

Publication Date: 08 November 2016

YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future -
Part 1 What strata owners need to know about the new NSW strata law

Listen to this podcast episode [here](#).

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.

Amanda Farmer: Hello and welcome. I'm Amanda Farmer and this is Your Strata Property. We are going to be doing something a little bit different for the next few episodes. I'm going to be sharing with you the audio of my presentation delivered to over 160 strata owners a few weeks ago now on the new New South Wales strata law due to commence on the 30th of November.

Now I'm sharing this because I was asked by a number of listeners who couldn't make it to the event on the night: "Amanda, can you please make sure you record this and please share it on the podcast?"

So here it is part 1 of that presentation. I'm including a story about how I got my own start in the strata sector, a little bit about me and how I came to be where I am today, and then I get stuck into those parts of this new legislation that I think are important to strata owners, particularly the many committee members who were in the room that night and who I know listen to this podcast and are members of our YSP online membership community.

I'm talking about changes to the law when it comes to renovation works within lots, what you need to know about by-laws generally, what's new about meeting procedure, with a whole lot more to follow next week in part 2.

Now during the presentation, I do refer to a paper that is available for download that's available to you too and as I say in the presentation it is at www.yourstrataproperty.com.au/newlaw. Head over there to grab your copy and you'll also get a copy of the slides from the night if you head over there and request that paper and if you've got the slides then you're going to be in on a few of the jokes that you are going to hear in the presentation as well. So here it is, part 1, my take on the new New South Wales strata law. Enjoy!

Hello and welcome. Thank you very much for that kind introduction Karen, and thank you to OCN for having me here tonight to present to you all about the new strata law.

Now, as Karen said, the OCN and I share a passion for education and I have to commend Karen and Alicia and the team at OCN for being able to gather so many of you here this evening. This is amazing.

I think I heard there are about 160 registrations and it's looking like most of you have turned up and I think I've heard around the traps that this is the biggest turnout for any of the workshops that are going on around town at the moment so that really says a lot for the work that OCN does and its ability to be able to gather you all together...

And thank you! Thank you for taking the time out on a Monday night to come out and learn, learn about this new law. I really believe that educating yourselves as strata owners is an investment not only in your home but in your community as well. I believe that it's by learning about this stuff that you make your communities better places to live, so good on you for coming out tonight and taking the time out to learn.

Now with that, I want to know a little bit more about you. How many resident owners do we have in the room tonight? So how many of you are living in strata? You own your property as well? Wow! Okay, what is that? Is that 80%, maybe 85% of you?

How many investor-owners – you might live in strata but you also have an investment property that's a strata unit? Yes, okay maybe 10%, 15%?

Okay, how many committee members? Yes, they're the engaged ones. You're in the right place, we've got mostly committee



Publication Date: 08 November 2016

YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future -
Part 1 What strata owners need to know about the new NSW strata law

members here, about 85% – 90%.

Have we got any tenants in the room? You might own in strata but you also rent where you're living now. No? Okay, maybe not such an engaged bunch, the tenants, we haven't got anyone putting their hands up here.

Any strata managers? Fantastic! Lovely to see you, thank you. Anyone that I haven't covered that applies to the sector?

Any insurance brokers that we might have seen? I knew you were here, there you are, we have the 3 insurance brokers at the back there.

Any lawyers? There, yes. Okay, some always some sneak in... this is my show tonight guys.

Okay, so I'm going to try... I do want to walk but I'm just going to try not to get my head in the shot here. That's you. Here's a little bit about me, and how I've come to be standing on the stage to you tonight, professing myself to be a strata expert.

I am not your usual Gen-Y'er. I say that because I've only had 2 employers in my life, not including myself. When I was 16, I did my year 10 work experience with Robert Van Aalst, lawyer, turned up for my week, said to Robert: "my name is Amanda and I want to be a lawyer", he said "that's nice, I wanted to be a fireman, good luck with that."

All of 16 and she knows what she wants to do! I spent a week with Robert and developed my passion for the law. A few years later, I'm at university, I ring Robert "hey, remember me? I need a job, can I have one?" Robert says "I haven't got anything for you right now but my wife, Reena Van Aalst, is a strata manager and she's looking for an assistant."

