Owners of all lots subject to a termination proposal process are offered protections under the *Strata Titles Act 1985* (Act) to ensure their views and concerns are given fair consideration, with additional resources and support provided to owners who are identified as vulnerable persons (vulnerable owners) under the *Strata Titles (General) Regulations 2019* (Regulations). For a unanimous owner-initiated termination process, the legal requirements have been modified to reflect the owners’ unanimous position in favour of a termination proposal (see Part 15 Division 9 of the Regulations for full details). These modifications include that no funding is provided by the proponent for owners to obtain advice on the full termination proposal and for vulnerable owners to receive additional funding for ancillary services. A dissenting owner is an owner of a lot who votes against the termination resolution on the full termination proposal. If the proponent can proceed to have the termination resolution confirmed by the State Administrative Tribunal (SAT) – (Votes attached to at least 80% of the lots in a scheme of more than 4 lots are cast in favour of the resolution) dissenting owners are eligible for funding for representation in the proceedings at SAT and dissenting owners who are vulnerable persons are eligible for ancillary services to assist with the representation.

The following matrix has been developed for purposes of s.175(1)(j) of the Act and regulation 155(2)d) of the Regulations to explain what support and resources are offered to owners as they navigate the termination proposal process (referred to in the Regulations as dissenting owner protections). The protections vary in how they are applied to each scenario (i.e. a unanimous owner-initiated termination proposal process or where there is not unanimous support). It is important for owners to know if they are participating in the modified unanimous owner-initiated termination proposal process or not and the protections provided under each process.

| **Dissenting owner protections are throughout the termination proposal process** | **Section of the Act** | **Not a unanimous owner-initiated termination proposal** | **Identified unanimous owner-initiated termination proposal**  |
| --- | --- | --- | --- |
| Independent advocate provisions  | s178A  | The strata company appoints an independent advocate to assist owners and others affected by a full termination proposal to understand the proposal. The independent advocate prepares an independent assessment of the full termination proposal and presents it to the strata company and other affected persons. Regulation 111 specifies the qualifications the independent advocate must hold (lawyer or provider of social services who holds a degree from an Australian university relevant to social services) and who the advocate can employ or engage to assist them in their duties. One of the functions of the independent advocate is to identify vulnerable owners as specified in Regulations 143-146, that is any natural person who has a diminished capacity to understand, cope with, or respond to the process. Examples include visual impairments that result in difficulty reading written information; frailty, poor health, or serious illness; and the presence of socioeconomic factors that impair access to professional advice. The purpose of identifying vulnerable owners is to ensure that they receive additional funding for ancillary services (that help put them in the same position as other owners in the scheme in considering and voting on the termination proposal). Vulnerable owners who vote against the termination resolution are also eligible for funding for representation in the State Administrative Tribunal and additional funding for ancillary services in connection with that representation. | The strata company is still required to appoint an independent advocate. Under Regulation 156, the strata company specifies the experience or qualifications the independent advocate must hold. The independent advocate prepares an independent assessment of the full termination proposal and presents it to the strata company and other affected persons.The independent advocate is not required to identify vulnerable owners, as all owners are in agreement to terminate the scheme from the beginning of the termination process. The independent advocate’s assessment can be tailored appropriately (e.g. the report does not need to be provided in Braille) to reflect these circumstances. |
| Full termination proposal to incorporate a termination infrastructure report | s179(2) | A termination infrastructure report comprises:1. a report of a structural engineer on the state and condition of each scheme building and the infrastructure on common property,
2. a report of a person of a class specified in the Regulations on the scope of works reasonably required to repair or replace scheme buildings or infrastructure, taking into account the report of the structural engineer and
3. a report of a quantity surveyor estimating the cost of the works identified.

