



## **Strata and Community Scheme Review**

Submission to the NSW Department of Finance and  
Services

**February 2012**

## Introduction

The Property Council welcomes this opportunity to provide this submission on the review of strata and community title laws in NSW.

The Property Council is the nation's peak representative of the property industry. Our members are Australia's major investors, developers, owners and managers of office buildings, shopping centres, industrial parks, tourist accommodation and residential apartments and communities.

We believe this review of strata laws is timely and relevant, particularly given the interrelation between strata as housing and employment land type, and the broader planning system review.

The fact remains that strata title is a popular form of property ownership – and close to a quarter of everyone in NSW owns, lives or works in strata titled buildings. It is a great way for individuals to own real estate in affordable bites. Our modern society couldn't function without strata title - it is fundamental to the fabric of our cities.

Its common use places strata title renewal at the heart of Sydney's growth. But we have a problem. With effectively 100 per cent approval needed to dissolve a strata scheme, it has become virtually impossible to achieve change.

There are over 70,000 residential strata schemes in NSW, not to mention the numerous commercial, industrial and retail schemes in existence as well.

This submission focuses on two key themes – what needs to change to the development and the operation of strata schemes. As such these two broad themes cover the first three questions put forward by Government for consultation:

- Q1. What are the main areas of the existing strata and community scheme laws you would like to see changed?
- Q2. Can you see any future issues that need to be addressed in the legislation?
- Q3. How could the management of strata and community schemes be improved?

## Question One

### Renewal of strata schemes

The key area that needs to be changed in strata laws is the ability to renew strata-titled schemes.

There are a number of scenarios that can naturally lead to the redevelopment of a strata scheme:

1. To meet a government's urban growth objectives, where site renewal is necessary to assist in reaching key housing and employment targets;
2. The individual owners may choose to wind up their strata scheme for a particular reason; or
3. The building comes to the end of its physical life.

Buildings have a natural lifecycle. Some of the oldest strata buildings in Sydney are close to 100 years old. The process has been accelerated by lack of maintenance as owners' corporations have sought to minimise contributions. (despite the obligations imposed on owners corporations under the strata legislation to keep the common property in a state of good and serviceable repair). Without renewal, they are being pushed past their realistic lifespan. We risk the emergence of a plethora of buildings which are unsound and unsightly.

Owners who want to realise the investment potential of their properties are stymied by the strata title straightjacket. Existing law demands all owners agree to terminate an existing scheme – as well as third parties, such as lenders. It makes agreement implausible, if not impossible.

One dissenter can frustrate the will of everyone else. New housing and commercial stock essential for our inevitable future growth is being strangled.

There is a potent mix of issues at play in Sydney that demands we unlock the potential of strata title renewal. These are:

- Ageing stock – some of the oldest strata buildings in Sydney are close to 100 years old – well past their natural physical or economic life.
- CBD growth - the recent Metropolitan Plan predicted that 3,800 jobs will be needed in the Sydney City every year to 2036. This growth forecast demands a continual renewal of office and other employment stock in order to be realised.
- The design imperative - Some strata titled buildings were conceived prior to good design principles becoming commonplace. Without the capacity for renewal, they represent eyesores which are destined to remain indefinitely on the urban landscape.
- Lack of maintenance - It is not uncommon for strata schemes to comprise over 150 lots in separate titles. This makes agreement on maintenance



difficult and exaggerates the decline in the quality, safety and lifespan of current buildings. It undermines the initial investment of owners.

- Strata deadlock - A strata scheme can only be terminated by a court order or a unanimous resolution where no unit owner votes against termination. It also subsequently requires the signature of all owners, including those who did not vote, registered lessees and covenant charges – a recipe for gridlock.
- Expertise and risk management - The costs, procedural complexity and resource challenges of undertaking complete redevelopment act as a deterrent to renewal by existing owners. They can also lack the ability to outsource the task to practitioners with greater risk management capacity.

