

Reforming Property Agent Laws in NSW: Underquoting, Professional Standards and Enforcement Powers Consultation Paper

Strata Community Association NSW Submission
12 January 2026

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 2,500 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. Our members manage 75 per cent of all strata and community title lots across the state of New South Wales.

3. Strata and Community Title Schemes in NSW

NSW is home to 91,346 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 1,073,277.¹

4. NSW as a Leader in High-Density Living

According to the 2024 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 20 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, Yi Lu and Alejandra Rivera, [Australasian Strata Insights 2024](#), UNSW City Futures Research Centre

² Ibid, p.8-13

³ Ibid, p.8.

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Introduction

The Strata Community Association NSW (SCA NSW) is grateful for the opportunity to provide industry stakeholder feedback on NSW Fair Trading's consultation paper – *Reforming Property Agent Laws in NSW: Underquoting, Professional Standards and Enforcement Powers*. This consultation covers proposed legislation in the draft ***Property and Stock Agents Amendment (Underquoting and Other Agent Conduct) Bill 2026***.

SCA NSW notes that the consultation is split into two sections – Part A, which covers proposed underquoting reforms and greater enforcement powers for Fair Trading to deter agent misconduct in the Bill and Part B, proposed changes to CPD providers, education notices and professional standard requirements with an emphasis on providing ongoing education and competency measures.

We note Fair Trading's role as the state's primary consumer protection agency to ensure a fair and safe marketplace for consumers and businesses that delivers improved outcomes, greater transparency and accountability. With respect to the strata sector, Fair Trading seeks to increase professional standards of agents and training providers, while enhancing enforcement powers to deter property agent misconduct.

SCA NSW offers in-principle support for the NSW Government's objective to address underquoting and improve professional standards across the broader property services sector. However, we note the following observations which are outlined below and across our responses to relevant questions within the consultation.

- *Concern for potential unintended consequences*
- *Implementation challenges*
- *Clearer definition for CPD Framework designs*
- *Strata sector requirements for the standard form agency agreements*

PART A: UNDERQUOTING REFORMS AND ENFORCEMENT POWERS

2.2 Underquoting Reforms

Using Comparable Properties to Inform ESP

Question 1: Are there any other factors or characteristics that agents should take into account when considering comparable sales for an ESP?

SCA (NSW) Response:

The draft Comparable Sales Requirements adequately cover most relevant factors. However, for strata properties specifically, additional factors should be explicitly referenced:

- **Strata scheme size and type:** Number of lots, mix of residential/commercial, building age and construction type
- **Financial health indicators:** Capital works fund balance, existence of special levies, quarterly strata levies, and any significant outstanding debts
- **Building defects or litigation:** Existence of major defects, ongoing building defect litigation, or significant maintenance issues
- **Amenities and facilities:** Shared facilities such as pools, gyms, concierge services, lifts, security systems
- **Parking allocation:** Number and type of parking spaces (secure, tandem, visitor)
- **Restrictions and by-laws:** Pet restrictions, short-term letting permissions, renovation restrictions

These factors can significantly impact property values and should formally be recognised in the Comparable Sales Requirements document.

Question 2: To what extent should agents be required to consider issues affecting a strata building when identifying comparable property sales for units within a strata scheme?

SCA (NSW) Response:

As strata building issues can affect property values and buyer decisions, **SCA (NSW) suggests** a tiered approach that considers:

Mandatory Disclosure Requirements:

- Agents must consider and disclose material strata building issues that would affect a reasonable buyer's decision
- Material issues include significant building defects, active litigation, special levies above \$5,000 per lot, asbestos presence, flammable cladding, structural issues

- When comparing sales, agents should prioritise comparable properties with similar building condition and strata scheme health

Practical Limitations:

- Agents cannot be expected to conduct building inspections or detailed strata investigations for every comparable property
- Information should be limited to what is reasonably available through: strata records, owners corporation minutes, public building notices, known defect reports
- Where material building issues exist for the subject property but not for comparable sales, this variance should be acknowledged in the Statement of Information

SCA (NSW) recommends that Fair Trading develop specific guidance for strata property valuations that acknowledges the complexity of building-related factors while setting reasonable expectations for agent due diligence. This guidance should clearly delineate what constitutes “reasonably available information” that agents must consider.

Question 3: *What challenges have agents had using comparable properties in setting an ESP that should be considered before the Bill and supporting Regulations are finalised?*

SCA (NSW) Response:

From both operational experience and industry consultation, practical challenges have emerged relating to data availability and access (limited public access to sales data and time lags to verify comparable sales), unique property characteristics (heritage listed, luxury and regionally located property) and market volatility (seasonal variability and economic shocks).

From a strata sector perspective, we note the following specific challenges:

- **Internal variations within buildings:** Units in the same building can have vastly different values based on floor level, aspect, renovation status
- **Building reputation changes:** Discovery of defects or levy increases can dramatically alter building desirability between comparable sales
- **Lack of specific unit sales:** Specific unit types (e.g., 1-bed + study) may have very limited sales history

SCA (NSW) recommends that Fair Trading establish a clear framework for situations where fewer than three truly comparable sales exist, providing agents with viable alternatives and provisions when they can demonstrate reasonable efforts to identify comparables.

Question 4: *Is the proposed radius for comparable sales and the definition of metropolitan areas appropriate for all locations in NSW?*

SCA (NSW) Response:

While the proposed 2km radius for metropolitan areas and 5km for non-metropolitan areas represents a reasonable starting point, SCA maintains concerns with proposed definition of “Metropolitan areas”, requests further consideration for regional locations and notes the following points relating to strata properties:

- High-density strata developments may have sufficient comparables within 1km
- Unique strata developments (e.g., premium waterfront, boutique buildings) may require broader search areas to find truly comparable properties

SCA (NSW) recommends the following refinements to the proposed radius:

- The definition of 'metropolitan area' aligns with ABS Greater Capital City Statistical Areas;
- Flexibility for agents to justify broader search areas where appropriate;
- Explicit recognition that for unique properties, comparable sales may need to be drawn from broader geographic areas;
- An 18-month timeframe for non-metropolitan areas should be retained as 6 months is insufficient in many regional markets.

Question 5: Are there any other changes that you think should be made to the draft Comparable Sales Requirements?

SCA (NSW) Response:

SCA (NSW) recommends the following amendments:

1. **Clarify treatment of off-market sales:** Specify whether private/off-market sales should be included and how agents can verify these sales
2. **Address distressed sales:** Provide guidance on how to treat mortgagee sales, deceased estates, and other distressed sales that may not reflect market value
3. **Related party transactions:** Clarify treatment of family transfers and related party sales
4. **Data source requirements:** Specify acceptable data sources and verification methods
5. **Adjustment methodology:** Provide framework for how agents should adjust comparable sales for differences in property characteristics
6. **Documentation requirements:** Specify level of documentation required to demonstrate compliance with comparable sales analysis

Statement of Information for Sale of Residential Property

Question 6: Do you think that the information proposed to be included in the draft SOI is sufficient to inform buyers about property pricing?

