



**SPECIAL  
BOARDING  
HOUSE  
LEGISLATION  
ISSUE**

**The Property Owners'  
Association of NSW**

**Quarterly Journal | July 2012**

**— poa-nsw —**



# THE PROPERTY OWNERS' ASSOCIATION OF NSW



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## PRESIDENT'S REPORT APRIL - JULY 2012

This issue of the POA NSW Journal finds property owners in a ever increasing arena of change .

Firstly property ownership is becoming more complicated with changes in regards to tax , regulation, insurance, energy costs, local government charges, water and the like diminishing returns. With high levels of intrinsic detail and paperwork and thus unneeded costs to change a building or otherwise develop properties, it is not surprising that most landlords do very little but just sit on their investments waiting for change.

The POA NSW is constantly being asked by its members to help as landlords are finding themselves in areas of extremely complicated situations and issues that are beyond their control.

Private HOTEL / Boarding House owners will be aware of new legislation in draft form in NSW and the sub-committee is working how this will affect such properties , it is hoped that the outcome of this is a balanced workable change with benefits to all parties .

For most of the rest of this year unfortunately I will be taking a leave of absence as president for personal reasons but our members will be able to contact the many fine committee members with your enquires.

Regards,

*C. Young*

## WELCOME TO OUR NEW MEMBERS:

Edward Perks

Vitalian Jimenez

Brian O'Brien

Arvan Prichard

Bryan Baker

Sathyarajah Sivapragasam

Jan McDonald

Raymond & Arlene Phelps

David Morgan

Mark Cavallaro

Lyn Gow

Ian Johnson

## IN THIS EDITION

President's Report	3
Blueprint For Boarding House Legislation	4
Tips On Adding Value To Your Boarding House	6
Operating Boarding Houses	6
Landlords Distributing Or On-Selling Electricity	7
NSW Coroner Issues Warning About Smoke Alarms	8
Suspension Of Operation Of Termination Order	8
Breaking The Tenancy Agreement Without Penalty	9
Awning Collapse Prompts Crack Down	9
Tenants Pay For Pets	10
Water	10
Tenant Water Charges	10
DA's Can Be Killers	10
The Tenant From Hell Or Heaven	11
WorkCover - More Penalties & Responsibilities For Strata Owners	11
NSW Govt Gives Tenants' Groups \$9 Million For Advocacy	12
Social Housing	12
Capital Expenditure Expands	12
Funding & Financing	13
NSW State Budget Update	13
Converting Single Title to Strata Title	14

## O'FARRELL GOVERNMENT: BLUEPRINT FOR BOARDING HOUSE LEGISLATION IN 2012

In May 2012, the O'Farrell government presented its response to the Legislative Assembly Social Policy Committee inquiry into international student accommodation in NSW. In it the government reveals its blueprint for legislative changes that may significantly affect the Boarding House Industry.

A copy can be found at [http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/fc01867c1767684fca2579520018e34d/\\$FILE/Government%20response%20-%20international%20student%20accommodation%20in%20NSW.pdf](http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/fc01867c1767684fca2579520018e34d/$FILE/Government%20response%20-%20international%20student%20accommodation%20in%20NSW.pdf) or on through the Social Committee's website [www.parliament.nsw.gov.au/socialpolicy](http://www.parliament.nsw.gov.au/socialpolicy).

During a meeting with Tim James (Chief of Staff, Minister of Fair Trading) the Property Owners Association of NSW was informed that the government expects to reveal a new draft Boarding House Act in June 2012, and after a short public consultative process, it is scheduled to be introduced to parliament in the spring session of 2012.

The POA NSW is concerned that boarding house legislation may compromise operators, destroying their viability, and in turn lead to a rapid decline in the supply of affordable housing in NSW. This is in the worst interests of all stakeholders.

The following (in italic) are selected extracts from the above mentioned governments response, reconfigured, so as to provide insights into the plans the NSW government has for Boarding House industry in NSW:

### BOARDING HOUSE DEFINITION:

*The Government proposes that the definition of a 'boarding house' for registration purposes be based on the following elements.*

1. A "boarding house" is a building or complex of buildings that:
  - a. *Is currently required to be licensed under the Youth and Community Services Act 1973; or*

- b. *Is occupied or available for occupation by five or more residents, who are not members of the family of the business owner or caretaker, where residents have a right to occupy one or more rooms as a principal place of residence, in , return for the payment of a fee, but do not have a right to occupy the whole premises.*
2. *Notwithstanding 1(b) above, a boarding house does not include hotel accommodation, motel accommodation, serviced apartments, bed and breakfasts, backpackers accommodation, student accommodation provided by an educational body, accommodation that is specifically linked to the provision of health, aged or disability care (E.g. a nursing home or other aged care facility), a retirement village, residential parks, crisis accommodation, group homes, accommodation for employees in connection with their work (or contractors in connection with their service contracts), or any arrangement to which the Residential Tenancies Act 2010 applies or ought to apply.*

