

This fact sheet outlines procedural and administrative matters associated with the operation of Western Australian Planning Commission (WAPC) [Instrument of Delegation](#) which delegates authority to local government, to determine certain classes of strata applications under section 15 of the *Strata Titles Act 1985* (as amended) (the Act). This fact sheet should be read in conjunction with:

- WAPC [Operational Policy 1.3 – Strata Titles](#)
- WAPC [Fact Sheet: Subdivision by Leasehold Scheme](#).

## What is the difference between a Strata Scheme and a Survey-Strata Scheme?

Strata plans and survey-strata plans are two forms of strata subdivision schemes defined under the Act. The way in which the boundaries are defined on the scheme plan determines whether the scheme is a strata scheme or a survey-strata scheme.

A strata scheme or 'built strata' refers to the subdivision of a building (by cubic space) and on occasion the land around it into lots. A strata scheme may also seek to create vacant strata title lots, provided there is at least one building on any lot within the scheme. These strata subdivisions are commonly referred to as 'vacant strata' schemes.

A survey-strata scheme is defined by surveyed land boundaries. Buildings are not shown on a survey-strata plan, even though there may in fact be buildings on the survey-strata lots.

Both strata schemes and survey-strata schemes fall within the definition of a 'freehold scheme' under the Act (not to be confused with a freehold 'green title' subdivision plan under the *Planning and Development Act 2005*).

S15(1) of the Act provides for the subdivision of strata schemes, while Part 10 of the *Planning and Development Act 2005* provides for subdivision by a survey-strata scheme. For queries regarding the survey-strata subdivision process, please refer to the WAPC *Development Control Policy 2.2 Residential Subdivision* or *Operational Policy 1.3 Strata Titles*.

## What is the approval process for a strata subdivision?

Section 15 of the Act provides for a two-stage application process, determined by the WAPC (or the relevant delegated authority) as follows:

1. Application for approval of a Strata Plan or Leasehold (Strata) Plan – Form 15A Application for approval of a strata scheme (with the ability to apply conditions) and
2. Application to the WAPC for endorsement of a Strata Plan or a Leasehold (Strata) Plan – Form 15C Certificate endorsing the strata plan.

Notwithstanding the above, the Strata Titles (General) Regulations 2019 provide that the approval of the WAPC (or delegated authority) is not required for the following:

1. A strata plan, or amendment of a strata plan for a freehold scheme that gives effect to a type 3 subdivision or a type 4 (refer table 2 below) subdivision if:
  - a. the area of the parcel is no more than 2,500 square metres; and
  - b. the lots in the strata scheme are to be used for residential purposes and each lot in the strata scheme contains one dwelling; and
  - c. there are no more than five (5) lots in the scheme (including after amendment); and
  - d. the land is —
    - (i) within a residential zone under a local planning scheme and conforms with that local planning scheme; or
    - (ii) if there is no local planning scheme referred to in subparagraph (i) — within an area that has been, or is to be regarded as having been, constituted as a townsite, and given a name, under the *Land Administration Act 1997* section 26.

These exemptions apply unless specified by the WAPC in a notice of resolution published in the Gazette.

An application for endorsement (referred to in point 2 above) is not required if a strata scheme or an amendment of a strata scheme is exempt from requiring WAPC approval.

It is important to note that additional approvals may be required in accordance with the *Planning and Development Act 2005* and the *Building Act 2011*. Further advice should be sought from the relevant local government with respect to obtaining relevant approvals.

For queries regarding the Leasehold Scheme process, please refer to the WAPC [Fact Sheet: Subdivision by Leasehold Scheme](#).

## Who is the determining authority?

In accordance with s16(3) of the *Planning and Development Act 2005*, the WAPC has delegated its power to local government for determination of most strata scheme applications under s15(1) and (4) and s19 of the Act.

