



ACCOMMODATING GROWTH
GIVING PEOPLE CHOICE
RENEWING OUR CITIES

STRATA TITLE

RENEWAL



The Voice of Leadership



WHAT IS STRATA TITLE?

Strata title is a popular form of property ownership – and close to a quarter of everyone in NSW owns, lives or works in strata titled buildings. It is a great way for individuals to own real estate in affordable bites. Our modern society couldn't function without strata title.

Its common use places strata title renewal at the heart of Sydney's growth. But we have a problem. With effectively 100 percent approval needed from owners to dissolve a strata scheme, it has become virtually impossible to achieve change.

Our cities are at risk of being caught in a strata title straightjacket. We need to unlock it if we are going to gift NSW and Sydney a legacy of homes and office buildings that meet our expanding needs.

WHAT DOES STRATA TITLE RENEWAL LOOK LIKE?

+ **MORE HOUSING:** Small scale housing and townhouses can be developed to give families choice.



+ **TRANSFORMATION:** Old blocks can be converted to better use space, encourage design excellence and embrace sustainability principles.



+ **BETTER CHOICES:** Initiating new accommodation helps meet the changing demands of modern society.



+ **ECONOMIC GROWTH:** Sydney needs to continue to renew and expand its commercial office stock to preserve its position as a global financial hub.



WHY RENEW OUR STRATA TITLED CITY?

The prevalence of strata title

There are approximately 65,000 strata schemes in NSW and the number is increasing rapidly with five or more new schemes being registered every day.¹ Strata schemes cover residential, commercial, industrial, mixed use and retirement properties.

It is estimated that close to a quarter of the State's population live, own or work within a strata scheme.

It is fundamentally important to the fabric of our cities.

NSW's expanding needs

Our cities need to accommodate a growing population. The Prime Minister has predicted by 2049 Australia's cities will house 35 million people.² This will see an extra 3 million people living in Sydney.

Likewise, our regions are growing. The Lower Hunter will be home to an additional 160,000 people by 2031.³ Almost 50,000 more people will call the Illawarra home by 2031.⁴

The Metropolitan Strategy recognised the challenges of redeveloping existing stock, and the limitations imposed by existing strata title law:

“ Existing blocks of flats are unlikely to be redeveloped because of high land value and the provisions of the Strata Scheme Management Act 1996 which make them difficult to secure as a whole block to redevelop. ”

A looming deadline

Buildings have a natural lifecycle. Some of the oldest strata buildings in Sydney are close to 100 years old. The process of decline has been accelerated by lack of maintenance as owners' corporations have sought to minimise contributions.

Without renewal, buildings are being pushed past their realistic lifespan. We risk the emergence of a plethora of buildings which are unsound and unsightly.

The strata title straightjacket

Owners who want to realise the investment potential of their properties are stymied by the strata title straightjacket.

Existing law demands all owners agree to terminate an existing scheme – as well as third parties like lenders. It makes agreement implausible, if not impossible.

One dissenter can frustrate the will of everyone else. New housing and commercial stock essential for our inevitable future growth is being strangled.

FOOTNOTES

- 1 NSW Office of Fair Trading, Strata Living, June 2009, p3.
- 2 Prime Minister Kevin Rudd, Speech to the Business Council of Australia, October 27th 2009
- 3 Lower Hunter Regional Strategy, NSW Government, October 2006.
- 4 Illawarra Regional Strategy, NSW Government, October 2006.



THE NEED FOR A BREAKTHROUGH

There is a potent mix of issues at play that demands we unlock the potential of strata title renewal. These are:

→ AGEING STOCK

More than half of the 65,000 strata title buildings in NSW are more than 20 years old, and some of the oldest are 80-90 years old. They are past or advancing towards their natural physical or economic life and require renewal.

→ CBD GROWTH

CBD employment is growing by 4000 each year – well beyond the Metro Strategy predictions of 2,238 jobs a year. The realistic growth forecast demands the continual renewal of office stock.

→ THE DESIGN IMPERATIVE

Some strata titled buildings were conceived prior to good design principles becoming commonplace. Without the capacity for renewal, they represent eyesores which are destined to remain indefinitely on the urban landscape.

→ LACK OF MAINTENANCE

It is not uncommon for strata schemes to comprise over 150 lots in separate titles. This makes agreement on maintenance difficult and exaggerates the decline in the quality, safety and lifespan of current buildings. It undermines the initial investment of owners.

→ STRATA DEADLOCK

A strata scheme can only be terminated by a court order or a special resolution where no unit owner votes against termination. It also subsequently requires the signature of all owners, including those who did not vote, registered lessees and covenant charges – a recipe for gridlock.

