



# The Property Owners' Association of NSW

Quarterly Journal | November 2014

— poa- nsw —

# THE PROPERTY OWNERS' ASSOCIATION OF NSW



02 9363 3949



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**Tom Petrovski**

## PRESIDENT'S REPORT AUGUST - NOVEMBER 2014

Well here we are again another 2014 about to close and what a workload your POANSW committee has had on its plate. Our members can be assured that they have been well represented in a cross section of legislative and regulatory matters introduced by the state government this year. Some of these included strata schemes review, land tax valuations, planning laws, retail leases, new building home warranty review, social housing management review, boarding house legislation roll out, NCAT roll out and residential tenancy dispute resolution.

No doubt that the 100+ pieces of legislation put under the microscope by the NSW ministers office was strategic, in view of the state election in March 2015. Not all of it good news for property owners with the latest debacle in strata home ownership and the new builders home warranty review.

Please read the articles by two experts in the field who presented at our recent strata focused seminar. If you own or are thinking of owning a strata property, this may send a chill up your spine. Coupled with a very timely landmark High Court of Appeal decision which has set an unfortunate precedent about the rights of strata plan schemes exercising their rights to remedy defects from the original builder. It really makes you think twice about owning or living in a strata community.

Never the less this NSW government is pro construction. More apartments mean more jobs, more council rates collected, more immigrants, more investment.

With currently 14,000 apartments proposed to be built in the next five years in Sydney alone, the property landscape will change forever.

With currently a quarter of us living and working in strata schemes of some sort, it is predicted that 50% of us will be by 2025. We have called for and have already met the new minister for Fair Trading the Hon. Matthew Mason-Cox raising our concerns across many matters but the lack of response is concerning. This is the the 4th minister in two years and come March next year, will he be around? Who knows.

There has been rumours flying around the property media circles that the "quarantining" of negative gearing is seriously on the agenda by government. They pay out "billions in tax breaks" the media reports and that these tax breaks would be best be saved and used elsewhere. Now wouldn't that be "the nail in the coffin" for property investors? Why would anyone tamper with the key tax break incentive and one of the big drivers in buying an investment property in the first place?

Property has been the no.1 driver of wealth creation for ordinary mum and dad type investors who add 85% of the supply of rental accommodation in the communities. Isn't there a supply issue going on? We do hope these are only rumours. We will keep you posted.

Members have raised the issue of increasing costs for false smoke alarm call outs by the fire brigade. We wrote to the Minister of Police & Emergency Services the Hon. Stuart Ayres asking for an explanation. Please read the reply letter inside the journal.

Well its that time again that we set a night to reflect on 2014, discuss, network and have a drink or two with our members and guests.

I send a warm invitation to you all to join us at our annual Xmas function to be held at the newly renovated Hughenden Boutique Hotel on 3rd December 2014.

A big thank you to the hard working committee for all their efforts and time they have given to the many causes this year. A thank you to our colleagues and associates and of course to all our members across NSW, interstate and overseas who have given support to keep the POANSW alive and kicking. It's been our pleasure to represent you.

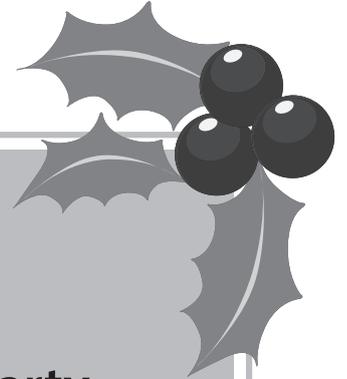
A Merry Xmas to you all and a happy new year.

Best Wishes,

*J. Gilmovich*

PROPERTY OWNER'S ASSOCIATION OF NSW INC.

*invites you to...*



## End of Year & Christmas Cocktail Party

Wednesday 3rd December 2014  
6.45pm arrival for 7.00pm start

The Hughenden Boutique Hotel (Atrium Room)  
14 Queen St, Woollahra NSW 2025

Live music, catering by vincent restaurant,  
beer, wine & soft drinks provided

Cost: Free of charge to members & their partners  
Additional attendees (non-members) \$45.00 per person.

RSVP: by 1 December 2014

Please contact the Hughenden Hotel Reception to advise your attendance.  
Ph: 02 9363 4863 or email [reservations@thehughenden.com.au](mailto:reservations@thehughenden.com.au)

*Strictly limited numbers, so we suggest booking as early as possible.*

Should you have any special catering requirements please advise reception.



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## INVESTORS FOCUSED ON VALUE GROWTH RATHER THAN YIELD

*SOURCE: Residential Property Manager (RPM online)*

Rental rates are rising at a slower pace than dwelling values, and a compression in rental yields across each of the capital cities is expected to occur.

According to the August RP Data CoreLogic Hedonic Home Value Index, the only regions where yields have moved higher over the past 12 months have been across the Adelaide and Hobart apartment markets. Across the combined capital cities, the typical gross yield on a house has reduced from 4.1 per cent to 3.7 per cent over the past 12 months.

