



Strata Law Reforms

New Strata laws now apply in NSW. There are numerous changes. The changes are aimed at improving strata living, and providing greater opportunity for strata redevelopment.

We examine some of the more significant reforms set out in the new legislation below.

Collective sale of a strata scheme

Currently, a strata scheme can only be ended or “collapsed” with the unanimous support from all owners in a strata scheme. The new provisions allow for the collective sale or redevelopment of a strata scheme by a 75% majority of lot owners. The rights of the owners are protected by the inclusion of certain checks and balances. For example, if a strata sale is agreed to, the owners are to receive the market value of their lot plus an extra amount to cover costs associated with moving.

The purpose of the amendment is to prevent individual owners from blocking redevelopment of aging and high-maintenance unit blocks.

Collective renewal or extension of a strata scheme

An alternative to ‘collapsing’ the strata scheme is that the new provisions allow the owners in a Strata Scheme by a 75% majority of lot owners to take advantage of modern building techniques and relaxed height restrictions to add apartments on to the existing footprint and at the same time renovate and update the existing building using the income from the sale of the new apartments to pay for the work.

Renovations of Lots

The previous strata laws could have prevented you hammering a nail into a common property wall without getting a by-law approved. The new strata laws separate renovations into cosmetic, minor and major renovations. To undertake cosmetic renovations, it’s simply a case of notifying the strata committee. Minor renovations require approval by a vote of the strata committee (not a general meeting of lot owners). Major renovations usually involving structural changes still require a special resolution at a general meeting of lot owners.

Proxy Voting

The number of proxies a member of a strata scheme can hold will be limited to:

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



The intention is to restrict “proxy farming”, whereby members gather up the votes of uninterested or absent members in the strata scheme to enable them to pursue their own agenda.

By Law Reviews

By 30 November 2017, every strata scheme must conduct a review of its by-laws. New model by-laws are available, however each strata scheme can customise its by-laws to suit its lifestyle provided it is not harsh, unconscionable, or oppressive. Some of the by-laws that can be introduced are:

- Rather than requiring owners corporation approval before keeping a pet on a lot, a by-law allowing pets to be kept by the lot owner simply giving notice to the strata committee.
- Smoking by-laws, including defining an area of common property as a designated smoking zone or providing that smoking in one lot must not penetrate into another lot.
- By laws setting maximum limits on the number of people living in a unit provided the limit cannot be set at less than 2 adults per bedroom and there is no limit on family members.

Parking Crackdown

An Owners Corporation can move a vehicle that blocks an exit or entrance or the use of common property. Before doing so it must attach a prescribed notice on or near the vehicle for 5 days. It can then move the vehicle to another area of the common property or to the nearest place where it may be lawfully moved, and can apply for the Tribunal for its reasonable costs of doing so. The Owners Corporation is also able to make arrangements with Local Council rangers to patrol their car park. The Owners Corporation will need to pass a by-law to enter into a commercial agreement with Council and pay for the service.

Abandoned Goods

The Owners Corporation can dispose of goods (other than motor vehicles) left on common property if a disposal notice as the prescribed form has been left on or near the goods for 5 days and the goods are perishable or consist only of rubbish. If the goods block an entry or exit, the owner’s corporation can move them to another area of the common property without first placing a disposal notice. The Owners Corporation can sell or dispose of the goods and a purchaser obtains good title. The Owners Corporation must keep written records of the disposal for at least 12 months and can place the sale proceeds into its administrative fund. The owner of the goods can apply to NSW Civil and Administrative Tribunal for those proceeds, less the Owners Corporation’s reasonable costs.

Tenant Representative in Strata Committee

In strata schemes where at least half of the lots are tenanted, the tenants have the right to nominate a tenant representative to the strata committee. The tenant representative does not have a vote but is entitled to receive notice of meetings and minutes and attend and speak at meetings of the Strata Committee.

Electronic Communications

The Owners Corporation and the strata committee can decide how meetings are to be held and the method of voting. This includes enabling voting and/or meeting participation through technology such as email, teleconference, video



conference calls and the use of voting websites. Pre-meeting electronic voting is another option that Owners Corporations can choose to allow.

Contracts with Strata Managers and Caretaker/Building Managers

For a Strata Manager, all contracts current at 30 November 2016 will automatically end up to 3 years after the term commenced, or on 30 May 2017, whichever is the later.

For a caretaker or building manager, all current contracts will remain in force for up to 10 years to 30 November 2026, unless there is a shorter period nominated in the contract.

Conclusion

The reforms are intended to update the strata laws to reflect and take account of current trends and issues experienced with strata living and promote redevelopment of strata apartment buildings.

If you or someone you know wants more information or needs help or advice regarding strata reforms, please contact one of our [accredited property law specialists](#), [Michael Battersby](#) or [John Bateman](#) on 02 4731 5899 or email property@batemanbattersby.com.au.