Australian Property Institute Ltd.
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Mr Robert Manning
Recorder of Titles
Strata Titles Amendment Bill Consultation
Land Titles Office
Department of Natural Resources and Environment Tasmania
PO Box 541
HOBART TAS 7001

Lodged by email to star@nre.tas.gov.au

Dear Mr Manning

Re: Draft Strata Titles Amendment Bill 2026 (Tasmania)

The Australian Property Institute (API) welcomes the opportunity to comment on the Consultation Draft Strata Titles Amendment Bill 2026 (the Amendment Bill) and the accompanying Consultation Version Information Paper (the Information Paper).

This submission addresses only the matters that affect valuation practice or valuation evidence: unit entitlements, common property, management statements, maintenance plans, insurance and access to body corporate records. We take no position on the conduct of bodies corporate and their agents.

This submission builds on the API's submission of 28 July 2018 to the review of the Strata Titles Act 1998.

1. About the Australian Property Institute

The API is the peak body for property valuation and advisory professionals in Australia, with over 7,000 members, including Certified Practising Valuers (CPVs) and Residential Property Valuers (RPVs).

2. Unit entitlements (clauses 12, 13 and 60)

2.1 The factors are permissive, not mandatory, and no weight is given to any of them. Proposed sections 16(7) and 124(2) say the listed factors 'may be taken into account'. On that drafting a unit entitlement schedule can be fixed without regard to any of them and still satisfy section 16(6), which leaves the law largely unchanged.

Recommendation: Amend proposed sections 16(7) and 124(2) so that the listed factors must be taken into account, and provide that any difference in market value between lots is the primary factor, with the remaining factors operating as adjustments to it.

2.2 'Market value' is not defined and the valuation date cannot be identified. Proposed section 16(7)(d) refers to 'any difference in market value between lots at the time at which the value of the unit entitlement is fixed'. The Act does not define market value, and the phrase ties the valuation date to the fixing of the entitlement rather than to a date that can be identified from the record.

Recommendation: Define market value in section 3 consistently with the definition in IVS 102 Bases of Value, which the API has adopted, and fix the valuation date as the date of lodgement of the plan for a new scheme, or the date of the resolution or application for a change under section 17 or section 124.

2.3 Nothing requires the assessment to be made by a valuer. The Amendment Bill introduces a valuation test without requiring anyone with valuation competence to apply it. New South Wales requires an application for reallocation of unit entitlements to be accompanied by a certificate from a qualified valuer specifying the value of each lot, under section 236(4) of the Strata Schemes Management Act 2015 (NSW). Tasmania has no equivalent, and under the Amendment Bill a schedule can be prepared by a person with no valuation qualification.

Recommendation: Require the schedule of unit entitlements in the management statement lodged with a plan under proposed section 5(3)(b), and required by proposed section 70A(1)(e), to be accompanied by a certificate from a qualified valuer stating the basis of value and the valuation date, and confirming that the entitlements reflect the values assessed for each lot. Require the same certificate on an application under section 17 and on an application to the Recorder under section 124.

3. Common property (clauses 4 and 5)

The API supports the consolidation of the common property provisions in proposed Part 1A. It implements the recommendation we made in 2018, that the Act carry a single consistent meaning of common property.

Proposed section 3A(1)(b) is circular. It makes common property include 'all other property administered by the body corporate'. What the body corporate administers is a consequence of what the common property is, not a test for identifying it. A valuer, a purchaser or a body corporate trying to work out the extent of common property from the Act cannot rely on that paragraph to do so.

Recommendation: Replace paragraph (b) with a reference to property vested in or transferred to the body corporate, or identified as common property in the plan or the management statement.

4. Management statements (clauses 32 and 69)

The API supports requiring a management statement for every scheme.

The basis of allocation should be recorded with enough detail to be useful. Proposed section 70A(1)(e) and (f) require the schedule of unit entitlements and special unit entitlements 'and the basis for their allocation'. A statement that entitlements were allocated on a fair and equitable basis would satisfy that requirement as drafted, but would not show how the entitlements were calculated.

> **Recommendation:** Require the management statement to record, for the unit entitlement schedule, the date of the assessment, the name and certification of the person who made it, and the basis of value applied.

5. Maintenance plans (clause 47)

The API supports mandatory maintenance plans. As drafted, proposed section 83A will not achieve what the Information Paper describes.

