponent decides to withdraw the proposal [s186(1)].

The owner of a leasehold scheme must indicate consent:

- to the strata company within three months of the service of the:
 - o outline proposal [s176(1)(b)]; and
 - o full proposal [s180]
 or the termination cannot proceed.
- as part of the termination application to the Registrar if the applicant is a sole owner who is not the owner of the leasehold scheme [s191(3)].

Without this consent, the proposal cannot proceed.

The strata company must:

- notify the owner of the leasehold scheme after a termination resolution is passed, setting out whether the resolution was unanimous, or if it requires confirmation by SAT [182(11) and (12)]
- provide to SAT a copy of the owner of a leasehold scheme's support for the termination resolution within 14 days of being given notice that the proponent has applied to SAT for confirmation of the termination resolution [s183(6)(c)(i)]
- notify the owner of the leasehold scheme if the proposal cannot proceed further [s187(2)(b)(ii)].

The SAT process

- The owner of a leasehold scheme can apply to SAT to prohibit termination proposals [s178(2)(b) and s174(2)(c)].
- SAT can only confirm a termination resolution if satisfied that the proposal is otherwise just and equitable having regard to the interests of the owner of the leasehold scheme [s183(9)(c)(ii)].
- SAT may modify the termination proposal so that it meets the objectives listed in s183(9)(a) – (c) (generally speaking in regard to process, offers made to dissenting owners, fairness and equity). However, any such modification must not have the effect of being less advantageous to the owner of the leasehold scheme [s183(15)].
- Before a scheme is terminated, the owner of the leasehold scheme may make an application to SAT for an order for directions about winding up the strata company [s192(1)(e)].

The termination

- To terminate a leasehold scheme the Registrar must record on or in connection with the certificate of title for the parcel the fact that the scheme is terminated [s194(1)(c)].
- On termination, the owner of the leasehold scheme becomes the owner of the parcel of land and is entitled to vacant possession. Note that there may be leasehold by-laws which provide for compensation to lot owners [s195(2)].
- If there was more than one owner of the leasehold scheme then after termination these parties hold their share in the new parcel of land in the same proportions and same manner (ie, joint tenants or tenants in common) as before the termination [s195(3)].



Appendix 2 | More information about vulnerable persons

Definition of vulnerable person – see regulations 143 - 146

A vulnerable person is someone with a diminished capacity to understand, cope with or respond to the termination proposal process. The following lists include potential reasons for a person to be vulnerable, but are not exhaustive:

A person's capacity to understand the termination proposal process can be diminished because:

- they have difficulty reading or understanding English (because a person is from a non-English speaking background)
- they have a visual impairment that results in difficulty reading written information
- they have a hearing impairment that results in difficulty hearing oral discussions
- they are illiterate
- they are under 18 years of age
- they have a cognitive impairment that results in difficulty with complex decision-making
- they have a mental illness that affects understanding.

A person could have a diminished capacity to cope because they have:

- an illness or disability that impacts on mobility
- an abusive relationship or other personal circumstances that impact their ability to make an informed, independent decision in relation to a termination proposal
- a mental illness or disorder, such as an anxiety disorder
- frailty, poor health or serious illness
- social isolation
- a recent traumatic life event such as divorce or bereavement.

A person has diminished capacity to respond to the termination proposal process if there are socioeconomic factors that impair their ability to access the professional advice or other services required to make an informed decision in the termination proposal process. This could be because of:

- unemployment
- dependency on a government pension, benefit or allowance.

Additional consideration for vulnerable owners

If there is a dispute between the proponent and a lot owner as to whether they should be recognised as a vulnerable person, the independent advocate may represent the owner in the proceedings at SAT. The independent advocate must respect privacy considerations.

The independent advocate must provide a list of vulnerable owners to the proponent, at least 14 days before the full proposal is put to a vote. However, the independent advocate must not disclose to the proponent the class of vulnerable person or why they identified lot owners as falling within a particular class of vulnerable person [r147].

