



Strata Schemes Legislation Amendment Draft Regulation 2025 Feedback

Strata Community Association NSW Submission
20 June 2025

INTRODUCTION

1. Strata Community Association (NSW) Overview

Founded in 1980, Strata Community Association (NSW) was formerly known as the Institute of Strata Title Management. SCA NSW serves as the peak industry body for Strata and Community Title Management in New South Wales. The association proudly fulfils a dual role as both a professional institute and consumer advocate.

2. Membership

SCA NSW boasts a membership of over 3,000 members, including lot owners, suppliers, and professional strata managers who oversee, advise, and manage a combined property portfolio estimated to be worth over \$450 Billion.

3. Strata and Community Title Schemes in NSW

NSW is home to 89,049 Strata and Community Title Schemes. A significant 95 per cent of these schemes are comprised of residential lots. Altogether, the total number of Strata and Community Title lots in NSW stands at 1,043,690.¹

4. NSW as a Leader in High-Density Living

According to the 2022 Australasian Strata Insights Report, there are 2,501,351 people residing in apartments across Australia. A majority of these apartment dwellers (51 per cent) are in NSW.² NSW also leads the way in the trend to higher density living in Australia and boasts the highest proportion of apartment households relative to all occupied private dwellings, standing at 22 per cent.

5. Employment Impact

Strata is a significant employer, directly providing jobs to 1,413 managers throughout NSW, as well as an additional 1,317 other related employees.³

6. Promoting Professionalism

1. SCA NSW is dedicated to fostering a high standard of professionalism in the strata industry with initiatives like the Professional Standards Scheme (PSS), which contributes to ensuring strong consumer outcomes for over 1 million strata residents in NSW.
2. SCA NSW membership encompasses a wide range of entities, from large corporate companies to small family businesses to dedicated volunteers. Members possess expertise in all aspects of strata management, service provision, and governance.

For further information about this consultation, please contact Andrew Jefferies, Senior Policy and Advocacy Advisor, SCA NSW. Andrew.Jefferies@strata.community

¹ Hazel Easthope, Danielle Hynes, Yi Lu and Reg Wade, Australasian Strata Insights 2022, City Futures Research Centre, UNSW, Accessed at https://cityfutures.adu.unsw.edu.au/documents/717/2022_Australasian_Strata_Insights_Report.pdf

² Ibid, p.8-13

³ Ibid, p.8.

STRATA SCHEMES LEGISLATION AMENDMENT DRAFT REGULATION 2025 FEEDBACK

Introduction

The Strata Community Association NSW (SCA NSW) welcomes the opportunity to provide confidential feedback as a key industry stakeholder to NSW Fair Trading on the Strata Schemes Legislation Amendment Draft Regulation 2025.

SCA (NSW) notes the passage of the *Strata Schemes Legislation Amendment Act 2025* (the Amendment Act) by the NSW Parliament in February and offers in-principal support for the draft regulations that seek to support the next tranche of strata reforms. However, we note the proposals, if implemented, will add further cost and complexity for Owners Corporations and Strata Managers.

Please find our responses to the draft regulation below and further suggestions that we believe will enhance sector outcomes.

SCA NSW's Response

Schedule 1 – Amendment of Strata Schemes Management Regulation 2016

- **Persons who are not building managers**

Clause 17C, as per Section 66 (2)(b) of the Act seeks to exclude certain persons from the definition of a Building Manager, such as those engaged by an Owners Corporation, Strata Managing Agent or Building Manager to provide a maintenance or repair service, the terms of the person's engagement is limited to the provision of a particular service and where the person has not been appointed as a building manager under an agreement.

SCA (NSW) supports this revised definition.

- **Additional duties of building managers**

Clause 17D, as per Section 70A (3) of the Act seeks to prescribe additional duties for buildings and facilities managers such as communicating maintenance, repair or safety

concerns to the Owners Corporation, being familiar with fire safety obligations of the Owners Corporation and taking all reasonable steps to comply with fire safety obligations.

We note that in Clause 17D (2)(a), the building manager may receive a referral fee or other commission or benefit in relation to the proposed contract.

SCA (NSW) does not support this clause.

SCA's position is that a building manager should be subject to the same oversight and reporting requirements in relation to commissions as strata managers.

