

## GENERAL INFORMATION GUIDE

### NSW STRATA SCHEME - GENERAL REQUIREMENTS OF MEETINGS

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- 1 *What types of meetings are held in a strata scheme?* There are four types of meeting conducted within an Owners Corporation. They are:
- First Annual General Meeting (FAGM)
  - Annual General Meeting (AGM)
  - Extraordinary General Meeting (EGM)
  - Strata Committee Meeting (SCM)
- A fifth meeting, the Inaugural Meeting, required by the Act is conducted by the original owner immediately upon registration of the strata scheme.
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- 2 *Are there any specific times that a particular meeting is conducted?*
- FAGM – Must be conducted within two (2) months of the expiry of the Initial period when 1/3 of the aggregate Unit Entitlement (UE) or more has been transferred from the original owner to new owners
  - AGM – Must be conducted annually within the schemes financial year
  - EGM – May be conducted at any time and/or frequency.
  - SCM – May be conducted at any time and/or frequency.
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- 3 *Are there any legislative compulsory agenda items for any meeting?* Yes, the act requires certain matters to be considered at different meetings. Those matters are:
- FAGM (at least 15 compulsory items)
- a) Receive documents and records from original owner (noting any missing documentation),
  - b) Receive/consider initial maintenance schedule provided by the original owner
  - c) Consider / review /request 10 year Capital Works Fund Plan
  - d) Decide whether insurances taken out by the Owners Corporation should be confirmed, varied or extended,
  - e) Decide on Office Bearer's Liability Insurance
  - f) Decide on Fidelity Guarantee Insurance
  - g) Decide on contributions to the Administrative Fund and Capital Works Fund.
  - h) Determine the number of members of the strata committee and elect the strata committee,
  - i) Decide if any matter or class of matter is to be determined by the Owners Corporation in general meeting (matters a SC cannot consider)
  - j) Decide whether the by-laws for the strata scheme should be altered or added to,
  - k) Decide whether a strata managing agent should be appointed by the O.C. and, if a strata managing agent is to be appointed, which functions of the O.C. should be delegated to the strata managing agent,
  - l) Decide on appointment of a caretaker and if so, what functions should be exercise
  - m) Consider the accounting records and the last financial statements prepared (if any),
  - n) Consider Building defects rectification
  - o) Receive nomination of tenant representative if at least half the lots in scheme are tenanted
- AGM: (at least 15 items)
- a) Confirm minutes of previous general meeting [FAGM, AGM, EGM]
  - b) Adopt financial statements for past financial period
  - c) Consider the appointment of an auditor
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- d) Decide on insurances renewal
- e) Decide on Office Bearers Liability insurance
- f) Decide on Fidelity Guarantee
- g) Review/Determine current Capital Works Forecast
- h) Decide the number of members of the Strata Committee
- i) Elect the Strata Committee
- j) Determine the annual budget – Administrative & Capital Works Fund requirements & levies
- k) Decide on what, if any, are restricted matters (decisions that SC cannot make)
- l) Building defects rectification
- m) Consider and arrange for Fire Safety Statement
- n) Accept report on commissions from strata manager
- o) Consider action on overdue levy contributions

EGM

- a) Confirm minutes of previous general meeting [FAGM, AGM, EGM]

SCM

- a) Confirm minutes of previous strata committee meeting

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- 4 *Can the agendas be altered?*
- FAGM. - No. The Act establishes the agenda and it cannot be altered or added to.
  - AGM - items one to fifteen above must be addressed
  - EGM - Confirmation of previous general meeting minutes must be addressed
  - SCM - Confirmation of previous ECM minutes must be addressed

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- 5 *What happens if there is an item or items that owner's need to make a decision on other than those prescribed?*
- If a decision needs to be considered at the FAGM then an Extraordinary General Meeting (EGM) needs to be called to immediately follow the FAGM. Notification of this meeting, with agenda and notice of motions is provided at the same time as the FAGM.
- If the meeting is an AGM then the item can be included as a motion for the meeting in addition to the prescribed agenda items.

