

14<sup>th</sup> February, 2019

Submission via [stratatitlesactreform@landgate.wa.gov.au](mailto:stratatitlesactreform@landgate.wa.gov.au)

**Re: Feedback in response to Leasehold Schemes: Strata Titles Regulations 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 **Leasehold Schemes: Strata Titles Regulations 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.

In summary, the SSSI Land Surveying Commission in Western Australia does not believe there is anything significant within the Leasehold discussion paper that would impact the work of Licenced surveyors.

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

**Section 1.3 - Expiry day for leasehold scheme:**

1. The class of original proprietor that may create a leasehold scheme with an expiry day that is less than 20 years after registration of the scheme is obviously designed to only be for specific State Government Agencies for shorter registered durations - some private proprietors that have commercial, retail or even residential developments may also wish to be included in having the ability to have shorter leasehold scheme durations.
2. It would be recommended that the minimum period for the life of a Leasehold scheme is based on similar minimum terms for registration of lease on Certificates of Titles under the Transfer of Land Act &/or the Property Law Act. The TLA provides for registration of a lease exceeding three (3) years for freehold. Tenants (lessee's) are protected under Section 68 of the TLA where terms do not exceed 5 years, but do not provide protection to them for options to renew or extend the lease unless it is registered or protected by caveat. In saying this, there are no current mandatory requirements in WA regarding the registration of leases. Current recommendations are that leases which exceed 5 years should be registered, so this may be a good minimum period to adopt under the Strata Titles Regulations for Leasehold Schemes.

**Section 1.4 - Leasehold by-laws:**

1. Compensation for improvements to the lot – Noted but not applicable to Licensed Surveyors. If they have not already been consulted this would be the purview of the Licensed Valuers who may be called upon to assist in determination of compensation.
2. Payment of amount for postponement of expiry day – Similar to above, noted but not applicable to Licensed Surveyors.

**Section 1.5 - Strata Leases:**

1. At this point SSSI is aware of other provisions in any written law that Section 49(2) should provide as not applying to Strata Leases – this is not to say that there may be other current legislation which may affect Strata Leases

**Section 1.6 - Limitations on powers of owner of a leasehold scheme:**

1. Like Section 1.3, the class of person / proprietor appears to only apply to State Government Agencies. Could this also be applicable to private proprietors?
2. In our opinion, dealings that currently require the consent of the designated owner of a normal Strata Scheme should also be applied to Leasehold Schemes
3. Similarly, the restrictions on dealings with the lot to be notified should also be the same as is proposed for a Strata Scheme

**Section 1.7 - Consent and form of a strata lease:**

1. As this section deals with the conditions / provisions applicable to Leasehold Schemes they have been noted, but relate more to Lawyers and Scheme Management entities (Body Corporations) managing the Scheme By-Laws

**Section 1.8 - Amendment of a strata lease:**

1. The amendment examples provided in the discussion paper seem reasonable to be permitted.

As previously mentioned, the majority of the Leasehold Scheme discussion paper does not really have any major impact on Licensed Surveyors, so the above feedback is merely opinions / observations from our members as to which associated professions may be more duly affected or have an interest in what is being proposed in terms of the amendments proposed to the Strata Title Regulations as they relate to Leasehold Schemes.

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](mailto:rom.wa@sssi.org.au)

Sincerely

Aaron Gibson  
SSSI WA Land Surveying Commission Chair