

Changes to Strata Laws in NSW



Agenda

Introduction

Details of changes currently applicable

Details of changes to be implemented by mid-2025

Conclusion

Questions



Strata Logic | **Paul
Culbi**

Strata Specialist
Lawyers
| **Colin Cunio**





Phases of Implementation

Phase 1

Changes effective on 8 November 2024 and 3 February 2025.

Phase 2

Changes made by Parliament and effective on a date to be proclaimed (should be mid-2025)

Phase 3

Other reforms resulting from the report on the statutory review of the Strata Schemes Management Act 2015 tabled in Parliament on 29 November 2021.



Current Legislative Changes

- **Effective Date**
 - 8 November 2024 and 3 February 2025
- **Legislation Affected**
 - Strata Managing Agent Legislation 2024 No. 65
 - Strata Schemes Management Act 2015 No 50
 - Strata Schemes Management Regulation 2016
 - Community Land Management Act 2021 No 7
 - Community Land Management Regulation 2021
 - Property and Stock Agents Act 2002 No 66

An aerial photograph of the Sydney Harbour Bridge at dusk. The bridge's steel arch is illuminated, and its reflection is visible in the water below. In the foreground, a residential street with trees and houses is visible. The city skyline, including various high-rise buildings, is in the background. The sky is a mix of orange and blue.

Phase 1 Currently applicable changes

Increased disclosure for training and commissions

Approval Requirement

Owners corporation must approve any commissions or strata manager training by ordinary resolution at a general meeting.

Timely Updates

Strata committee must be informed as soon as practicable if commissions or training services differ from the AGM estimate, with reasons for the change.

Annual Disclosure

At each AGM, the strata manager must disclose if, in the past 12 months, they have become “connected” to a supplier or the scheme’s developer.

Pre-Contract Notice

The manager must notify the owners corporation before they enter a contract if the supplier is connected to the manager or if the manager will receive a commission or training service.

Pecuniary Interest Disclosure

The manager must inform the owners corporation if they become aware of any direct or indirect financial interest in the strata scheme or any connection with a supplier or developer.

Disclosure of Additional Interests

Before entering an agreement, the manager must disclose if they are connected to a regular supplier for other schemes they manage or if they have provided formal or informal advice to the developer in the past two years.

Insurance

- **Insurance Quotes Requirement:** Managers must provide at least three quotes from different insurers for building insurance
- **Quote Breakdown: Each quote must include:**
 - Breakdown of charges (base premium and commission, excluding broker fees)
 - Recipients of commission and broker fees
 - Disclosure of connections between the manager and the insurer.



Other changes

- **Voting Restriction:** A building manager, on-site residential property manager, or strata manager cannot vote by proxy on motions approving commissions or training for the strata manager.
- **Expanded Definition of “Connected Person”:** Now includes trustees of a trust where the principal person is a beneficiary, as well as their children, spouses, and de facto partners linked to such trusts.
- **Tribunal Orders:** The owners corporation can apply to NCAT to recover commissions or training costs if they were undisclosed, disclosed in bad faith, or inaccurately disclosed by the manager.
- **Stricter Penalties:** Significant increase in penalties for managers who breach regulations.





Protection Against Unfair Contracts and Application of Australian Consumer Law

- The changes will make part of the Australian Consumer Law that deals with unfair contract terms and remedies apply to any contract an owners corporation enters into for the supply of good or services, or the sale or grant of an interest in land to an owners corporation.
- The changes will give more power to owners corporations to set aside unfair contracts.
- The changes also prohibit a manager from inserting a clause in a management agreement limiting their monetary liability or requiring an owners corporation to indemnify the manager's professional indemnity liabilities.
- Examples:
 - Contract between the owners corporation and a strata manager for management services.
 - Contract between the owners corporation and a contractor for building works.
 - Contract for the owners corporation to acquire common property

Financial Hardship Assistance

- **New Information Requirements for Strata Levy Notices**
 - Includes information to assist owners in financial hardship
 - Contact details for the National Debt Helpline
 - Free, confidential, and independent financial counselling service
- **Allowing Committees to authorise & enter into Payment Plans**
 - Currently requires owners corporation approval
- **Supporting Owners Requesting a Payment Plan**
 - Strata scheme must allow entry into a payment plan
 - Can only refuse reasonably
- **Allowing Tribunal to order a payment plan if owners corporation unreasonably refused.**
 - Extended Notice for Debt Recovery Action
 - At least 30 days' notice required (up from 21 days)



