

A GUIDE TO STRATA LIVING

COASTAL**STRATA**

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OUR STORY

Founded by Craig Baylis in 2011, Coastal Strata is a property research company providing Strata reports on strata schemes throughout New South Wales.

Our clients are considering purchasing a strata unit and come to us to provide them with valuable knowledge, reassurance and insights into the property.

Coastal Strata is part of the Coastal Strata Group. Our portfolio of companies across the property sector includes:

- Coastal Strata
- My Bylaw
- 3D Strata Plan
- Corbett Property Buyers (under Strategic Partnership)

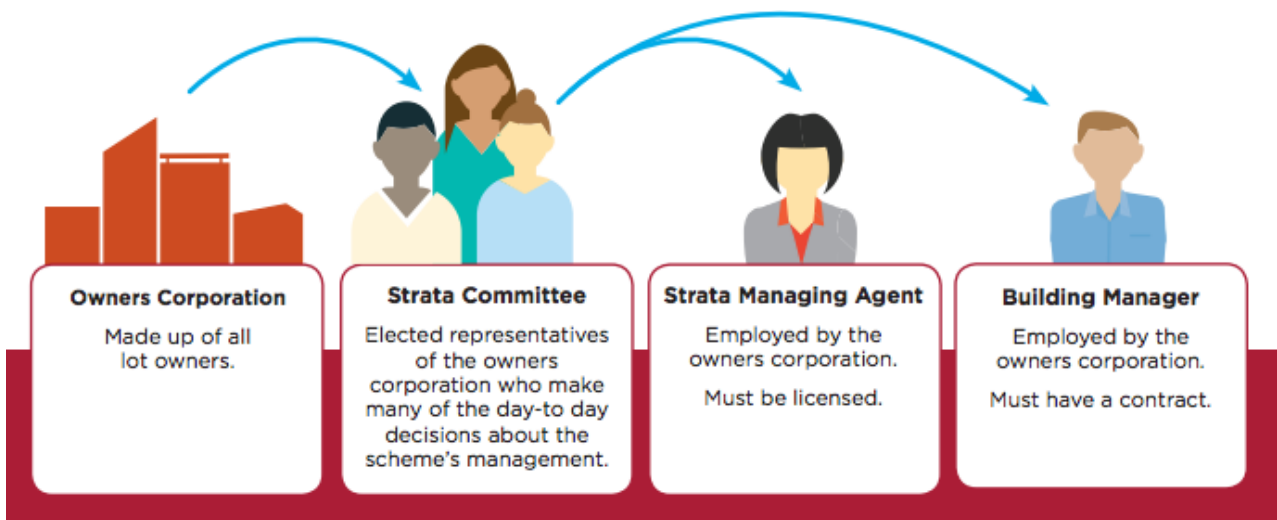
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Lead Strata Inspector & Managing Director
Coastal Strata

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1. HOW A STRATA SCHEME WORKS



THE OWNERS CORPORATION

All lot owners in a strata scheme are automatically part of the owners corporation (sometimes referred to as the body corporate') and have a right to take part in the decision making.

The owners corporation must have one annual general meeting (AGM) each year. This meeting deals with matters that the owners need to consider including insurance and building defects. Meetings other than the AGM are called general meetings.

