

TERMINATION OF A STRATA TITLES SCHEME

A guide to the administrative and procedural matters associated with the Western Australian Planning Commission's approval of the termination of a strata titles scheme.

This fact sheet explains application and procedural requirements provided for within the *Strata Titles Act 1985* (as amended), the *Strata Titles (General) Regulations 2019* and the *Planning and Development Act 2005*.

This fact sheet should be read in conjunction with:

- WAPC Fact Sheet: Strata - Form 15 Applications
- WAPC Fact Sheet: Subdivision by Leasehold Scheme

These are available on the Department of Planning, Lands and Heritage [website](#).

1 What is a strata titles scheme?

A strata titles scheme exists where a single parcel of land has been subdivided into lots, which can be owned by a single owner or multiple owners. The scheme may include common property (owned by all the owners as tenants in common). Each of the lots can be mortgaged, bought, owned or sold by whoever owns it.

The strata titles scheme exists over a single freehold (green title) parcel of land - sometimes referred to as the 'parent lot'.

For the purpose of this document, reference to strata titles schemes as 'schemes', includes built strata, survey-strata, leasehold (strata) and leasehold (survey-strata) schemes.

2 Terminating a scheme

Termination is a process where a scheme is extinguished and a new freehold (green title) lot results. This means all lots, the strata corporation, scheme notice, by-laws, and any other scheme documents cease to exist.

Depending on what has been agreed between the owners (where the lots in a scheme are owned by multiple owners), this may mean that the resulting freehold lot created as a result of the termination of the scheme will be owned by all previous lot owners, as 'tenants in common'.

2.1 Termination provisions under the *Strata Titles Act 1985* (as amended)

WAPC subdivision approval and endorsement is required to terminate a scheme.

The amended *Strata Titles Act 1985* (the ST Act) and new Regulations came into effect on 1 May 2020 and outline a detailed process for the termination of a scheme, to provide greater transparency and support for all lot owners. From a planning perspective, the key process to progress the termination of a scheme is subdivision approval and endorsement (sections 177 and 184 of the ST Act), which is to be undertaken in accordance with Part 10 of the *Planning and Development Act 2005* (PD Act).

The termination process outlined in Part 12 of the ST Act varies depending on whether the scheme is in single ownership or multiple ownership. Where a subdivision is proposed for the purpose of terminating a scheme (amalgamating all strata lots for the purpose of creating a single freehold lot) that involves multiple owners, additional details are required to demonstrate that all owners are in agreement, or that the State Administrative Tribunal has issued orders confirming the termination is acceptable.

2.2 Subdivision application for termination

The termination of a scheme results in the creation of a single freehold (green title) lot. This is achieved through amalgamation of the strata lots for the purpose of terminating a scheme.

TERMINATION OF A STRATA TITLES SCHEME

The WAPC will determine all applications for the purpose of terminating a scheme.

The WAPC may apply conditions to any approved application to ensure the resulting lot/s are able to be developed.

The WAPC cannot modify the parcel boundaries of the resulting freehold lot as part of the termination process meaning that land cannot be added or removed from the freehold lot unless undertaken through a separate subdivision application.

Refer to section 3.2 of this fact sheet for information on the process to concurrently apply to terminate a scheme and re-subdivide the land into new lots.

2.2.1 General requirements for subdivision to terminate

All applications to amalgamate for the purpose of terminating a scheme are to be lodged on a **Form 1A**.

A subdivision application for the purpose of terminating a scheme (and the subsequent application for endorsement), needs to identify whether the lots in the scheme are owned by a single owner or by multiple owners.

Single ownership

Where all scheme lots are owned by a single owner, the certificates of title would sufficiently demonstrate this, and the applicant is not required to prepare an outline or full termination report.

Multiple ownership

Where the lots in the scheme are owned by different landowners, then the following needs to be provided with the subdivision application:

- a copy of the strata company resolution consenting to the termination; and
- outline of the termination proposal.

Once the conditions of subdivision are met, at the endorsement stage (made using the **Form 1C**) the following is to be provided:

- a copy of the strata company support for the full termination proposal or a copy of the State Administrative Tribunal order confirming the termination resolution; and
- a copy of the full termination proposal.

