

GENERAL INFORMATION GUIDE

NSW STRATA SCHEME - GENERAL REQUIREMENTS OF MEETINGS

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)
- Executive Committee Meeting (ECM)

A fifth meeting, the Inaugural Meeting, required by the Act is conducted by the original owner immediately upon registration of the strata scheme.

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 a month either side of the anniversary date of the FAGM.
- EGM – May be conducted at any time and/or frequency.
- ECM – May be conducted at any time and/or frequency.

3 *Are there any compulsory agenda items for any meeting?*

Yes, the act requires certain topics to be considered at different meetings. Those topics are:

FAGM

- 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.

AGM:

- 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

THIS INFORMATION IS GENERAL IN NATURE AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. INDEPENDENT PROFESSIONAL ADVICE SHOULD BE SOUGHT.

		<p>9) Decide on what, if any, are restricted matters</p> <p>10) Consider any other motions submitted</p> <p>EGM</p> <p>i. Confirm minutes of previous general meeting [FAGM, AGM, EGM]</p> <p>ECM</p> <p>a) Confirm minutes of previous executive committee meeting</p>
4	<i>Can the agendas be altered?</i>	<ul style="list-style-type: none"> • FAGM. - No. The Act establishes the agenda and it cannot be altered or added to. • AGM - items one to nine above must be addressed • EGM - Confirmation of previous general meeting minutes must be addressed • ECM. - Confirmation of previous ECM minutes must be addressed
5	<i>What happens if there is an item or items that owner's need to make a decision on other than those prescribed?</i>	<p>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.</p> <p>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.</p>
6	<i>Who is responsible for agenda items for any meeting?</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 of general meetings. This should be submitted to the Secretary and/or the strata managing agent in writing.</p> <p>Executive committee members may request items to be included on Executive Committee meeting agendas. You need to check with your Secretary as to whether the strata managing agent is involved with the establishment of ECM agendas.</p>
7	<i>Can items that do not appear on an agenda be considered as General Business at the end of a meeting?</i>	<p>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.</p> <p>This also applies to executive committee meetings.</p>
8	<i>What is the quorum for any owners corporation meeting?</i>	<p>General meetings (FAGM, AGM & EGM) require 25% of Unit Entitlement.</p> <p>Executive Committee meetings require 50% of membership on committees of four to nine members. 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:</p> <p>General Meetings are adjourned and rescheduled with not less than seven (7) days notice.</p> <p>Executive Committee meetings are abandoned and a new meeting called.</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>

THIS INFORMATION IS GENERAL IN NATURE AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. INDEPENDENT PROFESSIONAL ADVICE SHOULD BE SOUGHT.

-
- 11 *What happens if a quorum is not present at the proposed rescheduled meeting?* 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.

Executive Committee meetings are abandoned and a new meeting called.
-
- 12 *Are the decisions made at the rescheduled meeting valid if the prescribed quorum is not present?* Yes for General meetings. The Act has prescribed that a quorum may be declared after 30 minutes of rescheduled 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.
-
- 13 *What happens if I can't attend an owners corporation meeting but I want to vote?* You can appoint a proxy to attend the meeting on your behalf and vote on items according to your directions.
-
- 14 *Who can be appointed as my proxy?* 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.
-
- 15 *What is the procedure to appoint a proxy?* 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.
-
- 16 *What happens if I appoint a proxy and then I attend the meeting?* 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.
-
- 17 *If an Executive Committee member is going to be absent from an Executive Committee meeting, can they appoint a proxy?* Executive committee members cannot appoint a proxy in their absence. The absenting member can nominate a substitute to represent them and the executive committee 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. The committee are required to accept the substitute nomination if they met this criteria.

The substitute may already be an executive committee member. In this case the executive committee member will carry more than one vote – their own and one for each substitution they represent.
-
- 18 *Does the original owner have any say or vote at any meeting of the Owners Corporation?* 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.
-
- 19 *The original owner still owns more than one lot; do they have more than one vote?* 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.
-
- 20 *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 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.
-

THIS INFORMATION IS GENERAL IN NATURE AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. INDEPENDENT PROFESSIONAL ADVICE SHOULD BE SOUGHT.

-
- 21 *What amount of notice is required for strata scheme meetings?*
- The Act requires the following notice periods:
- FAGM – 14 clear days
 - AGM & EGM – 7 clear days
 - ECM – 72 clear hours
- 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 4th day of the posting date.
-
- 22 *How is voting conducted at owners corporation meetings?*
- 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.
- Voting at an Executive Committee meeting is on the basis of ‘one person, one vote’. U.E. has no place in executive committee voting.
-
- 23 *As an owner, can I have issues placed on the agenda for meetings?*
- Yes, all owners have the right to request items to be placed on a meeting agenda.
- Issues should be submitted to the Secretary and/or the strata manager well before the agenda is due for distribution.
- The issue needs to read in the form of a motion starting with “*That the owners corporation resolves that...*”
- Unless an owner is a member of the executive committee they cannot request item to be placed on the agenda of executive committee meetings.
-
- 24 *What is the situation if the Owners Corporation fails to hold any meetings?*
- FAGM
- 1) The Adjudicator may, on application, appoints 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 the Act.
 - 2) The meeting is to be convened and held within the time specified in the order.
- AGM
- 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.
- An order from the Adjudicator may be sought by an owner or group of owners, a mortgagee or company nominee.
- ECM
- There is no requirement for the executive committee to meet.
-
- 25 *I have been appointed as a Power of Attorney for a lot owner. I assume I can attend and vote at Owners Corporation meetings?*
- A general Power of Attorney does not confer rights on the appointed person to participate in strata scheme meetings.
- 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.
- 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.
-