Buying and selling

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Before you buy

People look to buy into strata schemes for different reasons - often they are cheaper than the equivalent freehold title or it is the location or property type that attracts them.

Whatever your reason for favouring a strata property, it is important to understand the ways that it is different from a freehold property.

Some examples of how living in a strata property is different to a freehold lot:

- Strata owners share ownership of any common property such as gardens, external walls, roofs, driveways, and stairwells, and need to share costs associated with this common property, including repairs and insurance.
- In a freehold lot, there are many things you can do without getting approval from your neighbours, such as keeping several dogs or having a late-night party. However, most strata titles schemes will have by-laws in place to ensure that people can live in close quarters with one another as harmoniously as possible.

It is important to understand what you’re buying into so that you can better compare properties and make a more informed decision.

The *Strata Titles Act 1985* (STA) sets out a series of provisions that empower you to understand the property details, ongoing costs and rules associated with a strata titles scheme that you’re considering.

That means you must be given certain details on the strata titles scheme you are buying into, in addition to the strata lot you are looking to purchase.

Be sure that you are familiar with the information that needs to be provided to you by the seller before you buy and that you understand your rights and responsibilities as a buyer.

Please refer to the seller’s duty of disclosure information below to learn more. You might also review Part 10 of the STA that sets out the protections for buyers of strata lots.

Tips

- Budget for any ongoing scheme costs after purchase (for example, by understanding the strata levies).
- Understand the existing level of cooperation among the strata community and what upcoming costs there might be, such as any major repairs (via the minutes from the most recent annual general meeting).
- See what the overall financial status of the scheme is looking like (via the statement of accounts).

The seller's duty of disclosure

Selling a property that forms part of a strata titles scheme comes with a series of obligations of disclosure. The STA details a list of information the seller must provide to a prospective buyer before the buyer signs a contract for sale and purchase of the lot.

This information covers important details on the strata titles scheme, along with the specific lot being sold. This is to ensure buyers are well informed before the purchase proceeds.

For the strata titles scheme

- The scheme documents (that is, scheme notice, scheme plan, scheme by-laws and schedule of unit entitlements for the strata titles scheme).
- In the case of a leasehold scheme, the strata lease for the lot is also required.
- The minutes of the most recent annual general meeting and of any subsequent extraordinary general meetings of the strata company.
- The most recent statement of accounts as prepared by the strata company.
- Information on any termination proposal that may have been put to the strata company.
- Estimated contributions they will have to pay as their strata levy over a 12-month period.
- Any amount already owed to the strata company by the current lot owner.

For the lot

- The exact location of the lot, shown on the scheme plan for the strata titles scheme.
- The definition of the lot, as contained in the scheme plan for the strata titles scheme.
- The unit entitlement of the lot, which determines the lot owner's share of common property in the scheme, subject to the scheme by-laws, contributions payable by the owner and the voting rights that attach to the lot
- If contributions have been determined by the strata company within the previous 12 months.
- The amount and due date of the contributions payable by the lot owner or a reasonable estimate.
- Details of any debt owed by the seller to the strata company, including how the debt arose, the date on which it arose and the amount outstanding.
- If the lot is a special lot, details of the exclusive use by-laws that apply to the lot.

This might look like a lot of information to gather, but almost all of it will be information you already have. The rest of it you can seek from the strata company or strata manager (if the scheme has one).

Notifiable variations

The seller must also notify the buyer in writing of certain variations to the initial information they have provided. These are called notifiable variations.

There are two types of notifiable variation, type 1 and type 2. The details of each of these variations are set out below:

Type 1 notifiable variation

A type 1 notifiable variation is any of the below-listed variations that occurs after a contract for the sale and purchase of a lot is entered into but before the settlement date for the contract.