The requirement for the preparation of an outline of termination, a full termination or SAT orders (if applicable) are addressed in Part 12 of the ST Act.

2.2.2 Assessment process for subdivision application to terminate

The WAPC will determine all subdivision applications for the purpose of terminating a scheme.

Each subdivision application for termination will be considered on its merits, in accordance with:

- the current planning framework applicable to the subject land, and
- the principles of orderly and proper planning.

As with any other subdivision, the WAPC will have regard to comments received from referral authorities.

The WAPC has the ability to approve, approve subject to conditions, or refuse a subdivision application for termination of a scheme. Conditions may be applied for the removal, upgrade or maintenance of existing infrastructure within the site. For example, a common property lane access way may be required to be widened, upgraded and ceded as a road.

A subdivision application to amalgamate for the purpose of terminating a strata scheme must be approved and the new deposited plan endorsed (by the WAPC) prior to an application for any subsequent subdivision being approved (either by the WAPC or another authority acting under delegation from the WAPC to approve subdivision).

2.2.3 Forms and fees for subdivision to terminate

All subdivision applications for the purpose of terminating a scheme (amalgamation for the purpose of terminating a scheme) are to be lodged on a **Form 1A** with the WAPC.

Where it is proposed to amalgamate a scheme for the purpose of termination, the amalgamation fee applies with the Form 1A. The **Form 1C** amalgamation fee is applicable at the time of endorsement.

(* For current fees refer to the **Planning and Development (Fees) Notice 2021 (as amended)**)

The subdivision application to amalgamate for the purpose of terminating a strata scheme must be approved, and the new deposited plan endorsed, prior to an application for subsequent subdivision being approved (either by the WAPC or respective delegated authority). Refer to section 3 of this Fact Sheet for further information on subsequent subdivision of a terminated scheme.

TERMINATION OF A STRATA TITLES SCHEME

2.2.4 Plans for subdivision application to terminate

Plans submitted for the Form 1A to terminate the scheme need to provide sufficient detail to clearly demonstrate the existing scheme to be terminated, and the resulting freehold lot.

The diagram or plan of survey (deposited plan) submitted for the Form 1C must show the subject land as a single freehold lot and identify the former lot tenure, in accordance with Landgate's requirements: [Home - Landgate](#)

Plan requirements are outlined in the [Subdivision Application Guide](#).

2.2.5 Referral process for subdivision application to terminate

As with any other subdivision, the WAPC will have regard to comments received from referral authorities.

Subdivision applications to amalgamate a scheme for the purpose of termination will be referred to relevant local government, utility providers and service agencies for consideration and comment for a period of 42-days.

2.2.6 Assessment timeframes for subdivision application to terminate

Section 177 of the ST Act states that a subdivision application for termination is determined in accordance with the PD Act.

In this regard the WAPC has 90 days in which to consider an application for termination, which includes the consultation period with referral agencies.

3 Subsequent subdivision of the terminated scheme/new freehold lot

Owners of a strata scheme may wish to terminate a strata titles scheme and subdivide the parcel to create a new scheme or new freehold lots. For the purpose of this Fact Sheet, this is referred to as 'subsequent subdivision'.

In order to do this, the scheme must first be terminated as per the process outlined in section 2 of this Fact Sheet.

Subsequent subdivision is different from a 'type 1-4' amendment that may be undertaken to re-configure an existing scheme (refer to section 11 of the ST Act).

3.1 Requirements under the *Planning and Development Act 2005*

A proposal to amalgamate a scheme for the purpose of termination and a proposal for subsequent subdivision must be submitted as separate proposals on separate application forms. They cannot be submitted as one proposal on the same application form.

This is due to the termination requirements identified in Part 12 of the ST Act. Furthermore, the PD Act does not recognise a strata titled lot as a lot, and therefore does not have legal authority to process the latter proposal whilst the land is still strata titled. Additionally, the WAPC must be sufficiently certain the termination will occur before approving a subsequent subdivision for the land.