### PRINCIPLE-BASED BOARDING HOUSE ACT

*The Government proposes to introduce a new Boarding Houses Act incorporating:*

- *The existing provisions of the Youth and Community Services Act 1973 and the currently proposed amendments to those provisions;*
- *Provisions governing the register; and*
- *Provisions governing principles-based occupancy rights.*

*The proposed occupancy principles are as follows:*

*An occupant is entitled to live in premises that are:*

- *Reasonably clean*
- *In a reasonable state of repair*
- *Reasonably secure;*
- *An occupant is entitled to know the rules of the premises before moving in;*
- *An occupant is entitled to the certainty of having an occupancy agreement in writing if the occupancy continues for longer than 6 weeks;*
- *An occupant is entitled to quiet enjoyment of the premises;*
- *A landlord is entitled to enter the premises/room at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes;*
- *An occupant is entitled to 8 weeks notice before the grantor increases the amount to be paid for the right to occupy the premises;*

- *An occupant is entitled to know why and how the occupancy may be terminated, including how much notice will be given before eviction;*
- *An occupant must not be evicted without reasonable notice;*
- *A landlord and occupant should try to resolve disputes using reasonable dispute resolution processes; and*
- *An occupant is entitled to be given a written receipt for the payment of any money to the land lord.*

*The draft Bill will also include provisions for the introduction of a standard occupancy agreement.*

### DISPUTE RESOLUTION: CTTT TRIBUNAL

*Where the proposed occupancy principles are not followed, a resident or landlord could apply to the CTTT for resolution of the matter. It is also proposed that NSW Fair Trading provide free-of-charge advice on parties' rights and responsibilities relating to occupancy agreements.*

### COMPLIANCE:

#### 1. More Power to Local Councils

*The Government proposes to strengthen the powers of local councils to enforce compliance with standards by introducing a circumstantial evidence provision based on existing provisions in the Environmental Planning and Assessment Act 1979 relating to backpacker accommodation and brothels, that would provide for the use of circumstantial evidence by a court in proceedings for a warrant or to remedy relevant offences by registrable boarding houses.*

*This change will assist local councils in obtaining a warrant to gain entry to a property for enforcement purposes.*

#### 2. Compulsory Registration of all Boarding Houses

*The Government proposes to introduce legislation requiring registration of all boarding houses with five or more residents. All boarding houses are currently required to comply with planning, building and fire safety requirements.*

*These requirements are enforced by local councils. Compliance with standards will be strengthened through the introduction of a requirement that local councils within 12 months of registration of a boarding house and after providing the operator with reasonable notice, inspect the boarding house to determine compliance with planning, building and fire safety requirements and make any necessary orders. Exceptions will apply where such an inspection has taken place within the 12- month period prior to registration.*

*The Privacy and Personal Information and Protection Act 1998 (PIPA Act) permits agencies to collect personal information where it is reasonably necessary for a lawful purpose. The Government considers that the information proposed for collection in the register of boarding houses is within the current parameters of the PIPA Act and therefore does not require a specific exemption.*

#### 3. Significant new penalties for non-compliance

*The Government proposes to create new offences under the Boarding Houses Act in relation to the new requirements for registration of boarding houses, with significant penalties for non-compliance.*

- *Failing to register/provide registrable information: 100 penalty units (\$11,000) for individuals, and 200 penalty units for corporations (\$22,000);*
- *Providing false/misleading information: 30 penalty units (\$3,300) for individuals, and 60 penalty units (\$6,600) for corporations; and*
- *Failing to notify a change in particulars: 10 penalty units (\$1,100) for individuals, and 20 penalty units (\$2,200) for corporations.*

*The Government considers that the new requirement for registration, the associated penalties for failing to register and the proposed requirement for councils to inspect premises within 12 months of registration should create strong incentives for operators to comply with planning requirements.*

*These proposed changes could become the most significant development in the boarding house industry since the introduction of the Affordable Housing SEPP(2009). If these changes are deficient, they could lead to the destruction of this fragile industry, and a collapse of this unique form of flexible and affordable accommodation.*

The POA NSW will follow very closely any developments, and awaits the release of the draft legislation.

This can be done by implementing an ongoing maintenance program so all items, fixtures and features of the property internally and externally are kept up to date.

