

**Publication Date: 13 June 2016**  
**YSP Podcast Transcript: Episode 015. How proposed strata laws will affect tenants  
in strata schemes**

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**Intro:** Welcome to Your Strata Property. The podcast for property owners looking for reliable, accurate, and bite-sized information from an experienced and authoritative source. To access previous episodes and useful strata tips, go to [www.yourstrataproperty.com.au](http://www.yourstrataproperty.com.au).

**Amanda Farmer:** Hello and welcome. I'm Amanda Farmer and this is Your Strata Property. Today, I'm flying solo which I haven't done for a few weeks and I am looking forward to it.

Today, I want to talk about tenants in strata and the reason this is at front of my mind is because today I delivered a workshop to some strata managers in Sydney and I was running through with them the proposed new strata laws for New South Wales. These are laws that we are expecting will take effect around November/December this year.

Parts of the law have already been made and that's the Strata Schemes Management Act 2015, and the Strata Schemes Development Act 2015, and parts of the law remain in draft and those drafts are the regulations for each of those acts.

Now the regulations came out about a month ago. Part of my exercise with my strata managers today, was to go through both the acts that have been made but haven't yet commenced, as well as the draft regulations and in the process of going through those, it came to my attention that there was a quite a bit of concern about the role that the new laws and proposed new laws provide for tenants living in strata schemes, and how strata managers were going to be able to meet the requirements of the new legislation when it comes to including tenants in meetings, and making sure that they receive documents that the legislation requires them to receive.

So I thought I would take some time this afternoon to go over some of those points and these are relevant both to strata managers and to tenants of course, and investor owners so I'm sure we have a variety of those stakeholders listening in. And I'm going to give you a summary of the key points in both the new law that has been made but not commenced, and the draft proposed regulation.

Now I've got something exciting to offer to you today: it is a download cheat sheet, that you can hop over to the Your Strata Property website and obtain, and it's essentially a summary checklist of the main points that I'm going to talk about for the next 10 minutes or so.

You can grab that one, distribute it to your fellow managers, committee members, investor owners or tenants who might be wondering what this new law is all about and how it's going to affect them when it comes to dealing with tenants in strata.

So head over to [www.yourstrataproperty.com.au/tenants](http://www.yourstrataproperty.com.au/tenants) and you'll be able to download, direct to your inbox, that cheat sheet.

Okay. So, the 4 things that I'm going to talk about: notices of general meeting; where they need to be sent when we've got tenants in a strata scheme; I want to answer the question: 'how do we know if a lot is occupied by a tenant?' and where do we need to send our information? That was a big question in the workshop today; tenant representatives on the strata committee; and the proposed laws on how a tenant is nominated to the strata committee.

So let's cover off those 4 things. Notices of general meeting: where we've got a strata scheme where any of the lots are occupied by tenants that owners corporations must, at least 7 days before any general meeting, give a copy of the agenda for the meeting to each tenant, or if you've got a notice board that is required to be maintained under the by-laws, you can display a copy of the agenda on the notice board.

So don't forget to do that when you've got tenants in the building once the new law commences. Tenants can attend general meetings, but they're not entitled to vote in their own right. They can vote if they hold a proxy from a lot owner, but they have no



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voting right as a tenant.

Now the owners corporation can decide that tenants, as long as they are not also proxy holders, are not entitled to be present at the meeting when certain matters are being discussed. And these matters are set out in the legislation. They are matters about financial statements and auditor's reports, the levying of contributions, the recovery of unpaid contributions or a proposal for the collective sale or renewal of the strata scheme.

Now if you're interested, this law is set out in the Strata Schemes Management Act 2015 which, as I've said, has been made but hasn't yet commenced. Check out Schedule 1, Part 2, Clauses 11 and 21 of that piece of legislation.

Alright, 2nd point: how do we know if a lot is occupied by a tenant? So we've got to give them a copy of the agenda for the general meeting, assuming we don't have a notice board that we can put it up on, we've actually got to give it to them, so we need to know who they are and how we find them.

Now this is where we turn to our tenancy notices, which we've received under new Section 258 of the Strata Schemes Management Act: "If a lot is leased, the lessor must give notice of the lease to the owners corporations." That's what this section provides, and they must do that not later than 14 days after the commencement of the lease.

