



Phase one discussion paper

Five-year review of WA strata law

(Strata Titles Act 1985)

Public consultation: 1 to 31 October 2024

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Table of Contents

Section 1 – Summary of review

1.1 Introduction	3
1.2 Review scope	4
1.3 Phase one consultation	4
1.4 How to get involved	5

Section 2 – Background to strata in WA

2.1 Introduction	6
2.2 The Strata Titles Act 1985	6
2.3 Major reform in 2020.....	7

Section 3 - Improving cost controls in strata titles schemes

3.1 Introduction.....	9
3.2 Subdivision, development, scheme termination / redevelopment	9
3.3 Managing costs of common property.....	11
3.4 Consumer protections.....	12

Section 4 – Enhance strata living

4.1 Introduction.....	14
4.2 Objectives of the Strata Act	14
4.3 Proxies.....	15
4.4 Strata Councils	16
4.5 Alterations to lots	18
4.6 Managing common property	19
4.7 Governance and conduct by-laws.....	20
4.8 Strata company objectives.....	22
4.9 A safe place to work and live	22
4.10 Dispute resolution and general strata advice	25
4.11 Building manuals	26

Section 5 – Strata manager practice and standards

5.1 Introduction	27
5.2 Changes within the industry	27
5.3 Trust accounts and licensing requirements	29
5.4 Conflict of interest and disclosures	30
5.5 Strata manager definition / authorisation to perform scheme functions	31
5.6 Strata manager annual returns	33

Section 1

Summary of review

1.1 Introduction

The Government of Western Australia is undertaking a five-year statutory review of WA's strata law - the *Strata Titles Act 1985* - to explore opportunities to enhance strata for owners, residents and industry professionals across the state.

Delivery of this review aligns with the legislated timeline for the Minister for Lands to review the operation and effectiveness of WA's strata law and deliver a report to Parliament as early as possible after 1 May 2025 - five years after the statutory review requirement came into effect on 1 May 2020.

Landgate will administer the review on behalf of the Minister for Lands and seek feedback through two public consultations, ahead of a final report being prepared for Parliament from mid-2025.

Public consultation for this review will be split into two phases, with each consultation phase guided by a discussion paper and online feedback form available on Landgate's website.

Phase one public consultation | 1 to 31 October 2024

- Issues identification focus.
- Designed to generate broad industry and community feedback on issues associated with strata living and the *Strata Titles Act 1985*.
- Consultation to be supported by phase one discussion paper (this document).

Phase two public consultation | First half of 2025 (timing to be confirmed).

- Reform solutions focus.
- Designed to generate broad industry and community feedback on potential reforms to the *Strata Titles Act 1985*.
- Consultation to be supported by a phase two discussion paper.

Both consultation periods will be guided by the review's scope.

1.2 Review scope

The following three themes comprise the review's primary scope.

They will guide its research and consultation focus, as well as the structure of public consultation materials such as this discussion paper and the online feedback form.

1. Improving cost controls in strata titles schemes

In summary, this area of research and consultation will explore:

- Subdivision costs
- Resident and lot owner protections around financial hardships
- Decision-making processes around infrastructure
- 10-year maintenance plan.

2. Enhance strata living

In summary, this area of research and consultation will explore:

- Scheme governance provisions and by-laws
- Proxy provisions
- Alterations to lots and common property
- Dispute resolution and strata advice services.

3. Strata manager practice and standards

In summary, this area of research and consultation will explore:

- Strata manager professional standards and compliance measures
- Protections for strata company funds held in ADIs (authorised deposit-taking institutions)
- The dispute resolution role of the State Administrative Tribunal.

A copy of the review's scope can be found on [Landgate's website](#).

1.3 Phase one consultation

Phase one of the review's public consultation - as guided by this discussion paper - is designed to help identify and generate discussion on the issues impacting people that own a lot in, live in, manage, or develop strata titles schemes.

This discussion paper is not intended to be an exhaustive list of all known issues with the *Strata Titles Act 1985* (the Strata Act) and strata living.

It was developed to generate discussion around these issues in line with the review's scope that is based on three key themes (above at paragraph 1.2).

Landgate acknowledges there are issues with the Strata Act that require clarification in future legislative reforms.

The issues identified will be analysed to help:

- Assess the operation and effectiveness of the Strata Act (in line with section 227(1) of the Strata Act).
- Determine if legislation is current, compliant, fit for purpose and meets the needs of stakeholders (in line with the Public Sector Commission guidelines for reviewing legislation).
- Ascertain if the policy objectives of the most recent reforms (in 2020) are being achieved.
- Guide reform solutions to be proposed in the phase two public consultation period.

After the phase one consultation period has closed:

- There may be further targeted consultation on specific issues
- All comments and submissions will be considered and analysed, and following this analysis, potential solutions will be developed to the identified issues.
- Potential reform solutions will be compiled into a second discussion paper for phase two of the public consultation.

Phase two of public consultation will run in the first half of 2025 and seek feedback on the potential solutions to the issues identified by the first round of consultation. Feedback from the phase two consultation will support a report on the review and its findings for the Minister for Lands.

A review report will be submitted to the Minister for Lands, and a final report will be tabled in both Houses of Parliament after 1 May 2025.

1.4 How to get involved

You are invited to read this discussion paper and provide a feedback submission via the [five-year review of WA's strata law page](#) on Landgate's website.

Your submission may comment on all the issues the paper raises or only the specific issues that interest or impact on you.

Alternatively, if you are experiencing or have an issue that has not been captured by this discussion paper, you are encouraged to make a submission on this issue.

Important note: publication of submissions

Information provided through this review may become public. As your feedback forms part of a public consultation process, the Government may quote from your comments in future publications. If you prefer your name to remain confidential, please indicate this in your submission.

Please also clearly indicate if there is information or data in your submission that is confidential and should be redacted before publication. Please also note that submissions made in response to this paper will be subject to freedom of information requests and will be treated in accordance with the *Freedom of Information Act 1992 (WA)*.

Section 2

Background to strata in WA

2.1 Introduction

Around a quarter of WA's population live in strata properties, highlighting its importance to the Western Australian economy and to the lives of those who work or live in, own, or professionally support the creation, governance or operation of strata titles schemes.

As of August 2024, there are over 340,000 strata properties (lots) in WA with a total insured value estimated at over \$99 billion¹. This is up from the figures reported in 2018 when there were over 300,000 strata lots situated across the state that had an estimated insured value of more than \$80 billion².

With WA's population predicted to rise to 5.6 million by 2056, the importance of strata titles schemes to supporting the delivery of more affordable and sustainable community living spaces will only continue to grow.

Strata in Western Australia is a type of property ownership that includes individual ownership of parts of a parcel of land (lots) and shared ownership of other parts of the parcel (common property). To manage the parcel, strata titles schemes are established as small, self-governing communities, operating as a democracy. The owners decide collectively how best to manage the parcel. For instance, each strata titles scheme can decide on and enforce its own rules (called by-laws) to suit the way owners want to live together and restrict unwanted behaviour.

Strata titles schemes are governed in Western Australia by the *Strata Titles Act 1985* (Strata Act). The Strata Act is the legislation that provides for the subdivision of land by strata titles schemes, the creation of strata titles, and the governance and operation of strata titles schemes.

2.2 The Strata Titles Act 1985

Strata titles legislation was initially introduced in WA in 1967 following the passing of the *Strata Titles Act 1966* (the 1966 Act). This initial legislation was designed to overcome the problem of share or company titles where a proprietor's interest was not defined by a title to

¹ Figure sourced from the UNSW City Futures Research Centre's [2022 Australasian Strata Insights report](#).

² Figure sourced from the UNSW City Futures Research Centre's [Australian National Strata Data Analysis 2018](#).

a specific part of the parcel. The 1966 Act allowed for a strata lot to be created with boundaries defined by the Act as the centre plane of the walls, floors and ceilings. On registration of the Strata Plan, a certificate of title was issued for each lot which included common property.

