

Summer  
Issue 2010

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# Welcome to the Summer 2010 Edition of Strata Choice



On the 1st September 2010, the Strata Schemes Management Regulation 2005 was repealed and replaced with the Strata Schemes Management Regulation 2010. David Bannerman of Bannerman Lawyers, provides a useful summary of the new the Regulation that impacts on various aspects of strata scheme administration, including the redesign and expansion of

information provided in a Section 109 Certificate, changes regarding requirements to hold general meetings to approve the obtaining of legal advice in certain circumstances and amendments to model by-laws.

Other articles in this edition include an examination of the importance of contractor licensing and insurance and the steps your strata manager takes to ensure your strata scheme is protected in this regard, plus some useful tips for reducing precious energy and water consumption.

We are also pleased to introduce a new feature to the newsletter where we take the opportunity each quarter to thank strata schemes for their confidence in Strata Choice by renewing their agency agreement with our firm over three to five year terms.

## Alastair Smith

Managing Director  
Strata Choice Associates

## Recent Agency Agreement Renewals

Building Name	Suburb	Renewal Term
'Caloola'	Paddington	3 Years
'The Drill Hall'	Millers Point	3 Years
Shirley Rd	Wollstonecraft	3 Years
'Pier 8 & 9'	Millers Point	3 Years
'Minnamurra House'	Sydney	3 Years
'Kalinda'	Cammeray	3 Years
'Harmony' Building Management Committee	Hurstville	3 Years
Walker St	North Sydney	5 Years

Strata Associates Pty Ltd trading as

**stratachoice**  
Associates

### Office Location:

92 Chandos Street  
St Leonards

### Postal Address:

Locked Bag 1919  
St Leonards NSW 1590

**Phone:** (+61 2) 1300 322 213

**Fax:** (+61 2) 8424 9701

**Email:** [info@stratachoice.com.au](mailto:info@stratachoice.com.au)

**Website:** [www.stratachoice.com.au/associates](http://www.stratachoice.com.au/associates)

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# Protection for All Contractor Licensing & Insurance

Virtually all strata schemes, to varying degrees, will use the services of contractors. This may be cleaners, gardeners and other maintenance based contractors, or a builder and architect when undergoing a major refurbishment.

In each case, there are significant risks to both the owners corporation and the contractor if the contractor is not appropriately licensed and insured. Consider the situation where a cleaner is mopping a tiled floor. In the vast majority of occasions, nothing will happen, however, the cleaner slips over and is injured. Who is responsible for the cost of treatment and replacement worker during recovery? Many owners corporations utilise cleaners who are sole traders. If the payment in wages to the cleaner exceeds \$7,500 per annum, the owners corporation should be obtaining (and paying for) workers compensation insurance. The onus is then on the owners corporation to make other arrangements whilst the cleaner recovers.

In a similar scenario to the one above, a visitor may slip on the wet floor and be injured. The cleaner does not have public liability insurance. The visitor can sue both the cleaner and the owners corporation for losses they may have suffered. This may ultimately result in the cleaner being made bankrupt and the owners corporation facing increased insurance premium costs in the future.



How do we ensure that both the contractor and an owners corporation are adequately protected? Firstly, try to use contractors that are "Pty Ltd". The law requires companies with employees to take out workers compensation insurance. Secondly, require that all contractor's have public liability insurance. This ensures that the contractor has financial protection in the event of an unforeseen event, as well as providing some protection for the owners corporation's financial exposure through increased insurance premiums.

Another important aspect is contractor licensing. Under NSW law, virtually all contractors to strata schemes will need some form of licensing. The Office of Fair Trading advise that a contractor must have a licence, or employ the holder of a qualified supervisor certificate, to contract, subcontract or advertise to do:

- residential building work where the total cost of labour and materials is more than \$1,000;
- electrical wiring work;
- plumbing, draining and gas fitting work; or
- air conditioning and refrigeration work (except plug-in appliances).

**Contractor licences fall into five broad categories. They are:**

## Building Work

Includes structural landscaping and general building work.

## Trade Work

Includes carpentry, decorating, fencing, glazing, painting, waterproofing, tiling and pool repairs.

## Minor Trade Work

Includes shower screens and garage door installation and maintenance.

## Minor Maintenance Cleaning

Includes pressure washing and general handyman services.

## Specialist Work

Includes electrical, plumbing, air conditioning and fire protection systems.

The government's licensing system seeks to ensure that you are able to select contractors that have the necessary qualifications and experience to perform the tasks for which they are licensed. If you are satisfied that they are properly licensed and insured, then you only have the small task of developing a scope of work and price!