Professional Services Uplift

- **Regular Reporting by Strata Managing Agents**
 - Agents must report exercise of functions every 6 months
 - Reports to be submitted to the owners corporation
- **Building Managers' Responsibilities**
 - Must act in the best interests of the owners corporation
- **Owners Corporation's Rights**
 - Can apply to the Tribunal to end contracts
 - Applicable if strata managing agent or building manager breaks the law



Committee Governance

- **Maintenance and Repair of Common Property**
 - Restrictions on delaying building works affecting safety or amenity
 - NSW Fair Trading's increased powers to enforce maintenance duties
 - Compliance notices and enforceable undertakings for non-compliance
- **Strata Committee Governance Improvements**
 - Requirement to provide written reasons for refusing minor renovation requests
 - Automatic approval of minor renovations if no response within 3 months
 - Training requirements and new duties for strata committee members





Importance of Disclosure

- **Improved Oversight of Strata Schemes**
 - Ensures strata managers act in the owners corporation's interests
- **Transparency in Insurance Quotes**
 - Makes insurance quotes more transparent
- **Informed Decision-Making for Owners Corporations**
 - Provides clear and timely information
 - Enables scrutiny of strata manager's actions and interests

Developer Accountability

- **Independent Certification Requirements**
 - Developers must have initial maintenance schedule certified
 - Initial levy estimates need independent certification
 - Helps new owners plan and execute repairs and maintenance
- **Increased Penalties for Non-Compliance**
 - Higher penalties for developers failing to meet new obligations
 - Penalties also increased for not holding first AGM on time



Embedded Networks

Definition of Embedded Network

- Private energy network for services like electricity, water, and gas

Changes under New Strata Laws

- Removing exemption for embedded electricity supply contracts
- 3-year term limits apply

Clarification of Utility Definition

- Applies to a range of communication and domestic services

New Disclosure Requirements

- Embedded networks disclosure at the point of sale



Sustainability and Accessibility

Changes in By-laws

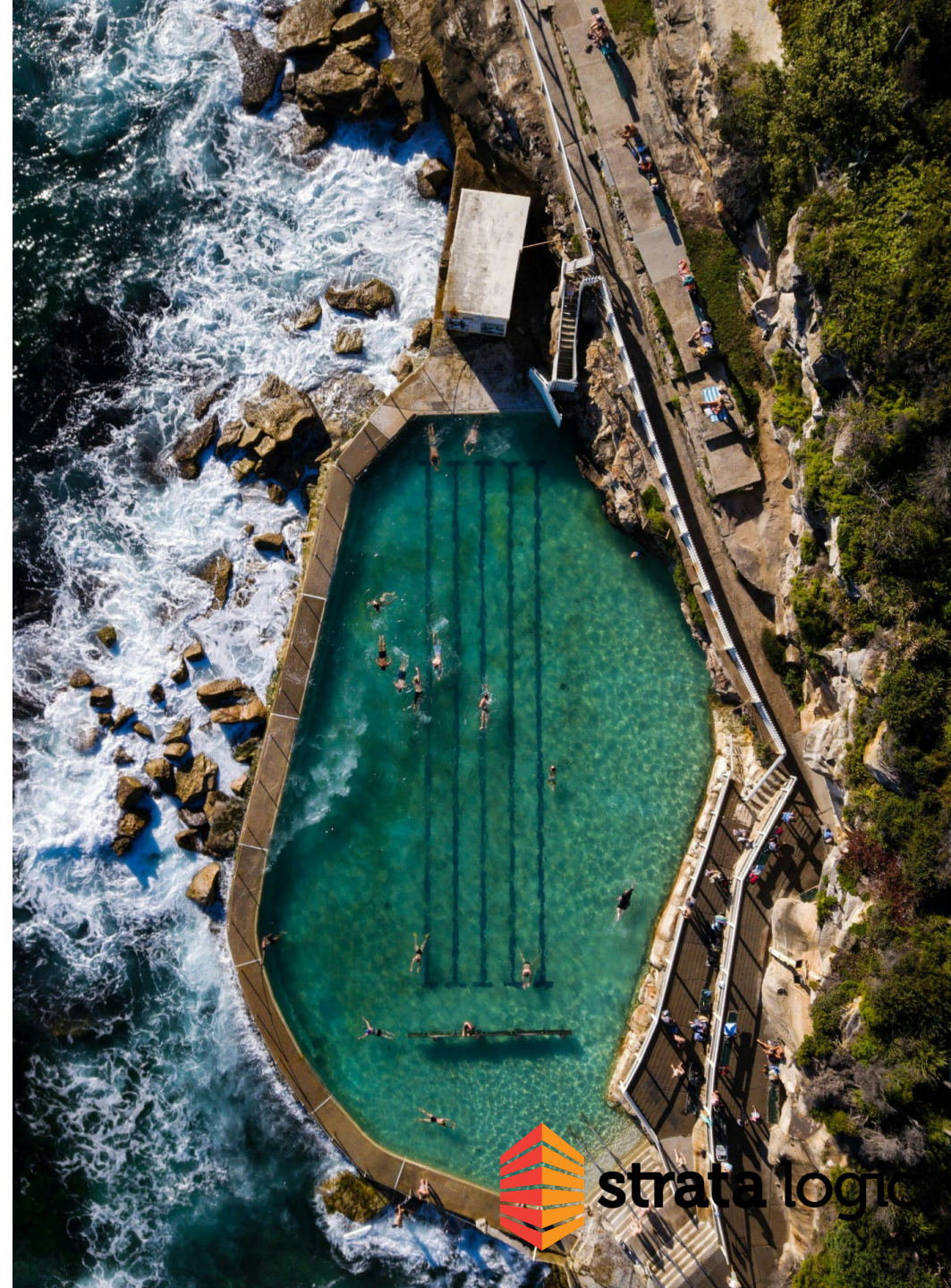
- Banning by-laws that prevent sustainability infrastructure due to appearance
- Exceptions for heritage-listed properties or heritage conservation areas

