

GENERAL INFORMATION GUIDE

NSW STRATA SCHEME - ANNUAL GENERAL MEETINGS [AGM]

1	<i>What is meant by the term "Annual General Meeting"?</i>	An Annual General Meeting is a meeting conducted once a year to consider and determine a number of compulsory items as required by the SSMA 2015.
2	<i>When is an Annual General Meeting [AGM] of the Owner's Corporation held?</i>	<p>The SSMA 2015 requires that an AGM is conducted annually in a strata schemes financial year.</p> <p>A strata schemes financial year is determined by the date of the FAGM of your strata scheme was conducted on 25 December, then your strata schemes financial year is from 1 December to 30 November each year.</p>
3	<i>Is the agenda for an AGM set by the Strata Management Act as for the FAGM?</i>	<p>The agenda for the AGM has a number of compulsory items that must be considered each year. These items include:</p> <ol style="list-style-type: none"> 1) Confirm minutes of previous general meeting [FAGM, AGM, EGM] 2) Adoption of financial statements for past financial period 3) Consider the appointment of an auditor 4) Decide on insurances, office bearers liability and fidelity guarantee 5) Review/Determine current Capital Works Fund Forecast 6) Decide the number of members of the Strata Committee 7) Election of Strata Committee members (not office bearers) 8) Determine annual budget – Administrative & Capital Works Fund requirements & levies 9) Decide on what, if any, additional restrictions is placed on the SCM 10) An item to consider the annual fire safety statement (if required) 11) An item to consider building defects and rectification until the end of applicable statutory warranties for works conducted under the Home Building Act 1989 12) A motion to decide how to deal with any overdue owner contributions 13) Strata Managing Agent report regarding commissions, training services, and possible future 12 months commissions.
4	<i>Can this agenda be altered?</i>	No. is the short answer. The above items must be addressed. Additional items may be included by the Secretary, Strata Manager, Strata Committee or lot owner.
5	<i>Who is responsible for agenda items for an AGM?</i>	<p>As with most organisations the Secretary has the role of coordinating proposed agenda items and the distribution of notices to all owners. However in the majority of strata schemes the strata managing agent generally undertakes this responsibility.</p> <p>Owners also have the opportunity to request items to be included on the agenda. This should be submitted to the Secretary and/or the strata managing agent in writing.</p> <p>In some instances owners are provided preliminary notice of the date of the AGM and requested to submit any items or issues they may feel appropriate for the agenda.</p> <p>It is important to have items of concern to you listed on the meeting agenda because there is no "general business" allowed for within the SSMA at any type of strata meeting.</p>
6	<i>As an owner, can I have issues placed on the agenda</i>	Yes, all owners have the right to have items included on a general meeting agenda. These need to be submitted to the Secretary or the strata manager

