



Making strata better | What's changing

Amended *Strata Titles Act 1985* to commence 1 May 2020

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Making strata better

WA strata law and regulations are changing for the better - leading to important new requirements within our State's strata framework that will apply to many Western Australians.

The WA Parliament passed amendments to the *Strata Titles Act 1985* in 2018 to modernise how strata is run and managed and deliver a better strata framework for the future.

The amended Act will take effect in Western Australia on 1 May 2020 and introduce:

- ▶ Better information for strata buyers
- ▶ More efficient dispute resolution
- ▶ A fairer process for scheme termination
- ▶ Improvements to strata management
- ▶ Leasehold strata as a new form of land title
- ▶ More flexible staged subdivision

These are the most significant updates to our State's strata system in over 20 years. Landgate, Western Australia's land information authority, consulted with community, government and industry across many years to understand the most common issues being experienced within WA strata.

The reforms seek to resolve these issues and make strata clearer and fairer for the growing number of Western Australians who own, work or live in a strata property, as well as those looking to buy.

Strata statistics in Western Australia

As at 31 January 2020

Strata is a form of ownership where a parcel of land is subdivided into lots, and each lot can be owned by a separate person. Examples can be apartments, villas, townhouses or houses. All the owners share ownership of and responsibility for any common property, which may include gardens, external walls, foyers and driveways.

WA has over 325,000 strata properties (lots) across more than 73,000 strata schemes*.

- About 86% of these strata schemes are in the Perth metropolitan area and 14% in regional WA.
- Around 83% of all WA schemes have 4 lots or less within them.
- Around 17% of all WA schemes have 5 lots or more. (However, schemes of 5 lots or more comprise around 53% of the State's total strata lots).
- Approximately half of new land subdivisions in the State are strata titled.

*Exact figures: 327,557 strata lots and 73,705 strata schemes.

Highest number of strata lots in Western Australia:		
1.	City of Stirling	58,845
2.	City of Melville	19,032
3.	City of Perth	18,423
4.	City of Bayswater	17,760
5.	City of Canning	16,092

Highest number of strata lots in regional LGAs:		
1.	City of Mandurah	10,503
2.	City of Busselton	5,198
3.	City of Bunbury	5,048
4.	City of Kalgoorlie-Boulder	4,272
5.	City of Greater Geraldton	2,544

What's changing

The amended *Strata Titles Act 1985* will take effect on 1 May 2020. It will include grace periods for some new requirements to ensure those affected have adequate time to meet them.

1. Better buyer information

Strata buyers to receive more information about the property they are looking to buy – upfront, before signing a contract of sale.

✓ What's new?	📅 Timeline for change	👤 Who needs to know?
New disclosure obligations are being introduced for sellers of strata titles.	Starting 1 May 2020.	<ul style="list-style-type: none"> • Strata sellers • Prospective strata buyers • Real estate agents

Key changes

A seller will now need to provide the prospective buyer with:

- estimated strata levy contributions over a 12-month period
- the most recent statement of accounts of the strata scheme
- any amount already owed to the strata company by the current lot owner
- the minutes from the most recent annual general meeting of the strata company or any extraordinary general meeting that's been held since
- a full set of the scheme's by-laws
- information about any termination proposal received by the strata company.

If they don't comply, the buyer may be able to:

- delay settlement
- avoid the contract.

2. More efficient dispute resolution

Strata disputes will have a more cost-effective and efficient dispute resolution forum.

✓ What's new?	📅 Timeline for change	👤 Who needs to know?
State Administrative Tribunal (SAT) to become the 'one-stop-shop' for strata disputes in Western Australia.	Starting 1 May 2020: <ul style="list-style-type: none"> • All new strata disputes to be heard in SAT. • Any existing strata disputes which have already commenced in a court are to continue in that forum. 	<ul style="list-style-type: none"> • Strata owners • Strata tenants • Strata managers • Strata council members

Key changes

- The State Administrative Tribunal (SAT) will have broader powers to resolve strata scheme disputes and enforce by-laws.
- All strata disputes will be heard by SAT – compared to the current systems where strata disputes can be heard in multiple courts and by SAT.
- The exception to SAT's role as the 'one-stop-shop' for strata disputes is the recovery of unpaid levies which are still to go through the civil courts.
- SAT is an independent tribunal with less formal and more flexible procedures than traditional courts. It can provide a more appropriate and timely means for people to obtain administrative justice.

