

To Stay or to Go? It's Your (Neighbour's!) Choice.

That's the concept many strata unit and apartment owners in New South Wales will be faced with if controversial changes to strata laws, proposed by the NSW Government, go ahead in July 2015.

Under the proposal, the consent of only a 75% majority of strata unit owners in a block will be required to consent to its demolition.

This is in stark contrast to the current laws, which require agreement by 100% of strata unit owners for a block to be sold to a developer for demolition. This proposal will effectively enable that 75% to force their neighbours (the minority 25%) to sell their homes, whether they are willing or not. An unpleasant prospect for that minority, despite compensation and relocation assistance.

With many strata blocks within New South Wales becoming quite dated, ongoing maintenance and renovation is, without doubt, an extremely costly process, with the preferred option being to simply demolish the buildings and build more aesthetically appealing higher density buildings. Currently, the 100% agreement strata laws force apartment owners to maintain and repair their buildings, regardless of the cost, and irrespective of whether developers could potentially pay a fair price to demolish and replace the buildings with modern, more liveable apartments. This has been a contentious issue for some time.

There are several positives should this law come into effect. For example, some of Sydney's trendiest suburbs are host to some of its oldest, and least sustainable, buildings. The reforms would allow for redevelopment rather than expensive

maintenance, offering potential increases in tenancy numbers and far more energy efficient buildings. Local council height restrictions could be more effectively adhered to, and, of course, it opens the door for stimulation within the building industry.

There are, of course, anticipated negatives to the proposed reform. There is potential for a small number of developers to over or underpay strata owners for their properties, thereby affecting the property market, and potential for owners to lose their lifelong residence and be insufficiently compensated. However, some safeguards are apparently planned, such as the enforcement of independent valuations, and there is talk of an "extinguishment commissioner" who will hear appeals against unfair payments.

Should the reforms come to fruition, developers could be encouraged to offer apartment owners options such as 'first option to buy deals' and assistance with temporary or permanent relocation.

In circumstances such as these, legal advice will be imperative for strata owners.

"The new strata laws will introduce novel concepts unfamiliar to apartment owners and other stakeholders in the strata industry. These will need to be explained in simple language to make sure all stakeholders know where they stand," says Bruce Bentley, partner of Sydney strata law firm, JS Mueller & Co.

Bruce specialises in strata law and those areas of the law that particularly affect the development, management and administration of group title communities.

"An apartment is someone's home and most valuable asset. That is something worth protecting. Knowing where you stand if there is a proposal to sell under the new laws will be vital said, Bruce."

The focus of the strata reforms is on improving the lives of people living in strata communities by increasing transparency and engagement within strata developments. These are worthy goals. But the proof is in the eating, and time will tell if the Government is able to deliver on its promise to improve strata living through more modern strata laws.

For NSW strata legal or levy collection advice please contact us [here](#) or call 02 9562 1266, we're happy to assist.