Strata laws need to be amended to facilitate the regeneration of buildings and enable urban renewal. A reform agenda needs to embrace:

- A reasonable threshold - A fair and sensible approach would require a majority decision, rather than a unanimous one, for the termination of a strata scheme. We advocate a threshold of no more than 25% against termination based on overseas practice.
- Fair compensation - For owners who oppose termination, fairness remains a key principle. Several international models have an allowance for them to secure independent market valuations before selling their share to the owner's corporation.
- Consumer protection - Many owners do not have the resources or expertise to undertake redevelopment themselves. A new model should allow owners to effectively contract a developer to undertake and manage the redevelopment process.
- Preserving control - A Renewal Plan would be required on all proposals. It would require a staged process that sees owners consulted and retain control of each step. These include detailed work plans, costings, timelines, respective obligations and consents.
- Phased introduction - Suitable transitional arrangements would need to be made to account for the interests of existing owners and investors in strata buildings. Legislation can allow for provisions to apply after 12 months for new buildings and two years for existing buildings.

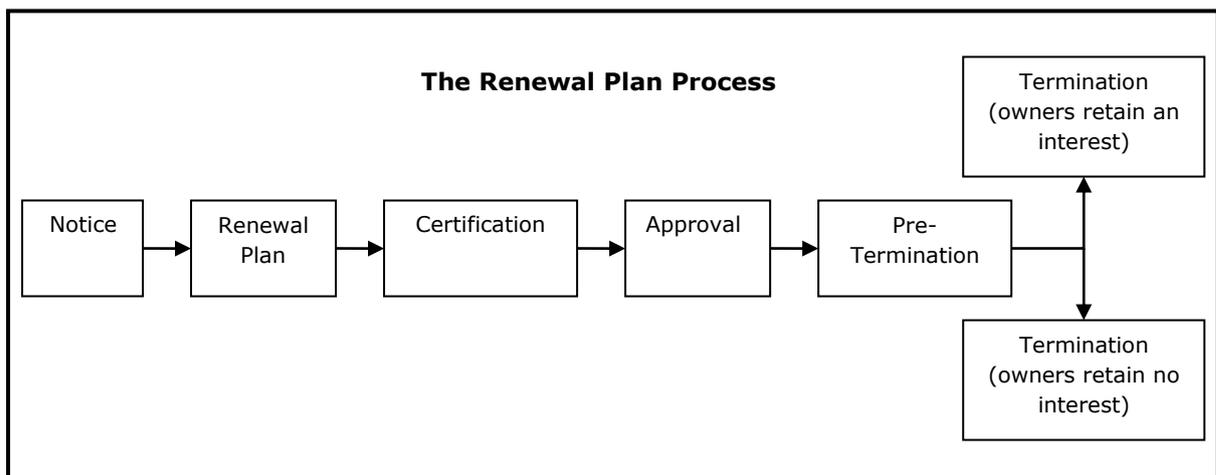
### **The role of renewal plans**

Introducing the use of Renewal Plans for all strata buildings, regardless of building age or its dominant use, will give owners confidence that an effective and transparent process is in place to terminate strata schemes.

A reform package would include:

- Introducing a new Renewal Plan to provide an effective and transparent process to guide owners through the process of dissolving a strata scheme,
- Providing for strata schemes to be dissolved if not more than 25% of owners vote against the proposal, instead of the existing unanimous agreement requirement, and
- Ensuring fair terms are provided to all owners who do not support termination, including fair processes for conflict mediation.

A summary of our Renewal Plan is provided below. We have also prepared a discussion paper *Renewing Our Strata Titled City*, which outlines the renewal plan process and is attached for your reference. Our renewal plan proposal has previously been the subject of two NSW Government discussion papers.

