

STRATA OWNERS AND RESIDENTS IN STRATA-TITLED TOWNHOUSES OR UNITS TO BE AFFECTED BY NEW SOUTH WALES STRATA LAW REFORM

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UPDATES TO STRATA LAWS AIM TO COMBAT ISSUES AFFECTING STRATA RESIDENTS

There is an increasing number of people living in strata titled properties in New South Wales and the strata law reform will definitely impact you if you are a strata owner or living or working in a strata or community scheme. This Bill has been in the making for over five years and there are significant changes that you should be aware of before it comes into effect.

NSW STRATA REFORM ADDRESSES THE NEEDS OF THOSE IMPACTED BY STRATA REGULATIONS

The New South Wales Government has released the draft of the Strata Schemes Development Bill 2015 and the Strata Schemes Management Bill 2015 for industry and public comment. The reform seeks to create a modern framework for residents living in strata schemes today by updating the strata laws to better combat current day issues. New South Wales has around 75,000 strata schemes worth \$350 billion in assets, and the reforms will affect some two million industry professionals, strata owners, and residents in strata titled townhouses and units.

Some of the proposed changes are outlined below.

MODEL BY-LAWS CHANGES TO DEAL WITH ISSUES SUCH AS SMOKING AND KEEPING PETS

The Bill proposes to introduce model by-laws to deal with a multitude of issues. Smoke drift will be classified as 'nuisance' to prevent people smoking where it could affect other patrons. Pet owners will not be as restricted.

More action will be taken against the misuse of visitor parking spaces. The issue of overcrowding in strata schemes will be addressed by a cap on how many residents are allowed based on the number of bedrooms of the lot.

MANDATORY REPORTS AND BUILDING BOND TO ENSURE BUILDING MAINTENANCE

The Bill proposes to implement mandatory defect inspection reports and a building bond in order to improve consumer protection if a new building has defective work and help prolong the life of the building. The changes will also encourage developers and builders to fix defects quickly.

For the construction of high rise strata buildings (over three stories in height), a building bond would hold the builder and developer accountable for their work. Developers would be required to lodge a 2 per cent bond for the contracted price of the building, as a form of security to fix any defective work. Furthermore, 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.

Developers will also be required to engage an independent building inspector, at their own expense, to carry out a defect inspection report between 12 to 18 months after the completion of the building to identify and rectify any defects.

GREATER PARTICIPATION IN DECISION-MAKING PROCESS, PROXY VOTING LIMITED

The Bill proposes to enable modern forms of communication to allow greater participation in schemes, as well as to enable owners corporations to have

flexibility to determine when their annual general meetings are held.

The inclusion of voting through the post or electronically will allow for the accommodation of meeting attendance through social media, video and teleconference.

To ensure 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 to a maximum of 5 per cent. This will ensure that no one person can heavily influence a decision.

IMPROVED TRANSPARENCY AND ACCOUNTABILITY OF STRATA MANAGING AGENTS AND BUILDING MANAGERS

The Bill proposes to lift the standards and accountability of strata managing agents and building managers in order to support the responsible management of schemes.

This will involve enhanced disclosure of any conflicts of interest, including financial interests, and limiting strata managing agent agreements to one year in the first year and three years in following years.

UNANIMOUS SUPPORT NO LONGER REQUIRED FOR COLLECTIVE SALE, RENEWAL OR TERMINATION OF STRATA SCHEMES

The current law allows for the termination of a strata scheme under circumstances where there is 100 per cent support from all owners. Under the proposed reforms, only 75 per cent of owners have to agree to the termination of their strata scheme which subsequently forces the remainder to agree to the collective sale of their apartment blocks.

The proposed reforms are also designed to ensure that owners receive at least the market value of their lot plus an extra amount to cover costs like those associated with moving. Protections will be put in place for elderly and vulnerable owner-occupiers of strata units. Fair Trading would establish a Strata Renewal Advice and Advocacy Program to provide free advice for residents.

LESS RESTRICTIONS OVER OWNER RENOVATIONS

The Bill proposes to provide clearer, common-sense approvals for owner renovations, by waiving restrictions for minor, cosmetic changes to lots, such as inserting a picture hook.

However, renovations with lasting impacts will still require approval but only a general resolution (50 per cent of the vote). Renovations that affect the structure or external appearance of the building would still require a special resolution (75 per cent of the vote).

INDIVIDUAL INPUT INTO THE FINALISATION OF THE BILL

Strata owners, industry professionals and other key strata groups have been invited to get involved with the decision-making process and have their views and opinions heard before the Bill is finalised. Submissions ... deadline [was] Wednesday 12 August 2015. More information and further details can be found at the New South Wales Government Fair Trading website.

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