Since this time strata legislation has been the subject of major and minor reforms. The 1966 Act was repealed and replaced by the introduction of the Strata Act in 1985. The Strata Act aimed to resolve the shortcomings in the 1966 Act, including addressing impediments to scheme registrations, clarifying and extending strata company powers, and introducing new dispute resolution provisions.

Further amendments were made to the Strata Act in 1995 with a view to bringing strata laws into line with modern community expectations. These amendments came into effect in 1996 introducing survey-strata plans, standard by-laws, new types of resolutions, and new plans and documentation for the registration of a scheme.

The Strata Act was comprehensively reformed in 2020 by the *Strata Titles Amendment Act 2018*. These reforms followed extensive industry and public consultation and were the first major changes in 21 years to the legislation governing WA strata titles schemes.

2.3 Major reform in 2020

Comprehensive reforms to make WA's strata framework clearer and fairer took effect on 1 May 2020 with the commencement of the *Strata Titles Amendment Act 2018* (Amendment Act).

There were six major areas of reform:

- **Better buyer information** | Stronger legal protections were delivered to buyers of strata titled properties, securing their right to receive more upfront information about the property they are looking to buy.
- **Efficient dispute resolution** | A more efficient, lower-cost dispute resolution process was put in place with the independent State Administrative Tribunal (the Tribunal) becoming the 'one-stop-shop' for strata disputes in WA (excluding debt recovery).
- **Improvements to strata management** | Significant legislative focus was given to improving the management of strata titles schemes and benefits were delivered through better by-laws, modernised scheme management, statutory duties for strata managers and a 10-year maintenance plan and reserve fund.
- **A fairer process for scheme termination** | New safeguards were put in place for strata owners through the introduction of a complete, transparent process which must be followed to implement a scheme termination.
- **Introduction of leasehold strata** | A new form of land tenure called leasehold strata was introduced to Western Australia through the reforms. A leasehold scheme is a strata or survey-strata scheme created for a fixed period, ranging from 20 - 99 years.
- **Development, subdivision and planning changes** | More flexibility was created for the staged development of strata and survey-strata schemes.

Other changes introduced by the Amendment Act included:

- The concept of registering a strata titles scheme by registering the scheme documents being the:
 - the scheme plan
 - the schedule of unit entitlements
 - the scheme notice (containing the scheme name, address for service of the strata company and, if applicable, that the scheme is a leasehold scheme)
 - scheme by-laws, and
 - strata lease document (leasehold schemes only).
- Introducing short form utility service easements, easements in gross and restrictive covenants.
- Adding and removing common property from a scheme requiring subdivision approval by the WA Planning Commission.
- All forms associated with strata plans and dealings no longer being regulated forms.
- Termination of all schemes requiring the lodgement of a Deposited Plan depicting the parent lot and notices of the completion of each stage of termination at Landgate.
- Survey-strata plans becoming subject to expiry under section 146 of the *Planning and Development Act 2005*.

Section 3

Improving cost controls in strata titles schemes

Review theme one

3.1 Introduction

Purchasing a strata lot has traditionally been a lower cost entry into the homeowner, owner, commercial and industrial markets. While this may still be the case, the ongoing cost of strata lot ownership is increasing, and more strata owners are finding it difficult to pay their contributions/levies.

Strata companies are also affected. Over 30% of the strata schemes registered in WA are over 31 years of age. Ageing buildings attract increasing maintenance costs and contributions may not be able to be raised to fund critical building safety work.

The review is considering if existing mechanisms in the Strata Act can be leveraged to assist lot owners and strata companies to better control their costs, noting that individual and group rights can be difficult to balance.

The original 1966 Strata Act regulated built form cubic spaces. Since then, the Strata Act has been extended to provide for strata with vacant lots, survey-strata, special provisions for single tier strata schemes and, in 2020, to leasehold strata.

While these are all strata titles schemes, the subdivision and development approval processes and associated costs differ depending on the type of strata titles scheme. In addition, these requirements for strata titles schemes are different again to similar freehold subdivisions.

3.2 Subdivision, development, scheme termination / redevelopment

COVID-19 radically reshaped construction markets across the country and challenges to deliver housing remain. The Urban Development Institute of Australia (UDIA) reports that the eight apartment projects that commenced construction in 2023 – totalling 750 apartments – is down from a five-year average of 17 projects totalling 1,359 apartments starting construction annually.

UDIA cites “escalating materials costs; labour and skills shortages; high cost of infrastructure upgrades and provision; and the cumulative impact of the layering of other taxes, fees and charges, apartment projects are proving increasingly difficult to make viable for financing to

get them off the ground. This is particularly the case for higher density projects and the provision of supply at the more affordable end.”

Other industry stakeholders have cited the headworks costs as too prohibitive for many strata developments. Landgate notes that the Strata Act requires Planning Commission approval for a strata plan or amendments to a strata plan. However, the requirements for Planning Commission approval are regulated under the *Planning and Development Act 2005* and these requirements have cost implications. The cost implications regulated under the Strata Act relate to the fees for the registration of documents.

It's unclear if the different subdivision and development provisions in the Strata Act are hampering the development of strata titles schemes. There may also be benefit in harmonising these subdivision and development provisions across the different types of strata titles schemes and with similar types of freehold subdivisions.

Leasehold strata is a leasehold system of land tenure, providing the right to use land under a strata lease for a term of no less than 20 and up to 99 years. Upon the expiry day for a leasehold scheme, the scheme, lots and strata leases are terminated and cease to exist.

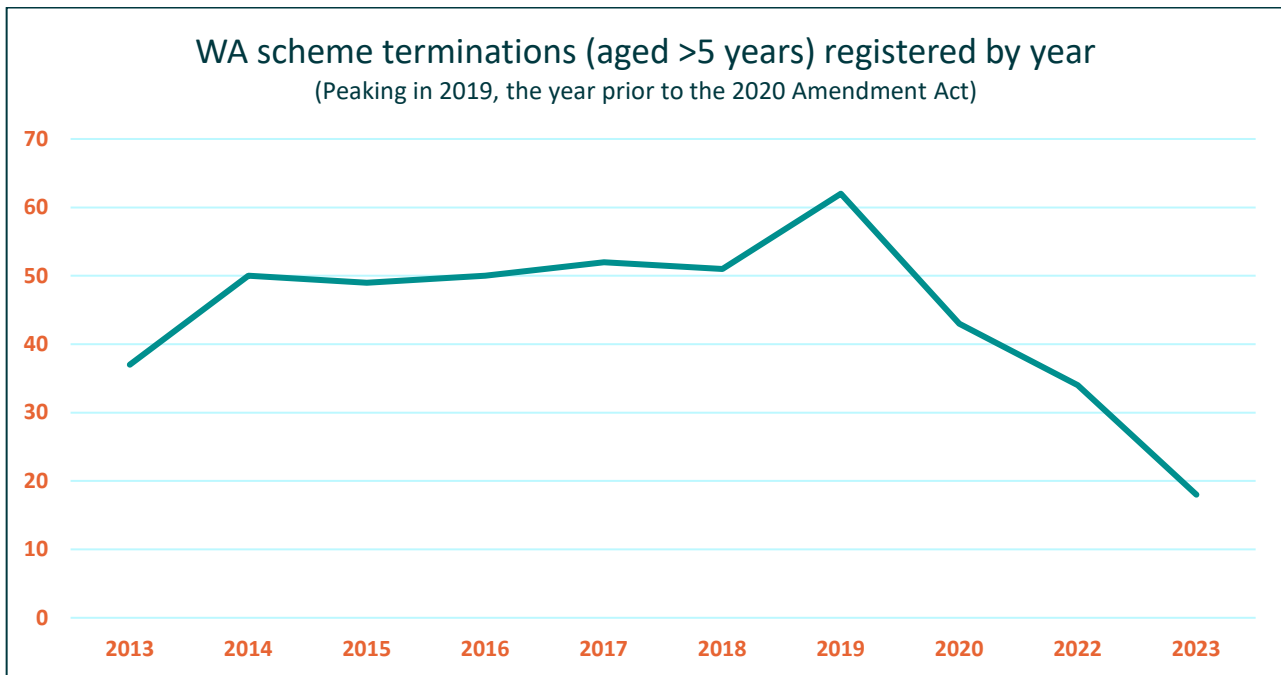
The owner of the leasehold scheme then regains full ownership of the land and buildings. The introduction of leasehold strata was intended to provide affordable housing, as well as the development of freehold land on strategic sites over which the government wishes to retain control in the long term. However, since leasehold strata titles tenure came into effect in 2020, no application for registration of a leasehold scheme has been made to Landgate.

