

## MAJOR CHANGES TO STRATA LAWS: SUMMARISED FROM THE FAIR TRADING WEBSITE

New strata laws start on **30 November 2016**.

Many new requirements will not impact strata communities immediately. This includes allowing time for pre-appointed strata managing agents, building managers and executive committee members to continue in their roles.

Some key changes include:

- strengthening the accountability of strata managers;
- allowing owners to adopt modern technology to conduct meetings, vote, communicate and administer their scheme;
- the need for owners to review [by-laws](#) within 12 months, which can be customised;
- a process for the collective sale and renewal of a strata scheme;
- a simpler, clearer process for dealing with disputes;
- broadening tenant participation in meetings;
- a new option to manage unauthorised parking through a commercial arrangement between a local council and a strata scheme;
- a clearer and simpler three-tier renovations process, which waives approval for cosmetic renovations within the strata lot (for example, installing handrails for safety).

There are also measures to reduce red tape.

### Complying with the new laws

Strata schemes will have plenty of time to understand and adjust to new requirements after the reforms start.

Be aware that:

- decisions already made and financial contributions already levied remain valid once new laws start;
- legal proceedings already underway will be dealt with under the former Act.

### Managing the strata scheme

Previous appointments will be able to continue after the new laws as follows:

- if a **strata managing agent** is appointed before 30 November 2016, their term of appointment ends whichever is later:
  - up to 3 years after their term commenced (on the day the term is due to end), or
  - 6 months from the start of the new laws.
- contracts with **caretakers and building managers** in force before 30 November 2016 will remain in force after that date, until 10 years after the laws have commenced (unless the terms of the contract are for a shorter period, then that period will apply);
- the existing **owners corporation** continues to operate;
- the previous [executive committee](#) becomes the new 'strata committee'.

### **Modern and flexible strata schemes**

The reforms allow a strata scheme to adopt social media, video and teleconference to hold meetings. Voting can occur electronically and through secret ballots. It will also be possible to distribute papers by email.

The new laws will also give owners corporations more flexibility around when to hold their AGM.

### **Stronger accountability for strata managers and caretakers**

Strata managing agents will have new requirements to disclose conflicts of interest, including financial interests. Strata managing agent agreements will be time limited to 1 year (in the first year of the strata scheme) and 3 years in following years, with possible 3-month extensions able to be granted.

If a strata managing agent or building manager is not performing, owners will be able to apply to the Tribunal to vary or terminate the contract, or be compensated.

### **Collective sale and renewal**

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

### **Owner renovations**

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

The reforms provide clearer, common sense approvals for owner renovations. They waive restrictions for 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, or waterproofing, will still require a special resolution (75% of the vote).

### **Proxy voting**

Changes to proxy voting will prevent an individual controlling owners' decisions by obtaining a majority of proxy votes (that is, voting rights delegated to them by other owners).

Proxy votes able to be held by one person will be limited to:

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

### **By-laws**

Reforms introduce a model by-law dealing with smoking that intrudes into the common property or another person's lot. The reforms will also amend the model by-laws to make it easier to keep pets. However, they will not remove a scheme's ability to make its own rules about smoking and pets.

Reforms will allow schemes to take more action against the misuse of parking spaces and excess noise, and introduce increased fines for non-compliance.

The changes introduce measures to help address overcrowding.

### **Tenant participation**

Tenants will have a right to attend owners corporation meetings, no matter how many of the lots are tenanted in their scheme. Tenants may vote only if they hold a proxy (giving them voting rights on a lot owner's behalf). The owners corporation may allow a tenant to speak on a particular matter. Tenants can be excluded from a meeting when financial matters are discussed.

If at least half the lots are tenanted, a tenant representative can be nominated as a non-voting member of the strata committee. The representative may still be excluded from meetings when financial issues are discussed.

### **Levies and capital works funds**

New laws will require developers to set realistic levies.

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.

As well as being able to register outstanding levies as a debt in the Local Court, owners corporations will be able to enter into payment plans with lot owners if they wish, for up to 12 months. This would allow a lot owner to make periodic payments of their debt to the owners corporation. If an outstanding debt is registered with the Local Court, it can order debt recovery (including garnishee orders on the lot owner and, for the first time - if necessary - any rent paid by a tenant to a real estate agent) to recover the debt.

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.

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

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