

11 February 2021

Minister for Better Regulation & Innovation
The Hon. Kevin Anderson
Parliament House
Macquarie Street
SYDNEY NSW 2000

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Dear Minister

STRATA SCHEMES MANAGEMENT ACT 2015 – 5 YEAR REVIEW

Since the publication of the Discussion Paper and survey for the review of the Strata legislation, OCN has been contacted by many members, both individuals and representatives of Owners Corporations who are frustrated and disappointed by the manner in which the Review has been presented.

OCN has several major concerns about gaps and assumptions in the process, the 'survey' and the questions themselves. The survey has multiple obvious flaws:

- It is long and complex therefore few will fill it out and those who do may be incentivised thus skewing results
- Although the survey references the Discussion Paper and uses most of the same questions, the order and numbering of those questions is different making that reference unnecessarily complicated and difficult to respond.
- There is nothing to identify the demographic or the interests of the survey responders, who might not even live in strata. The responses cannot be representative of strata owners if they cannot be analysed other than by a simplistic "Yes/No" table.
- It makes some big assumptions. For example, the assumption that short-term letting must be a fundamental part of strata living (a 'natural fit' with strata with no mention of restrictions).
- Although there is a reference to the Discussion Paper in the survey, there is no context to the survey questions in the survey and it is unlikely that responders will read the 89 page discussion paper before launching into the survey. The questions seem to elicit a response that strata living is 'one size fits all'. It does not take into account the differences between city, suburb and small town apartments.
- The questions tend to lead to a 'contrived' result.
- OCN is concerned that the survey may be seen as a critical input to the whole process and a way to 'get the numbers'. This would not be good policy.

The multiplicity of questions which address minor issues and the lack of focus on the larger problems facing strata owners will not produce any meaningful commentary upon which it would be safe to make changes to the legislation.

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The questions relating to new builds and strata restructure should be addressed in a separate survey as many owners have looked at those questions first and, having little to say, have reported that they then did not proceed with the survey.

The token reference to sustainability, which is then linked in to questions on managing common property diminishes that importance of this issue for strata owners.

There is a scattergun approach to the need for greater regulation in relation to length of terms of contracts, commissions, insurance etc, which are issues affecting strata owners in every state, not just New South Wales.

In summary, OCN is concerned that the Discussion Paper and survey answers will have an unreasonable impact on the decisions made in relation to important changes to the legislation.

The Discussion Paper/ survey results should only be used to discard those areas which are not important to the majority of owners and there should be a further period for the consideration of the major issues for reform such as:

- Sustainability – mandating NABERS and providing clarity in sustainability infrastructure project approvals.
- Education – The assumption that volunteer committee members can just do it without support is flawed and not addressed.
- Service Agreements – the agreements used by Managing Agents are one-sided and most owners corporations are either not in a position to negotiate or attempts at negotiation result in a refusal by the strata manager to alter the terms of their industry body agreement.
- Commissions and gifts - cause grief and increased prices for owners corporations.
- Duty of Care – should be included for managing agents and building managers.
- By-laws and democratic right to decide – has been hijacked by the pets issue and needs to revert to a proper focus.
- Reasonableness – there needs to be a refocussing on the fact that strata living is a community and that there is, prima facie, a compromise between stubbornly asserting individual rights and the need to accept the decision of the majority. In this respect the assertion in a recent Court judgment that a majority decision has no force is a sad reflection of the current rejection of democracy as the basis of sensible societal conduct.
- Inspection of records and privacy – this is very poorly addressed in the current Act. There are significant concerns regarding access to personal information but on the other hand privacy of information provided to a strata manager for a specific purpose.

OCN would be pleased to engage with your office, to ensure the best outcome of this important 5 year review of the legislation.

Yours sincerely



Karen Stiles
Executive Officer