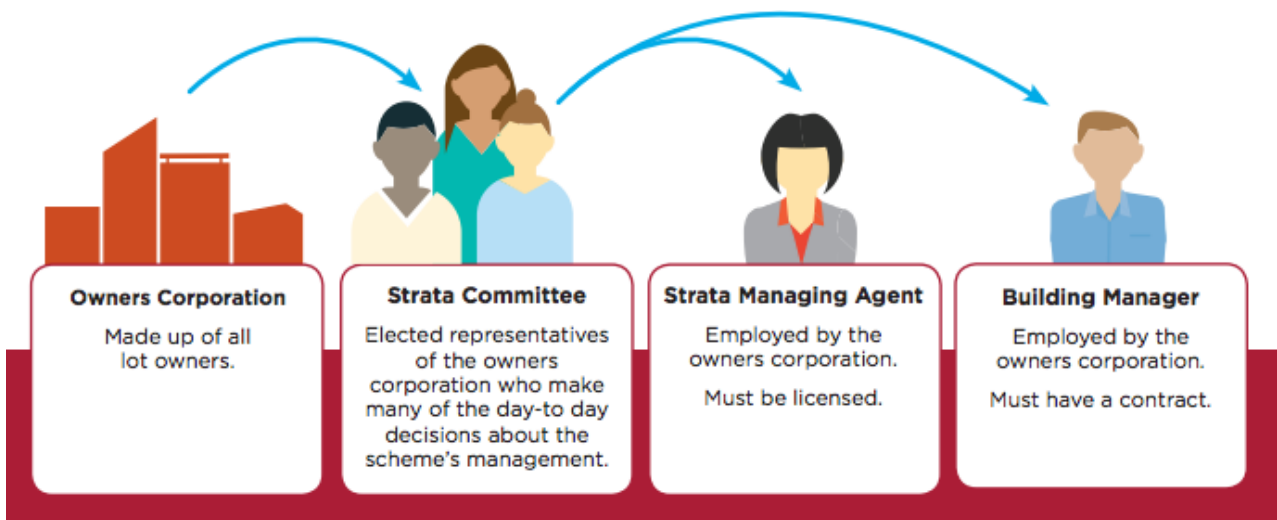
THE STRATA COMMITTEE

The strata committee represents owners or owners' nominees. The committee is responsible for the day-to-day running of the strata scheme and is elected at each annual general meeting (AGM).

The owners corporation decide the number of strata committee members for the coming year at each AGM. It can have from 1-9 members. In a two-lot scheme both owners must be members and in a large scheme (100+ lots) it must have at least three members on its committee.

Once the strata committee is elected, the office-bearer positions - Chairperson, Secretary and Treasurer are decided.

1. HOW A STRATA SCHEME WORKS



THE STRATA MANAGING AGENT

The owners corporation can hire a licensed strata managing agent to help manage the scheme. An agency agreement will outline the agent's responsibilities that the owners corporation sets out.

A strata managing agent is appointed by the owners corporation from a formal vote.

THE BUILDING MANAGER

Strata schemes can hire a building manager, also known as a caretaker, to help with the day-to-day running of the building. They can assist the owners corporation with:

- the management of common property,
- controlling the use of common property by tradespersons and other non-residents,
- the maintenance and repair of common property
- duties such as concierge, security and cleaning.
- Building managers cannot enforce by-laws or have similar functions of the owners corporation.

This is not a voluntary or casual position and are usually engaged by large strata schemes.

2. MANAGING FINANCES

WHAT ARE LEVIES

Levies are a fee or 'contribution' paid by all lot owners in a scheme to cover any projected costs and expenses.

Generally, the levy contributions are paid by quarterly instalments as approved at the meeting.

HOW ARE THEY CALCULATED

Levies are calculated at the annual general meeting (AGM) by the owners corporation. To set the contributions a budget is usually drafted by the strata manager and/or the strata committee and is approved or amended by majority vote.

All levies must be worked out in proportion to the unit entitlements of each lot.

HOW IS UNIT ENTITLEMENT CALCULATED

The strata plan for your strata scheme, which is registered with NSW Land Registry Services, shows the unit entitlement for each lot. The unit entitlement represents lot owners' share of ownership in the strata scheme. It is used to calculate the contributions (levies) each owner pays and how much their vote is worth.

From 30 November 2016 onwards, all strata schemes that are registered will require their unit entitlements to be apportioned on a market value basis by a valuer.

For strata schemes registered prior to 30 November 2016, whilst they must include a schedule of unit entitlements, this need not necessarily be based on lot values.

SPECIAL LEVIES

Owners corporations can vote to introduce a 'special levy', which can sometimes be a large amount. Special levies can be sought where there are insufficient funds to cover large capital works or unforeseen works, for example, to carry out major repairs to the common property.

Special levies are calculated according to the lot entitlement of each lot owner.

2. MANAGING FINANCES

ADMINISTRATIVE FUND

The administrative fund is used to manage the day-to-day expenses of running the scheme, such as maintaining and repairing the common property and personal property owned by the owners corporation, ongoing maintenance (such as garden care) and insurance.

CAPITAL WORKS FUND

The capital works fund enables major work to be undertaken to common property. The capital works fund is to ensure there is enough money to pay for capital expenses when the job needs doing.

