



MOUNT LAWLEY SOCIETY

25 September 2018

Submission
Legislative Council
Standing Committee on Legislation
Strata Titles Amendment Bill 2018
Termination of Strata Titles Schemes

TO: Hon Dr Sally Talbot MLC, Chair
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Introduction

The Mount Lawley Society ('Society') was founded in October 1977, with the aim of fostering a community spirit, with a focus on the retention of the older buildings and townscapes, protection of the limited open space and to research and publicise the history of the suburbs.

Our Aims

- to promote our areas' special heritage, whose characteristics are protected by laws, regulations and town planning schemes
- to support resident members to preserve the amenity of their properties and streetscapes
- to preserve, wherever possible, character and heritage features (houses, streetscapes, trees, gardens, landscapes)
- to assist members to prevent developments which threaten the heritage value within their immediate area
- to work closely with local councils to attain these aims.

Our Objectives

- to prevent the demolition of original character and heritage buildings
- to support the Mount Lawley, Inglewood and Menora business districts
- to educate Councils and the public about the history of Mount Lawley, Inglewood and Menora
- to obtain a listing under the State Heritage Act for Mount Lawley as a Special Design Control Area
- to research and publicise people and events in the history of Mount Lawley, Inglewood and Menora
- to create and maintain an historical archive.

The proposed termination of strata titles schemes would apply within the City of Stirling's Scheme protected Heritage Protection Areas covering Inglewood, Menora and Mount Lawley.

The Society's Membership covers more than 300 households within the above suburbs and its committee is made up of persons covering the disciplines of History, Architecture, Building, Property Consulting, Media, Marketing, Accounting and Law.

The Society is well qualified and representative to comment on this proposal.

The Mount Lawley Society opposes Division 3 – Termination Proposal

Background

1. Strata schemes in the Heritage Protection Areas of Inglewood, Menora and Mount Lawley began in the mid 1960's following passage of the State's first Strata Titles Act. The creation under this legislation of 'common property' led to the rejuvenation and upgrade of early apartment blocks built mainly in the inter war and after World War II eras throughout the Heritage Protection Areas, particularly the external areas visible to the streetscape. This was because responsibility and cost of maintaining the common areas became clearer and apartment owners now had legal title to transfer and mortgage.
2. The passage of the Strata Titles Act 1985 (WA) provided further opportunity for refurbishment and upgrade of strata schemes by the creation of part lots, allowing parking bays, store rooms and courtyards to come under ownership and maintenance responsibility of the lot proprietor. Parking areas were paved, carports were built and courtyards were improved because owners had surety of title.
3. Amendments in 1995 extending the boundaries of small, single level lot schemes to effectively reduce the common property to nil further allowed owners to securely invest capital to upgrade their strata lots and made the common property responsibilities more manageable.
4. The effect of the above 3 pieces of legislation provided the necessary security of tenure for strata lot owners to invest and consistently upgrade their strata lot developments, be it on the common property or within their own lot.
5. In Inglewood, Menora and Mount Lawley this has meant that nearly all strata schemes are maintained to a high standard with very well maintained gardens and common areas.
6. This is particularly so in relation to the Stephenson Hepburn 1960's (salmon) and 1970's (red brick) flats which are set back from the street and surrounded by green grass, tall trees and well maintained garden beds. The effect of this is that many single residential heritage homes adjacent or opposite don't sit out of place against the surrounding greenery of the apartment block.

