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Update Summary

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STRATA TITLES

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Strata Titles NSW

Update Summary

David Knoll has provided the following updated annotations.

New Developments

Added new annotation in relation to *Strata Legislation Amendment Bill 2023* with details of changes made to *Strata Schemes Development Act 2015* and *Strata Schemes Management Act 2015*. See [ND.1.130].

- 2023 Amendments made to *Strata Schemes Development Act 2015*: [SSDA.142-147.60], [SSDA.154A.10], [SSDA.160-163.60], [SSDA.164-169.60], [SSDA.182.50], [SSDA.188.20], [SSDA.Sch.2.20]
- 2023 Amendments made to *Strata Schemes Management Act 2015*: [SSMA.5.30], [SSMA.16.20], [SSMA.35.20], [SSMA.50.20], [SSMA.76.20], [SSMA.83.60], [SSMA.102.20], [SSMA.105A.10], [SSMA.139A.10], [SSMA.141.40], [SSMA.146-147.60], [SSMA.176-178.20], [SSMA.186.20], [SSMA.237.90].

Added new annotation in relation to the commencement of *Strata Schemes Management Amendment Regulation 2024* (NSW). See [ND.1.140].

Strata Schemes Development Act 2015

Added new commentary on the conditions for terminating a strata scheme, with reference to *Owners of Strata Plan No 80877 v Lannock Capital 2 Pty Ltd* [2023] NSWSC 1401. See [SSDA.136.01].

Strata Schemes Management Act 2015

Updated commentary concerning deferring compliance under subsection 106(4) and the limitation period under subsection 106(6), with reference to *Kinnane v The Owners Corporation – Strata Plan No 89199* [2023] NSWCATCD (16 August 2023). See [SSMA.106.65] and [SSMA.106.70].

Updated annotation in relation to the McElwaine case - actions at common law and the limitation period under s 106(6), with reference to *Rialto Sports Pty Limited v Cancer Care Associates Pty Ltd* [2022] NSWCA 146. See [SSMA.106.70A].

Where a requirement for works to have a development consent first comes to light after an owners corporation refuses a proposed by-law or work, the need for a development consent “cannot be taken into account in considering whether the refusal of consent was unreasonable because they were not part of the circumstances at the time of refusal”. See [SSMA.126.20] and [SSMA.149.10].

Added new annotation regarding problems with the new provisions, with reference to *Bruce v Owners of Strata Plan No 98803* [2022] NSWCATCD 83. See [137B.02].

Updated commentary in relation to the rights of owners, occupiers and other persons who might be the subject of conduct amounting to a nuisance, with reference to cases *Jiang v Sui* [2023] NSWCATCD 127 and *The Owners – Strata Plan No. 16857 v Hyman* [2023] NSWCATCD (9 November 2023). See [SSMA.153.10].

Updated commentary regarding the order permitting animals to be kept in a building. See [SSMA.157.10].

New commentary on varying levy contributions, with reference to *Perpetual Corporate Trust Ltd v Owners Corporation SP6534; El Khouri v Owners Corporation SP6534* [2024] NSWSC 173. See [SSMA.87.20].

Added commentary in relation to air-conditioning installations, with reference to case *Ashbee v The Owners of Strata Plan No 11761* [2018] NSWCATCD 80. See [SSMA.110.10].

Updated commentary on interpretation of by-laws concerning a recent decision of the Tribunal in *The Owners – Strata Plan 69205 v Community Association DP270244* [2024] NSWCATCD (29 January 2024). See [SSMA.136.40].

Added commentary on case *The Owners – Strata Plan No. 16857 v Hyman* [2023] NSWCATCD (9 November 2023 [amended 4 December 2023]), in relation to *Mackinnon v Greenway, Greenway v Owners SP 49770*. See [SSMA.148-150.90].

Updated commentary concerning the scope of invalidation power, with reference to *Perpetual Corporate Trust Ltd v Owners Corporation SP6534; El Khouri v Owners Corporation SP6534* [2024] NSWSC 173. See [SSMA.148-150.100].

Updated commentary in relation to the Tribunal's jurisdiction to decide negligence suits, with reference to cases *Silberstein v Strata Choice Pty Ltd* [2022] NSWCATAP 375 and *Quo Warranto Pty Ltd v Goodman* [2022] NSWCATAP 315. See [SSMA.232.20].

Added commentary in relation to onus of proof, with reference made to cases *Glenquarry Park Investments Pty Ltd v Hegyesi* [2019] NSWSC 425 and *Selkirk v Owners of Strata Plan No 2661* [2024] NSWCATAP 17. See [SSMA.106.120].

Strata Schemes Management Regulation 2016

Added new commentary on Clause 60 concerning the non-recovery of mediation costs. See [SSMR.60.01].

Civil and Administrative Tribunal Act 2013 (NSW)

Added new commentary on costs related to withdrawn proceedings. See [CATA.60.11].