Strata schemes were first developed in WA in the late 1960s and some of these schemes are now approaching 60 years of age. Recognising that buildings do not last forever, scheme termination was also reformed through the Amendment Act in 2020. The Amendment Act introduced to the Strata Act provisions for a strata scheme to terminate where the termination was not supported by all lot owners.

Under these provisions a scheme can terminate where there is an 80% majority vote in favour of termination and the Tribunal approves the termination. Part 12 of the Strata Act sets out the termination process and introduces safeguards for vulnerable persons and protections for objecting owners. This part also includes a streamlined termination process where there is unanimous agreement to the termination or where a single owner owns all the lots in the scheme.

The reforms to scheme terminations were introduced to help the redevelopment of strata titles schemes, with many buildings ageing and costing owners large amounts in maintenance.

However, since Part 12 of the Strata Act came into effect in 2020, the number of strata termination registrations with Landgate has actually reduced - shifting from 46 registrations in 2020 to 18 in 2023. Additionally, the only termination registrations received have been where there is unanimous agreement to the termination or where there has been a single owner of all lots. This is significant as the changes to scheme terminations were supposed to make it easier for schemes to terminate however this is not reflected in the statistics (see graph of 'WA scheme terminations (aged >5 years) registered by year' on the next page).



3.2 Consultation focus

- Would the costs of developing strata titles schemes be significantly reduced if the subdivision and development approvals processes and requirements were streamlined?
- What are the factors preventing the take up of leasehold strata titles schemes?
- Does Part 12 of the Strata Act strike the right balance between ease of terminating a scheme and protecting the rights and interests of vulnerable persons and objecting owners?
- What are the factors preventing strata titles schemes from fully utilising the termination provisions in Part 12 of the Strata Act?
- Is scheme termination a viable solution to the cost pressures of maintaining ageing buildings?

3.3 Managing costs of common property

The reforms to the Strata Act sought to make strata better by empowering owners to improve their scheme and facilitate better ongoing scheme maintenance. This included making it easier for strata companies to install sustainability infrastructure like solar panels onto common property to deliver cost savings for the scheme and better outcomes for the environment.

The 10 year maintenance plan (required of schemes of 10 lots or more) aims to assist strata companies to better identify and control longer term costs. This maintenance plan requires schemes to identify maintenance issues and determine how much money should be set aside in reserve funds to cover these issues.

Feedback received by Landgate from industry and strata owners is that the section 100(2A) requirement to prepare a 10 year plan may not be operating as intended.

For example, 10 year plans are being made however issues have been raised about whether maintenance plans should be required of all strata companies. Currently, schemes with 10 lots or more are required to make a 10 year plan as well as schemes whose building replacement or improvements on common property is more than \$5 million. Medium schemes (6 - 20 lots) make up about 28% of the WA Land Title Register and small schemes (2 - 5 lots) make up 42%. In addition, there is a requirement at section 102(2)(a) for the strata company's budget to take into account the 10 year plan. However, this is not always resulting in an adequate budget allocation to cover future maintenance.

Given that the neglect of a building can have serious financial and personal consequences for residents and building owners, there may be a need to include an obligation to fund the 10 year plan, as is the case under legislation in New South Wales. In the case of [Victoria](#), prescribed strata companies (that have either 100 lots (or more) or collect more than \$200,000 in annual fees in a financial year) must prepare a maintenance plan and fund it.

The sustainability infrastructure provisions of the Strata Act lower the threshold for decision making on expenditure for sustainability infrastructure (section 102(5)). Provisions have also been introduced in section 64 to help strata companies manage the easements and contracts associated with sustainability infrastructure.

Despite the introduction of these sustainability infrastructure provisions, Landgate understands that schemes are still finding it difficult to navigate the installation of this kind of infrastructure. In particular, it seems like schemes are still facing challenges installing embedded electricity networks, solar panels, and electronic vehicle chargers. The situation is further complicated where conduits and infrastructure needs to pass through lots and common property in a scheme.

3.3 Consultation focus

- Has the requirement for designated strata companies to prepare a 10 year plan been effective in assisting strata companies to plan and budget for scheme maintenance?
- Is there a need to expand the requirement to prepare a 10 year plan to more schemes?
- Is the 10 year plan requirement fit for purpose in assisting strata companies in their plans for raising funds incrementally?
- How successful have reforms been in the uptake of sustainability infrastructure, particularly for older strata schemes whose electrical infrastructure requires significant investment?

3.4 Cost-related consumer protections

The Strata Act contains additional protections for buyers purchasing a strata lot (Part 10 – Protection of Buyers). Buyers are required to be provided the following information about the strata lot they are buying:

- The exact location and definition of the lot being purchased shown on the scheme plan
- Estimated contributions a buyer will have to pay in the 12 months after settlement
- The minutes from the most recent AGM
- A statement of accounts of the strata company
- Any debts owing against the lot to the strata company
- Whether the lot has the benefit of exclusive use by-laws
- Information about any termination proposal received by the strata company.

Where the buyer is not provided with this information the Strata Act allows them to delay settlement or in some cases avoid the contract.

The Strata Act also includes provisions for information provided to the buyer after they have signed the contract for sale – these are called notifiable variations. Under these provisions a buyer may also be able to avoid a contract based on the information they receive if they are materially prejudiced by the information.

Cost of living pressures are affecting all sectors and communities, including those living in strata titles schemes. The rising costs of strata has seen some strata owners having to sell their strata property due to an inability to pay required levies and contributions.

The rising cost of living in strata can be attributed to:

- Increases in the cost of insurance
- The current high cost of trades for scheme maintenance
- The high rate of inflation generally.

The Strata Act provides discretionary powers to the strata company to decide not to charge interest on an unpaid contribution and to manage the recovery of unpaid debts.

The *Victorian Owners Corporations Act 2006* is the only strata legislation that makes specific mention of lot owners in financial difficulty, but it is at the discretion of an owners corporation to make and implement their own by-laws to assist.

Currently in Western Australia, financial hardship consumer protections are most common in utility services and the WA Government offers eligible people a utility rebate.

3.4 Consultation focus

- Have the seller disclosure provisions in the Strata Act given buyers a better understanding of what they will own and the cost of what they are buying into?
- Is there a better way to present the seller disclosure information to the buyer so they better understand the scheme they are buying into?
- Should the Strata Act be amended to include consumer protections around financial hardships? Examples include requiring a strata company to consider requests from lot owners for payment plans or debt management plans.
- If consumer protections around financial hardship were introduced into the Strata Act should there be rules around how the strata company may charge lot owners for debt recovery? For example, providing clear rules around administrative fees associated with financial hardship requests.

Section 4

Enhance strata living

Review theme two

4.1 Introduction

As the popularity of strata living and number of people living in strata titles schemes continues to grow in Western Australia, the review will consider the Strata Act's current effectiveness in supporting these important residential communities in the state.

This will include looking at the objectives of the Act itself and also whether the existing legislation supports decision-making structures and conflict resolution processes that are best serving the needs of these diverse communities.

4.2 Objectives of the Strata Act

This review is considering the operation and effectiveness of the Strata Act as a whole. In doing so, it is important to consider the objectives of the Act to determine if these are being achieved.

