

# STRATA & COMMUNITY LIVING

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## NSW CONSUMERS THE BIG WINNERS UNDER PROFESSIONAL STANDARDS SCHEME

The New South Wales Strata Sector is now leading the way for the Property Industry with the highest form of consumer protection regulation approved by the Government to commence 1 July 2021.

Over the past years, Strata Community Association (NSW) and the NSW Government have been working in partnership to strengthen consumer protection and restore consumer confidence.

The NSW Government under the Minister for Better Regulation and Innovation, Kevin Anderson, has approved a Professional Standards Scheme. This formal recognition by the NSW Government is first of its kind for the property services sector in Australia and an exciting time as members of the SCA (NSW).

The scheme has been approved for an initial period of 5 years commencing from 1st July 2021. This approval means Strata

Manager members of SCA (NSW) must adhere to a Code of Ethics including professional standards and is monitored by Professional Standards Australia.

At the forefront of this scheme is a further commitment to consumers to ensure high professional standards across the strata industry in NSW. This is in line with various other initiatives across NSW, including the NSW Government plan to rebuild the construction sector and restore confidence and professionalism.

The Professional Standards Scheme will bring to our clients a range of benefits, including:

- The SCA (NSW) will oversee and self-regulate the conduct of all members within a structured professional framework.
- In addition to our internal complaints handling process, the Professional Standards Scheme brings a further

robust and independent complaints handling process, ensuring clients can be assured of an independent review and response.

- An increase in Continual Professional Development (CPD) requirements for Strata Managers and Licensee's in Charge, ensuring the industry remains up to date, educated and aware of their on-going responsibilities to the consumer.

To help you understand what a Professional Standards Scheme is and how it will benefit you, SCA (NSW) has put together a list of useful frequently asked questions:

### What is a Professional Standards Scheme (PSS)?

A Professional Standards Scheme (PSS) is a legal instrument that binds associations, such as SCA (NSW), to monitor, enforce and improve the professional standards of their members and protect consumers.

At its core, a PSS exists to help consumers, as well as governments and professionals, to distinguish between the genuinely professional and the growing field of people who are simply claiming to be professional.

Every PSS in Australia, of which there are 15, is overseen by the Professional Standards Councils, which is an independent statutory body that approves, monitors and enforces Professional Standards Schemes under three pillars:

1. Protect consumers
2. Improve professional standards
3. Help associations

To protect consumers the Professional Standards Council expect associations within their regulated communities to ensure their members uphold these standards through education and guidance, monitoring and enforcement, and other measures. This plays an important role in protecting consumers.

### Who will the SCA (NSW) PSS apply to?

The landmark SCA (NSW) Professional Standards Scheme will mandate that all SCA (NSW) members must meet enhanced Professional Standards, as well as abide by a Code of Ethics.

It will apply to strata management companies and individual strata managers who are members of SCA (NSW) and provide strata management services to consumers who own or live in strata title properties domiciled in New South Wales.

### How does the SCA (NSW) PSS benefit consumers?

For the first time, consumers in New South Wales will have access to a formal complaint and disciplinary system under this ground-breaking new scheme.

Strata managers and strata management companies under the scheme will be required to uphold the professional standards through ongoing education and other measures to ensure you and other consumers feel confident in the advice and service you receive.

Under the SCA (NSW) Professional Standards Scheme, SCA (NSW) members will be bound:

- By a Code of Ethics that compels them to act honestly, ethically and with a duty of care to their clients,
- To comply with a formal complaints and discipline regime in the event they receive a consumer or industry participant complaint,
- To comply with a continuous education regime that is double the current requirement of a strata manager licence or certificate under Fair Trading,
- To meet certain practice standards in day-to-day operations, and
- To agree to regular auditing to ensure compliance with the Code of Ethics.

SCA (NSW) is also obliged to report to Professional Standards Australia on member activity and adherence to the SCA (NSW) Professional Standards Scheme.

Together, all these requirements support and uplift consumer protections.

NSW STRATA SECTOR IS NOW LEADING THE WAY WITH THE HIGHEST FORM OF CONSUMER PROTECTION



## STRATA COMMITTEES

*A strata committee does more than manage the day-to-day operations of a strata scheme, they also are the elected representatives of lot owners and owners' nominees. In this article, we share the top 10 considerations for selecting the best strata committee for your strata scheme...*

### Selecting Your Strata Committee

Your strata committee serves a number of important functions. Representing owners or owners' nominees, as well as responsible for the day-to-day running of the strata scheme, it's important the right people are placed in the right roles for a well-functioning strata committee.

We share the top 10 considerations when selecting your strata committee.

#### 1. Strata Committee Members

Strata committees range from 1-9 members, depending on the size of the strata scheme. The number of strata committee members is decided at each annual general meeting (AGM).

