



Strata Titles Act Reform

Consultation Summary



Overview

The State Government has set strata reform as a key priority and Landgate has been tasked to deliver reforms to the *Strata Titles Act 1985 (WA)* (STA). The proposed reforms aim to ensure Western Australia has strata legislation that better meets the State's needs in light of future growth.

The five main areas of reform aim to help provide more flexible and sustainable housing and development options, to benefit developers, strata owners, investors, residents and tenants. They do not aim to change current strata owners' land titles or boundaries, but do aim to improve the way strata schemes work.

The stakeholder engagement process has been ongoing for more than 18 months and followed a phased approach, to ensure it involved as many people as possible.

An initial phase of briefings and meetings with key participants in Government and Industry was undertaken. A consultation paper was then released for a public consultation period, which was open from 31 October 2014 to 16 January 2015 to receive feedback. Submissions were received via an online consultation tool, email, post and hand delivery to Landgate.

The Strata Titles Reform Project Team has been considering all feedback received, and is continuing discussions to resolve outstanding issues resulting from the public consultation, with relevant participants.

The project team has also been investigating strata legislation and practices in other states: different models are in place in the different jurisdictions, each with varying levels of success. The aim is to learn from other jurisdictions, identifying what lessons can be applied to meet WA's specific needs.

Overall Landgate has found the consultation process to be meaningful and effective in refining the reforms. It should be noted that while it is unreasonable to expect that all suggestions put forward be adopted, all comments received have been carefully considered and evaluated.

Specific feedback via the public consultation process is held in confidence by Landgate. This document aims to outline the main, collective outcomes only for the purpose of keeping participants informed about the progress of reforms.



Proposed areas of reform

- **Tenure Reform:**

It is proposed to introduce community titles to allow for:

- multiple levels of management for large-scale and/or mixed-use developments
- different schemes in one land parcel under an umbrella body corporate
- multiple strata schemes in one building to manage different uses (residential, commercial, retail).

It is proposed to introduce leasehold strata titles to allow for:

- registration of a strata plan over a leasehold interest to create leasehold units
- lessees to be issued with certificates of title for their leasehold units

It is also proposed to improve the staging of strata developments.

- **Vendor Disclosure:** reforms will improve the materials that vendors of strata properties are required to give buyers before they sign the contract.
- **Dispute Resolution:** currently strata disputes are dealt with in a number of forums (District Court, Supreme Court, Magistrate's Court and the State Administrative Tribunal [SAT]) - reforms propose making SAT the one-stop shop for strata disputes by channelling these disputes into a single forum for more efficient and cost effective dispute resolution.
- **Management of strata:** reforms aim to clarify the role and functions of strata companies, strata councils and strata managers - promoting greater transparency and accountability. They also propose to develop a code of conduct to set industry standards.
- **Termination of schemes:** to determine when to upgrade and replace old housing stock and develop a model to terminate older strata schemes if 100 per cent ownership agreement is not reached. Currently 100 per cent agreement between owners or a court order is required before a strata scheme can be terminated.

As the reforms are being progressed on a priority basis, any additional areas for improvement that are identified as part of the consultation may be considered. However, due to the complexity of the reforms and short timeframe for implementing them, it may not be possible to include additional items as part of this current program of reform.

Benefits of reform

- Reforms to the STA aim to create more choice and make shared living environments more attractive.
- Strata owners and managers will be more empowered and have access to more efficient and effective dispute resolution.
- Reforms are expected to attract and enable more developers to invest in WA.
- A more robust and modern STA will also ensure WA can better meet the State's needs in light of future growth.



Summary of feedback

At the completion of the public consultation period, 154 registered participants, including 35 organisations had submitted 1160 official comments on proposals in the Consultation Paper.