Management operations involve the day to day management of your boarding house. It covers rent collection and arrears procedure, rent increases, repairs, routine inspections, council inspections, advertising, open for inspections, vacating tenants, tenant induction and tenant liaison. It is important to take a systematic approach to the management operations to help streamline and improve the net income.

If you do not improve your boarding house and thereby enhance its value, it is liable to become obsolescent and diminish in value. An obsolescent boarding house reduces income by causing rents to be low and vacancies high. An improved boarding house raises income drawing high rents and holding vacancies low.

Besides the satisfaction of building up and making improvements rather than tearing down and letting your building deteriorate, the boarding house owner who improves there building realizes a far more dependable income and can earn a substantial gain when they sell. They can also use the equity built up to pyramid into other boarding houses to build their wealth and provide more of this unique accommodation to the community.

## OPERATING BOARDING HOUSES

A Boarding house is a dedicated accommodation service, managed multi- occupancy residential dwelling in which unrelated lodgers are provided with their own private unserviced but furnished room and where they share the dwellings common areas with other lodgers with payment to a landlord on a per day basis. They provide from short to long term accommodation. Boarding houses include guest houses, hostels, lodgings, private hotels and a wide array of alternative accommodation, that are not residential tenancies.

An occupant has no exclusive right to any area of a boarding house, unlike a residential tenant.

Boarding houses are generally registered by Councils, meet stringent fire, OHS and occupancy compliance, are subject to regular Council inspections. Under legislation, children and those who meet the criteria for aging and disability are not permitted to occupy these premises as boarding houses they do not have adequate services.

Each boarding house has a set of house rules that are prominently displayed close to the main doorway.

House rules must state:

- Expected standards of behaviour
- Hours of operation and use of facilities,
- Keys and security arrangements
- Parking arrangements
- Commencement and termination processes
- Basis of termination
- Scale of fees and charges
- Management contact details
- Emergency procedures
- Conflict resolution arrangements

Boarding houses may offer a range of additional facilities and services that are provided on a commercial basis to boarders. The additional services may included but are not limited to: -

- Parking provisions
- Provision of additional furnishings and electronic equipment
- Room service
- Laundry services
- Etc.

A boarder is an occupant of a boarding house who pays a fee for stays that are longer than 5 days.

A guest is an occupant of a boarding house who pays for accommodation of less than five days or is at or who is in residence at the invitation of the owner or manager.

A visitor is a guest of a boarder for periods of less than 24 hours. Longer visits may be approved by the Landlord upon specific request.

### ILLEGAL ACCOMMODATION HOUSES

Erroneously the media and other parties, confuse illegal and criminal accommodation providers where there is over crowding, a cash economy, no compliance or permission to operate, with legitimate 'boarding houses'.

## STOP PRESS: EXPOSURE DRAFT BOARDING HOUSES BILL 2012

AT THE TIME OF PUBLICATION, THE NSW GOVERNMENT ANNOUNCED ITS EXPOSURE DRAFT BOARDING HOUSES BILL 2012.

COPIES OF THE EXPOSURE DRAFT CAN BE OBTAINED ON REQUEST BY CONTACTING:

BOARDINGHOUSEREFORM@FACS.NSW.GOV.AU

SUBMISSIONS ARE DUE BY FRIDAY 10 AUGUST 2012

## LANDLORDS DISTRIBUTING OR ON-SELLING ELECTRICITY MUST REGISTER

In brief: Landlords, and some property managers, of commercial premises who distribute electricity to their tenants may be breaking the law unless they register each site with the Australian Energy Regulator, and will need to register to on-sell electricity from 1 July 2012.

How does it affect you?

- If you are a landlord of office, retail or industrial premises and you currently distribute electricity to your tenants, you may be in breach of the law unless you register each site with the Australian Energy Regulator (the AER) and comply with the relevant conditions.

## TIPS ON ADDING VALUE TO YOUR BOARDING HOUSE AND STREAMLINING YOUR MANAGEMENT OPERATIONS

In an increasingly competitive market adding value to your boarding house is vital. This can be done through physical improvements and by streamlining your management operations to ensure the long term financial viability and capital gain of your building.

Cash flow is the life blood of your business so being able to continue to increase your gross income is essential. It is important to review your rents frequently by comparing them with other comparable rents with in the immediate area and raising them as soon as practicable.

There are two major ways you can improve your boarding house and that is by physical change or face lifting and by improvement of management operations. The purpose of management operations is to improve the net income which can be divided into two sections: 1, increasing gross rent by increasing the rental value of your boarding house and eliminating vacancies. 2, decreasing your operating expenses through regular analysis.