RP Data research director Tim Lawless said the most significant yield compression is taking place in Sydney and Melbourne.

"Over the past year we have seen Sydney's gross rental yield fall by 47 basis points, from 4.1 per cent to 3.6 per cent", he said.

"In Melbourne, where rental yields are even lower, we have seen gross yields fall by 32 basis points over the year to reach 3.2 per cent gross.

"Given the current rate of value growth and moderate rental growth, it won't be long before Sydney yields have moved below those of Melbourne.

"With yields so low in the cities where values are seeing the largest capital gains, it is clear investors remain very much focused on value growth rather than yield," he added.

RP Data also said investors are currently comprising their largest proportion of new mortgage commitments since late 2003.

In fact, investor loan commitments have accounted for more than 38 per cent of all mortgage lending for nine consecutive months, the longest period ever that investment lending has held above that level.

"Investors are mostly concentrated across Sydney and Melbourne apartment markets where capital gains have been strong but yields have been pushed very low," Mr Lawless said.

"Potentially there are better investment returns to be had in the smaller capital cities where the growth trend is less mature and yields are healthier."

Cover photo: 'Bondi Beach' by Sarah Ackerman  
<https://flic.kr/p/7uoSHn>

**WELCOME TO OUR NEW MEMBERS:**

F. Casiglia	T. Andreassen
P. Gittany	M. Rosen
L. Liu	N. Gerrand
G. Caldwell	C. Lim
C. Vass	J. McDonald
C. Knight	B. Montgomery
G. Stojanovic	

**POSITION PAPER UNVEILS  
COMMUNITY SCHEMES REFORMS**

Key reforms to support residents living in nearly 2,200 community, neighbourhood and precinct schemes in NSW have been unveiled in a new community schemes law reform position paper.

Certain reforms concern strata managing agents. A snapshot of the proposed changes includes:

- Boosting responsible management of schemes through strengthened accountabilities, including new disclosure requirements
- Helping associations to monitor and fund property maintenance by requiring a builder or developer to provide a building maintenance schedule at the first annual general meeting
- Limiting proxy votes to prevent an individual or small group controlling a scheme
- Streamlining by-law enforcement; making it easier to penalise serial offenders and recover enforcement costs
- Providing opportunities for tenants to be represented at meetings
- Accommodating online technology to help schemes communicate and operate efficiently and effectively.

These reforms have been informed by more than 2,000 stakeholder and community comments, letters and submissions in response to the Strata and Community Schemes Discussion Paper (September 2012) and the Strata Title Law Reform Position Paper (November 2013).

The position paper paves the way for a complete reforms package, including strata and building industry reforms. Where appropriate, the NSW Government has sought to ensure consistency across strata and community scheme laws. The positions paper can be downloaded from Fair Trading website - [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

**FAIR TRADING LAUNCHES TENANCY  
COMPLAINT SERVICE**

NSW Fair Trading has launched a free Fair Trading tenancy complaint service, which is set to change the way residential disputes are handled.

The decision to proceed with the state-wide rollout followed a highly successful six month trial of the simple and fast new tenancy complaint service.

In the seven months to 30 June, Fair Trading received 1522 tenancy complaints, with 88% resolved without the need for higher cost resolution options.

The service offers a convenient alternative for residential tenancy disputes about issues such as repairs, access to premises or inspections, condition reports and ending a tenancy. Tenants, landlords and agents can lodge a complaint online at the NSW Fair Trading website - [www.fairtrading.nsw.gov.au/biz\\_res/ftweb/General\\_complaint/index\\_tenancy.htm](http://www.fairtrading.nsw.gov.au/biz_res/ftweb/General_complaint/index_tenancy.htm)

Fair Trading resolves the dispute, parties are not required to incur the expense and time involved in attending a hearing with the NSW Civil and Administrative Tribunal (NCAT).

For a better understanding of how the service works, consumers can look at Fair Trading's newly launched video: Help with tenancy problems. It can be found on Fair Trading's YouTube channel. <https://www.youtube.com/user/NSWOFT>

**EVICTION PLAN FOR HOUSING  
COMMISSION CRIMINALS**

*SOURCE: REB online*

Criminals could be barred from living in NSW public housing following a controversial tribunal decision that allowed a convicted drug dealer to remain in his taxpayer-funded apartment.

Reported in the Daily Telegraph, the state government is looking at methods – including draft legislation – that will make those convicted serious crimes ineligible for taxpayer-funded homes.

The government is also considering removing the power of the NSW Civil and Administrative Tribunal (NCAT) to reinstate tenants who repeatedly break the law.

In one recent NCAT decision, the government was denied the ability to evict a man who was caught dealing drugs out of his Housing NSW apartment in 2006 and 2014.

The Land and Housing Corporation applied to evict a Redfern resident on August 19 after he was caught with trafficable quantities of ice and cannabis in the apartment he has lived in since 2001 on a lease inherited from his mother.

In evidence to the tribunal, he admitted using the apartment to sell drugs — something he was previously convicted of in 2006.

