

25 September 2018

Hon Dr Sally Talbot MLC
Chair
Standing Committee on Legislation
Parliament House
4 Harvest Terrace
West Perth WA 6005

Dear Dr Talbot

Inquiry into Strata Titles Amendment Bill 2018 – Termination of strata titles scheme

The Property Council of Australia is pleased to provide this submission to inform the Committee's inquiry into Part 12 of the *Strata Titles Amendment Bill 2018*.

The Property Council represents around 300 companies across Western Australia in the residential, commercial, retail, retirement living, industrial and tourism sectors. The property industry now employs more people in WA than any other sector, with more than 233,500 jobs.

As the industry responsible for delivering the communities of the future, we have a strong interest in working with Government and the community to get policy settings and legislative frameworks right. We have a shared interest in creating liveable and productive communities with diverse and affordable housing options, accessible jobs and services, within vibrant precincts that connect to a well-functioning public transport network. On behalf of our members, we have long advocated for an approach to land tenure and strata management that better meets the needs of residents and property owners and that can facilitate great development outcomes.

We welcome the Committee's inquiry into proposed part 12 of the *Strata Titles Amendment Bill 2018* "Termination of strata titles scheme" as an expeditious way of providing confidence and clarity to the Legislative Council in its consideration of the draft legislation. The Bill is a significant piece of legislation that has been worked on by Governments and anxiously awaited by industry for a numbers of years, so we appreciate the decision of the Legislative Council to refer only this discrete part of the Bill to the Committee for review.

The Property Council has publicly supported the overall intent of the strata reform initiative since it first commenced in 2010 and we continue to do so. We appreciate that the Committee's terms of reference are to look at Part 12 only so, as requested, we limit our comments in this submission to those relevant to Part 12.

The current process for terminating a strata scheme, requiring a unanimous resolution or an order of the District Court, has significant shortcomings. There is no robustness, transparency or safeguards around the process under which a single owner can apply to the District Court for termination; no assistance or support for owners who wish to respond to a District Court action; and no guidance provided to the District Court for its decision-making.

Over time this has resulted either in well-resourced owners being able to override the wishes of vulnerable owners by successfully progressing action in the Court; or strata schemes being unable to be terminated in cases where a majority of owners support termination but one or two owners are able to prevent a decision to terminate being made.

The Property Council is aware of recent commentary from some stakeholders around a perception that proposed Part 12 will undermine property rights of existing strata owners. We challenge this assertion as the legislation has been drafted to provide a far more legible and equitable process for termination of a strata scheme than currently exists. Safeguards are included to assist vulnerable people in the process, and fair market value or a like for like property exchange is provided for any owner who does not support the termination.

In fact, allowing 80% of the owners of a strata scheme the right to vote for dissolution of a scheme, with the matter then determined by SAT, provides that 80% of owners with rights that currently do not exist. There are numerous examples of properties that currently have majority owner support for termination but one owner is holding out. In these examples the rights of the majority are overruled by the rights of one person. In our view proposed Part 12 provides a much more equitable and reasonable approach with natural justice incorporated for all parties.

With strata schemes first introduced to WA in 1968, and given the difficulties caused by the existing termination process, there are a significant numbers of scheme buildings across the State which are ageing and costing owners large amounts in maintenance costs, often disproportionate to the actual market value of the property in its degraded condition.

The existence of these ageing buildings, and the inability to terminate the schemes in a transparent way that reflects the needs of the majority of owners, prevents redevelopment of often strategic and well-located housing sites with modern, better designed buildings which could accommodate additional residents and provide contemporary building facilities in designs that are more sensitive to the environment and to the feel of the streetscape and the local neighbourhood.

Part 12 of the *Strata Titles Amendment Bill 2018* is critical to the overall objectives of the reform legislation. Creating an effective and fair termination process is necessary to facilitate redevelopment of many existing ageing strata properties and allow their replacement with more vibrant, liveable and sustainable strata outcomes across WA. This will have broader community benefits as government and industry will be able to deliver greater housing diversity, affordability and choice, and make more efficient use of land and services to provide better living options for West Australians.

The Property Council strongly supports the timely passage of the Strata Reform legislation in its entirety. We are available to appear before the Committee to elaborate on our submission if it would assist. Should you have any queries or wish to discuss any aspect of this letter please don't hesitate to contact me on 9426 1200.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sandra Brewer'.

Sandra Brewer
WA Executive Director