5.1 A five-year plan does not capture major capital expenditure in complex schemes. Proposed section 83A(2) fixes the plan at five years. The largest liabilities a body corporate faces are roofs, cladding, waterproofing, lifts, retaining walls and service infrastructure, with lives of 15 to 30 years or more. A five-year plan will show none of them until they are nearly due, by which time there is too little time to collect the funds needed. New South Wales requires a 10-year capital works fund plan under section 80 of the Strata Schemes Management Act 2015 (NSW), and requires the owners corporation to implement it so far as practicable. That reasoning holds for apartment buildings and other complex schemes. It does not hold for a scheme of single-level detached dwellings sharing a driveway, where the common property is typically a driveway, fencing, retaining walls and basic landscaping. For those schemes a 10-year plan, and often the five-year plan in the Amendment Bill, imposes cost without a corresponding benefit. The smaller developments regulations described in the Information Paper go some way towards this, but the proposed test is limited to schemes of four or fewer lots.

> **Recommendation:** Extend the maintenance plan period to a minimum of 10 years for complex schemes, and allow a shorter and simpler plan, or none, for basic schemes. Define the two in the Act by the character of the buildings and common property rather than the number of lots alone, distinguishing single-level detached dwellings with simple common property from schemes with multi-level or attached buildings or shared building services such as lifts and fire services.

5.2 Cost estimates should be prepared by a suitably qualified person. The Amendment Bill is silent on who estimates the costs. Estimates prepared without relevant expertise are likely to understate the liability, and both purchasers and valuers will rely on them. Building costs have

also risen sharply in recent years, and an estimate that is not reviewed regularly soon becomes out of date.

> **Recommendation:** Require the cost estimates in the maintenance plan to be prepared or reviewed at least every five years by a person with relevant knowledge, experience and expertise, such as a quantity surveyor, architect or building consultant, and require the plan to record who prepared them and when.

6. Insurance (clause 54)

Insurance is the most significant omission from the Amendment Bill. Clause 54 inserts one word into section 99(3) and makes no other change.

The Act does not require a body corporate to assess the cost of rebuilding. Section 99 requires the body corporate to insure the buildings and improvements, but the Act sets no obligation to assess the replacement cost, no interval for reassessing it, and no requirement to disclose the sum insured or the date it was last assessed. Underinsurance in strata schemes is common and is usually discovered only after a loss. Rising building costs increase that risk. It also affects value: a lot in an underinsured scheme carries a contingent liability that a purchaser and a lender should be able to see.

> **Recommendation:** Require a body corporate to obtain an assessment of the insurance replacement cost of the buildings and improvements at least every five years, from a person with relevant expertise, and to record the sum insured and the date of the last assessment in the management statement and report both to the annual general meeting. Aligning the interval with the maintenance plan review would allow one inspection to serve both purposes.

7. Access to body corporate records (clause 48)

7.1 A prospective purchaser is not an eligible person, and neither is a valuer acting for one. Proposed section 88A(1) lists members, mortgagees, personal representatives, tenants on leases of six months or more, and persons authorised in writing by any of them. A valuer instructed by a purchaser or by the lender financing the purchase cannot be authorised, because neither has an interest in a lot yet. That is the point at which the information is most needed, and valuers are frequently asked to value a strata lot with no access to the financial position of the scheme.

> **Recommendation:** Prescribe under proposed section 88A(1)(f) a person who has entered into a contract to purchase a lot or who has made an offer to purchase, a prospective mortgagee, and a valuer instructed by any of them.

7.2 The records that matter for valuation should be specified. The items that bear on the value of a lot are the management statement, the current maintenance plan and its cost

estimates, the last audited financial accounts, the balances of the administrative and maintenance funds, the current insurance policy and sum insured, the most recent replacement cost assessment, the by-laws, the minutes of general meetings for the preceding two years, and any application for relief under section 105 or proceedings on foot.

Recommendation: Specify that list in the Act or in the records regulations under proposed section 88A(6).

8. Conclusion

The Amendment Bill is a significant improvement on the current Act, and it picks up the position the API put to the Recorder in 2018 on the meaning of common property. Our concern is that it introduces a valuation test for unit entitlements without defining the basis of value, fixing the valuation date or requiring anyone with valuation competence to apply it.

If you require any further information, please contact Harriet Warr, General Manager Policy and Standards, at hwarr@api.org.au.

Yours sincerely



Victoria Gracie
Interim Chief Executive Officer
Australian Property Institute Limited