Contributions made by owners to the capital fund are not refundable if an owner moves out of the strata scheme, even if the money has not yet been spent.

EXAMPLE OF EXPENDITURE

ADMINISTRATIVE FUND

Day-to-day expenses of running the scheme including:

- maintenance of the common property
- insurance
- recurrent expenses such as electricity,
- water and rates
- pest control
- window or carpet cleaning and lawn mowing services.

CAPITAL WORKS FUND

One off, or major expenditure, such as:

- painting or repainting the common property
- acquiring, renewing or replacing personal property for the scheme
- renewing or replacing fixtures and fittings that are part of the common property
- replacing, repairing or upgrading the common property
- any debts, other than amounts covered by the administrative fund
- other capital expenses.

AUDITED ACCOUNTS

For schemes of more than 100 lots, or with a budget of over \$250,000, the financial accounts must be audited annually to meet Australian Auditing Standards. Other schemes may choose to have their accounts audited.

2. MANAGING FINANCES

UNPAID LEVIES

An unpaid contribution attracts interest at the rate of 10% simple interest a year if not paid within 1 month after it is due. The owners corporation cannot change the rate of interest, but can make a special resolution to charge no interest.

The owners corporation may vote by a general resolution to give a 10% discount where a contribution is paid before the date it is due.

The owners corporation can choose to enter into a payment plan with a non-paying lot owner to pay off their overdue contributions in periodic instalments.

RECOVERING UNPAID LEVIES

To recover unpaid contributions the strata committee or owners corporation can instruct the strata manager to take steps including;

- Send an overdue letter to the lot owner requesting payment
- If interest is payable, begin accruing interest
- Send a second overdue letter
- Refer the debt to a debt collector

The owners corporation can also apply to the Local Court. If also seeking other orders (eg. to issue a fine for a bylaw breach), the owners corporation can approach the Tribunal instead to recover the unpaid contributions as part of the one application.



3. REPAIRS

RESPONSIBILITY FOR REPAIRS

The owners corporation is responsible for the repair and maintenance of common property, and owners must repair and maintain anything within their lot.

The owners corporation may also be responsible for repairing damage to a lot caused by a problem in the common property. For example, water damage from a leaking roof or a pipe that services more than one lot.

WHAT IS COMMON PROPERTY

The basic rule is that everything inside a lot is the owner's property. This *generally* includes all internal walls, fixtures, carpet and paint on the walls.

TIP - *To check the common property for your specific scheme you will need to review the strata plan and by-laws. Contact us for further information if required.*

Common property boundaries of each lot are generally formed by:

- the upper surface of the floor (but not including carpet)
- the under surface of the ceiling
- all external or boundary walls (including doors and windows).

Common property can include such things as:

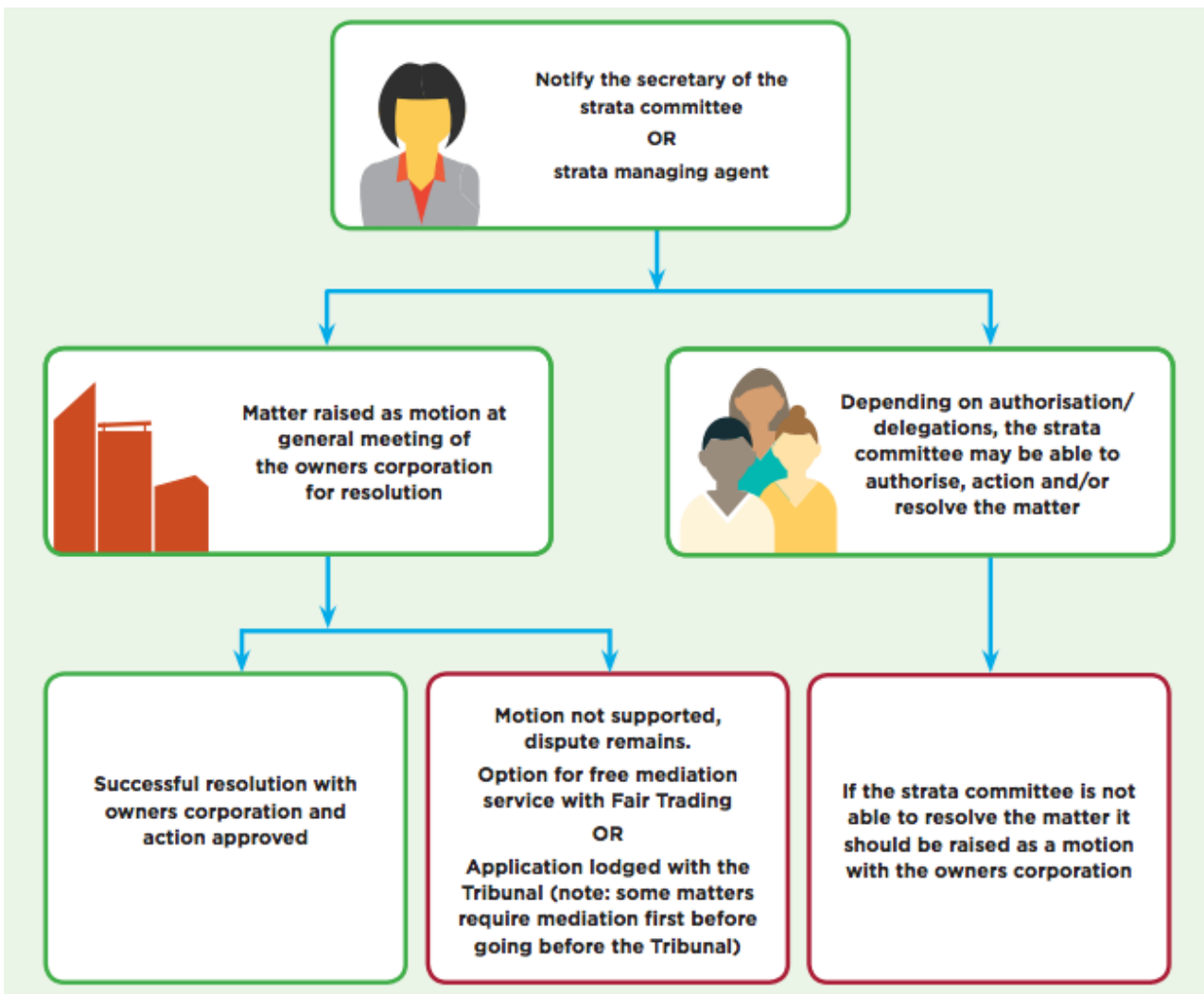
- pipes in the common property or servicing more than one lot
- electrical wiring in the common property or servicing more than one lot
- originally installed parquet floors, ceramic tiles, floor boards, vermiculate ceilings, plaster ceilings and cornices
- most balcony walls and doors.

3. REPAIRS

GETTING REPAIRS TO COMMON PROPERTY DONE

Lot owners should advise the strata managing agent or secretary of the owners corporation of the problem. If the problem is a minor repair, it may be able to be fixed without the need for a meeting.

However, if it is a major problem, a meeting of the owners corporation may be needed to authorise expenditure, or decide what action to take.



4. BUILDING DEFECTS

WARRANTY PERIODS

Builders are required to provide statutory warranties on the construction of residential premises. The warranty period for new residential building work is 2 years for all defects and 6 years for `major` defects from the date the building work was completed.

The owners corporation must notify the developer or builder of a potential defect as soon as it becomes aware of it. To secure rights under the warranties, legal proceedings must commence within the relevant warranty period (2 years or 6 years).

WHO MAY BE RESPONSIBLE

If building defects exist then another party may be held accountable to rectify or pay the loss, such as, builders, developers, certifiers, Home Owners Warranty insurers, contractors, subcontractors, designers or engineers.

It is not part of the strata managing agent's agreement with the scheme to provide legal advice on building defects nor is it sufficiently qualified to do so.

Coastal Strata will guide the owners corporation on appropriate experts to engage including lawyers and building inspectors.

BUILDING BOND AND INSPECTIONS SCHEME

From 1 January 2018, developers must lodge a bond with NSW Fair Trading equal to 2% of the building contract price for residential and mixed-use high rise strata buildings of 4 or more storeys.

The bond must be lodged before the occupation certificate for the building is issued. If defective work is identified and not rectified before the final inspection, the bond or a portion of it can be used to pay the costs of rectifying any defective building work identified during the inspection.

