



STRATA REFORMS AND HOW THEY MAY IMPACT YOU!

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In NSW, the government is in the process of reforming the laws of strata living. This will be the first major reform since 1973.

As it stands, there will be some 2 million residents, strata owners and professionals in the strata arena impacted by the reforms.

So what are the major changes proposed and how will they affect our many strata buyers and owners?

Voting:

Changes are being made to allow modern communication when voting by post, electronically and through secret ballots. These reforms could mean meeting attendance can be undertaken by social media, video or teleconference.

Strata managers and building managers:

The changes include lifting standards of accountability for managing agents and building managers to include requirements for disclosure of conflicts of interest, financial interests and limiting the agreements for strata management to 1 year in the first year and three years thereafter.

Defect inspection reports and building bonds for new properties:

The changes propose the introduction of compulsory defect inspection reports on conjunction with a building bond. This means that where construction of a high rise building is undertaken, (more than 3 stories), developers would be required to lodge a 2% bond in trust as security for defect rectification. They would be required to prepare a maintenance schedule to be presented at the first annual general meeting to keep owners informed of maintenance obligations.

A process for early identification and rectification of defects is to be implemented which requires the developer to engage independent building inspectors to carry out defect inspection reports at their own cost during the period of 12 – 18 months after completion.

Collective Sale:

The Bill contains a process by which owners of a strata scheme can collectively end or wind up the scheme so it can be sold. Under the new process, only 75% of owners have to agree and this will then force the remainder of the owners to agree to the collective sale.

Protections are proposed for elderly and vulnerable owner-occupiers of strata units. Fair Trading will establish a Strata Renewal Advice and Advocacy Program providing free advice for residents and this is to include an assistance hotline and a free advocacy service for vulnerable residents.

Proxy voting to be limited:

In order to stop the practice of “proxy farming” where one person controls the decisions made at strata meetings by way of obtaining majority votes using proxy votes, the new bill introduces a limit on the number of proxy votes able to be held to:

- one proxy vote only for schemes with less than 20 lots; or
- 5% for schemes with more than 20 lots.



Renovations:

The reforms will enable clear and “common sense” approvals for owner renovations, waiving restrictions for minor and cosmetic changes and provide for other renovations to require approval by general vote (50%) only such as installing floorboards. Renovations that may impact the external appearance or structure still require special resolution (75% of the vote).

Smoke drift:

Powers already exist allowing a resident to take another resident to the Tribunal if their smoking causes a nuisance or hazard that is interfering with the complainants enjoying their lot or common property. The reforms strengthen those powers specifically noting that smoke drift can be considered a nuisance or hazard. The reforms also contemplate the availability

for strata to introduce by-laws that deal with smoke drift and allowing Owners Corporations (OC) to enforce a ban by issuing a notice to comply and seek orders in the Tribunal allowing the OC to prosecute in place of individual owners.

Pet ownership:

Reforms intend to make it easier to keep pets by removing any reference to a ban in the model by-laws and to encourage schemes to review their by-laws and consider whether any bans should be lifted.

Schemes would still have the ability to make its own rules about pet ownership and can place reasonable conditions on pet ownership in their by-laws.

Visitor parking, noise & short term letting:

The reforms will allow a schemes to introduce model by-laws which allow more action to be taken against the misuse of visitor parking, noise and short-term letting as well as the ability to introducing by-laws restricting the number of people who can reside in a unit, based on a minimum of two persons x number of bedrooms in a unit.

Tenant participation:

In schemes where the majority of units are tenanted, tenants will be able to take part in OC meetings and have an elected presentative on the strata committee whilst respecting the financial decisions of the owners.



Levies & capital works:

The new laws will require developers to set realistic levies during the time when the strata plan is registered and the developer has sold at least 1/3rd of the unit entitlements in the scheme and for the subsequent year afterwards.

Provisions will also allow the OC to more easily recover outstanding levies that are used for day-to-day expenses by way of orders that a debt is owing sought from the Tribunal which can be registered as a debt at the Local Court, allowing debt recovery,

including garnishee orders on a lot owners income and rent paid by the tenant to the real estate agent.

Dispute Resolution:

In addition to the expanded powers of the Tribunal above mentioned, the new laws propose changes that will mean the Tribunal now has the ability to remove members of the executive committee and strata managing agent and force elections of office holders to allow smoother running of the OC where currently the only option for the Tribunal is to appoint another strata manager in place of one who fails to perform which is not always the best response and can be expensive to a scheme.

How you can keep up to date:

Fair trading allows you to register to be kept up to date with these reforms at this website:
http://surveys.fairtrading.nsw.gov.au/Strata_and_community_law_review_registration.asp

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In addition the City of Sydney Council currently runs free workshops on strata skills:
<http://www.cityofsydney.nsw.gov.au/live/residents/apartment-living>

Fair Trading also runs seminars which may be of assistance:
<https://events.fairtrading.nsw.gov.au/scripts/NSWFairTradingCalendar/> .

To learn more about the proposed reforms, refer to the draft **Strata Schemes Development Bill 2015** (PDF size: 777Kb) and **Strata Schemes Management Bill 2015** (PDF size: 801Kb).

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