



NOTICE TO SURVEYORS T3/2006

THE STRATA TITLES GENERAL AMENDMENT REGULATIONS 2006

INTRODUCTION

Amendments to modernise and update the *Strata Titles General Regulations 1996* (STGR) were gazetted on 24 January 2006 in Gazette No 18.

The Community Titles Advisory Committee (CTAC) has been reviewing the *Strata Titles Act 1985* (STA). This review has revealed that the STGR has several regulations that needed amending. Additionally the Department of Land Information (DLI) has been reviewing its procedures and they identified the need for regulation changes.

The changes are to:

- Introduce accountability for the correctness of strata plans
- Increase the monetary limits prescribed for various matters
- Amend deficiencies in the requirements for the retention of records
- Enable the introduction of a standard plan format
- Prescribe the description of boundaries under Section 3(2)(b) of the Strata Titles Act 1985
- Resolve miscellaneous minor deficiencies

1. ACCOUNTABILITY FOR PLANS

These amendments require licensed surveyors to be fully accountable for the correctness of strata plans that they lodge with the DLI by including the certificate under regulation 54 of the *Licensed Surveyors (Guidance of Surveyors) Regulations 1961* on all plans excepting compiled plans. Previously there was no control over the accuracy of the information on the strata plan.

For deposited plans which relate to conventional “green” titles a licensed surveyor must certify that the plan is a correct representation of the survey of the relevant land and that the plan complies with the relevant written laws in relation to which it is lodged. This certification helps to ensure the accuracy of the information held by the DLI in relation to spatial matters. Accuracy of this information is essential for consumers and the broader property industry.

Previously there was only a limited obligation for surveyor’s certification of Strata Plans. This limited obligation related only to the external boundaries of the parcel for the scheme. No certification from a licensed surveyor was required in relation to any new boundaries and common property within the perimeter of the parcel for the scheme. This had implications for the accuracy of the spatial information held by DLI and provided to consumers and the broader property industry.

The amendments introduce a requirement for a licensed surveyor to certify a strata plan in the same manner as is required for a standard deposited plan. This ensures the accuracy of the information contained on the plan. Note that the Land Surveyors Licensing Board have

approved a new regulation 54 certificate for plans and this new certificate will be gazetted in the very near future. New plan forms are being prepared using this new certificate and once approved by the Registrar they will be available from the Landgate Survey Channel after the amendment to regulation 54 is gazetted. Please note that the requirement for a regulation 54 certificate is additional to any other certificate required by the Act (form 5 etc). Until such time as the new regulation 54 certificate is gazetted, surveyors must include the current certificate on strata plans lodged at DLI.

The certificates in forms 6 and 38 have been amended because the previous certifications have been partially superseded by the regulation 54 certificate. Also note that the Form 6 within the STGR must now only be used for survey-strata plans of re-subdivision.

2 INCREASE MONETARY LIMITS

Monetary amounts are prescribed under various sections of the Act. These are for such things as By-law contravention, spending limits of Council, fees payable to the strata company under S43 etc. In general these have not been updated since 1996 and are no longer adequate. Amounts have been updated in line with CPI except Schedule 1 item 4 which deals with fees paid to the Strata Company for the provision of information. These fees have been increased to reflect the cost of providing this service in accord with a joint submission from the Real Estate Institute of WA and the Strata Titles Institute of WA.

3 RETENTION OF RECORDS

Section 35(1)(h) of the STA lists nine categories of documents which must be retained by the Strata Company "for the prescribed period". There are eight specific kinds of documents. The ninth category is a catch all "such other documents as may be prescribed".

The STGR previously only prescribed a retention period for two of those categories. There was no retention period for the other six defined categories and there are no other documents prescribed.

Regulation 25 has been amended to overcome these deficiencies.

Additional documents prescribed under Section 35(1)(h)(ix) are the retention of resolutions without dissent, policies of insurance and the material delivered by the original owner under Section 49(3).

4 STANDARD PLAN FORMAT

DLI is undertaking a project to standardise the format of all plans lodged for registration and to provide for electronic lodgement of plans. The amendments are part of the process of aligning the various sets of regulations to accommodate the standard plan format.

The amendments to Regulation 4 are designed to allow the Registrar to set standards for the quality and medium for plans and forms lodged for registration. It recognises that something other than the traditional hard copy medium may be used.

The amendments to Regulation 5 replace the current Forms 1, 2 and 4 with the standard plan sheet in the survey regulations. Similarly the amendment to Regulation 14L replaces Form 34 with the standard plan sheet.

5 BOUNDARIES IN MULTI TIERED SCHEMES

Regulation 37AA corrects an anomaly which is creating problems for some future owners of strata lots in multi tiered schemes. This anomaly had the potential to lead to disputes as to the ownership and management of buildings within strata schemes.

The boundaries of cubic spaces within buildings that are not part of a single tiered scheme shall be described as the inner surface of the wall, the upper surface of the floor and the under surface of the ceiling.

All other cubic spaces described under section 3(2)(b) will be described in a manner that is unambiguous.

6 MISCELLANEOUS AMENDMENTS

Several regulations have been amended to correct minor errors in cross referencing and nomenclature.

The amended regulations may be accessed from the State Law Publisher website at <http://www.slp.wa.gov.au/statutes/swans.nsf>

BRUCE ROBERTS
REGISTRAR OF TITLES
6 February 2006