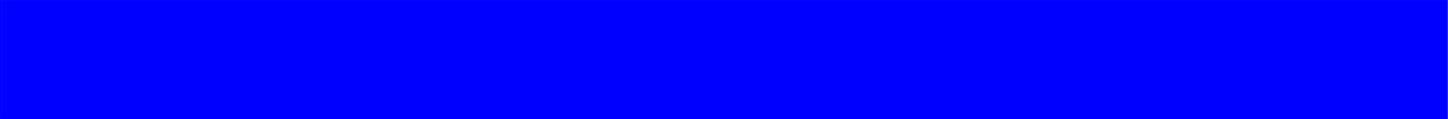


Termination of a scheme could be initiated by a current participant in the strata scheme or a third party.

Interestingly, in developing the renewal plan concept, the Property Council noticed that many strata owners would prefer to sell to an independent, third party who would conduct the redevelopment rather than undertake it themselves.

There are nine steps involved in the Renewal plan process:

1. Notice: Termination of a scheme is initiated by either a current owner or a third party. A notice is issued to all scheme participants and any associated party.
2. Renewal plan: Following receipt of the notice, a detailed Renewal Plan will be prepared detailing the preferred development outcome, proposed building works, development applications required, architectural plans, the

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- obligations and liabilities of all parties, timelines, costings and work programs. This step is imperative in identifying the owner's precise settlement conditions in the event of a redevelopment, which may ultimately differ from the original scheme in size.
3. Relocation: Owners and tenants will be fully informed of any rehousing arrangements required during the life of the works, as well as relocation arrangements either back into the development or elsewhere on completion of the redevelopment.
  4. Certification: A minimum of three months consultation will apply before the Renewal Plan is advanced. It is also submitted to a newly formed 'Strata Schemes Commissioner' to confirm it contained all relevant content required for owners to make a decision on the merits of the proposal. The proposal for termination is then certified by the Commissioner.
  5. Voting: After three months of consultation and certification, owners vote to accept or reject the proposed Renewal Plan. If no more than 25% of owners disagreed, the scheme will move towards termination. Voting would be limited to owners of financial standing, as is currently the case.
  6. Participation: Once the Renewal Plan is approved, owners then have the opportunity to participate in redevelopment of the scheme or a third party can do so. The strata scheme and owners corporation remain in force until all Renewal Plan conditions are met, such as the receipt of development consent for the new development.
  7. Fair reward: If an owner chooses not to participate in the redevelopment, an independent valuation is secured to preserve the entitlement of individual owners. Sales will be at the expense of existing owners. Disputes are settled by the owner appointing one appraiser, the owner's corporation appointing another and the two appraisers agreeing on a third.
  8. Dispute resolution: If obligations under the Renewal Plan aren't being met, an application is made to the Strata Schemes Commissioner for orders on procedural matters, and the Supreme Court for orders on matters of law.
  9. Termination: The scheme's termination sees existing owners interests retained within a new scheme, or transferred by agreement to new owners.

### **Transitional requirements**

Any new termination regime must apply to both new and existing buildings.

While easier to apply to new buildings, ageing strata buildings pose the most immediate and greatest challenge to achieving urban renewal. It is imperative that these older schemes are included in a renewal scheme. It is also important that both residential and commercial buildings are included.



To enable existing buildings owners to take advantage of strata title renewal reforms, effective transitional arrangements will be required to ensure existing owners interests' are protected. The Property Council believes a period of twelve months for new strata developments and two years for existing strata buildings is an appropriate transition period.

## **Commercial Strata Stock**

Sydney's profile as a global financial hub demands strategic planning controls that can facilitate a long-life pipeline of development capacity to match future requirements for new commercial office floor space.

Our CBD is currently constrained by existing planning controls that limit supply to 12-15 years (including Barangaroo's mooted capacity).

A 12- to 15-year horizon is too short for a global city for two reasons:

- Sydney should have a framework for development that attracts ongoing investment and facilitates employment and economic growth.
- It is not unusual for a CBD project to take up to 15 years from inception to completion; by the time the City's planning controls are changed to facilitate growth beyond this horizon, it will still take years for new supply to be delivered.