The Strata Act does not have an express objective but instead sets out that the purpose of the Act is to provide for the subdivision of land by strata titles schemes, the creation of strata titles, the governance and operation of strata titles schemes, and "related purposes."

The WA Public Sector Commission (PSC) Guidelines for reviewing legislation encourage looking at objectives identified in other parliamentary documents or government policies as well as the existing objectives of the Act that is under review. This supporting information can inform the review and help determine if the legislation is still current, compliant, fit-for-purpose and meeting the needs of stakeholders.

The Explanatory Memorandum for the Amendment Act and the related second reading speech include the following objectives for the Strata Act:

- Effective management of innovative, well-planned strata properties.
- A legislative framework that is clear, modern, transparent and accountable for creating and managing strata.
- Creating a new form of land ownership – leasehold strata titles schemes.

These are clear objectives that provide a strong link to how the Strata Act should enhance strata living. As described above, the current purpose set out in the Strata Act is quite nondescript. Given there are clearer objectives for the Strata Act set out in the Explanatory Memorandum for the Amendment Act, there may be value in bringing these, or other express

objectives, into the Strata Act. Well-defined objectives may set a clearer purpose for the legislation and would help guide future reviews.

4.2 Consultation focus

- Should the Strata Act have express objectives?
- If express objectives were included in the Strata Act, are the various objectives identified above relevant or are there other objectives that should be captured?
- If objectives are to be brought into the Strata Act, what corresponding provisions would need to be introduced to the Strata Act to give effect to those objectives?

4.3 Proxies

The Strata Act enables owners to delegate their voting rights to another person to act as their proxy. This proxy can be issued for all purposes and without a time limit or for a specific time period or purpose. A lot owner may direct their proxy how to vote but does not have to.

The Amendment Act introduced additional controls on proxies into the Strata Act. These controls include a requirement for lot owners to vote in person when they are present at a meeting (rather than by proxy). Restrictions were also introduced on people holding proxies where a resolution relates to the provisions of goods or services and that person has a direct or indirect pecuniary or other interest in the provision of those goods or services. Exceptions to this restriction are in place where the proxy authorises the person to vote on the resolution, directs the person how to vote and where certain information is provided (if the resolution relates to a strata management contract).

Proxies help ensure that a lot owner can exercise their right to vote and helps the strata companies to make decisions at meetings and operate effectively. However, feedback received is that strata sale contracts appear to be assigning proxies inconsistently with the provisions of the Strata Act. Landgate has also received feedback that some strata companies are experiencing “proxy farming”. Proxy farming is where one person holds many proxies and uses them to vote in a block.

Oversight of delegated proxies is important because misuse of proxies may subvert the democratic processes of the strata scheme by allowing an individual or small group of persons to skew votes for their own benefit.

The NSW *Strata Schemes Management Act 2015* placed a cap on the number of proxies that can be held, with the aim of curtailing proxy farming. In schemes with 20 lots or less only one proxy can be held, while in schemes of more than 20 lots a person can hold proxies for up to 5% of total lots.

More recently, the NSW *Strata Legislation Amendment Bill 2023* aims to close a loophole in the current legislation which enables proxy farming by using powers of attorney or company nominees. NSW strata legislation will restrict how many owners an attorney or company nominee can represent. It will not restrict who can be a company nominee or hold a power of attorney for an owner. An exception is made where the holder of the power of attorney is a member of the owner's family. The objective of the recent NSW proxy reform is to ensure a fairer process and that decisions made within a scheme are representative of all those living in the scheme.

4.3 Consultation focus

- Have the additional controls on proxies introduced to the Strata Act helped improve the operation of proxies for lot owners and strata companies?
- Is proxy farming a significant issue for lot owners and strata companies?
- Are additional restrictions on proxies required, for example imposing limits on the number of proxies held or introducing time limits requiring proxies to be renewed periodically?

4.4 Strata Councils

The reforms to the Strata Act sought to raise the standards for strata councils by imposing statutory duties on council members. The statutory duties of council members include to:

- Act honestly, with loyalty and in good faith in the performance of their functions.
- Exercise due care and diligence in the performance of their functions.
- Ensure they do not make improper use of their position as a member to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the strata company.
- Inform the council in writing of any conflict of interest as soon as is practicable after they become aware of the conflict.

Council members are not able to vote where they have a conflict of interest. Where council members breach a statutory duty, they may be removed from the council on application to the Tribunal.

Despite these improvements, Landgate still receives feedback on council members reportedly not acting in good faith or exercising due care and diligence in the performance of their functions. There are not clear statistics on whether the number of issues with council members has increased or decreased since the introduction of these statutory duties. It is also not clear if breaches of these duties are progressing as scheme disputes in the Tribunal. Managing a strata scheme can be complex and depending on the scheme's lots and amenities, it can feel like a full-time job for members of the council. To encourage owners to volunteer for the council, a council member will not be liable in any civil proceedings for any act that they do in good faith when performing the role of a council member.

Landgate continues to receive feedback that the following areas are often misunderstood: the responsibilities of the strata council, the restrictions that the strata company can place on the exercise of the strata council responsibilities and the role of strata managers.

Victoria has taken a different approach to ensure strata councils manage their responsibilities in an accountable way. Victoria’s five-tiered system for owners corporations (OC), set out in the table below, subjects larger OCs to more stringent regulations than smaller OCs.

Victoria’s five-tiered system for Owners Corporations	
Tier	Definition
1	More than 100 occupiable lots (and not a ‘services only OC’)
2	51 to 100 occupiable lots (and not a ‘services only OC’)
3	10 to 50 occupiable lots (and not a ‘services only OC’)
4	3 to 9 occupiable lots (and not a ‘services only OC’)
5	2 lot subdivision or a services only OC

The tiered system prescribes different requirements for strata councils, financial reporting, mandatory audits and maintenance plans, depending on the size and nature of the OC. For more details on the prescribed requirements of the five-tiers please see the [Consumer Affairs Victoria website](#).

4.4 Consultation focus

- Has the introduction of statutory duties for strata council members improved the standard and operation of these councils?
- Where a council member has breached a statutory duty are the removal provisions on application to the Tribunal working effectively?
- Is there value in amending the Strata Act to create a tiered approach to scheme governance where strata councils for large schemes are required to fulfil greater governance obligations?
- Is there benefit in requiring high-rise schemes to fulfill greater governance obligations?
- Would strata councils for large schemes benefit from making it easier for them to bring outside specialist help onto the council (e.g. structural engineers or building infrastructure specialists)?

4.5 Alterations to lots

Undertaking renovations within a lot in a strata titles scheme is a complicated process. Approvals are typically required from the strata company and, depending on the nature of the renovation, may also be needed from other authorities.

A renovation in one lot can have an impact on another lot or the common property in a strata titles scheme. These approvals are aimed at ensuring that lot renovations do not negatively impact the scheme more broadly.

Renovations to lots are not dealt with specifically in the Strata Act and typically are dealt with through the provisions that deal with structural alterations to lots. These provisions are complex and the requirements for consent and resolutions of the strata company are challenging. Lot alterations require approval through a resolution without dissent which is difficult to achieve. Lot alterations were not part of the 2020 reforms and these requirements apply regardless of the nature of the alteration or impact of the proposed alteration on other lots or common property.

For example, a lot owner in a strata scheme who is retiling their kitchen may need to comply with the lot and common property alteration provisions, and the consent and resolution requirements of the Strata Act. If their lot boundary is the inner surface of the walls and upper surface of the floors of their lot, anything behind or under these surfaces will be considered common property. As such, removing and replacing tiles or replacing a drain grate can be considered altering common property or altering the lot, triggering the lot or common property alteration provisions.

Other jurisdictions have taken a different approach to lot alterations where approval depends on the nature and scale of the works. NSW strata legislation does not require approval from the strata company for cosmetic work to a lot. Minor renovations do require approval of the strata company through an ordinary resolution. Major renovations also require approval of the strata company, however the resolution to approve is a special resolution where 25% of the votes can be against the renovation.