If there are no defects identified, the bond is returned to the developer. Residential strata buildings less than 4 storeys are already protected by the Home Building Compensation Fund.

5. RENOVATIONS

ABOUT RENOVATIONS

As individual lots also have areas within them that are common property, owners wanting to make changes or undertake renovations may require approval from the owners corporation and this will depend on the type of renovation required.

TYPES OF RENOVATIONS

If you are planning to renovate your strata unit you'll need to consider the work you are considering and the type of approval you may require from your owners corporation. Renovations fall into three categories:

1. Cosmetic changes

Includes installing or replacing hooks, nails or screws for hanging paintings or other things on walls; installing or replacing handrails within your lot; painting; and filling minor holes and cracks in internal walls. Lot owners can do cosmetic work within their lot without seeking approval from the owners corporation.

2. Minor renovations

Includes renovating a kitchen; changing recessed light fittings; installing or replacing wood or other hard floors; and reconfiguring internal walls.

Other items usually considered to be minor renovations are sustainability measures, such as clothes lines and air conditioners. Lot owners must get the approval of the owners corporation by general resolution (50% of those entitled to vote at a meeting) before any work can commence. Lot owners may need to provide details of the work including:

- the work, such as any plans
- the duration and times of the work
- the people who will carry out the work,
- including their qualifications.

TIP - The owners corporation can delegate approval for minor renovations to the strata committee by passing a by-law to permit this. The owners corporation can also make a by-law to define specific types of work as being 'cosmetic' or 'minor' renovations. This is as long as it doesn't conflict with the categories of renovation as defined in the Act. For example, waterproofing would fall into the category of major renovations. The owners corporation could not decide that this is a minor renovation.

5. RENOVATIONS

TYPES OF RENOVATIONS

3. Renovations other than cosmetic work or minor renovations

Require the permission of the owners corporation by a special resolution. Major renovations need a higher level of approval because such work may seriously affect the common property. This applies to structural changes; waterproofing; work that changes the external appearance of your lot, such as an access ramp; and any work for which approval is required under other laws.

Approval is required by special resolution at a general meeting and a by-law outlining maintenance responsibility.

SUMMARY OF APPROVALS REQUIRED

1. Cosmetic changes

To make these changes, you need not seek the approval of the owners corporation.

3. Minor renovations

Approval required by general resolution at a general meeting or the strata committee if they have been delegated the authority through a by-law.

3. Renovations other than cosmetic work or minor renovations

Approval is required by special resolution at a general meeting and a by-law outlining maintenance responsibility.



6. GENERAL MEETINGS

MEETINGS OF THE OWNERS CORPORATION

The owners corporation must have one annual general meeting (AGM) each year. This meeting deals with matters that the owners need to consider including insurance and building defects. Meetings other than the AGM are called general meetings.

RAISING A MATTER FOR A MEETING

Only motions on the agenda for a meeting can be voted on. If you want something heard at the meeting, you can write to the Secretary with the motion. It must include:

- the motion you are putting forward
- your name
- an explanation of up to 300 words.

A Chairperson can rule that a motion is out of order if:

- proper notice of the motion was not given, or
- it would be unlawful, in conflict with the by-laws or not enforceable if passed.

VOTING

Each owner has one vote for each lot they own. The owner or person must be shown on the strata roll

If someone has outstanding strata fees still owing they are considered unfinancial. They cannot vote unless a unanimous resolution is needed.

The different types of votes are:

- General resolution: a one lot/one vote format, which requires a majority passing vote (over 50 percent of votes).
- Special resolution: a vote by unit entitlement, with no more than 25 percent of the votes cast against it.
- Unanimous resolution: where every vote has to be the same.

Most decisions can be made by a simple majority vote (more than 50 percent). A poll can be called for regardless of the vote. In a poll vote, votes are worked out by counting the unit entitlements.

6. GENERAL MEETINGS

PROXIES - VOTING ON SOMEONE'S BEHALF

An owner can delegate their voting rights to another person, who becomes their proxy. A proxy has no effect if the person who gave the proxy attends the meeting and votes in person.

A proxy cannot be used by a strata managing agent or building manager for a financial benefit such as extending their term or increasing their remuneration.