This provision in the regulations for building managers in relation to accepting commissions, their disclosure, and the non-requirement of a pre-written agreement is not sufficient to protect consumers and does not pass an equity test in relation to service providers acting in the same space and being subject to the same provisions.

Commissions arrangements should be within agreements, as they are with strata managers, and should be subject to the same provisions of disclosure and enforcement, as they are comparable activities and service providers acting under the same legislation and regulation.

- **Reasonable refusal of payment plan for overdue contributions**

Clause 17G under Section 85 (5B) of the Act outlines reasonable arguments for an Owners Corporation to refuse to enter into a proposed payment plan.

SCA's position is that this category should be expanded to include circumstances where the overdue contributions are required to preserve or protect the Owners Corporation's legal position in cases such as defects claims, other litigation or circumstances where the potential detriment to the Owners Corporation is greater than the special/other levies being raised.

- **Request for payment plan for overdue contributions**

Clause 17H under Section 85 (6) of the Act, an owner must submit a payment plan in the prescribed form and cannot include any request for further information other than what is in the prescribed form.

As the proposals do not enable an owners corporation to assess in any way whether a person is in genuine hardship and whether they have means or ability to pay, it is argued that anyone can fill out the form, as prescribed, as long as debt is paid within 12 months and that it doesn't fall within Clause 17G.

SCA strongly recommends that the regulations require that within a statement of financial hardship, a basic financial statement of position identifying that person's monthly income and expenses, should be included.

- **Inclusion of payment of future levies during the payment plan period**

The proposed regulations only relate to a payment plan on a debt at a specific point in time. As levies are usually struck on a quarterly basis, this can lead to multiple payment plans for multiple debts, thus leading to debt recovery action if those future levies are not included as part of a payment plan.

SCA's position is that an additional section be included in the prescribed form, noting that the levy debt accrues during the payment plan so it can be added to the *current debt amount* and the payment plan made to pay off this entire amount.

- **Requests for a waiver of interest should not form part of the payment plan**

Section 85 (3) of the *Strata Schemes Management Act 2015* provides that *an owners corporation may by resolution determine (either generally or in a particular case) that a contribution is to bear no interest.*

The prescribed form for payments plans **should not** include a section relating to a request for interest to be waived for the following reasons:

- If there is no resolution by the Owners Corporation that a contribution is to bear no interest, then interest cannot be waived;
- If a lot owner submits the payment plan in the prescribed form requesting interest to be waived, an Owners Corporation can reasonably refuse the whole payment plan on the basis that interest should not be waived and it was a condition of the submitted payment plan that interest was to be waived.

SCA states that a lot owner wishes for interest to be waived, they should request a motion be put to a meeting so that a resolution can be made to *determine, in a particular case that a contribution is to bear no interest.*

- **Abuse of Payment Plans**

There is no disincentive for a person not to make an application for a payment plan. *Section 86(5)— (6) states An owners corporation must not take action to recover an amount under this section from an owner if— (a) (b) (7) the amount is being dealt with under a payment plan, and the payment plan is being complied with by the owner.*

The Regulations also provide a 28-day period for a response to be given to a lot owner in respect of a payment plan.

SCA's position is that the proposed regulations need to ensure that payment plans should only be used in cases of genuine financial hardship.

- **Payment plan fee prohibited**

Clause 18A under Section 85 (6) of the Act seeks to prohibit an owner to pay a fee or other charges relating to:

- Making a request to enter into a payment plan, or
- Entering into a payment plan

SCA would like to note that, ultimately, the Owners Corporation will be the entity that will pay for the owner entering into a payment plan and that this provision gives Owners Corporations no recourse to avoid paying an additional cost.

The generation of a payment plan is an administrative function that the strata manager will be tasked to carry out, and as with any service within a scheme, that will attract a fee to undertake the service. SCA estimates that plans could be issued up to four times per annum and will cost between \$100 and \$200 to generate per plan.

SCA's position is that Fair Trading should make all owners aware that they will be contributing additional funds to support other owners within their complexes and have no recourse to recover that additional income charged.

Additionally, **SCA's position** is that the government should, in initiating these additional consumer protections, be putting in place a mechanism that means that other consumers are not worse off as part of new initiatives.