SCA (NSW) Response:

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The proposed Statement of Information (SOI) represents a significant improvement in transparency. However, **SCA (NSW) supports further improvements** to enhance its utility:

- **Days on market for comparable sales:** Helps buyers understand market dynamics and pricing accuracy
- **For strata properties - quarterly strata levies:** Material ongoing costs that significantly affect affordability
- **Material building issues disclosure:** For strata properties, any known major building defects, cladding issues, or significant special levies
- **Sale method for comparables:** Whether sold by auction, private treaty, or negotiation
- **Property condition assessment:** Basic condition descriptor (e.g., 'renovated', 'original condition', 'builder's own')

Question 7: *Is it appropriate to have separate SOI forms for (a) single properties, (b) multiple units, (c) metropolitan areas, and (d) non-metropolitan areas?*

SCA (NSW) Response:

SCA (NSW) believes that separate forms are appropriate and necessary, as different property types and geographic contexts require tailored approaches:

Single Properties vs Multiple Units:

- Multiple unit developments require categorisation by unit type (1-bed, 2-bed, etc.)
- Buyers purchasing in developments need to compare within unit categories
- Different market dynamics apply to off-the-plan purchases

Metropolitan vs Regional:

- Different search radiuses (2km vs 5km) require different forms
- Different timeframes for comparable sales (6 months vs 18 months)
- Regional markets have different data availability and market dynamics

SCA (NSW) recommends that Fair Trading design separate forms with clear guidance on which form should apply, thus avoiding agent confusion and compliance burden.

Question 8: *Are there any other common scenarios for property sales that should have a dedicated SOI form?*

SCA (NSW) Response:

These additional scenarios also warrant dedicated forms:

- **Heritage-listed properties:** Unique requirements and restrictions affecting comparability and value
- **Properties with development potential/DA approval:** Different valuation methodology from standard residential

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- **Rural/lifestyle properties:** Require consideration of land size, water access, agricultural potential
- **Properties requiring significant remediation:** Major defects, contamination, or structural issues
- **Company title properties:** Different ownership structure affecting financing and comparability

Question 9: *In what circumstances, or after what time period, should agents be required to review and update the SOI for a property?*

SCA (NSW) Response:

SOI updates should be triggered by **time-based updates** (quarterly reviews while the property remains on the market), **event-based updates** (changes to the ESP requires an immediate SOI update, significant market shifts. E.g., greater than 0.5% or significant local events such as renovations or the discovery of defects. Strata specific considerations:

- Changes in strata levies exceeding 10%
- Special levy announced or completed
- Building defects identified or remediation completed
- Changes to building facilities or amenities

SCA (NSW) recommends that Fair Trading establish clear mandatory review triggers in regulations, with quarterly reviews as a minimum requirement while a property remains on the market. Clear guidance on what constitutes a 'material change' requiring an SOI update must be provided.

Question 10: *What impacts or administrative challenges do you anticipate could result from a requirement for agents to complete an SOI for each property sale?*

SCA (NSW) Response:

The SOI requirement will create significant administrative burden, particularly within its implementation phase:

Time and Resource Impacts:

- **Initial preparation time:** Estimated 2-4 hours per SOI initially, reducing to 1-2 hours once systems established
- **Data acquisition costs:** Subscription costs for property data services (CoreLogic, RP Data, etc.) ranging from \$5,000-\$15,000+ annually
- **Training requirements:** All sales staff require training on SOI completion, comparable sales analysis, and compliance requirements
- **Technology infrastructure:** Investment in CRM systems, templates, and document management to handle SOI creation and updates

Operational Challenges:

- **Maintaining currency:** Ongoing obligation to update SOIs adds continuous compliance burden
- **Quality control:** Licensees in Charge need systems to review and approve SOIs before publication
- **Record keeping:** Additional documentation requirements for comparable sales selection rationale
- **Integration with marketing:** SOIs must be incorporated into all online listings, requiring technical integration

Strata Sector Specific Concerns:

- While strata managing agents do not typically conduct sales, these requirements affect our industry when owners appoint real estate agents who may not understand strata complexities
- We expect requests from real estate agents for strata information to complete SOIs
- Potential for errors or misrepresentation of strata scheme information if agents do not properly understand strata records

Cost Impacts: For a medium-sized agency handling 100 sales annually, estimated first-year costs: \$30,000-\$50,000 (data subscriptions + staff time + systems). Ongoing annual costs: \$20,000-\$35,000. These costs will be passed through the industry, ultimately affecting vendor costs.

SCA (NSW) recommends that Fair Trading should:

1. Provide free or subsidised access to property sales data for licensed agents;
2. Develop standardized templates and digital tools to minimize preparation time;
3. Allow a 12-month implementation period for system development and training;
4. Provide clear guidance on strata information requirements to avoid misrepresentation.

Question 11: *With the SOI already operating in Victoria, what factors should be considered before it is a requirement for NSW agents?*

SCA (NSW) Response:

In Victoria, implementation challenges included the initial compliance due to a lack of understanding, overly complex forms and digital integration issues with sites such as Domain and Realestate.com.au over the first 12-18 months. SOI became routine thereafter.

SCA (NSW) suggests the following factors be considered, prior to any NSW requirement:

- Sydney and NSW has higher proportion of strata properties with more complex buildings than Victoria
- Property data sources must be available across all NSW markets

- Agents operating in border regions (e.g. Albury-Wodonga) will need to comply with different requirements in each state

SCA (NSW) recommends the following actions to be undertaken by Fair Trading:

1. Conduct formal consultation with Victorian Consumer Affairs to understand implementation challenges and solutions
2. Develop a comprehensive implementation guide with worked property type examples
3. Establish technical standards for digital integration before commencement
4. Provide free training and educational resources. E.g. online modules and webinars
5. Implement a staged rollout starting with metropolitan areas and refine regionally
6. Establish a clear feedback mechanism for first 12 months to address emerging issues
7. Consider “light touch” enforcement for first 6-12 months with a focus on education

Increased Record-Keeping Requirements

Question 16: Are the examples set out above appropriate records that agents should be required to keep when estimating or revising an ESP?

SCA (NSW) Response:

SCA (NSW) agrees that the proposed record-keeping requirements are generally appropriate and necessary to demonstrate compliance.

Question 17: Are there any other records relating to estimating or revising an ESP that should be kept by agents?

SCA (NSW) Response:

For strata properties and scheme information, a copy of the strata certificate, evidence of levy amounts, and any building reports or reviewed defect notices are also required.