The definition of 'structural alteration of a lot' may also be adding to the challenges of undertaking renovations. The definition of a structural alteration is quite broad and captures the erection of a structure in a lot or the alteration of a structural kind to a structure in a lot. The Strata Titles (General) Regulations 2019 (the Regulations) further explains this definition by linking the definition of a structure to the approval of a local government or other authority. Despite this additional explanation, structural alteration has still been interpreted broadly.

Linked to the renovation and lot alteration issue is the installation of infrastructure to service or benefit a single lot in a scheme. The Strata Act does not have specific sections dealing with the decision making process or resolutions required for the installation of this infrastructure when it benefits a single lot in the scheme. Further complication is added where the infrastructure crosses others lots and/or common property.

The Strata Act is clear on implementing easements to install and access this infrastructure, how these easements are recorded, and what the rights associated with them are. However, it is not clear on who should own the infrastructure, and who is responsible for the cost of installation and maintenance of that infrastructure. These issues are typically left for the strata company to manage through their by-laws.

4.5 Consultation focus

- Do the lot alteration provisions of the Strata Act provide enough clarity to lot owners and strata companies to deal effectively with lot alterations in their scheme?
- Should the Strata Act include specific provisions setting out clear requirements for the approval of renovations and lot alterations?
- Is there benefit in taking a 'sliding scale' approach to the approval of renovations and lot alterations like that taken in NSW?
- Should the Strata Act include provisions on the responsibility for the installation and maintenance of infrastructure where that infrastructure only benefits a lot or a few lots in the scheme?
- Is there benefit in requiring a lot owner who has infrastructure servicing their lot, that crosses other lots and common property, to enter into an infrastructure contract with the strata company?

4.6 Managing common property

The strata company has a duty to control and manage common property for the benefit of all owners and keep in good and serviceable repair, properly maintain and, if necessary, renew and replace common and personal property of the scheme (section 91(1) of the Strata Act). The strata company may also improve or alter the common property in a manner that goes beyond this requirement (section 91(2) of the Strata Act).

The Strata Act has provisions on the budgeting for the maintenance of common property in line with the 10 year maintenance plan and the resolutions required to approve expenditure to improve or alter common property. These provisions also include the lower voting threshold to approve expenditure on sustainability infrastructure.

The Strata Act does not include specific provisions covering the decision making or approval process the strata company must go through to undertake works to alter, improve, or structurally change common property. Landgate understands that where a strata company wishes to alter or improve common property to benefit the scheme and organise the work itself, the approval to undertake the work is tied to the approval of the expenditure for the work.

The Strata Act also includes provisions dealing with the installation, maintenance, and management of utility infrastructure on common property by a third party utility service provider. This scenario is covered through the infrastructure contract provisions of the Act.

However, as noted in the 'Alterations to lots' section above, this creates issues for lot owners and strata companies who need to alter or change common property as part of renovation works or to connect utility services to their lot. In these situations, the Strata Act provides no clear direction on the decision making process to approve these works as there may not be expenditure, a budget, or an infrastructure contract associated with the work.

4.6 Consultation focus

- Does the Strata Act provide enough detail on the decision making process for strata companies to alter, improve, or make structural changes to common property?
- Should the Strata Act include a clear decision making process for strata companies to approve works to alter, improve, or make structural changes to common property, beyond approving a budget or expenditure on these works?
- Is there value in introducing a lower voting threshold for the approval of expenditure on other kinds of infrastructure (not just sustainability infrastructure)?

4.7 Governance and Conduct By-laws

All strata titles schemes have by-laws that are ‘rules’ that owners, occupiers, and in some cases, visitors must follow. The Strata Act includes two types of by-laws: governance by-laws and conduct by-laws.

Governance by-laws deal with the governance of the scheme, subdivision or development of the land subdivided by the scheme, and exclusive use of common property in the scheme. Conduct by-laws deal with the conduct of an owner or occupier in the scheme, and the management, control, and enjoyment of a lot or common property in the scheme.

The Strata Act includes a set of Governance by-laws in Schedule 1 of the Act and Conduct by-laws in Schedule 2 of the Act. Unless different by-laws are registered, these will be the by-laws that apply to a strata titles scheme when it is registered and created. Strata companies are free to amend these by-laws or make their own. The making and amending of by-laws are subject to specific resolution requirements under the Strata Act and by-laws must be registered to have effect and be enforceable.

Many of the by-laws in Schedule 1 and 2 of the Strata Act have not changed significantly since the 1966 Act. These by-laws are not always written in plain English making them difficult to interpret and apply. Some of these by-laws also contain a level of flexibility that does not provide certainty for lot owners and occupiers, or for strata companies.

As an example, by-law 12(c) prohibits an owner or occupier of a lot from keeping “animals on the lot or the common property after notice in that behalf given to that person by the council”. This by-law is typically interpreted to mean that a lot owner or occupier can keep an animal on their lot or the common property of the scheme until the strata council notifies them otherwise.

The use of the phrase “in that behalf given” does not reflect a plain English approach to writing by-laws. In addition, this by-law allows animals in a scheme essentially until it is not allowed. As such, someone could buy a lot in a scheme thinking that their pet will be allowed on their lot and the common property only to receive a notice from the strata council that this is no longer allowed. The case-by-case way in which this by-law operates gives no certainty to current and future lot owners and occupiers that have animals.

With some of the by-laws in the Strata Act approaching 60 years in age, there is also a question of the ongoing relevance of these by-laws. The Schedule 2 conduct by-laws include by-laws on:

- Damage to lawns etc on common property
- Signage and the drying of laundry items
- Floor coverings
- Appearance of the lot
- Decoration of, and affixing items to, the inner surface of lot.

Where in force, these by-laws apply regardless of whether the scheme is a strata scheme or a survey-strata scheme. However, by-laws around damage to lawn may not be relevant to an urban high-rise strata scheme and by-laws around floor covering and decoration of the inner surface of a lot may not be relevant to a survey-strata scheme. Likewise, many conduct by-laws deal with common property and survey-strata schemes don't necessarily have common property.

More broadly, there is a question as to whether by-laws like those set out above still have a place in modern strata living. By-laws limiting a person's ability to air dry their laundry (reducing living costs and power consumption) may not be as important to people now as it was when these by-laws were created. Likewise, it isn't clear whether consistent internal decoration across lots is still a significant issue for people who own lots or live in schemes.

The by-laws set out in the Strata Act also don't specifically cover more contemporary issues with strata titles schemes such as smoke drift from vaping and smoking. Currently, New South Wales and Victoria are the only Australian jurisdictions with model by-laws addressing the issue of smoking in multi-unit housing. Community expectations on this issue may indicate a need to introduce these kinds of by-laws into the Strata Act.

Incoming amendments to legislation dealing with rental accommodation also suggest that some of these by-laws are out of step with societal expectations. Incoming amendments to the *Residential Tenancies Act 1987* will make it easier for renters to have pets and to make minor modifications to their rental premises. These efforts to allow renters to make their property more like a home may be hampered in strata titles schemes by the by-laws in the Strata Act.

In addition, the new *Short-Term Rental Accommodation Act 2024* does not allow short term rental accommodation (STRA) in a strata titles scheme where STRA is prohibited by scheme by-laws. The Schedule 1 and 2 by-laws in the Strata Act do not prohibit STRA. So, if a strata company wishes to prohibit (or specifically allow) STRA within their scheme, they will need to make by-laws to this effect.

However, by-laws prohibiting STRA in a scheme are typically considered governance by-laws which can only be made or amended through a resolution without dissent. As such, it is difficult for strata companies to make these by-laws for their schemes. Where a scheme wants to introduce a by-law prohibiting STRA, only one lot owner needs to vote against the resolution making the by-law for it to fail. This maybe too high a bar for strata companies and lot owners to clear when dealing with STRA in their schemes.

