

This article discusses strata owners corporations and the law surrounding what a strata scheme is, who the owners corporation and strata committee are, and what their key management functions are.



## **A. WHAT IS A STRATA SCHEME?**

A strata scheme refers to a system in place for parcels of land where:

- Individuals own part of the property (such as an apartment, villa or garage) referred to as a 'lot'; and
- All the owners share ownership of the remainder of the property (being the 'common property'), which is not a part of the lots (such as staircases, external walls, gardens, lifts and roofs).

Generally, land is divided into 'lots' and 'common property' once a strata plan has been registered under the *Strata Schemes Development Act 2015* (NSW) ('SSDA') at the NSW Land Registry Services (LRS).<sup>1</sup>

The administration sheet included in the strata plan would have a proposed schedule of unit entitlement for the strata scheme.<sup>2</sup> The unit entitlement is calculated for each lot and represents the share that each lot owner will have in the strata scheme. It also helps determine the amount of contributions that each lot owner is to pay and how much their vote is worth.

## **B. WHAT IS THE OWNERS CORPORATION AND STRATA COMMITTEE?**

The owners corporation (or body corporate) is an entity that is responsible for governing the strata scheme.<sup>3</sup> It is comprised of all the lot owners in a strata scheme and is automatically created under the name "The Owners - Strata Plan No. X" once the strata scheme has been registered at the LRS. The owners corporation may appoint a strata committee,<sup>4</sup> who act on behalf of the owners corporation to ensure that management of the strata scheme is conducted efficiently.

### **B.1. STRATA MANAGING AGENTS AND BUILDING MANAGERS**

The owners corporation may also choose to employ a strata managing agent to assist with their duties under the strata scheme. The strata managing agent appointed must hold a valid licence under the *Property, Stock and Business Agents Act 2002* (NSW).<sup>5</sup> The owners corporation can delegate all or any of its functions to the managing agent through a resolution at a general meeting.<sup>6</sup> However, they cannot delegate their power to:<sup>7</sup>

- Make a decision regarding a matter that must be decided by the owners corporation; and/or
- Determine the amount of contributions or levies that need to be paid by owners.

<sup>1</sup> *Segal v Barel* [2013] NSWCA 92.

<sup>2</sup> *Strata Schemes Development Act 2015* (NSW) s 10(3)(a) ('SSDA').

<sup>3</sup> *Strata Schemes Management Act 2015* (NSW) s 9 ('SSMA').

<sup>4</sup> *Ibid* s 29.

<sup>5</sup> *Ibid* s 49

<sup>6</sup> *Ibid* s 52.

<sup>7</sup> *Ibid*.



Similarly, the owners corporation may also decide to engage a building manager to assist with the general running of the building. This usually includes:<sup>8</sup>

- Managing the common property;
- Controlling the use of the common property by people who are not lot owners or residents; and/or
- Maintaining and repairing the common property.

### **C. THE KEY MANAGEMENT AREAS OF THE OWNERS CORPORATION**

There are five key management areas that the owners corporation is largely responsible for, including:

- **Financial management** - establishing and maintaining an administrative fund and a capital works fund.<sup>9</sup> The administrative fund is generally used to meet the expenditure required for maintaining the common property. Comparatively, the capital works fund is mainly used to meet the expenditure required for major repairs, including major building defects. The owners corporation is required to create a 10 year plan for the capital works fund that anticipates any major expenditure that will be required.<sup>10</sup>
- **Property management** - maintaining the common property, eg repairing, renewing or replacing fixtures or fittings in the common property where necessary.<sup>11</sup>
- **Insurance** - ensuring that:<sup>12</sup>
  - The building is insured under a damage policy;
  - Public liability insurance is taken out for a minimum amount of \$20 million;
  - Workers compensation is taken out; and
  - Personal injury insurance is taken out.
- **Records and accounts** - the owners corporation must keep a strata roll that records all the details about the owners and lots.<sup>13</sup>

The owners corporation is also generally required to keep records of financial statements (relating to the administrative and capital works fund), minutes of meetings, motions and any notices served on the owners corporation.

- **Building defects** - repairing (or replacing) certain defects in the common property, such as issues with the ceiling or boundary walls. These responsibilities are generally set out in the 'common property memorandum'. Additionally, the developer of the strata scheme (building) must enter into a bond (being 2% of the contract price) to cover any defects that may arise following the construction of the property.<sup>14</sup>

### **D. CONCLUSION**

In today's society, where new properties developed are predominately strata schemes, it is important to know and understand strata laws. This article covers the basic foundations of strata laws and strata schemes.

For more information on related matters, you may wish to read the following articles:

1. [\*Strata Dispute Resolution Mechanisms\*](#)
2. [\*Strata Inspection Reports\*](#)
3. [\*Purchasing Properties in New South Wales\*](#)

Comasters Law Firm is able to assist clients with matters relating to strata law.

<sup>8</sup> Ibid s 66(1).

<sup>9</sup> Ibid ss 73(1), 74(1).

<sup>10</sup> Ibid s 80(1).

<sup>11</sup> Ibid s 106.

<sup>12</sup> Ibid ss 160, 164.

<sup>13</sup> Ibid s 177.

<sup>14</sup> Ibid s 207.

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