Question 18: What administrative challenges or costs do you anticipate as a result of the proposed requirement for agents to retain detailed records relating to the ESP and any revisions to it?

SCA (NSW) Response:

SCA (NSW) believes that new record-keeping requirements will create significant additional administrative burdens. These are outlined below:

Time and Resource Costs:

- **Initial documentation:** 1-2 hours per property to compile and organise
- **Ongoing maintenance:** 30-60 minutes per ESP revision to document changes

- **Review and quality control:** Licensees in Charge need systems to audit and verify record-keeping compliance
- **Storage and management:** Digital document management systems required, with associated costs

Technology Investment:

- **CRM system upgrades:** Most existing CRM systems will require customization to capture all required records
- **Document management:** Secure cloud storage or document management systems for 7-year minimum retention
- **Integration with data sources:** to capture and store comparable sales data
- **Training costs:** Staff training on new systems and compliance requirements

Compliance Risks:

- **Incomplete records:** Inadvertent non-compliance if any elements are missing
- **Retrospective compliance:** Difficult to reconstruct records if initially incomplete
- **Audit burden:** Responses require significant time to compile and produce records

Estimated Cost Impact: (for a medium sized agency, handling 100 sales annually)

- Technology investment: \$10,000-\$20,000 (one-time)
- Staff time for record-keeping: \$15,000-\$25,000 (annually)
- Storage and systems: \$3,000-\$5,000 (annually)
- Training: \$5,000 (first year), \$2,000 (ongoing)
- Total first year impact: \$33,000-\$52,000
- Ongoing annual impact: \$20,000-\$32,000

SCA (NSW) recommends that Fair Trading undertake the following actions:

1. Provide standardised digital templates and checklists
2. Allow 12-month implementation period for system development
3. Provide free or subsidised access to record-keeping software for smaller agencies
4. Conduct regular compliance audits to identify and address common record-keeping deficiencies early

2.3 Disciplinary Action by Fair Trading Commissioner

Question 20: *Do you have any comments or concerns about the proposed additional disciplinary actions?*

SCA (NSW) Response:

SCA (NSW) believes that the proposed additional disciplinary actions represent a significant enhancement to Fair Trading's enforcement regime. While its overall intent is supported, **SCA (NSW) strongly recommends that** Fair Trading consider the following points prior to implementing additional disciplinary actions:

- **Natural justice:** Ensure adequate procedural fairness, including right to be heard before disciplinary action imposed and clear appeals process
- **Proportionality framework:** Develop clear guidelines on which disciplinary actions appropriate for which types and severity of misconduct
- **Impact on business viability:** Suspension of sales activities could threaten business viability - should be reserved for serious/repeated offenses
- **Maximum duration for publication:** Specify a maximum duration (e.g. 90 days), format and publication location. Consider business impact and long-term viability
- **Independent valuer costs:** Clarify cost responsibility and establish reasonable fee caps to prevent excessive burden
- **Repeated breach consideration:** Clarify and define the term 'repeated' and the timeframe for repeated breaches

Question 21: *Are the criteria prescribed in the proposed definition of an independent valuer under the new section 192(4) sufficient to guarantee the independence of the valuer?*

SCA (NSW) Response:

SCA (NSW) agrees that the proposed criteria requiring membership of API, AVI, or RICS professional qualifications is appropriate. **SCA (NSW) recommends** further criteria:

1. **No recent relationship:** Valuer must not have provided services to the agent or agency within previous 2 years
2. **No financial interest:** No direct or indirect financial interest in the agent's business
3. **Geographic diversity:** For regional areas, allow valuers from reasonable distance rather than strictly requiring local valuers who may have limited independence
4. **Panel approach:** Fair Trading could maintain pre-approved panel of independent valuers to streamline process
5. **Cost framework:** Establish reasonable fee range to prevent excessive costs while ensuring quality valuations

2.4 Penalties for Serious Misconduct

Question 22: Do you have any comments or concerns about the proposed changes to the maximum penalty amounts in the draft Bill/Appendix A2?

SCA (NSW) Response:

SCA (NSW) believes that the proposed penalty increases are generally appropriate and necessary to provide adequate deterrence. The significant increase from \$11,000-\$22,000 to \$55,000-\$110,000 for serious misconduct adequately reflects the harm caused.

SCA (NSW) recommends the following points be considered prior to any implementation:

1. **Transitional provisions:** Ensure clear transitional provisions so penalties apply to offenses committed after commencement
2. **Sentencing guidelines:** Fair Trading should publish guidelines indicating expected penalty ranges within maximums for different types of offenses
3. **Mitigating factors:** Clear framework for courts to consider mitigating factors (self-reporting, remediation efforts, cooperation)
4. **Impact on small businesses:** While penalties are appropriate, consider whether payment plans or other mechanisms are needed for smaller agencies

Question 23: Do you have any comments or concerns about the proposed changes to the penalty notice amounts in Appendix A2?

SCA (NSW) Response:

SCA (NSW) believes that the proposed penalty infringement notice (PIN) increases are substantial and require further consideration. We make the following observations:

- **Significant increases:** PINs increasing from \$1,100-\$2,200 to \$11,000-\$22,000 represents an approximate 10-fold increase
- **Deterrent effect:** These increases will certainly deter misconduct and eliminate 'cost of doing business' mentality
- **Financial impact:** \$22,000 PIN for corporations is substantial and could threaten viability of smaller businesses for technical breaches
- **Proportionality:** PINS now amount for 20% of maximum court-imposed penalty - ensure used only for clear breaches, not technical or inadvertent violations
- **Review rights:** Ensure robust review and appeal mechanisms
- **Educational approach:** For new requirements (underquoting provisions), recommend warning letters or education notices before PINs for first 12 months
- **Graduated enforcement approach:** Consider graduated PIN structure (lower amounts for first offense, higher for repeated breaches)
- **Cumulative impact:** Multiple PINs for related breaches on same property could result in very substantial penalties

2.5 Power to Approve Standard Form Agency Agreement

Question 24: *While the PSA Act already allows for the Regulation to prescribe standard form agency agreements, what risks do you see with standard form agreements being prescribed or approved by NSW Fair Trading?*

SCA (NSW) Response:

SCA (NSW) understands that Fair Trading wishes to prescribe or approve a mandatory, standard form, strata agency agreement, in line with PSA Act regulations. **SCA (NSW) remains concerned** that a singular, mandatory agreement with a one-size-fits-all approach lacks the necessary flexibility to adapt to the various range of schemes, owners and service models in existence across the strata sector. The sector's structure is complex and highly nuanced, especially in a strata and property management context, while each strata management company operates with fundamentally different portfolios, client bases, service models and risk profiles. Schemes can range from 2-lot duplexes to 1000+ lot mixed-use developments with service needs, complexity, governance structures, and appropriate fee structures varying enormously.

