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YSP Podcast Transcript: Episode 294. Mandatory Annual Reporting for NSW Strata

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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.

Amanda Farmer: Hello and welcome to our first podcast episode for 2022. Happy new year, I hope you've had a relaxing break and that you are happy and healthy. A little tricky right now to be healthy, particularly if you are on the east coast of Australia, where the pandemic has tightened its grip on us all. I am kicking off this year with some new legislation for our New South Wales residents. This one may have flown under your radar in the busyness of December, but on the 17th of December 2021, the Strata Schemes Management Amendment Information Regulation was made. This is the regulation that details a new annual reporting requirement for all New South Wales strata schemes. The regulation was made on the 17th of December, but it doesn't commence until the 30th of June this year, 2022. This is the regulation that we were talking about back in October last year. We had a draft of the regulation then.

I gave you a quick look at it during my Friday live chat over on our Facebook page on the 29th of October. The regulation has now moved from draft to final, and there is a link for you to check it out over in the show notes under this podcast episode. The new annual reporting requirement mandated by this new regulation is necessary so that our New South Wales government can build our strata hub. Many of you have been asking me about the strata hub. What is it? When is it going to start? When are we going to have access to the strata hub? I'm going to walk you through the answers to those questions today and make sure you're across the new legal obligations that are all owners corporations will have from the 30th of June this year. Now, way back in 2019, the New South Wales government proposed the development of a strata hub that was in response to feedback from strata stakeholders, owners, residents, strata managers, strata lawyers.

We reported that finding information on strata schemes is just too difficult. The information is spread across many different platforms, different agencies hold information about our strata schemes. Sometimes the information can't be found at all because there is just no requirement to report it to anyone. Many people living in strata lack key contact points for their scheme. They don't know who their strata manager is, who the committee members are, whether or not there's a building manager. They don't know how they might go about finding out who these people are and what their contact details are. Importantly, our government also has no reliable way to directly communicate with strata schemes across the state in the event of a crisis, like a pandemic perhaps, especially if a building is self-managed and doesn't have a professional strata manager. So through 2019 and 2020, our minister for customer service held a number of consultation round tables with representatives of the strata sector to discuss the need for a single access point for strata information.

Now, I was involved in a number of those meetings as a representative of the Australian College of Strata Lawyers. The feedback from these meetings demonstrated to our government, the strong support for a complete and easy to use repository of information on strata schemes. That repository of information is going to be called The Strata Hub. It's intended to be an online consolidation of core information about New South Wales' strata schemes. We have more than 83,000 with strata schemes here in New South Wales. It's also going to allow Fair Trading to better monitor buildings, ongoing maintenance and defect management, and ensure that legal duties are being met and that the safety and amenity of our buildings is preserved. Some laudable goals there. What I'm sharing today is just one aspect of the strata hub, and that is our new mandatory annual reporting requirements. This is how the information about each and every registered strata scheme is going to find its way to the hub.

This new legislation requires strata scheme to provide key information about their building to Fair Trading. Strata managing agents, owners, residents, and members of the public will then be able to go to the hub to access some of that information. Not all of it. I'm going to walk you through what will be accessible by who. Now I've told you this, new legislation commences on the 30th of June 2022. What do our owners corporations, our strata schemes have to do from that date? Well, our new clause 43 in our Strata Schemes Management Regulation tells us that owners corporations are required to provide New South Wales Fair Trading with key information about their building by the 30th of September 2022, that's 3 months after the regulation commences. If the building is a new one and the owners corporation has not yet had its first annual general meeting, the requirement is to provide the information within 3 months after the first annual general meeting of the owners corporation.

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Now I'm using the term here, key information. I am going to you exactly what this key information is that has to be provided by the 30th of September 2022 for owners corporations that are already having annual general meetings and provided within 3 months after the first annual general meeting for any new owners corporation. Now after the 30th of September this year or after the first annual general meeting and the first time the information is provided to Fair Trading, the responsibility to continue to provide information each year kicks in. The information must be provided within 3 months after every annual general meeting of an owners corporation. If you don't comply with these timeframes, there is a penalty, a penalty of up to \$5,500 applies. So it's really important to be aware of this requirement, especially if you are a strata manager managing potentially hundreds of strata schemes. This is some essential information right here.