HOW TO APPOINT A PROXY

An owner can make any person their proxy, including their tenant. Proxies must be given to the Secretary before or at the meeting. For large schemes, the proxy must be given to the Secretary at least 24 hours before the scheduled meeting. The form appointing the proxy must state:

- the date on which the proxy is made
- whether the proxy can vote on all matters, or only certain matters and what those matters are, and
- how the proxy must vote on a motion for the appointment or continuation in office of a strata managing agent.

PROXY LIMITS

There are limits on the total number of proxies. The limits held by one person are:

- one proxy vote only for schemes with 20 lots or less, or
- in schemes with more than 20 lots, a number that is equal to no more than 5 percent of the total number of lots.

QUORUM

There must be a quorum at a general meeting before any motion, including electing a strata committee, can be voted on. A quorum is:

- no less than one-quarter of the people entitled to vote, or
- owners entitled to vote holding one-quarter or more of the total unit entitlements.

If there is no quorum within 30 minutes of the scheduled start time, the Chairperson must either:

- adjourn the meeting for at least 7 days, or
- declare a quorum and go ahead. The quorum is then the owners and proxies present who are entitled to vote.

6. GENERAL MEETINGS

TENANT PARTICIPATION

To find out what's happening where they live, tenants can attend their owners corporation meetings. Depending on the circumstances, tenants can also elect a representative to sit on the strata committee.

ATTENDING MEETINGS OF THE OWNERS CORPORATION

If the landlord has given notice of the tenancy to the owners corporation, the tenant can attend meetings.

A tenant cannot vote unless they are an authorised proxy and must get permission before they can speak at the meeting. Tenants might also be excluded from meetings where financial matters are discussed.

TENANT REPRESENTATIVE ON STRATA COMMITTEE

In strata schemes where at least half of the lots are tenanted, the tenants can nominate a tenant representative to the strata committee. The tenant representative is entitled to:

- receive a copy of the agenda
- attend and speak at strata committee meetings. They can still be asked to leave the meeting if financial issues are discussed.

The tenant representative does not have a vote and they cannot make up the quorum of a meeting.

NOMINATING A TENANT REPRESENTATIVE

The meeting to elect a tenant representative can be held at any time before the AGM but must be called at least 14 days beforehand.

Tenants must receive notice of the meeting at least seven days in advance of it being held, which can be sent to tenants' address on the strata roll or posted on the scheme's noticeboard.

The tenant representative is chosen by a majority vote of the tenants present at the meeting. The quorum for the meeting is one person. At the end of the AGM, the tenant representative's appointment officially begins.

7. STRATA COMMITTEE MEETINGS

MEETINGS OF THE STRATA COMMITTEE

The owners corporation needs to elect a strata committee and then can delegate some of its functions to this committee.

The strata committee's role is to make quicker decisions on the day-to-day issues and management of the scheme. Any decision made by the strata committee is treated as a decision of the owners corporation.

ATTENDANCE

An owner or, the company nominee of the corporation, can attend strata committee meetings but they cannot speak unless the committee allows.

QUORUM FOR STRATA COMMITTEE MEETINGS

The quorum for a strata committee meeting exists when at least half of the appointed members are present.

VOTING AT STRATA COMMITTEE MEETINGS

Each strata committee member, other than any tenant member, has one vote. The Chairperson does not have a deciding vote under any circumstances.

A decision on any motion at a strata committee meeting is made by a majority vote.

A member of the strata committee is not entitled to vote if they are an unfinancial owner of a lot in the strata scheme when the notice of meeting was given and the amounts owed by them were not paid before the meeting or if the person who nominated them is unfinancial.

8. BY-LAWS

WHAT ARE BY-LAWS?

All strata schemes have a set of by-laws (rules) that owners, occupiers and, in some cases, visitors must follow. By-laws cover issues such as whether or not pets are permitted on the scheme, how smoking is regulated, parking, noise, and the conduct of residents and visitors.

WHO ARE THEY FOR?

All residents, including tenants, must follow a strata scheme's by-laws.

Landlords, or the property manager acting on their behalf, must provide their tenants with a copy of the by-laws within 7 days of renting out the property.

HOW TO RESOLVE BY-LAW BREACHES

If a resident breaches a by-law, the strata committee can first contact the resident to advise of the breach, and ask that they stop the conduct that is causing the breach.

