

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Environmental Planning and Assessment Amendment Bill 2008*.

Overview of Bill

The object of this Bill is to amend the *Strata Schemes Management Act 1996* (**the Principal Act**):

(a) to make it clear that the provisions in that Act relating to the appointment of caretakers extend to persons who fall within the description of caretaker in that Act regardless of what they are called, and

(b) to remove the ability of an owners corporation to make by-laws during the initial period authorising parking on common property, and

(c) to place certain restrictions on the casting of votes by original owners and certain persons connected with them by using proxies and powers of attorney, and

(d) to require members of executive committees of strata schemes and candidates for membership of such committees to disclose connections with original owners and caretakers of those schemes.

The Bill also amends the *Home Building Act 1989* to enable owners of lots in strata schemes and schemes under the *Community Land Management Act 1989* to request the investigation of building disputes and allow access to common property for the purposes of such an investigation.

Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision that gives effect to the amendments to the *Strata Schemes Management Act 1996* set out in Schedule 1.

**Clause 4** is a formal provision that gives effect to the amendments to the *Home Building Act 1989* set out in Schedule 2.

**Clause 5** provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

### **Schedule 1 Amendment of Strata Schemes**

#### **Management Act 1996**

**Schedule 1 [1]** amends section 40A of the Principal Act to make it clear that the caretaker provisions of the Principal Act extend to a person who meets the description of caretaker contained in that section regardless of whether the position to which the person was appointed is called something else, for example, building manager. **Schedule 1 [8]** amends the Dictionary to the Principal Act to make a consequential amendment.

**Schedule 1 [2]** repeals section 56 of the Principal Act which enables the owners corporation, with the approval of the local council, to make a by-law during the initial period authorising an owner to park a vehicle on the common property of the strata scheme concerned.

**Schedule 1 [3]** amends clause 11 of Schedule 2 to the Principal Act to prevent an original owner or a person connected with an original owner from casting a vote by means of a proxy or power of attorney given by another owner of a lot in the strata scheme concerned if the proxy or power of attorney was given pursuant to a term of the sale contract for the lot or an ancillary contract or arrangement. The amendment does not prevent a proxy or power of attorney being given by a person to another person connected with him or her. **Schedule 1 [9]** amends the Dictionary to the Principal Act to define when a person is to be taken to be connected with another

person.

**Schedule 1 [4]** inserts clause 3A into Schedule 3 to the Principal Act to require a person to disclose that he or she is connected with the original owner or caretaker of a strata scheme before standing for election as a member of the executive committee for the strata scheme or being appointed to act as such a member. The proposed clause also requires a person who is a member of an executive committee or is acting as such a member to disclose if he or she becomes connected with the original owner or caretaker.

**Schedule 1 [5]** amends clause 4 of Schedule 3 to the Principal Act to place certain limitations on the voting by an original owner on a motion that a member of the executive committee should vacate office.

**Schedule 1 [6] and [7]** amend Schedule 4 to the Principal Act to include provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

**Schedule 2 Amendment of Home Building Act 1989**

**Schedule 2 [1]** amends section 48C of the *Home Building Act 1989* to make it clear that an owner of a lot in a strata scheme or scheme under the *Community Land Management Act 1989* may notify the Commissioner for Fair Trading about a building dispute relating to common property or association property in the relevant scheme.

**Schedule 2 [2]** amends section 48D of the *Home Building Act 1989* to enable an inspector to enter common property in a strata scheme or association property in a scheme under the *Community Land Management Act 1989* at the request of an owner of a lot in the scheme concerned for the purpose of investigating a building dispute.