In accordance with the notice of delegation, the following application types are excluded from this delegation and require determination by the WAPC:

- applications that propose the creation of a vacant lot(s)
- applications that propose vacant air strata in multi-tiered strata scheme developments

- where, in the opinion of the WAPC as notified to the relevant local government in writing, or in the opinion of the relevant local government as notified to the WAPC in writing, relates to:
  - a type of development; and/or
  - land that is within an area which is of State or regional significance, or in respect of which the WAPC has determined is otherwise in the public interest, or
- applications that propose the creation of a leasehold scheme.

## What is the process for a strata application?

This section provides guidance on the Form 15 application process. For further information regarding the leasehold strata scheme process, please refer to: [Fact Sheet: Subdivision by Leasehold Scheme](#).

**Table 1** outlines the appropriate determining authority and the determination process for the most common types of strata proposals.

**Table 1**

| Type of strata proposal   | Determining authority/ process required  |
|---|--|
| 1-5 residential strata lots, land parcel is no more than 2500m <sup>2</sup> , and each strata lot contains one dwelling | Exempt from Planning approval. Building approval certificate required only.  |
| 6 or more residential strata lots   | Local government determination<br>Form 15A (Application) and Form 15C (Endorsement).   |
| Land parcel is more than 2,500m <sup>2</sup>  | Local government determination<br>Form 15A (Application) and Form 15C (Endorsement).   |
| Commercial/mixed use  | Local government determination<br>Form 15A (Application) and Form 15C (Endorsement).   |
| Industrial  | Local government determination<br>Form 15A (Application) and Form 15C (Endorsement).   |
| Vacant lot/vacant air strata in multi-tiered strata scheme development  | WAPC determination<br>Form 15A (Application) and Form 15C (Endorsement).   |
| State or regionally significant/public interest   | WAPC determination<br>Form 15A (Application) and Form 15C (Endorsement).<br>Application to be forwarded to the WAPC by the LG. |

## Application process

The application process is summarised in the attached flowchart. Further clarification on the tasks identified within the flowchart is provided below.

## Form 15A Application

An application is to be made to the determining authority using a Form 15A application for approval form. The form and conformance checklist are available on the WAPC's [website](#).

The Form 15A application should be submitted at the earliest opportunity (i.e. when the building permit has been granted). This is to ensure that the determining authority has sufficient time to consider any planning matters that may arise as part of the strata assessment. It also gives the proponent sufficient time to address any conditions that may be imposed as part of the Form 15A application process prior to commencing site works.

## Form 15A Assessment

The determining authority has 40 days to determine a Form 15 application (prescribed period), with the ability to extend this period if both the determining authority and applicant agree to the extension. The exception to this determination period relates to the assessment of vacant lot strata which, as per section 16(2) of the Act, has a determination period of 90 days.

When considering Form 15A strata applications, the determining authority should give primary consideration to the compliance of the proposed strata lots with the corresponding development and building approvals.

An assessment report and recommendation should be prepared by the determining authority taking into account relevant WAPC policies, local and region schemes, comments from referral agencies, and any other relevant planning matter(s).

The determining authority may approve the Form 15A with or without conditions, and those conditions may be imposed as if the proposal was an application under the *Planning and Development Act 2005*. Any conditions imposed must adhere to the validity of conditions test in that they must:

- be imposed for a planning purpose
- fairly and reasonably relate to the development for which the permission is given
- be reasonable, that is, be a condition which a reasonable planning authority, properly advised, might impose.

Conditions on the Form 15A Application approval should not, however, repeat or attempt to address conditions that were inadvertently missed through the development application process.

In general, non-standard conditions are discouraged, when the circumstance and requirements are adequately covered by model subdivision conditions included in the [Model Subdivision Conditions Schedule](#).

A planning (scheme by-laws) condition may be applied. This is a condition that requires strata title scheme by-laws to specify that planning approval from the WAPC, or the relevant local government, is required prior to the amendment or repeal of scheme by-laws.

## Form 15A Approval period

All Form 15A approvals are valid for two (2) years from the date shown on the determination notice. No extensions can be granted and where an approval has expired, a new application is required to be made with the determining authority. Any conditions placed on the approval (including conditions of the associated development approval) must be complied with by the applicant prior to the two-year expiry day.