However, the tribunal rejected the Land and Housing Corporation's application to evict him, finding that even though he admitted dealing drugs out of the property, "there is no adverse effects on neighbouring residents, the risk to neighbours is limited, the landlord's responsibility to its other tenants, if any, is not quantified".

This is despite the act governing the tenancy agreement explicitly prohibiting the use of the property for supplying or manufacturing drugs.

Community services minister Gabrielle Upton said decisions like these show the system needs to change. "People who deal in drugs from public housing have so seriously breached their tenancy agreement that they should be evicted," she told the Daily Telegraph. "Where serious crimes have taken place on the premises, the tribunal's discretion not to terminate should be removed."

Ms Upton said the changes would make it fairer for those who did the right thing, and could free up properties for the 58,000 applicants on the public housing waiting list.

"It is not fair or right to be in public housing at considerable cost to taxpayers after pleading guilty to the supply of methylamphetamine," she said.

"Good tenants ... should not have to put up with this type of behaviour."



## TENANCY AMONG TOP CONSUMER COMPLAINTS

Tenancy grievances made it into the top 10 list of consumer complaints for the first time, as more tenants sought advice from NSW Fair Trading, new data reveals.

NSW Minister Fair Trading Matthew Mason-Cox said Fair Trading received 45,108 complaints in the 2013/14 financial year, up from 44,103 in the previous year. "The number one complaint category in the 2013-2014 financial year was electrical, electronic, whitegoods and gas appliance, with 2,537 complaints received," he said.

"Consumer concerns about refunds, defective goods and unsatisfactory service continues to be a common trigger for complaints.

"Buying used cars and household furniture rounds out the top three products. Mobile and smart phones are part of these essential consumer products, coming in at number 10 on the list.

"Complaints about tenancy made the top 10 list for the first time, so it's encouraging to see tenants are seeking advice from the consumer watchdog to mediate disagreements with their landlord and real estate agent."

Top 10 consumer complaints in 2013-14 were:

1. Electrical, electronic, whitegoods and gas appliance (2,537)
2. Used cars (2,221)
3. Furniture, furnishings and Manchester (2,165)
4. Clothing, footwear, accessories and jewellery (2,087)
5. House construction (1,829)
6. Tenancy, bonds, residential parks (1,522)
7. Automotive - repairs and maintenance (1,514)
8. New cars (1,338)
9. Travel and tourism (1,291)
10. Mobile and smart phones (937)

The Australian Consumer Law offered consumers a comprehensive set of rights when purchasing goods or services, known as consumer guarantees, Mr Mason-Cox said. "A consumer has a right to remedy when goods don't meet a guarantee," he said.

The POANSW believes that the ministers comments above are incorrect about the reason tenancy complaints have surged. Since the inception of the Residential Tenancies Act 2010 in Feb 2011, both landlords and tenants have been confused with many of the new clauses of the act which were poorly drafted leading to interpretational confusion by both landlords and tenants alike and as such matters end up before a hearing. POANSW continues its lobbying efforts to bring more clarity to the Act.

## APARTMENT CAR SPACE CUT

New Sydney apartments built near public transport will no longer need a car space, under new rules announced on Tuesday.

The planning guidelines were designed to reduce housing costs and encourage public transport use.

Car park values may spike and councils will have more car owners wanting on-street parking permits.

NSW planning minister Pru Goward said draft guidelines would apply for car parking in developments built within 400 metres of a transport hub, such as a bus interchange or railway station around the inner Sydney council areas.

Ms Goward said the cost of a new apartment would be slashed by up to \$50,000 under proposed changes.

"A car space can add up to \$50,000 to the cost of a new apartment, so providing more flexibility around car parking requirements could lead to savings of up to the same amount for homebuyers," she said.

"Importantly, this change is restricted only to particular councils, applies only to development within close walking distance of transport services and strongly discourages councils from allowing residents of these buildings to receive street parking permits."

Real Estate Institute of NSW president Malcolm Gunning said they applaud what the planning minister is talking about.

"It really has got to be in the CBD locations - you really have to be in the five-kilometre ring of Sydney," he said.

"We think the minister is recognising the trend.

"The developers will look at the demand and economics of it and then if they don't build car parks they will provide other opportunities for transport such as scooters, bikes and share cars," he added.

## NEW RESEARCH BY HIA BACKS NEGATIVE GEARING

A new report released by the Housing Industry Association (HIA) has concluded that restricting access to negative gearing for residential property would reduce investment in housing, erode housing affordability and put unnecessary pressure on rents.

The research report Economic Impacts of Negative Gearing of Residential Property determined that abolishing stamp duty on conveyances should be the top priority for housing tax reform, making housing more affordable for both renters and owner-occupiers.

The report, commissioned by HIA and conducted by Independent Economics, was released in anticipation of the Federal Government's White Paper on tax reform.

HIA Managing Director Shane Goodwin said discounting residential negative gearing in isolation is a backwards step for tax reform, in terms of both efficiency and equity.