So what information needs to be reported to New South Wales Fair Trading? New Clause 43A lists 20 pieces of information to be provided. I will run through each one for you. You must provide the strata plan number, the date of registration of the strata plan. If the strata plan is part of a community or precinct scheme, you must provide the community or precinct plan number and the date of that plan's registration. The address of the strata scheme, the total number of lots in the strata scheme. You must state the number of lots that are used for residential purposes, as a retirement village, for commercial purposes, as a utility lot or any other purpose. If the building has a NABERS rating, that's N-A-B-E-R-S, an acronym. It stands for the National Australian Built Environment Rating System. If the building has a NABERS rating, you must provide that rating.

Not every building will have a NABERS rating. It's a star rating for the environmental performance of the building. If an interim or final occupation certificate has been issued, you must provide the date the certificate was issued. If an annual fire safety statement has been issued, you must provide the date of the most recent statement. For a building with a number of stories, an apartment building, you must state the number of stories above ground level in the building. If the owners corporation is required to have insurance under Section 160 of the Strata Scheme's Management Act, you must state the replacement value of the building as specified in the damage policy for the building. Now, this is where it gets really interesting. Part of the key information you must provide in this annual report to Fair Trading are the details of the secretary of the owners corporation.

That is, the person's full name, the person's telephone number and their email address. You must also provide details of the chairperson of the owners corporation, their full name, phone number, email address. If there is a strata manager appointed, the details of the agent must be provided including the number of their agents license under the Property and Stock Agents Act. If there's a building manager appointed, the building manager's name, phone number, and email address must be provided. An emergency contact person for the strata scheme has to be nominated and their full name, phone number and email address provided. You must also explain their connection to the strata scheme. Are they the secretary? Are they the chairperson? Are they the strata manager, the building manager or the occupier of a lot in the building. The emergency contact person must also be someone who has consented to be nominated by the owners corporation as the emergency contact.

The date of the most recent annual general meeting of the owners corporation must be provided. If the owners corporation is required to have a capital works fund under Section 75 of our Strata Schemes Management Act, the balance of the fund must be reported. Now that is the balance that is specified in the most recent financial statement. And finally, if a strata renewal committee has been established under the Strata Schemes Development Act, then the date the committee was established must be provided in the annual report. Now, how do you provide all of this information to New South Wales Fair Trading? There will be an online form. I anticipate we will have a specific website to go to. I'll be letting you know where that is as soon as I know. Fair Trading has told us that some of the information in the online form will be prefilled information that may already be known by Fair Trading, but it will be important to still check and validate the content in the form.

There is a fee to be paid when submitting the annual report. This fee is set out in our new regulation. The fee is \$3 per lot. So if you are submitting an annual report for a 2 lot scheme, the administrative fee to be paid will be \$6. If the building has 100 lots, the fee will be \$300. While we're on the subject of fees, if you have a strata manager and your strata manager is carrying out this task for you, I anticipate that your strata manager may charge a fee for this service being an additional service under their agency agreement. There is a legal requirement to correct or update any information that may be out of date, once you've submitted the annual report. This is in Clause 43B of our new regulation. If either the secretary of the owners corporation or the strata manager becomes that any of the information provided in the annual report is incorrect or is out of date.

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They have 28 days to update it. If the information is not updated within that 28 day timeframe, then the owners corporation can be fined a maximum of \$2,200. So updates will be necessary if the owners corporation changes strata managers, if the chairperson resigns and a new person takes their place. If the secretary changes, if an email address changes, if a new building manager is appointed, if a strata renewal committee is appointed, under Part 10 of our Strata Scheme's Development Act, you must update your annual report within 28 days. Now, remember that part of the information you have to include in your annual reporting is the balance of the capital works fund. Now that is the balance as specified in the most recent financial statement at the time you are making your annual report. Of course, that balance is going to change, for some buildings on a daily basis. That doesn't mean that you have to update your annual report.