3. A fairer process for scheme termination

Scheme termination relates to the collective sale or redevelopment of strata schemes.

✔ What's new?	📅 Timeline for change	👤 Who needs to know?
Fairer scheme termination process with comprehensive new safeguards for all strata owners.	Starting 1 May 2020: <ul style="list-style-type: none"> Any new strata scheme termination proposals to comply with the new process. Any existing strata terminations underway prior to 1 May 2020 to continue as per the unamended Act. 	<ul style="list-style-type: none"> Strata owners Property developers

Key changes

- For schemes of four lots or less the decision to terminate must be unanimous for the termination to proceed.
- For schemes of five lots or more, a comprehensive series of safeguards are now in place including an independent review by the State Administrative Tribunal if there are any dissenting owners. 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.
- The new process also includes a more streamlined approach for when all lot owners agree about terminating the scheme.
- Why change? The provisions for scheme terminations under the unamended Act weren't considered adequate. For example, a single owner or mortgagee can currently apply to the District Court for the scheme to be terminated and if this happens, there is:
 - no requirement for a vote
 - no requirement for detailed information to be given to owners
 - no safeguards for vulnerable owners
 - no guidance provided to the District Court on how it should assess a termination application.

4. Improving strata management and by-laws

Strata schemes will benefit from better by-laws, modernised scheme management, statutory duties for strata managers and in some instances, the introduction of a 10-year maintenance plan and reserve fund.

The reforms to strata management include transitional periods for select new requirements - particularly those relating to strata managers and the 10-year maintenance plan.

4.1 - By-laws made clearer and fairer

✔ What's new?	📅 Timeline for change	👤 Who needs to know?
Changes to by-laws aim to improve scheme management, minimise disputes and make living in strata fairer. They also set out a need for scheme by-laws to be consolidated, under certain circumstances.	Starting 1 May 2020.	<ul style="list-style-type: none"> Strata owners Strata tenants Strata companies

Key changes

- By-laws are the rules set by a strata company to regulate itself which all lot owners and tenants must follow.
- The strata reforms provide that by-laws must not be unfair, discriminatory, oppressive or unreasonable. These criteria will be important if a dispute arises.
- The improvements to by-laws will deliver clearer guidance to strata companies on the nature of by-laws and the type of vote that must be achieved to change them.
- There is a new requirement for strata title schemes to lodge a consolidated set of by-laws with Landgate - every time a by-law is added, changed or deleted. This will improve access to a complete set of scheme by-laws for existing owners and prospective strata buyers.

4.2 – Introduction of 10-year maintenance plan and reserve fund

✔ What's new?	📅 Timeline for change	👤 Who needs to know?
A 10-year maintenance plan and reserve fund will be required for strata schemes who meet specific criteria to better support the long-term planning and upkeep of common property.	By 1 May 2021 or after. The 10-year plan must be submitted at the first annual general meeting that is one full year after commencement.	Strata companies

Key changes

- Strata schemes with 10 lots or more are required to have a 10-year maintenance plan and reserve fund. This is also required from schemes with a \$5 million replacement cost for building/s or improvements on the common property.
- The regulations set out the requirements for the 10-year plan.
- Importantly, these requirements include that the strata company needs to make a list of common property elements that are expected to require maintenance, repair, renewal or replacement in a 10-year period.
- This knowledge will assist owners when they are considering how much the reserve fund should contain, and how much it should have established over time.

4.3 – Modernising how schemes are being run

✔ What's new?	📅 Timeline for change	👤 Who needs to know?
The running of strata schemes will better reflect modern strata management needs.	Starting 1 May 2020.	Strata owners

Key changes

- Electronic options are being introduced for scheme communications, voting and meeting attendance.
- It will be easier to get strata company approval for installing sustainability infrastructure on common property, such as solar panels, and improve disability access on common property.
- It will also be easier to make improvements to common property which go beyond simple repair and maintenance.

