

STRATA & COMMUNITY LIVING

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SPRING 2016

Strata laws to take effect 30 November



The NSW Government has committed to 30 November 2016, as the date that the new strata laws will take effect. In fact, the Acts and Regulations are now all in place and ready to go. The only thing left is to work through the processes that strata managers and owners need to be implementing.

While there will be challenges fortunately an education program has been developed to help managers and owners through this initial period.

A series of roadshows was rolled out which were jointly developed by NSW Fair Trading, SCA (NSW) and the REINSW.

They ran from Tweed Heads, Coffs Harbour, Port Macquarie, Newcastle and Wollongong as well as the Sydney CBD and were very well attended.

SCA (NSW) is aware that NSW Fair Trading believes that a changeover period to provide time for systems to be put in place would not be necessary as the current lead time is satisfactory. However, the government does see reason and doesn't expect everyone to get everything in place by 30 November. It is hoped that the industry will have made some changes but NSW Fair Trading has indicated that it will also work with those who have issues to find ways to address them. Fair Trading staff are ready and able to help managers and owners and there is a lot of information on the website.

Fair Trading does want to work with owners to encourage them to review their existing by-laws with a view to streamlining them by possibly adopting the new model by-laws in the new Act. This work is expected to take around 12 months and the hope is that most owners corporations will have made some updates over this time.

Fair Trading also wants owners to look at the opportunities that the new laws provide in the form of using modern technology to make administration of their schemes easier. Owners and managers have the opportunity to decide how they can work together to use modern technology to communicate and inform owners, investors and tenants.

Other reforms that owners need to take a close look at are those around proxy voting, which has undergone a major overhaul, and tenants being able to vote on certain matters.

One exciting area that owners corporations will like is that they can, once they have passed the appropriate by-law, ask their local council to assist them with enforcing parking and issue fines. This is likely to be very popular.

SCA (NSW) was also happy to see that while there were a number of areas of concern for in relation to both sets of draft Regulations, many of these were addressed in the final Regulations. One example is the reinstatement of the safeguard at Clause 9 (2) against owners stacking the executive committee that had been removed in the draft Regulations.

Finally the long awaited strata reform can commence.

For more information about the new Acts and Regulations go to www.fairtrading.nsw.gov.au

To register to attend upcoming sessions visit our website nsw.stratcommunity.org.au



New self-managed super fund rules take effect

Spring greening your strata apartment

After the cooler winter months, the warmer air of spring and the promise of the coming summer has us starting to live outdoors again. Time to make use of our balconies and courtyards and fire up the BBQ. There is no better time to spruce up your outdoor living area than now - Spring.

Here we have compiled a few clever ways to ready your outdoor living areas simply, cheaply and effectively so you can make the most of your summer.

The balcony

Commonly challenged by limited space and by-laws, the balcony still holds potential to make it not only your outdoor oasis but a beautiful and productive 'garden'. Hanging pots, vertical gardens, wall features and even all-weather floor coverings such as artificial lawn can transform this area from boring to vibrant.

Think, stacked wooden crates used as herb planters, spiraling hanging pots, trellised climbers to add life to walls and to create added privacy from neighbours too; mini-veggie gardens with salads, herbs, tomatoes, snow peas, beans and flowering climbers add food and colour to your balcony.

Choosing eclectic furniture can achieve a more rustic garden feel and look or rattan painted in subtle colours to set the theme, matching them with wall art, a mirror, pictures or wall hanging, then planting easy care flowers to harmonise the colours.

With some innovation, a splash of creativity and a few dollars spent at your local nursery, hardware or outdoor store and discount shop (these usually carry a lot of useful outdoor/garden things at low prices) you can give your balcony a new lease on life.

Courtyards

Townhouse gardens and terraces come in a number of sizes. For some you may be happy to learn that the current trend is away from real lawn (just imagine having to mow 2.3sqm of grass) to low maintenance artificial lawn. Feature walls and creating interesting textures using material such as bamboo (surprisingly cheap), can transform an ordinary brick wall or wooden fence into something a little more tropical or oriental. Add a variety of heights in plants and perhaps some Asian style decorative features and even the smallest space can offer a sense of depth, serenity and calm.

Up and trending are also eclectic collages of themed collectables, compilations of small picture frames and ethnic wall hangings to create a 'place away from home' feel in your own courtyard. Together with a selection of easy care plants from your local nursery set out in pots and planters and the use of indirect lighting for those balmy evenings (solar lanterns, spot lights facing up through the plants and draped light garlands) are great to create a relaxed ambience.

The wrap

Once you have decided on a theme, genre or colour scheme for your balcony or courtyard, it is good to let this flow throughout the area and perhaps just beyond. There are oodles of low maintenance easy care plants such as succulents, air and tropical plants that can do well with little water or light. With trendy colours ranging from subtle pastels to strong blues with yellow, and right through to earth tones and golds - there is a scheme that will work well with your existing styling, yet adds an inspiring splash of colour and living greenery to your home.

Magazines, online and garden and home centres offer ample of ideas, inspiration and the necessary advice on suitable plants, materials and 'how to' tips.

But before you start nailing or gluing things to outside walls, best to check with your owners corporation as these areas might just be common property. Enjoy your new space but please do it with the right permissions.

Self-managed super funds (SMSFs) have long been a trending commodity and a welcomed vehicle to utilise in investment and self-governed retirement planning. However, most people do not fully understand the obligations that come with running their own super fund, and could either be under-utilising their SMSF, or more importantly be facing fines if they are not fully compliant with new regulations.

