

GENERAL INFORMATION GUIDE

NSW STRATA SCHEME –RESTRICTED MATTERS AND RESOLUTION REQUIREMENTS

- Restricted matters are issues that must be decided by the Owners Corporation in a general meeting. The issues set out here are deemed restricted by legislation.
- An Owners Corporation may resolve to apply additional restrictions to satisfy specific requirements of their strata scheme.

| TYPE OF RESOLUTION | TOPIC | ACT REFERENCE |
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| Ordinary Resolution Twenty-four (24) provisions | <ul style="list-style-type: none"> ▪ Employ persons ▪ Appoint an executive committee before FAGM ▪ Pay executive committee members ▪ Require a strata managing agent to provide: certain information about trust accounts, other accounts, money; full particulars of certain transactions ▪ Give notice to comply with a bylaw ▪ Recover loss from the original owner for a breach of initial period restrictions ▪ Recover money payable under an exclusive-use special privilege bylaw ▪ Control, manage & administer the common property ▪ Maintain, repair, renew & replace common property fixtures ▪ Carry out work & recover costs where an owner fails to comply with a duty or notice ▪ Carry out work within lots at its own cost ▪ Enter lots to carry out work or determine if work is required ▪ Transfer money between Admin & Sinking funds ▪ Recover unpaid contributions ▪ Insure any property that is not otherwise required to be insured ▪ Make or amend entries in the strata roll ▪ Determine accounts & financials be audited ▪ Borrow money & give security | <p><i>section 13 (1) SSM</i></p> <p><i>section 16 (2)SSM</i></p> <p><i>section 25</i></p> <p><i>section 33, 34, 35, 36</i></p> <p><i>section 45</i></p> <p><i>sections 50 (2) SSM</i></p> <p><i>section 55 (3) SSM</i></p> <p><i>section 61</i></p> <p><i>section 62 SSM</i></p> <p><i>section 63 SSM</i></p> <p><i>section 64 SSM</i></p> <p><i>section 65 SSM</i></p> <p><i>section 68 (2), 71 (2)</i></p> <p><i>section 80 SSM</i></p> <p><i>section 88 SSM</i></p> <p><i>section 99 SSM</i></p> <p><i>section 107 SSM</i></p> <p><i>section 110 (1) SSM</i></p> |

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| | <ul style="list-style-type: none"> ▪ Dispose of or otherwise deal with a lot vested in the Owners Corporation as a result of a subdivision effected under section 9 of the SSFD Act 1973 or section 11 of the SSLD Act 1986. ▪ Enter into an agreement with an owner or occupier to provide amenities or services ▪ Recover certain moneys from an original owner relating to action taken during the initial period ▪ Represent owners in certain proceedings relating to common property ▪ Take proceedings as agent for an owner to remedy structural defects ▪ Apply to Strata Title Commissioner for legal assistance | <p><i>section 110 (2) SS</i></p> <p><i>section 111</i></p> <p><i>section 113 (2) SSM</i></p> <p><i>section 227SSM</i></p> <p><i>section 228 SSM</i></p> <p><i>section 231SSM</i></p> |
| <p>Ordinary Resolution in General Meeting</p> | <ul style="list-style-type: none"> ▪ Confirm minutes of last general meeting of the owners corp. ▪ Decide what matters shall not be decided by the executive committee or the strata managing agent ▪ Seek legal advice, services or initiate legal action where expenditure exceeds max. calculated under reg. 15 ▪ Appoint a strata managing agent & determine the extent of delegation of powers & the revocation of such appointment & delegations ▪ Estimate & determine moneys payable to the Admin & Sinking Funds ▪ Adopt Owners Corp. financial statements at AGM ▪ Determine moneys payable by owners for special levies ▪ Alter an order of an Adjudicator or Tribunal ▪ Apply to Dir, Gen. or Land & Environment court for orders in respect of strata development contract, amendments, development consent or modifications ▪ Appoint a caretaker for the scheme and to terminate a caretaker agreement ▪ In a large scheme, when spending 10% more than allocated on an item by a general meeting ▪ Approve strata plan sub division not involving common property or a development lot | <p><i>schedule 2 SSM</i></p> <p><i>section 21 (3) SSM</i></p> <p><i>section 80D</i></p> <p><i>sections 27 & 28 SSM</i></p> <p><i>sections 75,76</i></p> <p><i>clause 34,Schedule 2 SSM</i></p> <p><i>section 76 (4)</i></p> <p><i>section 208(2)(b) SSM</i></p> <p><i>section 28QG SSFD</i></p> <p><i>section 40a & 40B</i></p> <p><i>section 80A</i></p> <p><i>section 37 (2) SSFD</i></p> |

