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Strata law reforms in NSW

by Chris Angus

1. Introduction

In place for over 50 years, NSW's strata laws have been essential for the effective operation of more than 72,000 strata schemes throughout the State, and the wellbeing of approximately two million people.¹

Because of the importance of strata laws to the community, and the age of the existing legal framework, the NSW Government has spent several years completing a comprehensive review of the laws. In July 2015, the Government released two draft Bills that together propose approximately 90 different reforms to the current regime.

This e-brief provides an overview of key issues relating to the existing strata regime in NSW, along with a broad summary of the proposed reforms announced by the NSW Government.

One proposed reform in particular has attracted stakeholder comment, namely the proposed reduction in the number of owners required to approve the termination of a strata regime for sale or redevelopment purposes. This proposal is discussed in greater detail, along with stakeholder criticism and a comparative analysis of collective sale laws in other Australia and international jurisdictions.

2. Existing NSW strata laws

Strata legislation was originally introduced in NSW in 1961,² and has been subject to a range of legislative reforms over subsequent decades. Currently, NSW strata schemes are governed by several Acts under three legislative frameworks.

Table 1: Existing NSW strata legislative framework³

Legislation	Purpose of framework
<i>Strata Schemes (Freehold Development) Act 1973 (NSW)</i> ; <i>Strata Schemes (Leasehold Development) Act 1986 (NSW)</i> .	Administration of the initial subdivision and subsequent sale of land (each Act administers different types of land).
<i>Strata Schemes Management Act 1996 (NSW)</i> .	Regulation of strata scheme management and dispute resolution procedures.
<i>Property, Stock and Business Agents Act 2002 (NSW)</i> .	Control of actions by strata or community managing agents and residential property managers.

According to Everton-Moore et al, the last major overhaul of the NSW strata regime occurred through the introduction of the [Strata Schemes Management Act 1996 \(NSW\)](#):

Strata law has a long history in New South Wales, however its current shape is largely the result of a major overhaul completed in 1997, which marked the introduction of the SSMA [*Strata Schemes Management Act 1996*]. This Act was introduced to ‘revolutionise the way strata schemes in New South Wales are administered’. It aimed to do this by modernising and streamlining the existing strata laws, while achieving ‘a balance between [owners] corporations having freedom to manage without undue interference and individual residents having their rights maintained’. Since its introduction, the SSMA has undergone a series of reviews, which have resulted in a wide range of reforms.⁴

3. Issues with the existing regime

Between 15 December 2011 and 29 February 2012 Global Access Partners, in consultation with the NSW Government, hosted an open online forum about NSW strata and community title laws. A Final Report on this consultation process was released in April 2012.

According to the Consultation Report, the existing legislative regime fails to accommodate the diversity of modern strata schemes:

The existing laws have largely taken a ‘one size fits all’ approach. While there are some differences, such as those for two lot schemes and large schemes over 100 lots, the laws are generally the same for all schemes. This approach achieves consistency and makes education simpler but can also be seen as rigid and inflexible.⁵

The Consultation Paper also found the existing laws to be overly diffuse and complex, stating:

The original strata laws contained only 29 provisions. Today the strata and community scheme laws are spread across five separate Acts and five associated Regulations. In total there are now more than 1,500 provisions covering some 926 pages, fast approaching the Commonwealth’s Tax Act in size.

There would be few, if any, people who would have a full knowledge and understanding of all of the current provisions. This creates an environment where unintentional breaches of the law are common and many people feel the need to go to the trouble and expense of obtaining advice and assistance from specialist lawyers, even on fairly routine matters.⁶

The online forum garnered almost 600 suggestions for reform of either relevant procedures or laws for consideration by the NSW Government. Examples of stakeholder commentary are shown below:

Category	Examples of stakeholder commentary
Governance	<ul style="list-style-type: none"> Executive committee system is hampered by widespread owner apathy, making it easy for small groups of people to dominate decision-making; Dissatisfaction with the standards and conduct of professional strata managers;