4.7 Consultation focus

- Are the Governance by-laws in Schedule 1 and Conduct by-laws in Schedule 2 still relevant to modern strata living?
- Are there other by-laws that should be captured in the Strata Act?
- Is a resolution without dissent too arduous a resolution for strata companies to work with in relation to STRA?

4.8 Strata company objectives

Strata company objectives were introduced in the 2020 amendments to the Strata Act (section 119) to set out the matters which the strata company must consider in achieving its objectives. These objectives set out that a strata company must not make decisions or take action that is unreasonable, oppressive, unfairly prejudicial to or discriminatory against an owner or occupier.

The policy behind setting clear objectives for the strata company was to make strata better by improving the management of the strata company. These objectives aim to achieve this by requiring strata companies to take a more “whole of scheme” approach to decision making that considers more than just financial implications and the “will of the majority” when performing its functions.

4.8 Consultation focus

- Has the inclusion of the strata company objectives been useful to strata council members or lot owners in making decisions for the benefit of the scheme?
- Are there other objectives or matters that the strata company should take into account?

4.9 A safe place to work and live

Strata titles schemes should be a safe place where people can live and work without the fear of harassment and abuse.

However, feedback indicates that bullying and harassment within strata titles schemes is rising in Western Australia across key groups, such as strata managers, owners and occupiers.

For example, industry representatives have reported that strata managers are experiencing increasing levels of bullying and harassment from strata companies, lot owners and occupiers.

This bullying and harassment includes:

- Written and verbal abuse
- Intimidation or threats of physical violence

- Making demands for services that are of a nature or scale that cannot be provided under the strata management contract
- Demanding services or outcomes in a timeframe that is not provided for under the strata management contract
- Inundating strata managers with phone calls, visits, and emails
- Contacting strata managers outside of business hours with non-urgent requests or when the strata manager is not 'on-call' and another contact is more appropriate.

Strata managers have a right to undertake their role in a safe, harassment free environment. They should also be able to disconnect from their work outside of the agreed contact arrangements and hours set out in the strata management contract.

Abuse and harassment within schemes is not limited to strata managers. Landgate has also received feedback that lot owners and occupiers, council members as well as tradespeople, service providers, and scheme creditors and debtors, are all being subjected to increasing levels of bullying and harassment. The source of this behaviour varies, but includes lot owners and occupiers, council members, and strata managers. Reports include verbal abuse, threats and intimidation, and withholding of payment for work completed.

Anyone who lives in, helps to manage, or provides goods and services to schemes should be able to do so without harassment and bullying.

The Strata Act does not directly deal with the issue of harassment or bullying within or connected to the management of schemes. These issues are typically dealt with through by-laws or other laws where the harassment or bullying is severe. The Schedule 2 Conduct by-laws in the Strata Act include a by-law requiring an owner or occupier of a lot to “not use language or behave in a manner likely to cause offence or embarrassment” to other lot owners or occupiers or anyone else lawfully using common property. These by-laws also require lot owners and occupiers not “to use a lot for a purpose that may be illegal or injurious to the reputation of the building”.

It is not clear whether these by-laws extend to all bullying and harassing behaviours and whether they apply to dealings with strata managers and people providing goods and services to a scheme. In addition, these by-laws will not apply where schemes have made and registered their own by-laws.

The 2020 amendments to the Strata Act introduced clear provisions that by-laws are invalid to the extent that, they are:

- unfairly prejudicial to one or more of the owners,
- unfairly discriminatory against one or more of the owners, or
- are oppressive or unreasonable.

These provisions are applied having regard to the interests of all the lot owners in the strata titles scheme in the use and enjoyment of their lots and the common property in the scheme. However, it is not clear if a by-law introduced to manage harassing or bullying behaviour of one or a small number of lot owners in a scheme would make a by-law invalid under these provisions.

Information received by Landgate suggests that one of the main reasons people are reluctant to buy or live in a strata titles scheme is due to the potential for conflict with other scheme participants. Making strata titles schemes a more harmonious environment will make them

more attractive places to live and work. This will also help towards the Government achieving its goals around infill and medium density development.

Harassment and bullying often occurs in an environment of low trust, which has seen requests to inspect strata company records increase. The strata manager is often contracted to record and store strata company records on behalf of the strata company.

Requests to inspect strata company records is regulated under section 109 of the Strata Act and the Regulations set maximum fees that can be charged for services related to inspecting records. One fee was fixed at the low amount of \$1 for a person who has a proper interest in information about a strata titles scheme to encourage lot participants to be active in their scheme's management by accessing relevant scheme records.

However, Landgate has received advice from industry that the low fee charged to inspect materials is being used to harass and waste the time of strata managers. In these scenarios, lot owners are inspecting materials many times a year when there may have been no material change to these documents since their last inspection. Reports have also been received that lot owners are arranging these inspections only to leave after a short time without meaningfully inspecting the documentation provided.

The time taken by the strata manager to arrange an appointment to inspect the records, make copies available and answer any questions or action enquiries, for frequent similar requests is inconsistent with the policy objective of setting a low fee for records inspection. Whilst the fee set for the inspection of these materials is only \$1, the cost of unnecessary frequent inspections of documents is ultimately passed on to the strata company through higher fees.

Transparency and ease of access to strata company records is clearly important, however there may be a need to better balance this transparency with the real cost of providing these documents.

In NSW an hourly rate approach is taken to the inspection of strata rolls where lot owners are charged \$31 for the first half hour and \$16 for each extra half-hour that it takes to prepare the roll. Another approach could be to charge an increasing amount for every inspection within a 12-month period.

4.9 Consultation focus

- Should the Strata Act include specific provisions dealing with the bullying and harassment of scheme participants and the people who provide goods and services to schemes?
- Should there be specific provisions in the Strata Act, or possibly the by-laws, requiring strata companies, lot owners, and lot occupants to provide a safe and healthy environment?
- What would be a reasonable fixed amount for inspecting records, particularly noting that the cost of recovering and invoicing for \$1 is not viable?
- Should a different approach be taken to charging for the inspection of materials such as an hourly rate or a fee that increases where requests reach a regulated threshold of frequency?

4.10 Dispute resolution and general strata advice

The reforms to the Strata Act expanded the Tribunal's jurisdiction to facilitate making it a one-stop-shop for strata disputes (except for debt recovery). The policy objective was to make strata better by providing the Tribunal with the powers to resolve strata disputes more quickly, cheaply, and effectively.

There is some evidence that this policy objective has been met. The Tribunal is typically a cheaper jurisdiction to commence and carry out an action in than the District or Supreme Court. The Tribunal also offers a mediation service to help parties resolve a dispute before it goes to a hearing.

The Tribunal is less formal than a court. Its procedures are flexible, and it allows parties to represent themselves or be represented by a person with relevant experience, potentially saving on legal costs (noting that representation by a lawyer is also allowed).

The Tribunal's objectives include to:

- make the correct or preferable decision based on the merits of each application
- act as speedily and with as little formality and technicality as is practicable
- minimise the costs to parties.

However, Landgate has also received feedback from lot owners that some strata disputes are not being resolved quickly or cheaply. The \$146.50 application fee to have the Tribunal resolve a scheme dispute is sometimes cited as being cost prohibitive. In addition, strata companies or lot owners will often engage a lawyer to provide legal advice and represent them at the Tribunal. These costs can run into the thousands of dollars.

There is also a potential power imbalance where a lot owner has a dispute with their strata company. The strata company may have access to the scheme's administrative funds to engage legal representation, however the lot owner may not have comparable resources to engage legal advice. In these situations, the lot owner's contributions are potentially being used to obtain legal advice against their own interests.

A Tribunal style body that is empowered to resolve strata disputes is common in other jurisdictions. However, some jurisdictions also have alternative dispute resolution processes where the Tribunal is considered a last resort. NSW Fair Trading offers a [free mediation service](#) for disputes governed by strata law. The [Dispute Settlement Centre of Victoria](#) also offers assistance to strata lot owners, tenants, and managers who have a strata dispute.