## Form 15C Application

An application for a certificate endorsing the strata plan is required to be submitted to the determining authority within two years of the date of the Form 15A approval notice. The application is to include the following information:

- scheme notice and scheme plan
- scheme by-laws made under a planning (scheme by-laws) condition
- an occupancy permit or building approval certificate granted under the Building Act.

The application should not be submitted to the determining authority unless all works associated with the development, building, and strata approvals have been undertaken, including compliance with the respective conditions. The application form and associated conformance information (detailed) is provided on the WAPC [website](#).

## Form 15C Certification/Endorsement

Upon receipt of the required documentation and conformance checks, the determining authority must issue a determination on the proposal within 40 days (WAPC as the determining authority has 30 days to make a decision). The determining authority should undertake the necessary steps (i.e. site visits, condition compliance assessment, referrals etc.) to ensure the conditions of both the Form 15A approval and the associated development approval have been adequately addressed.

The determination is required to be in the format provided on the WAPC website and will consist of:

- endorsement of the Strata Plan or
- non-endorsement of the Strata Plan.

Generally, the local government should not alter the forms provided on the WAPC website. However, some modifications may be supported for ease of administration provided the changes do not materially affect the substance of the forms.

## Right of review

Section 27 of the Act provides a right to apply to the State Administrative Tribunal for a review of a determination to refuse an application, or to impose conditions on the approval.

**An application for review must be made within 28 days after which the determining authority issues a notice of determination, or after expiration of the prescribed period (40 days).**

Note: where the proposal is for a vacant lot or is regionally significant, an application for review must be made within 28 days after the determining authority issues a determination notice, or after expiration of the prescribed period (90 days).

## Summary of lot creation through Landgate

Upon certification/endorsement of the strata plan by the WAPC, the applicant's licenced surveyor is to apply to Landgate for the registration of the scheme plan/ amendment to scheme plan, the requirements of which is provided under s34 and s35 of the Act.

## Application fees

Application fees for approval of the strata scheme and the certificate endorsing the strata plan are provided on the WAPC [website](#). The fee is all-encapsulating and is required to be submitted at the Form 15A stage.

In circumstances where an application is required to be forwarded by the local government to the WAPC for determination in accordance with Instrument of Delegation, any fees paid on lodgement should be forwarded to the WAPC.

It is noted that the fees will be subject to review after two (2) years.

## Data collection

A requirement of the WAPC Instrument of delegation is for all local governments to provide the WAPC with data, on an annual (financial year) basis, in regard to the exercise of this delegation. The information is required to accurately capture and monitor lot supply via the Urban Development Program, performance monitoring and functioning of the delegation and for forecasting purposes.

