



Kevin Anderson
Minister for Better Regulation and Innovation
NSW Government

Dear Sir,

Review of Strata Law – SSMA2015 and SSDA2015

I write to you as the Chair of the Strata Committee of Altair. I have served in this role for approximately 12 years so have some experience with strata matters. Altair is a residential Strata Plan of 141 lots in Kings Cross with approximately 250 residents and an annual budget of \$1.6m.

I have read the Discussion Paper for the Statutory Five-year Review of Strata Law in NSW and completed the associated questionnaire in my capacity as an owner in strata in NSW. This clearly is an important review as it is projected that over 50% of all the residents of NSW will live in Strata by 2030.

Altair is effectively a SME with ever-growing budgets, evolving administrative and legal complexities and some self-governing powers as required and legislated under SSMA2015. As a 20-year-old Strata community we have been subject to previous legislation dating from the creation of Strata in NSW in 1961, some sixty years ago.

Altair, like all other Strata Plans in NSW, is required and charged by your Government to run our affairs efficiently, effectively and legally for the quiet enjoyment of our residents and the benefit of owners. We do this in compliance with the laws of Australia and NSW.

Importantly though, whilst complying with overarching legislation, we also have a particular obligation to respect our own 'local laws' in the form of individual strata by-laws. These are democratically created for and voted into effect by the Altair strata community.

I write to you at the request of the Strata Committee of Altair regarding an issue which in our view is fundamental to the review of strata law in NSW, but which is **not addressed by the Discussion Paper**.

The Democratic Right to Make Decisions in Strata

Strata has emerged as the fourth level of government in Australia, after Federal, State and Local government bodies. The NSW government allows and legislates for groups of individual owners to come together in jointly owned common properties as Strata Plans.

These groups form legally registered Owners Corporations with formally elected Strata Committees for the purpose of financing and managing the effective operation of these sharing communities.

When the NSW government created Strata Law in 1961, few would have anticipated that in sixty years it would evolve into one of the most prevalent legal forms of property ownership in the world.

Initially these Strata Plans were predominantly brick and tile blocks of four, six, eight, ten and twelve 'units' providing comfortable and affordable living in the suburbs. In recent times, however, Strata is now typified by one, two, three and four-hundred lot apartment buildings in the CBD and key locations providing easy access to transport, shops, work and entertainment.

These Strata Plans increasingly deliver a unique 'lifestyle' through design and location tailored to a selected demographic group. Strata Plans have always been different to each other in many ways, but this degree of difference and specialisation is growing and will likely expand to meet evolving societal needs.

Successful Strata Plans thrive on creating by-laws that enhance and deliver the prioritised needs and resources required by the democratic majority of their communities and often reflect the special character and unique circumstances of that Strata Plan community. No two Strata Plans are the same.

Strata law in NSW has strong controls to ensure that Strata Plans are run within strict legal, financial and management protocols. These include decision-making processes for each strata community to make and police their 'local' laws – by-laws. For example, any by-law must be passed by a majority of 75%.

As a politician you will appreciate that this is a considerable hurdle which requires strong consensus.

Recent Horizon Case - Pets

You will no doubt be aware of a recent court decision in NSW which ruled that by-laws that prevented pets in the Horizon apartment building could not be enforced (at least in their current form).

As we understand it, the by-law preventing pets in the Horizon had existed for over 20 years. The by-law was adopted by a majority of over 75% of owners at a General Meeting. All subsequent owners have purchased at Horizon knowing of the 'no pets' rule.

A pet-owner purchased an apartment and simply introduced an animal. When challenged the owner tried on three separate occasions to get the by-law rescinded and lost each vote by reportedly increased margins.

It seems remarkable, perhaps even perverse, that a group of NSW residents could live in a community where they are charged and required by the NSW government with making by-laws peculiar to that community but when the community creates a by-law approved by a 75% majority and ratified again on not one but three further occasions it is then dismissed by a court of law.

Clearly, we must respect the decision of a court, but this judgement throws into question the very essence of Owners Corporations, Strata Committees and by-laws. **It attacks the whole fibre and meaning of Strata.**

Animal Justice Party

You will also be aware that a clause relating to the 'Keeping of Animals' has been inserted by the Animal Justice party into an entirely unrelated piece of legislation 'SSMA (*Sustainability Infrastructure*) Bill 2020' in the Legislative Council with the purpose of preventing any strata plan from the ability to ban animals.

Quite apart from the questionable ethics of smuggling a clause such as this into the Lower House to 'sneak it through' with other apparently unrelated legislation this too directly **attacks the entire essence of decision-making in Strata**.

I strongly urge you and your colleagues in the Coalition to remove this clause from the legislation prior to any vote...or failing that, to vote the clause down.

It is worth noting that Altair is a **pet-friendly** Strata Plan and there is no agenda to change that. This issue is not about pets - it is about the ability of Strata Plans to make decisions particular to their individual circumstances.

All Strata Plans are Different

There will always be a line between the laws of the land, the laws of NSW, the by-laws of various councils and the by-laws of Strata Plans. It is noteworthy that the laws of NSW differ from the laws of Victoria or Queensland and the by-laws of City of Sydney differ from the by-laws of City of Parramatta.

The by-laws of individual Strata Plans should be able to differ too, reflecting the unique nature of the building, location and resident constituency of that Strata Plan.

I would suggest that the essence of the Coalition is based on the values of individuality, difference and 'personal responsibility'. To make decisions for oneself and accordingly take responsibility for those decisions.

The review of Strata Law in NSW does not seem to address the issue of different by-laws for different strata plans. This is fundamental to the essence and continued viability of strata in NSW. I believe that this issue is important enough to pause the review of Strata Law in NSW and re-think the **Democratic Right to Make Decisions in Strata**.

Strata Committees are unpaid volunteers managing increasingly complex entities with ever-growing budgets. We need, and deserve, some certainty regarding our ability to make decisions and clarity regarding the parameters of those decisions.

Yours

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