The deposited plan for the new freehold lot (resulting from termination of the scheme) must be endorsed by the WAPC prior to any other subdivision application being approved for the subject land.

Any subsequent proposal for subdivision of the freehold lot created by the termination will also need to be endorsed by the WAPC, or delegated authority.

3.2 Process for concurrent termination and subsequent subdivision

A scheme must first be terminated, and a single freehold lot created in order to subdivide the parcel.

Once the WAPC has endorsed the deposited plan for the new freehold lot, an application for subsequent subdivision of the freehold lot may be approved by the WAPC (or delegated authority).

The WAPC may, at their discretion, accept the application to terminate the scheme and the application for further subdivision of the resulting freehold lot as concurrent applications, that is, two separate applications submitted at the same time.

Although they may be submitted to the WAPC concurrently, the subsequent subdivision application cannot be determined until after the new freehold lot has been endorsed.*

The applicant may need to agree to an extension of time to facilitate this.

* Note: For schemes in single ownership, where the WAPC is satisfied the scheme will be terminated, the WAPC may exercise discretion to approve a subdivision application to terminate and a new subdivision application

TERMINATION OF A STRATA TITLES SCHEME

simultaneously. That is, the deposited plan for the new freehold lot wouldn't need to be endorsed before the subsequent subdivision application is approved.

The sequential process for concurrent applications is illustrated in **Appendix 2**.

An application for subsequent subdivision will be considered on its merits, in accordance with:

- the current planning framework applicable to the subject land, and
- the principles of orderly and proper planning.

Any subdivision will need to meet the current minimum and average lot size requirements and any other planning requirements.

3.2.1 Forms for concurrent applications

Each proposal must be made on the appropriate form.

All subdivision applications for the purpose of terminating a scheme (amalgamation for the purpose of terminating a scheme) are to be lodged on a **Form 1A** with the WAPC.

Subdivision applications to create new freehold, survey-strata or leasehold (survey-strata) lots are to be lodged on a Form 1A.

Applications to create new strata or leasehold (strata) lots are to be lodged on a Form 15A.

3.2.2 Fees for concurrent applications

Where the WAPC accepts concurrent applications to amalgamate a scheme for the purpose of termination and subdivide the new freehold lot into new lots, the applicable fee will depend on the proposed tenure

of the lots and the number of lots (freehold, survey-strata or strata, for example). The amalgamation fee may be waived when accepted as concurrent applications.

Examples of forms and applicable fees are provided in **Appendix 1**.

3.2.3 Plans for concurrent applications

Refer to section 2.2.4 Plans for subdivision application to terminate for necessary plans required to terminate the scheme.

A subsequent subdivision application submitted on either Form 1A or Form 15A will need to meet plan requirements outlined in the Subdivision Application Guide or Form 15A Application Guide, available on the Department's **website**.

3.2.4 Referral of concurrent applications

Where applications are accepted concurrently, the WAPC will only refer the subsequent subdivision to referral agencies, who will be advised that the WAPC is concurrently considering the termination of the current scheme on the site.

4 Requirements under the *Strata Titles Act 1985*

In relation to the termination process, this Fact Sheet only provides guidance on the requirements for subdivision as identified under sections 177 and 184 of the ST Act.

Applicants are required to ensure that their proposal complies with the provisions of the ST Act, including the requirements for consent of the

strata corporation or State Administrative Tribunal confirmation and completion of an appropriate termination proposal.

While proof of consent is required to be submitted with an application for subdivision and endorsement, the WAPC will not be held responsible for compliance of a proposal with the provisions of the ST Act as it relates to voting requirements, consent, outline of termination proposal or full termination proposal. Further advice on these matters can be sought from Landgate.