At that time, Reena was working with John Little at Harvey Strata – still going strong – and I was Reena's assistant for a year. That was my very first job and my very first exposure to strata. Now I'm sure there are some of you in this room who have the privilege of living in buildings that have been or are managed by Reena and I think you would agree with me when I say that Reena is one of the best strata managers in this state, and I was absolutely privileged to have Reena train me and introduce me to strata. So, as well as having a passion for law, I certainly developed passion for strata and it came time for me to move on to become a paralegal with Robert.

John Little tried to convince me to become a strata manager and stay. Looking back now I think maybe that might have been the more lucrative option but I decided no, I was going to be a lawyer and went off and worked for Robert. 10 years went by and I took over Robert's practice – that was 3 years ago. We rebranded as Lawyers Chambers and we decided to become a specialist strata law practice.

And we've achieved that over the last 3 years and I'm very proud to say that's where my passion is, I love what I do every day and as I've said, I also have a passion for education and I think strata and learning just go hand in hand.

And this year's saw the launch of my podcast which is where a lot of that learning happens, I think there are few podcast listeners in the room here tonight, it's lovely to see you and have you see me for a change, I'd love to meet you.

And the evolution of that podcast is happening now. I have a new online community which I call the YSP membership community and there's a little bit of information about that that's been handed out on your chairs tonight. This is a place where you have access to me and other strata experts. It's a bit different to OCN's membership and I do think that they go hand in hand. We too have a forum, it's a Q and A forum, you're the Q and I'm the A, you can jump in there and pick my brain about all things strata. So it's something brand new that we're launching and I'm so proud to introduce it to you all here tonight and I'd love for you all to head over to the website and check that out, that's www.yourstrataproperty.com.au.

Alright, so that's a bit about me and how I've come to be standing on this stage this evening talking about the new strata law due to commence on the 30th of November this year. I think that's just under 6 weeks away.



Publication Date: 08 November 2016

**YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future -
Part 1 What strata owners need to know about the new NSW strata law**

Who's excited about the new law? Aaah, that's disappointing. I thought I'd see more hands than that, maybe I can help to change your minds. Lawyers are a cynical bunch if you haven't noticed already and if you have been reading about this new law, educating yourselves, getting out and going to seminars, you probably heard a lot of bad stuff. We're all a bit worried about what's coming.

I don't want to talk about that tonight. I want to talk about the good stuff. I think there's a lot of good stuff in this new law, particularly for you as strata owners, and that's why I want to focus on and teach you about so you can take it back to your communities and get the most out of this new law.

I can't cover everything tonight, not only would it be physically impossible but it will bore you to tears, so what I have done is pulled out what I think are the most important things for you as owners to be learning about. We are very lucky after my next 50 minutes or so to have a Q and A session where I will be joined by Natalie Fitzgerald, strata manager from Strata Sense, another fabulous strata manager that we have the privilege of serving us.

And I believe that we might even have Reena Van Aalst in the room who will make a cameo appearance and join us up on the stage, it'll be fantastic. Okay, so you have copies of the slides there, the slides that I'm going to go through. Please feel free to take notes on those tonight but don't worry about capturing everything because I do have a paper which pretty much covers everything I'm about to say and a bit more I think, and you can download a copy of that paper from the URL that you can see on the slides, now that is www.yourstrataproperty.com.au/newlaw.

And you just pop your email address in there and you will have a copy of my paper. I think it's about 10 pages long, sorry to scare you but there's a lot of good stuff in there. A copy of the paper as well as a copy the slides, just in case some of them haven't made it around to you this evening.

Alright, let's get stuck into the nitty-gritty: the history of strata law here in New South Wales. No, I'm not going to give you a history lesson. What I want to do is show to you that we have been here before. We have had many iterations of strata legislation here in New South Wales and this is just another one of them, we're all still standing, we're all still okay.

The vast majority of our communities are still functioning very nicely thank you very much. The last 6 pieces of legislation here numbered 4 to 9 are actually all in place. We have 6 pieces of legislation governing the management of our strata communities.

What's happening with the new law? Well, we're replacing those 6 with 4, having the Strata Schemes Management Act of 2015, the Strata Schemes Management Regulation of 2016, the Strata Schemes Development Act of 2015 and the Strata Schemes Development Regulation of 2016, I hope.

