

GENERAL INFORMATION GUIDE

NSW STRATA SCHEME - FIRST ANNUAL GENERAL MEETING [FAGM]

1	<i>When must the First Annual General Meeting [FAGM] of the owner's corporation be held?</i>	The FAGM of an Owners Corporation must be held within 2 months of the expiration of the initial period.
2	<i>What is meant by the term 'the initial period'?</i>	The initial period is the time from the commencement of development to the time that 1/3 of the lots have been transferred from the original owner to the new owners.
3	<i>What is the prescribed agenda for the FAGM?</i>	<p>The FAGM must:</p> <ul style="list-style-type: none"> (a) Decide whether insurances taken out by the owners corporation should be confirmed, varied or extended, (b) Decide whether any determination of the amount of a contribution required to the administrative fund or sinking fund should be confirmed or varied. In the case of an owners corporation to which section 75A applies, to discuss the preparation of the plan required by that section, (c) Determine the number of members of the executive committee and to elect the executive committee, (d) Decide if any matter or class of matter is to be determined by the Owners Corporation in general meeting, (e) Decide whether the by-laws for the strata scheme should be altered or added to, (f) Decide whether a strata managing agent should be appointed by the Owners Corporation and, if a strata managing agent is to be appointed, which functions of the Owners Corporation should be delegated to the strata managing agent, (g) Decide whether a caretaker should be appointed under section 40A and, if a caretaker is to be appointed, what functions the caretaker should exercise, (h) Consider the accounting records and the last financial statements prepared, (i) Decide whether an auditor should be appointed, (j) Decide whether insurance of the kind referred to in section 88 (2) should be taken out.
4	<i>Can this agenda be altered?</i>	The agenda items for a FAGM are prescribed in the legislation and must be adhered to.
5	<i>What happens if there is an item or items that owner's need to make a decision on at the FAGM other than those prescribed?</i>	An Extraordinary General Meeting (EGM) is called to immediately follow the FAGM. Notification of this meeting, with agenda and notice of motion is provided at the same time as the FAGM.

6	<i>What documents and records must be produced by the original owners at the FAGM?</i>	<p>(a) All plans, specifications, certificates (other than certificates of title for lots), diagrams and other documents (including policies of insurance) obtained or received by the owner or lessor and relating to the parcel or building.</p> <p>Without limiting paragraph (a), all development consents, complying development certificates and related endorsed plans, “as built” drawings, compliance certificates (within the meaning of the Environmental Planning and Assessment Act 1979), fire safety certificates and warranties obtained or received by the owner or lessor and relating to the parcel or any building, plant or equipment on the parcel,</p> <p>(b) Certificate of title for the common property, the strata roll and any notices or other records relating to the strata scheme, if they are in the owner’s or lessor’s possession or under the owner’s or lessor’s control,</p> <p>(c) Accounting records and the last preceding financial statements prepared,</p> <p>(d) Other document or item relating to the parcel or any building, plant or equipment on the parcel that is prescribed by the regulations for the purposes of this sub clause.</p>
7	<i>What is the quorum for a FAGM?</i>	A quorum is a minimum of 25% of those eligible to vote.
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, a new meeting is called with not less than seven 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 FAGM valid if the prescribed quorum is not present?</i>	Yes. The Strata Plan Legislation has prescribed that a quorum may be declared after 30 minutes of a rescheduled meetings declared starting time if one or more people are present even though that number may be less than the prescribed 25% of eligible voters. This process is to ensure that stalling a FAGM indefinitely cannot occur.
11	<i>What happens if the only person to attend is the original owner or their representative?</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.
12	<i>What happens if I can’t attend the FAGM 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.

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| 15 | <i>What happens if I appoint a proxy and then I attend the meeting?</i> | You assume your full rights and your proxy does not participate in the meeting.
Alternative you can allow your proxy to vote and speak and assume the role of an observer. |
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| 16 | <i>Does the original owner have any say or vote at the FAGM?</i> | Yes, an original owner has the right to participate and vote_if still a lot owner. |
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| 17 | <i>If 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 1/3 of their total votes. |
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| 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 to have the voting right for that lot. |
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| 19 | <i>What happens if a FAGM is not held?</i> | <p>(1) The Adjudicator 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 owners corporation if a meeting of the owners corporation has not been convened and held in accordance with clause 2.</p> <p>(2) The meeting is to be convened and held within the time specified in the order.</p> |
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| 20 | <i>Who can make an application for a FAGM to be convened?</i> | An application under this section may be made by:
An owners corporation
An owner
A mortgagee of a lot
A company nominee |
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| 21 | <i>Who is responsible for establishing the levies for the FAGM?</i> | Technically the original owner. However in the majority of strata schemes the original owner engages a strata managing agent to assist them with a range of strata requirements. The strata managing agent prepares a draft budget for the original owner. This draft is based on a range of information drawn from previous experience and knowledge of the building. After approval of the original owner, this information is used to identify the probable levies and tabled for the FAGM. |
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| 22 | <i>Are the new owners required to accept the administrative and sinking fund proposals presented at the FAGM?</i> | <p>No. As with all budgets presented to a strata scheme AGM, this is a proposal. Figures within the proposed budget can be adjusted by the owners at the FAGM.</p> <p>Caution needs to be exercised by owners when considering adjusting the proposed budget to minimise levies. It is difficult to estimate such items as utility usage for a building that has no operating history.</p> |
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| 23 | <i>Is the new Owners Corporation obliged to appoint the strata managing agent appointed by the original owner to conduct the FAGM?</i> | <p>No. The original owners generally appoint a strata managing agent to prepare and conduct the FAGM. Usually by arrangement with the original owner this strata managing agent is pre-offered to the FAGM as part of the agenda to appoint a strata managing agent. The Owners Corporation is not obliged to appoint that particular agent.</p> <p>When purchasing in a new strata scheme it is recommended that owners research various strata managing agents and their services. Seek information from friends, relatives and work colleagues and share your information with other new owners in the strata scheme.</p> <p>Try to make an informed decision based on service level rather than cost alone.</p> |
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