



STRATA LEGISLATION AMENDMENT BILL 2023

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

Strata schemes play an essential part in the NSW housing mix. Strata is also an important form of land title in commercial, retail, industrial and retirement village settings.

There are now more than 85,000 strata schemes in NSW, housing more than 1.1 million people across the state. It is forecast that by 2040 over 50% of people in Greater Sydney alone will be living in strata.

The *Strata Schemes Development Act 2015* (the Development Act) and the *Strata Schemes Management Act 2015* (the Management Act) jointly provide the regulatory framework for the creation, management and termination of NSW strata schemes.

This regulatory framework was subject to a statutory review in 2020, with the purpose of establishing whether the objects of the Acts and their provisions remained fit for purpose.

The Report on the Statutory Review of the *Strata Schemes Development Act 2015* and *Strata Schemes Management Act 2015* (the Report) was tabled in NSW Parliament on 29 November 2021. The Report made 139 recommendations for change including reforms in key areas of strata renewal, governance, embedded networks, sustainability and repairs and maintenance. Reforms will also be mirrored in the *Community Land Development Act 2021* and *Community Land Management Act 2021* to ensure community land scheme laws remain harmonised with strata laws.

The Report was informed by an extensive public consultation process between 7 December 2020 and 7 April 2021, as well as a survey on pets in strata from February 2021 for six weeks. A total of 222 submissions and 728 survey responses were received. The pets survey received 1,601 responses.

The Bill is part of a staged approach to the implementation of the Report's recommendations. It implements 31 of the Report's recommendations including some urgent reforms relating to strata renewal and banning the charging of fees or bonds for residents to keep pets. The Bill will deliver immediate benefits to residents and owners in strata and community land schemes.

The key changes in the Bill include:

- restoring balance and flexibility to the strata renewal process by expanding conflict of interest disclosure requirements, clarifying the Court's ability to award costs against dissenting owners acting unreasonably, and providing flexibility in the process for the collective sale or redevelopment of a strata building,
- making it easier to keep pets and assistance animals by stopping pets from being unreasonably prohibited from community land schemes, banning fees or bonds to keep pets in strata and community land schemes, and prescribing the forms of evidence that an owners corporation or association can request to prove an assistance animal's status,
- increasing committee accountability and governance through tightening controls on committee members, lowering voting thresholds for removing committee members,



- restricting when removed committee members can re-serve, and increasing the cap on association committee member limits from 9 to 15,
- improving meeting governance by extending from 7 to 14 days the periods for notice of an annual general meeting (AGM) and delivery of required documents before a first AGM, and addressing 'proxy farming' by limiting the number of proxies a power of attorney and company nominee may have,
 - boosting overall governance by clarifying rules around repayment of monies between the administrative and capital works funds, allowing schemes to require payment of levies in 14 days for urgent repairs, and requiring all schemes to obtain at least two quotes for proposed expenditure over \$30,000,
 - strengthening record keeping requirements by requiring records be kept in electronic form, requiring landlords' agents to provide notice of a tenancy to the owners corporation or association, requiring a landlord's agent to give a copy of the by-laws to a tenant unless they have already been provided to the tenant under tenancy laws, and enabling tenants to provide notice of their tenancy to the owners corporation or association,
 - correcting unintended consequences for two-lot strata schemes by allowing an owner to issue a notice to comply with a by-law without requiring a resolution, and ensuring that the automatic reduction in the voting power of an original owner does not result in one owner in a two-lot scheme holding a controlling interest in the scheme,
 - enhancing governance and accountability by giving the Commissioner for Fair Trading standing to apply to the Tribunal to seek the appointment of a compulsory managing agent and requiring managing agents to give notice of contract expiry to the owners corporation or association within 3 to 6 months before expiry, and
 - harmonising community land scheme laws with strata laws so that the appointment of strata managing agents and facilities managers ends at the first AGM.

Key strata stakeholders were consulted on the draft of the Bill from 30 August 2023 for two weeks.

The Report's remaining legislative recommendations will be implemented in the future.

Objectives: What is the policy's objective couched in terms of the public interest?