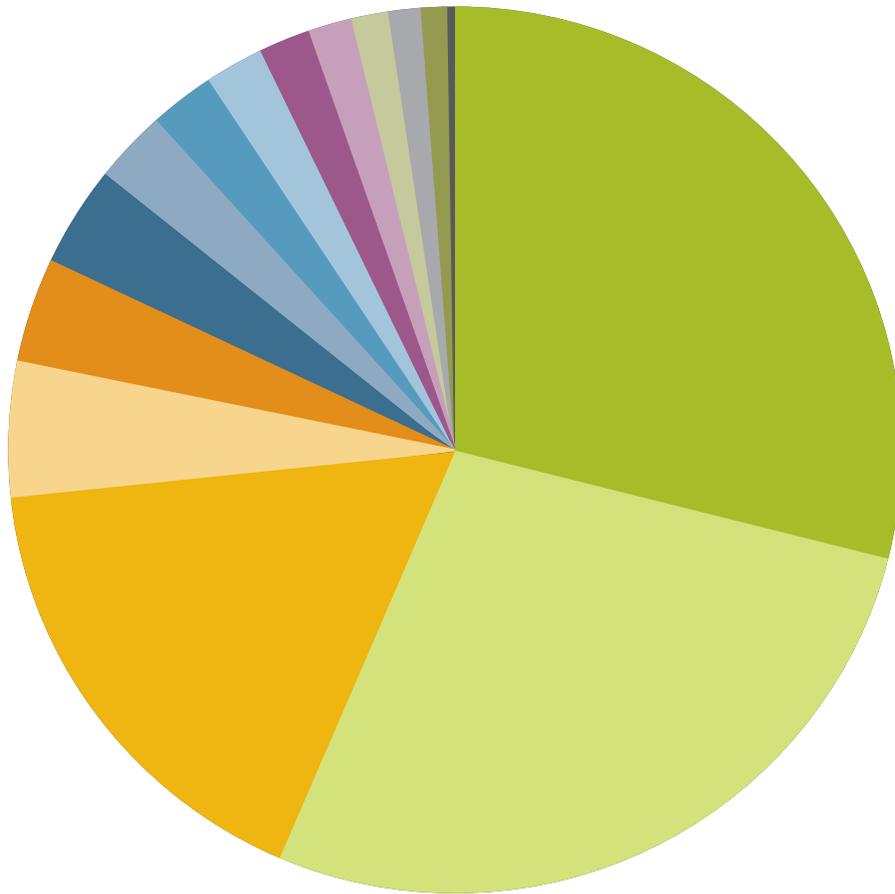
Participants were invited to comment on a total of 212 proposals across the five main areas of reform being investigated. They were able to comment on as few or as many of the proposals as they wished. They were also offered the option of providing general comments. Participants were able to submit individual submissions or organisational and group submissions, or both.

For ease of analysis participants were required to select an organisation or category covering the stakeholder groups identified. These are:

- Public
- Property Council of Australia
- Australian Property Institute (WA)
- Strata Community Australia (WA)
- Real Estate Institute of WA
- Law Society WA
- Surveying and Spatial Sciences Institute
- Urban Development Institute of Australia (WA)
- Strata Council
- Government departments
- Australian Institute of Conveyancers
- Housing Industry Association
- Local Government authorities
- Local Government Planners Association
- Other (any other not listed above)



