



Submission

Statutory Review of the NSW Strata Scheme Laws

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Council on the Ageing (COTA NSW)
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COTA NSW

COTA NSW is the peak body representing people over 50 in NSW.

We are an independent, non-partisan, consumer-based non-government organisation. We work with politicians, policy makers, service, and product providers as well as media representatives to make sure our constituents' views are heard and their needs met.

The focus of the COTA NSW submission

Increasing numbers of older people own or rent in strata dwellings. In a COTA NSW survey conducted in 2017, 14.4% of respondents indicated that they live in apartment buildings and a further 11.5% indicated that they rented. We sought older people's feedback on their experiences related to strata living which will form the basis of this submission.

This statutory review provides an important opportunity to review the current laws and respond to the changing needs of the NSW population and the changing nature of our communities.

The submission will focus on:

- Strata renewal: collective sale and redevelopment.
- Managing the scheme
- Finances
- Pets and assistance animal by-laws

Strata renewal: collective sale and redevelopment

The 75/25 continues to be of concern for some older owners in strata developments, however in relation to other experiences in strata it is of a smaller concern. The 2017 COTA NSW survey found that approximately 5% of respondents were worried about this change in the law. There were also a number of survey participants that were unaware of the new provision.

"I worry that my home could be taken from me with the 75/25 votes". Male respondent, 82.

Although COTA NSW is broadly supportive of the strata renewal provision, we continue to highlight the need for protection and/or assistance for vulnerable owners.

For many current owners in strata schemes, the collective sale of an ageing strata development may provide the opportunity to move to a newer, more appropriate form of housing. For others however, it will inevitably create worry, inconvenience, and possible financial difficulties. From our consultations we know it is often challenging for older people to find alternative housing that suits their needs in the same area, and we know there are always hidden costs and expenses with any relocation, particularly if multiple moves are

required. We also know from studies that people become more reluctant to move as they age, and their home becomes increasingly important to their sense of security and wellbeing.

COTA NSW is opposed to any changes to the legislation that will dilute the pathways for redress for those in the dissenting 25%. The current safeguards are an important mechanism to protect homeowners against potentially unscrupulous developers.

Managing the Scheme

There were differing experiences with Strata committees outlined within our survey. For many the committees functioned well and were efficient and approachable. However, almost 9% of respondents stated that they had experienced conflict or difficulties with committees in their strata development.

Predominant themes for those unhappy with the current committees include:

- Length of membership on committees – in some instances individuals dominate the committee and prevent new homeowners from being represented. Exploration of maximum terms on committees should be undertaken.
- Skills of committee members – many respondents raised concerns about the inadequate skills of committee members, particularly financial and knowledge of strata laws and regulations. This in turn impacted the management of budgets, expenditure, and financial impacts on homeowners. COTA NSW recommends the development of a short online and in-person course by the Department of Fair Trading for both prospective and current strata committee members. This would provide accessible and relevant information on key topics relating to effectively carrying out the duties of a strata committee – their rights, responsibilities, and standards.
- Committee member probity – the ethical and legal behaviour of some committee members was raised in the survey, stating there were often conflict of interest, non-compliance with strata laws and bullying or offensive conduct. Further education/promotion on avenues for conflict resolution and complaint handling is required.

Finances

Financial stress was of major concern to many older homeowners. Approximately 14.5% of this group, stated that they found it difficult to afford rising strata fees and levies. One participant said:

“We have had three special levies in the past two years and the levies have increased every year for the past ten years.” Female respondent, 74.

These ongoing fees and in many cases regular requirements to contribute to special levies (particularly in ageing buildings) is putting considerable financial stress on those on fixed incomes.

“The levies (strata fees) keep rising beyond my capacity to meet. Moving forward I anticipate the need to find a property further away from current location in order to maintain some quality of life and to have money to live on.” Female respondent, 63.

COTA NSW suggest the exploration of a percentage limit per year on increases to strata fees, and accompanying justification of why any increases are necessary.

Pets and assistance animal by-laws

For many older people, their pet is integral to their health and wellbeing. They may be living alone, and their pet provides vital companionship. We are also aware of the confusion around assistance dogs in the community. Clarification of how assistance dogs are defined within strata laws would be beneficial. COTA NSW is mindful of the concerns that some residents may have in regard to damage or soiling of common areas. This can be alleviated by by-laws that clearly allocate the responsibility for cleaning or repair with the respective pet owner.

Case Study

Gladys* is an 82 year old woman currently receiving the pension and living in Tweed. She has been looking for an affordable rental unit for over a year. She has a small dog, which is her sole companion - as she is a widow. She has been knocked back on at least 6 units over that time as they state that no pets are allowed. She is currently on a wait list for public housing, so is sleeping on a relative's lounge.

COTA NSW supports *Option 2* with amendments that will modify the Management Act to stipulate that by-laws cannot unreasonably prohibit the keeping of pets. Any amendments could include provisions relating to size, safety, and hygiene.

Summary of Recommendations

- That safeguards for vulnerable people are not diluted in any changes to the strata renewal provisions.
- Explore maximum terms for strata committees.
- NSW Department of Fair Trading to develop online training for prospective and current strata committee members.
- Increase promotion of conflict resolution and complaint handling procedures.
- Introduce a percentage limit on increases to strata fees.
- Supports Option 2 of pet and animal by-laws with appropriate amendments.

**Not her real name.