At any time after notice of a full termination proposal is served, a lot owner may apply directly to the proponent to be recognised as a vulnerable person. If they do so, they must identify the class of vulnerable person within which they claim to fall but are not required to provide evidence [r148]. The intention of this measure is to protect the privacy of the person concerned.

The proponent must recognise lot owners as vulnerable before the additional funding is released for them. It is the proponent's money, after all, and their proposal to terminate. If the proponent does recognise a person as vulnerable, they must let the trustee know, so that the additional funds can be released.

The proponent must keep in mind that if they improperly deny a vulnerable person the additional funding, SAT may either overturn this decision with the result that the funding must be paid, or ultimately decide that the termination process was not properly followed.

Once the proponent has decided whether to recognise a person as vulnerable or not, they notify that person at least 10 days before the full proposal is put to the vote. The only exception to this timing is if the application for recognition as a vulnerable person was made less than 14 days before the vote. If this happens, the proponent has a reduced time to make their decision: they must decide whether to recognise the person as vulnerable, and give notice within five days of the application being made.

Similarly, the trustee may request the independent advocate to disclose the class of vulnerable person within which the person falls, in order to check whether the ancillary services obtained should be funded. The independent advocate must provide this information, but not why they identified the person as having that vulnerability [r150].

If an owner was identified by the independent advocate as vulnerable but the proponent refused to recognise them as such, the proponent must serve notice of that decision on the independent advocate as well as the person involved. If the proponent has not recognised an owner as vulnerable and the owner wants to dispute this, they can make an application to SAT for resolution of the dispute [r151]. If this happens, and the independent advocate had identified that owner as vulnerable, then they can represent them in the proceedings [s178A(5)].



Appendix 3 | More information about the trust

Before serving the full proposal on the strata company the proponent must establish a trust that has enough money in it to provide funding to owners of lots for services connected with the termination proposal process, as well as appointing a trustee.

There will be terms for the trust setting out the procedure for claiming payments, including the evidence that must be provided and the manner in which claims will be paid [r134]. Funding under the trust must not be provided for any services obtained from the proponent or an associate of the proponent [r136].

The trustee may require a lot owner to provide evidence of the amount paid or payable for a claim. If the evidence is provided to the trustee seven days before being payable, the trustee must ensure that the amount is paid (either to the owner or to the service provider) before it becomes due. The trust must be an ADI account (that is, an account with an Australian authorised deposit-taking institution) and the trustee must keep a record of all amounts received or paid, and all relevant evidence. When a lot owner asks how much money has been paid out for their lot, the trustee must give them this information within seven days.

When the proponent asks for a summary of amounts paid into or out of the trust, the trustee must provide this within seven days. The summary may identify services as an advisory, representation or ancillary service, but must not identify the owners, identify the class of vulnerable person, or describe services for which payment is made [r140].

The trustee must not disclose any personal information obtained in the course of maintaining the trust, except with the consent of the person involved or their guardian, or at the request of SAT [r141].

If there is a dispute about the performance of the trustee, the affected owner can make an application to SAT for it to be resolved [r138].

Winding up of the trust

As the termination process comes to an end, further claims cannot be made from the trust.

For example, payment cannot be made more than three months after:

- the end of the funding stage for which the service was obtained; or
- the strata company serves notice on lot owners that:
 - o the proponent has withdrawn the termination proposal; or
 - o the termination proposal cannot proceed.

The trust must not be wound up until the trustee is satisfied that all persons entitled to make a claim for funding have no further claim to make and all outstanding claims for payment from the trust have been paid or resolved.

The trustee is entitled to be satisfied that a person will have no further claim for funding from the trust if they have confirmed in writing that they do not intend to make a further claim, or that the time within which the person may make a claim for funding from the trust has expired. After the trust is wound up, any remaining funds may be paid to the proponent [r142].

