Will the New Reform Mean that Owners Corporations Will Now Raise Money to Match their 10-Year Sinking Fund Plan?

Under the current legislation there is a requirement for owners corporations "to take into account" the 10 year sinking fund plan. Many schemes do not comply with this obligation in good faith with the result that the sinking fund remains just as underfunded as it was before 10 year plans were required.

The new legislation seeks to make it harder for those schemes to completely ignore their 10 year plan when it comes to having money in the bank by:

- Importantly, requiring the plan to include :

  a) details of proposed work or maintenance,
  b) the timing and anticipated costs of any proposed work,
  c) the source of funding for any proposed work,
  d) any other matter the owners corporation thinks fit,
  e) any other matter prescribed by the regulations for the purposes of this section.

- A requirement for schemes to implement the plan in so far as is practicable.

For large schemes only, there is a further requirement that in the estimates for the AGM there is to be a note as to the difference between the estimates for expenses for that year and the 10-year plan, together with reasons for that difference.

Of interest and which may result in purchasers seeking to rescind contracts due to a vendors failure to disclose contingent or anticipated expenses which are not covered by the schemes funds is a new requirement for the new section 109 certificates to set out the proposals (if any) to fund the 10 year plan.

Key takeaways

- The new legislation requires owners corporations to comply with their 10-year sinking fund plans more rigorously.
- Schemes must include detailed proposals for work, timing, costs, and funding sources in their plans.
- Large schemes must provide a comparison between annual expenses and the 10-year plan at the AGM.
- New section 109 certificates must disclose any anticipated expenses not covered by the sinking fund.

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22 February 2016

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