Sinking Fund Plans Are Now Required For All Strata Schemes in NSW

After some time of consultation with the strata industry and the Institute of Strata Title Management, the NSW government through its Office of Fair Trading has signalled the introduction of Sinking Fund Plans to all strata schemes.

The Strata Schemes Management Amendment [Sinking Funds] Regulation 2006 was gazetted on April 28 2006. This Regulation requires most NSW strata schemes to commence 10-year sinking fund planning over the next few years. The Regulation extends to older schemes the provisions of the *Strata Schemes Management Act*, which already apply to schemes that have come into existence on or after 7th February 2005. See below for information about the provision that came into effect in February 2005. The effect of the April 2006 Regulation is that schemes will be gradually brought within the 10-year planning obligations according to its strata plan number. By July 2009, all schemes (except those 2-lot schemes that are not required to establish a sinking fund) will be covered.

As schemes are brought under the 10-year sinking fund planning obligations, owner corporations affected will be required to commence working out their capital expenditure needs for the next 10-years and levying individual lot owners accordingly. Owners' corporations are free to use outside experts in devising their 10-year plans.

Schemes that have been brought under new requirements are:

- Strata plan number 50,000 and over will be caught by the provisions from 1 July 2006
- Strata plan 30,000 – 49,999 by 1 July 2007

Schemes will be brought under the new requirements as follows:

- Strata plan 10,000 – 29,999 by 1 July 2008
- Strata plan 1 – 9,999 by 1 July 2009.

This means that by the second annual general meeting after the date relevant to the strata plan number of the scheme, a 10-year sinking fund plan should be in place.

2005 sinking fund provisions

On 7 February 2005, changes to the *Strata Schemes Management Act* came into effect. These changes, which apply to all strata schemes registered on or after 7 February 2005, require the owners corporations to plan ahead for the estimated sinking fund plan expenditure over the following ten-year period. Levies will have to be set accordingly to meet the ten-year sinking fund plan estimates. In other words, owners' corporations will need to work out the likely expenditure on items of a capital nature over the next ten-year period. For new schemes, the first ten-year sinking fund plan must be on the agenda of the first annual general meeting (AGM) and completed by the next AGM. The plan must be reviewed within five years of the first AGM. However, there is flexibility for owners' corporations to review their plan annually to facilitate a 'rolling' ten-year plan.

Sinking fund plans are intended to provide sufficient reserves for the long-term maintenance and repair of the building as well as replacement of common property items. Expenditure on painting and replacement of guttering, roofing and fencing are examples of the items that a sinking fund plan should provide for. The aim of this provision is to ensure owners corporations better plan their finances to minimise the risk of having insufficient funds when, for instance, expensive building repairs need to be carried out.

Owners' corporations will be required to have ten-year sinking fund plans in place for the entire life of the scheme.