Comments provided by participants in each category

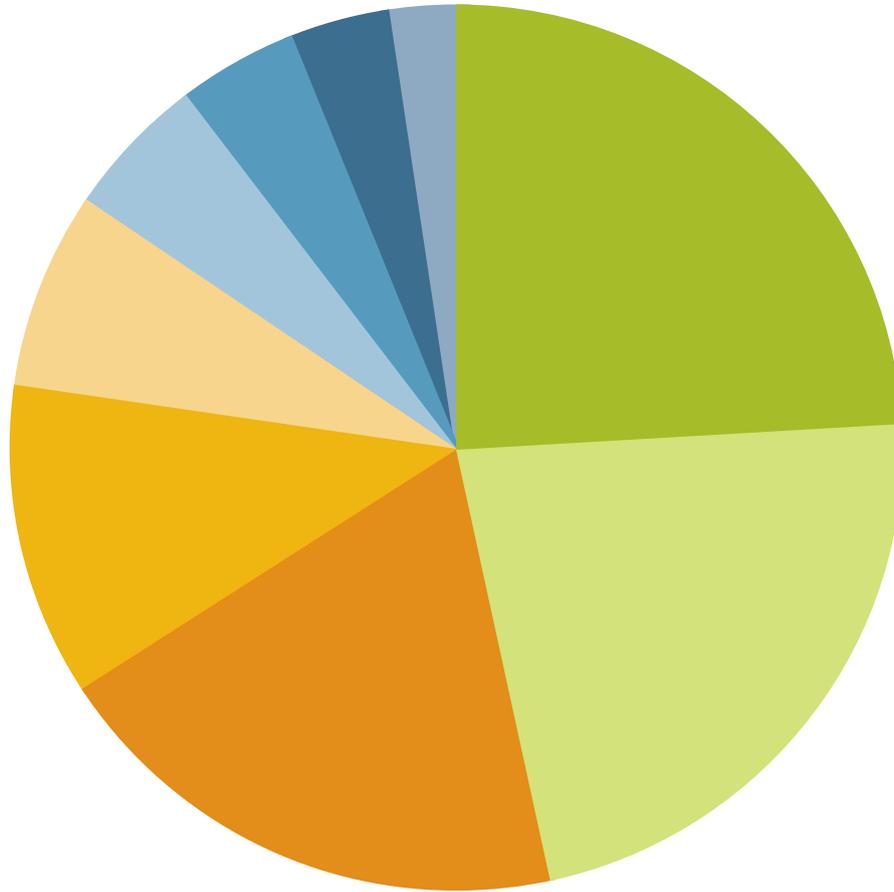


- 336 - Public
- 319 - Strata Community Australia WA
- 196 - Other
- 56 - Surveying and Spatial Sciences Institute
- 45 - Property Council of Australia
- 42 - Strata Council
- 31 - Real Estate Institute WA
- 27 - Local Government Authorities
- 25 - Law Society
- 22 - Local Govt. Planners Association
- 18 - Urban Development Institute of Australia
- 15 - Govt Department
- 14 - Australian Institute of Conveyancers
- 11 - Australian Property Institute
- 3 - Housing Industry Association

The diagram above shows the number of comments provided by participants in each category.



Comments received on consultation paper by area of reform



- 24% - Management
- 23% - Tenure Reform: Community Title
- 19% - Dispute Resolution
- 12% - Vendor Disclosure
- 7% - General Comments
- 5% - Termination
- 4% - Tenure Reform: Mixed use Development
- 4% - Tenure Reform: Leasehold
- 2% - Tenure Reform Staged Strata

The diagram above shows the percentage of comments received by area of reform. Tenure Reform is divided into four areas for comments received on community titles, mixed-use development, leasehold strata and staged strata.



Consultation feedback was generally positive with a number of proposals not receiving any negative feedback. Reforms not supported or those that raised concerns were mostly specific to industry groups.

Of the four main areas within Tenure Reform: including Community Title, Mixed Use, Leasehold Strata and Staged Strata; Community Title received the most feedback, gathering almost a quarter of all comments received on the paper. The majority of these were positive with a significant portion of this coming from the development industry. No tenure proposals were significantly opposed, although some participants requested further detail around Staged Development proposals.

Vendor Disclosure proposals aim to ensure the right information is provided to buyers of strata property. Investigations included looking at what information is provided to consumers and at what point in a sale this was provided. There was large support for providing additional disclosure to buyers, especially in established schemes. Concerns were expressed around the availability of strata documents as many schemes are said to have poor or non-existent record keeping practices. Generally comments called for disclosure documentation to be simplified.

The majority of participants who commented supported all the dispute reform proposals, with some proposing minor refinements.

Management reforms also received almost a quarter of all comments on the paper and all proposals to increase the powers of a strata company were fully supported. The majority of participants also supported statutory obligations on the strata manager to meet industry standards, though many believed that only a licensing regime would be adequate. A high degree of support was also collected on electronically enabling the STA, so that strata company affairs could be carried out via email, the internet and mobile technologies, which many commented would be of great assistance when voting at meetings.

Participants also provided support for changes to the termination provisions in the STA, with a five to one majority commending the initiative of termination by majority vote. Some emphasised the need to protect the individual's right to retain their home. Generally, feedback indicated that many strata owners are locked into aging buildings which are rapidly depreciating assets causing financial stress. There was also considerable feedback that schemes of less than 10 lots should be governed by the same process.

Key reforms supported

Proposals supported are those that received majority of positive feedback, and are likely to be drafted. These key reforms include:

- **Tenure:**
 - the introduction of community title schemes that permit an integrated land development to proceed in several phases
 - the introduction of community title schemes in a building, permitting various strata schemes to be created in a single building
 - improving the 'exclusive use of common property' concept by permitting a group of owners in a community title scheme to receive exclusive use of a designated common area



