

WESTERN AUSTRALIA



LEGISLATIVE COUNCIL

AMENDMENTS AND SCHEDULES

Supplementary Notice Paper No. 80
Issue No. 4

TUESDAY, 16 OCTOBER 2018

STRATA TITLES AMENDMENT BILL 2018 [80-2]

When in committee on the *Strata Titles Amendment Bill 2018*:

Clause 83

Committee recommendation 3: To move —

1/83 Page 263, lines 23 to 28 — To delete the lines and insert:

- (i) provide, in accordance with the regulations, details of proposed arrangements for obtaining independent advice or representation referred to in section 190; and

Committee recommendation 6: To move —

2/83 Page 265, lines 1 to 7 — To delete the lines and insert:

- (2) The *Planning and Development Act 2005* applies to the application subject to the modification that a reference to subdivision is to be read as including a reference to termination of a strata titles scheme.

Committee recommendation 1: To move —

3/83 Page 266, after line 22 — To insert:

178A. Reference of full proposal to independent advocate

- (1) In this section —

independent advocate means a person to whom a full proposal is referred under subsection (2).

- (2) A strata company to which a full proposal is submitted under section 178 must refer the proposal for review and assessment to a person who —
 - (a) is independent of the strata company and the proponent of the termination proposal; and
 - (b) satisfies any requirements of the regulations regarding experience or qualifications.
- (3) The independent advocate must, in accordance with the regulations —
 - (a) review the full proposal; and
 - (b) provide the strata company with an independent assessment of the full proposal; and
 - (c) at a time and place arranged with the strata company, make a presentation of its assessment open to the persons mentioned in section 178(4)(a), conducted so as to take account of the needs of any of those persons who have sensory or mobility disabilities.
- (4) The independent advocate must —
 - (a) endeavour to identify any owners of lots for whom arrangements for fuller or more extensive advice or representation are to be made under regulations made under section 190(1)(b); and
 - (b) advise those owners of their entitlements under regulations made under section 190; and
 - (c) if requested by those owners, refer them to independent providers of the advice or representation which they are to obtain; and
 - (d) if requested by those owners, assist them in obtaining benefits under the trust referred to in section 190(2).
- (5) In any proceedings before the Tribunal under Part 13 in which there is a dispute about whether an owner of a lot in the strata titles scheme is entitled to a fuller or more extensive advice or representation under regulations made under section 190(1)(b) or is entitled to benefit under a trust referred to in section 190(2), the independent advocate may represent the owner in the proceedings.
- (6) The strata company —
 - (a) must pay the remuneration of, and reimburse the expenses incurred by, the independent advocate; and
 - (b) may charge fees under section 189 to cover those costs.

Committee recommendation 5: To move —

4/83 Page 270, lines 10 to 12 — To delete the lines and insert:

- (4) The regulations must prescribe matters relating to the determination of the market value of a lot for a termination valuation report, including a valuation methodology that takes account of —
 - (a) relevant recent sales history; and
 - (b) the highest and best use of the lot; and
 - (c) the value attributable to the owner's interest in the common property of the strata titles scheme.

Committee recommendation 7: To move —

5/83 Page 282, lines 25 and 26 — To delete the lines and insert:

request under subsection (1).

Committee recommendation 4: To move —

6/83 Page 286, lines 5 to 17 — To delete the lines and insert:

- (1) The regulations —
 - (a) shall require the proponent of a termination proposal to enter into specified arrangements for the owners of lots in the strata titles scheme proposed to be terminated to obtain independent advice or representation in connection with the proposal; and
 - (b) shall specify arrangements for obtaining fuller or more extensive advice or representation for a class or classes of owner identified in or under the regulations as vulnerable, having regard to —
 - (i) advanced age, illness, trauma, disability or other factors that may impair the ability of an owner to consider and make an informed decision in relation to a termination proposal; or
 - (ii) financial disadvantage which would significantly impair the ability of the owner to bear the cost of obtaining appropriate professional advice in relation to a termination proposal.
- (2) Without limitation, the arrangements may include a requirement for the proponent of a termination proposal to pay an amount to a trustee to be held in trust for owners to obtain independent legal advice or representation, valuation advice or reports or financial or taxation advice in connection with the proposal.

Committee recommendation 8: To move —

7/83 Page 287, lines 1 to 8 — To delete the lines and insert:

- (2) The *Planning and Development Act 2005* applies to the required approval subject to the modification that a reference to subdivision is to be read as including a reference to termination of a strata titles scheme.