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	<ul style="list-style-type: none">• Need for more information for owners and tenants regarding their respective rights and responsibilities.
Community living	<ul style="list-style-type: none">• More responsive procedures and effective sanctions needed to prevent irresponsible actions by small minority of residents;• Calls to ban smoking in common areas and on balconies;• Reform of zoning laws to ban holiday and short-term letting in most strata.
Dispute resolution	<ul style="list-style-type: none">• The efficacy of mediation, the fairness of adjudicator decision making and the procedures of the Consumer, Trader and Tenancy Tribunal (CTTT) questioned;• Simplification of CTTT operations, with more scope to impose sanctions against proven offenders
Urban renewal	<ul style="list-style-type: none">• Several industry groups suggested lower thresholds to allow dissolution of existing plans and site redevelopment;• Support for improving and guaranteeing building standards to minimise noise and other problems in high-density developments.
Streamlining legislation and administration	<ul style="list-style-type: none">• Consolidation and simplification of existing regulations;• Differentiating the law for smaller strata schemes;• Laws and by-laws drafted in clearer English.

4. Proposed reforms

In September 2012 the NSW Government released a discussion paper on strata and community scheme laws, [Making NSW No. 1 Again – Shaping Future Communities](#). This was followed in November 2013 by the Strata Title Law Reform Position Paper (2013 Position Paper).

The 2013 Position Paper reiterated stakeholder concern that there were a number of shortcomings in existing strata legislation, and argued that, in light of the predicted future growth of strata developments, reform was necessary:

The community told us that the current laws are out-dated and do not meet the current or future needs of the sector in an efficient and effective way. The laws are seen as overly formal and complex, creating unnecessary disputes and potentially hindering the future growth of the sector.

New South Wales now has more than 72,000 strata and community schemes and this number is set to rise in the coming decades as population growth and urban consolidation continue. More than two million people presently own, live or work in a strata or community scheme in New South Wales.

Many thousands of people are employed directly or indirectly in this sector. This includes tradespeople, building managers, solicitors, caretakers, valuers, surveyors, accountants and auditors, as well as more than 1,500 licensed strata and community scheme managing agents.

Given the size of the sector, its changing nature and its predicted growth, it is essential that New South Wales has laws that enable the sector to realise its full potential.⁸

On 15 July 2015 the NSW Government released two draft strata reform bills for public consultation, which proposed approximately 90 different reforms to NSW's strata laws:⁹

- The [Strata Schemes Development Bill 2015](#); and
- The [Strata Schemes Management Bill 2015](#).

According to their respective explanatory notes, the Bills change the existing legislative regime as follows:

- The Strata Schemes Development Bill 2015 re-enacts, with changes, both the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*;¹⁰ and
- The Strata Schemes Management Bill 2015 re-enacts Chapter 1 of the *Strata Schemes Management Act 1996* with a number of changes and additions.¹¹

A summary of the reforms is provided in the table below:

Category	Proposed reforms
Scheme management	<ul style="list-style-type: none"> • Improved transparency of strata committee • New ways to vote • Flexible meeting options • Limits to "proxy farming" • Improved tenants' participation
Strata managing agents	<ul style="list-style-type: none"> • Improved accountability • Greater disclosure • Fairer terms of appointment • Greater consultation
By-laws	<ul style="list-style-type: none"> • Streamlined approval for owner renovations • Better parking control • Helping owners corporation address noise and short-term letting • Measures to prevent overcrowding • Pet-friendly model by-laws • Strengthening the ban on nuisance or hazardous smoke • Increase in penalties
Dispute management	<ul style="list-style-type: none"> • Greater role for the Tribunal • Better process to recover outstanding levies • Resolution process for dysfunctional schemes • Improved compliance measures

The NSW Government has also proposed to reform existing collective sale and renewal laws relating to strata developments. This issue is discussed in chapters 4 and 5.