# The Strata Schemes Management Regulation 2010

*On 1 September 2010, the Strata Schemes Management Regulation 2005 was repealed and replaced with the Strata Schemes Management Regulation 2010. Some key changes are set out below.*

**1.** The section 109 certificate form has been redesigned and now needs to include the following:

- (a)** Details and amounts payable to any person or body not connected to the maintenance or insurance of the common property. This introduces uncertainty and may catch liabilities such as loan repayments, common property upgrade costs, and electricity and water charges.
- (b)** Details of insurance policies must be provided where the owners corporation is the insured or a beneficiary. At face value this suggests that a wider range of policies are to be included, such as home warranty insurance obtained by the original builder where the scheme is a beneficiary.
- (c)** Details of and contributions payable to the building management committee if applicable.
- (d)** Reasons for arrears or credits for contributions.
- (e)** Amount recoverable as a debt under section 80 of the Strata Schemes Management Act 1996 ("the Act").

**(f)** Contribution periods.

**(g)** Names of office bearers.

**2.** Exemption from the need for general meeting approval for certain legal advice, service or action

The new regulation provides an exemption from the need for a general meeting to approve legal advice, service or action:

- (a)** that would not exceed more than \$1,000 per lot (excluding utility lots) or \$12,500 whichever is the lesser; or
- (b)** if its purpose is to recover unpaid contributions or interest under section 80 of the Act.



**2. Cont** Although not requiring approval at a general meeting, legal advice, service or action which falls under these two categories should be approved at an executive committee level or otherwise.

**3.** Section 108 inspection fees and section 109 certificate fees

Section 108 inspection fees and section 109 certificate fees have increased between 15 – 18%.

**4.** Additional documents to be provided to the owners corporation by original owner

If the building is required to be insured under Division 2 of Part 4 of Chapter 3 of the Act any valuation of the building is required to be provided by the original proprietor at the first annual general meeting.

**5.** Two quotations threshold for large strata schemes

The two quotations threshold for large strata schemes has increased from \$25,000 to \$30,000.

**6.** The model by-laws have been amended

**(a)** The model by-law in regards to the hanging of washing has been amended to allow the hanging of washing provided it is not visible from street level outside the parcel.

The by-law modification only applies to the model by-law for residential strata schemes (Schedule 2), model by-laws for retirement villages schemes (Schedule 3) and model by-laws for mixed use schemes (Schedule 7).

**(b)** An additional model by-law has been included in all of the model by-laws in the Regulation to specify a manner of electronic service of documents by an owners corporation on an owner.

The by-law provides:

“A document may be served on the owner of a lot by electronic means if the person has given the owners corporation an e-mail address for the service of notices and the document is sent to that address.”

These model by-laws will only apply to new strata schemes



registered after the commencement of the Regulation (1 September 2010) and which also adopt the relevant model by-laws found on the Regulation.

Strata schemes which were registered before 1 September 2010 (or those registered after 1 September 2010 which do not adopt the model by-laws in the Regulation) may wish to consider amending their by-laws to include the above two changes.

**7.** The proxy form

The proxy form has been amended to remove the requirement for the proxy to sign the form and the note specifying the default position where the proxy is effective for one meeting if no selection is made.

**8.** The monetary limit to exercise priority votes

The monetary limit to exercise priority votes has increased from \$200 to \$1,000.

**David Bannerman**

Principal  
Bannerman Lawyers



# Reduce Your Utility Costs

Water and electricity are two of our oldest and most valuable utilities and have become part of our everyday lives, both in usage and rising costs.

The convenience of having these utilities available in all homes has caused us to become, in some cases, wasteful in our use of these precious resources.

We have outlined a few key areas in which we can improve efficiencies and change some of our basic habits.

## Electricity Savings

Behavioural change – such as simply turning off lights when leaving a room – is the first step in reducing electricity consumption and, more importantly greenhouse gasses.

There are also other methods such as changing your standard incandescent type globes to energy saving globes. We are aware that there is concern regarding the lighting output from energy saving globes however, we note the introduction of halogen light globes with a 30% reduction in consumption which look similar both in lighting and appearance in many respects to the old incandescent globes.

To give you an idea of the savings for a two bedroom unit, changing five or six incandescent globes to energy saving lamps can create a power saving of in excess of \$100 per annum, not to mention the reduction in greenhouse gas emissions.

## Water Saving

While in most strata schemes the water usage is paid by the owners corporation, there are still many ways in which an individual can help the environment by saving water.

The fitting of some simple devices to our taps can dramatically reduce your water usage.

We know owners and residents have heard it all before

but a review can always help.

Aerators are devices that fit into the nozzle of your bathroom and kitchen taps. They come in a number of sizes and restrict the flow of water from your tap without reducing water pressure.

Sydney Water is offering a free Do-it-Yourself (DIY) Water Saving Kit. This can be obtained by logging on to [www.sydneywater.com.au](http://www.sydneywater.com.au) and entering "water saving kit" in the search area.