Strata management agreements typically involve continuous management relationships with multiple stakeholder interests (owners corporations, strata committees and owners) and not one-off sales, as is more consistent within the real estate sector. SCA (NSW) believes that a single, prescribed or mandatory approved form risks oversimplifying arrangements and would be unable to accommodate the multitude of variations including schedule and disclosure differences.

The strata management sector is presently undergoing its largest structural shift in over 45 years, which is being led by SCA (NSW) through the transition away from accepting insurance commissions. This transition has only just commenced, and we believe the introduction of just the one standard, strata agency agreement at this point of time is fraught with danger amid the sector's structural shift, presenting a clear and material risk to the viability of the sector as a whole. Introducing such an agreement at this time could jeopardise the success of the transition, particularly before any potential introduction of legislation banning commissions and additionally, the form would require redrafting, given that it presently must cater for disclosed commission agreements. On top of this transition, regulations passed via the Strata Managing Agents Legislation Amendment Act 2024 and Strata Schemes Legislation Amendment Act 2025 represent the most significant reforms to the sector since the commencement of the SSMA. At present, the Strata Schemes Legislation Amendment (Miscellaneous) Bill is being debated in the NSW Parliament, containing further significant regulatory changes, if passed.

SCA (NSW) strongly suggests that consideration of a standard, strata agency form be reconsidered at a later stage (January 2029), once the industry has fully transitioned away

from insurance commissions and while recent and future legislative reforms have had adequate time to flow through and be properly understood and implemented.

SCA (NSW) offers its Association Management Agency Agreement, a standard form which is used by SCA members to outline the terms and conditions of their agency agreement with an owners corporation. This form has operated successfully for many years, can be flexibility tailored for specific business size and structure, remains compliant with the Property and Stocks Agents Act (PSA Act), Strata Scheme Management Act (SSMA Act) regulations and has previously been comprehensively reviewed endorsed by the NSW Government and Fair Trading. **SCA (NSW) recommends** that its Association Management Agency Agreement be approved and authorised as one of the prescribed standard agency forms until January 2029, while the industry undertakes its shift to new business models.

SCA (NSW) has identified at least ten additional risks arising from a single, standard form strata agency agreement, prescribed by Fair Trading:

- **Inability to tailor contracts based on your business:** Most strata managers would tailor their agreement (especially the schedules) based on their business and in several cases, based on the building's complexity, service levels, or risk profile. One size doesn't fit all, even where the 80-20 rule applies.
- **Prevent firms from including necessary custom clauses:** (e.g., BMC interactions, large scheme complexities, building management integration, after-hours protocols), limits opportunities to differentiate service offerings in the contract itself.
- **PI insurance implications:** Any mandated standard form agency agreement would require approval from each strata management company's PI insurer before it can be adopted
- **Uniform Contract Obligations may lead to premium increases or exclusions:** A uniform contract may contain obligations that materially increase exposure for some firms and therefore may not be insurable without premium increases or additional exclusions.
- **Lack of contractual flexibility:** Contractual flexibility is essential because buildings vary significantly in complexity, expectations, service needs, and risk (compulsory management and BMCs, as an example). A standard form agreement may unintentionally prevent consumers from tailoring the contract to suit their building, which is extremely common.
- **Consumer choice is compromised** – Strata Managing Agents can already negotiate short term management agreements starting at six months and not just three-year terms. Furthermore, a range of management agreements exist that caters for consumer choice across the sector. The limiting of the choice for owners

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corporations to consider and/or negotiate an agreement with strata managers over contract conditions to meet their needs would be a poor look for a Government that purports to support consumer choice within a free market economy.

- **Insertion of no-clause terminations within contracts** – Fair Trading could prescribe no-clause terminations within a prescribed strata management. No clause terminations will materially impact the viability of most small businesses within our sector as they do not provide any form of security for investment opportunity.
- **Lack of alignment across Australian jurisdictions** – no other Australian jurisdiction prescribes a mandatory form.
- **Slow response from Government/inability to quickly interpret new legislation** – Approval processes from Government typically take longer and the ability to clarify or interpret new legislative changes can be difficult. This has been a concern for the industry following the raft of legislative changes in recent years.
- **Technology integration challenges** - Electronic systems and CRM platforms may require significant modification to accommodate prescribed forms. Strata management software (Strata Master, StrataMax, MRI Software) would need extensive updates, creating substantial costs and transition complexity.

Question 25: What types of issues should be covered in the standard form agreement?

SCA (NSW) Response:

While we understand that Fair Trading wishes to prescribe or approve a mandatory, stand form agency agreement across the strata sector, **SCA (NSW) supports the concept a non-mandatory, approved template** that seeks to guide industry and deliver consistency for strata managing agents without removing the flexibility needed to adapt agreements to different schemes, stakeholders and service models.

Any template must be comprehensive, addressing dual regulatory requirements for strata management (distinct from real estate agents) while providing the clarity and flexibility needed to accommodate diverse arrangements. The focus should be on mandatory disclosure, conflict management, and service scope, rather than a rigid prescription of every term. **SCA (NSW) recommends** the following considerations and inclusions:

1. **Dual compliance obligation:** Strata managing agents must comply with the Property and Stock Agents Act 2002 and Strata Schemes Management Act 2015 (SSMA). These are not alternative frameworks—both apply simultaneously with overlapping but distinct requirements.

2. **Mandatory minimum requirements:** PSA Regulation Schedule 12 already prescribes specific mandatory and prohibited terms for strata management agency agreements that do not apply to other agent types. These include confirmation of authority extent and limitations (Section 1), Tribunal appointment termination provisions (s2), prohibition on indemnifying agents for SSMA s57 fines (s6(5A)), and prohibition on requiring insurance commissions for OC-arranged policies (s7).
3. **SSMA-mandated content:** Sections 49-72 of the SSMA impose extensive requirements that must be reflected in agency agreements including: specific function delegation with limitations (s49), commission and benefit restrictions (s57), multi-stage disclosure obligations (s60), pre-appointment interest disclosures (s71), term limitations (s50), and accounting requirements (s55).
4. **Reforms to the Strata Managing Agents Legislation Amendment Act 2024 and Strata Schemes Legislation Amendment Act 2025:** penalties increased up to tenfold (s60 now 500 penalty units/\$55,000 for corporations), new 6-monthly reporting obligations (s55), prohibition on insurance commissions for OC-arranged policies effective February 2025 (Schedule 12, s7), and enhanced connected person disclosure requirements (s60, s71).
5. **Template agreements:** Fair Trading should develop and endorse (not mandate) template agreements demonstrating compliant implementation. This mirrors the successful SCA template approach with regulatory endorsement, similar to Victoria's SCA (Vic) Contract of Appointment template with accompanying User Guide.
6. **Multiple templates:** Separate endorsed templates for: (a) residential sales; (b) commercial sales; (c) property management; (d) strata management - small schemes (<20 lots); (e) strata management - medium schemes (20-100 lots); (f) strata management - large schemes (100 lots>); (g) stock and station.
7. **Permitted variations clearly specified:** Templates should clearly indicate which provisions are mandatory (cannot be varied) and which can be customised.
8. **Comprehensive guidance materials:** Develop detailed User Guides explaining each provision, why it is required, and how to customize appropriately. Fair Trading could provide plain-English explanatory notes and worked examples.
9. **Developed in consultation with industry** - Any strata management template must be developed in close consultation with SCA (NSW), major strata management firms, and the Owners Corporation Network (OCN) to ensure it works practically.
10. **Consider Queensland's Statutory Code of Conduct** as an innovative, alternative model - The Code (Schedule 2 BCCM Act) is automatically incorporated into all engagements regardless of contract terms and cannot be contracted out of. It provides clear, legally enforceable behavioral standards including acting honestly, fairly and professionally; acting in best interests of the body corporate; exercising