4.1 Scheme management

The proposed reforms aim to improve and modernise the way strata schemes are managed.¹³ According to the 2013 Position Paper, new strata laws are needed to account for wide varieties in strata scheme size, composition and complexity, while doing more “to raise awareness of rights and responsibilities, support democratic processes, encourage participation and enhance communication.”¹⁴

Proposed changes include the following:

- Enhanced opportunities for tenant participation, including allowing tenants to attend owners corporation meetings,¹⁵ and electing a non-voting representative to an executive committee in majority-tenant schemes;¹⁶
- Recognition of modern forms of communication by allowing schemes to distribute papers and hold records electronically;¹⁷
- Introduction of alternative methods of attendance at meetings, including, but not limited to, postal voting, emailing, social media and/or teleconferencing; and¹⁸
- Prevention of developers or related persons from using strata sale contracts to control or direct a person’s vote at scheme meetings.¹⁹

Some changes were made between the 2013 Position Paper and the draft Bills. For example, the draft Bills do not include the proposal that office bearers be directly elected by the owners corporation at each annual general meeting.²⁰ This was considered by a majority of stakeholders to be overly complex and with few benefits.²¹

4.2 Strata managing agents

According to the NSW Fair Trading, a number of strata law reforms are designed “to improve the accountability of strata managing agents and lift standards through enhanced disclosure of any conflicts of interest, including financial interests.”²² Key changes include:

- Banning strata managing agents from requesting or accepting a gift or other benefit from another person,²³ and
- Limiting a strata managing agent’s term of appointment to three years, with any reappointment also limited to a three year term.²⁴

4.3 By-laws

The draft Strata Schemes Management Bill 2015 establishes broad principles for the setting of strata by-laws. Clause 139 outlines six restrictions to be placed on strata by-laws:²⁵

- A by-law cannot be unjust;
- A by-law cannot prevent dealings relating to lot;
- A by-law resulting from an order cannot be changed;
- A by-law cannot restrict children;
- A by-law cannot prevent keeping of assistance animals; and
- Community management and precinct management statements prevail over by-laws.

The draft Bill would also replace existing standard and model by-laws with new model by-laws, as set out in Table 4:

Table 4: By-laws for strata schemes		
Subject	Requirements under proposed Bill	Section
Renovations	Owners may carry out minor cosmetic work without consent, but will need a general resolution of the owners corporation to perform minor renovations, or a special resolution for major renovations or other matters.	cls 109-11
Occupancy limits	By-laws can limit the number of people residing in a lot, but not to less than two adults per bedroom of a residence.	cl 137
Nuisance	Owners, occupiers and other persons are not to create a nuisance or hazard to other occupiers when using a lot or common strata property.	cl 153
Cigarette smoke	Address the impacts of cigarette smoke on other residents, but does not ban smoking on common property or in a lot. ²⁶	cl 153
Animals	Removes reference to ban on animals in model by-laws, with each scheme to review its by-laws and consider whether any existing ban should be lifted. ²⁷	Pt 8, Div 3

3.4 Dispute management

According to NSW Fair Trading, the proposed reforms for strata property dispute management will do the following:²⁸

- Create a greater role for the NSW Civil and Administrative Tribunal;
- Improve the process to recover outstanding levies;
- Give the Tribunal a resolution process for dysfunctional schemes; and
- Improve compliance measures.

Part 12 of the draft Strata Schemes Management Bill 2015 establishes three levels of dispute management for strata schemes:

- Voluntary internal dispute resolution;²⁹
- Mediation as arranged by the Chief Executive of the Office of Finance and Services;³⁰ and
- Application to the Tribunal for an order to resolve the complaint.³¹

The Tribunal can make the following orders under Part 12, Division 4 of the Bill.³²

- Orders to settle disputes or rectify complaints;
- Order for settlement of dispute between strata schemes;
- Order enforcing positive covenant;
- Orders enforcing restrictions on uses of utility lots;
- Order for reallocation of unit entitlements;
- Orders for appointment of strata managing agent; and
- Orders relating to strata committee and officers.