Rainwater tanks are another way of conserving water usage around the building, and are filled by rainwater run-off from the roof. The installation of rainwater tanks are increasing with a number of local Councils enforcing installation with new developments. There are many styles, both in colour and shape, and are becoming very common in villa and townhouse complexes.

Sydney Water's Rainwater Tank Rebate, which runs until 30th June 2011, can offer a rebate for tanks as little as 2,000 litres, with a further rebate offered if connected by a plumber to the toilet or washing machine. Visit Sydney Water's website for full details on these rebates.

A small sign is also recommended at the front of the property stating that rainwater is being used for irrigation, just to keep the neighbours friendly.



# Questions & Answers

**Q:** The owner of the apartment above me has removed the carpet from the lounge room and replaced it with a timber floating floor. Approval was not given by the owners corporation and the tapping noise from the apartment is driving me nuts. The owners corporation won't help and keep ignoring my complaints so how can I get the owners corporation to take action?

## Answer:

The carpet is not common property and does not require the approval of the owners corporation to be removed. Likewise a floating timber floor does not require owners corporation approval to install, as it is treated the same as carpet. However, there is a requirement under the by-laws to ensure that the floor space (other than kitchens, bathrooms and laundries) is covered or treated sufficient to prevent the transmission of noise. Whilst the owner is not necessarily required to remove the floating floor, he must take all necessary steps to prevent the transmission of noise. As the floating timber floor is not common property, the affected party (from the noise) can take action via the Office of Fair Trading Mediation Services on the basis that the noise is disturbing the peaceful enjoyment of another owner or occupier.

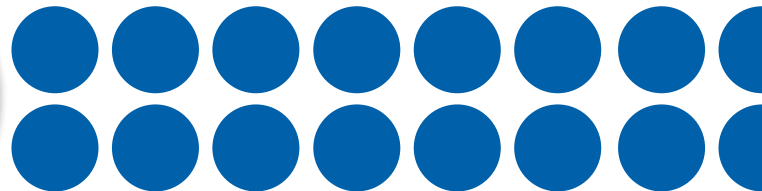
**Q:** An owner in our scheme has installed an air conditioning unit in their roof space which we have been told is common property, and they didn't get permission to do so from the owners corporation. What should the owners corporation do?

## Answer:

The owners corporation has two options:

- a) It can make an application to the Office of Fair Trading for mediation to endeavour to resolve the approval. In the event that mediation fails, an order from the Consumer Trader and Tenancy Tribunal can be sought to remove the equipment from the common property.
- b) Negotiation could take place with the outcome being that the owner consents to a special privilege by-law allowing them to place the air-conditioner in the roof, including damaging the ceiling. The exclusive use by-law would place the responsibility on the lot owner to repair and maintain the system.

If the owners corporation fails to take either of the above actions, it can be left with the responsibility to repair or replace the air conditioning unit. This may mean that the present owner sells and a subsequent owner many years later requires the owners corporation to repair or replace the air-conditioning unit.



**Q:** An owner in our strata scheme wants to enclose their carspace in the garage area and if they do, I won't be able to let passengers out of my car because there will be no space to do so. The owner said that wasn't his problem 'tough luck'. What can I do besides driving my car in and out of my carspace?

### Answer:

This question was an old question from an owner which we have raised again due to a recent matter before the Consumer Trader and Tenancy Tribunal.

It related to an owner wanting to enclose their carspace. One of the outcomes would have been that the adjacent owner would have to allow passengers to exit from the vehicle prior to parking and also they would have to reverse into the carspace.

The determination in this matter was it was claimed that drivers use the space on the adjoining lot in order to comfortably enter and exit their vehicles. However, a driver or passenger does not have any right to use the neighbour's lot for alighting from the car. They do so without the consent of the neighbour, if indeed the neighbour is aware of the action.

It is true that in considering this matter, and the interests of all lot owners, it should be decided whether the enclosure would unreasonably interfere with the use of adjoining lots. The outcome was that the opportunity to enter onto one's neighbouring lot carspace without permission was an interference with the use of one's carspace.



# Executive Committee Seminars

**Executive Committee members are invited to attend an evening seminar, at no charge, to be held at Strata Choice St Leonards offices.**

The presentation, delivered by the company education Consultant will provide participants with information regarding:

- Meeting conduct;
- The duties and obligations of the Executive Committee;
- The powers of the Owners Corporation;
- The role of the Strata Managing Agent; and
- Issues relating to risk management for Owners Corporations.

**Yes I am interested in receiving**

**EC Seminar dates**

Name.....

Strata Plan Number.....

Email address.....

Phone.....

**stratachoice**

If you would like to attend an Executive Committee Education Seminar please direct your request to

**education@stratachoice.com.au**