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New South Wales

Strata Schemes Management Amendment (COVID-19) Regulation 2020

under the

Strata Schemes Management Act 2015

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Strata Schemes Management Act 2015*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The object of this Regulation is to provide for the following matters under the *Strata Schemes Management Act 2015* for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—

- (a) altered arrangements for convening, and voting at, meetings of an owners corporation or a strata committee,
- (b) allowing instruments and documents, instead of being affixed with the seal of an owners corporation in the presence of certain persons, to be signed (and the signatures to be witnessed) by those persons,
- (c) the extension, to 6 months, of the time periods within which—
 - (i) the first annual general meeting of an owners corporation must be convened and held, and
 - (ii) a levy must be determined to reimburse an amount paid or transferred from an administrative fund or a capital works fund.

This Regulation is made under the *Strata Schemes Management Act 2015*, including sections 271 (the general regulation-making power) and 271A.

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1 Name of Regulation

This Regulation is the *Strata Schemes Management Amendment (COVID-19) Regulation 2020*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Schedule 1 Amendment of Strata Schemes Management Regulation 2016

Part 11

Insert after Part 10—

Part 11 Response to COVID-19 pandemic

69 Definition

In this Part—

relevant strata meeting has the same meaning as in section 271A of the Act.

70 Altered arrangements for convening relevant strata meetings—section 271A(1)(a) of Act

Notice of, or any other document in relation to, a relevant strata meeting may be given to a person by email to an email address specified by the person for the service of documents.

71 Altered arrangements for voting at relevant strata meetings—section 271A(1)(b) of Act

- (1) The means of voting specified in clause 14 may be used to determine a matter at a relevant strata meeting even if the owners corporation or strata committee (as the case may be) has not, by resolution, adopted those means of voting.
- (2) Clauses 14–17 extend to the use, under this clause, of those means of voting.
- (3) If those means of voting are to be used and have not, by resolution, been adopted, the secretary of the owners corporation (or, if a strata managing agent may exercise the functions of the secretary under clauses 14–17, the strata managing agent) must take reasonable steps necessary to ensure that each owner of a lot in the strata scheme or each member of the strata committee (as the case may be) can participate in and vote at the relevant strata meeting.
- (4) To avoid doubt, this clause—
 - (a) applies despite any requirement in the Act for a vote at a relevant strata meeting to be exercised in person, but
Note. See clause 28(1) of Schedule 1, and clause 10(1) of Schedule 2, to the Act.
 - (b) does not permit pre-meeting electronic voting to be used for an election.
- (5) A person who has voted, or intends to vote, on a motion or at an election at a meeting by a permitted means other than a vote in person is taken to be present for the purposes of determining whether there is a quorum for the motion or election.

Note. For quorum requirements for relevant strata meetings, see clause 17 of Schedule 1, and clause 12 of Schedule 2, to the Act.

72 Alternative to affixing seal of owners corporation—section 271A(1)(c) of Act

- (1) An instrument or document may, as an alternative to being affixed with the seal of an owners corporation in the presence of the persons referred to in section 273 of the Act, be signed by those persons (each of whom is, in that capacity, a *signatory*) in the presence of those persons (each of whom is, in that capacity, a *witness*).
- (2) The instrument or document must indicate the following—

- (a) the date on which it is signed and the signatures are witnessed,
- (b) the name of each signatory and witness,
- (c) the relationship of each signatory and witness to the owners corporation,

Note. For example, the secretary of the owners corporation, the strata managing agent of the owners corporation (or a relevant officer of the strata managing agent), a member of the strata committee of the owners corporation, or an owner of a lot in the relevant strata scheme.

- (d) if a signatory or witness is the strata managing agent of the owners corporation, or a relevant officer of a strata managing agent that is a corporation—the number of the strata managing agent’s licence under the *Property and Stock Agents Act 2002*.
- (3) A reference in section 273(4)–(6) of the Act to affixing the seal of an owners corporation to an instrument or document is taken to include a reference to signing, and witnessing the signature of, the instrument or document in accordance with this clause.
- (4) For the purposes of this clause—
- (a) the presence of a signatory or witness is taken to be satisfied if the signatory or witness is present by audio visual link, and
 - (b) a signature is not required to be witnessed if it is the signature of—
 - (i) a strata managing agent, or a relevant officer of a strata managing agent that is a corporation, or
 - (ii) if the owners corporation has only 1 owner—the owner.
- (5) In this clause—
- audio visual link** means technology that enables continuous and contemporaneous audio and visual communication between persons at different places, including video conferencing.
- relevant officer** of a strata managing agent that is a corporation means—
- (a) the president, chairperson or other principal officer of the corporation, or
 - (b) any member of staff of the corporation authorised by the president, chairperson or other principal officer to affix the seal of the owners corporation to an instrument or document, or to attest the fact and date of the affixing of the seal.

73 Extension of time periods—section 271A(1)(d) of Act

- (1) A meeting of an owners corporation under section 14 of the Act must be convened and held not later than 6 months after the end of the initial period.
- (2) An owners corporation must, not later than 6 months after transferring money from, or using, the administrative fund or the capital works fund in the manner referred to in section 76 of the Act, determine the amount to be levied, as a contribution to the fund from which the transfer or use was made, to reimburse the amounts paid from the fund.