One of the keys to unlocking this supply shortfall is to revitalise strata-titled commercial buildings.

There are currently 113 commercial buildings in the CBD that are strata titled, representing 22% of the total building stock but only 9.5% of total CBD net lettable area.

Reforming the renewal process will ensure that these buildings can be unlocked for further development; the efficiency dividend of amalgamating these buildings with adjacent buildings to increase floor plates – thereby reflecting market trends and demands – is substantial.. It also means new commercial stock is likely to be greener and more efficient than the ageing and fragmented stock it replaces. To demonstrate this, of the last 30 commercial buildings built in the CBD, 16 Premium/A-Grade buildings accounted for 91% of new commercial stock and 14 B-Grade or lower buildings delivered just 9% of stock (total NLA of 510,000m<sup>2</sup>).

Commercial strata renewal also presents a clear opportunity to owners of these schemes, as they tend to be more geared towards maximising their initial office investment. By allowing the renewal of a building by special resolution, the majority of commercially-minded office owners can explore the opportunity to increase their returns and give the CBD the stock it needs.

At the same time, the city wins as new commercial stock comes online, delivering on industry-leading sustainability dividends and much-needed office capacity into the future.

## **Interstate and international comparisons**

Terminating a strata title scheme requires the following conditions in other Australian jurisdictions:

- Victoria - has no process for administrative termination following agreement. Court-aided termination is the only method of terminating.
- Queensland - as with NSW a resolution without dissent is required. Queensland laws also require, to the extent necessary, an agreement about termination between all owners and each lessee. The scheme may also be terminated by a court order if deemed just and equitable.
- Northern Territory - schemes under the Unit Titles Act proceed with termination by unanimous resolution or court order. Schemes registered under the Unit Titles Scheme Act can be terminated by 90% majority vote once the scheme is 20 years or older.
- Western Australia and South Australia - termination by unanimous resolution or court order.
- Tasmania - provides for termination by unanimous agreement and the written consent of all registered mortgagees. However, the consent of the registered mortgagees may be dispensed with if the mortgagee has unreasonably withheld consent and termination can be effected without prejudicing the mortgagee.

Clearly, modernising the strata scheme renewal regime in NSW will give us a competitive edge.

Terminating a strata title scheme requires the following conditions in international jurisdictions:

- Washington - termination threshold is 80% owner agreement, but may be lower if all units are non-residential.
- New Jersey - termination threshold is 80% owner agreement.
- Canada - termination threshold is 80% owner agreement and at least 80% of those who have a claim against the property.
- UK - voluntary termination of commonhold schemes need at least 80 per cent of association members voting in favour.
- Singapore - termination threshold is 80% if the strata arrangement is more than 10 years old, and 90% if less than 10 years old. Scheme only authorises outright sale of whole strata developments - major shortcoming for those wishing to remain in their locale.
- Hong Kong - termination threshold is 90% of owners. A threshold of 80% applies when buildings are older than 50 years or each owner represents more than 10% of the building's undivided shares.
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- New Zealand – cancellation to a unit plan by the Registrar can occur via a special resolution – 75% if termination. More information on New Zealand’s scheme is provided on the next page.

This illustrates the model proposed by the Property Council reflects international best practice.

### **Spotlight on New Zealand’s Unit Title scheme**

New Zealand’s Unit Title Act 1972 was originally modelled on NSW’s legislation, but was updated on 2010 to include some important changes to accurately reflect the number, scale and nature of strata developments.

New Zealand’s unit title legislation caters to situations where:

- a unit plan is modified in such a way that materially affects the units of the plan is known as a redevelopment, and
- a unit plan is cancelled by either the Registrar or High Court.

Unit plan redevelopments that require a new unit plan to be registered must be agreed to by special resolution – 75% of eligible voters must vote in its favour.