→ EXPERTISE AND RISK MANAGEMENT

The costs, procedural complexity and resource challenges of undertaking complete redevelopment act as a deterrent to renewal by existing owners. They can also lack the ability to outsource the task to practitioners with a greater capacity to manage risks.

Unfulfilled commitments

The Government's Metropolitan Strategy recognised 'strata title reform will be investigated to determine whether it can create opportunities for housing redevelopment that will add to the mix of housing'.

- **No serious review has taken place.**
- **No policy agenda has been promoted.**
- **No legislated solution is in place.**

The strata title straightjacket needs to be unlocked if Sydney is to realise its potential for renewal and growth.

AN AGENDA FOR REFORM

Strata laws need to be amended to facilitate the regeneration of buildings and enable urban renewal. A reform agenda needs to embrace:

→ A REASONABLE THRESHOLD

A fair and sensible approach would require a majority decision, rather than a unanimous one, for the termination of a strata scheme. We advocate a threshold of no more than 25% of owners against termination based on overseas practice.

→ PHASED INTRODUCTION

Suitable transitional arrangements would need to be made to account for the interests of existing owners and investors in strata buildings. Legislation can allow for provisions to apply after 12 months for new buildings and two years for existing buildings.

→ FAIR COMPENSATION

For owners who oppose termination, fairness remains a key principle. Overseas experience allows for them to secure independent market valuations before selling their share to the owners' corporation.

→ CONSUMER PROTECTION

Many owners do not have the resources or expertise to undertake redevelopment themselves. A new model would allow owners to effectively contract a developer to undertake and manage the process.

→ PRESERVING CONTROL

A Renewal Plan would be required on all proposals. It would require a staged process that sees owners consulted and retain control of each step. These include detailed work plans, costings, timelines, respective obligations and consents.

Overseas experience illustrates the way forward in overhauling strata title.

New York and Washington – termination threshold is 80% owner agreement.

Singapore – termination threshold is 80% if the strata scheme is more than 10 years old, and 90% if less than 10 years old.

Hong Kong – termination threshold is 90%, however, authorities have the discretion to stipulate a reduced threshold of 80%.

Japan – termination threshold is 80%.

THE RENEWAL PLAN PROCESS

Introduction of Renewal Plans will give owners confidence that an effective and transparent process is in place to terminate strata schemes.

1 Notice

Termination of a scheme is initiated by either a current owner or a third party engaged by owners. A notice is issued to all scheme participants and any associated party.

2 Renewal plan

Following receipt of the notice, a detailed Renewal Plan will be prepared detailing the preferred development outcome, proposed building works, development applications required, architectural plans, the obligations and liabilities of all parties, costings and work programs.

3 Relocation

Owners and tenants will be fully informed of any rehousing arrangements required during the life of the works, as well as relocation arrangements either back into the development or elsewhere on completion of the redevelopment.

4 Certification

A minimum of three months consultation will apply before the Renewal Plan is advanced. It is also submitted to a 'Strata Schemes Commissioner' to confirm it contained all relevant content required for owners.

5 Voting

After three months of consultation and certification, owners accept or reject the proposed Renewal Plan. If no more than 25% of owners disagree, the scheme will move towards termination.

6 Participation

Once the Renewal Plan is approved, owners then have the opportunity to participate in redevelopment of the scheme or a third party can do so. The scheme remains in force until all Renewal Plan conditions were met.

7 Fair reward

If an owner doesn't participate in the redevelopment, an independent valuation is secured to reverse the entitlement of individual owners. Sales will be at the expense of existing owners. Disputes are settled by the owner appointing one appraiser, the owners' corporation appointing another and those two appraisers agreeing on a third.



Dispute resolution

If obligations under the Renewal Plan aren't being met, an application is made to the Strata Schemes Commissioner for orders on procedural matters, and the Supreme Court for orders on matters of law.



Termination

The scheme's termination sees either existing owners interests retained within a new scheme, or transferred by agreement to new owners.

Property Council of Australia Limited

ABN 13008 474 422

Level 1, Property Council of Australia House

11 Barrack Street

Sydney NSW 2000

Telephone: 02 9033 1900

Facsimile: 02 9033 1978

Email: info@propertyoz.com.au

Web: www.propertyoz.com.au

PO Box 61

Wollongong NSW 2520

Telephone: 02 4225 0105

Facsimile: 02 9285 0573

122 Parry Street

Newcastle West NSW 2302

Telephone: 02 4927 1550

Facsimile: 02 4929 7121

Copyright 2009