Regulation 116 specifies that the person providing the report on the scope of works must be registered as a building service contractor under s11 of the *Building Services (Registration) Act 2011.* Regulation 119 further specifies that the person who prepares or certifies the termination infrastructure report must not be the proponent or an associate of the proponent.  | A termination infrastructure report comprises the same three reports but under Regulation 158 the report on the scope of works can be from a person the strata company approves or class of persons the strata company approves. This provides some flexibility for the strata company in a unanimous owner-initiated termination process to obtain a tailored report on the scope of works from a person of their choosing. Under Regulation 119, the person who prepares or certifies the termination infrastructure report must not be the proponent or an associate of the proponent. |
| Full termination proposal to incorporate a termination valuation report | s179(3)(4)(5)(6) | Section 179(3) of the Act provides that a full termination proposal must incorporate a termination valuation report prepared and certified by a licensed valuer setting out a market valuation for each lot in the scheme. Section 179(4) provides that the regulations must prescribe matters relating to the determination of market value of a lot, including a valuation methodology that takes account of –1. relevant recent sales history; and
2. the highest and best use of the lot; and
3. the value attributable to the owner’s interest in the common property in the scheme.

Regulation 117 specifies that a sales comparison valuation methodology be applied. Regulation 118 specifies that the termination valuation report must be current as at a date that is not more than 3 months before the submission of the full proposal to the strata company.Regulation 119 further specifies that the person who prepares or certifies the termination valuation report must not be the proponent or an associate of the proponent. | The provisions concerning the termination valuation report apply in the unanimous owner-initiated termination proposal process. |
| Arrangements for owners for independent advice or representation  | s190 | Prior to submission of the full termination proposal to the strata company no funding is made available to lot owners. The Outline termination proposal must include information on the arrangements for establishing the trust fund for advisory and representation services in connection with a full termination proposal and amounts available to owners and vulnerable owners.Before submitting the full proposal to the strata company, the proponent must pay an amount to a trustee to be held in trust for owners to obtain independent legal advice, valuation advice or reports or financial or taxation advice in connection with the proposal. All owners have access to the same guaranteed funding prior to the vote. Vulnerable owners can receive more funding for ancillary services. Following the vote, if the proponent can proceed to have the termination resolution confirmed by SAT, dissenting owners can access additional guaranteed funding. Funding arrangements are prescribed in Regulation 135 and Regulation 136.The guaranteed funding at each stage is:* $1500 for all advisory services obtained during the full proposal stage
* $5000 for all representation services during the SAT confirmation stage

Vulnerable owners have access to higher amounts of guaranteed funding as follows:* $3000 for all advisory and ancillary services during the full proposal stage
* $9000 for all representation and ancillary services during the SAT confirmation stage

If there is more than one vulnerable owner of a lot, the funding increases for each vulnerable owner as follows:* $1000 for advisory and ancillary services during the full proposal stage
* $2000 for representation and ancillary services during the SAT confirmation stage

A full termination proposal must include the material required in the Outline termination proposal. It must also contain the name and contact details of the trustee of the trust fund if that information was not included in the Outline termination proposal or the details have changed since the Outline proposal. | Prior to submission of the full termination proposal to the strata company no funding is made available to lot owners.The Outline termination proposal has to specify that:* an owner of a lot is entitled, at any time before voting on the full proposal, to notify the strata company that the owner wishes to access funding from the proponent to obtain independent advice or representation on connection with the proposal.
* the owner of a lot is entitled to notify the strata company or the independent advocate, at any time before the vote on the full proposal, that the owner wishes to be identified as a vulnerable person.
* if an owner notifies the strata company or independent advocate that the owner wishes to access funding arrangements the proponent must withdraw the termination proposal, and if the proponent wishes to proceed further, submit a new Outline termination proposal that will include arrangements for a fund to be established that will enable owners to access funding to obtain advisory and representation services in connection with the proposal.

The proponent is not required to pay an amount to the trustee as detailed opposite. This enables owners to avoid the cost of establishing the fund because it has been established prior to commencing the process that the owners are clearly agreed on their preferred actions. The full termination proposal for a unanimous owner-initiated termination proposal must include the information included in the Outline. It cannot be submitted to the strata company as a unanimous owner-initiated termination proposal unless the outline was submitted as a unanimous owner-initiated termination proposal.The full termination proposal must declare that it is submitted as a unanimous owner-initiated termination proposal, declare that the proposal is submitted on condition that the proposal will only be proceeded with if it has the unanimous support of owners of all lots in the scheme, explain what unanimous support means and declare that the termination proposal will not be modified in a material particular by the proponent after a termination resolution is passed unless the modification has the unanimous support of owners of lots in the scheme.  |