- creating a form of leasehold strata title, providing an additional tenure option
 - implementing a 'development statement' setting out the land development and land use framework for the proposed community title scheme
 - simplification of the 'management statement' limiting its content to rules and bylaws that govern day to day management of community schemes
 - creating a simplified process for tracking services and utilities required to support a community title scheme
 - permitting existing registered strata schemes to convert to a community title scheme
 - amendments that set out two distinct paths for setting up a staged strata subdivision process for future staged strata schemes
- **Vendor Disclosure:**
 - providing additional disclosure to buyers, especially in established schemes
 - simplifying the disclosure forms to make them more consumer-friendly
 - creating a separate disclosure form for developers to use
 - moving disclosure of basic information such as the unit entitlement and number of lots, from the attachments into the body of the disclosure form
 - disclosure using electronic methods, such as email
- **Dispute Resolution:**
 - broadening the power of the State Administration Tribunal (SAT) to resolve strata disputes
 - broadening SAT's power to enforce compliance with by-laws
 - broadening SAT's power to amend and repeal by-laws and resolutions which are unreasonable or oppressive
 - broadening SAT's power in relation to insurance, alterations and infrastructure
 - strengthening SAT's power to streamline practice and procedure including the power to make summary decisions
 - broadening SAT's power to support tenure reform
 - simplifying the dispute resolution provisions within the STA
- **Management of Strata:**
 - introducing a definition for 'strata manager'
 - increasing powers of the strata company to adequately carry out its functions
 - that a contract between a strata manager and a strata company must be in place
 - requirement for strata managers to disclose all commissions
 - that every Annual General Meeting of a strata company include agenda items for auditing company accounts, reserve fund forecasting, and insurance



- having educational materials to assist purchasers in understanding the financial options and obligations of the strata company , such as financial controls, audits and insurance
 - electronically enabling strata companies to deal with affairs using mobile and real-time technologies
 - requirement for strata managers to provide regular information disclosure to gather information about those working in the industry
 - requirement for strata managers to hold a strata company's money 'on trust' and be able to separately account for all monies held for each strata scheme they manage.
- **Termination of Strata Schemes:**
 - giving the ability to terminate an older strata scheme, if the majority of strata proprietors agree, with the majority required to terminate being linked to the age of a building
 - transference of existing termination functions from the District Court to the SAT
 - the need for SAT to abide by proposed guidelines when considering whether a scheme should be terminated
 - ensuring protections are in place for objecting owners
 - proposals to set out how terminations would work in relation to community title schemes

Key reforms not supported

Reforms not supported are those that received majority of negative feedback or raised the most concerns among participants. These items may be omitted or drafted with refinements in line with feedback. These key reforms include:

- **Vendor Disclosure:**
 - while participants said current provisions don't necessarily provide much consumer protection, changing the timing of disclosure was not supported
 - having four separate disclosure forms was not supported
 - the disclosure of strata documents such as meeting minutes and the budget, was not supported as these are often not available
- **Management of Strata:**
 - that written nominations for office bearers on the strata council would be distributed before the meeting and voted on by the strata company – the current system of nominating and voting on council members was seen to be sufficient. The council members would continue to elect office bearers.
 - that a strata company member cannot vote if they have a conflict of interest - disclosing conflicts was seen to be sufficient
 - introducing a code of conduct for strata managers was not supported, if it were not to be part of a licensing regime



Other issues raised

Several issues raised and suggestions offered by participants, were not necessarily specific to the proposals in the Consultation Paper for the Strata Titles Act Reform Project. But some of these are being considered due to the high levels of feedback received. These suggestions will not necessarily be adopted but are likely to impact the way in which some reforms are refined and drafted, so they are able to address common strata issues raised in an appropriate manner. Some of these items include:

- the possibility of setting the community title reforms out in a separate Act so the current STA is limited to strata and strata-survey schemes that are not in community title schemes
- extending leasehold strata to include Crown land
- changing the wording in the forms from 'vendor' and 'purchaser' to 'seller' and 'buyer' to be more straightforward
- the ease of buyers to avoid a contract because of non-disclosure or variations to the disclosure in off-the-plan strata sales
- the introduction of a full licensing regime for strata managers
- management of strata behavioural issues such as smoking and keeping pets in a strata
- installation of infrastructure on common property, particularly sustainability infrastructure

Next steps

The Strata Titles Act Reform Project Team will now move through a 'refinement phase' where some outstanding issues will continue to be discussed and resolved with relevant stakeholders directly.

At the same time the project team will prepare drafting instructions for a Bill to amend the STA. Landgate will request Cabinet to approve drafting of the Bill. If this is approved, the drafting instructions will be given to Parliamentary Counsel to draft the Bill.

Timeframes for each of these steps to occur are tight, but at this stage Landgate's aim is for the Minister for Lands to introduce the draft Bill to Parliament in June 2016.







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