

Major changes to strata laws

Currently more than a quarter of NSW's population lives or works in multi-unit buildings.

Strata laws are being modernised to meet the needs of living in a strata community in the 21st century. In October 2015, a Strata Schemes Management Bill 2015 and Strata Schemes Development Bill 2015 were introduced into the NSW Parliament. The legislation passed the NSW Parliament on 28 October 2015.

The main changes are outlined below. To explore what the changes will mean for schemes, you can also refer to our supporting web pages with more details on specific changes. The changes are expected to start in mid 2016.

You can also visit the Have your say section of our website to:

- find out more about the consultation process that helped shape the reforms
- view the Strata Bills.

Modern and flexible schemes

Changes will enable use of modern forms of communication. Voting will be able to occur through the post, electronically and through secret ballots. Papers can be distributed by email.

The reforms will accommodate meeting attendance through social media, video and teleconference. They will also enable owners corporations flexibility to determine when their annual general meetings are held.

Visit the Scheme management reforms web page for more information.

Transparency and accountability

Key changes include lifting standards and accountability of strata managing agents and building managers. This will involve enhanced disclosure of any conflicts of interest, including financial interests. Strata managing agent agreements would be time limited to one year in

the first year and three years in following years, with a possible three month extension able to be granted.

Read the Strata managing agent reforms web page for more details.

Collective sale and renewal

This new process recognises the rights of owners to jointly end or wind up a strata scheme so the site can be sold or renewed.

Similar models already operate in New Zealand, most states of North America, and the United Kingdom.

Protections will be in place for elderly and vulnerable owner-occupiers of strata units. Fair Trading will establish a Strata Renewal Advice and Advocacy Program to provide free advice for residents. This will include an assistance hotline and a free advocacy service for vulnerable residents.

The reforms will ensure that owners receive at least the market value of their lot plus an extra amount to cover costs like those associated with moving, as required by the Land Acquisition (Just Terms Compensation) Act 1991.

Any plans for renewal will be referred to the Land and Environment Court for final consideration. The Court will consider whether the process has been properly followed. It will initially seek to resolve disputes through conciliation or mediation.

The Court will be able to reject a renewal plan if:

- it has not followed proper processes or been developed in 'good faith' or
- the amount to be paid to a dissenting owner was less than the compensation value of the lot or
- the terms of settlement were not just and equitable in all the circumstances.

You can find out more on this proposed reform by visiting the Collective sale and renewal reforms web page.

Maintaining the building's condition

Changes include introducing mandatory defect inspection reports and a building bond. These will enhance consumer protection if a new building has defective work and help prolong the life of the building.

A building bond for the construction of high rise strata buildings (those over 3 stories in height) will maintain developer and builder accountability for their work. Developers will be required to lodge a 2% bond for the contracted price of the building, as a form of security to fix any defective work. The developer will also need to prepare a maintenance schedule, to be tabled at the first annual general meeting to inform owners about their maintenance obligations.

A process for the early identification and rectification of defects will be implemented, requiring developers to engage an independent building inspector to carry out a defect inspection report, at their cost, between 12 and 18 months after the completion of the building. The owners corporation must agree to the appointment, if there is no agreement or the developer ceases to trade after the building work is complete, Fair Trading will arrange for an inspector to be appointed. If the defects are not rectified the building bond will be used to carry out the repairs and if there are no defects or they are rectified, the bond will be returned to the developer.

The proposed changes will encourage developers and builders to fix defects quickly.

Owner renovations

Current laws can make it difficult for owners to carry out minor renovations to their lot.

The reforms will provide clearer, common-sense approvals for owner renovations. They will waive restrictions for minor, cosmetic changes to lots such as inserting a picture hook.

Renovations with a lasting impact, such as installing floorboards, will still require approval but only a general resolution (50% of the vote). Renovations like those that affect the structure or external appearance of the building will still require a special resolution (75% of the vote).

Proxy voting

Many people have raised concerns about the practice of proxy farming in strata schemes; where one individual controls the decisions made by the owners corporation by obtaining a majority of votes using the proxy system.

The reforms seek to curb proxy farming; ensuring all owners get a fair say in the way their scheme is managed. The reforms would limit the number of proxy votes able to be held by one person to:

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

Read more on the proposed changes by visiting the Scheme management reforms web page.

By-laws

Reforms will introduce a model by-law dealing with smoke drift. It will also reform the model by-laws to make it easier to keep pets.

Reforms will allow schemes to take more action against the misuse of visitor parking spaces, noise and short-term letting, as well as introduce increased fines for non-compliance.

The changes will introduce measures to help address overcrowding in strata schemes.

For more information on these changes visit the By-law reforms web page.

Tenant participation

The new strata laws will allow tenants in schemes where the majority of units are tenanted to take part in owners corporation meetings and have an elected representative on the strata committee, while respecting the financial decisions of owners.

Visit the Scheme management reforms web page for more information.

Levies and capital works funds

New laws will require developers to set realistic levies during the period between when the strata plan is registered, and the developer has sold at least one third of the unit entitlements in the scheme (the initial period) and for the subsequent year after.

Owners corporations will be able to more easily recover outstanding levies that are mainly used to pay for the scheme's day-to-day expenses.

Dispute resolution

The reforms will expand the Tribunal's power to exclusively deal with most strata disputes, including orders to recover outstanding levies. The outstanding debts will then be registered with the local court, and debt recovery, including garnishee orders, on a lot owner's income, and rent paid by a tenant to a real estate agent could then commence. These will be able to be used to recover outstanding levies.

The Tribunal's expanded powers will help it ensure owners corporations can run more smoothly where there is dysfunction in a scheme. These include removing members of the executive committee and the strata managing agent and forcing elections of office holders.

Currently the only option for the Tribunal is to appoint another strata managing agent to replace one who isn't performing. This may not be the best response to a number of these issues, as it can be costly to a scheme, and create disharmony for lot owners.

The Tribunal will also be able to limit the matters that committees can make decisions about, and require votes on certain matters.

Read the Managing dispute reforms web page for more information.