Owners Corporations' Responsibilities

- Consider sustainability at each AGM
- Include sustainability in capital works fund estimates

Accessibility Infrastructure

- Easier to pass resolutions for installation
- Requires a majority vote instead of a special resolution vote



Commissions & Training Services

Approval for Payments

- Obtain approval before receiving any payments
- Unless already in management agreement

Existing Commission Arrangements

- Stay the same until agreements are changed

Firm's Policy on Training Expenses

- Firm pays for all training expenses
- Includes tickets and conferences
- No acceptance of free training or permits





Real-Time Disclosure

Immediate Disclosure

- Must be provided as soon as aware
- Consult Licensee for full disclosure

Written Communication

- Disclosure must be in writing

Consequences of Failure

- Significant fines for failure to disclose



Impact on Stakeholders

Property Owners

- Must receive extra, timely information from strata managers
- Better informed decisions about running their scheme
- Informed decision on appointing strata manager
- Benefit from more transparent insurance quotes
- Encouraged to understand strata managers' disclosure obligations

Strata Managing Agents

- Must follow increased disclosure obligations
- Provide transparent and timely information to owners corporations
- Support clients' confidence in management agreements
- Face penalties up to \$110,000 for breaching obligations

Summary of Obligations

Pre-Appointment Disclosure Requirements

- Strata managers must provide more detailed information before being appointed

During Appointment Disclosure Requirements

- Continuous obligation to disclose relevant information during their tenure

Insurance Quotes Transparency

- Changes implemented to ensure insurance quotes are more transparent



Pre-Appointment Disclosures


Disclosure of Connections with Suppliers

- Details about the nature of the relationship

Advice Given to Building Developer

- Strata plans or community land scheme plans
- Advice given in the last 2 years





During Appointment Disclosures

Written Explanation for Commissions or Training Services

- Strata managers must provide a written explanation when seeking approval for commissions or training services.
- The explanation should include why the approval is in the owners corporation's interest and details like the commission amount.
- Owners will review and decide on the approval request at a meeting.

Approval Process for Commissions and Training Services

- Strata managers cannot receive any commission or training service without approval unless included in the management agreement.
- The management agreement is the contract negotiated during the strata manager's appointment.



AGM Disclosures

Additional Disclosure Requirements at AGM

- Strata manager must disclose connections with suppliers
- Connections with the building's developer must be revealed
- Connections from the previous 12 months need to be disclosed

Existing Disclosure Obligations

- Commissions received over the past 12 months
- Training services received over the past 12 months
- Expected commissions and training services for the next 12 months

Q&A



More Information and Support

Questions & Support

Feel free to contact us at

customercare@stratalogic.com.au

