



UDIA NSW SUBMISSION ON DRAFT STRATA SCHEMES DEVELOPMENT AND MANAGEMENT REGULATIONS

2016

Introduction

UDIA NSW welcomes the opportunity to provide comments in relation to the *Strata Schemes Management Regulations 2016* and the *Strata Schemes Development Regulations 2016*, as well as the accompanying Regulatory Impact Statements. UDIA NSW remains supportive of the general direction of the reform packages as the previous legislation governing strata schemes has not been working effectively. These regulations are required to ensure that the reform acts work as intended and reduce costs, red tape and improve clarity.

The Institute recognises the importance of strata reform and believes the reform act together with the regulations will assist in the renewal of Sydney's building fabric. Strata is recognised as the fastest growing form of property ownership not only in NSW, but nationally. This growth means that reform of existing legislation is needed and the reform acts, together with the regulations, go some way towards achieving this.

UDIA NSW has been actively involved in the discussion surrounding the development of strata reform and is wholly supportive of these reforms. However, as in our submission on the draft reform bills, the Institute would like to outline a number of concerns it has pertaining to the draft regulations. Our primary concern remains the costs associated with the building bond and UDIA NSW believes that the regulations do not adequately address these concerns. NSW currently has a housing shortage of 100,000 dwellings and UDIA NSW strongly advocates for housing affordability. Under the draft regulations, this affordability may be challenged by the substantial costs associated with the building bond and the inspector reports. These concerns are outlined below.

About UDIA NSW

The Urban Development Institute of Australia (NSW) ("UDIA NSW") is the leading industry body representing the interests of the urban development sector, with more than 500 member companies spanning all facets of the industry. More than 150 members have direct input to policy through UDIA NSW Policy Committees. UDIA NSW promotes the responsible growth of NSW and advocates for better planning; timely and affordable housing, and the building of vibrant communities to increase local job opportunities.

Specific Comments

Strata Schemes Development Regulation - SDDR

Part 3, Clause 12 Strata development contracts

(1) A strata development contract must deal separately with each of the following matters in relation to each stage of the development and must specify whether the matter is warranted development or an authorised proposal.

Comment: UDIA NSW would encourage the inclusion of car parking into this clause for the benefit of overall strata schemes.

Schedule 1, Clause 9 (1) Linear Dimensions

(1) Linear measurements must be expressed in metres (correct to 3 decimal places) without any accompanying symbol.

(2) If a length of less than 1 metre is shown, the decimal point must be preceded by the numeral "0".

Comment: UDIA NSW considers the requirement to measure strata plans to three decimal places to be excessive and unnecessary. The majority of plans are measured to plus or minus five millimetres and it is suggested that this be the case with strata plans.

Schedule 3, Clause 3 Floor Plans

(1) A floor plan must:

(a) show the boundaries of each lot and each part of a lot, and

(b) show the area of each lot and each part of a lot, and

(c) include a lot number for each lot and, if a lot has separate parts, clearly identify each of those parts, and

*(d) show boundaries defined by walls or other structural features (**structural boundaries**) by the use of thick lines, and*

*(e) show other boundaries (**line boundaries**) by the use of thin lines and include sufficient connections from walls or other structural features to accurately show the location of those line boundaries, and*

(f) if an upper or lower boundary of a lot or part of a lot is not limited by a structural feature—include statements sufficient to accurately indicate the location of that boundary, and

(g) include notations to clearly identify any encroachment that is designated for use with a lot, and

(h) show all structures on a lot (other than a dividing fence within the meaning of the Dividing Fences Act 1991) that are outside a building and within 1 metre of the boundary of the lot and include notations to clearly identify whether each such structure is common property or part of the lot.

Comment: It is suggested that this clause include detail of significant areas of common property within a strata development to make it easier for owners and tenants to quickly identify where these main areas of common property are located and what their intended use is.

Schedule 7, Fees Clause 1 Fees generally

(1) The fees set out in this Schedule are payable with respect to the matters set out in this Schedule.

(2) A fee is payable before the service to which the fee relates is provided or at such time, and in accordance with such conditions, as the Registrar-General may agree with the person paying the fee.

Table of fees as outlined in schedule 7.

Comment: The lodgement of a plan for pre-investigation will lead a substantial increase in fees. This will have a significant impact on the development industry and is of major concern the UDIA NSW. Not only will it impact on the developer but an increase in fees of this magnitude will ultimately trickle down to the end user and increase housing costs. Housing affordability is high on the Institute's agenda and we strongly object to any fee increases which threaten affordability.

