

17 February 2020

Kelly Whitfield
Strata Titles Act Reform
Landgate
1 Midland Square, Midland WA 6056

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

Dear Kelly,

Strata Titles (General) Regulations 2019: Draft Disclosure Statement

Thank you for the opportunity to provide feedback on the Consultation draft of the *Strata Titles (General) Regulations 2019, Draft Disclosure Statement*. 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.

General Comment

UDIA appreciates the intent to streamline and consolidate the existing Form 28 and Form 29 into a single disclosure form, however the Institute suggests that 'off the plan' and established strata schemes should have their documents to ensure that the information provided remains pertinent as the two forms of scheme are substantially different. If this is not supported, the Institute suggests that the disclosure should have clearer separation in terms of what is and is not required rather than confusingly interspersed.

Despite the attempt to streamline the documentation, page 3 of the draft Disclosure Statement includes a list of what is referred to as "Other information" that needs to be disclosed to a buyer by every seller (not just a developer / original owner) prior to the buyer entering into a contract. The failure to disclose this information gives rise to an avoidance right. The list of pre-contractual information that needs to be disclosed under section 156 of the New Act by every seller is already excessive.

- Insurance: This should not be an item that needs to be disclosed by a seller under section 156 of the New Act. This requirement is onerous and is not a requirement specified in the New Act or the Regulations. Buyers have the option to obtain this and other information by requesting a section 43 certificate (which will become a section 110(1) certificate under the New Act).

- The 10 year plan for the reserve fund: This should not be an item that needs to be disclosed by a seller under section 156 of the New Act. This requirement is onerous and is not a requirement specified in the New Act or the Regulations. Buyers have the option of inspecting the 10 year plan through an application made under sections 107 and 109 of the New Act (formerly section 43).
- Litigation: This should not be an item that needs to be disclosed by a seller under section 156 of the New Act. This requirement is onerous and is not a requirement specified in the New Act or the Regulations. Buyers have the option of ascertaining this information by inspecting the strata company records through an application made under sections 107 and 109 of the New Act (formerly section 43).

Specific Comments

Section	Comment/ Recommendation
Page 5, point 3	Suggest adding some conditional language - "...must provide written notice to the buyer of certain 'notifiable variations' <i>if they occur</i> , defined in..."
Page 6, Type 1 Notifiable Variation – 2 nd bullet point	For consistency - "...is increased/decreased by 5% <i>or more</i> ..."
Page 6, Type 1 Notifiable Variation – 3 rd bullet point	Termination does not relate to OTP. Very confusing to see it here for potential OTP purchasers

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