Appendix 4 | Reports in the full proposal

The termination infrastructure report

A full proposal must incorporate a termination infrastructure report which is made up of three reports, prepared by a:

- 1) structural engineer, on the condition of each building and the infrastructure on the common property within the scheme
- 2) registered building service contractor, on the scope of works reasonably required to repair or replace the scheme buildings or infrastructure, taking into account the first report (note that if it is a unanimous owner-initiated termination proposal, the person preparing this document can have whatever qualifications the strata company considers suitable)
- 3) quantity surveyor, estimating the cost of the scope of works.

The termination valuation report

The termination valuation report must be prepared by a licensed valuer setting out a valuation of the market value of each lot in the scheme.

The market value of each lot is to be determined using a sales comparison approach considering the:

- (a) relevant recent sales history
- (b) the highest and best use of the lot
- (c) the value attributable to the owner's interest in the common property of the strata titles scheme.

The valuation must be prepared within three months of the submission of the full proposal to the strata company. Any person preparing a termination infrastructure report or termination valuation report must not be the proponent or an associate of the proponent.

The full proposal, which includes all the detail, is the document to be relied upon, if it differs from the outline proposal. This is because the outline proposal was indicative rather than a detailed proposal.

Note that the strata company must provide the Valuer General (at Landgate) a copy of the termination valuation report within 14 days of receiving it.

Appendix 5 | How the record of votes is handled

At the vote on the full proposal, there are special arrangements to try and avoid a situation where lot owners might be subject to undue influence, to try to get them to change their vote.

The independent vote counter must make a record of each vote identifying which lot it was for, the date and a tally of the votes. As soon as reasonably practicable, the vote counter must let the strata company know:

- if the vote was unanimous, that no resolution by SAT is required [r123(1)]
- the number of votes for and against the proposal (without identifying which lot voted which way) [s182(10)(b)]
- whether confirmation of the resolution by SAT is required (that is, whether the 80% threshold was reached or not).

If confirmation of a termination resolution by SAT is required, the vote counter must keep the record of votes confidential and not release it until after the proponent applies to SAT for confirmation of the termination resolution. [s182(10)(c)]

Only after the strata company has received notice that the proponent has made application to SAT can it request the full voting information from the vote counter [r123(3)]. The intent of this is to keep the information confidential until such time as it is needed, to try and avoid bullying or undue pressure on lot owners to change their votes. For example, if the proponent never applies to SAT for confirmation of the termination proposal, then the information of who voted in favour, and who voted against, is not relevant.

If confirmation by SAT is required, the independent vote counter gives the full voting record – that record of which lots voted for and against - to the strata company, in a secure electronic format, 'a sealed record of votes' [r124(1)]. The strata company must not view this unless it is necessary to enable it to exercise its functions in relation to the termination proposal [r124(2)].

The strata company must provide the sealed record of votes to the trustee [r124(3)]. This is necessary because the trustee needs to know which objecting owners can access the additional funding for representation at SAT. Note that the trustee has a duty to keep personal information confidential.

The strata company must not disclose information in the sealed record of votes, except if required by SAT, or as required by termination process.

Once the vote is finished and the strata company knows whether or not confirmation of the vote by SAT is required, the strata company must notify the Registrar of this, as well as the proponent [s182(11)(a) and (b)(i)]. The strata company must also let the trustee know, so that the trustee can provide to SAT details of all payments made in the first funding stage – which must be done within seven days after receiving notice from the strata company that the application has been made to SAT.

Appendix 6 | Notification of termination events

At certain points in the termination process the strata company is required to notify the Registrar ([Form: Notice of Termination Event](#)), so that the information relating to the scheme can be updated.

These events are as follows:

- Receipt of an outline termination proposal - s174(3)(b)
- Receipt of unanimous owner-initiated outline termination proposal - s174(3)(b), r153
- Receipt of a full termination proposal - s178(4)(b), r157
- Notification of withdrawal of a termination proposal by the proponent s186(2)(b)
- Termination proposal cannot proceed further - s187(2)(a)
- Termination resolution passed - s182(11)(a)
- Confirmation of termination resolution by SAT required - s182(12)
- Notice of application made to SAT for confirmation of majority vote s183(6)(d)
- Notice of SAT decision received confirming termination resolution - 183(23)(a)



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