5. Collective sale and renewal reform

The most remarked upon proposed reform to NSW strata laws concerns the reduction in the threshold required for owners to jointly terminate a strata scheme for sale or development purposes.

Under the existing legislation, the termination of a strata scheme can only occur with unanimous support from all property owners.³³ The 2013 Position Paper explained how this requirement impacts the redevelopment of existing strata regimes:

Some stakeholders have told the Government that the existing framework requiring agreement by 100 per cent of lot owners to apply to the Registrar General to terminate or renew a scheme is a key limiting factor to redevelopment, urban consolidation and economic growth in the housing sector. Owners can also apply to the Supreme Court for termination orders, but the costs and complexity of doing so are deterrents.

The review has made one thing clear: where the owners can't agree, there needs to [be] an open, fair and transparent process for these matters to be decided.³⁴

The proposed reforms reduce the required level of consent for strata property sale or development to 75% of owners. Part 10, Division 5 of the [Strata Schemes Development Bill 2015](#) outlines the process for strata renewal plans. The Bill's explanatory note gives further details of this lower threshold requirement:

Clause 176 provides that if the **required level of support** is obtained (being the support of at least 75% of the owners) in relation to a proposed strata renewal plan, the strata committee must give each owner and the Registrar-General notice that the required level of support has been obtained. This clause further provides that, on receiving the notice, the Registrar-General must make appropriate recordings in the folio for the common property in the strata scheme concerned to show the scheme is the subject of a strata renewal plan. This clause further provides that, on and from the making of the recordings and for the purposes of the proposed Part, a support notice that is in effect for the strata renewal plan is taken to have been given by each subsequent owner and registered mortgagee or covenant chargee of the lot in relation to which the support notice was given.³⁵

5.1 Arguments for and against

Since it was first raised in 2012, the proposal has been supported by a number of stakeholders. In its submission to the 2012 [Making NSW No. 1 Again](#) discussion paper, the Property Owners Association of NSW argued that it was extremely difficult to reach unanimous agreement necessary to terminate a strata scheme:

Obtaining 100% agreement is never reached and with many longstanding schemes/old buildings this will assist with allowing redevelopment which will eliminate non-complying schemes many of which do not contain modern fire prevention, suppression & detection systems.³⁶

In its 2012 Community Renewal paper, Strata Community Australia commented that if a majority of strata owners wish to terminate their regime, they should have the ability to "prevail over the tyranny of the minority":

It is clear that the view of the minority strata owners must be respected. However, it is equally clear that it is unfair and inequitable and that the views of a small minority must not override or frustrate the wishes of the majority of strata owners and the broader community.³⁷

Other stakeholders have criticised the proposal to reduce the threshold requirement for collective sale or redevelopment.

Several submissions to the 2012 [Making NSW No. 1 Again](#) discussion paper expressed concerns for the welfare of vulnerable residents if a strata scheme is terminated against their wishes. The Tenants Union of NSW identified two groups of people that it believed would be particularly vulnerable to adverse effects arising from any collective sale reform:

The first are **older, lower-income owner-occupiers**. ... These residents may have lived in their strata schemes for many years, and have deep links to the local area. They may also have no assets other than their strata unit and, if they were forced to sell their unit because of the termination of their scheme, they may not be able to afford to buy again in the same area. This is a real possibility, especially if the market for units in the scheme is limited (because the scheme is rundown, and there are insufficient funds for repairs, there may be few or no prospective purchasers other than developers).

...