A well managed and located boarding house in good condition will normally run at a low vacancy rate. This is due to the property attracting good tenants who pay their rent in advance which will cover other vacancies in the building, keeping your tenants long term by providing them with excellent service, productive advertising and salesmanship which will help fill a vacancy without rent loss, multiple streams of income from other tenants in the building which will cover costs and any other vacancies and a high demand for good quality low cost accommodation.

Physical improvements cover painting, modernizing design, fixtures and landscaping. This breaks down into two divisions, the interior and exterior.

- Property managers who act as an agent of the owner to 'operate' or 'control' a private network will also need to register each site with the AER and comply with the relevant conditions.
- From the date that the National Energy Customer Framework (the NECF) is implemented, currently scheduled for 1 July 2012, landlords of office, retail or industrial premises will need to register each building/site with the AER, and comply with the relevant conditions in order to on-sell electricity to their tenants.
- Similar issues may arise in relation to the distribution and on-sale of natural gas.

Conclusion

As the NSP exemption guidelines took effect on 1 January 2012 and the AER exempt selling guidelines are due to commence on 1 July 2012, landlords and property managers of office, retail or industrial premises should undertake a prompt review of the arrangements by which their tenants receive electricity.

If a landlord's tenants are taking electricity from wiring that the landlord owns, operates or controls, the landlord is likely to be distributing electricity, and will need to register those premises with the AER as soon as possible.

If a landlord is on-selling electricity to their tenants, they should familiarise themselves with the categories of exemptions and the relevant conditions, which will be available from 1 July 2012, and prepare to register each of their sites with the AER.

**NSW CORONER ISSUES WARNING ABOUT SMOKE ALARMS IN INVESTMENT PROPERTIES**

The state of smoke alarms in rented housing is back on the agenda.

NSW State Coroner Mark Buscombe recently recommended that real estate agents regularly check and maintain smoke alarms in the homes they manage.

The comments came at the inquest into the 2010 death of a man in a Hamilton house fire, near Newcastle.

Smoke detectors became mandatory for all NSW residential buildings in 2006.

The practice among some tenants of removing batteries from smoke detectors to use elsewhere, usually in a television remote control, was so prominent that such interference is now forbidden and enshrined in the NSW Residential Tenancies Act.

According to the Tenant's Union of NSW, if a detector gives a false alarm triggered by cooking, tenants should not remove the battery or disable it.

Contact the landlord or agent and ask for the alarm to be moved to a more suitable location or replaced with a different style of alarm," the organisation says.

Fire and Rescue NSW will replace old smoke alarm batteries for free for the elderly and people with mobility problems.

**SUSPENSION OF OPERATION OF TERMINATION ORDER**

**CHAIRPERSON'S DIRECTIONS CTTT CD2012-3**

**SUSPENSION OF OPERATION OF ORDER FOR TERMINATION TO DATE FOR POSSESSION**

These directions have effect immediately.

1.0 Introduction

1.1 These directions are issued pursuant to section 12 of the Consumer, Trader and Tenancy Tribunal Act 2001 and provide guidance to Members on the orders that may be made where a tenancy is terminated but the date for possession is set for a date significantly in the future.

2.0 Specifying a date for possession of residential premises

2.1 Under the Residential Tenancies Act 2010 (RTA 2010) the Tribunal may make orders terminating a residential tenancy agreement. Where the Tribunal makes a termination order it must also make an order for possession of the residential premises specifying the day on which the order takes effect (section 83(1) RTA 2010).

2.2 Where the Tribunal makes a termination order in relation to a long term tenancy where the tenant has been in continual possession of the same residential premises of 20 years or more, the date that vacant possession of the premises is to be given to the landlord cannot be a date earlier than 90 days after the order is made. In other circumstances, the Tribunal can specify a date at its discretion or by agreement of the parties. The date for possession may be set immediately or some days, weeks or months in the future.

2.3 The termination order takes effect on the day it is made and parties are no longer bound by the terms of the residential tenancy agreement. As a result, neither the landlord nor the tenant is able to avail themselves of the protections set out in the agreement or the RTA 2010.

3.0 Suspending the operation of an order for termination.

3.1 Where the date for possession of the residential premises is set for a date significantly in the future Members must consider whether the termination order and any order for the payment of an occupation fee should be suspended under section 188(b) of the RTA 2010. If a decision is made to suspend the orders, the orders for termination and for the payment of an occupation fee should be suspended to the date on which the order for possession takes effect.