I say I hope because I believe at the time of me standing up here that regulation is still in draft. We are told by Fair Trading that it should commence on the 30th of November with everything else but we still have our fingers crossed, I think. It is out with the old and in with the new. These pieces of legislation are repealing and replacing what we have now, we're not amending, tinkering around the edges with bits and pieces. We have entirely new legislation.

What I'm going to talk about tonight mainly falls under the Management Act and the Management Regulation. We're not getting too much into the Development Act or Development Regulation, that's mainly relevant to, you can guess it, developers. There's a little bit in there about the collective sale and renewal process but basically tonight we are focusing on what's in the management act and the management regulation for you as owners.

Alright, so what are some of the new things in this legislation that are going to impact you? Well, there are terminology changes. Our executive committee is now going to be called out strata committee. Why are we doing that? Well, I think we're bringing some committee members down a peg here.

The policy makers want to make it clear that we don't have hierarchies in our strata schemes. We're all here as a community to help each other and there's nobody executive about our committee members and office holders. Fair enough, I'm just calling them



Publication Date: 08 November 2016

**YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future -
Part 1 What strata owners need to know about the new NSW strata law**

committees, I suggest you do the same.

I've got a little story on this. I did have somebody email me recently looking for some legal advice and the email commenced like this: "I am the reigning chairperson of my strata scheme." This image came to mind [referring to slides]. You know this person?

The second line of the email said: "and I'm having problems with my strata manager" and I thought I bet you are. So I think perhaps, maybe these were the kinds of committee members that the legislation might have in mind when it decided we're not going to call you executive committees, we're just going to call you committees. Fair enough.

What else are we changing about our terminology? Our sinking funds are becoming capital works funds. Okay so I think that's probably a good idea, more of an appropriate description of what these funds do, they're for our capital works, why don't we call them that. Good change.

What else we are doing? What we currently call 'exclusive use' or 'special privilege' by-laws we're now calling 'common property rights by-laws'. I particularly want to highlight this one because I think a lot of committee members in the room have dealt with this or are dealing with this.

We call them exclusive use by-laws currently, they're now going to be common property rights by-laws. Same reasoning I think behind that name change, we don't want to make too clear that we're giving particular lot owners any exclusivity – even though that's exactly what we're doing – but we're going to call them common property rights by-laws.

Okay, let's move on to meetings. What is changing about our meetings? Well, basically we're bringing our meetings up into the modern era. We are now allowed to have meetings electronically by video conferencing, teleconferencing and we can vote electronically.

How do we do that? Well, there are a lot of software providers out there doing the rounds with your strata managers and showing them the kinds of software that they need to implement to make electronic voting work. I had Dee Pannell from Strata Vote on my podcast episode 028 if you want to check it out and she talks a little bit about how Strata Vote works.

Queensland has been doing this for quite some time and New South Wales is now stepping into that regime. I'm telling owners that if you are managed by a strata manager it's really going to depend on whether your manager is up for this kind of software. It's something that the managers are going to have to be on board with and if you're thinking about wanting to implement electronic voting then that person is the right person to talk to.

What else is happening with meetings? Well, the timing of our AGM is changing. What do I mean when I say that? Well, currently you're required to hold your AGMs somewhere between 11 and 13 months after the last one. 1 month either side of the anniversary I think is the window. That can get a little bit onerous for not only you as committees but for your strata manager. I know some strata managers who happened to have all of their meetings fall in November and it just becomes impossible to attend.

So part of making our schemes more modern and more flexible is that we are changing that rule and the rule is now that you must simply have an AGM once in each financial year. When I say financial year, I'm not necessarily meaning 1st of July to 30th of June, it's the financial year for your building and your building is going to have a different financial year depending on when the strata plan was registered. So if you're not sure when your financial year is and you're interested, your strata manager is the person to talk to, but as long as you hold 1 AGM in each financial year you will be complying with the new legislation.

Alright, what else are we doing about our meetings? We are changing the quorum rule. The current rule is if within the first half hour of the meeting commencing you don't have a quorum, the meeting must be adjourned. It must be adjourned for at least 7 days and we all come back to have another meeting.



