

Urban Renewal – The Importance of the Returning Officer

The Strata Schemes Development Act 2015 and the Strata Schemes Development Regulation 2016 commenced on 30 November 2016. One of the most important reforms effected by the act is the urban renewal mechanism contained in Part 10, which may permit the collective sale or redevelopment of strata schemes, without unanimous agreement of lot owners being required. We are already encountering developers and lot owners pushing forward with proposals, with a view to moving quickly when the act comes into force.

This article will focus on the importance of the returning officer and the protection this requirement affords lot owners. Further information in relation to other aspects of the operation of Part 10 can be obtained in our article [Navigating Strata Urban Renewal: Commercial Gain – vs – Home Ownership](#).

Broadly, the collective sale/redevelopment procedure involves the making of a proposal, initial consideration of that proposal, constitution of a strata renewal committee, formulation of a strata renewal plan and submission of that plan to the owners corporation. At that point, the owners corporation may pass a special resolution approving the plan and deciding to submit it to lot owners for approval. This triggers several provisions intended to protect lot owners. In particular:

- In addition to the requirement of a special resolution to approve the plan and submit it to lot owners, which effectively requires approval of 75% of lot owners, by unit entitlement, there is a requirement that the plan be approved by 75% of lot owners, by number of lots. This is done by lodgement of support notices.
- Support notices must be lodged with a designated returning officer. Clause 27 of the regulation provides in effect that the returning officer must:
 - be appointed by a resolution of the owners corporation.
 - be independent of the owners corporation.
 - not be any of the following:
 - a lot owner in the strata scheme or a relative of a lot owner.
 - a member of the strata committee.
 - a managing agent for the strata scheme or any employee of the managing agent.
 - a person who has a pecuniary interest in the collective sale or redevelopment proposed by the strata renewal plan or a relative of such a person.

- Support notices must be in an approved form and must be lodged least 60 days after receiving the plan, but prior to lapse of the plan. There are a number of circumstances in which the plan can lapse, but the most likely is where the required level of support, i.e. 75% of lot owners by number of lots, is not obtained within three months of submitting the plan to lot owners.
- The returning officer must give written notice to the secretary of the owners corporation if the required level of support is achieved.

Clearly, the role of the returning officer will be an important one. A decision whether or not to support a strata renewal plan will be one of the more important decisions the owner of a strata apartment will make, particularly if the apartment is the owner's home. The support notice mechanism is comparable to an election in relation to that important issue and the returning officer has an important role in preserving the integrity of that election.

Owners of apartments in a strata scheme the subject of a strata renewal proposal should carefully consider who they will engage as their returning officer. We would be pleased to provide any assistance which may be required by owners, including our engagement as returning officer.

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