

Article Information

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Land and Environment Court approves Strata Renewal Plan

The Land and Environment Court was asked for the first time to make an order that a strata renewal plan be given effect under the Strata Schemes Development Act 2015 (NSW) (SSD Act). The SSD Act allows a collective sale or redevelopment of a strata scheme to proceed by order of the Court if at least 75% of lot owners (other than utility lots) in the scheme support the strata renewal plan.

Reforms to Strata Laws in 2016

Reforms to strata laws commenced on 30 November 2016 to allow for the easier redevelopment of aging strata schemes.

The strata renewal provisions in the SSD Act are 'designed to empower strata owners to make a collective decision about the most important issue that will confront all strata buildings at some point; what to do with the strata building as it ages' (Hansard, 21 October 2015).

Previously, a strata scheme could only be terminated by the Registrar-General with the unanimous consent of each lot owner/lessee/mortgagee.

Since the introduction of SSD Act, an owner must sell its lot in a strata scheme if at least 75% of lot owners (other than utility lot owners) in the scheme support the strata renewal plan and the Land and Environment Court orders that a strata renewal plan be given effect under the SSD Act.

The new laws do not apply to strata schemes registered before 30 November 2016 (ie, before the commencement of the new laws) unless the owners corporation has, by resolution, decided that the laws allowing for the strata renewal process will apply to the scheme.

Process for Strata Renewal

In *Application by the Owners - Strata Plan No 61299 [2019] NSWLEC 111*, the Land and Environment Court was asked for the first time to order that a strata renewal plan be given effect under the SSD Act. The SSD Act sets out a clear process for a strata renewal plan. The process commences when any person (whether or not a person is a lot owner) gives a written 'strata renewal proposal' to the owners corporation for the collective sale or redevelopment of a strata scheme. The strata renewal proposal must include the information prescribed in the regulations.

The strata renewal proposal is then considered by the strata committee and if it decides that the strata renewal proposal warrants further consideration by the owners corporation, the proposal is considered by a general meeting of the owners corporation. If the owners corporation passes a motion that the strata renewal proposal warrants investigation by a 'strata renewal committee' the owners corporation must by resolution at the meeting establish a strata renewal committee to prepare a 'strata renewal plan'.

The strata renewal plan must include certain information such as 'a general overview of the strata renewal proposal' and 'a full and frank statement by the proposed purchaser or developer of their intended use of the strata parcel'. Compliance with the information requirements is essential to obtaining a court order and should be carefully considered in preparing a strata renewal plan. [See further](#).

Once the strata renewal plan is prepared, a general meeting of the owners corporation is convened. The owners corporation may, by special resolution, decide to give the strata renewal plan to the lot owners for their consideration. If the 'required level of support' is achieved (ie the support of at least 75% of lot owners (other than utility lot owners) in the scheme), the owners corporation may resolve to apply to the Court for an order to give effect to the strata renewal plan.

Summary of steps are set out in the case: useful guide

In *Application by the Owners - Strata Plan No 61299*, the Applicant submitted a summary of the steps in the SSD Act for a collective sale of a strata scheme. The Court included the 'helpful summary' in its decision and these steps can now serve as a guide for any future applicant wishing to obtain an order from the Court under the SSD Act.

Important to ensure the process is properly followed

The Court is required to make an order giving effect to the strata renewal plan if it is satisfied as to the matters set out in s182 SSD Act. These matters include that the steps taken in preparing the strata renewal plan and obtaining the required level of support were carried out in accordance with the SSD Act and all notices required in s179 and s181 of the SSD Act were served. Therefore, it is important the process in the SSD Act is properly followed to ensure that the Court is not prevented from giving the order, especially if there is a minority strongly opposed to the order.

In Conclusion:

The effective application of the SSD Act is welcome news for developers wishing to redevelop and for owners wishing to maximise value of their property. It also allows for better community outcomes by allowing aging schemes to be redeveloped to their highest and best use in accordance with current planning goals.