**BREAKING THE TENANCY AGREEMENT WITHOUT PENALTY**

Members need to be aware that under the new Residential Tenancy Act 2010 allows a tenant under limited circumstances to break the agreement early without penalty. A tenant can give 14 days written notice to end an agreement early if:

- They have accepted an offer of social housing (E.g. from Housing NSW)
- They need to move into an aged care facility or nursing home (not a retirement village)
- They have obtained a final apprehended violence order against somebody they were living with that excludes them from the property

- The landlord has put the premises on the market for sale, and the tenant was not told before signing the lease that the property would be sold.

If a tenant gives notice for any of these reasons a tenant does not have to pay any compensation or other costs to the landlord. Tenants are only liable for rent until they hand back possession of the premises.

**AWNING COLLAPSE PROMPTS PLANNING AUTHORITIES CRACK DOWN**

Four years after a man was killed when a shop awning and brick facade crushed him during a torrential storm in the Sydney suburb of Balgowlah, the Department of Planning are finally set to begin a council crackdown aimed at ensuring pedestrian safety.

The deputy state coroner, Hugh Dillon, found that the accident was "waiting to happen" in 2010, and cited evidence of related incidences across NSW. Recent public discussion has questioned why actions have yet to be taken to protect the future safety of pedestrians. This has resulted in an apology from the NSW Coroner's office for failing to pass on its recommendations appropriately following the incident in 2007.

Aging and potentially unsafe awnings hanging over public footpaths will be under scrutiny and audited within weeks, and in keeping with the Coroner's recommendations, the state government and local councils will be urged to introduce a system of regular inspections to such fixtures. This may see owners of older and double-brick buildings being required to replace old awnings with new fixtures to prevent further incidences.

In May 2012 the children of Craig Taylor, the 53 year old who victim, launched Supreme Court proceedings to sue for damages. Amongst the defendants are Manly Council and the owners and occupiers of the building where Mr Taylor died. A judgment is yet to be made.



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## TENANTS PAY FOR PETS

Andrew Cornwell NSW MP, as Chairman of the Companion Animals Taskforce, is advocating to allow tenants to have pets in rental properties.

As an offset he is proposing that tenants pay an additional bond for the approval to have pets, Cornwell argues that having a bond would increase the availability of properties available to pet owners and at the same time help cover the risk to which landlords are exposed.

The pet proposal is part of the changes to tenancy legislation being considered.

Andrew Cornwell believes that "the current arrangements just encourage people to lie." Commonly tenants do not declare pet ownership and hide the pets when the routine inspections are carried out.

West Australia has been operating a similar arrangement for over a year and he claims it seems to meet with approval.

It seems that the proposal would be of real benefit in medium and high density where pet ownership is keenly sought and pet facilities very limited.

The Department of Fair Trading is currently assessing the concept.

Information about the Companion Animals Taskforce can be found on the NSW Government web site.

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## WATER

Sydney Water, Hunter Water and the Central Coast water authority all actively seek community input into their operation and management. POA Committee member Rick Banyard has represented the POA on the Hunter Water Consultative Forum and at IPART hearings for quite some time. The POA has been seeking a position on the Sydney Water Forum however a vacancy has not been available.

Rick has again put in an application to renew the POA seat on the Hunter Water Forum and is hopeful this will continue. POA Committee member John Owens has been nominated as the alternate representative in this application.

Rick Banyard had also applied for position on the Independent Water Advisory Panel. However has just been advised his application was not successful.

The POA Committee of Management believe it is important for the POA to be represented on other community organisations, advisory panels and various committees. If members wish to assist please contact the Association.

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## TENANT WATER CHARGES

Landlords are always keen to chase maximum rents and so they should but often do not chase the water use money from the tenants. This can be a very significant amount of money with re arts aboard not thrifty with water use.

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## DA'S CAN BE KILLERS

Openness and transparency are key initiatives many Councils, Government bodies and private business try to follow or at times are forced by regulation to follow.

Often this advice is placed in the letterboxes of affected households or premises.

This commonly means the tenant finds out and the property owner is left in the dark.

Whilst adding an extra swing to the local playground may be of little consequence to a landlord.

The establishment of a brothel, a funeral home or a five story unit complex with a ground level 24 hour convenience store on the other hand can have a major impact on a landlord property as it may devalue the property or increase the rental return.

This can be a very rude shock to the property owner who may not live in the area or get the letter box flyer.

Along with the rude shock frequently the property owner loses the right to object, to lodge a submission or in some other way have his thoughts heard.

To safeguard this unfortunate event property owners need to take steps to be "in the loop". Some ways to find out include: -

- Talking with your tenant about community issues
- Give the tenant some stamped addressed envelopes so they can forward information from the letterbox or paper clippings
- Communicate with the managing agent who should be "in the know"
- Visit the Council's web site regularly
- Talk to the neighbours.
- Carry out regular drive bys
- Subscribe to the local paper

With an asset of hundreds of thousand dollars surely a little self insurance is warranted.