The Bill amends strata and community land scheme laws and ensures community land scheme laws remain harmonised with strata laws. The Bill introduces reforms to improve liveability and the overall governance and accountability of schemes. It also includes more urgent reforms. These urgent reforms aim to empower owners to democratically decide on how best to manage, vary and terminate the strata scheme they share, in a flexible and transparent manner.

This Bill is the first step in implementing the Report's recommendations to better support residents and owners in strata and community land schemes in NSW.

Housing is of fundamental importance to the wellbeing of the NSW population. As indicated above, strata living is a growing housing option for many people. It is, therefore, essential that the regulatory framework that governs these schemes remains viable, functions as intended and allows lot owners to operate as self-governing communities and collectively decide how best to manage the property that they share.

The reforms in the Bill go some way towards securing these goals and ensuring the regulatory frameworks remain fit for purpose. There is a strong public interest in ensuring



laws governing strata living are responsive to the changing nature and popularity of living in strata.

The reforms will complement the Government's other commitments to appoint a Strata Commissioner, crack down on unscrupulous builders, increase housing supply and make it easier for tenants to have pets in rentals. This ambitious agenda will increase housing supply and provide buyers and renters with confidence in the quality of their homes and their living arrangements.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The Bill implements 31 of the Report's recommendations, which can only be achieved through legislative amendment. The Report considered alternative policies in developing its recommendations.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The Report, following an extensive public consultation process, considered the pros/cons and benefits/costs of its recommendations.

The Bill will strengthen the operation of the regulatory frameworks for strata and community land schemes in NSW. The benefits for residents in strata and community land schemes include:

- restoring balance and flexibility to the strata renewal process,
- improving the accountability of committee members,
- enhancing the governance of meetings and schemes generally,
- making it easier to keep pets in strata and community land schemes,
- strengthening current protections for people with assistance animals,
- improving the operation of two lot strata schemes, and
- strengthening current requirements in relation to notices to tenants and about tenancies in a scheme.

The changes in the Bill do not impose any significant regulatory burden on industry. Any increase in regulation is outweighed by the benefits.

If the amendments were not made, this would result in strata laws being outdated and unresponsive to the need for enhanced accountability and better processes.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

Most amendments in the Bill commence on assent, providing immediate benefits to strata and community land schemes. However, two amendments commence on proclamation and one provides a six month transition period.

Firstly, the amendment to extend the existing strata pet reforms to community land schemes will commence once supporting regulations have been developed. The regulations need to be developed in consultation with stakeholders and will set out some of the circumstances where it is unreasonable to keep an animal because it interferes with another resident's use and enjoyment of their lot or association property.



Secondly, there will be a delayed commencement for the amendment giving standing to the Commissioner for Fair Trading to seek the appointment of a compulsory managing agent at the NSW Civil and Administrative Tribunal. This is to ensure there is sufficient time for the Tribunal's systems, forms and website to be updated.

Thirdly, schemes will have a six-month transition period before they need to start keeping records in electronic form.

NSW Fair Trading administers the *Strata Schemes Management Act 2015* and *Community Land Management Act 2021*. Even though most amendments to these Acts will commence on assent, NSW Fair Trading will take an educative approach to enforcement for the first few months after the Bill commences.

The Office of the Registrar General administers the *Strata Schemes Development Act 2015* and *Community Land Development Act 2021*. The strata renewal changes will not be subject to a transition period.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

As discussed above, the Report was informed by an extensive public consultation process. Key strata stakeholders were also consulted on drafts of the Bill.

The key stakeholders consulted include: Animal Care Australia, Association of Consulting Surveyors NSW, Australian College of Strata Lawyers, Australian Property Institute, Cat Protection Society, Domestic Violence NSW, Law Society of NSW, NSW Land Registry Services, Owners Corporation Network, People with a Disability Australia, Property Council of Australia, Real Estate Institute of NSW, Royal Society for the Prevention of Cruelty to Animals (RSPCA) NSW, Strata Community Association NSW, Tenants' Union of NSW, and the Women's Legal Service of NSW.

All feedback was carefully considered and informed the final Bill.