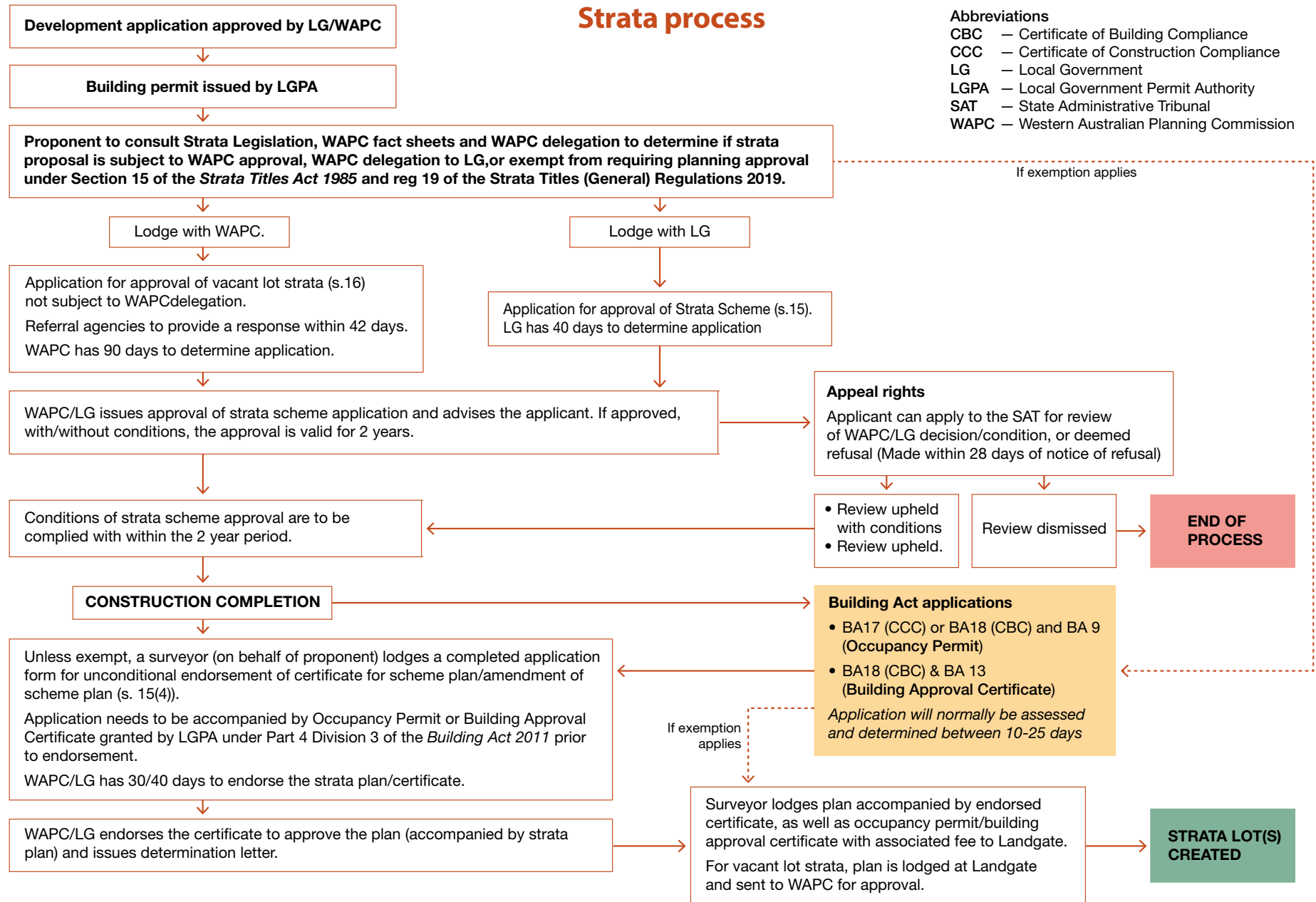
## Further information

For further information on general matters set out in this fact sheet contact the DPLH's land use planning teams at [info@dplh.wa.gov.au](mailto:info@dplh.wa.gov.au) or for specific proposals, contact your relevant local government.

## Disclaimer

This fact sheet is intended as a guide only. It is not intended to be comprehensive or to cover particular circumstances.

Readers are advised to refer to the legislation, which is available on the Department of Justice, Parliamentary Counsel's Office [website](#), and to seek professional legal advice should they have specific legal questions in relation to their particular circumstances.



**Table 2: Strata plan, amendment to strata plan (Type 1 -4) etc follow this process**

| Four (4) types of amendments to strata schemes |  |
|--|--|
| Type   | Description  |
| Type 1   | (a) the addition of land from outside the parcel of a strata titles scheme to common property in the scheme (but not including temporary common property); or<br><br>(b) the conversion of a lot in a strata titles scheme to common property in the scheme; |
| Type 2   | means the removal from the parcel of a strata titles scheme of land comprised of common property;  |
| Type 3   | means a consolidation of 2 or more lots in a strata titles scheme into 1 lot in the scheme (not affecting common property in the scheme);  |
| Type 4   | means a subdivision that does not involve the alteration of the boundaries of the parcel and is not a type 1, type 2 or type 3 subdivision;  |