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| | <ul style="list-style-type: none"> ▪ Change the Owners Corp. address for service of notices on the Registrar General's copy of the common property certificate of Title | <i>section 239 SSM</i> |
| <p>Special Resolution</p> <p>Twenty –two (22) provisions</p> | <ul style="list-style-type: none"> ▪ For the amendment, addition or repeal of bylaws | <i>section 47 SSM</i> |
| | <ul style="list-style-type: none"> ▪ Pass, amend or repeal an exclusive-use or special rights bylaw | <i>section 52 SSM</i> |
| | <ul style="list-style-type: none"> ▪ Make a bylaw relating to car parking during the initial period | <i>section SSM</i> |
| | <ul style="list-style-type: none"> ▪ Decide if it is inappropriate to maintain, renew, replace or repair an item of property of the Owners Corp. | <i>section 62 (3) SSM</i> |
| | <ul style="list-style-type: none"> ▪ When the owners corp. wishes to improve or enhance common property by adding to, altering or erecting a structure | <i>section 65A SSM</i> |
| | <ul style="list-style-type: none"> ▪ When the owners corp. grants a licence to a lot owner to use common property | <i>section 65B SSM</i> |
| | <ul style="list-style-type: none"> ▪ Decide that contributions (generally or to a particular case) are to bear no interest | <i>section 79 (3) SSM</i> |
| | <ul style="list-style-type: none"> ▪ Decide that a discount be applied to contributions payable by an owner if paid before the due date | <i>section 79 (4) SSM</i> |
| | <ul style="list-style-type: none"> ▪ When wishing to terminate an executive committee members office | <i>clause 4(1) (e), sch 3 SSM</i> |
| | <ul style="list-style-type: none"> ▪ When seeking to effect insurance to cover owners in respect of a claim for which they could be jointly liable | <i>section 87 (1) (c) SSM</i> |
| | <ul style="list-style-type: none"> ▪ Amend or revoke a previous special resolution | <i>clause 23, Schedule 2 SSM</i> |
| | <ul style="list-style-type: none"> ▪ A certificate attesting that an O.C. passed a special resolution agreeing to proposed unit entitlement in a strata plan of subdivision involving common property | <i>section 11 (b) SSFD</i> |
| | <ul style="list-style-type: none"> ▪ The acquisition by transfer or lease of additional common property | <i>section 19(2) SSFD</i> |
| | <ul style="list-style-type: none"> ▪ The disposal by transfer or lease of common property | <i>section 25 SSFD</i> |
| | <ul style="list-style-type: none"> ▪ The creation of easements or restrictions on use over common property | <i>section 26 SSFD</i> |
| | <ul style="list-style-type: none"> ▪ Dealing affecting the common property that is preceding three (3) items above | <i>section 28 SSFD</i> |
| | <ul style="list-style-type: none"> ▪ Subdivision of common property in a development scheme | <i>section 28C (4) SSFD</i> |
| | <ul style="list-style-type: none"> ▪ The amendment of a strata development contract for a development scheme which requires a change in the terms of the development consent | <i>section 28J (4) SSFD</i> |

THIS INFORMATION IS GENERAL IN NATURE AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. INDEPENDENT PROFESSIONAL ADVICE SHOULD BE SOUGHT.

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| | <ul style="list-style-type: none"> ▪ The amendment of a strata management statement ▪ A certificate attesting that an Owners Corp. passed a special resolution in favour of a registered management statement or amendments to the statement ▪ A certificate attesting that an Owners Corp. passed a special resolution approving a subdivision involving common property that has been lodged with a local council ▪ A certificate attesting that an Owners Corp. passed a special resolution in favour of a proposed conversion lodged with a local council | <p><i>section 28U (1) (a) SSFD</i></p> <p><i>section 28V (1) (a) SSFD</i></p> <p><i>section 37 (4) (a) SSFD</i></p> <p><i>section 37 (45) SSFD</i></p> |
| <p>Unanimous Resolution</p> <p>Eleven (11) provisions</p> | <ul style="list-style-type: none"> ▪ In a scheme with more than 2 lots; the decision to apply to an Adjudicator to be exempt from the building insurance provisions of the Act ▪ The amendment or revocation of a previous unanimous resolution ▪ The alteration of an order of an Adjudicator or the Tribunal where the order has the same effect as a bylaw ▪ Payment to an owner in respect of dealings involving common property or an exclusive-use or special privilege bylaw ▪ The amendment or revocation of an order of an Adjudicator or Tribunal made under section 207 ▪ The distribution of surplus moneys from Administrative or Sinking fund ▪ the amendment of a strata development contract for a development scheme which requires a change in the architectural & landscape design of the development or its essence or theme ▪ A certificate by an Owners Corp. stating that the development scheme has concluded ▪ The dedication of common property as a public road, reserve or drainage reserve ▪ In a 2 lot scheme; <ul style="list-style-type: none"> ○ The decision not to establish a sinking fund ○ The decision not to effect building insurance | <p><i>section 86(1)-(4) SSM</i></p> <p><i>clause 23, schedule 2 SSM</i></p> <p><i>section 49(2) SSM</i></p> <p><i>section 112 SSM</i></p> <p><i>section 208 SSM</i></p> <p><i>section 72(1) SSM</i></p> <p><i>section 28J(2)(b) SSFD</i></p> <p><i>section 28Q(3)(c) SSFD</i></p> <p><i>section 27 SSFD</i></p> <p><i>section 69(2)(a) SSM</i></p> <p><i>section 83(4)(a) SSM</i></p> |

Key to Legislation
 SSFD - Strata Schemes (Leasehold Development) Act 1986
 SSLD - Strata Schemes (Freehold Development) Act 1973
 SSM - Strata Scheme Management Act (NSW) 1996