Publication Date: 08 November 2016

YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future - Part 1 What strata owners need to know about the new NSW strata law

What's changing? Well, it's now up to the chairperson whether or not that meeting is adjourned. The chairperson can say "well we haven't got a quorum but I'm here so I'm happy to proceed" and proceed with the meeting, or the chairperson can say "well we haven't got a quorum so I'm going to decide to adjourn this meeting". Alright, entirely up to the chairperson... it raises some interesting questions about how the chairperson makes that decision. Okay.

What else is happening with our meetings? Well, I raised this point about email notices. The new law is specifying that when a lot owner provides an address for service of notices they can only provide an electronic address – they don't have to provide a mailing address.

So it is possible that your strata manager for new owners, the only contact details they'll have for them is a name and an email address. So what that means is that we can now serve all notices electronically: levy notices, agendas, notices of meetings. At the moment there's this weird requirement in the current legislation that if you want to send notices by email you have to have a by-law so schemes have run out and gotten by-laws to send notices. I think there is a piece of legislation in New South Wales, the Electronic Service of Document Act or something like that that allows you to serve documents electronically anyway. So I think what this new law is doing is just making clear that it is possible for an owner only to have an email address and therefore all notices can legally be sent by email.

Alright, and the last point that I want to talk to there is the limit on proxies. So you've probably heard a bit about this in the media: dirty, dirty proxy harvesting going on in some buildings. What is the legislation doing to deal with that? Well, it's putting a limit on how many proxies one person can hold.

If you have a scheme with 20 lots or less, one person can hold a maximum of 1 proxy. If you have a scheme with more than 20 lots, one person can hold 5% of the number of lots in the building, that's the maximum number of proxies. So for a 100 lot building, 5 proxies is the maximum that one person can hold.

Okay, again, some interesting questions raised there about what happens when your strata manager, your secretary or your chairperson receives a large bunch of proxies half an hour before the meeting or in the case of a large strata scheme, 24 hours before the meeting and they say "oops, I'm over the limit."

What do they do about that? So I know some strata managers are implementing procedures now that deal with that and they're deciding what they are going to do and I think this is one of those culture shifts. It's something that there's a bit panic about and "how do we deal with it?" but I think it's a culture shift, once people learn about this requirement or aware of it then I suspect they are going to be ringing their strata manager, ringing their chairperson, ringing their secretary to say: "hey, are you holding any proxies? How many have you got, can you take mine?" and we'll all sort of fall into a comfortable routine about that.

Alright, let's talk about renovation works, something that a lot of you as committee members are dealing with regularly. What's happening when it comes to renovation works, a few big changes in this area. Well, we are now having a 3-tiered system for the approval of renovation works by lot owners.

At the bottom of that tier, we have cosmetic works. What are cosmetic works? Hanging stuff up, driving nails and screws into the walls, replacing carpet, lifting carpet, replacing it with new carpet, installing built-in wardrobes, replacing built-in wardrobes: this is cosmetic work. Cosmetic work does not need any approval. Owners can simply go ahead and do it and you can have a by-law that specifies certain things as cosmetic work. That list that I just gave you, that's in the legislation. I'm not just pulling that out of the air, that's in the legislation. These are the type of things that a cosmetic work. If you want to add to that list then you can pass a by-law adding to that list.

What is in the 2nd tier of the hierarchy? Well it's called minor renovation works, such things as floorboards. Floorboards are minor renovation works – you can tell by the blood that's on the floor -, air conditioning installations, kitchen renovations, rainwater tanks, these are all things that are listed in the legislation.

Publication Date: 08 November 2016

**YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future -
Part 1 What strata owners need to know about the new NSW strata law**

Minor works require an ordinary resolution in a general meeting. Okay, majority vote. Now this is a bit controversial because these are the kinds of things that you currently probably have by-laws for. By-laws have special resolutions for higher threshold of approval. So this is a big change and there are some knees knocking about this one. You can, like cosmetic works, have a by-law that specifies what kinds of things are considered minor works and you can add to that list.

You can also delegate to your strata committee the job of approving minor works so it doesn't have to go to a general meeting and the owners corporation in general meeting delegates that authority to the strata committee, that's one of the questions that has come through when I requested a few questions for this evening so I hope that answers that one.

Alright, and what's left? What's on our top tier here, changing the external appearance of the building, structural work, work that's affecting waterproofing. What are we doing about that? Well we're approving it by special resolution at a general meeting, so anything that has a bathroom renovation, if you're stripping out tiles from the bathroom – at least in my experience – you are, or you should be, getting the bathroom re-waterproofed, so that's waterproofing so that's going to need a special resolution in a general meeting. Changing the external appearance and doing structural work all require a special resolution in a general meeting.