Alternative dispute resolution processes are also offered by other areas of government. DEMIRS Consumer Protection division has a [complaint](#) process and may try to [conciliate](#) on a consumer's behalf. These services are similar to those offered through the NSW Fair Trading.

Supporting the resolution of strata disputes, is the need for strata scheme participants to access advice about strata matters. Landgate fields thousands of strata enquiries each year but is only able to provide advice that is of a general nature. Landgate is unable to provide specific advice on an issue that a lot owner may be encountering with their scheme.

The Strata Act doesn't include a legislative requirement for a strata advice service. However, based on the number of queries and the feedback that Landgate receives, there may be a need for such a service.

4.10 Consultation focus

- Has the introduction of the Tribunal as a one-stop-shop for strata disputes been effective in resolving disputes more quickly, cheaply, and effectively?
- Is there value in introducing to the Strata Act an alternative, low-cost dispute resolution pathway, with prescribed timelines?
- Would there be value in adding a dispute resolution by-law to the Strata Act?
- Should there be a legislated strata advice service for lot owners, tenants, strata companies, and strata managers?

4.11 Building manuals

Building manuals are the documents that contain all key information about a building, including the Health and Safety File and Fire Safety Information, which are regulatory requirements. Building manuals are important to strata companies as they set out how these critical systems work and their maintenance requirements.

Building maintenance is difficult where the strata company does not have building manuals and they may incur additional costs to determine requirements before any maintenance can start.

The Strata Act includes an obligation for the scheme developer to collect, control, and retain key documents for a scheme to be handed over to the strata company at its first AGM or as soon as possible after the AGM. However, building manuals are not included in the definition of a key document and therefore there is no obligation for the scheme developer to collect and hand over these documents.

Should there be an obligation on the builder/developer to provide at the first AGM a manual (written or electronic) setting out the ongoing operation and maintenance of all plant, equipment and infrastructure within the scheme? Once provided at the AGM the strata company is then responsible for updating and maintaining the manual for the life of the scheme.

4.11 Consultation focus

- Should there be an obligation for the scheme developer to collect, control, and retain building manuals to be handed over to the strata company at its first AGM or as soon as possible after the AGM?

Section 5

Strata manager practice and standards

Review theme three

5.1 Introduction

Professional and volunteer strata managers are an important part of WA's strata titles framework, supporting thousands of strata companies to manage their day-to-day operations and compliance obligations. As the number of people in strata living continues to grow in Western Australia, so will the need for a strata management industry that is equipped to meet this increase in demand and an increasingly complex environment.

Data gathered by Landgate in January 2024 through the strata manager annual returns process indicates there are over 600 strata industry professionals in Western Australia who collectively manage over 144,000 lots, across more than 9,700 schemes. Equivalent information is not available on the volume of volunteer strata managers as they are not required to complete an annual return.

This data supports estimates that between 5.5% and 11% of Western Australia's population relies on a professional strata manager to resolve issues that relate to their residential strata property (or in some cases, their business, with commercial strata lots comprising a small portion of this number).

'Dissatisfaction with strata manager' is the most common area of complaint received by Landgate from WA strata owners. Given the frontline role that a strata manager typically holds in a scheme - as the first point of contact for a range of issues - that is not entirely unexpected.

However, the financial scale of this industry, its growth, and the frequency of disputes and complaints between strata lot owners, strata companies and their strata managers, compels the Government to use this review to further explore community and industry expectations around the important role of strata managers.

5.2 Changes within the industry

It is recognised that strata management in WA is an increasingly complex field and this complexity challenges individuals in the strata management industry to be skilled across many different professional and management services. Strata managers are increasingly dealing with complex matters such as:

- the development of more high-rise schemes (complicated by varying degrees of building quality)
- triaging building maintenance

- retrofitting sustainability and electrical infrastructure in older schemes
- conflict management between strata lot owners
- management and governance of strata scheme meetings
- collection of contributions for administrative and reserve funds
- the accounting requirements for strata company funds
- extensive laws for building and fire safety and occupational health and safety.

These issues are arising against a backdrop of:

- high staff turnover in the industry
- challenges attracting and retaining employees with the necessary skills and industry knowledge
- strata companies looking to save costs.

Landgate acknowledges that these issues and challenges make it difficult for strata managers to ensure their services are meeting customer expectations. The 2020 amendments to the Strata Act aimed to address this to an extent by imposing additional duties on strata managers and introducing educational qualification requirements.

The Amendment Act imposed on strata managers requirements to act in the best interests of the strata company. Under these obligations strata managers must:

- act honestly and in good faith
- disclose to the strata company any conflict of interest or commission received
- exercise a reasonable degree of skill, care and diligence
- have a good working knowledge of the Strata Act
- have specified educational qualifications
- provide a current police clearance
- have professional indemnity insurance coverage
- not make improper use of information acquired as the strata manager to gain an advantage for themselves or someone else, or cause a detriment to the strata company
- not make improper use of their position as strata manager to gain an advantage for themselves or someone else, or cause a detriment to the strata company
- have a written contract with the strata company
- hold the strata company's money in a trust account that can be audited.

The educational qualification requirements introduced by the Amendment Act are based around the Certificate IV in Strata Community Management (Certificate IV). The qualifications are aimed at improving the knowledge of strata managers in some of the identified challenge areas. However, national changes to the Certificate IV have meant the full implementation of these educational requirements could not be achieved within the five year statutory review period. Extending the transitional arrangements for the education requirements was necessary because the strata company may terminate the strata management contract by giving notice to the strata manager of the breach of statutory duties (not having specified education qualifications). For a period in WA there was no registered training organisation to deliver the Certificate IV (since February 2024 an organisation has commenced offering such training).

These duties and educational qualification requirements are enforced by the strata company through the strata management contract. The strata manager must warrant certain requirements to the strata company through the strata management contract in addition to their statutory obligations. The strata company has a statutory right to terminate the strata management contract, by giving notice, if the strata manager breaches the statutory duties/requirements or the contract.

The State Administrative Tribunal (the Tribunal) is empowered to resolve disputes between a strata manager, or former strata manager, and the strata company about:

- a strata management contract
- the role of the strata manager under the Strata Act
- the performance of, or the failure to perform, a function conferred or imposed on the strata manager.

The Tribunal can also order a strata manager to pay compensation to a strata company if a strata manager breaches a statutory duty or contract and causes the strata company to suffer a loss.

5.2 Consultation focus

- How can the Strata Act nurture a more skilled and professional strata management industry to deal with the spectrum of strata governance and community living issues?
- Is the strata management contract and imposition of statutory duties on the strata manager an effective way to regulate strata managers?
- Is the Tribunal working as an effective mechanism to address strata manager disputes?

5.3 Trust accounts and licensing requirements

Through the strata manager annual returns, it is now known that over 400 million dollars are held in trust accounts on behalf of strata companies by strata managers in WA. This is a significant amount of money to sit in trust but also these funds are important to strata companies. This is the money set aside by strata companies to keep their scheme in good condition and continue to enjoy its amenities into the future.

The Strata Act includes protection of strata company funds from a court order or process instigated by a creditor of the strata manager. It also includes some limited controls and requirements around the management of strata company funds held by strata managers.

These include requirements for:

- funds to be paid into an authorised deposit-taking institution (ADI) account
- the strata manager must be able to account separately for money received
- the money paid into a trust account not to be used to pay creditors of the strata manager
- the strata manager to provide accounting information on request of the strata company
- the strata manager to cooperate with auditors.

There is no broader audit requirement in the Strata Act for strata company funds held by strata managers regardless of the size of the scheme or the amount of money held in trust. There are also no further protections for strata company funds other than the protection from creditors of the strata manager.

Currently there is no registration or licensing requirements for strata managers in WA. As set out above, the Amendment Act introduced additional regulation around requirements for strata managers however this is managed through the strata management contract and is not subject to government oversight (other than dispute resolution through the Tribunal).