reasonable skill, care and diligence; and prohibiting unconscionable conduct. This provides baseline protection without prescribing agreement form.

11. **SSMA Section 55 and Section 60 Disclosure Integration** - any standard template should incorporate clear guidance on Section 55 and Section 60 SSMA disclosures, ideally supported by a standard disclosure form integrated into the template. These disclosure requirements are central to transparency in strata management and having them integrated into the template helps to prevent omissions and ensure consistency across the sector.
12. **Core Mandatory Elements** – agent/party identification, scope of services, fees and commission structure (descriptions of services included in base fees), term and termination provisions (termination rights, notice periods and obligations such as document handover), Professional Indemnity Insurance details, trust account obligations, reporting requirements, data handling and privacy and conflicts of interest disclosure and management.
13. **Professional Standards Scheme Indemnity Clauses** - The template should consider SCA NSW's recommended indemnity clauses connected to the Professional Standards Scheme. These clauses help set clear expectations around liability and professional protections and having them reflected in any approved agreement aligns the practice across the sector while ensuring owners corporations understand the liability limitation framework.
14. **SSMA Functional Requirements** – delegated functions schedule, term compliance, insurance obligations, AGM obligations, strata committee liaison and record access
15. **Conflicts of Interest** - Clarity around conflicts of interest is another area where the template could add significant value. Many agreements gloss over this, leaving both the agent and the client without a common understanding of what must be disclosed and how conflicts should be managed. Practical guidance built into the form would lift standards and reduce disputes
16. **Standard Duties Framework - Explicit Service Scope** - The standard duties covered under a management fee should be explicitly set out in any template. At present, this can be highly ambiguous with some agreements bundling extensive tasks while others treat almost everything as add-on services. A clear, uniform framework of inclusions would help avoid confusion and create a more transparent baseline.
17. **Additional Services - Commonly Charged Separately:** A template should include a checklist format clearly distinguishing included versus additional services, fee schedule for additional services with hourly rates or fixed fees, circumstances triggering additional fees, process for OC approval of additional services, and regular reporting on additional fees incurred.

Question 26: *Where agents are using standard form agreements, which ones are commonly being used (e.g., REI forms, in-house templates, other industry-standard documents)?*

SCA (NSW) Response:

Current practice varies significantly across different sectors, with widespread use of industry association templates that are subsequently customized. Strata sector documents used:

- **SCA NSW templates:** Strata Community Association NSW provides model 'Contract of Appointment' agreements for members, which are widely used and respected. These templates are developed with legal input and regularly updated to reflect legislative changes. The SCA template has become the de facto industry standard.
- **OCN User Guide:** The Owners Corporation Network has published a 'Strata Management Agreement User Guide' (August 2021) providing detailed guidance to owners corporations on what to look for in agreements. While not a template itself, it influences what OCs expect to see.
- **In-house customization:** Most strata management firms have developed their own comprehensive agreements incorporating both PSA Act and SSMA requirements. These typically start with SCA templates but are heavily modified based on firm size, service model, and risk management approaches.
- **Practice management software:** Strata Master, StrataMax, MRI Software, Console Cloud, and other practice management systems include agreement templates that integrate with their platforms. These templates auto-populate from scheme data and facilitate digital execution.
- **High customization necessity:** Given the complexity of strata management relationships and the dual PSA/SSMA framework, agreements are typically heavily customized based on: building size (2-lot versus 200-lot schemes have vastly different needs), building complexity (high-rise, mixed-use, heritage, defect-affected), service level required (basic compliance versus comprehensive hands-on management), fee structures (per-lot, fixed, hybrid), meeting arrangements (frequency, location, timing), and delegated functions (varies by OC capability).

SCA (NSW) recommends Fair Trading consider an approval process for industry association templates and major CRM provider templates. Fair Trading could review and formally endorse compliant templates, require templates to meet specified minimum content standards, publish a list of 'Fair Trading Approved Templates,' and allow agencies to choose from approved templates or develop their own (subject to compliance with minimum standards). This approach preserves beneficial competition and innovation while ensuring baseline compliance, leverages existing high-quality industry work, accommodates technology integration needs, and maintains flexibility for legitimate business model variations.

Question 27: *Is a 6-month period between the passing of the Bill and commencement of the changes to the underquoting provisions sufficient lead time for industry and the public?*

SCA (NSW) Response:

No, 6 months is insufficient. A minimum 12-month implementation period is necessary for the industry to properly prepare for these comprehensive reforms and include consideration of system development requirements, training and education, process and procedure development, data and service descriptions, the transition of existing campaigns and certain industry capacity constraints.

SCA (NSW) Recommendation: Minimum 12-month implementation period, with consideration for 18 months if the Bill passes late in a calendar year (to avoid implementation during peak real estate season). Staged implementation could also be considered: metropolitan areas first (12 months), regional areas 6 months later (18 months total).

Question 28: *Do you see any other issues with the proposed commencement times for the changes in the Bill?*

SCA (NSW) Response:

Yes, several timing-related issues require consideration:

- **Immediate commencement provisions:** Some provisions commence on assent while others await proclamation. This creates complexity and risk of confusion. Consider whether any provisions truly require immediate commencement.
- **Seasonal considerations:** Avoid commencement during peak real estate periods (spring selling season September-November, pre-Christmas December) or major holiday periods when training and implementation difficult.
- **CPD year alignment:** Current CPD year runs September-August. Consider aligning implementation with CPD year to facilitate training requirements.
- **Coordination with other reforms:** Are there other property law reforms planned? Coordinate timing to avoid overwhelming industry with multiple significant changes.
- **Fair Trading resource allocation:** Ensure Fair Trading has adequate resources and staff trained before commencement to provide guidance and handle inquiries.
- **Software vendor readiness:** Major CRM and practice management software vendors service thousands of agencies. Their readiness timeline should be considered.
- **Small agency considerations:** Smaller agencies with limited resources need more time than larger agencies with dedicated compliance teams.