The second group are **older, lower-income private tenants**. ... when a strata scheme is terminated, these residents would face an unsatisfactory set of housing options like those faced by older, lower-income owner-occupiers. It is likely that they would not be able to rent affordably in the local area, whether during the redevelopment, or afterwards when the redevelopment of their particular scheme is complete³⁸

To minimise the risk of abuse, in 2012 Shelter NSW recommended an independent review process if a dispute arose between majority and minority owners:

Introducing a process of termination or renewal with less than unanimous approval will require an independent review process and a means of resolving disputes between the majority and minority lot owners. Given the potential complexity of issues and the amount of money involved, the review body would need to have sufficient expertise and authority to ensure community confidence in the system.³⁹

Other submissions, whilst supporting a reduction in the threshold requirement, nevertheless advocated for a higher and/or staggered level of owner consent. The City of Sydney made the following proposal in order to balance the rights of individual owners with the need for reform:

... the 80% majority is a reasonable minimum support requirement. Since the critical concept underlying this is the economic life of the building, it is important that greater 'security of place' be exhibited in newer buildings with longer economic life. This would deter prospective developers, in search of a short-term market opportunity, from pressuring owner-residents. The Singapore model could be followed in requiring an increased support threshold of 90% for buildings less than 10 years old.⁴⁰

Similarly, Parramatta City Council supported a “sliding scale” threshold that would reduce depending on a building’s age, and suggested specific laws for strata schemes with six or less units.⁴¹

Responding to the 2015 proposal, more fundamental is the critique of UNSW law academic Cathy Sherry. She argues that the justifications given for new collective sales laws are not found in the draft legislation:

The justification for the legislation is urban renewal and urban consolidation. That is, there are apartment buildings in Sydney that are nearing the end of their life and repairing them is like moving the deck chairs on the Titanic. Further, Sydney desperately needs more housing, and redeveloping a six-lot strata scheme into a 24-lot scheme will increase supply and density. Both are laudable aims and could justify legislation that requires less than unanimous agreement to sale or redevelopment, even if that resulted in people involuntarily losing their homes.

The problem is that the government has not included either justification in the legislation.

...

The new strata legislation will empower not government, but private citizens to compulsorily acquire other people's homes. Compensation will be paid, but because the justification for the legislation, namely urban renewal and consolidation are absent from its provisions, acquisition may or may not produce a public benefit. In some buildings, the only benefit will be a nice fat profit for other owners and a developer, as well as more high-end housing for those who can afford it.⁴²

5.2 Proposed protections for vulnerable residents

The draft Strata Schemes Development Bill 2015 provides a number of safeguards for dissenting owners. If the redevelopment of a strata scheme forces an owner to sell, the draft Bill stipulates that they must be fairly compensated.

Clause 170(4)(a) of the draft Bill states that a strata renewal plan must provide for the purchase of each dissenting owner’s lot at not less than the compensation value for the lot, based on the requirements set out in s 55 of the [Land Acquisition \(Just Terms Compensation\) Act 1991 \(NSW\)](#). Clause 171(2) requires that the amount to be paid for the sale of a dissenting owner’s lot must not be less than the compensation value of the lot.

Additionally, the NSW Government has proposed the creation of a Strata Renewal Advice and Advocacy Program to provide advocacy and advice for vulnerable dissenting owners:

This program involves a dedicated hotline that all owners can ring for further information, advice and referrals. If a caller has specific issues they can be referred on to the appropriate agency, for example the Law Society.

Additional protections will be in place for elderly and vulnerable owner-occupiers. For callers from identified vulnerable groups, for example, owners who are on an aged or disability pension, funded agencies would provide additional advice and free advocacy on the sale and renewal plan as well as alternative housing choices. For example an owner on an aged pension would have access to a speciality aged advice service who could

assist in examining alternative housing options like a retirement village, or an owner on a disability pension could be provided with free advocacy assistance with reviewing the strata renewal plan.⁴³

6. Collective sales in selected jurisdictions

Currently, with the exception of the Northern Territory, Australian jurisdictions require unanimous owner consent for strata sale or redevelopment. However, as in NSW, in recent years several jurisdictions have considered changing their collective sale requirements. In turn, these proposed reforms to collective strata sale laws are broadly in line with laws in some international jurisdictions.

