



NSW Fair Trading Name and Shame List: Information Paper Consultation Draft

Strata Community Association NSW Submission
10 October 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.

FAIR TRADING NSW - NAME AND SHAME LIST: INFORMATION PAPER CONSULTATION DRAFT

Introduction

The Strata Community Association NSW (SCA NSW) welcomes the opportunity to provide feedback as a key industry stakeholder to the guidelines paper for public enforcement of actions to be undertaken by Fair Trading NSW under its proposed Name and Shame List. SCA (NSW) members manage 75 per cent of the total number of community and strata title lots across the state of New South Wales.

SCA (NSW) notes Fair Trading's role as the primary consumer protection agency and regulator of the strata sector, whose main objective is to minimise any direct financial or material harm or detriment to a consumer from a business that fails to comply with the law, through the undertaking of compliance and enforcement action for legislative breaches and the education of consumers and industry to better understand and meet legislative requirements and obligations.

Section 17AA and 86A of the *Fair Trading Act 1987* (the FT Act) enables the Fair Trading Commissioner to publish certain information about traders and licence holders if it is in the public interest, including disciplinary action and licence cancellation or suspensions.

We understand the purpose for the creation of this register is to bring together publicly available information into a single list point for consumers to consider before entering into an agreement with a licensed agent, with published enforcement actions taken under the *Property and Stock Agent Act 2002*. It is also noted that Fair Trading NSW will review its policy for publishing enforcement actions after an initial, one year period to evaluate its intended objectives.

SCA endorses the overall objectives of the register and believes that it aligns with our industry's commitment to improving professional standards and consumer protection through:

- Providing consumers with comprehensive trader history information
- Protecting consumers from ongoing harm
- Encouraging compliance through transparency
- Maintaining public confidence in licensed professionals

However, we suggest some refinements and seek further clarity to help improve the implementation of the register, to better acknowledge and reflect strata management's unique regulatory complexity.

SCA NSW's Response

Please find our response to the **Name and Shame List**: Information Paper Draft below:

Policy Name and Register

While noting Fair Trading's objectives and rationale to deter repeat and serious breaches through the publication of high-risk and ongoing offences, we believe that the title, "Name and Shame" be reconsidered to a more neutral sounding title for an online and publicly available webpage. **SCA suggests** that better options such as "Compliance Enforcement Register," "Public Enforcement Register" or "Strata Scheme Register." While it is proposed that items such as Penalty Infringement Notices (PINs) are to be published for a twelve-month period, the potential of enduring reputational and financial consequences could far exceed the underlying breach.

With the ongoing rollout of legislative changes such as those which are due to come into effect on 27 October 2025, **SCA believes** that a publicly available strata register could be considered and adopted to help enhance compliance awareness, provide additional context for enforcement actions and importantly, further demonstrate a commitment to industry-wide transparency.

Components of such a register might include items such as:

- Scheme registration details
- Manager appointment/termination records
- Significant compliance issues at scheme level
- Educational resources for owners corporations

Risk Assessment Criteria and Parameters

Strata managers need to navigate a significant number of legislative pieces, and we do not believe that minor technical breaches in such a complex environment should be conflated or confused with deliberate misconduct.

SCA considers that the nine risk factors, listed on page 4 of the information paper appear overly broad and subjective, particularly with regards to the definition of conduct that “has or could cause public harm” and “demonstrating a blatant disregard for the law.”

SCA encourages Fair Trading NSW to work more closely with industry to develop strata sector specific criteria and parameters.

Examples of sector specific criteria might include:

- Financial thresholds for "significant detriment"
- Clearer definitions of "pattern of non-compliance" (e.g., frequency within specific timeframes)
- Stronger distinctions and clarity between administrative oversights and consumer-impacting violations
- Portfolio adjusted risk assessment – violations per managed scheme number

Sector Specific Implementation

SCA urges Fair Trading NSW to consider a staged implementation and timeframe for the publication of enforcement actions. Staged implementation could be delivered over several phases, with the adoption of a full implementation of the proposed register and considered after further consultation with industry. Options include:

- 1st Phase: Serious enforcement actions only (licence cancellations, disqualifications and suspensions)
- 2nd Phase: High-impact PINs, following industry consultation after six months
- 3rd Phase: Full implementation, (including prosecution outcomes and enforceable undertakings) following further industry consultation.

PIN Publishing Criteria

SCA remains concerned that the high risk/low risk criteria, as outlined in Appendix A of the Information paper, lacks granularity given the strata sector’s unique and complex regulatory and legislative environment.

Some key issues identified with our consultation include;

- Underquoting as a high-risk offence – we seek further clarity and understanding about this concern in a strata context.

- Advertising that no pets may be kept at rented premises – why has this been classified as a high-risk offence?
- No differentiation between disclosure failures with, or without consumer impact
- No consideration for inadvertent disclosure failures during complex corporate restructures
- High-risk offence for a failure to disclose interest before being appointed as a strata managing agent
- Low-risk offences – more examples are needed to better understand classifications

SCA recommends the adoption of a three-tier system for Penalty Infringement Notices (PINs) for register publication purposes, rather than a simple high or low risk consideration.

A three-tier system has the advantage of being able to better target or define breaches, relative to the level of risk of consumer impacts. This system includes the three points below, with administrative breaches of a technical nature that are unlikely to cause consumer harm, not published on the register.

- Critical Risk: Direct consumer financial harm or safety issues
- Moderate Risk: Compliance breaches with potential consumer impact
- Administrative: Technical breaches with no consumer harm

Procedural Fairness

Strata managers regularly receive complaints from disgruntled lot owners during building disputes and concerns have been raised that some Fair Trading NSW investigations have proceeded with an assumption of strata manager fault or adequate verification.

The impacts of a public listing based on potentially unsubstantiated complaints can damage the reputation of a legitimately operating business.

SCA seeks further clarity upon whether the proposed register will publish PINS after 90 days, even while penalty action is being contested. If this is the case, we believe this is inconsistent with a presumption of innocence and could further expose licensees to reputational damage, regardless of the eventual outcome of an appeal.

SCA recommends the consideration of enhanced procedural fairness and complaint verification processes within this policy to include:

- All enforcement actions must be finalised prior to their publication
- Advanced written notice of an intention to publish
- Consideration of complaint patterns against specific managers
- An independent review mechanism for dispute-related complaints

- Full access to evidence and findings considered by Fair Trading NSW
- A notice and response period to allow licensees to review and correct factual errors prior to publication
- A prompt correction and retraction process to ensure that amendments for when enforcement actions are overturned, withdrawn or made in error

Balanced Accountability

While accepting Fair Trading's role as the primary consumer protection agency and regulator of the sector and its main objective to minimise direct financial or material consumer harm, it appears that the proposed register exclusively focuses on strata manager accountability, without adequate recognition or addressing of an owners corporation responsibility and/or potentially frivolous complaint patterns.

SCA recommends the following complementary measures to help address transparency and industry professionalism:

- Public acknowledgement and reporting of withdrawn or unsubstantiated complaints
- Owners Corporations education for the provision of complaint procedures
- A recognition program to highlight exemplary compliance practices across the strata sector

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