In a two-lot scheme, both lot owners must be members of the strata committee and in larger schemes, a minimum of three members are required to hold the three office-bearer positions. These are:

- Chairperson
- Secretary
- Treasurer

To learn more about the office-bearer positions, [click here](#).

#### 2. Who Can Be Elected

According to NSW Fair Trading, an individual is eligible for election to the strata committee if they are:

- An owner,
- A company nominee of a corporation that is an owner, or
- A person who is not an owner but is nominated by an owner who is not standing for election.

#### 3. Who Cannot Be Elected

The following individuals are ineligible for election to the strata committee:

- Tenants
- Building managers
- Strata managers
- Property managers
- Financiers connected to the strata scheme
- Unfinancial members of the owners' corporation

#### 4. Disclosure Requirements

Before nomination, all individuals must disclose any financial, business or family connections to the developer or building manager.

Following nomination, all individuals must disclose any direct or indirect financial interest or possible conflict of interest in any matter being discussed.

The individual may be excluded from decision-making unless decided otherwise by the strata committee.

#### 5. Strata Committee Meetings

There is no legislation that governs how often strata committees should meet. However, the following legal requirements do apply to strata committees:

- The Secretary has the authority to organise a meeting at any time.
- One-third of members can compel the Secretary to call a meeting.

- If the Secretary is absent, any other member can be asked.

### 6. Voting

Votes cast by the Treasurer and Secretary are counted, whereas votes cast by the Chairperson are not. All decisions made by the strata committee must be made collectively and not by a single person.

### 7. Decision-Making

Any decision made by the strata committee is treated as a decision of the owners' corporation. Should a dispute arise between the owners' corporation and its committee, the owners' corporation has more authority.

### 8. Restrictions

An owners' corporation can also restrict the powers of its committee.

One of the major restrictions on strata committees relates to obtaining legal services. Strata committees must have

approval from the owners' corporation except in the following circumstances:

- The cost is no more than \$15,000 for urgent action.
- The cost is no more than \$3,000 for non-urgent action.

### 9. Removing Members

In NSW, there are two avenues to remove a strata committee member:

1. A member may be terminated by a special resolution requiring a 75% vote in favour at a general meeting.
2. A member may be removed by order of the Tribunal if they have failed to comply with the Act or engaged in serious misconduct.

### 10. Vacancies

Should a vacancy arise, the strata committee may ask the owners' corporation for nominations at the next general meeting. Vacancies don't need to be filled if there are three or more existing members to fill the office-bearer positions.

## LEVIES

*Do you know what levies apply to you as a lot owner? In this article, we outline the various levies in NSW strata schemes and some of the financial penalties and support that may be enforced by your owners' corporation to help you better manage your levy obligations...*

### Levies and Capital Works Funds

Living or investing in a strata scheme imposes some additional financial obligations on lot owners than other forms of property in New South Wales.

If you're considering buying into a strata scheme or want to learn more about how levies impact you, we outline everything you need to know.

### Levies

Let's start with the basics – what is a levy?

NSW Fair Trading defines levies as "a fee or 'contribution' paid by all lot owners in a scheme to cover any projected costs and expenses. All levies must be worked out in proportion to the unit entitlements of each lot."

Levies are calculated at an annual general meeting (AGM) of the owners' corporation and must be approved by majority vote.

They are calculated based on a budget, tabled before voting, which outlines the current financial situation of the strata

scheme and estimates of any future payments to be made or received.

### Types of Levies

There are two types of levies, including:

- Capital fund levies
- Special levies

Both levies are calculated based on the unit entitlements of each lot owner.

### Capital Works Fund

Capital fund levies are collected for the capital works fund of the strata scheme, previously known as a sinking fund, which enables an owners' corporation to pay for repairs and maintenance.

A capital works fund is used for capital expenditure and non-recurrent items, such as:

- Repair works to common property
- Painting or repainting common property
- Renewing or replacing common property fittings, such as lobby carpet
- Renewing or replacing personal property for the strata scheme, such as pool furniture

### Special Levies

An owners' corporation can vote to introduce a special levy

when there are insufficient funds available to cover large or unforeseen capital works. This is called a special levy.

### Administrative Fund

In addition to a capital works fund, owners' corporations are also required to raise an administrative fund, which is used to pay for recurrent expenses that are part of the day-to-day management of the strata scheme. These include:

- Common property maintenance, including cleaning, gardening and lawn mowing services.
- Monthly or quarterly expenses, such as insurance, electricity and water.
- Administrative expenses, including secretarial fees and postage.

### The 10 Year Capital Works Fund Plan

By law, all strata schemes in NSW must have a 10 year capital works fund plan in place which commences from the first AGM and must be reviewed at least every five years.