Question 29: *What could Fair Trading do to help make implementation of the reforms easier for the industry?*

SCA (NSW) Response:

Fair Trading can significantly ease implementation through comprehensive support:

1. Guidance and Education Materials

- **Comprehensive implementation guide:** Detailed guide with step-by-step instructions, flowcharts, and decision trees
- **Worked examples:** 20-30 detailed examples covering various property types, scenarios, and edge cases
- **Video tutorials:** Short video guides on each component of the reforms
- **FAQ database:** Continuously updated based on industry questions
- **Sector-specific guides:** Separate guides for real estate sales, strata management, property management, rural sales

2. Templates and Tools

- **SOI templates:** Fillable PDF and Word templates for all SOI forms
- **Record-keeping checklists:** Comprehensive checklists for required documentation
- **Comparable sales analysis template:** Structured template for documenting comparable sales selection
- **ESP revision template:** Form for documenting ESP revisions and rationale
- **Self-assessment tool:** Online tool for agencies to assess their readiness

3. Training and Education Programs

- **Free webinars:** Regular webinar series covering all aspects of reforms
- **Regional workshops:** In-person workshops in major regional centers
- **CPD module:** Develop mandatory CPD module on new requirements
- **Train-the-trainer:** Program to help industry trainers deliver education
- **Licensee in Charge workshops:** Specialized training for LICs on supervision obligations

4. Data and Technology Support

- **Free or subsidised data access:** Negotiate bulk licensing with property data providers for licensed agents
- **API specifications:** Technical specifications for software vendors to integrate SOI requirements
- **Reference implementation:** Open-source reference implementation of SOI generation
- **Software vendor liaison:** Regular meetings with major CRM providers to coordinate implementation

5. Communication and Support

- **Dedicated hotline:** Phone and email support service for implementation questions

- **Implementation newsletter:** Regular updates on implementation progress, tips, and clarifications
- **Early adopter program:** Pilot program with volunteer agencies to identify and resolve issues
- **Industry liaison committee:** Regular meetings with industry representatives during implementation
- **Feedback mechanism:** Structured process for industry to report implementation issues

6. Graduated Enforcement Approach

- **Education-first period:** First 6-12 months focus on education and warnings rather than penalties
- **Compliance support visits:** Proactive compliance visits to help agencies rather than catch breaches
- **Good faith defense:** Recognize good faith efforts to comply during transition period
- **Rectification opportunity:** Allow agents to rectify inadvertent breaches before penalties imposed

Question 30: Are there other matters Fair Trading should consider for implementation of the reforms?

SCA (NSW) Response:

- **Impact on consumers:** Consumer education campaign so buyers understand and utilize the new protections (SOI, comparable sales, etc.)
- **Impact on vendors:** Education for property sellers about new requirements and how it affects their agency relationship
- **Interstate coordination:** Coordinate with Victoria and other states to learn from their experience and work toward national consistency
- **Cost impact studies:** Monitor actual implementation costs and be prepared to provide additional support if costs exceed projections
- **Small business support:** Specific support programs for smaller agencies with limited resources
- **Technology accessibility:** Ensure digital requirements do not disadvantage regional areas with limited internet connectivity
- **Multilingual support:** Guidance materials in languages other than English for CALD communities
- **Post-implementation review:** Commit to 12-month post-implementation review to identify issues and adjust
- **Measurement framework:** Establish KPIs to measure effectiveness of reforms (e.g., reduction in underquoting complaints, improved buyer confidence)

Question 31: Do you have any concerns or comments about the Transitional Provisions?

SCA (NSW) Response:

The transitional provisions require careful attention to avoid unintended consequences:

SCA (NSW) notes the following key concerns:

- **Properties mid-campaign:** Clear provisions needed for properties already listed when reforms commence. Suggested approach: agreements signed before commencement not required to comply with new SOI/ESP requirements, but must comply from next ESP revision.
- **ESP revision timing:** The Bill states ESP requirements apply to agreements entered into before commencement 'for revising the estimated selling price.' Clarify whether this means: (a) all pre-commencement agreements must comply with new ESP revision requirements immediately; or (b) only ESP revisions made after commencement date.
- **SOI requirements:** SOI requirements apply to agents who enter into agency agreements after commencement. This is clear and workable.
- **Advertising provisions:** Provision that amendments to advertising provisions apply to advertisements 'published before commencement that must be amended after commencement' is ambiguous. Clarify what triggers 'must be amended' - is it ESP revision, listing refresh, or something else?
- **Approved providers:** Existing CPD providers taken to be approved to continue until expiry of approval is workable. Clarify whether 'expiry' means end of current calendar year or existing approval period.
- **Standard form agreements:** If standard form agreements are approved, extensive transitional provisions needed for existing agreements. Suggest: all existing agreements remain valid for their term; new agreements after 12 months must use standard form.
- **Record-keeping:** Clarify whether new record-keeping requirements apply to pre-commencement agreements if ESP is revised post-commencement.

SCA (NSW) recommendation: Issue comprehensive transitional guidance well before commencement date covering all common scenarios. Consider extending transitional period for certain requirements if implementation challenges emerge.

3.1 Civil Penalty Framework

Question 32: *Do you have comments about a potential civil penalty framework under the PSA Act and Regulation?*

SCA (NSW) Response:

A civil penalty framework could be a valuable addition to Fair Trading's enforcement toolkit, with potential benefits including a lower burden of proof, faster resolution, a more proportionate response, deterrent effects, resource efficiency for Fair Trading and consistent alignment with the ACCC, ASIC and other regulators who use civil penalty frameworks.

The framework should also consider potential concerns such as complexity, resource requirements, legal costs, public perception and stigma between civil penalties and criminal convictions and guideline clarity.

Essential design features of the civil penalty framework should include:

- **No double jeopardy:** Explicit provision preventing both criminal and civil penalties for same conduct
- **Clear election process:** Fair Trading must elect civil or criminal path early in process
- **Specified contraventions only:** Clearly identify which provisions subject to civil penalties (likely same as current criminal offenses)
- **Proportionate penalties:** Civil penalties should be lower than maximum criminal penalties for same conduct
- **Procedural fairness:** Full procedural fairness including right to be heard, discovery, cross-examination
- **Court-based:** Civil penalties should be imposed by courts (not administrative penalties) to ensure proper oversight
- **Appeal rights:** Full appeal rights to higher courts
- **Mitigating factors:** Courts must consider cooperation, remediation, prior history, etc.