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## THE TENANT FROM HELL OR HEAVEN : "A TRUE POA MEMBER'S STORY"

A landlord had a tenant who got worse and worse. In the end the tenant got dragged along to the tribunal with a huge list of issues. Rent arrears, water unpaid, broken windows, overgrown yard, heaps of rubbish, screaming neighbours and much more. Members will recognise this as a tenant from hell!

The tribunal after several months supported the landlord and the tenant as normal refused to move. More money lost, more damages, more calls from irate neighbours, you know the story!!!

Then the Sheriff and more drama. Finally she's gone and the landlord is left to pick up the scraps and the property make over follows before new tenants are in place and the cash starts to flow.

About five years later the landlord buys a new rental property. The tenanted house is immaculate and all seems great. Even though the new buyer did not meet the tenant the trusty agent said she was great. The deal was done.

After about a month the landlord decided to do the right thing and introduce himself to his new tenant.

Guess what? It was the tenant from Hell!

They both decided that the future was not the past and the reintroduction ended all friendly.

The "tenant from Hell" stayed for about 12 years before leaving by personal choice after being the "tenant from Heaven"!

The POA Journal would welcome stories about how to pick a good tenant and similar.

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## WORKCOVER – MORE PENALTIES & RESPONSIBILITIES FOR STRATA OWNERS

Work Cover NSW has released a "legislation update" to clear the grey area over the responsibilities of strata title bodies corporate under the new NSW OH&S legislation, the Work Health and Safety Regulation 2011, which came into effect in Dec 2011. Unlike the old OH&S regulations, the new regulation does apply to bodies corporate in regard to common areas if the body corporate employs workers. Bodies corporate that do not employ workers will continue to be exempt.

Members of strata bodies corporate should be aware of the significant new liability this introduces to their Owners' Corporation. The decision effectively means that for the purpose of OH&S Legislation, the common areas of a strata property are a "workplace" with the body corporate the relevant employers, so long as they employ workers.

Members of Owners' Corporations should thus make themselves familiar with the 2011 regulation as failure to comply could result in the body corporate being fined up to \$30,000.

The requirements include: a duty to provide a safe working environment; provision of first aid and emergency and evacuation procedures; and an obligation to identify foreseeable risks and then eliminate or control risks.

WorkCover provides information on what is required by the regulations as well as how bodies corporate can practically meet their obligations.  
[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)

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## NSW GOVT GIVES TENANTS' GROUPS \$9 MILLION FOR ADVOCACY - NIL TO HELP SMALL PROPERTY OWNERS

Residential rental property owners are small vulnerable 'landlords' who own one or two rental unit. They provide around 75% of the private rental market.

There is little support for these accommodation providers.

The NSW Government is funding Tenant's groups \$9 million under the Tenants' Advice and Advocacy Program to provide advice, information, education and advocacy for tenants across NSW.

Social housing is provided by the NSW Land and Housing Corporation, which owns and manages NSW public housing assets to meet social and financial outcomes within an agreed policy framework. Its asset portfolio is estimated to consist of approximately 134,200 dwellings with a value of \$31.3 billion and 9,000 leased properties as at 30 June 2012.

The NSW Land and Housing Corporation's adjusted net operating surplus is expected to decrease from a surplus of \$258 million in 2011-12 to a deficit of \$829 million in 2012-13. The movement is largely due to the prospective transfer of a second tranche of housing stock of \$1 billion to the community housing providers, delayed from the 2011-12 year to the 2012-13 year.

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## SOCIAL HOUSING

Strategic direction is to strengthen support for the vulnerable

The NSW Land and Housing Corporation seeks to provide asset related solutions to support social housing policy priorities. It manages the Government's public housing portfolio which includes constructing, divesting, leasing and maintaining properties to meet social housing needs.

The Corporation is addressing the social and housing issues associated with concentrated social housing estates, and will develop strategies that are tailored to meet the specific housing needs of selected estates.

Following a reallocation of Ministerial responsibilities, the activities of the NSW Land and Housing Corporation were split (effective 1 July 2011), with asset related activities retained within the Corporation, while non-asset related activities were transferred to the Department of Family and Community Services. Social housing is provided to people whose eligibility is based on income and an assessment of highest needs.

Clients are those who cannot afford market rents so their rent is adjusted, based on 25 to 30 per cent of total household assessable income. The difference between market rent and rent charged across the Corporation's social housing tenants in 2012-13 is estimated to be \$965 million.