If this is unsuccessful, the owners corporation may issue the person responsible for the breach with a Notice to comply with a by-law. If they have the delegated authority, the strata managing agent may also issue a notice to comply.

If there is a breach after the notice has been issued, the owners corporation may apply to the Tribunal to impose a penalty, after resolving to do so at a general or strata committee meeting.

ADDING OR CHANGING A BY-LAW

To make or change a by-law, the owners corporation must agree to a motion put forward on the proposed new by-law with no more than 25% of votes cast against it.

A by-law cannot be enforced by a strata scheme unless it is also registered with the NSW Office of the Registrar General.

8. BY-LAWS

PARKING

The owners corporation can control parking on common property by using signage, security guards, key card systems or parking barriers.

WHERE CAN OWNERS PARK

Owners and residents are only allowed to park in the spaces allocated to them. They cannot use parking for visitors or emergency vehicles. They should check that their lot entitlement includes a car space.

VISITORS PARKING

Signs should state how long visitors can park in the visitors' spaces. If there are no signs, visitors can park there for a reasonable time.



9. INSURANCE

WHAT DOES STRATA INSURANCE COVER

Under a strata scheme in NSW, the owners corporation is legally required to take out strata insurance cover for the building, common property and common contents managed by the owners corporation.

Strata insurance generally covers the following:

- Common property such as common areas, car parks, stairwells, lifts, gardens, and common floors, walls, and ceilings
- Common contents such as communal furniture, equipment, and appliances
- Fixtures and fittings that cover common areas of the building such as ducted air conditioning, balconies, water pipes and sewage pipes
- Reinstatement and replacement insurance for buildings on common property
- Public liability insurance for common property areas
- Voluntary workers insurance to cover people carrying out voluntary works on behalf of the owners corporation

Strata insurance doesn't cover any personal contents in individual units or lots. For coverage of your own property, there are a couple of options:

WHAT IS NOT COVERED

Strata insurance doesn't cover any personal contents in individual units or lots.

If you're an owner-occupier in a strata building, you'll need to consider taking out content insurance to protect your personal assets.

If you rent out your strata property, you'll need to consider obtaining a landlord insurance policy. Landlord insurance covers contents you own inside your property, such as fixtures and fittings, including blinds, carpets and light fittings.

INSURANCE VALUATIONS

The law states that as a minimum, strata schemes must insure their building so that it can be rebuilt or replaced to its current condition, and usually a professional valuation will need to be carried out every 5 years.

Best practice is that valuations are carried out every 2-3 years and that the Building Sum insured be adjusted accordingly to reduce the risk of being under insured and falling short of the scheme's legal obligations.

10. 2 LOT STRATA SCHEMES

ABOUT 2 LOT STRATA SCHEMES

Two lot strata schemes are common and if both owners agree can take advantage of some special rules regarding the capital works fund and insurance.

The schemes will still need to have meetings, keep financial records and meet all safety and administration requirements. To this regard appointing a professional strata manager is still recommended.

The key rules specific to 2 lot schemes only apply if;

- The owners corporation determines by unanimous resolution
- The buildings comprising each lot are physically detached from each other
- No building or part of a building in the strata scheme is situated outside those lots (eg no share spaces like driveways or mailboxes).

EXEMPTIONS FOR 2 LOT STRATA SCHEMES

If the above specific circumstances apply the strata scheme can be exempt from;

Requiring a Capital works fund

A 2 lot strata scheme may decide not to have a capital works fund.