Existing or proposed collective sale regimes in a number of Australian and international jurisdictions are outlined in the following sections.

6.1 Queensland

In Queensland, strata termination can occur in two ways:⁴⁴

1. Unanimous consent of all registered proprietors and lessees of a property; or
2. By order of the District Court if the Court is satisfied that it is just and equitable in the circumstances to do so.

In 2014 Queensland's Liberal National Government released an [Options Paper](#) which, *inter alia*, commented on reducing the threshold for scheme termination:

One option to reduce the relevant threshold is to introduce a new category of resolution, for example a super resolution, which would require a threshold of at least 75% of votes cast, provided no more than 15% of lot owners, or lot owners who hold at least 15% of the lot entitlements vote against the proposal. This would be an effective 85% threshold, which is higher than a special resolution but less than a resolution without dissent.⁴⁵

Nevertheless, the Options Paper acknowledged the need for safeguards to protect vulnerable owners who did not wish to sell their properties:

There will need to be robust safeguards to protect the rights of lot owners in the minority who do not want to sell their lot. A court should be given wide powers to determine such a dispute and be directed to consider the economic necessity for the redevelopment, the arguments of the minority against termination and the consequences to the majority if the termination is not allowed.⁴⁶

The review's consultation period ended on 30 January 2015, after which a new Labor State Government was elected. Its position on the existing strata termination laws is not known.

6.2 Western Australia

Like NSW and Queensland, Western Australia is also investigating the possibility of strata termination reform. The [Strata Titles Act 1985 \(WA\)](#) currently allows schemes to be terminated in three ways:

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1. A unanimous resolution by all the owners of lots in the strata scheme.
2. By order of the District Court, on application for termination made by the strata company, a proprietor or a registered mortgagee of a lot within a scheme (s31).
3. By order of the District Court to deem a resolution to be unanimous, (under s51) when there has been an attempt at a unanimous resolution which has failed, but gained sufficient votes to be considered a 'special resolution', (the definition of a special resolution varies according to the size of the scheme, but generally speaking it is more than 50% 'for', and less than 25% 'against'). A proprietor who voted in favour of the resolution may make the application. Under these circumstances the District Court may order that the resolution be deemed to have been passed as a unanimous resolution. In the case of a 2-lot scheme a proprietor may apply for termination of the strata scheme (under section 51A).⁴⁷

In October 2014, Western Australian statutory authority Landgate released the Strata Titles Act Reform Consultation Paper. The Consultation Paper made several proposals for termination of strata schemes with 10 or more lots, including the following:

Proposal 196. The percentage of proprietors that approve the termination for a scheme would be:

- 95% for a scheme aged 15 or more years but less than 20 years
- 90% for a scheme aged 20 or more years but less than 30 years
- 80% for a scheme aged 30 or more years.
 - The vote is on a 1 vote per lot basis

Proposal 197. If the required majority is achieved, the resolution to terminate has been passed

Proposal 198. Objecting owners may sell their lot to a third party, sell to the proponent of the process or seek review of the majority decision at SAT [the State Administrative Tribunal]. SAT will apply principles in determining all decisions on ending schemes⁴⁸

A follow-up Consultation Summary report, released in 2015, noted that a five to one majority of consultation participants had approved of termination by majority vote. Nevertheless, other stakeholders emphasised the need to protect the individual's right to retain their property.⁴⁹

According to the Landgate [website](#), the agency's Strata Reform Project Team is currently at a refinement stage "where outstanding issues are being discussed and resolved with relevant stakeholders directly."

6.3 Northern Territory

The Northern Territory has permitted strata termination by majority vote since 2008, when reforms to its *Unit Title Schemes Act* (NT) permitted termination if 90% of owners agreed.⁵⁰ In 2014 the Northern Territory introduced the [Termination of Units Plans and Unit Title Schemes Act 2014 \(NT\)](#), which set different levels of termination consent depending on the age of a particular building.