"New housing is one of the most highly-taxed sectors in the economy, and the removal of negative gearing would only make that situation worse and discourage investment. This would in turn reduce housing supply and increase the cost of renting," Mr Goodwin said.

"Negative gearing promotes private investment in the rental market, thus stimulating economic activity and taking the pressure off social housing and the public purse.

"With an ageing workforce and future pressure on services, policy settings such as negative gearing that promote wealth creation and self-sufficiency in retirement should be promoted.

"It is important to remember that negative gearing is not the domain of so-called 'wealthy investors'. Figures from the ATO demonstrate that 74% of tax payers receiving rental income have a taxable income of less than \$80,000," Mr Goodwin said.

Negative gearing allows investors to fully deduct costs associated with a rental property against their income which reduces their tax obligation. This process has been criticised in the past.

## HIGH COURT DISMISSES RIGHTS FOR COMPENSATION FOR DEFECTIVE WORK

SOURCE: Grace Lawyers press release

In a landmark decision the High Court has decided that strata property owners have no rights against builders (and others) in the tort of negligence for defective building work. The effect of this case is that owners corporation's do not have any rights to sue anyone in negligence for defective building work in commercial, retail or industrial complexes.

The Court found that an owners corporation was not "vulnerable" when a commercial building was built and that any rights that did exist were between the developer and the builder and later between the developer and the first unit owners who purchased into the complex.

It found that the individuals who purchased first (generally off the plan) were in a position to bargain for any items they wished including warranties for defective work. If they did not get a reasonable bargain they couldn't complain about defects later (through the owners corporation's rights).

Colin Grace of the firm Grace Lawyers who represented the owners corporation in the case said that "this decision changes the fundamental rights of land owners to take action against those that offend them. What it means is that anyone who wants to buy into these strata schemes needs to contract with the original developer to obtain any rights over defects (which may manifest itself years into the future – as in this case). If they don't, then too bad"

The problem with the case is that these owners are mum and dad investors who do not have the same sophistication as the builders and developers who purpose build these schemes. They were sold an investment opportunity and a purpose built building, which years down the track requires substantial funds to rectify defects.

Colin said: "what is needed is urgent retrospective legislative intervention to protect the rights of owners in strata schemes for defective works."

Whilst builders and developers are dancing in the streets the question now becomes – who would ever want to buy into the developments ever again?

With over half a trillion dollars of property assets under strata management across Australia this decision will not assist owners in protecting their rights to have faulty works rectified.

## RENTING A UNIT NO LONGER THE CHEAP OPTION

Renting a unit instead of a house isn't the cheap option it once was, with new figures revealing the gap between the two is shrinking.

According to the latest RP Data Quarterly Rental Review across the combined capital cities, median weekly rental rates for houses is \$430 a week, while for units it is \$420 a week.

In the September quarter, rents for houses remained flat with no growth but units went up by 2.4 per cent.

RP Data national research director Tim Lawless said the bad news for investors was that rents weren't rising at anywhere near the same pace as property values were.

This was particularly the case in Sydney and Melbourne, where values had increased significantly but rents had not.

RP Data reported that Darwin topped the list as the most expensive city to rent in.

The median asking rent for a house is \$660 a week, while a unit is \$550.

Hobart is the cheapest with its median house rent at \$330 a week and units for \$275 a week.

Brisbane was the only capital city where rents didn't change in the housing market during the quarter.

Melbourne experienced the highest jump in house rents — up by 2.6 per cent.

In Perth and Canberra, house rents dropped by 2.7 per cent and 2.0 per cent respectively.

Mr Lawless said despite the drops in rental yields, investment demand was still at record levels and trending higher.

He said this showed that most investors were instead focusing on capital gains.

## HOUSE RENTS

Adelaide -- \$350	Brisbane -- \$400
Canberra -- \$480	Darwin -- \$660
Hobart -- \$330	Melbourne -- \$390
Sydney -- \$525	Combined capital cities -- \$430

## UNIT RENTS

Adelaide -- \$300	Brisbane -- \$390
Canberra -- \$383	Darwin -- \$550
Hobart -- \$275	Melbourne -- \$370
Sydney -- \$500	Combined capital cities -- \$420

## IMPORTANT PROPOSED CHANGES TO OWNERS NEW HOME (STRATA) BUILDING WARRANTY PROTECTION

*Update/report by Colin Grace of Grace Lawyers,  
specialists in strata, building & construction litigation,  
insolvency and insurance matters.*

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There has been a lot of discussion and comments being made around the amendments to the Home Building Act and the proposed regulations to the Act recently by various commentators and legal advisors.

In our Industry Update in June 2014 we highlighted the issues with the amendments and made recommendations that clients consider obtaining reports from experts and commencing action against the parties in the construction of their building even though the legislative provisions had not been given a commencement date.

Since that time there has been conjecture on when the new provisions will commence. The Office of Fair Trading in releasing the draft regulations made reference to the proposed date being 1 December 2014. At this stage that date is only a proposal and until all submissions on the proposed regulations have been considered and the Minister for Fair Trading makes a decision we do not have a definite start time for it all to commence.