4.4 - Changes to the role of strata managers

✔ What's new?	📅 Timeline for change	👤 Who needs to know?
For the first time in WA strata managers have clear statutory duties which define their role and responsibilities. This will deliver industry-wide clarity on the consistent standards that should apply to this role.	By the date specified in the Act. See key changes below for transitional time periods.	<ul style="list-style-type: none"> • Strata managers – volunteer and paid • Strata companies • Strata councils

Key changes

Starting 1 May 2020, statutory duties under the amended Act require strata managers to:

- act honestly, with reasonable skill and care
- have a good knowledge of the amended Act
- not improperly use information or their position
- inform the strata company of any conflict of interest as soon as practical
- disclose any benefit/remuneration that's more than \$100 from one source in a year.

Strata managers will also need to:

a) Attain educational qualifications .	 By 1 May 2024. (Four years after commencement).
b) Have a written contract between them and the strata company, specifying the functions they are contracted to perform.	 Starting 1 May 2020 , all new contracts must meet the new requirements. There is a six-month grace period for existing contracts to reflect the new requirements (to 1 November 2020).
c) Obtain a current national criminal record check for themselves and employees who perform strata management functions.	 Starting 1 May 2020 for all new contracts. There is a six-month grace period for existing contracts (to 1 November 2020).
d) Have professional indemnity insurance coverage.	 Starting 1 May 2020 for all new contracts. There is a six-month grace period for existing contracts (to 1 November 2020).
e) Lodge an annual return to Landgate with general information about the schemes they manage. This annual return will enable the government to determine if the licensing of strata managers is viable or required in the future.	 The first annual return will need to be lodged with Landgate between 1 January 2022 and 31 March 2022 , and then annually after that for the next four years.

What about volunteer managers?

Schemes can still have a volunteer strata manager. The amended Act ensures they are subject to the statutory duties of a strata manager, with the following conditions included:

- Volunteers must have a written agreement or contract with the strata company.
- Volunteers must own one of the lots.
- Volunteer strata managers cannot earn more than \$250 for each lot in the scheme, over a full year.

Please note: Volunteer strata managers do not need to attain educational qualifications or hold professional indemnity insurance.

5. Introducing leasehold strata

Leasehold is a new form of land ownership in WA that will become available, starting 1 May 2020.

✓ What's new?	📅 Timeline for change	👤 Who needs to know?
A leasehold strata title is a built strata or survey-strata scheme with a fixed term of between 20 and 99 years.	Starting 1 May 2020 - plans for leasehold strata can be lodged at Landgate. (After approval for those plans has been received by the Western Australian Planning Commission).	<ul style="list-style-type: none"> • Property developers • Potentially land owners with land they cannot sell (for example, churches and universities)

Key changes

- There will be a strata lease for each lot in the scheme and each lease will expire on the same date.
- These types of schemes are already being used successfully in other states and overseas.
- In Western Australia, it is expected that leasehold strata schemes will support more affordable housing options and the development of strategic sites, such as those around train stations and near major transport corridors.

6. More flexible staged subdivision

There will be more flexibility for the staged development of strata and survey-strata schemes.

What's new?	Timeline for change	Who needs to know?
It will be clear when the consent of owners is required to change the way a scheme is being developed.	Starting 1 May 2020 – any new staged developments of strata and survey-strata schemes to follow requirements of the amended Act.	<ul style="list-style-type: none"> Property developers Strata owners

Key changes

- The reforms introduce greater flexibility for developers to deliver strata schemes in stages, while still protecting the rights of owners who bought into earlier stages of the development.
- Schemes will no longer require a management statement.
- Details of staged development will now be set out in the scheme by-laws and are called staged subdivision by-laws.
- The changes ensure the rights of lot owners who have already bought into earlier stages of the scheme are protected, while making the process less cumbersome for developers.

Community support and resources

Strata.wa.gov.au

The gateway to information and support on WA strata reform.

Subscriber emails

The latest developments on WA strata reform delivered via email to subscribers.

{Sign up available at strata.wa.gov.au}.

Online strata guides

In late April 2020, the below information guides will be available at strata.wa.gov.au to support people with additional detail on key topics.

- A guide to strata titles
- Guide to consolidating by-laws
- Guide to resolving strata disputes
- Strata forms quick reference guide
- Transitional guide for strata titles scheme lodgements

Landgate customer service

Available to assist enquiries by phone 08 9273 7373, webchat or email: customerservice@landgate.wa.gov.au.

Industry organisations

Industry organisations are well-placed to guide their members on what these changes will mean for their industry, in addition to what's available on strata.wa.gov.au.