	<i>for the AGM?</i>	<p>well before the agenda is due for distribution.</p> <p>The issue needs to read in the form of a motion starting with "<i>That the Owners Corporation resolves that....</i>"</p> <p>A motion submitted by an owner must have an explanatory note accompanying it.</p>
7	<i>What documents and records must be produced for the AGM?</i>	<p>a) A copy of the minutes of the previous general meeting of the Owners Corporation should be available at the meeting. Generally a copy of the minutes would have been sent out to all owners within a short time of the previous meeting.</p> <p>b) A copy of the proposed budget for the Administrative fund and the Capital Works fund. This should include a complete breakdown of the figures to enable owners to participate in the relative merit of the make-up of the budget.</p> <p>c) A full set of financial documents for the previous year including Statement of Financial Performance, Statement of Financial Position;</p> <p>d) A copy of the Owners Corporation Insurance details.</p>
8	<i>What is the quorum for an AGM?</i>	A quorum is a minimum of 25% of Unit Entitlement of those lots eligible to vote. (In other words Financial)
9	<i>What happens if a quorum is not attained?</i>	<p>If a quorum is not present at the prescribed starting time, the Chairperson must wait for up to 30 minutes. If a quorum is achieved prior to the 30 minutes the chairperson can declare the meeting open.</p> <p>If after 30 minutes a quorum is not present the chairperson has the option of adjourning that meeting or declaring a quorum and running the meeting.</p> <p>If the meeting is adjourned, the chairperson must nominate a day and time for the adjourned meeting to take place. Owners must be given a minimum of one day's notice in writing.</p>
10	<i>What happens if a quorum is not present at the proposed rescheduled meeting?</i>	If after 30 minutes of the prescribed starting time of the rescheduled meeting a quorum is not present, the chairperson may declare a quorum of those present, and proceed with the proposed agenda.
11	<i>Are the decisions made at an AGM where the prescribed quorum is not present valid?</i>	Yes. The SSMA 2015 has prescribed that a quorum may be declared after 30 minutes of scheduled meeting's starting time. If one or more owners are present even though that number may be less than the prescribed 25% of eligible voters. This process is to ensure that stalling an AGM indefinitely cannot occur.
12	<i>What happens if I can't attend the AGM but I want to vote?</i>	You can appoint a proxy to attend the meeting on your behalf and vote on items according to your directions.
13	<i>Who can be appointed as my proxy?</i>	You can appoint anyone over the age of 18 years to be your proxy. A spouse, a family member, a friend, solicitor, another lot owner or the chairperson of the meeting.
14	<i>What is the procedure to appoint a proxy?</i>	A lot owner must complete and sign the prescribed proxy form (usually sent out with the notice). The completed form must be submitted prior to the meeting starting. It must be dated and signed by the owner to be valid.

15	<i>What happens if I appoint a proxy and then I attend the meeting?</i>	You assume your full rights and your proxy cannot participate in the meeting. However, if you wish, you can be an observer and still have your proxy speak and vote on your behalf.
16	<i>Does the original owner have any say or vote at the AGM?</i>	Yes, if the original owner is still an owner in the strata scheme they have the right to participate.
17	<i>The original owner still owns more than one lot; do they have more than one vote?</i>	Yes, if they own more than one lot, they have multiple votes. However, if they own more than 50% of the aggregate unit entitlement their votes are restricted to one-third of their total votes.
18	<i>We own our lot in joint names; do we both have a vote?</i>	No, each lot is restricted to one vote, equal to their unit entitlement. The unit entitlement cannot be split for voting. You must decide as to which one of the joint owners is to vote. If this is not made clear to the chairperson, then the first named person on the title will be deemed the voting right for that lot.
19	<i>What amount of notice is required for an AGM?</i>	The Act requires that all owners are provided written notice and that they are given no less than seven (7) clear day's notice of any meeting. The day of the meeting is not counted as part of the 7 days. Mail is deemed delivered on the 4 th day of posting. A minimum total of eleven (11) days needs to be applied to meet the requirements. Week-end and public holidays are not included as postage days but are counted as part of the seven (7) day notice.
20	<i>Who is responsible for establishing the levies for consideration at the AGM?</i>	<p>The SSMA 2015 requires the Treasurer on behalf of the O.C. to prepare a draft budget and levy contribution. However in the majority of strata schemes, the strata managing agent undertakes this task.</p> <p>This draft is based on a range of information drawn from previous experience and knowledge of the building, past expenditure records, planned maintenance, Capital Works Forecast, etc.</p> <p>After approval from the strata committee, this information is used to identify the probable levies and tabled for the meeting. The AGM is the final arbiter.</p>
21	<i>Are the owners required to accept the Administrative and Capital Works fund proposals presented at the AGM?</i>	<p>No. As with all budgets presented to a strata scheme's AGM, this is a proposal. Figures within the proposed budget can be adjusted by majority vote at the AGM.</p> <p>Caution needs to be exercised by owners when considering adjusting the proposed budget to minimise levies. It is easy, but possibly narrow sighted, to reduce the Capital Works fund contribution to keep the levies low. The SSMA 2015 requires written explanation in the minutes for not applying the forecast amount.</p>
22	<i>Is the Owners Corporation obliged to re-appoint the strata managing agent at the AGM?</i>	<p>The re-appointment of your strata managing agent is something that should be monitored closely by the O.C.</p> <p>The current managing agent agreement needs to be checked for the expiry date. This will be dependent on the term that was accepted. Most agreements require a three month notice of termination.</p> <p>If the agreement is only for twelve months or is expiring at the conclusion of the AGM, a motion should be included on the agenda to re-appoint the managing agent. A copy of the management agreement should be available at the meeting with all fees disclosed. The motion should also disclose the base annual fee charged. (This base fee should also have been identified in the Administrative Fund budget documents)</p> <p>This item is often the cause for much apprehension and suspicion. It is important that owners understand the role of a strata managing agent and</p>

