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Strata reform in NSW - July 2015

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Pets, parking and passive smoking are on the agenda

SYDNEY is going through a growth spurt and to keep up with the apartment boom, strata law is getting a renovation.

- More than two million people in NSW are strata dwellers
- By 2040, about 50% of people will live in strata in Sydney
- Strata rules, however, date back to 1961 and don't reflect modern living
- Reforms now planned to address issues of parking, pets, smoke drift
- Fines for misuse of parking spots among options considered

A quarter of Sydneysiders are now living in a strata complex, with that number growing rapidly each year.

“By 2040, about half of Sydneysiders will be living in strata. The proposed reforms are reflective of present needs and future demands,” said the minister responsible for Fair Trading, Victor Dominello.

But despite a rise in unit dwellers, strata rules have remained largely unchanged for decades.

The minister will release two exposure draft bills for final consultation today to reform strata living throughout NSW.



Strata reform is on its way in NSW. Photo: Braden Fastier *Source: News Limited*

The public will have a month to review the proposed changes which include reforms on pets in apartments, parking spots and smoking on residential premises.

“The overriding objective for all involved has been to improve strata living, minimise regulatory burden and improve democratic processes,” Mr Dominello said.

Strata laws in NSW date back to 1961 when rules were first put in place for small, self-managed walk-up unit blocks.

While strata laws have been updated over time, the department says they are due for reform to better reflect the reality of strata living today.

No longer just the red-brick walk up unit blocks, strata laws now cover the city's high rise apartment blocks, townhouses, dual occupancies, office spaces, retirement villages, mixed use buildings and tourism developments.

According to Office of Fair Trading statistics more than two million people in NSW are strata dwellers, accounting for almost 25 per cent of greater Sydney's population.

There are approximately 75,000 strata and community schemes across the state that total about \$350 billion in total assets.



Original strata laws were designed for simple small apartment blocks. *Source: News Limited*

“People can now have their final say on the drafting of more than 90 proposed changes to improve strata living including the perennial issues of parking, pets and passive smoking,” Mr Dominello said.

Other areas of reform include renewal, renovations, defects, dispute resolution, and model by-laws.

The draft Strata Schemes Management and Strata Schemes Development Bills are open for feedback until August 12 by visiting www.fairtrading.nsw.gov.au

What could change according to the Office of Fair Trading:

Parking

- Current model by-laws provide that an owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the prior written approval of the owners corporation.
- The Strata Bill introduces reforms that will enable schemes to better manage parking disputes by entering into an agreement with the local council about parking on their common property
- If a scheme enters into such an agreement, an authorised council officer will be allowed to enter the scheme's property to erect parking signs and issue fines. However these arrangements would be voluntary both for schemes and councils and would need to be developed on commercial terms.
- This reform will assist to reduce one of the most common disputes concerning unauthorised parking by residents misusing visitor parking spots or people not connected to the strata scheme parking on the common property without approval.

By-laws

- The regulations will prescribe new model by-laws that may be adopted by a strata scheme that, among other things, address smoke drift and keeping pets.
- New schemes may adopt the model by-laws. Existing schemes will be required to review their by-laws within 12 months of the legislation coming into force, with a view to encouraging schemes to adopt the new model by-laws.

Smoke drift



The impact of cigarette smoke on other residents will be considered.

Source: News Corp Australia

- Model by-laws currently do not directly address the issue of smoke drift.
- It is proposed to introduce a model by-law that addresses the impacts of cigarette smoke on other residents.

• In addition, the body of the Act is clarifying that smoke drift into another lot or common property may be a nuisance or hazard under the Act. This requires affected owners or the owners corporation to apply to the tribunal for an order deeming the smoke drift to be a nuisance or hazard.

Pets



Changes to strata by-laws will have an impact on people living with pets.

Source: News Corp Australia

- The current model by-laws for pets provide three options:
 - Option A: owners corporation to approve pets (except fish), but approval cannot be unreasonably refused.

— Option B: owners corporation to approve pets, but approval cannot be unreasonably refused. Some pets are allowed without approval, but the owner must advise the owners corporation if they are keeping a cat, small dog, small caged bird or fish.

— Option C: no pets allowed.

- If no option is chosen by an owners corporation the default is “option A”.
- It is proposed to replace the current options with a single by-law requiring owners to get approval from the owners corporation to keep a pet. An owners corporation cannot unreasonably refuse such a request and owners can apply to tribunal for an order if they believe approval has been unreasonably withheld.
- Options for allowing some small pets without approval, such as fish, birds and cats, will be considered as part of this consultation.