- The area or size of the lot or proposed lot is reduced by 5% or more from the area or size notified to the buyer before they entered into the contract.
- The proportion that the unit entitlement (or estimate of the unit entitlement) of the lot bears to the sum of the unit entitlements of all the lots increases or decreases by 5% or more than the unit entitlement details notified to the buyer before they entered into the contract.
- Anything that is served on the seller by the strata company relating to a proposal for the termination of the strata titles scheme.
- Any other event classified by the regulations as a type 1 notifiable variation.

Type 2 notifiable variation

A type 2 notifiable variation is any of the below-listed variations that occur after a contract for the sale and purchase of a lot is entered into but before the settlement date for the contract but do not give rise to a type 1 notifiable variation.

- The scheme plan, proposed scheme plan, or an amendment of the scheme plan is modified in a way that affects the lot or the common property.
- The schedule of unit entitlements, proposed schedule of unit entitlements, or amendment of the schedule of unit entitlements, for the strata titles scheme is modified in a way that affects the lot.
- The scheme by-laws, or proposed scheme by-laws, are modified.
- The strata company or a scheme developer:
    - enters into a contract that is likely to affect the rights of the buyer including a contract for the provision of services or amenities to the strata company or to members of the strata company, or
    - varies an existing contract of this kind in a way that is likely to affect the rights of the buyer.
- A lease, licence, right or privilege over the common property in the strata titles scheme is granted or varied.

Additional information

In addition to the compulsory information, a buyer may wish to seek additional information – for example, about insurance, the strata council, the existence and details of a 10 year plan or litigation involving the strata company.

You can ask the seller to provide the information or seek access to the information directly by submitting a request in writing to the strata company.

You may inspect the information from their files on payment of $1 and photograph materials, subject to any limitations in the Regulations or pay a fee (set out in the Regulations) to obtain copies of the documents, if the strata company agrees to provide copies. The strata company is not obliged to provide copies of documents.

Electronic disclosure of information

Information can be disclosed electronically if:

- both the seller and buyer agree this is the most appropriate way to disclose
- the buyer provides an email address to send the information to
- the buyer acknowledges receipt of the information.

Buyer's avoidance and other rights

Failure to disclose all information required by the STA may mean the buyer can avoid the contract.

To prevent this, make sure all the necessary information is disclosed both before any contract is signed by the buyer and if a notifiable variation occurs.

Buyer's avoidance rights | Based on delivery of precontractual information

Precontractual information is given **BEFORE** contract is signed by the buyer.	No avoidance right.
Precontractual information substantially complying is given **AFTER** contract is signed by the buyer and before the settlement date of the contract.	If the buyer **IS NOT** materially prejudiced by the information, buyer **MAY NOT** avoid the contract.
	If the buyer **IS** materially prejudiced by the information, buyer **MAY** avoid the contract by giving written notice to the seller within 15 working days of being given the seller's notice.
Precontractual information **NOT** given, **and if the seller were to give the information, the buyer would receive information or a document that would disclose material prejudice to the buyer.**	Buyer **MAY** avoid the contract at any time before settlement date of the contract by giving written notice to the seller.

Buyer's avoidance rights | Based on notifiable variations

Seller **GIVES** buyer notice of notifiable variation within:

10 working days of variation

OR

If within 15 working days of settlement, as soon as practicable.

For both type 1 and type 2 variations, the buyer may avoid the contract within 15 working days of notification provided the buyer:

1) Has not already agreed to the notifiable variation in the contract

AND

2) The buyer is materially prejudiced by the notifiable variation.

Seller **DOES NOT GIVE** the buyer notice of notifiable variation.

Type 1 notifiable variation

Buyer may avoid the contract at any time before settlement (no need to prove material prejudice).

Type 2 notifiable variation

Buyer may avoid the contract any time before settlement provided buyer is materially prejudiced by the notifiable variation.

If notice of the notifiable variation is **GIVEN LATE.**

Type 1 notifiable variation

Buyer may avoid the contract within 15 working days of receiving notice.

Type 2 notifiable variation

Buyer may avoid the contract within 15 working days of receiving notice, provided buyer is materially prejudiced by the notifiable variation.