Strata Schemes Management Regulation – SSMR

Part 2, Clause 7 Tenant representatives: section 33 of the Act

(1) The person who convenes an annual general meeting of an owners corporation that has tenants for at least half of the number of lots in the scheme must convene a meeting of eligible tenants for the purpose of the nomination of a person for the position of tenant representative on the strata committee.

Comment: This clause and specifically the requirement for tenant representatives, add unnecessary red tape to the process and increases costs. This is contrary to the overall aims of the reforms.

Part 2, Clause 13 Proxy votes

For the purposes of clause 26 (2) of Schedule 1 to the Act, an instrument appointing a proxy is to be in or to the effect of Form 1 in Schedule 1.

Comment: UDIA NSW is of the view that the absence of any requirement for managing the limit of when a proxy has been reached is a fundamental flaw. Clause 27 (7) schedule 1 of the 2015 Act sets a threshold for the total number of proxies each person may hold. It is unclear in the draft regulations as to what happens once this threshold has been exceeded.

There is concern that this lack of clarity could lead to conflict of interest and abuse of the system. We would recommend that this is addressed and amended to include some mechanism in the regulations to prevent any abuse of the proxy system.

Part 2, Clause 16 Postal voting—owners corporation

This clause has no provision for emailing back a notice. Mail is becoming ever more antiquated and the more electronic forms of notifications are embraced, the more costs are reduced. The Institute advocates for technology to be embraced where practical and this is one area where technology can be used to the advantage of owners and owners corporations.

Part 3, Clause 28 Minor renovations by owners

The Institute is of the opinion that there should be greater clarity regarding minor renovations and how these apply to different properties. Installation of heat pumps or photovoltaics should not be included as minor works. Certain installations and renovations can prove to be damaging to properties and impact on the quality of overall developments. Any installations classified as minor renovations should not impact on common property or overall integrity and aesthetics of the property.

Part 8 Building Bonds

Comment: UDIA NSW previously outlined its stance on building defects and specifically the building bond in our submission on the *Strata Schemes Management Bill 2015* and *Strata Schemes Development Bill 2015*. The regulations contained within the draft regulations do not quell our concerns regarding Part 11 of the *Strata Schemes Management Act*.

Our principle concerns remain surrounding the cost of the bond and the associated inspection reports together with the accreditation of inspectors. Within the regulations there is no mechanism to limit the cost of inspection reports be that the interim or final report. It has been acknowledged, that these inspections and reports will be undertaken at significant cost to the developer. These costs will ultimately be factored into the cost of the final product leading to a decrease in affordability. UDIA NSW would advocate for provisions within the regulations to place a cap on the cost of these reports or a suitable mechanism to prevent costs from escalating to excessive levels.

The suitability of inspectors is also of concern to the industry and the establishment of a strata inspection panel is not an adequate solution to this concern. No qualification oversight has been built into this and many of the qualified bodies mentioned in the regulations do not require professional indemnity insurance. We gather that these issues pertaining to the suitability of inspectors will be dealt with under a new Australian Standard. We call for a draft standard to be released for industry comment as a priority. Further, the process under which the developer lodges and pays this building bond is not clear and the Institute seeks further clarification as to how this will be undertaken.

Part 10, Clause 62 Limit for gifts to strata management agents

For the purposes of section 57 (3) (d) of the Act, the amount prescribed is \$60.

The Act restricts the acceptance of gifts or benefits to that of a value less than prescribed in the *Draft Strata Management Regulation* which has been set at \$60. This provision is an unnecessary restriction and duplicates current requirements for managing agents to disclose all gifts or benefits received. It is considered that this will add considerable administration work to strata managing agents. There is a lack of clarity as to how a strata managing agent who is responsible for multiple schemes is to assess gifts or invitations to functions and how they can assess gifts and invitations that do not have a perceived market value. We seek further clarity on this clause of for the prescribed amount to be increased to a more realistic value, perhaps in line with the *Election Funding, Expenditure and Disclosures Act 1981* as this is where the definition of gift is obtained.

Conclusion

UDIA NSW remains fully supportive of strata reform and modernising the current strata legislation to make it applicable to modern day strata living. The reforms will impact on residents of more than 75,000 strata units and it is essential that these reforms are well considered and executed. UDIA NSW looks forward to further discussions surrounding strata reform.

The *Urban Development Institute of Australia (UDIA) NSW* is the state's leading property industry body. It advocates for better planning, appropriate environmental outcomes, timely and affordable housing, and the building of vibrant communities to increase and support local job opportunities.

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