Trustees at risk

While accountants have been providing advise and set-up services for SMSF for some time, they now need to be adequately licensed in order to provide these services. If they are not licensed in accordance with Australian Securities and Investments Corporation (ASIC) requirements they could be placing the SMSF owner at risk of fines. It is reasonable to expect ASIC crack-downs to check on compliance and consider that private trustees could be liable for fines of up to \$10,000 per trustee, which could have a significant impact on mums and dad SMSF owners.

Other changes to the SMSF regulations come from the Australian Taxation Office capping super funds. There is a lot of confusion out there in the market place so do shop around for good solid advice and ask around - word of mouth can be a great recommendation - as having the right advice is fundamental to minimising risks.

How SMSFs can be used for property investing?

With SMSFs having undergone a steep growth curve of demand over the past years, it is still surprising how many people are not aware of the opportunities and limitations when it comes to best utilising it for retirement investments and especially for property investing.

Most people are not aware that they can actually partner with their own SMSF for property investing for an example, or for business owners to use their super fund to purchase their own business premises, which then also offers taxation benefits.

How to purchase property (strata or freehold) with your SMSF

1. Acquiring property as tenants-in-common

It is possible for an SMSF to hold property as a tenant-in-common with related parties, provided all requirements under superannuation law are met (such as the restriction on acquiring assets from related parties). This option can be useful where the SMSF cannot fund the entire purchase price and is not in a position to borrow. However, as the SMSF is a joint owner, it also means that the full property must satisfy the various superannuation law requirements (i.e. the non-SMSF owner cannot place a charge against their "interest").

2. Using interposed entities

It is possible to acquire real estate through interposed entities, such as a property unit trust. Where the trust is not a related party to an SMSF (that is, there are several unrelated investors into the property), the trust may not be subject to borrowing restrictions, thus allowing an SMSF to invest into geared property without incurring the additional costs associated with limited recourse borrowing arrangements.

Where the trust is a related entity, it will be subject to several restrictions. However, it will allow an SMSF to invest jointly into property with members, etc. without the complications associated with property being held directly by several investors (the trustee of the property trust would be the sole legal owner).

3. Using instalment purchase agreements

Where an SMSF expects to have the cash to fund a property purchase in the medium term, but will have an immediate cash shortfall at the time of acquiring the property, an instalment purchase agreement may be a viable alternative to a limited recourse borrowing arrangement. Under an instalment purchase agreement, an SMSF trustee agrees to acquire a property under a fixed number of instalment payments.

The Australian Taxation Office provided a view in Self Managed Super Funds Ruling (SMSFR) 2009/2 that an appropriately drafted agreement would not be considered a borrowing, and would therefore not need to satisfy the requirements of a limited recourse borrowing arrangement. This could be a more cost effective way of funding a property purchase where there is a short-term cash flow deficit.

As noted above, for those looking to take control of their super and set up their own SMSF, it is essential to seek out licensed professional advice (perhaps from a few different providers) before commencing the process. Important differences in the set-up can make one better suited for property investing than others and altering the structural set-up later can be a costly exercise.

Laying the right foundations is the best approach, meaning obtaining proper advice in the first place, which will allow you to use your SMSF to its maximum while minimising the risk.

Strata snip-its

Information, updates and the latest seminars all in one spot.

City of Sydney green scheme for apartments

The Smart Green Apartments program is looking for participants in 2017. Offered by the City of Sydney, the program claims to save buildings an average of around \$23,000 a year in energy costs. Participation is free and applications to be in the program close on 28 September 2016. How popular would you be if you saved your building \$23,000?

The City of Sydney says that buildings participating will receive an energy assessment tailored to their building; technical support to implement both energy and water savings initiatives; and an online platform which assists in tracking and managing water and energy consumption of the building.

To be eligible certain criteria must be met such as being a strata-titled property, have a minimum of 6 storeys or 50 apartments and of course be in the City of Sydney local government area.

We also looked around other local councils to see if there were similar programs in metropolitan or regional areas such as Newcastle, the Central Coast and Wollongong but unfortunately came up short.

The only other program we found was with North Sydney Council partnering with Willoughby Council. The My Green Apartment program for 2016 provides independent expert advice, support and tools to help apartment owners, strata and building managers, make the switch to more efficient and appropriate lighting in common areas.

If you know of a green scheme for apartments in your local council area please let us know so we can tell others.

If you have been involved in a green program and want to share your experience please also tell us as we are happy to discuss stories that can be shared with other owners.



Strata data report

City Futures, which is a research facility of the University of NSW, is a great resource for information and data about strata in NSW. SCA (NSW) often co-funds research projects into various aspects of the strata industry. This research and the information it generates also comes to the attention of government which can then use it in formulating policy and make planning decisions in relation to strata.

SCA (NSW) also publishes City Future's Strata Data reports via its website www.nsw.stratacommunity.org.au. The reports are compiled every two years with the latest being for 2015. The data is provided by NSW Land and Property Information.

The report shows that as at 31 December 2015 there were 70,591 strata schemes registered in NSW with around 65 percent located in the Greater Sydney area. In terms of lots there were 710,885 as at the same date and almost 83 percent of these are located in the Greater Sydney area.

The report uses maps to show the density of strata in various local government areas (prior of course to any mergers).

If you love data, figures and graphs this information is sure to appeal.



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