Given the financial scale of the strata management industry, the recent media attention of strata managers in NSW³, and the frequency of disputes and complaints between strata lot owners, strata companies and their strata managers, there is a strong imperative for the Government to use this review to further explore community expectations around the role of strata managers.

5.3 Consultation focus

- Should there be further protection under the Act for strata company funds held in authorised deposit-taking institutions accounts of strata managers?
- To what extent would a licensing or registration system for strata managers help meet the policy goal of a more skilled and professional strata management industry?

5.4 Conflict of interest and disclosures

The ethical conduct of strata managers and the businesses that provide services to strata titles schemes received media coverage in March/April 2024 and September 2024. This was led by ABC's 7:30 Report⁴ and Four Corners⁵ investigations focusing on excessive commissions and kickbacks, scheme governance failings, and undeclared conflicts of interest and disclosures around a company providing services to strata titles schemes. Media reporting has primarily been on NSW activity, with no reporting on any unethical conduct of strata managers in Western Australia at the time of this discussion paper.

A major issue highlighted in the NSW-focused media reporting is that “conflict of interest is permitted in strata law”. While this is correct in NSW and in WA, the focus of WA's Strata Act is not to prohibit conflict of interest but to oblige strata managers to be alert to conflicts (and other remuneration) and to disclose them. Disclosure enables conflicts to be managed by the strata company and strata manager.

The Strata Act seeks to regulate a strata manager's duty to disclose conflicts and remuneration by making a breach of that duty a ground for terminating the strata management contract. Breach of duty can also be the basis of a dispute between the strata company and strata manager in the Tribunal. The Tribunal can order (among other things) the strata

³ The [ABC launched an investigation](#) on 21 March 2024 calling on apartment owners, body corporates, strata managers and regulators to help the ABC uncover what is happening with strata across Australia.

⁴ The ABC 7:30 Report segment on [excessive fees and kickbacks](#) was broadcast on 21 March 2024.

⁵ The Four Corners report '[The Strata Trap](#)' was broadcast on 9 September 2024.

manager to pay the amount of remuneration or benefit that wasn't disclosed to the strata company.

In practice it is difficult for the strata council and lot owners to be aware of conflicts of interest and to call these out at meetings of the strata company as they do not have access to all of the strata manager's business dealings. The lot owners interviewed by the ABC who became aware of conflicts of interest were working in professions that enabled them to easily see cost anomalies and investigate further. This is another reason why it may be beneficial to create a tiered approach to scheme governance for strata councils, requiring greater expertise, governance and accountability of councils commensurate with the number of lots to be managed in the strata scheme.

The duty to disclose conflict of interest is on the strata manager - however, there may be conflicts of interest that arise where the strata manager uses the services of a third party. For example, insurance brokers are frequently used by strata managers to find the best insurance for the strata schemes they manage. Strata managers report that when they make their disclosures around insurance, they cannot include information about the insurance broker as there is no requirement for them to disclose this.

5.4 Consultation focus

- Would clearer obligations around what the strata manager should disclose be useful, such as a clear obligation to list any interest in other services e.g. cleaning?
- Should third parties, such as insurance brokers, also have a duty to disclose conflicts of interest? What mechanisms could be used to enforce such obligations?

5.5 Strata manager definition / authorisation to perform scheme functions

Recent Tribunal decisions⁶ have highlighted the difficulty of the Strata Act's definition of strata manager and the nature of the authorisation by a strata company to the strata manager to perform scheme functions. This has highlighted a potential issue around how this authorisation operates under contract.

Part 9 of the Strata Act regulates the roles and responsibilities of strata managers, including the minimum requirements of a strata management contract with the strata company. The nature of the relationship between the strata manager and the strata company is a business contract. The strata manager is contracted to undertake functions that the strata company has authorised them to perform and must always perform those functions in the best interests of the strata company.

The Strata Act assumes that where a strata management contract authorises a strata manager to undertake certain functions on behalf of the strata company, the strata manager is carrying out these functions without seeking further direction from the strata company.

⁶ The Owners of Broome Beach Resort Strata Scheme 32190 and Waydanette Pty Ltd [2022] WASAT 56 and The Owners of Footprints at Preston Beach Survey Strata Plan 52193 and Litech Resorts Pty Ltd [2023] WASAT 111.

However, Landgate understands that not all strata management contracts are structured in this way and not all strata managers operate in this manner.

Feedback received by Landgate indicates that many strata management contracts are drafted in a way that the strata manager must seek authorisation from the strata company before carrying out a function. As such, it is not clear if these contracts are strata management contracts for the purposes of the Strata Act. That is to say that strata managers are carrying out scheme functions but the authorisation to do so is coming directly from the strata company rather than through the provisions of the strata management contract.

In addition to strata management services, a strata company may also directly contract with cleaning services, building maintenance services or gardening services. Such services may be organised via the strata manager, including tendering, contract development and ongoing management. The Strata Act provides that if a strata company, council, or officer performs a scheme function it must notify the strata manager authorised to perform the function of that fact.

If a person other than the strata manager is authorised by the strata company, council, or officer to perform a function on behalf of the scheme, there is ambiguity as to whether that person meets the definition of a strata manager under the Strata Act. If they are a scheme manager for the purposes of the Strata Act, they will be expected to meet the duties, contractual, and education requirements expected of this role.

The intention of the Strata Act is not to capture within the definition of a strata manager all the people that carry out work on behalf of a strata company. To this end, the Regulations include an exclusion that sets out that repair or maintenance work and specialist work are not scheme functions. However, there is ambiguity around the definition and role of a strata manager in the Strata Act that does not make it clear where someone is a strata manager or just a person undertaking repairs to common property.

5.5 Consultation focus

- Does the definition of a strata manager in the Strata Act need to be amended to provide further clarity around the role of the strata manager and their relationship with the strata company?
- Do the provisions in the Strata Act around the strata management contract need to be amended so that they better reflect industry practice (e.g. capture where a strata manager is authorised to undertake scheme functions and where they seek authorisation before undertaking a scheme function)?
- Should the Strata Act limit the role of strata manager to administrative management functions in order to distinguish property management and building management activities as other states do?

5.6 Strata manager annual returns

Section 153 of the Strata Act requires a strata manager to lodge a periodic return (annual return) at Landgate containing aggregated information about strata titles schemes managed by the strata manager. The lodgement of an annual return is a new requirement introduced in 2020 through the Amendment Act. The objective of collecting this information, including publishing the list of strata managers that have completed their annual return, is to assist the development of policy and advice to government on matters related to strata managers.

Since 2021 data from three periodic annual returns has been received and feedback from the industry is that the information has been very useful. The information collected by the periodic return includes:

- The total number of strata titles schemes for which the strata manager provides services as a strata manager, divided into the following categories:
 - small schemes, being strata titles schemes with less than 6 lots
 - medium schemes, being strata titles schemes with more than 5 lots and less than 21 lots
 - large schemes, being strata titles schemes with more than 20 lots and less than 51 lots
 - very large schemes, being strata titles schemes with more than 50 lots.
- The total number of lots in each of those categories
- An estimate of the total amount of money held by the strata manager on behalf of all those strata titles schemes under section 148
- A general description of the types of services the strata manager provides in respect of strata titles schemes.

The annual return is currently a temporary requirement with the last return due to be lodged for 2025 (deadline for lodgement is 31 March 2026). Extending the requirement to lodge a return or amending the information collected would require regulatory change. However, if there is an ongoing need for the annual return and interest in the information collected through these returns, the annual return could be made an annual requirement through an amendment to the Strata Act.

5.6 Consultation focus

- Is there a value in extending the requirement for strata managers to complete an annual return beyond the 2025 reporting period?
- If so, what additional information could be collected from strata managers that would be useful for Government and the industry?

Visit [Landgate's website](#) to learn more about this State Government legislative review and opportunities to provide feedback.

