

STRATA MANAGEMENT LEGISLATION AMENDMENT BILL 2008

Explanatory Note

This explanatory note relates to the public consultation draft of the *Strata Management Legislation Amendment Bill 2008* ('Bill').

Overview of Bill

The object of the Bill is to amend the *Strata Schemes Management Act 1996* (*SSM Act*) and the *Home Building Act 1989* (*HB Act*) to provide further rights and protections for strata lot owners who are not developers.

There are two related cognate Bills dealing with amendments to other Acts: the *Environmental Planning & Assessment Amendment Bill 2008* and the *Building Professionals Amendment Bill 2008*. Separate explanatory notes are available in respect of these Bills.

Outline of provisions

Clause 1 sets out the name of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 provides that the *SSM Act* is amended as set out in the Schedule 1 to the Bill.

Clause 4 provides that the *HB Act* is amended as set out in the Schedule 2 to the Bill.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the Act have commenced.

Schedule 1: Amendment of Strata Schemes Management Act 1996

Sch. 1 [1] amends **section 40** of the principal Act to ensure that the 'caretaker' provisions of the principal Act apply regardless of whether the title of the person is caretaker or something else like building manager or resident manager.

Sch. 1 [2] omits **section 56** of the principal Act which allows certain by-laws to be made giving the exclusive use of common property for parking to specified lot owners during the initial period.

Sch. 1 [3] amends **schedule 2 clause 10** of the principal Act to clarify how voting rights of owners may be exercised.

Sch. 1 [4] amends **schedule 2 clause 11** of the principal Act to prevent an original owner or person connected with that original owner from being appointed a proxy, or cast a vote as a proxy, for another owner under a contract or other arrangement.

Sch. 1 [5] inserts a new **clause 3A** to **schedule 3** of the principal Act requiring persons connected with the original owner or caretaker of the strata scheme to disclose their connection with the original owner or caretaker before their election or appointment to the executive committee of the strata scheme. If a person becomes connected with an original owner or caretaker after appointment then that person must disclose that connection as soon as possible.

Sch. 1 [6] amends **schedule 3 clause 4** of the principal Act to stipulate that, when voting on a special resolution to remove a member of the executive committee the original owner, or company nominee, only has one vote for each 3 lots the original owner holds in the strata scheme if the original owner holds more than 50% of the lots in the scheme. This would prevent an original owner holding more than 50% of the lots in the scheme from blocking a special resolution to remove the original owner's nominee from the executive committee if all other owners agreed.

Sch. 1 [7] & [8] amend **schedule 4** of the principal Act to enable savings and transitional regulations to be made consequent upon the commencement of the Bill and insert certain savings and transitional provisions into that schedule in respect of exclusive by-laws for parking, common property agreements, and existing proxies.

Sch. 1 [9] & [10] amend the **Dictionary** to the principal Act inserting the definition of **caretaker** and **persons connected with another person**.

Schedule 2: Amendment of Home Building Act 1989

Sch. 2 [1] amends **section 48C** of the principal Act to ensure that the owner of a lot in a strata scheme under the *Strata Schemes Management Act 1996* and the owner of a lot in a scheme under the *Community Land Management Act 1989* may lodge a notification with the Director-General of the Department of Commerce about a dispute about residential building work or specialist work relating to the common property or association property, respectively.

The schedule also amends **section 48D** of the principal Act to authorise any departmental inspector to enter and inspect the common property or association property of the relevant scheme. The owners corporation or association are to provide the inspector with reasonable assistance to enable the inspector to carry out the inspection.