SCA (NSW) Recommendation: SCA NSW offers in principle support, however we recommend the implementation be deferred until after underquoting reforms have been adequately bedded down, post their commencement and be modelled upon ACCC/ASIC frameworks which are well-established and previously tested.

3.2 Fines for Breaches of the Rules of Conduct

Question 33: *Are the proposed increases for breaches by an agent of the rules of conduct appropriate?*

SCA (NSW) Response:

The proposed increase from \$1,100/\$2,200 to \$4,400/\$22,000 for rules of conduct breaches requires careful consideration. SCA (NSW) is concerned with:

- **Disproportionate corporation increase:** 10-fold increase for corporations seems excessive, particularly given rules of conduct breaches may be inadvertent or technical violations
- **Nature of rules of conduct:** Rules of conduct cover wide range of obligations from serious (acting against client's best interests) to technical (paperwork requirements). \$22,000 PIN may be disproportionate for minor breaches.
- **Impact on small businesses:** \$22,000 fine could threaten viability of small strata management firms or boutique agencies for single breach
- **No graduated structure:** Flat penalty amount does not distinguish between first-time inadvertent breach and repeated intentional violations
- **Strata sector impact:** Strata managing agents subject to rules of conduct covering trust accounting, disclosure, conflicts of interest. Given complexity of SSMA requirements overlaying PSA requirements, risk of technical breaches is high.

SCA (NSW) suggests that an alternative approach with a graduated penalty structure could be considered:

Tier 1 - Minor/Technical Breaches (First Offense):

- Individual: \$2,200
- Corporation: \$5,500
- Examples: Administrative errors, missed reporting deadlines, minor disclosure oversights

Tier 2 - Moderate Breaches or Repeat Minor Breaches:

- Individual: \$4,400
- Corporation: \$11,000
- Examples: Failure to act in best interests (no harm), inadequate disclosure, minor conflicts of interest

Tier 3 - Serious Breaches or Repeated Moderate Breaches:

- Individual: \$6,600
- Corporation: \$16,500
- Examples: Acting against client interests causing harm, serious conflicts of interest, misleading conduct

Tier 4 - Very Serious Breaches or Persistent Non-Compliance:

- Individual: \$8,800

- Corporation: \$22,000
- Examples: Systemic failures, deliberate breaches, breaches causing significant consumer harm

SCA (NSW) Recommendation: Implement graduated penalty structure rather than flat \$22,000 corporation penalty. This provides proportionate response while still maintaining significant deterrent for serious breaches. The maximum \$22,000 penalty is reserved for most serious and repeated breaches. This approach aligns with principles of proportionate regulation and reduces risk of disproportionate impact on small businesses.

PART B: STRENGTHENING THE CPD FRAMEWORK

The proposed CPD framework reforms are critical for maintaining and improving professional standards across the property services sector.

4.4.1 The Regulatory Framework for Overseeing Approved Training Providers

Proposed Legislative Changes

Question 1: *What standards do you expect from CPD providers? Are CPD providers currently meeting the standards expected of them from industry?*

SCA (NSW) Response:

SCA (NSW) believes that expected standards for CPD providers should be comprehensive and rigorously enforced:

Essential Provider Standards:

- **Content quality and accuracy:** CPD content must be current, accurate, comprehensive, and relevant to practice. Material should be reviewed and updated immediately when legislation changes
- **Effective delivery:** Training must be genuinely educational, not just 'box-ticking'. Interactive elements, case studies, practical application required
- **Robust assessment:** Assessments must genuinely test comprehension and application, not just attendance. Current requirement of 80% pass mark should be maintained
- **Technology standards:** For online delivery, platform must be reliable, accessible, secure, and include interactive elements
- **Professional delivery:** Professional presentation, proper facilities for in-person training, responsive learner support
- **Record-keeping:** Comprehensive records of attendance, assessment results, certificates issued - must be auditable
- **Integrity:** Proper identity verification for online training
- **Complaints handling:** Clear complaints process and responsive to quality issues.

Current Performance Assessment:

CPD provider quality is mixed:

High-Quality Providers:

- Major industry associations (SCA NSW, REINSW) generally deliver excellent quality training with experienced trainers and comprehensive content
- Established RTOs specializing in property education maintain high standards

Commented [HS1]: We are only answering this from what we do, right? We don't know exactly what other providers do.

Commented [AJ2R1]: it's asking for more of a general comment about what we feel standards should be - across the sector etc

Commented [HS3]: having qualifications AND practical experience will make finding trainers even more difficult than it is now. Can you change this?

Commented [AJ4R3]: I could amend this to say - relevant industry knowledge and experience?

Commented [HS5]: This is already a requirement stipulated by Fair Trading. Are other providers doing this?

Quality Concerns:

- **Compliance issues:** Fair Trading's covert monitoring identified providers delivering content they were not approved for, inadequate training time, no proper assessment, incorrect answer sheets
- **Assessment integrity:** Some providers make assessments too easy or provide answers, undermining learning objectives
- **Generic content:** Some providers use generic 'property industry' content rather than sector-specific material (real estate vs strata vs stock and station), especially when offering CPD to dual licence holders.
- **Trainer quality:** Not all trainers have current practical experience - some are professional trainers without recent industry practice
- **Race to bottom:** Price competition driving down quality as providers cut corners to offer cheapest CPD

Commented [HS6]: Especially when offering CPD to dual licence holders. The total CPD requirements for dual licence holders needs to be made more clear.

Commented [AJ7R6]: Point added

SCA (NSW) Recommendation: While many providers meet expected standards, there is sufficient evidence of quality issues to justify the proposed strengthened regulatory framework. However, regulations must not disadvantage high-quality providers through excessive compliance burden. We urge Fair Trading to clarify CPD requirements for dual licence holders to improve standards and ensure that less generic content is delivered.

Question 2: What additional matters should the regulations provide for around the approval of CPD providers?

SCA (NSW) Response:

Beyond the standards identified in Question 1, regulations should address:

- **Approval criteria:** Clear, objective criteria for initial approval including demonstrated training expertise, relevant industry knowledge, appropriate qualifications and/or experience of trainers, quality assurance systems, adequate resources, PI insurance, clean compliance history
- **Renewal process:** Multi-year approval (3-5 years) with renewal requirements including: evidence of continued compliance, participant feedback, audit outcomes, updated training materials
- **Complaints handling:** Requirement for providers to have internal complaints process. Fair Trading to receive and investigate serious complaints.
- **Penalties, suspension and cancellation:** where a provider consistently displays non-compliance of learning outcomes. Procedural fairness and appeals process to apply
- **Transitional arrangements:** Process for current learners if provider approval cancelled
- **Conflicts of interest:** Disclosure requirements if provider has business relationships with agencies or agents they are training

Commented [HS8]: appropriate qualification and/or experience of trainers

Commented [HS9]: Maybe a renewal process for providers displaying non-compliance. ie- not us!