The NSW Land and Housing Corporation is currently in the Expression of Interest phase for procuring the Airds Bradbury Renewal Project as a public-private partnership and has established a taskforce to examine the potential of the estate at Macquarie Park.

The Corporation focuses on maintenance to ensure that properties are clean, safe and habitable. The current maintenance contract has been extended to 30 June 2014. The Corporation will undertake a strategic review of maintenance over the next two years to provide recommendations for a new maintenance contract to commence on 1 July 2014.

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## CAPITAL EXPENDITURE EXPANDS AND IMPROVES HOUSING STOCKS

Capital expenditure by the Corporation over 2012-13 is expected to be \$331 million. The program provides for new social housing stock in New South Wales.

The program also includes the improvement of existing housing stock through the renewal of public housing areas, modification and upgrade of older dwellings, as well as health and safety upgrades.

Key aspects of the capital program in 2012-13 and the forward estimate years include:

- \$141 million for social housing supply program to fund new capital works and works in progress, including commencement of 852 dwellings and completion of 773 social housing dwellings
- \$195 million in maintenance expenditure in the social housing sector to upgrade and improve existing housing
- Reducing concentrations of disadvantage in social housing through social housing estate strategies and by continued infrastructure investment in priority locations, such as, Bonnyrigg, and Minto.

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## FUNDING & FINANCING

The primary source of funding for the NSW Land and Housing Corporation in 2012-13 is through rental income, asset sales and funding support from the Department of Family and Community Services to meet its operating and capital expenditure requirements.

The State Government is focussed on social housing, housing commission, supporting tenant's organisations.

The private rental market continues to struggle with land tax and heavy statutory and property taxes, an onerous residential tenancy act, low rental return, negative capital growth and government support for increasing tenants' advocacy.

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## NSW STATE BUDGET UPDATE

The Following is a summary of changes made by the NSW Government to the First Home Owners Grant:

"The NSW government has ramped up its generous handouts for first-time buyers buying new homes, as the NSW Treasurer Mike Baird aims his second budget at kick-starting the state's lack lustre home building industry.

But it comes at the expense of buyers of existing homes, who will lose thousands of dollars in incentives from October 1 this year.

From October, a first-home buyer who purchases a \$550,000 new home will get \$35,240 in assistance. But if it is not new, the first-home buyers will secure nothing.

First-home buyers of existing properties, about 90% of the market segment, will receive no government assistance with major ramifications for estate agents who sell existing properties in this market.

Property investors can also expect land tax bill increases in the next year. Land tax revenue is forecast to grow by 8.1%.

First-home buyers will receive up to \$35,240 in government handouts when purchasing a new home from October 1, for a 15 month period before its drops back.

But the long-standing \$7,000 first-home owners' grant, negotiated with the federal government when the GST was introduced, will no longer be given to buyers of existing homes.

The \$600,000 threshold for new home concession has been lifted to \$650,000, Baird said as part of the 2012 state budget.

Baird said for first-home buyers of new homes, the scheme was "the most generous scheme in Australia," although the Daily Telegraph report the stamp duty changes will be revenue neutral, while aiming to boost housing supply.

### NEW HOME GRANT SCHEME

From July 1, 2012, a new \$5,000 grant will be provided to buyers of new homes, whether off the plan or newly built, with a value up to \$650,000 and to buyers of vacant land that is intended to be the site of a new home valued up to \$450,000.

The grant is targeted at all non-first home buyers and is available to investors as well as owner-occupiers. The grant will be administered through the transfer duty payment process.

The relevant form and factsheet will be made available prior to the commencement of the grant.

**FIRST HOME OWNER GRANT (NEW HOME) SCHEME**

From October 1, 2012, the first-home owner grant scheme will be replaced by the first home owner grant (new home) scheme. The new scheme will only apply to first home owners who purchase or build a new home valued at up to \$650,000.

The grant will increase from \$7,000 to \$15,000 from October 1, 2012 to December 31, 2013 and to \$10,000 from January 1, 2014.

**FIRST HOME – NEW HOME**

From July 1 2012:

- The transfer duty exemption cap on new homes increases to \$550,000 with duty concessions for new homes valued between \$550,000 and \$650,000
- The transfer duty exemption cap on vacant land increases to \$350,000 with duty concessions for vacant land valued between \$350,000 and \$450,000"

This leaves a 9 week window of opportunity for any potential first home buyers to exchange on an existing property and still receive the \$7,000.

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**CONVERTING SINGLE TITLE TO STRATA TITLE**

*General advice (only) given by:  
Sheryl Gore JP  
Strata Manager  
Doon-Gara Strata & Property Consultants Pty Ltd.*

Any property owner who owns boarding houses, blocks of flats, commercial properties, units etc should have in place an annual maintenance programme to ensure that their properties comply with today's Fire Safety Standards as well as providing comfortable modern accommodation.