Unfortunately this does not assist our customers in determining what to do and when.

What is clear is that change is coming and it will happen. What we now need to do is consider how to deal with that change so that the impact on Owners Corporation's is minimal and that rights are protected to their full extent.

In our view, it is fair to say that the amendments do not assist Owners Corporations in their claims for defective building work. They place further conditions and restrictions on the items that may be currently claimable and will lead to more litigation and interpretation of how these new clauses will work.

So, our recommendation has been that Owners Corporation's need to commence action earlier to protect the current rights that they have and not become embroiled in potential disputes under the new amendments.

### What should an Owners Corporation do to protect its rights?

1. Convene an Executive Committee as soon as possible to determine whether there is any impact on any current or potential claim that the Owners Corporation could have.  
In the main the changes will affect all schemes that are still covered by either the 6 or 7 years warranty provisions of the HBA Act or those with coverage under the Home Owners Warranty Insurance policies (in effect almost all schemes that still have rights).
2. Do a survey of owners to determine if there are any issues in the building.
3. Should it be considered that the new provisions affect your strata scheme the Executive Committee should:
  - a. Engage an expert building consultant to arrange a meeting and prepare a report on your circumstances including any potential defects;
  - b. Obtain advice from lawyers to confirm how these new changes affect your rights and determine what action that should be taken (ie further notifications, commencing action etc).
4. If further action or proceedings are required, the Owners Corporation should convene a general meeting to approve those actions.
5. Implement the appropriate course of action at the earliest opportunity.

### What is a reasonable time to do this?

Regrettably, the time is now (as we highlighted in our earlier Industry Update). If the legislative changes come into effect on 1 December then the Owners Corporation will have to complete all steps 1 to 5 by that time (and lodge any claim). As a basic timeline consider the following:

- Convene the executive committee meeting (points 1 & 3). Under the legislation you need at least 72 hours notice for the meeting (and further time if the strata scheme is a "Large Scheme" as defined). We suggest you allow 8-14 days for large schemes to cover notice requirements.

- Conduct the survey (point 2). This can be done at the same time that the Executive Committee meeting is being arranged to save time. The survey can assist the expert in carrying out the inspections and report.
- Obtain the consultant reports and legal advice (point 3). In our experience consultants will need access to all apartments, time to prepare their report and submit it to a meeting. This will take at least 4-6 weeks to do.
- Legal advice on rights can be obtained in 5-10 days on average.
- Once the legal advice and report is obtained the general meeting (point 4) can be convened (in some instances the meeting can be convened prior to the final reports being obtained provided they are available to owners prior to the meeting).
- Owners Corporation's require at least 7 days clear notice for the meeting, however, as most meetings are convened by post we suggest 14 days be given to cover any postage requirements for service.
- If approved, the legal action needs to be commenced (point 5). From our experience this can range from 1-10 days depending on the complexity of the matter and what is being claimed.

As can be seen by taking a conservative view in order to go through the process and commence the action an Owners Corporation needs at least 75-80 days (or approximately 10-11 weeks). So in order to comply an Owners Corporation needs to commence that process immediately or run out of time and be left with the new legislative provisions.

#### **What happens if the date changes?**

If the legislation does not come into effect by 1 December 2014 then the Owners Corporation may have more time to deal with the issues. However, until the Office of Fair Trading gives a clear direction on when the changes will occur Owners Corporation's must act as if the changes are effective from 1 December 2014.

In our view, the Minister should make a decision by the end of September or early October in order to give owners some time to implement plans to protect their rights. So to wait any longer may be to the detriment of owners.

#### **What if the Owners do nothing?**

If the Owners Corporation determines that they do not intend on doing anything or they do not commence the action within the time for the changes (when they are commenced) then any claim will need to be reassessed to determine what parts of the claim may not be relevant or impacted on by the changes.

#### **How can Grace Lawyers help?**

As the largest and most experienced in this field we can assist Owners Corporation's and their managers get through the process. To assist in getting matters moving forward we enclose our Industry Update covering all of the matters considered above (in more detail) and a set of motions for the meeting(s) to approve the relevant action/engagements.

If you are not sure of anything in this please do not hesitate to call our office or one of our senior lawyers or partners can attend your general meeting to discuss the issues with owners (at no charge).



## **MODERNISING STRATA**

*David Ferguson, Managing Director, Strata Plus*

In November 2013, NSW Fair Trading release a position paper designed to improve strata living as well as to facilitate the termination of older schemes to release land. The paper looked into communication methods, increasing transparency, providing easier dispute resolution procedures, and a reduction in red tape. It also advocated for a reduction of the threshold to terminate a strata scheme from 100 per cent down to 75 per cent. The legislation drafted from this paper is now due to be in force mid-2015. Below is a summary of key proposed reforms for those living in strata:

#### **GOVERNANCE**

- 'Executive committee' will be referred to as 'strata committee'
- Increased flexibility in the way meetings may be attended or held (i.e. social media and teleconferencing)
- Votes can be accepted electronically and there will be options for conducting secret ballots
- Strata documents can be held and distributed electronically

- Exclusion of personal liability for committee members who act in good faith executing their functions
- Tenants may attend meetings but will still not have any voting rights
- Office bearers are to be directly elected by the owners corporation at each AGM
- Schemes can appoint as many people as they wish to the committee provided that at least three people on a committee in a large scheme
- Limits on the number of proxies which members can hold will be imposed. If more than 20 lots a member to only hold proxy votes totalling 5% of lots in the scheme, and in schemes of 20 lots or less, a member will be limited to one proxy vote.

