

# NSW Strata Reforms Customer Fact Sheet

## December 2023 changes

The *Strata Legislation Amendment Bill 2023* provided updates to four acts regulating strata and community land schemes to help improve life for those living in strata and community schemes by addressing the pain points raised in public consultation. These changes came into effect on 11 December 2023.

The revisions are based on suggestions and recommendations from the 2021 Report on the *Statutory Review of the Strata Schemes Development Act 2015* and *Strata Schemes Management Act 2015* and address community-reported issues. Important strata management areas have been impacted, including committee election, meeting notices for AGMs, conflict of interest disclosures for committee members, and rules around pet application processes.

This fact sheet is designed to help owners and occupiers living in strata schemes understand the key changes that will impact how their schemes function.

## Key Changes

### Annual general meeting (AGM) notification

The notice period for AGMs has been extended to at least 14 days (plus seven clear business days for postage).

The notice period for other general meetings remains unchanged at seven days (plus seven clear business days for postage).

### Removing strata committee members

The process for removing a member(s) from a strata committee during their term has significantly changed.

Previously, a special resolution at a general meeting was required to remove committee members during their term.

Under the new changes, a committee member can now be removed with an ordinary resolution at a general meeting. Also, members expelled in this manner cannot be re-elected for one year.

### Strata committee eligibility and conflicts of interest

The amendments now prevent strata committee members with a declared financial interest from participating in discussions or decisions related to that interest. It is now compulsory (not discretionary) for these members to entirely withdraw from the decision-making process on that matter.

The amendment also now defines 'real estate agent' and confirms that agents involved in leasing strata scheme lots are not eligible to be elected to a committee. However, an exception is made if the agent is a lot owner in the scheme.

## Pets and assistance animals by-laws

An owners corporation can no longer request a bond or fee from owners or occupants for having a pet on their property.

They also cannot make a by-law to restrict or place unreasonable burdens on people with assistance animals and how they are used on the property. The proof required for an animal's assistance status can not include personal or medical information about the owner's disability, focusing instead on the animal's official accreditation or training.

## Owners corporation records

From June 2024, all new records of owners corporations must be made or stored electronically. This rule doesn't apply to existing documentation; hard copies of electronic documents can still be kept if desired.

## Nominees and power of attorney voting limits

The current limits on how many proxies a person can have now apply to voting rights held by company nominees and those with power of attorney. This closes a previous loophole, which allowed people to develop workarounds for proxy limitations.

## Tenancy notices

Landlords (or their agents) must ensure tenants are provided a copy of the by-laws and any applicable strata or building management statement within 14 days of starting the lease. Any changes to the by-laws or a management statement must also be given to the tenant within 14 days of the changes taking effect. If landlords or their agents fail to notify the owners corporation, tenants are now authorised to provide it themselves.

A landlord or the landlord's agent may be penalised if they do not meet these requirements.

## Levy notice period – emergency repairs

Levies raised specifically for emergency repairs can now be made payable with 14 days notice. This is different from the standard 30-day notice required for all other levies.

NOTE: Emergency repairs refer to urgent repairs to a building in the strata scheme required to avoid a serious and immediate threat to the health or safety of residents.

## Quotations

All owners corporations, regardless of their size, are now required to source at least two independent quotes for any expenditure exceeding \$30,000 including GST (excluding expenditure relating to an emergency). If the owners corporation is unable to meet this requirement the secretary must include a motion on the next general meeting to record and provide an explanation as to why this is the case.

## Funds transfers between accounts

The process for transferring money between the capital works and administrative funds has been updated. Now, the owners corporation has the ability to resolve at a general meeting *if* and how funds need to be reimbursed (this still must be completed within a three-month period). This change gives the owners corporation more flexibility in deciding about transfers between funds.

## Two-lot schemes

In a two-lot scheme, the requirement for a formal resolution to take action concerning a by-law breach has been removed. This change helps to prevent an owner from blocking a compliance notice being issued to themselves.

## First AGM – original owner documents and votes

A positive obligation has now been placed on the original owner (i.e., the developer) to hand over mandatory documents (e.g. built drawings, warranties, maintenance schedules, etc.) at least **14 days before the first AGM is held.**

## Special resolution – value of the vote of the original owner

Some clarification has been provided around limitations placed on original owner's voting entitlements for special resolutions conducted at a general meeting. If the original owner's total unit entitlement for all lots is at least half of the entire unit entitlements of all lots (in a scheme with more than two lots), the value of their vote is reduced by two-thirds.

### Important note

This summary is designed to outline the main legislation and process changes for strata schemes as they apply to owners and occupiers and is not intended to be exhaustive. PICA Group does not offer legal advice.