

Strata managing agent reforms

Important reforms to strata law will improve the accountability of strata managing agents and lift standards through enhanced disclosure of any conflicts of interest, including financial interests. This is part of an information series explaining the amendments in greater detail.

Improved accountability

Currently, a managing agent can only be dismissed, or have a delegation changed at an annual general meeting (AGM), by a majority vote. Termination conditions, including payments, are detailed in the agent's contract and written notice of the decision must be given to that agent.

Changes will give the NSW Civil and Administrative Tribunal greater powers to make orders and remove strata managing agents where the agent has refused or failed to perform their duties to an acceptable standard in line with their agreement. The Tribunal would make decisions about payments to the agent by the owners corporation if the agreement was considered to be unfair or unreasonable. Also, if the agent failed to meet new disclosure obligations, the Tribunal could order that they forfeit commissions to the owners corporation.

Greater disclosure

The strata reforms contain measures regarding third party commissions. At each AGM, the strata managing agent will be required to disclose whether any third party commissions have been paid to the agent for the previous 12 months. The disclosure will be recorded in the minutes of the meeting.

At the AGM, the owners corporation will decide if it was acceptable for the strata managing agent to be able to accept commissions for the next year. Owners corporations will be required to vote on whether to approve the payment of commissions, or whether to move to a fee-based system to pay for the strata manager's services.

If an agent fails to disclose commissions, the Tribunal will be able to make an order that any commissions accepted

in the previous 12 months be paid to the owners corporation.

Strata managers will not be allowed to receive any nominal gifts or benefits over a certain dollar amount in connection with their role as a strata managing agent.

Strata managing agents will be able to attend conferences or training courses in connection with their duties.

Proposed changes would also require the managing agent to disclose any links to the developer of the scheme when they are appointed to the role.

Agents would face fines of up to \$2,200 per offence for any breach of proposed disclosure requirements.

Fairer terms of appointment

Currently the length of the appointment for a strata managing agent is negotiated by the owners corporation. Under the changes to the strata law, strata management contracts will be limited to one year in the first year, and then up to 3 years after that first year.

The strata committee will be able to extend the period of the appointment for successive periods of up to 3 months after it would otherwise expire (but not for any period that would extend beyond the date for the next annual general meeting). This will provide owners corporations with more flexibility in deciding whether or not to reappoint their managing agent, or seek another agent.

The instrument of appointment for up to 3 years is taken to include an option for the agent to extend the term of the appointment for a maximum period of 3 months after the end of the term of 3 years, if the owners corporation decides not to reappoint the agent and doesn't extend the term of appointment. The agent will be required to give the owners corporation written notice of the exercise of the option.

An agent will not be entitled to exercise the option to extend their appointment if the owners corporation gives the agent written notice that the agent will not be reappointed at least 3 months before the end of the term.

The strata managing agent cannot be appointed as the secretary or treasurer of the strata committee.

A person cannot be appointed as a strata managing agent in a scheme if they own a lot in the scheme.

Consultation

During public consultation on the proposed strata laws, it was clear that more could be done to improve accountability and address potential conflicts of interests within the strata sector.

The transparency and accountability measures for strata managing agents have been developed in close consultation with key stakeholders across the strata sector.