

## New strata law reforms - what they mean...

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On 15 July 2015, the NSW Government released an exposure draft of the *Strata Schemes Development Bill 2015 (NSW) (SSDB)*. If the draft Bill is enacted, it will significantly change the way strata property owners approach selling or redeveloping their properties. In this article, we provide an overview of the proposed reforms in the draft Bill.

### What is proposed?

If you are currently a strata owner, the proposed reforms may have a significant impact on you. At present, in NSW, the termination of a strata scheme can only happen if 100% of the owners of the scheme approve the termination. Under the proposed reforms, however, only 75% of owners will need to approve the end of a strata scheme (SSDB s 154). The strata law reforms are designed to assist with the process of urban renewal and consolidation. However, the NSW Government has not included these reasons in its background to the draft Bill. Instead, the proposed reforms have been structured so that strata owners will receive at least the market value of their lot plus additional costs to cover their relocation.

The new measures are problematic for strata owners as the draft legislation provides a greater incentive to collectively sell or develop strata complexes while restricting the rights of strata owners in the process. The proposed 75% threshold is surprising, considering that the strata legislation reforms of other Australian States have generally set the threshold at around 80% to 95%.

## Collective sale & renewal process - new measures

There are several stages to the collective sale and renewal process. These are:

- *Vote to opt into the process*

The new process will apply only to existing schemes if the owners' corporation agrees to opt in. If the majority of owners ie 50% or more do not support the decision, no further action can be taken (SSDB s 168).

- *Initiate the collective sale/renewal process*

A proposal to sell or redevelop a scheme must first be considered by the strata committee (currently known as the 'executive committee'). A general meeting of all owners is then called to consider the proposal (SSDB s 158).

- *Form a strata renewal committee*

If the majority of the owners agree to pursue a proposal, a committee is elected to investigate and develop the proposal. The committee can appoint professionals such as valuers, lawyers and tax experts to assist them (SSDB s 160).

- *Develop a collective sale/renewal plan*

The strata renewal committee must then develop a plan containing the prescribed information to help lot owners make a decision on the proposal. The plan will need to include information such as the amount that each lot owner will receive under a collective sale, the proposed settlement date and arrangements for moving out of the building (SSDB s 164).

- *Consider the plan*

Owners will have a minimum of 60 days to consider the plan and seek independent advice (SSDB s 174). Owners in favour of the plan can sign a support notice and submit it to the owners corporation. The plan lapses if it is not supported by 75% of owners within 12 months (SSDB s 176).

- *Apply for orders to give effect to strata renewal plan*

Any owner or the owner's corporation itself can make an application to the NSW Land and Environment Court for an order to give effect to the strata renewal plan or to consider the strata renewal plan. The Court can approve, reject or make changes to the plan, as it considers appropriate (SSDB s 178).

### **What does this mean for strata residents?**

There are also concerns surrounding the compensation that strata owners will receive if they are forced to sell their units. The draft Bill's definition of 'compensation value' provides owners with the option to use alternative methods of calculation instead of having to follow the established guidelines set out in the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)* (SSDB s 154). This is something that strata owners should be wary of, especially if the housing market becomes more uncertain.

### **Date of effect**

As the NSW Government is still receiving feedback on the draft Bill, at this stage, the date the new measures will take effect is unclear.

### **Conclusion**

Although NSW's strata laws need to evolve and change depending on community needs, it is important that the Government continue to protect individual's rights as property owners. The compulsory acquisition of property is a sensitive topic, especially in a housing market that is becoming increasingly difficult to enter. This is why the new strata laws may need to be considered further, to ensure the balance between individual rights and public benefit is properly struck. At the moment, the new measures do not require a strata block to be run down and/or that there be a public benefit to the acquisition of the complex. All that is required is that 75% of owners approve the end of the complex.