The Concerns

1. Very High Risk of Neglect and Disrepair

- (i) The Division 3 Termination Proposal takes away decades of certainty achieved under earlier strata title legislation by putting tenure at risk and as a consequence, also putting common property maintenance and repair at risk.
- (ii) Strata schemes under threat of a Termination Proposal will be at risk of falling into neglect and disrepair leading to other risks such as squatters and forced sales due to simple maintenance by neglect.
- (iii) This threat is real because the requirement for an 80% vote is not required to be taken until up to 21 months (3 months (Section 176 – initial outline proposal vote) + 12 months (Section 178 – full proposal) + 6 months (Section 182 – final vote)) after the initial termination proposal is lodged.
- (iv) This gives owners with a greater than 50% majority control of the strata company budget to turn off the maintenance expenditure for a full 21 months. For example, there would be no need for painting, line marking, regular garden maintenance or replacing faulty or broken gates or fences. This would make living in the development very unsatisfactory for sitting tenants and particularly, owner occupiers.
- (v) Of course, the negative amenity impact on the community and neighbours will also be considerable as a previously well maintained strata developments, some potentially of pre 1960 heritage significance, turn to rack and ruin in the heart of our Heritage Protection Areas.
- (vi) The negative impact on our pre-1960 heritage strata dwellings and the more senior members of our community, downsizing in such dwellings in their later years could be quite devastating.

2. Owners forced to sell at a loss

- (i) Market value plus 10% does not take into account falling property prices. There are dozens of examples of apartments having sold in Perth at the peak of the property market in 2006/07 still not reaching their previous sale prices.
- (ii) Market value plus 10% does not take into account short term over capitalisation owners often make such as bathroom and kitchen refurbishments, new window treatments and carpets or courtyard and security upgrades.

3. A market created for mere property speculators

- (i) Proposed clause 173(b) on page 262 of the Bill allows for a termination proposal to be submitted by a purchaser with a mere contractual right to purchase a lot in a strata scheme.
- (ii) This allows non-owners without any capital invested in a strata scheme to speculate and create 21 months or more of uncertainty for all other owners.
- (iii) Under Federal Government FIRB rules allowing purchase of existing residential for re-development, Purchasers under the above clause could be based overseas with little if any contact details.

The Solution

The Society recommends:-

1. Part 12 proceed but without the Termination Proposal contained at Section 171(1)(b)(i) (ie Division 3) of the Bill.

The Society believes the Termination Proposal is not essential for the many other beneficial reforms contained in the Bill such as Community Titles.

There has not been enough community consultation on the proposed reform.

Every strata lot owner should be written to and asked for their thoughts on this significant reform before proceeding.

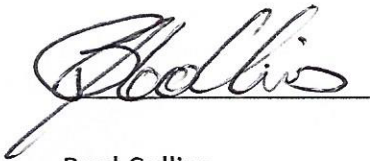
The Labor Party would

In the alternative, should Committee not agree with our first recommendation, the Society recommends:-

1. Clause 173(b) of the proposed Bill be removed to restrict termination of strata schemes to existing owners and thus, prevent contractual speculators, perhaps overseas based, from interfering in people's daily lives.
2. The 80% requirement at section 182(7)(b) should be amended to add the following words at the end of the section, "and all owner occupiers who occupy the premises as their principal place of residence."

3. The requirement at recommendation, 2 above, should also be upfront at section 176 after the initial outline proposal is received. Allowing the process to continue on a mere majority vote (ie 50%+1) creates risk and uncertainty for other owners when it is foreseeable the 80% requirement may never be achieved.
4. Existing owners should not be subject to a Termination Proposal. It should only apply to future strata schemes and existing strata schemes if all lots have changed ownership since the date of Royal Assent of the legislation.
5. There needs to be stronger positive obligations on the strata company to maintain and repair the common property, particularly during a Termination Proposal such as allowing a lot owner with ease to seek an order from the Tribunal to:-
 - a. Order a strata company to maintain or repair or adhere to other obligations such as insurance.
 - b. Cancel any Termination Proposal if the common property is not maintained or repaired or other obligations such as insurance are not complied with.
 - c. Order management of the strata company to an external, independent administrator or manager in extreme cases (much like sacking a local government council)

Finally, we request a right to be heard by the Committee in person in support of this submission.



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President Mount Lawley Society

25/9/18

Date

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