However, if a special resolution is not reached but 65% of eligible voters are in favour of the resolution, any eligible voter who voted in favour may apply to the appropriate decision-maker to have the resolution confirmed on the grounds that failing to pass the resolution is unjust and inequitable to the majority. The decision-maker will then assess the justice and equitability of the proposal.

Unit plans can also be cancelled two ways – either by the Registrar or by court order.

#### *Applications to the Registrar*

Cancellation via the Registrar occurs on the body corporate’s application for cancellation after the motion is passed via special resolution. Prior to such an application being lodged, the body corporate must ensure that every unit owner and every person with a registered interest any unit or common property is served a copy of the draft application.

On lodging the application with the Registrar, the body corporate must prove:

- All unit holders were served with appropriate notice;
- If the plan is objected to and the High Court confirmed the resolution, the body corporate must show that any appeals were upheld by the Court; and
- All rates for the unit and common property have been paid.



The application for cancellation must be accompanied by a certificate from a registered valuer reassessing the ownership interests and any proposed ownership interests of all units in the development.

The cancellation takes effect when the record has been appropriately updated by the Registrar and the body corporate is dissolved.

#### *Applications to the High Court*

Applications to the High Court for cancellation may be made by the body corporate, an administrator or one or more unit owners. The applicant must serve notice of the application to every unit holder, every person with a registered interest in the unit plan, any insurer of the unit plan's components and the Registrar - all of which have the right to appear and be heard before the Court.

The High Court may authorise a unit plan cancellation if it is satisfied that the plan is just and equitable to the right and interests of any creditor of the body corporate, and every person who has an interest in the unit plan. Having done so, the High Court can impose conditions and give directions as it sees fit to the:

- Payment of monies by or to the body corporate,
- The distribution of assets of the body corporate, or
- Modification or extinguishment of any registered interest in the unit plan.

After the decision is made by the High Court, the applicant then has 6 months to apply to the Registrar to cancel the unit plan. This subsequent application must include support of the High Court's order.

#### **Recommendation**

1. Strata laws in NSW should include a termination process that focuses on implementing a renewal plan and adopts a 75% threshold to the termination of a strata scheme, regardless of the scheme's age or asset type.

## Question Two

All the future issues identified by the Property Council relate to the development of strata and community titled buildings. All of these issues relate to planning, hence the current planning system review is a golden opportunity to ensure these development roadblocks are permanently removed from the system.

### **Fire safety matters**

New buildings and building work must be certified as suitable to occupy in accordance with its classification under the Building Code of Australia (BCA), prior to the occupation or use of that new building or work. Under the provision of the EP&A Act 1979, the certification only requires the submission of an Application for Occupation Certificate and a Final (or interim) fire safety certificate as a minimum - any other certification is left to the discretion of the Principal Certifying Authority (PCA) as to what additional certification is required.

The PCA cannot be expected to certify with confidence all aspects of building construction against the relevant BCA and Australian Standards, as a single person could not be expected to hold the collective knowledge of these provisions. It is therefore the case that a PCA will seek certification of a design aspect prior to the issue of a construction certificate or complying development certificate, and upon completion obtain installation certificates from contractors. However there is no requirement for the contractor to be registered or accredited in their respective fields and there is no industry standard to determine the competency of the contractor.

The EP&A Act 1979 does not require that such nominated aspects of works as the installation of fire safety measures be installed only by accredited individuals and certified by means of a Part 4A compliance certificate. In this regard the determination of the competency of the contractor is left again to the PCA, who often has little more to go by to determine competency than the quality of works visible on completion and the certificate itself.

The person who is responsible for the issue of fire safety certificates and statements does not require accreditation in the same way as PCAs. This could result in unqualified persons or the person who installed the fire safety scheme, effectively signing off on their own work. This is evidence of a clear conflict of interest, which could have serious fire safety implications for owners, managers and tenants of buildings.