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- 6 *Who is responsible for agenda items for any meeting?*
- As with most organisations the Secretary has the role of coordinating proposed agenda items and its distribution. However in the majority of strata schemes the strata managing agent generally undertakes this responsibility.
- Owners also have the opportunity to request items to be included on the agenda of general meetings. This should be submitted to the Secretary and/or the strata managing agent in writing.
- Strata Committee members may request items to be included on Strata Committee meeting agendas. You need to check with your Secretary as to whether the strata managing agent is involved with the establishment of SCM agendas.

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- 7 *Can items that do not appear on an agenda be considered as General Business at the end of a meeting?*
- No. General Business is precluded from any strata scheme meetings. All items must be included as a motion on the meeting agenda and distributed to all owners so that they are aware of what decisions are to be considered. If an item is forgotten or not included it needs to be considered at the next meeting.
- General business may be conducted as an information session at the conclusion of a meeting but there can be no resolutions passed.

This also applies to strata committee meetings.

8	<i>What is the quorum for any Owners Corporation meeting?</i>	<p>General meetings (FAGM, AGM &amp; SGM) require 25% of Unit Entitlement.</p> <p>Strata Committee meetings require 50% of membership on committees of four to nine members.</p> <p>A committee of one requires that person whilst a committee of two or three requires two members to be present.</p>
9	<i>What happens if a quorum is not attained?</i>	<p>If a quorum is not present within 30 minutes of the prescribed starting time for Strata Committee meetings that meeting is abandoned and a new meeting needs to be called.</p> <p>The SSMA 2015 has changed the conditions for quorums of general meetings. A meeting can be declared once a quorum is in attendance within the first 30 minutes of the declared starting time of the meeting. If however a quorum is not present the Chairperson must wait for the 30 minutes to elapse.</p> <p>If after 30 minutes there is still not a quorum present the Chairperson may declare a quorum and conduct the meeting.</p> <p>The Chairperson also has the opportunity to adjourn that meeting to a future date and time. All owners must receive at least 1 days written notice of the adjourned meeting</p> <p>Adjourned general meetings must wait up to 30 minutes for a quorum. If a quorum is not present after 30 minute the Chairperson may declare those present as a quorum and conduct the meeting.</p>
10	<i>How long must a quorum be present?</i>	<p>A quorum is required for the whole of the meeting otherwise the meeting lapses and decisions cannot be made.</p>
11	<i>What happens if a quorum is not present at the proposed rescheduled meeting?</i>	<p>General Meetings. 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.</p> <p>Strata Committee meetings are abandoned and a new meeting called.</p>
12	<i>Are the decisions made at a meeting valid if the prescribed quorum is not present?</i>	<p>Yes for General meetings. The Act has prescribed that a quorum may be declared after 30 minutes of meetings declared 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 any meeting indefinitely cannot occur.</p> <p>Strata committee meetings must have the prescribed quorum present to commence and to continue to make binding resolutions.</p>
13	<i>What happens if I can't attend an Owners Corporation meeting but I want to vote?</i>	<p>You can appoint a proxy to attend the meeting on your behalf and vote on items according to your directions.</p>
14	<i>Who can be appointed as my proxy?</i>	<p>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.</p>
15	<i>What is the procedure to appoint a proxy?</i>	<p>You must complete and sign the prescribed proxy form sent out with the notice of meeting. The completed form must be submitted prior to the meeting starting. It must be dated and signed by the owner to be valid.</p>

