



Department of **Planning,**
Lands and Heritage

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Hon Dr Sally Talbot MLC
Chair
Standing Committee on Legislation
Legislative Council Committee Office
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Dear Dr Talbot

INQUIRY INTO THE STRATA TITLES AMENDMENT BILL 2018

Thank you for your letter of 18 September 2018 in relation to provisions of the *Strata Titles Amendment Bill 2018* (STA Bill) concerning termination of strata titles schemes.

The Department of Planning, Lands and Heritage has been closely consulted by Landgate concerning content of the legislation as it relates to the Western Australian planning system, and in particular the role and responsibilities of the Western Australian Planning Commission (WAPC) established under the *Planning and Development Act 2005* (PD Act).

As strata-titling allows multiple ownership of more intense forms of subdivision and development, it is an important means of facilitating contemporary planning and development outcomes, e.g. apartments and mixed use developments. The current *Strata Titles Act 1985* (STA) recognises planning decision-making, and contains both direct powers for WAPC decision-making and links to WAPC processes.

Because of the difficulty under the STA of terminating an existing strata scheme, older strata schemes have become an impediment to renewal or redevelopment in some established inner city and 'middle ring' areas, which is sought by contemporary planning strategies. For example, fragmentation of land makes assembly of larger sites for redevelopment more difficult. Clarifying strata scheme termination processes and rights of owners via legislation is therefore considered appropriate.

The STA Bill provides (in the new s 177, to be inserted by s 83 of the STA Bill at pp 264 - 5) for WAPC consideration of a subdivision application as part of the termination process (under the PD Act this may be for amalgamation of the lots). The provision is to the effect that all the normal processes under the PD Act for subdivision or amalgamation of lots would apply, including setting of conditions and for review rights. The WAPC is not itself required to form any view as to the

merits of the termination of a strata scheme, as it is not the decision-maker as to whether a termination proposal proceeds or not: this is properly a matter for the owners of the scheme, or the State Administrative Tribunal (SAT) in certain circumstances set out by the STA Bill (see the new ss 182 - 3, to be inserted by s 83 of the STA Bill at pp 273 - 282).

Although the proponents of a termination proposal must, if they proceed further, set out a detailed proposal for the site if the WAPC grants the subdivision approval (see the new ss 177 – 9, to be inserted by s 83 of the STA Bill at pp 264 - 270), the detailed proposal is not considered (by the Minister for Planning, WAPC, or other decision-maker) for planning approval: it is solely an indication of intent should the termination proposal be successful.

The provisions also include an explicit requirement (at the new ss 179 (1)(g), to be inserted by s 83 of the STA Bill at p 268; see also a similar requirement at an earlier stage of the process provided for by the new s 175 (1)(f), to be inserted by s 83 of the STA Bill at p 263) to describe the planning approvals required for the detailed proposal described and the extent to which the proposal does not comply with a relevant planning scheme or interim development order in force under the PD Act.

This approach enables owners of a strata scheme to reach a full understanding of a termination proposal, but does not bind the decision-maker in relation to any future applications or dealings concerning the site, which is appropriate given that the termination proposal may not, in fact, proceed.

Officers of the Department would be pleased to provide any further information on the proposed Part 12 of the STA Bill should it be required.

Yours sincerely



Gail McGowan
Director General

25 September 2018