There is also a concern that subsequent fire safety audits are performed by unqualified persons, further placing the building and life safety at potential risk throughout its natural life.

An accreditation system is needed for fire safety inspectors/auditors and professionals who carry out annual fire safety inspections in NSW, but a review of



strata schemes is not the best place for this shortfall to be addressed. The broader review of the planning system and the BPB's review of the certification system are better placed to deal with this need.

### **Recommendation**

2. The Property Council supports the establishment of a certification scheme for persons who are responsible for certifying the annual fire safety of a building, as it would provide greater confidence to property owners, managers and builders that their fire safety requirements required of their buildings have been met. However, the establishment of such a scheme is better placed with the review of the NSW planning system.

### **Staged strata developments**

Legislation was amended in 1997 to allow for more flexibility in staged developments through the introduction of a Strata Development Contract (SDC). The amendment changed three key points for staged developments: it permitted completion without owners corporation consent, the initial period wouldn't expire and the developer was no longer required to complete the project.

Fifteen years later, the process needs further amendments to ensure staged developments remain efficient and viable.

When a concept plan is lodged as part of a DA it must be accompanied by an SDC. In order to lodge the SDC at this time, the developer must know how many lots will be registered in how many buildings as well as the development timeline.

In today's world of pre-commitments and market uncertainty, the information required on an SDC cannot always be known because it is lodged before the development takes place. Once the development commences, several situations may lead the developer to hold off completing all the nominated stages, either temporarily or permanently.

In these frequent instances, the SDC acts as a brake on the developer's flexibility as each and every change to the SDC must be approved by the consent authority, being council. This means any time there is a change in the number of units in a block or the timeline of a block's development, the developer must undergo the lengthy and costly process of resubmitting the SDC to council for approval.

To demonstrate the scope of an SDC's use in modern developments, one developer who is a member of the Property Council has intimated that out of their last 50 developments only 2 weren't built as staged projects. That means that an SDC was required for 96% of that member's projects over recent years.



Flexibility around the registration of changes to an SDC are needed so that development patterns can reflect modern circumstances. If a concept plan, DA and SDC are initially lodged and approved by council, there should be allowances for subsequent amendments to pass through much quicker than some DA timelines reveal.

A private certifier can sign off on a strata plan and an occupation certificate, but can't sign off on an SDC. This is an anomaly, particularly as an SDC doesn't relate to the safety or structural integrity of the development – the occupation certificate accounts for this. An SDC only reflects the staging aspects of the development, and hence a private certifier should also be able to sign off on an SDC at the initial phase as well as subsequent changes to the staging of the development.

The Property Council is keen to workshop potential scenarios with the Department in advance of a discussion paper being prepared to assist in the identification of circumstances where approval through a private certifier may be justified, amongst other potential beneficial changes to the SDC process.

### **Recommendation**

3. The use of private certifiers should be introduced for approving SDCs in the initial phase as well as subsequent staging changes in order to speed up the process of development throughout NSW and deliver on much needed housing supply in NSW.

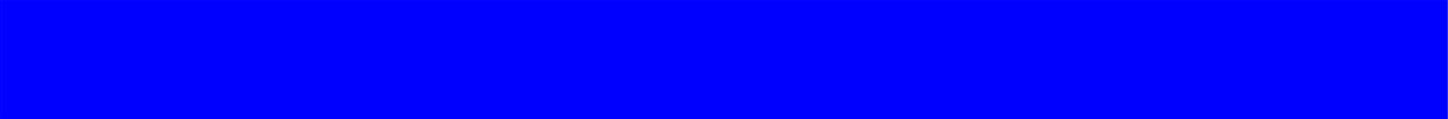
### **Restrictions on land**

Another part of the development process which experiences significant bottleneck is the registration of S88B instruments (under the Conveyancing Act 1919). This issue can extend to all types of development and should be looked at within the broader planning reforms for NSW.