APPENDIX 1 - EXAMPLE APPLICATIONS FOR TERMINATION AND SUBSEQUENT SUBDIVISION

PROPOSAL		REQUIRED FORMS		NOTES
		Subdivision	Endorsement	
Applications submitted independently				
A	Terminate a scheme to create a single freehold lot (amalgamation)	i) Form 1A to amalgamate for the purpose of termination	i) Form 1C for amalgamated freehold lot	<ul style="list-style-type: none"> Deposited plan for the single freehold lot must be endorsed by the WAPC before subsequent subdivision can be approved.
B	Subdivide a single freehold lot to create new survey-strata or leasehold (survey-strata) scheme or freehold lots	i) Form 1A to create new freehold lots or survey-strata scheme	i) Form 1C for new freehold lots or survey-strata scheme	<ul style="list-style-type: none"> Land to be subdivided must be a single freehold lot. Deposited plan for the single freehold lot must be endorsed by the WAPC before a subsequent subdivision application can be approved.
C	Subdivide a single freehold lot to create a new strata or leasehold (strata) scheme or freehold lots	i) Form 15A to create new strata scheme	i) Form 15C to endorse new strata or leasehold (strata) scheme	<ul style="list-style-type: none"> Land to be subdivided must be a single freehold lot. Deposited plan for the single freehold lot must be endorsed by the WAPC before a subsequent subdivision application can be approved. Where delegation is in place, the Form 15A can go to the respective local government for determination. Refer to the current instrument of delegation (DEL 2020/01 Powers of Local Governments) available here.
Options to submit concurrent applications				
D	Terminate a scheme and create a new survey-strata or leasehold (survey-strata) scheme or new freehold lots	i) Form 1A to amalgamate for the purpose of termination ii) Form 1A to create new survey-strata scheme or freehold lots	i) Form 1C for amalgamated freehold lot ii) Form 1C for new freehold lots or survey-strata scheme	<ul style="list-style-type: none"> The WAPC may, at its discretion, accept the application to terminate the scheme and the application for further subdivision of the resulting freehold lot as concurrent applications. Where in single ownership, the WAPC has discretion to approve the two applications simultaneously as per section 3.2 of this Fact Sheet. Where in multiple ownership, the first application must be endorsed by the WAPC before the second application is approved. Where accepted concurrently, the termination fee may be waived and only the subdivision fee to create new lots charged. Proponent may need to agree to defer the second application to create new freehold, survey-strata or leasehold (survey-strata) lots until the deposited plan for the freehold lot has been endorsed. The lot information for the subsequent subdivision will need be updated to refer to the new freehold lot created following the termination of the scheme.

**APPENDIX 1 - EXAMPLE APPLICATIONS FOR
TERMINATION AND SUBSEQUENT SUBDIVISION (cont'd)**

PROPOSAL		REQUIRED FORMS		NOTES
		Subdivision	Endorsement	
Options to submit concurrent applications (cont'd)				
E	Terminate a scheme and create a new strata or leasehold (strata) scheme	i) Form 1A to amalgamate for the purpose of termination ii) Form 15A to create new strata scheme	i) Form 1C for the amalgamated freehold lot ii) Form 15C to endorse new strata or leasehold (strata) scheme	<ul style="list-style-type: none"> • The WAPC may, at its discretion, accept the application to terminate the scheme and the application for further subdivision of the resulting freehold lot as concurrent applications. • Where in single ownership, the WAPC has discretion to approve the two applications simultaneously as per section 3.2 of this Fact Sheet. • Where in multiple ownership, the first application must be endorsed by the WAPC before the second application is approved. • Where accepted concurrently, the termination fee may be waived and only the subdivision fee to create new lots charged. • Proponent may need to agree to defer the second application to create new strata or leasehold (strata) scheme until the deposited plan for the freehold lot has been endorsed. • The lot information for the subsequent subdivision will need be updated to refer to the new freehold lot created following the termination of the scheme.

(* For current fees refer to the *Planning and Development (Fees) Notice 2021* (as amended) or Schedule 6 of the *Strata Titles (General) Regulations 2019*

APPENDIX 2 - FLOWCHART OF CONCURRENT TERMINATION AND SUBSEQUENT SUBDIVISION APPLICATIONS PROCESS

This flowchart outlines the sequential process for applications for termination of a scheme and subsequent subdivision accepted by the WAPC as concurrent applications. For independent subdivision applications, refer to the Introduction to the Western Australian planning system flowchart of the subdivision process, available on the WAPC's [website](#).

