

29 July 2019

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Via email: StrataTitlesActReform@landgate.wa.gov.au

Dear Sean

Draft Strata Titles (General) Regulations 2019: Management

Thank you for the opportunity to review and provide feedback on the Draft Strata Title Regulations 2019 - Management. The Urban Development Institute of Australia (UDIA) WA is the peak body representing the property development industry in Western Australia. UDIA is a membership based organisation with members drawn from the residential, commercial and industrial property development sectors. UDIA members include both private and public sector organisations. Our industry represents approximately 12.7% of Western Australia's Gross State Product, contributing \$31.7 billion annually to the Western Australian economy and \$264.98 billion nationally. As well as helping to create sustainable and liveable communities, the industry employs a total of 215,100 Western Australians and 2.044 million Australians across the country.

The UDIA wishes to reiterate our support for the strata title reform process. The adoption of the Draft Regulations is vital to ensuring that development is able to respond to the emerging needs of our communities and satisfying the State Government's future development objectives and in particular, supporting its infill development agenda. With regards to Parts 8, 10, 11, 12 and Schedules 2, 5 and 6 of the draft Regulations, for which feedback is sought, the Institute provides the following comments:

Part 10 — Common property (utility and sustainability infrastructure) easements

r. 52 Obligations of infrastructure owner

The Institute queries the rationale for 52(3) and queries why obligations to make good common property at the end of the contract aren't included, or is this to avoid instances where the strata company may be looking to renew or replace and avoid positive obligations on behalf of the infrastructure owner? The Institute would welcome clarity on this item and suggests that the regulation be amended to include 'removal and make good' provisions. i.e. at the end of the arrangement the infrastructure needs to be removed and the common property made good.

Part 11 — Strata companies

r. 57 Requirement to have 10 year plan

Further clarity regarding the requirements and contents of the 10 year plan is needed. The Institute queries why 57(1)(f) excludes routine maintenance, as this directly related to the potential lifespan of common property infrastructure, and whether a statement of routine maintenance, or similar be required?

r. 60 Expenditure on common property requiring special resolution

r. 61 Budget variations that are authorised

The expenditure requiring special resolution is very low and the Institute suggests that this should be tied to a percentage of the total value of the building or strata budget. Strata budgets are now commonly exceeding \$1M so to potentially require special resolution when the monetary value of expenditure is a very small percentage of the total budget or asset value, is cumbersome and inefficient. UDIA suggests that a more effective approach would be to use a combination of the percentage of total value, and cost to individual lots, using whichever is the greater, dollars or percentage cost, to cater for both smaller scheme and larger schemes.

Part 12 Strata managers

70. Voting by proxy

The Institute queries why strata managers cannot be appointed as proxy for more than 25% of the number of lots within a scheme. This contravenes current practice in which proxy votes are encouraged.

78. Strata manager must obtain professional indemnity insurance

UDIA queries whether the level of professional indemnity insurance is sufficient and suggests that this should be increased to reflect the increasing size and complexity of strata schemes, including multi-staged schemes. The Institute suggests that consideration should be given to adopting a scale-based approach based on the size of the strata scheme. The Institute also queries the absence of Public Liability cover.

79. Disclosure of commission

UDIA supports full disclosure of all commissions and commercial relationships. By their very nature, commissions influence strata managers in recommending that work and services be undertaken, or not, and also in awarding, or proposing that work/services to be undertaken by certain bodies. The Institute would also support declarations of any relationships between a developer and strata manager.

Schedule 2 — Explanation of effect of section 47

The Institute queries whether the \$2,000 maximum penalty that the Tribunal can impose provides a sufficient deterrent to prevent the contravention of scheme by-laws. The Institute queries whether the maximum penalty is the same for individuals as it is for companies?

In addition to the comments relating to the Parts 8, 11, 12 and Schedules 2, 5 and 6 of the draft Regulations, UDIA offers the following feedback concerning the broader draft regulations.

Regulation	Comment
8	UDIA queries why open space is being incorporated into the Regulations and whether this is to allow for the shared provision of POS? The Institute queries whether this needs some further definition around private versus public open space.
25	Clarity is needed regarding what constitutes unimpeded access for light and air easements? E.g. No overshadowing in the case of light or a setback of 1m for air?
37	Significant variations – whilst this refers to no increase in floor levels, it is noted that clause 13 (4) refers to a scheme plan that may create “a lot as a cubic space lot”. As such, it is queried whether there can be a mechanism whereby a developer sets out the cubic space of future stages/lots that indicates the potential building massing rather than floors and how this would relate to the requirements of r. 37.
39	The Institute queries whether the individual dispute process against determinations should be formalised through the Strata Company, noting this is potentially relevant to several areas.
84	It is not clear whether a relationship between the developer and service provider should be included in the notifiable variation, contract summary 84(3). To assist with transparency, the Institute would support such declarations.

Should Landgate require any assistance or further information regarding this matter, the UDIA would be delighted to assist. Should any further information be required in relation to the comments above, please contact Chris Green, Director Policy and Research at cgreen@udiawa.com.au or 9215 3400.

Yours sincerely



Tanya Steinbeck
Chief Executive Officer