Restrictions placed on a land title are registered by the NSW Land and Property Information (LPI). Where the development's conditions of approval require a restriction of use or positive covenant to be created to benefit the consent authority, the LPI will require that authority sign-off on the S88B instrument.

This requirement carries through to development plans, community plans and strata plans, and may lead to substantial time delays when a council is involved as the benefiting consent authority.

When developers choose to contract a private strata certifier to certify their project, the certifier's use is negated to a degree because the developer must still get sign off from council on the S88B instrument when it stands to benefit from



the restriction on use or positive covenant. This is also somewhat contradictory to the premise of private certifiers as consent authorities in the strata titles space and can significantly impact the amount of time a development is held up from registration by the LPI.

A solution to minimise time delays of resubmitting the S88B instrument to council prior to LPI registration would be two-fold:

- Consent authorities must fully state the terms of restrictions to use or positive covenants which are to benefit council at the DA stage through conditions of approval. Where the conditions of consent cannot be fully expressed at the DA stage due to lack of information, they can be stated or refined when the developer lodges their strata approval.
- A private certifier could then sign off on the S88B instrument as the consent authority by declaring the instrument to be consistent with the conditions of approval, and thereby compliance with the LPI's requirements is achieved.

This would increase the certainty for the developer throughout the construction process by specifying the conditions of approval upfront in the process. It would also minimise the turnaround time and would see the land being registered in a timely manner.

Once again, the Property Council is keen to workshop potential scenarios with the Department in advance of a discussion paper being prepared to assist in identifying circumstances where easements can be certified by a private certifier, thereby speeding up the process of title registration with the LPI.

### **Recommendation**

4. Introduce the requirement for council to state any restrictions on use or positive covenants during the DA stage or strata approval stage as conditions of consent, thereby allowing private certifiers to sign off on the S88B instrument as compliant with the conditions of consent.

## Question Three

### **Large vs small schemes**

It is generally conceived that large strata schemes are those with 100+ lots, but some developers classify schemes of 50+ lots as large schemes given that strata management under the original Conveyancing (Strata Titles) Act 1961 is more tailored to a smaller scale scheme.

The Property Council recognises the management of large strata lots is more complex, and therefore requires a different skill base to the management of small (for example 1-5 unit) lots.

It should be noted that the market is moving in the direction of professional management services for large schemes, and that most developers of large schemes appoint professional managers (either a single individual or a management organisation). Professional strata managers are most likely to have the experience required to comprehensively manage large strata schemes, within their organisations.

For this reason, it is recommended that large strata schemes must appoint professional strata managers.

### **Recommendation**

5. Mandate the appointment of professional strata managers for schemes of 50+ lots.

### **Restricting proxies**

Recent amendments to strata laws have restricted the number of proxies an on-site manager can hold. But there are no restrictions on the number of proxies an owner can hold within a strata scheme besides the original owner of lots in a strata scheme.

Positions of absolute power must be addressed in this review to improve the management of strata schemes, whether they sit with owners or on-site strata managers.

The key here is consistency. A restriction on the number or proportion of proxies held by any individual within the Owners Corporation, or onsite strata manager, would ensure that potential positions of power cannot be abused for any reason and that democracy is maintained within the running of the strata scheme.

### **Recommendation**

6. Limit the maximum number or proportion of proxy votes able to be held at any one time by an owner or onsite strata manager.

## **Common property matters**

The definition – and consequent maintenance – of “common property” in strata schemes is complex. Defining common property is even more difficult in large strata schemes as this tends to become more complex. Specifically, the legislation does not allow for interests in common property to be effectively separated between unit owners.

The Property Council supports moves toward simplifying the information contained in a strata plan, as, in addition to specific “tangible” items located both within and outside units, unit owners have a share of “airspace”.

The Property Council notes that the definition of “common property” can be particularly troublesome when owners are seeking to terminate a strata scheme. Clarification of “common property” would assist in simplifying this process.