Alright, let's talk a little bit more about by-laws. What are some other things that are happening when we're dealing with by-laws in the new law? Well, there's a new requirement that by-laws must not be harsh, unconscionable or oppressive. This is new, believe it or not.

Currently, in New South Wales we have an incredibly broad by-law making power, you can pretty much make by-laws about anything as long as it has to do with lots and common property under our legislation. Cathy Sherry from the University of New South Wales has got a book about to come out on this and she has a quip that goes like this: "In New South Wales you can have a by-law that says you can't meat in your lot, that's legal." I think she's right, as far as I'm aware nobody's tried that one but I think under the new law that would be harsh, unconscionable or oppressive. The other interesting about this requirement is far as I read the legislation it's retrospective, so it's going to apply to the by-laws that you currently have in place.

Okay so that's why we have this 2nd point on the slide here: that you are required under the new law to review your by-laws by the 30th of November 2017 and I suggest when you're reviewing them that you are going through to see if any of your by-laws might be considered harsh, unconscionable or oppressive. Perhaps a by-law that says "children who are under the age of 16 cannot play on common property unless they are supervised fine adult at least 21 who is also a member of the family", that by-law exists, I've seen it and that might be a little harsh or oppressive, at least I would argue that if I was arguing that for the lot owner who wanted to get rid of it.

So remember that you're required to review your by-laws within 12 months of the legislation coming into effect. What does that mean? Sit down, have a look at them as a committee, decide whether you want to send it out to a lawyer – I'm doing a lot of these at the moment – what kind of things do you want to include? Do you want it to change? Do you want to adapt any of the model by-laws that are coming in with the new law? There are a few good ones coming in. No, they do not automatically apply to you, this question was raised in the YSP membership forum recently by a member and there's a little bit of discussion there about it.

Do the new by-laws automatically apply to my building? No, they don't. All of your by-laws that you have now today you will still have on the 30th of November. Having said that, if you want to adopt any of the new model by-laws – and I'll talk about a couple of those good ones in a minute – then you can by special resolution, change of by-laws, register with the LPI.

On the topic of registration, when your new by-law is resolved or your amendment to your by-law is resolved in a general meeting, under the new law, you have 6 months to register that change with the LPI. That's important because that's a big change, at the moment it's 2 years, huge change. It's something that strata managers are going to have to be on top of, lawyers and other agents who are doing these registrations. If your change of by-laws is not registered within 6 months, the by-law will lapse and you have to go back to a general meeting to approve that one again.



Publication Date: 08 November 2016

**YSP Podcast Transcript: Episode 035. New Strata Laws: Preparing For The Future -
Part 1 What strata owners need to know about the new NSW strata law**

And the other requirement for by-laws: the secretary must keep a consolidated and up to date copy of the by-laws. Some strata managers, and if you have a manager your secretary duties will be delegated to them, some managers are already doing this and doing it well, keeping a nice, up to date copy of the by-laws with an index, everything that is currently enforced is there, all of the by-laws that the scheme was registered with, whatever amendments overtime and the new by-laws. That is something that is now going to be mandatory under the legislation so I know certainly not everybody does that, I do have to wade my way through histories of by-laws from time to time, now it's going to be a legislative requirement, something to be aware of.

Alright, let's talk about parking. One of the Jimmy Thompson's 3 P's I think. Pets, parties and parking. The 3 P's of strata.

So that was part 1 of my presentation delivered to over 160 New South Wales strata owners on the new New South Wales strata law commencing very soon. Remember to grab a copy of the detailed paper that I've prepared, it includes everything that I'm talking about and more at www.yourstrataproperty.com.au/newlaw. Stay tuned for part 2 when I'm talking about parking, pets, overcrowding, new rules about strata managers and strata management contracts, all really important stuff for New South Wales owners to be on top of as we enter this new regime, so part 2 coming up very soon. Thank you and catch 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. You can also ask questions in the comment section which Amanda will answer in her upcoming episodes. How can Amanda help you today?



The podcast for property owners looking for reliable, accurate and bite-sized information. from an experienced and authoritative source.