### BY-LAWS

- Increase penalties for by-law breaches to give the tribunal scope to escalate penalties for repeat offences.
- Changes to the model by-laws to address common issues, including parking, pets, smoking, number of people who can occupy a dwelling and the installation of hardwood floors.

### BUDGETS AND LEVIES

- An owners corporations can seek compensation against a developer for unrealistic levies
- Unit entitlements will be determined by an independent valuation
- The 10 year sinking fund plan will need to identify how it will be funded in the long term
- Disclosure of cost allocation for shared facilities and the method used on new strata and building management statements
- Strata committees need to prepare and distribute key financial information ahead of each AGM.

### BUILT ENVIRONMENT

- The threshold for collective sale or renewal of a strata scheme will be reduced from 100 per cent to 75 per cent of those in favour of the sale or renewal
- Defect rectification will be a compulsory AGM agenda item and the developer will be required to commission an independent defects report after building completion
- Developers of high-rise strata buildings will need to pay a defects bond until the defects have been rectified
- Developers or anyone connected to the developer will not have the right to vote on defect matters

- The developer will need to prepare a maintenance schedule to assist the owners corporation understand the maintenance and costs associated with their scheme

### DISCLOSURE & TRANSPARENCY

- Strata agents to disclose potential conflicts of interest, including any relationship they have with the developer
- Strata management agencies to disclose commissions gained from third parties e.g insurance companys & maintenance contracts.
- Large schemes in excess of more than \$250,000 to have their accounts audited each year
- Management agreements will be limited to a period of no more than three years
- Committee members to disclose any conflict of interest in a matter to be considered by the committee
- Non-owners with a financial interest in the scheme (i.e. managing agents, letting agents and building managers) are prohibited from being a member of a committee.

#### **David Ferguson, Managing Director, Strata Plus**

*David is the licensee and Managing Director of Strata Plus. David has been in strata management since 1995 and is considered the most experienced licensee in the industry. David was the longest standing President of Strata Community Australia (SCA) NSW, holding the position for five years from 2008-2013. He is also a Director of SCA NSW and has been a Director of SCA's national board. David is a regular media commentator, speaker on strata. He has also been a member and Chair of a number of development and strata related committees and working groups.*



### IF THERE'S A HOUSING SHORTAGE, WHERE'S THE RENTAL GROWTH?

*Article by Terry Ryder of [hotspotting.com.au](http://hotspotting.com.au)*

Once again we need to ask the question: where in this nation of "chronic housing shortages" is the rental growth?

The latest Rental Report from Domain Group records virtually no rental growth in the capital cities in the September quarter. And, in annual terms, rental performance ranges from weak to nothing to negative.

The report covers the rental market for houses and for apartments in each of the eight capital cities. That's 16 rental markets in total, and in the past 12 months half of them have recorded falling rents or no growth.

The best performance in an Australian capital city is in Hobart, according to these figures, with a 4% rise in the median asking rent for units and a 3.3% rise for houses. That's a very anemic result, but it's the best in the nation apparently.

If you believe the constant rhetoric from the developer lobby, Sydney has the nation's most serious shortage of housing – yet in the September Quarter the median rent for houses did not change and the median rent for apartments fell 1%.

In annual terms, house rents in Sydney have grown a meagre 2% and apartments rents 3.1%.

The position in all the other capital cities is weaker than that.

Perth's rents have dropped around 6% in annual terms for both houses and apartments.

In Canberra, the median rent for apartments is down 5% and for houses it's dropped 2.7%.

Darwin is down 2.9% (houses) and 1.8% (apartments).

Overall it's a very pallid performance and one that's inconsistent with claims of "a chronic housing shortage crisis", one that apparently demands urgent action from government.

The federal inquiry into the non-existent housing affordability problem, the one that is based on an Australian Bureau of Statistics miscount of first-home buyer numbers, is being fed a series of wish lists from groups representing builders and developers.

The common theme is that if you give developers everything they've ever wanted, they'll go away and build lots of dwellings and affordability will be miraculously transformed.

Economists, journalists and other commentators across Australia have bought the "chronic shortage" storyline and so it's accepted as fact by many people.

But there's a lack of evidence to support the idea and plenty of data that suggests the claim is nonsense – including rental performance.

The performance of rents has been so poor, yields have fallen in virtually every capital city market in the past 12 months. Only Hobart has managed to lift rental returns.