The Property Council therefore supports all efforts to clarify the definition of common property, particularly to take account of larger strata schemes, and make it as easy as possible for these clarifications to be translated to strata plans.

The NSW Land and Property Information recently released two memoranda which give firmer guidance on what is and what is not considered common property; Memorandum No AG520000 for new strata schemes and Memorandum No AG600000 for existing strata schemes. Where appropriate, these memoranda should be incorporated into new and existing strata plans to set the guidelines on common property, subject to an individual scheme’s strata plan and by-laws.

### **Recommendation**

7. The Property Council supports measures to clarify definitions of “common property”, and recommend the LPI’s memoranda be referenced in new and existing strata plans as appropriate.

### **Enforcing By-Laws**

One sure way to improve the management of strata and community schemes is to have firmer ideas about how by-laws are enforced.

Some standard by-laws are clearly out of date; an example being the general prohibition of air drying clothes on a balcony that is visible from the outside of the building. In an energy-conscious society such a by-law is no longer relevant.

Other by-laws are not so straight forward to enforce. One such example is the requirement for the peaceful enjoyment of an owner or occupier within a strata



development. The scenario is as follows, there are tenants who continue to disturb the peace within the building. Several Notices to Comply are issued to them, as is a fine. The tenants pay little attention to these actions until they are called up by the CTTT. The owner shouldn't have to pay the fine, but how can the tenants be made to pay it, particularly as they prove to be recalcitrant?

This review of strata law needs to consider what else can be done to ensure that Notices to Comply to owners and tenants, as appropriate, are received with solemnity and fines are paid in the good faith of another offense not occurring.

**Recommendation**

8. The standard by-laws and the way they are enforced need to be reviewed to ensure they are relevant and dispute resolution is effective.

## Next steps

The current online forum is a good starting point in the discussion that must be had about the future of strata and community title in NSW.

The next step is just as crucial, and should be solidified by Government as soon as possible.

The Property Council strongly recommends that the NSW Government harness the momentum prompted by the online forum and use it to launch into a full scale legislative review, complete with an options paper that will feed into draft legislation.

Most importantly, this review should align with the broader planning system review currently being undertaken as many issues uncovered in the planning and development of strata and community title schemes have a broader reach into the overall planning framework.

Lastly, the entire process needs to be transparent and well-communicated to the community, with clear goals and timeframes established from the outset.

### **Recommendation**

9. The Government should progress with the next stages of this review with a move towards drafting new legislation that ties into the broader planning system review.

## Summary of recommendations

1. Strata laws in NSW should include a termination process that focuses on implementing a renewal plan and adopts a 75% threshold to the termination of a strata scheme, regardless of the scheme's age or asset type.
2. The Property Council supports the establishment of a certification scheme for persons who are responsible for certifying the annual fire safety of a building, as it would provide greater confidence to property owners, managers and builders that their fire safety requirements required of their buildings have been met. However, the establishment of such a scheme is better placed with the review of the NSW planning system.
3. The use of private certifiers should be introduced for approving SDCs in the initial phase as well as subsequent staging changes in order to speed up the process of development throughout NSW and deliver on much needed housing supply in NSW.
4. Introduce the requirement for council to state any restrictions on use or positive covenants during the DA stage or strata approval stage as conditions of consent, thereby allowing private certifiers to sign off on the S88B instrument as compliant with the conditions of consent.
5. Mandate the appointment of professional strata managers for schemes of 50+ lots.
6. Limit the maximum number or proportion of proxy votes able to be held at any one time by an owner or onsite strata manager.
7. The Property Council supports measures to clarify definitions of "common property", and recommend the LPI's memoranda be referenced in new and existing strata plans as appropriate.
8. The standard by-laws and the way they are enforced need to be reviewed to ensure they are relevant and dispute resolution is effective.
9. The Government should progress with the next stages of this review with a move towards drafting new legislation that ties into the broader planning system review.

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