- **Sector specialisation:** Approval should specify which sectors provider approved for (real estate, strata, stock and station). Prevents generic providers delivering sector-specific content.
- **Delivery mode approval:** Separate approval for online vs face-to-face delivery based on demonstrated capability

Commented [HS10]: american spelling

Eligibility requirements for approval and renewal

Question 3: *What further minimum eligibility requirements should be added to existing rules?*

SCA (NSW) Response:

SCA NSW suggests consideration of the following points for minimum eligibility

- Organisational history/background is critical
- Agreement with Fair Trading to present specific topics that achieve desired learning outcomes

Ongoing conditions for approval

Question 5: *Are the proposed changes to approved provider conditions proportionate to the risk of non-compliance?*

SCA (NSW) Response:

SCA (NSW) agrees that the proposed changes to approved provider conditions are proportionate to the risk of non-compliance.

Compliance and enforcement

Question 7: *What other factors should be considered when developing the compliance and enforcement framework for approved providers?*

SCA (NSW) Response:

The assessment aspect could be self-paced if the session has been interactive.

Supporting providers to deliver new CPD training as part of the annual review process for CPD guidelines

Question 8. *If you are an approved provider, how much time do you require to develop a course?*

SCA (NSW) Response:

The length of time to develop a course depends on the content and content writers availability, however we suggest at least an 8-week minimum.

Question 9. *At what point in the CPD year should Fair Trading consult on next year's modules?*

SCA (NSW) Response:

SCA NSW encourages Fair Trading to consult on next year's modules as early as possible. Ideally this would take place in the second quarter of the CPD year, from September to December.

Question 10. *What changes are required to how Fair Trading administers the CPD framework to ensure it works effectively for licence holders and approved providers?*

SCA (NSW) Response:

When deciding on mandatory topics for Strata Managers, ensure they're suitable for both Class 1 and 2 licence holders. Certain topics appear more appropriate for solicitors and engineers, as an example and may not be as valuable, relevant or useful for a Class 2 Strata Management licence holder. This in turn contributes to more of a tick a box approach to CPD compliance.

Framework objectives

Question 12. *Will the proposed objectives improve the effectiveness of the CPD framework?*

SCA (NSW) Response:

Strata Managers require mandatory topics that are designed with relevance and interest for both Class 1 and Class 2 licence holders.

Question 13. *What other measures should be considered?*

SCA (NSW) Response:

Licence holder sentiment of CPD delivery often starts with the sentiment of the Licensee in Charge (LIC). The LIC needs to see its value and relevance and to encourage and motivate staff to also find it valuable.

Reforming Property Agent Laws in NSW: Underquoting, Professional Standards and Enforcement Powers Consultation Paper

Online learning

Question 14. *Do you support the introduction of consistent rules for how interactive online training is delivered?*

SCA (NSW) Response:

SCA NSW supports consistent rules for the delivery of interactive online training.

Question 15. *What should the rules look like?*

SCA (NSW) Response:

SCA (NSW) suggests that the rules used for the delivery of interactive online training for rental reform criteria were useful.

Strengthening NSW Fair Trading processes

Question 16. *Do you support Fair Trading introducing an exemption framework?*

SCA (NSW) Response:

SCA (NSW) supports the introduction of an exemption framework for licence holders who need to take time out of the workforce during their licenced period, particularly for instances of serious illness, maternity/parental leave and family care.

Question 17. *What circumstances for granting exemptions should be considered as part of the exemption framework?*

SCA (NSW) Response:

Circumstances for granting exemptions should include:

- *Serious illness*
- *Maternity/Parental leave and family care*
- Previous compliance history.
- Duration of leave

4.4.2 CPD requirements for licensees, including enforcement tools for non-compliance

Penalties for licence holders and CPD providers

Question 18. *Are the proposed penalty amounts for non-compliance with CPD conditions by licence or certificate holders and CPD providers appropriate?*

SCA (NSW) Response:

SCA (NSW) agrees with the proposed penalty amounts for non-compliance with CPD conditions, however these must be made well known and widely publicised.

Education notices

Question 19. *What factors should Fair Trading consider when implementing the education notices?*

SCA (NSW) Response:

SCA NSW believes that Fair Trading should consider the following factors when implementing education notices:

- Is training currently available on the required topics.
- Training can only be provided by approved providers
- The provision of clear guidelines and learning outcomes to approved providers to ensure required learning is met.

Additional CPD obligations for new class 1 licence holders

Question 20. *Do you support additional CPD obligations for new class 1 licence holders?*

SCA (NSW) Response:

SCA (NSW) supports additional CPD obligations for new class 1 licence holders.

However, we also believe that it may be useful to have mandatory CPD for new Licensees in Charge of Strata Businesses. Class 1 Licence holders already need to hold a baseline level of business acumen and must have completed a Diploma in Property Management or Strata.

Question 21. *What should be covered in these additional modules?*

SCA (NSW) Response:

The following topics should be covered in additional modules

- How to write a budget.
- How to create a business plan.

- How to set up office processes and systems to ensure regulatory compliance is met.
- Understanding PSA obligations - e.g. annual audits, trust accounting requirements

Question 22. *The proposed additional obligations would be delivered exclusively by industry peak bodies. What factors should be considered before this is formalised?*

SCA (NSW) Response:

SCA NSW suggests that the following factors be considered:

- The time to create courses
- Fair Trading provision of learning outcomes and guidelines, as per mandatory CPD?
- Will the course be mainly retained year on year? Particularly given new agents would encounter the same common pitfalls and challenges with running a business

Other opportunities to support capability uplift

Question 23. *What changes could be progressed to the CPD framework to help retain existing staff, attract new talent and ensure that CPD aligns with broader obligations, including accessibility of training for all licence holders?*

SCA (NSW) Response:

SCA (NSW) makes the following observations:

- Place a greater emphasis on individual responsibility for the understanding of their own requirements of their specific licence and need to accordingly undertake CPD
- LIC attitude is critical to CPD encouragement throughout the organisation – a positive attitude to take up, starts at the top.
- Consider the level and design of each CPD topic and the desired learning outcomes
- Understand that a strata manager license is very different to a real estate licence.

Question 24. *Do you consider that enhanced CPD delivery will address concerns around licence holder competency?*

SCA (NSW) Response:

Enhanced CPD delivery alone will not fully address concerns around licence holder competency. Licence holders need to see value and relevance in the learning proposition and be able to take their learnings back to the office and implement practically. While more tailored CPD delivery assists, the onus continues to fall on the licence holder for capability.



Question 25. *What other changes could be made to NSW's CPD framework to support licence holder capability uplift?*

SCA (NSW) Response:

When licence holders change licence class, Fair Trading must ensure the licence holder is informed of their new CPD requirements.

Thank you for your consideration of our submission.

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