Under the 2014 Act, strata termination can occur if a building is at least 15 years old and has at least 10 units.⁵¹ The proportion of owners needed to consent to a termination varies depending on the age of the property:⁵²

- If a property is at least 30 years old when an approval certificate for termination is applied for, 80% of owners must consent to a termination;

- If a property is between 20 and 30 years old, 90% of owners must consent to a termination; and
- If a property is between 15 and 20 years old, 95% of owners must give their consent.

6.4 Singapore

Singapore's "en bloc" collective sale legislation, the [*Land Titles \(Strata\) Act \(SG\)*](#), was introduced in 1999 in response to land shortage issues. It sets the following levels of owner consent in order to terminate strata property.⁵³

- If the strata development is 10 years or older, 80% of the owners must consent to termination;
- If the strata development is less than 10 years old, 90% of owners must consent.

Additional conditions must be met prior to any sale occurring, including an independent valuation, an application to the Strata Titles Board for a collective sale order, and notice given to all unit owners and registered mortgagees. The objection process is as follows.

- An objection may be made by any unit owner who has not agreed in writing to the sale or by the mortgagee of an objecting owner.
- Even if there are no objections, the Board must not make an order unless satisfied that there was no bad faith in the transaction by taking into account:
 - The sale price
 - The method of distributing the sale price
 - The relationship between the purchaser and any owner
- Where an objection to the sale is lodged, the Board can refuse to make an order for sale if the objector will suffer financial loss or if the amount the objector receives from the sale would be insufficient to redeem any mortgage. A unit holder will be considered to have suffered financial loss if the sale proceeds for the unit after deductions (e.g. stamp duty and legal fees paid on purchase of the unit and the costs incurred in the collective sale) are less than what was paid for the unit.⁵⁴

Despite these safeguards, there has been criticism of the en bloc regime. A 2009 University of Hong Kong Study Report gives the following summary:

- There remain controversies in the [Land Titles (Strata) Act]. One of the recent legal challenges was related to the case of Horizon Towers, where the minority owners appealed against the approval made by the STB to allow collective sale. The major challenge was made on constitutional ground, specifically the constitutional right that "no person shall be deprived of his life or personal liberty save in accordance with the law", and "all persons are equal before the law and entitled to the equal protection of the law". Hence, the minority owners should have equal rights as the majority owners to choose where to live and residence to own. The High Court of Singapore dismissed the appeal on July 17, 2008.
- There were reports that some owners tended to stop investing in maintaining their buildings when they were not sure if there would be En Bloc sale coming up, particularly when buildings of similar age in the vicinity had undergone En Bloc sale.
- Vandalism against dissenting owners had been reported at times (reg. Figure 3.1)
- Complaints from tenants affected by En Bloc sales were reported from time to time, as there was no provision in the LTSA for any compensation to the affected tenants.⁵⁵

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In its submission to the 2012 [Making NSW No. 1 Again](#) discussion paper, Shelter NSW quoted several sources that found that the Singaporean regime had negatively impacted residents:

While the Singaporean model has led to higher-density redevelopment, Sherry observes it has 'caused astronomical rises in rents and much litigation. There are huge tensions between owner-occupiers and investors, in particular "condo-raiders", who buy up apartments in order to push for an en-bloc sale.'

...

Soh and Yuen, reflecting on a decade's experience with majority termination of strata titles in Singapore, comment:

The rise of en-bloc sales, while offering opportunities for wealth creation and urban regeneration, also exposes the social restructuring associated with residential displacement; in particular, the fragmentation and destruction of familiar places and neighbourhoods, community networks, solidarities and the sense of belonging that have taken time to build up, all of which can cause hardship for vulnerable groups.⁵⁶

6.5 New Zealand

Prior to 2010, New Zealand's unit title scheme was modelled on NSW's strata legislation, and changes to the body corporate required the unanimous agreement of all tenants.⁵⁷ This requirement was criticised by both New Zealand's National and Labour parties for impacting the ability of bodies corporate to undertake even minor changes to strata property:

... a major problem was the requirement for bodies corporate to agree in unanimity to basically get anything major, or even minor, done. This bill corrects that, as there now needs to be only a 75 percent majority. I recall that the objective for that part of the legislation was to stop some of the examples of what are known colloquially as hold-outs, where, in many cases, maintenance had to be done on a unit title of, it could be, 10 units or 50 units, and one person would not agree. This was very prevalent in leaky buildings.⁵⁸

The [Unit Titles Act 2010 \(NZ\)](#) was introduced in response to these criticisms. It allows strata termination if 75% of eligible body corporate voters agree by special resolution,⁵⁹ or by court order.⁶⁰ The Property Council of Australia has also explained that termination can occur even if a special resolution is not passed:

However, if a special resolution is not reached but 65% of eligible voters are in favour of the resolution, any eligible voter who voted in favour may apply to the appropriate decision-maker [at the Tenancy Tribunal or the court] to have the resolution confirmed on the grounds that failing to pass the resolution is unjust and inequitable to the majority. The decision-maker will then assess the justice and equitability of the proposal.⁶¹

7. Conclusion

After several years of stakeholder consultation and reviews, the NSW Government's draft Bills propose significant changes to the State's existing strata legal framework. Although both the Government and a number of stakeholders have argued that reform is vital to meet both current and

future needs of strata regimes, there remains concern that changes to collective sale laws may adversely impact vulnerable residents living in strata communities.

The NSW Government is currently processing the final round of feedback for the draft Bills from stakeholders, including strata owners, industry professionals and other key strata groups.

¹ NSW Fair Trading, [Strata Title Law Reform: Strata & Community Title Law Reform Position Paper](#), November 2013, p 2.

² Strata Community Australia (NSW), [History](#), 2015.

³ K Everton-Moore, A Ardill, C Guiding, J Warnken, 'The law of strata title in Australia: A jurisdictional stocktake' (2006) 13 *Australian Property Law Journal* 1, pp 10-11.

⁴ Ibid.

⁵ Global Access Partners, [Strata Laws: Online Consultation Final Report](#), April 2012, p 1.

⁶ Ibid p 2.

⁷ Ibid pp 6-7.

⁸ NSW Fair Trading, note 1, p 3.

⁹ NSW Fair Trading, [Reform of strata laws](#), n.d.

¹⁰ [Strata Schemes Development Bill 2015](#), Explanatory note, p 1.

¹¹ [Strata Schemes Management Bill 2015](#), Explanatory note, p 1.

¹² NSW Fair Trading, [Factsheet: Major changes to strata laws](#), August 2015.

¹³ NSW Fair Trading, [Factsheet: Scheme management reforms](#), August 2015.

¹⁴ NSW Fair Trading, note 1, p 5.

¹⁵ [Strata Schemes Development Bill 2015](#), sch 1, cl 21.

¹⁶ Ibid, cl 33.

¹⁷ Ibid cls 177, 184(1), 258(3)(b).

¹⁸ Ibid sch 1, cl 28.

¹⁹ Ibid sch 1, cl 27.

²⁰ NSW Fair Trading, note 1, p 7.

²¹ Email correspondence from the Department of Finance, Services & Innovation, 5 August 2015.

²² NSW Fair Trading, [Factsheet: Strata managing agent reforms](#), July 2015.

²³ [Strata Schemes Development Bill 2015](#), cl 57.

²⁴ Ibid cl 50.

²⁵ Ibid cl 139.

²⁶ Further detail is to be provided in the Regulations.

²⁷ NSW Fair Trading, [Factsheet: By-law reforms](#), August 2015.

²⁸ NSW Fair Trading, [Managing dispute reforms](#), July 2015.

²⁹ [Strata Schemes Management Bill 2015](#), Pt 12, Div 1.

³⁰ Ibid Pt 12, Div 2.

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