

## THE NEW STRATA LAWS FOR NEW SOUTH WALES

### Summary of reforms – Governance

	<b>Reform</b>	<b>Current laws</b>	<b>New laws</b>
1.1	New options for attending meetings and voting.	A vote can only be cast by proxy or in person at a general meeting of the owners corporation.	Schemes will be allowed to hold meetings via social media, video and teleconferencing (or other methods which may become available in the future).  Schemes will also be allowed to accept postal or electronic votes from owners who are unable to attend the meeting.
1.2	Greater recognition for modern forms of communication.	Documents must be provided to owners in hard copy, or posted on a notice board (if a scheme is required to have a noticeboard).  Documents can be provided electronically if a scheme has adopted the relevant by-law and owners have provided an email address.	Schemes will be allowed to store all records and documents by electronic or other means.  Schemes will be able to send any documents and serve notices electronically even if no by-law is in place, but only if this form of communication has been agreed.
1.3	Provide for an exclusion of personal liability.	There is no provision to exclude personal liability. Owners corporations can choose to take out personal liability insurance for executive committee members, but this is not compulsory.	An exclusion of personal liability clause will be introduced for committee members who act in good faith for the purpose of carrying out their functions under the Act.
1.4	Provide options and guidance for holding secret ballots.	The laws are silent regarding secret ballots.	The law will recognise that voting on a motion may be by secret ballot. Guidance material to be produced to help people understand voting processes.
1.5	Enhance opportunities for tenant participation.	The laws do not provide for any form of tenant participation.	Tenants will be allowed to attend and participate in meetings of the owners corporation. Tenants will be allowed to appoint a representative to the strata committee in circumstances where tenants occupy more than half the lots in a strata scheme. Tenants will not be given new voting rights.
1.6	Change 'executive committee' to 'strata committee'.	The 'executive committee' does not have any executive powers.	'Executive committee' will be renamed 'strata committee' to better reflect its role.
1.7	Provide for the direct election of office bearers.	The owners corporation elects the executive committee and the committee appoints the office bearers.	The office bearers (chairperson, treasurer and secretary) will be directly elected by the owners corporation at each AGM.
1.8	Provide for written nominations for office bearers.	Nominations for office bearers and executive committee members are usually made at the AGM.	Written nominations for office bearers and strata committee members will be required ahead of an AGM.  If there are no pre-meeting nominees, it will be possible for nominations to occur at the meeting.
1.9	Allow for more appointments to the strata committee.	No minimum number for committee members, but maximum limit is nine members.	Schemes will be allowed to appoint as many people as they wish to the committee.  In large schemes (that is, schemes with an annual budget of at least \$250,000 or more than 100 lots) at least three people must be appointed to the committee.

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1.10	Clarify the committee's obligations to the owners and residents.	No specific obligation on committee members in undertaking their role.	Committee members will be required to carry out their functions without favour, for the benefit of all owners and to act with due care, skill and diligence.
1.11	Require greater disclosure of conflicts of interest.	Executive committee members do not have to disclose any conflict of interest.	Committee members will be required to disclose any conflict of interest in a matter to be considered by the committee.
1.12	Prohibit certain people from being on the strata committee.	No restrictions on who can serve on the committee providing they have been nominated by an owner.	Non-owners with a financial interest in the scheme (for example, managing agents and letting agents) will be prohibited from being members of the committee.
1.13	Require motions to be submitted ahead of a meeting with an explanation.	Motions are submitted to the secretary or managing agent before a general meeting with no need for an explanation or for the person moving the motion to be identified.	All motions to be considered at a meeting must be submitted in advance, circulated with the meeting notice, and accompanied by a short explanatory note that also identifies the person moving the motion.
1.14	Limit the number of proxy votes that can be held by any one person.	No limits on the number of proxy votes that can be held by any one person.	The number of proxies able to be held by any person will be limited to 5 per cent of the lots if the scheme has more than 20 lots or one if the scheme has fewer than 20 lots.
1.15	Greater disclosure requirements for agents who receive commissions.	Strata managing agents can receive commissions, benefits or gifts from third parties but these must be disclosed in the management agreement.	Strata managing agents will need to disclose commissions at AGMs and seek approval to continue receiving them.
1.16	Limit the terms of strata management contracts.	No limits on strata management contracts after initial period, and automatic roll-over clauses are not prohibited.	Strata management contracts will be limited to a maximum term of three years, with no automatic roll-over allowed.
1.17	Allow for Tribunal orders to be made regarding agent contracts.	The Tribunal only has power to make orders relating to caretaker agreements.	The Tribunal will be able to make orders with respect to agent contracts similar to those relating to caretaker agreements.
1.18	Allow agency agreements to be inspected.	Agency agreements are not specifically listed among the documents that owners can ask to inspect.	Agency agreements will have to be made available for inspection by an owner on request.
1.19	Improve access to records.	The Act requires certain records to be held by the strata scheme. These records are to be made available to authorised persons. Inspection of the records is usually only available in person.	New access arrangements will be introduced that will allow the documents to be emailed or made available online.
1.20	Allow schemes more flexibility about when to hold AGMs.	AGMs must be held within one month (before or after) of the anniversary of the first AGM.	Schemes will be allowed to choose to hold the AGM at any time during the financial year.
1.21	Relax restrictions on declaring a quorum.	If after 30 minutes, a quorum has not been achieved, the meeting is adjourned for one week.  If a quorum is still not achieved 30 minutes into the second meeting, the chairperson can declare a quorum.	The chairperson will be allowed to declare a quorum, if after 30 minutes a quorum has not been achieved. There will be no need for a second meeting.
1.22	Allow greater flexibility with regard to filling vacancies on committees.	If a vacancy arises on the executive committee, a general meeting must be called to elect a new member.	The requirement for an election to be called to fill a vacancy on a strata committee will be removed. The committee will be able to appoint someone to fill a vacancy until the next AGM if they wish to do so.

Liability limited by a scheme approved under Professional Standards Legislation  
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