- **Response to request for payment plan**

Clause 18B under Section 85 (6) of the Act seeks to ensure that an Owners Corporation or strata committee must, within 28 days after receiving a completed request form from an owner for a payment plan for unpaid contributions, give a written response to the owner.

SCA understands that a payment plan for unpaid contributions must be accepted if a written response is not provided within the 28-day timeframe. **SCA's position** is that this should be explicitly spelt out in the regulation.

- **Schedule 1A Forms**
- **Form 1 - 10-year Capital Works Fund Plan - SCA's position** is that the 10-year Capital works fund plan must be prepared by an independent contractor. The present legislation has no such requirement which means that an owner in the scheme or the strata committee can make them.
- **Form 2 – Request for Payment Plan for Overdue Contributions – SCA requests clarification** as to why the point - request for interest to be waived – has been included in this form. Is there a scenario where interest would be waived and why would this be asked for?
- **Form 3 - Initial Maintenance Schedule - SCA's position** is that the Initial Maintenance Schedule must be prepared by an independent contractor or Strata Manager.

Schedule 2 - Amendment of Community Land Management Regulation 2021

- **Additional duties of building managers**

Clause 17D (2) under Section 74A (3) of the Act states that the facilities manager may receive a referral fee or other commission or benefit in relation to the proposed contract.

SCA does not support this clause.

SCA's position is that a facilities manager should be subject to the same oversight and reporting requirements in relation to commissions as strata managers.

This provision in the regulations for building managers in relation to accepting commissions, their disclosure, and the non-requirement of a pre-written agreement is not sufficient to protect consumers and does not pass an equity test in relation to service providers acting in the same space and being subject to the same provisions.

Commissions arrangements should be within agreements, as they are with strata managers, and should be subject to the same provisions of disclosure and enforcement, as they are comparable activities and service providers acting under the same legislation and regulation.

- **Payment plan fee prohibited**

Clause 18A, under section 90(7) of the Act states that an association must not require an owner to pay a fee or other charge relating to –

- Making a request to enter into a payment plan, or
- Entering into a payment plan

SCA would like to note that, ultimately, the association will be the entity that will pay for the owner entering into a payment plan and that this provision gives associations no recourse to avoid paying an additional cost.

The generation of a payment plan is an administrative function that the strata manager will be tasked to carry out, and as with any service within a scheme, that will attract a fee to undertake the service. SCA estimates that plans could be issued up to four times per annum and will cost between \$100 and \$200 to generate per plan.

SCA's position is that Fair Trading should make all owners aware that they will be contributing additional funds to support other owners within their complexes and have no recourse to recover that additional income charged.

Additionally, **SCA's further position** is that the government should, in initiating these additional consumer protections, be putting in place a mechanism that means that other consumers are not worse off as part of new initiatives.

- **Response to request for payment plan**

Clause 18B under Section 90(7) of the Act seeks to ensure that an Owners Corporation or strata committee must, within 28 days after receiving a completed request form from an owner for a payment plan for unpaid contributions, give a written response to the owner.

SCA understands that a payment plan for unpaid contributions must be accepted if a written response is not provided within the 28-day timeframe.

SCA's position is that this should be explicitly spelt out in the regulation.

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- **Form 2 - Initial Maintenance Schedule - SCA's position** is that the Initial Maintenance Schedule must be prepared by an independent contractor.

Capital Works Fund Plan – Additional Suggestions

SCA has additional suggestions and positions relating to the 10-Year Capital Works Fund (CWF), outlined below:

- **SCA believes** there should be an ability within the prescribed regulations and forms for owners corporations to budget for the cost associated with engaging experts, particularly considering the increased costs following the passage of the Design and Building Practitioners Act. Owners corporations often do not factor these into budgeting and can be caught out.
- **SCA supports** the concept of a 10-Year, CWF as a method to prevent underfunding and ensure that budget for maintenance items maintain their asset, including the common property, are adequately maintained.
- **SCA remains concerned** about the lack of expert engagement with industry experts about the design of the template form.

For further information about this consultation, please contact Andrew Jefferies, Senior Policy and Advocacy Advisor, SCA NSW. Andrew.Jefferies@strata.community