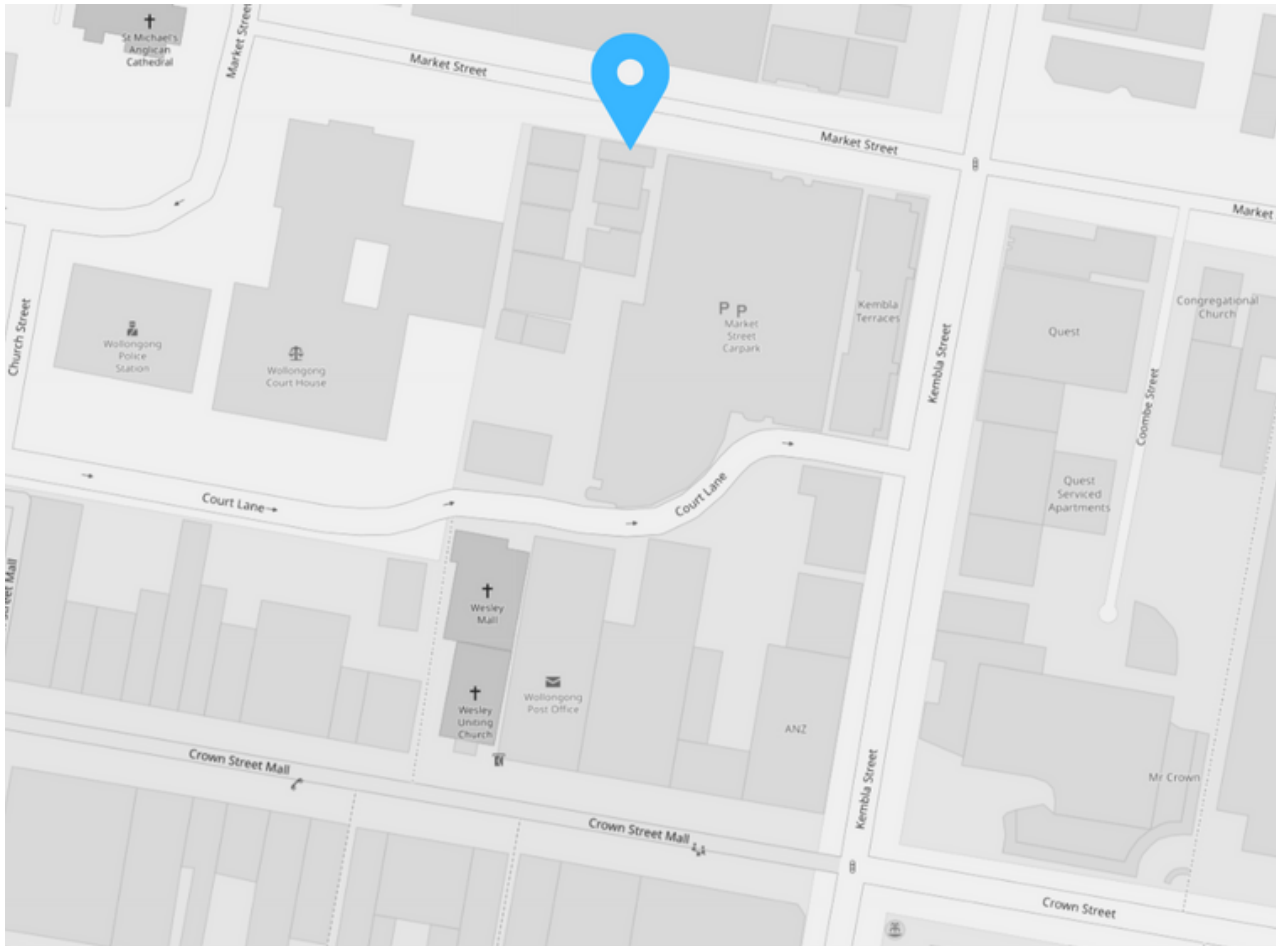
Strata Schemes Management Act 2015 Section 74(5)

Requiring building insurance

A 2 lot strata scheme may decide not to insure the buildings. In this case, lot owners can and should separately insure their own lots. Other insurance requirements under Section 164 will continue to apply, e.g. workers compensation and public liability insurance.

Strata Schemes Management Act 2015 Section 160(4)

CONTACT US



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LOCATION

We are located on the 1st Floor, Suite 17/ 39 Market Street, Wollongong. Nearest cross streets are Market & Kembla Streets.

PARKING

On street metered parking is available immediately outside the office in Market and surrounding Streets. Secure Parking also operate a car park next door at 37 Market Street.

OFFICE HOURS

Weekdays 9AM - 5PM

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This guide was last updated in April 2022 by Craig Baylis from Coastal Strata.

REFERRALS

Thanks for reading. We know there's a lot of information (trust us, it's all relevant though!) so if you have any questions please get in touch.

Do you know anyone else who would get value from this guide?
Please pass our details onto them.

Craig Baylis

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