That's a question and an area for confusion that I am anticipating, so I just wanted to cover that one off there for you. Now who can access this information? I've mentioned that personal contact details for secretaries, for chairs is going to be included in the strata hub advised to Fair Trading as part of a building's annual report. You may be concerned that that information will be accessible to members of the public. Well, our regulation tells us that not all of the information that's provided in the annual report is going to be made publicly available.

The information that Fair Trading may make publicly available is the strata plan number, address, and date of registration of the strata plan, the number and the purpose of the lots in the strata plan, whether the plan is part of a parent community or precinct scheme, the number of storeys above ground for the building, when we're talking about multi-storey apartment buildings and the date of the most recent AGM. We're told that a building's NABERS rating will not be listed on the strata hub, but may be accessible via the NABERS website.

A link to that part of the NABERS website, where you can find a current rating is in the show notes for this episode. Some information collected via the annual report will only be available to those who verify their identity. I'm going to list the information that is only available to a person named on the strata role for that particular building. The secretary of the owners corporation, members of the strata committee and if there's a building manager, the building manager. So any of those people can access the following information, the name and contact details of the secretary and chairperson, the name and contact details of the strata manager, the name and contact details for the building manager, the date of the last annual fire safety statement and whether or not a strata renewal committee has been formed.

So if you are sticky baking on the strata hub as a potential purchaser, perhaps looking to buy into a building, maybe you are a service provider in this strata space, but you're not otherwise an owner in that building or a resident in that building, a member of the committee or the building manager, you won't be able to access that personal information. You will need to verify your identity before you can access that information to make sure that you are a person entitled to access it. Emergency services such as the New South Wales police, the ambulance service and New South Wales state emergency service may be able to view particular details that others cannot view and this includes the names and contact details for the emergency contact people who have been nominated by the owners corporation.

And we are told that there is other information that will be held by Fair Trading and only seen by Fair Trading or other regulatory authorities for compliance purposes only and that includes a building's NABERS rating, the date of issue of an interim or final occupation certificate, the insured replacement value of the building and the balance of the capital works fund as listed on the last financial statement.

Fair Trading is cleverly, I think, collecting that kind of information to help ensure that buildings are keeping up with their legal obligations and that they can manage ongoing care of their buildings. It will be interesting to see how that information is relied on, acted upon, reported perhaps in the future, but certainly collecting it is a great place to start. Now, I want to be very clear today that being able to access information about a particular building via the strata hub does not replace the need to conduct thorough due diligence when you are looking to buy in to a building, as I hope you have understood from this brief summary, the kind of information that is going to be on the strata hub is really not all that detailed and doesn't tell us too much about the inner workings of a community. If you are a purchaser looking to buy into a building, I strongly recommend that you make an appointment to inspect the books and records of the owners corporation to find out as much as you can about that particular community.

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Having a quick look at the strata hub, well, part of that exercise is not enough. Head over to your strata.property.com.au/podcasts under this podcast, episode number 294, you will find links to the new regulation, to some summary information from Fair Trading, and also the opportunity to access the transcript for this episode. If you're a strata manager start thinking now about how you are going to meet these new legal obligations for your owners corporation clients. Make sure your committees are aware that this new regulation has been made. It is starting on the 30th of June. Are you going to charge an additional fee to carry out this service for owners corporations? Is that covered in your agency agreement? What internal office procedures will you have in place, or will you need to review and update to ensure that your annual reports are completed within 3 months of each annual general meeting?

How will you be alert to the need to lodge an update should key information change? Remember corrections and updates are subject to the much tighter timeframe of 28 days with penalties applicable, if you don't meet that timeframe. If you don't have a strata manager, you're self-managed, or maybe you are just a particularly hands on committee that wants to take on this annual reporting role directly start thinking about whether you have all the information going to be required to report. Who will your emergency contact person be? Remember that you'll need their consent to be able to provide their name and contact details to New South Wales Fair Trading. Yes, indeed. It is going to be another busy year in strata. There is always something new to learn, always fresh challenges, but that's why we love it. And I'm here with you every step of the way. I'll continue to keep you updated on the rollout of the strata hub and the steps to take to ensure you get your annual reports in on time. Thanks for tuning in. I'm looking forward to another exciting year ahead. I'm Amanda Farmer, and I'll 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?