Councils have been for a number of years now sending out inspectors to check blocks of units and flats to see if they meet the Fire Safety Regulations – these inspections are done without warning, if they can gain entry to the common stairwell area that is all they need.

Council can then issue either the Owners Corporation or owner of the property orders to meet their Fire Safety regulations which usually entail the installation of exit signs on the stairwells and landings, smoke/heat detectors on the stairwells, entry doors to apartments to be solid core doors, electrical meter boxes to be upgraded, locks on entry doors to comply with fire safety standards.

If owners are wanting to convert their property into a strata complex the following works would need to be undertaken to gain maximum capital return on your investment, however, it would be an expensive exercise as the following works would need to be done:

- a) If there is a common wall to another apartment then this wall would need to have a fire rated wall installed.
- b) Ceilings would need to be fire rated if there is another floor above an apartment.
- c) Re-wiring of the apartment with its own separate meter box plus separate meter box for common property lights.
- d) Re-plumbing of the apartment with its own separate water meter and a separate meter for common property water.
- e) Timber floors on the first floor area would need to either have carpet installed over them alternatively a sound proof underlay to be placed under the timber floor to eliminate noise issue.
- f) Blocks of flats or properties on one title have one rate notice, however, once it becomes a strata complex then Council would issue a rate notice for every apartment/lot within that block.
- g) If the property was Exempt from Land Tax once it becomes a strata complex then Land Tax would be calculated on every apartment/lot.
- h) Whether your property is on one title or is a strata complex, Councils still can issue orders should complaints regarding the use of the property be breached or Fire Safety issues have not been put in place.

- i) Prior to converting the current use of a property into a strata complex, owners should check with their local council to determine what the general rules are prior to engaging consultants to put in an application as many councils insist on parking spaces, visitor parking areas, floor space etc.
- j) Strata complexes range from two lots upwards and the Department of Fair Trading administers the Strata Schemes Management Act 1996.
- k) Subdivision and registration of strata developments are administered by the Land and Property Management Authority.
- l) Basically a strata complex is a small community of people where activities and attitudes of residents can have a significant impact on other residents living in the same complex.
- m) There are many restrictions relating to living in a strata complex which can relate to parking issues, hanging of washing on balconies, pets, renovations within a lot, noise – a set of standard by-laws apply to all strata complexes, however, additional by-laws can be added.
- n) The Owners Corporation is made up of all the owners in a strata scheme and has a responsibility to ensure that the management of the scheme complies with the Legislation.
- o) An apartment or lot includes a unit, town house, villa, garage area, commercial shop etc that is made up of cubic air space and is generally the inner surface of the boundary walls, the under surface of the ceiling and upper surface of the floor.
- p) The Owners Corporation is responsible for maintaining the common area which is the stairwells, landings, gardens, walkways, exterior of the complex etc.
- q) If you retain ownership of all the lots within a strata complex, this enables an owner to mortgage one apartment should they require funds alternatively individual lots can be sold, however, once this happens then new owners will insist that the Owners Corporation runs the strata scheme in a professional manner.

- r) The Owners Corporation must have an insurance policy for the entire complex and the lot owner must have an insurance policy which will cover them for replacement of carpets, curtains, blinds, light fittings and painting of the apartment should there be a fire etc. – this is not covered under the Strata Insurance policy.
- s) All development consents, complying development certificates, plans, fire safety certificates, building warranties, certificate of title for the common property, strata roll, notices, financial statements, occupation certificates, maintenance and service manuals must all be handed to the Owners Corporation at the first AGM – a penalty of up to \$11,000 can apply for a breach of Schedule 2, Clause 4.
- t) Property owners should obtain advise as to whether capital gain issues come into play should they change the use of the property especially having one title being changed to multiple titles.

Property owners who convert their property from one title to strata title allows them the option of selling and/or borrowing monies on one or more apartments therefore generating a much higher return. Owners who convert their property from single title to a strata complex and assuming these lots are kept by the one owner will be up for more costs in relation to council rates, water, electricity, levy fees, and insurance on each and every lot.

My recommendation is to put into practice a maintenance programme over a number of years which enables property owners to ensure their investment property is well maintained and brought up to date thus eliminating massive expense for a complete conversion from single title to a Strata Subdivision.



**The Property Owners' Association of NSW**

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*DISCLAIMER: Views expressed by the various authors are not necessarily the views of the Property Owners' Association of NSW and the association does not take any legal responsibility for any offending articles. All care is taken not to offend and to be accurate but this is not always possible.*