		the associated charges, so do your home work well before the meeting and make a decision based on the service level not just cost.
		Strata managing agency agreement are restricted to a maximum of 3 years under the SSMA 2015.
23	<i>At a meeting I attended a vote was taken and it appeared accepted. A poll on the same motion had it declared defeated. Can you explain this situation?</i>	When a vote is taken it is by a show of hands and counted as one vote per lot. However any owner may request a poll which is a count by Unit Entitlement. This is generally called for when lots have different levels of U.E. allocated. Therefore each lot carries a different weighting – each U.E. counting as 1 vote. A lot with 12 Unit Entitlements has two more votes recorded than a lot with 10 Unit Entitlements. This applies to all owners corporation general meetings.
24	<i>Earlier you mentioned 'Restricted Matters' as a required agenda item. What is meant by Restricted Matters?</i>	<p>This term applies to your Strata Committee. The SSMA requires specific issues to be considered by a full meeting of the O.C. rather than the Strata Committee.</p> <p>In addition to these restrictions, the O.C. can decide to place additional restrictions on the Strata Committee decision making. For example the O.C. may restrict the S.C. from making decision on any expenditure over \$5,000.00</p> <p>Note: For a list of legislated restricted matters please see the information sheet on Restricted Matters.</p>
25	<i>There are several issues I would like decided but they weren't listed on the agenda. Can I raise them in General Business?</i>	<p>No. The SSMA 2015 requires notice to all owners of any issue to be decided at a meeting. The Act precludes binding resolutions at General Business.</p> <p>In other words, if it's not listed as a motion on the agenda, a decision can't be made. The items will need to be listed on the next general meeting.</p>
26	<i>What is the situation if the Owners Corporation fails to hold the AGM?</i>	<p>The Owners Corporation is in breach of the Act and an order may be sought from the Tribunal (NCAT) that requires the Secretary and the Owners Corporation to convene a meeting. If both of these fail to convene the meeting both are liable to a conviction and fines.</p> <p>An order from the Tribunal may be sought by an owner or group of owners, a mortgagee or company nominee.</p>
27	<i>I have been appointed as a Power of Attorney for a lot owner. I assume I can attend and vote at the AGM?</i>	<p>A general Power of Attorney does not confer rights on the appointed person to participate in strata schemes AGM or any other meeting.</p> <p>Unless the Power of Attorney expressly addresses the issue and confers a specific power to attend and vote at meetings of the O.C., a general power of Attorney is not acceptable.</p> <p>Where a power of Attorney confers that specific power, a copy needs to be lodged with the Secretary and maintained in the O.C.'s files.</p>
<p>AGM - Annual General Meeting; EGM – Extraordinary General Meeting; FAGM – First Annual General Meeting; O.C. – Owners Corporation; SC – Strata Committee; SSMA – Strata Schemes Management Act; NCAT – NSW Consumer & Administrative Tribunal;</p>		