	For a large scheme (over 100 lots) the proxy form must be submitted no later than 24 hours prior to the commencement of the meeting.
	For schemes under 100 lots the form may be presented to the chairperson or Secretary prior to the meeting starting.
16 <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. It is one or the other situation. The role cannot be exchanged within a meeting.
17 <i>How many proxies can one person hold?</i>	The legislation restricts the number of proxies any one person may hold at a meeting. For schemes under 20 lots a person may hold only one proxy.  For schemes over 20 lots the maximum number is 5% of the total number of lots. This is rounded down to a whole number if fractions are involved.
18 <i>If a Strata Committee member is going to be absent from a Strata Committee meeting, can they appoint a proxy?</i>	S.C. members cannot appoint a proxy in their absence. The absenting member can nominate a substitute to represent them and the S.C. vote on the proposed substitution as part of the proceedings at the beginning of the meeting.  A substitute can only be an owners or company nominee in that scheme. The committee is required to accept the substitute nomination if they met this criteria.  The substitute may already be a S.C. member. In this case the strata committee member will carry more than one vote – their own and one for each substitution they represent.
19 <i>Does the original owner have any say or vote at any meeting of the Owners Corporation?</i>	Yes, if the original owner is still an owner in the strata scheme they have the same rights of participation as every other owner.  If the original owner owns more than 50% of the unit entitlement (U.E.) then their voting rights are restricted to one-third of their U.E. If their U.E. is less than 50% then they have full voting capacity.
20 <i>The original owner still owns more than one lot; do they have more than one vote?</i>	Yes, an original owner, if they own more than one lot, has 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.
21 <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 U.E. 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.
22 <i>What amount of notice is required for strata scheme meetings?</i>	The Act requires the following notice periods: <ul style="list-style-type: none"> <li>• FAGM – 14 clear days</li> <li>• AGM &amp; EGM – 7 clear days</li> <li>• SCM – 72 clear hours</li> </ul> Do not count the day of posting or day of the meeting. Week-ends and public holidays are not considered when counting clear days.  The Deeming legislation deems mailed delivered on the 4 <sup>th</sup> day of the posting date. Week-ends and public holidays are not include in counting for the postage time.
23 <i>How is voting conducted at Owners Corporation</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

<p><i>meetings?</i></p>	<p>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.</p> <p>Voting at a SCM is on the basis of 'one person, one vote'. U.E. has no place in SCM voting.</p>
<p>24 <i>Is there any provision for a secret ballot in a strata scheme?</i></p>	<p>Yes. The SSMA 2015 has made provision for an Owners Corporation to conduct a secret ballot provided it has previously passed a resolution at a general meeting allowing for one to be conducted</p>
<p>25 <i>As an owner, can I have issues placed on the agenda for meetings?</i></p>	<p>Yes, all owners have the right to request items to be placed on a meeting agenda.</p> <p>Issues should be submitted to the Secretary and/or the strata manager well before the agenda is due for distribution.</p> <p>The issue needs to read in the form of a motion starting with "That the Owners Corporation resolves that..."</p> <p>Unless an owner is a member of the strata committee they cannot request item to be placed on the agenda of strata committee meetings.</p>
<p>26 <i>What is the situation if the Owners Corporation fails to hold any meetings?</i></p>	<p><u>FAGM</u></p> <ol style="list-style-type: none"> <li>1) The Tribunal (NCAT) may, on application, appoint by order, a person nominated by the applicant (and who has consented to that nomination) to convene and hold a meeting of the O.C. if a meeting of the O.C. has not been convened and held in accordance with the Act.</li> <li>2) The meeting is to be convened and held within the time specified in the order.</li> </ol> <p><u>AGM</u></p> <p>The O.C. is in breach of the Act and an order may be sought from the Tribunal that requires the Secretary and the O.C. 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> <p><u>SCM</u></p> <p>There is no requirement for the Strata Committee to meet.</p>
<p>27 <i>I have been appointed as a Power of Attorney for a lot owner. I assume I can attend and vote at Owners Corporation meetings?</i></p>	<p>A general Power of Attorney does not confer rights on the appointed person to participate in strata scheme meetings.</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 Owners Corporations files.</p>
<p>28 <i>Can meetings be adjourned</i></p>	<p>General meeting can be adjourned (delayed and rescheduled) for any reason. A motion must be passed at the meeting to adjourn it.</p> <p>The person chairing must set the time and place for the adjourned meeting.</p> <p>A written notice must be sent to each owner at least 1 day before the meeting.</p>