I continue to believe that the most pressing issue for markets around Australia is the opposite one, one of emerging over-supply in key locations.

## AUSTRALIANS ARE THE RICHEST PEOPLE IN THE WORLD

Australians are the richest people in the world, because of the value of their homes, according to the investment bank Credit Suisse.

Its fifth annual study of global wealth trends found the median Australian adult was worth \$US225,000 (\$258,000) in June, well ahead of the second wealthiest nation on this measure, the Belgians, at \$US173,000. They were followed by the Italians, French and British, all around \$US110,000.

Only 6% of Australians have wealth below \$US10,000, compared with 29% in the US and 70% for the world as a whole.

Household wealth in Australia is heavily skewed to "real assets" – essentially property – which average \$US319,700 per household, or 60% of gross assets. This is the second highest in the world after Norway.

## HOUSE SMOKE ALARMS WARNING. THE ALARMING TRUTH: AUSTRALIA'S WORST EVER HOUSE FIRE

*As reported on 60 Minutes programme Sunday 19/10/14*

It was Australia's deadliest house fire – 11 people, eight of them children, were killed as an inferno engulfed the Slacks Creek home in which they were sleeping.

The Lale and Taufa families were together for a sleepover, but the fire soon saw them ripped apart by tragedy.

Three years after the fatal fire at Slacks Creek, south of Brisbane, the scars remain raw for the survivors.

Disturbingly for the rest of us, authorities have not heeded the lessons from the tragedy: Australia's most popular fire alarm, that being Ionised smoke alarms, is unlikely to save you.



- b. Where less than full board and lodging is provided – \$227 per week per room for single accommodation, or \$378 per week per room for family or shared accommodation.

These tariff maximums will have to be met if operators wish to remain eligible for residential status for council rating purposes.

POA NSW notes that the tariff maximums marry up with the limits set by the Office of State Revenues Boarding House Land Tax Exemption criteria. But interestingly they line up with the 2013 maximums, rather than the 2014 levels which would be a more appropriate fit.

POA NSW has contacted the Performance and Compliance team at The Office of Local Government and they advise that they will review this discrepancy.

**POA NSW HELP LINE 02 9363 3949**

POA NSW has a help line for members, where members can call and discuss property issues.

In the last year there has been a large increase in helpline calls associated with the new Boarding House reforms.

Topics range from; the provisions of the New Boarding House Act, registration, letting agreements, House rules, and of late a large number have been received relating to council inspections.

If you have an issue that you'd like to discuss, members can ring 02 9363 3949. While we are not able to provide advice, the helpline is there for your benefit.



**MEDIA RELEASE 28 OCTOBER 2014**

**THE HON. PRU GOWARD MP TAKES A STEP IN THE RIGHT DIRECTION: IT IS TIME TO SHUT DOWN ILLEGAL BOARDING HOUSES IN NSW**

The NSW Minister for Planning, the Hon Pru Goward MP has today announced proposed changes that would give the NSW Land and Environment Court new powers so that electricity and other utility supplies can be cut-off from premises flouting occupancy and fire safety regulations.

These new powers appear to be specifically designed to target illegal boarding house operations in NSW, and give the government the power to ultimately close non-compliant accommodation operations.

The Property Owners Association of NSW (POA) is the peak industry body representing operators and owners of registered boarding houses in NSW.

The POA has adamantly lobbied the NSW government to introduce stronger enforcement of current regulations, in a bid to either close down unsafe and non-compliant boarding houses in NSW, or force them to comply with the fire, health and other regulations.

The POA welcomes the introduction of these new powers, but is conscious that a chronic lack of affordable housing in established areas of Sydney has fuelled illegal boarding house operators. The POA has argued strongly for the need to bolster the supply of affordable housing by encouraging existing marginal operators to continue supplying legitimate affordable housing.

James Ruben, the Vice President of the POA said that "while the POA is happy to see further enforcement measures put in place to control illegal boarding house operations in NSW, our members remain apprehensive about the way that these powers will be enforced."

Local Councils and the NSW Government have had the power to force illegal boarding house operations to comply with current regulations, through financial penalties and fines, since the introduction of the Boarding House Act 2013. However, POA is not aware of one single penalty having been issued to any illegal boarding house anywhere in the state.

The POA is fully supportive of the closure of illegal boarding house operations, and would like to see these new powers used extensively to bring illegal operations into line.

For more information, please contact James Ruben on 0408 497 038 or at [james@poansw.com](mailto:james@poansw.com).