The purpose of a 10 year capital works fund plan is to ensure sufficient financial reserves are built up to avoid lot owners having to pay large, one-off levies that may cause financial strain.

### Managing Levy Obligations

It is recommended that anyone considering buying into a strata scheme conducts their own research into the administrative and capital works funds of the scheme first.

This information is available from the section 184 certificate and can also be found through other searches conducted by a lawyer or conveyancer.

Next, we outline some important financial considerations for lot owners when managing their levy obligations.

### Payment Frequency of Levies

The timing of when levies are due can vary from scheme to scheme. An owners' corporation may require that levies are paid by lot owners on a yearly, half-yearly, quarterly or monthly basis.

### Interest on Unpaid Levies

Typically, interest on unpaid levies is charged at 10% simple interest per year. However, an owners' corporation may make a special resolution to charge no interest on unpaid levies.

### Discounts on Levies

To incentivise early payment of levies by lot owners, an owners' corporation may make a special resolution to provide a 10% discount on payments made before the due date.

### Reimbursement of Levies

If an owners' corporation determines that money collected for the capital works fund is not needed, they may decide by unanimous resolution to distribute the money to lot owners.

### Payment Plans for Unpaid Levies

Finally, an owners' corporation may enter into payment plans with a non-paying lot owner. In the event that levies remain outstanding, the owners' corporation may take recovery action through their Local Court.

For more information about levies, click [here](#).

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# SMART METRES

*The Federal Government is gradually rolling out smart meters to replace old-style electrical meter units. For strata schemes, there is added complexity and costs when installing smart meters. We answer some of the frequently asked questions about smart meters in strata schemes...*

## Smart Meters in Strata Scheme: Frequently Asked Questions

In recent years, the options for electricity supply in strata schemes, including installation and how costs are divided, have changed significantly.

Since late 2017, the Australian Government has implemented electricity industry-wide reforms enabling energy suppliers to install their own meters, which previously could only be done by Ausgrid.

Now, energy suppliers Australia-wide are calling for the installation of smart meters. To help you understand what this change could mean for your strata scheme, we answer some frequently asked questions about smart meters.

### The 'Power of Choice'

So, what's changed? The 'Power of Choice' reforms were introduced by the Australian Energy Market Commission (AEMC) on 1 December 2017.

The reforms were first initiated in Victoria and strata schemes throughout New South Wales can expect them to become more common here.

The major change that we're discussing today is the push by industry to smart meters, which have pro's and con's for strata schemes.

### What is a Smart Meter?

A smart meter is an electricity meter that has improved wireless capabilities over old-style electricity meters.

Smart meters send the following usage information wirelessly to the supplier:

- How much electricity is used and when in an individual property,
- What is using the electricity in an individual property, and
- Notification of any faults.

They also allow the supplier to switch the electricity supply on and off remotely. All the above removes the need for on-site reads, saving money.

Smart meters are being progressively rolled out to replace old-style meters until they are uniformly used across Australia.

### How Will the Reforms Impact My Strata Scheme?

There are additional costs for lot owners which need to be considered when installing smart meters in strata schemes. In most cases, smart meters will be installed as and when old-style meters become faulty.

However, identifying a faulty meter is a complex task as many NSW strata schemes have service fuses that connect several meters and sometimes all of them within the building.

The solution for lot owners is to engage a Level 2 Electrician to install a meter protection device (MPD) to their own meter at their own cost.

### What is a Meter Protection Device (MPD)?

According to Real Electrical Solutions, a meter protection device is a fuse device which is located on the un-metered side of the meter installation.

"The primary function of an MPD is to provide an authorised individual point of isolation, meter protection and to facilitate the safe replacement of metering equipment."

### What Does Switching to a Smart Meter Cost?

The cost to install or upgrade to a smart meter is worn by the energy supplier. However, in situations where an individual meter needs to be isolated, there are significant costs which are passed on to lot owners.

Lot owners can expect charges between \$500-600 per MPD installation. In strata schemes, the power needs to be switched off for the entire complex to complete one installation, causing added disruption.

Unfortunately, the Federal Legislation mandating the switch to smart meters for any new or replacement electricity meters means that strata schemes, including those in NSW, have little recourse but to upgrade.

It is recommended that NSW strata schemes consider having all works completed at once to minimise costs and disruptions.

### Where Can I Find More Information?

There are a number of resources that you can access online, including:

- Choice – [How do smart meters work and can they save you money?](#)
- NSW Government – [You and energy providers](#)
- AEMC – [Meters are your retailer's responsibility](#)

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EDITORIAL CONTACT: SCA (NSW) Ltd W: [nsw.strata.community](http://nsw.strata.community) | P: 02 9492 8200 | E: [enquiries@strata.community](mailto:enquiries@strata.community)