So they have to provide you, the owners corporations, usually via the strata manager, with notice of the tenancy. If they don't do that, there's actually a penalty and they can be fined five penalty units, which is currently \$500.

They also need to notify the owners corporations of any subleases and any assignments, assignments of lease that is. So the idea is that the owners corporation's records are kept up to date with details of the current tenant for the lot, and the notice that's being provided must include the name of the tenant or tenants, their address for service and the name of any agent acting for the owner in relation to the lease.

So assuming lessors and real estate agents keep owners corporations and strata managers up to date, which I appreciate they don't always do and it is a source of frustration, then these notices should be provided in a timely manner and should contain the information that you need to be able to give a copy of the agenda for general meetings to each tenant.

Alright, now the 3rd point that I want to talk about: tenant representatives on the strata committee. Now again, this is law that has been made: it's section 33 of the new Strata Schemes Management Act. Where there are tenants for at least half of the number of lots in the scheme, the tenants may nominate one tenant representative to sit on the strata committee. And I'm using the term strata committee because that's the term under the new legislation for what we currently know as the executive committee.

Now a tenant representative on a committee is not entitled to vote or put a motion forward or nominate anyone for office, and is not entitled to themselves act as an officer of the owners corporation, and they're not counted in determining the quorum. So they are there, they can discuss items with the other committee members, they can put their views forward on motions, but they can't vote and they can't put forward motions.

So as I've said, that's section 33 of the new 2015 Act expected to commence at the end of this year.

[author note: what follows below has now been superseded by the making of the Strata Schemes Management Regulation 2016. Please download a copy of the updated cheat sheet at [www.yourstrataproperty.com.au/tenants](http://www.yourstrataproperty.com.au/tenants) to ensure you have up to date information].

Alright, lastly and perhaps most controversially, the proposed new regulation on how we nominate tenants to the strata committee, the process for nominating tenants to the strata committee. Now this is a draft regulation as I've said, it came out about a month ago, and the submission period has just recently expired, and the policy makers are off considering those submissions and deciding whether they are going to make any changes to this draft, insignificant, minor, or not at all.

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And the draft regulation proposes that an owners corporation of a scheme where at least half of the lots occupied by tenants, holds a meeting of tenants. The purpose of the meeting is to nominate someone, a tenant, for the position of tenant representative on the strata committee. Fair enough.

The meeting of tenants must be held not later than 7 days before the annual general meeting, and the notice of meeting of tenants must be sent to tenants at least 21 days before the annual general meeting.

So the way I see it, the committee is nominating a date for the annual general meeting. They're then tracking backwards probably about 1 month, say 28 days, and they are working out when they have to send notice of a tenants' meeting, because that has to be 21 days before the annual general meeting, and when the tenants' meeting can be held, because the tenants' meeting has to be held not later than 7 days before the annual general meeting, and the tenant representative is nominated at that meeting. So the proposed regulation is essentially seeing owners corporations, where at least half of the lots occupied by tenants, having to hold a separate tenants' meeting, at least seven days before the AGM.

I probably don't need to point out the administrative burden of that and I'm aware that submissions have been made, drawing to the policy makers' attention, the difficulties associated with having to call an additional meeting within a month of an upcoming annual general meeting.

So I'd be interested to see how that proposal is dealt with when we have the final regulation. That is draft regulation 7 in the draft Strata Schemes Management Regulation.

So those are my thoughts on tenants in strata under the reforms to New South Wales' strata law, most of which will come into effect at the end of this year, and we wait to see what, if anything, will happen to the draft regulation on nominating tenants to strata committees.

If there are any changes in that respect, you will be sure to hear from me. So don't forget to head over to [www.yourstrataproperty.com.au/tenants](http://www.yourstrataproperty.com.au/tenants), grab your download for today: your cheat sheet, your summary of these important points, and if you have any questions, as always, feel free to shoot them through to me. Add a comment to the comment section and I'll be sure to address those on the show for everyone's benefit. Talk to you next time.

**Outro:** Thank you for listening to Your Strata Property. The podcast which consistently delivers to property owners reliable and accurate information about their strata property. You can access all the information below this episode by the show notes at [www.yourstrataproperty.com.au](http://www.yourstrataproperty.com.au). You can also ask questions in the comment section which Amanda will answer in her upcoming episodes. How can Amanda help you today?

