

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 established by the Strata Management Act 1996.
2	<i>When is an Annual General Meeting [AGM] of the Owner's Corporation held?</i>	<p>The Strata Management Act 1996 requires that an AGM is conducted within a month either side of the anniversary of the FAGM.</p> <p>As an example, if the FAGM of your strata scheme was conducted on 11 November, then your AGM should be conducted in the two month period between 11 October and 11 December each proceeding 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 some 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) Adopt financial statements for past financial period 3) Consider the appointment of an auditor 4) Decide on taking out of 88(2) insurances [office bearers liability, fidelity guarantee] 5) Review/Determine current Sinking Fund Forecast 6) Decide the number of members of the executive committee 7) Elect the executive committee 8) Determine annual budget – Administrative & Sinking Fund requirements & levies 9) Decide on what, if any, are restricted matters 10) Consider any other motions submitted
4	<i>Can this agenda be altered?</i>	No. is the short answer. The first nine (9) items above must be addressed. However every owner has the option of requesting additional items to be included on the agenda and decided on by the Owners Corporation.
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 its distribution. 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 Strata Management Act at any type of meeting.</p>
6	<i>What documents and records must be produced for the AGM?</i>	<ol style="list-style-type: none"> 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. b) A copy of the proposed budget for the Administrative fund and Sinking 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.

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		c) A full set of financial documents for the previous year including Statement of Financial Performance, Statement of Financial Position; d) A copy of the Owners Corporation Insurance details.
7	<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. (Financial)
8	<i>What happens if a quorum is not attained?</i>	If a quorum is not present within 30 minutes of the prescribed starting time, it is adjourned and rescheduled with not less than seven (7) days notice.
9	<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.
10	<i>Are the decisions made at the rescheduled AGM valid if the prescribed quorum is not present?</i>	Yes. The Strata Plan Act has prescribed that a quorum may be declared after 30 minutes of rescheduled meeting's 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 an AGM indefinitely cannot occur.
11	<i>What happens if the only person to attend is a proxy?</i>	If after 30 minutes of the prescribed starting time of the second meeting a quorum is not present, the chairperson may declare a quorum of those present, and proceed with the proposed agenda. If the proxy is validly appointed then it is the same as if the owner who appointed that person attends.
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 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>	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.
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 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.
17	<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.

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- 18 *We own our lot in joint names; do we both have a vote?* 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.
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- 19 *What amount of notice is required for an AGM?* 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 4th 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.
- Owners of large plans (over 100 lots) can elect to receive meeting notices electronically. For smaller plans and those owners who do not elect to receive electronically, the notices must be sent in hard copy.
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- 20 *Who is responsible for establishing the levies for consideration at the AGM?* The Owners Corporation. However in the majority of strata schemes, the strata managing agent prepares a draft budget (Administrative and Sinking Fund) for the executive committee and Owners Corporation. This draft is based on a range of information drawn from previous experience and knowledge of the building, past expenditure records, planned maintenance, etc. After approval from the executive committee, this information is used to identify the probable levies and tabled for the AGM.
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- 21 *Are the owners required to accept the Administrative and Sinking fund proposals presented at the AGM?* 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 the owners at the AGM.
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 sinking fund contribution to keep the levies low.
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- 22 *Is the Owners Corporation obliged to re-appoint the strata managing agent at the AGM?* The re-appointment of your strata managing agent is something that should be monitored closely by the executive committee and Owners Corporation.
- 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.
- 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)
- This item is often the cause for much apprehension and suspicion. It is important that owners understand the roll of a strata a managing agent and associated charges, so do your home work well before the meeting and make a decision based on the service level not just cost.
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- 23 *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?* 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 I 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.
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| 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 Executive Committee. The Strata Management Act requires specific issues to be considered by a full meeting of the Owners Corporation rather than the Executive Committee.</p> <p>In addition to these restrictions, the Owners Corporation can decide to place additional restrictions on the Executive Committee decision making. For example the O.C may restrict the E.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> |
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| 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 Strata Management Act requires notice to all owners of any issue to be decided at a meeting. The Act precludes General Business.</p> <p>In other words, if it is 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 of the Owners Corporation.</p> |
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| 26 | <i>As an owner, can I have issues placed on the agenda for the AGM?</i> | <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 "<i>That the owners corporation resolves that....</i>"</p> <p>In some instance owners will be given preliminary notice of a meeting date and requested for any agenda items to be submitted.</p> |
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| 27 | <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 Adjudicator 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 Adjudicator may be sought by an owner or group of owners, a mortgagee or company nominee.</p> |
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| 28 | <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 Owners Corporation, 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> |
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