

1st March 2019

Submission via stratatitlesactreform@landgate.wa.gov.au

Re: Feedback in response to the Management and Seller Disclosure Discussion Paper

On behalf of the Surveying and Spatial Sciences Institute (SSSI), I would like to thank you for the opportunity to comment on the **Management and Seller Disclosure Discussion Paper**. Additionally, I would like to thank you for the extension to the feedback due date.

The SSSI is Australia's peak body representing the interests of surveying and spatial science professionals, combining the disciplines of land surveying, engineering & mining surveying, cartography, hydrography, remote sensing and spatial information science.

SSSI members raised the following comments on various areas of the discussion paper.

Volunteer strata manager: maximum amount for honorarium: section 3

1. Licensed Surveyors do not really get involved in the day to day functions of a Strata Corporation, so It is difficult to provide comment in relation to the amount of honorarium a volunteer strata manager should be allowed to receive, above which they are regarded as a professional strata manager. In SSSI's opinion, this amount will vary depending in the size and number of strata units in the scheme
2. As per above, the amount received and if it is yearly or an amount calculated according to the number of lots within the scheme is difficult to comment on as Licensed Surveys are not involved in this ongoing part of a Strata Scheme.

Categorisation of by-laws – conduct or governance by-laws: section 44

1. Similarly, the matters relating to the Scheme by-laws dealing with conduct and governance are not a day to day function that Licensed Surveyors are involved in. Based on the two options provided, SSSI believes option two appears to be the most suitable as it includes the lodgement of a consolidated set of the scheme by-laws.

2. As Licensed Surveyors are not involved in the creation or amendment of scheme by-laws, they are unable to provide comments on what more should be provided within the regulations in relation to by-laws

Enforcement of scheme by-laws: section 47

Again, Licensed Surveyors do not get involved in the ongoing functions of running a strata scheme and applying the by-laws for a contravention, so it is not appropriate for them to comment on the explanation to be provided within a notice given about section 47 and the enforcement, nor what the maximum amount for a penalty imposed by SAT for a contravention of a scheme by-law should be or a maximum daily penalty and the category / class / type. Input for this should be from other professions such as lawyers and possibly professional strata management companies that have had experience in how this has been previously dealt with.

10-year (reserve fund) plan: section 100

Similar to above, Licensed Surveyors do not get involved in the running of Strata Schemes, however the provision for a 10-year (reserve fund) plan should be mandatory and the details of what information should be included with the 10-year plan should be provided by professionals that manage strata schemes. SSSI believes the regulations should provide for the preparation of the 10-year plan by a professional, as a lot of owners that buy into strata schemes do not have the knowledge of what is required to forward plan for such maintenance requirements in the future. As to the minimum number of lots, it should be a requirement that if the scheme involves any form of common property, then a plan should be prepared. Also, the pro forma 10-year maintenance plan similar to the owner's corporation maintenance plan provided in Appendix 1 should be included within the regulations for strata companies to use.

Unpaid contributions – interest payable: section 100

Again, Licensed Surveyors are not involved in this ongoing process to run a strata scheme, so these question regarding what interest rate should be applied or an alternative interest rate suggested is best left to professional strata management companies. SSSI believes the interest rate needs to be set higher than current mortgage or money borrowing rates, so it remains a deterrent for owners not to default on paying their contribution fees.

Designated strata company: section 100

This is best left to professional strata management companies to answer, but it would seem logical that this applies to any scheme that has common property that needs to be maintained and possibly replaced.

Records and correspondence: section 104

Best left to professionals that manage records and correspondence for strata schemes. Based on the current retention period requirements under the STGR, it appears that these have been set and adopted up to now, so should be either maintained or in some cases increased if required.

Application by person with proper interest in information: section 107

The current section 107 provisions appear to be suitable to carry forward and the inclusion of a owner of a leasehold scheme to be included as a person who may apply for information is applicable in my opinion. In regards to the applicable fee amounts to be charged, these should be advised by professional strata management companies that already deal with this requirement on current schemes and advise if the current fees are sufficient to cover the actual cost of providing this information.

Inspection of Material: section 109

As per above

Voting by proxy: section 124

As per above comments, Licensed Surveyors are not involved in the running of strata schemes, but SSSI agree with concerns raised by stakeholders that a limit needs to be established for strata managers in relation to appointment as proxy.

Authorisation of functions of strata manager: section 143

Not able to comment as Licensed Surveyors are not involved in the running of Strata Schemes

Requirements to be met by a strata manager: section 144

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management.

Strata management contract: minimum requirements: section 145

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management.

Disclosure of remuneration and other benefits: section 147

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management. It was noted by SSSI members who are owners within an existing strata scheme, there needs to be disclosure from a strata manager in some form, as they tend to only get quotes from one or two preferred contractors which may be significantly higher than market value. Similarly, some receive commission for arranging for insurance policies and renewals. It may be worthwhile that some obtain multiple quotations for approval and acceptance by the owners of the scheme, before being approved.

Provision of information about industry: section 153

As above, the Strata Management Industry needs to be regulated in some form as per what is proposed in the discussion paper. It would most probably be best to obtain feedback from the current professional strata managers and lawyers that are currently involved in the industry to gauge what they feel are appropriate conditions to be imposed on the industry.

Protection of buyers: Pre-contractual information: section 156

This discussion matter is best dealt with by conveyancers and lawyers / solicitors that are involved in the sales process to ensure that buyers are fully protected

Protection of buyers: Notifiable variation: section 157

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this sales process. Best answered by conveyancers, lawyers etc

Insurable asset: section 3(1)

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management.

Key documents for a subdivision of land: section 3(1)

As Licensed Surveyors are involved in the preparation and collation of some of the current key documents required, and the question of including additional documents such as a list of building defects and contracts for the construction of buildings and improvements on the parcel seem to be reasonable, especially since the developer may not be will to continue to be involved to assist in rectification of ongoing defects once they have sold all units within the scheme, or no longer exist if they have gone into liquidation.

Type 1 & 2 notifiable variations: section 3(1)

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this sales process. Best answered by conveyancers, lawyers etc

Common property (utility and sustainability infrastructure) easement: section 64

From a Licensed Surveyors perspective, the more information, such as sketches showing the extent of the easement or location of utilities and sustainable infrastructure) that are required to be included the better. Licensed Surveyors are often asked to provide advice in relation to services and easements etc, which can be difficult if this additional location information / sketches are not available. As to the terms and conditions to be implied these should be as per other current easement requirements for freehold land. The provisions of the regulations for the rights an obligation of the strata company and infrastructure owner appear to be fair detailed and SSSI does not believe any other provisions should be included.

Budget: section 102

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management.

Investing money from the administrative or reserve fund: section 116

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management. Best left to professional strata managers and possibly also lawyers / solicitors.

Voting: section 120, 121

Noted, but not able to provide any comments or answers as Licensed Surveyors are not involved in this ongoing function of a Strata Scheme management.

Once again, thank you for the opportunity to comment. If you require any further feedback, please do not hesitate to contact me on 0415 428 109 or email rom.wa@sssi.org.au

Sincerely

Aaron Gibson
SSSI WA Land Surveying Commission Chair