



Western Australia Strata Titles Amendment
Act 2018: Preparing Strata Managers &
Owners for Regulatory Changes.



With the WA strata sector worth more than \$170 billion and comprising 300,000 strata lots, new strata reform in the State supports the delivery of more affordable and sustainable community living spaces.

The reforms will bring enhanced regulation and increased accountability for Strata Managers. In addition, Owners will have more of a say in the running of their schemes – with regulations expected to be finalised in the last quarter of 2019.

This document has been produced to assist Owners and Strata Managers understand, prepare for and manage these changes – by highlighting the key focus areas that will impact you.



Statutory Duties on Developers:

- › Developers who own a lot cannot vote on resolutions relating to building defects.
- › Scheme developers have a duty to provide key documents to Strata Company at first Annual General Meeting (AGM).
- › The State Administrative Tribunal (SAT) can order a developer to pay money to the Strata Company to acquire any missing scheme documents.
- › Scheme developers must disclose any remuneration or other benefits they have received or may receive from contracts for the provision of services or amenities to the Strata Company or members, or that bind the Strata Company. They must also disclose any monetary interest (direct or indirect) that they, or an associate, has in any contract, lease or licence.
- › SAT can order the developer to pay to the Strata Company any commission received that was not disclosed.



Duties of Council Members:

- › Strata Companies are required to have an objective of achieving outcomes that are not unfairly prejudicial to or discriminatory against an Owner or occupier, that are oppressive or unreasonable. Resolutions and by-laws must not be prejudicial, discriminatory, oppressive or unreasonable against any one or more Owners.
- › Every scheme with 10 or more lots (or a specified replacement value) must have a reserve fund and a 10-year reserve fund plan listing the estimated maintenance requirements of the scheme required over this period.
- › With effect from the commencement date a Council member must:
 - At all times act honestly, with loyalty and in good faith;
 - Not make improper use of their position for their own or another's gain, or to cause detriment to the Strata Company; and
 - Inform the council in writing of any monetary or other interest that may conflict with the performance of their functions as a council member and must not vote on any matter in which they have such an interest. The Strata Company or an Owner can apply to SAT for an order to remove a Council member who is in breach.

Meetings:



- › Updated requirements for quorums, new proxy provisions, voting outside of meetings.
- › Owners will now have more say through:
 - Ability to vote on resolutions without a general meeting.
 - Allowance for electronic notices, voting and record keeping.
 - Changes to rules for quorums at general meeting: A quorum is now 50% of the lots in a scheme. Also, if a quorum is not present 30 minutes after the meeting start time, those who are present and can vote are taken to make up a quorum.
 - Recourse to SAT for scheme disputes, including in respect of unreasonable or oppressive by-laws and resolutions.

New Standards for Strata Managers:



- › From the commencement date Strata Managers must comply with the following:
 - Must act honestly and in good faith.
 - Must act in the best interests of the Strata Company.
 - Must disclose any conflict of interest, or commissions and benefits received.
 - Must hold Strata Company funds in a trust account (which can be audited).
 - Minimum educational requirements.
 - Maintain professional indemnity insurance.
 - Requirements for criminal record checks.
- › If a Strata Manager breaches their statutory duties, or the terms of their contract, the Strata Company has the statutory power to terminate the contract. In addition, SAT can order the Strata Manager to pay to the Strata Company:
 - (a) damages for losses; and
 - (b) any commissions the Strata Manager has received but not disclosed to the Strata Company.



New Contracts:

- › Requirements that contracts with Strata Managers are in force within 6 months of the commencement date:
 - If no contract currently in place, new contract must be executed.
 - If contract currently in place, must be updated to comply with new rules (some exemptions apply).
- › Before entering into a strata management contract, the Strata Manager must disclose in writing to the Strata Company:
 - (a) any monetary or other interest they have that may conflict with the performance of their functions; and
 - (b) the amount or value of any remuneration or other benefit that they reasonably expect to receive, from persons other than the Strata Company, in connection with the performance of their functions.

Please note that certain aspects are subject to regulations being finalised.

Next Steps?

REACH OUT TO YOUR STRATA MANAGER.



With a sound understanding of the legislative changes they are well placed to guide and communicate how the changes affect you. You too can benefit from these historic reforms. Strata Owners, occupiers and developers are now supported with a simpler, more transparent and accountable framework for owning, living in, or building strata and survey-strata schemes in WA.

To keep up to date with changing legislation consult the latest position papers, information sheets and guides on the [Landgate website](#).

The information contained in this article is general information only for educational purposes and does not constitute legal advice.

About Strata Community Insurance

Strata Community Insurance provides specialist products and services to the Strata and Community Title sector. Strata Community Insurance is a privately-owned company partnering with the Allianz Group – one of the largest property and casualty insurers in the world.

Strata Community Insurance is a business founded, owned and staffed by a group of Australia's most experienced strata insurance professionals. The founders have four decades of experience across six countries developing products and writing this form of insurance business.

As we deal exclusively in strata insurance market, we understand the complexities of the sector and its governing legislation.



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More Information

For further information, please contact our
Media/Marketing Team on **1300 724 678**



**STRATA COMMUNITY
INSURANCE**



stratacommunityinsure.com.au

T 1300 SCINSURE (1300 724 678)
E myenquiry@scinsure.com.au
A Level 10, 124 Walker Street
North Sydney NSW 2060
P PO Box 631 North Sydney NSW 2059

Strata Community Insurance Agencies Pty Ltd
ABN 72 165 914 009, AFSL 457787.