## NATIONAL PROPERTY MARKET - HIGHLIGHTS OVER THE THREE MONTHS TO OCTOBER 2014

(SOURCE: RP Data)

- **Best performing capital city:** *Sydney*, +3.9 per cent
- **Weakest performing capital city:** *Hobart*, -2.8 per cent
- **Highest rental yields:** *Darwin* houses with gross rental yield of 5.9 per cent and *Darwin* units at 6.0 per cent
- **Lowest rental yields:** *Melbourne* houses with gross rental yield of 3.2 per cent and *Melbourne* units at 4.1 per cent
- **Most expensive city:** *Sydney* with a median dwelling price of \$680,000
- **Most affordable city:** *Hobart* with a median dwelling price of \$315,000



## Mr Geoff Provest MP

Parliamentary Secretary for Police and Emergency Services

MIN14/002011

Mr James Ruben  
Vice President  
Property Owner's Association of NSW  
PO Box 329  
BONDI JUNCTION NSW 1355

- 2 OCT 2014

Dear Mr Ruben

Thank you for your correspondence to the Minister for Police and Emergency Services, the Hon Stuart Ayres MP, regarding the increased cost of false alarms. The Minister has asked me to reply on his behalf.

I am advised by Commissioner Mullins that Fire & Rescue NSW responded to approximately 43,000 automatic fire alarms in 2013/14, 97% of which were unwanted alarm activations. This diverts Fire & Rescue NSW's resources that would otherwise be available for genuine emergencies.

From 1 July 2013, the charge for false automatic fire alarms increased from \$750 to \$1250 as a key component of the strategy to reduce the number of avoidable false fire alarms. The charge is intended to encourage building owners to properly service and maintain their automatic fire alarm systems.

The average cost for Fire & Rescue NSW to respond to a fire alarm call out is just over \$3,000.

Fire & Rescue NSW has in place a Waiver Policy based on a number of criteria. In addition, there are two leniencies that are applied automatically: the 60 Day Leniency and the 24 Hour Leniency. Details on this can be found on the Fire & Rescue NSW website at [www.fire.nsw.gov.au](http://www.fire.nsw.gov.au) or, alternatively, through one of the three Automatic Fire Alarm Service Providers with whom your members are contracted.

Should your members wish to discuss this issue further, they can contact Ms Christine Herridge from Fire & Rescue NSW's Community Safety Directorate on (02) 9742 7170 or by email to [Christine.Herridge@fire.nsw.gov.au](mailto:Christine.Herridge@fire.nsw.gov.au). Ms Herridge would also be available to meet to provide advice to your members on ways to reduce unwanted false alarms.

Yours sincerely

**Geoff Provest MP**

Parliamentary Secretary for Police and Emergency Services



# Property Owner's Association of NSW Inc.

PO Box 329, Bondi Junction NSW 1355 Ph: (02) 9363 3949

[www.poansw.com.au](http://www.poansw.com.au)

[info@poansw.com.au](mailto:info@poansw.com.au)

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The Hon. Gabrielle Upton MP  
Minister for Family and Community Services  
Level 31, Governor Macquarie Tower  
1 Farrer Place  
Sydney NSW 2000

11 August 2014

Dear Mrs Upton

Thank you for your letter to the Property Owners Association of NSW (POA) dated 12 July 2014. As you are aware, the POA is the peak industry body representing general boarding house owners and operators in NSW, and has been heavily involved in the consultation and implementation of the Boarding House Act 2014.

The POA is keenly interested in the general boarding house industry. However, on 13 December 2013, the POA dissented from the Boarding House Implementation Committee (BHIC).

While the POA was grateful to have been invited to participate in the BHIC, and appreciated the role that we were given in the drafting and implementation of the Boarding House Act, with the Act now in force and provisions such as the boarding house register well and truly functional, the POA is heavily focused on the incentives scheme that was announced at the same time as the legislation.

After multiple representations and submissions to the BHIC and other representatives of Government outlining what the POA considers to be an appropriate framework for an incentive scheme that would assist the general boarding house industry, it became apparent that the proposed incentive schemes did not form an area that the BHIC were focused on. Furthermore, it became apparent that no budget had been allocated for such a scheme.

This was a disappointing revelation for the POA, and as the sole representative of operators of general boarding houses on the BHIC, the POA had no choice but to dissent from the BHIC until these matters were addressed.

The core of the POA's proposed incentive scheme is:

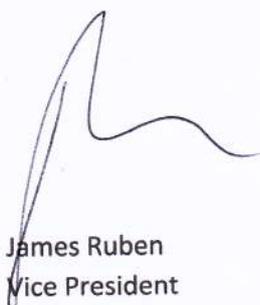
1. Relief from the exorbitant stamp duty charges levied on annual insurance premiums for general boarding houses which provide low cost accommodation
2. A system of reduced/waived charges for false fire alarms that result in callouts from the NSW Fire Brigade, which are currently set at \$1,250 per call out.

Both of these modest incentives would have a huge impact on the general boarding house industry, which is an essential part of the housing market, and provides a vital form of low cost affordable accommodation – something that is core to the NSW economy, and a current challenge for the state.

If you had time available, the POA's Boarding House Sub-Committee would very much appreciate an opportunity to discuss the current issues facing the industry with you in person.

On behalf of the Boarding House Sub-Committee of The Property Owners Association of NSW. –  
James Ruben, Susanne Gervay and Peter Dormia

Kind Regards



James Ruben  
Vice President  
Property Owners Association of NSW.

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