

Committee meetings and what is involved



INTRODUCTION

The 2015 Act introduces a number of new provisions for convening and conducting a Strata Committee meeting including:

- Varying obligations for committees of Large and Non-Large Strata Schemes;
- Time limitations for convening meetings (once requested);
- New voting methods for committee members;
- Tenant Representative Participation (if elected);
- Time imposition for distributing minutes.

Schedule 2 of the Strata Schemes Management Act 2015 sets out many of the procedures for conducting a Strata Committee Meeting, and a detailed reading of the Act and Regulations outlines all requirements associated with convening and conducting Strata Committee meetings.

ISSUING NOTICES OF STRATA COMMITTEE MEETINGS

Clause 7 of Schedule 2 of the Act specifies that notices of Strata Committee meetings must include a detailed agenda. In order to comply with this provision, it is recommended that motions be drafted and agendas prepared with as much detailed as possible to avoid confusion or ambiguity as well as the threat of being challenged at a later date.

NOTICE PERIODS

For Large Schemes (containing more than 100 Lots) the notice of a Strata Committee meeting must be issued a minimum 72 hours prior to the meeting to:

- All Committee Members;
- All Owners;
- The Tenant Representative (if any);
- And be place on the common property

Notice Board (if any).

For Non-Large Schemes (containing 100 Lots or less) the notice of a Strata Committee meeting must be issued a minimum 72 hours prior to the meeting to:

- All Committee Members;
- The Tenant Representative (if any);
- And be placed on the common property

Notice Board (if any);

- If the scheme is not required to maintain a common property Notice Board pursuant to the Strata By-laws, then the notices must also be issued to all owners.

MEETING PROCEDURES

In order for a Strata Committee to proceed the Chairperson must be satisfied of the following requirements:

- (i) The correct specified notice period of the meeting has been provided to committee members and owners;
- (ii) The Chairperson (or nominated replacement) must be present;
- (iii) A quorum for the meeting has been formed (i.e. sufficient committee members present – see below);
- (iv) The motions on the agenda are within the powers of the committee to determine.

QUORUM

Clause 12 of Schedule 2 of the Act specifies the quorum provisions for Strata Committee meetings, which are:

For a committee consisting of 1 person, the quorum will be 1;

In any other case, the quorum is half of the persons entitled to vote*, calculated based on the number of members determined by the Owners Corporation for the committee at the last Annual General Meeting.

*Clause 9(4) of Schedule 2 of the 2015 Act introduces the concept of ‘unfinancial’ committee members not being entitled to vote at a Strata Committee Meeting. I.E. owners (or owners that have nominated a committee member) must have all contributions (strata levies) paid in order to be entitled to vote or their nominated representative entitled to vote at the meeting.

Let’s assume that the number of members of a committee was determined at 9 by the Owners Corporation at the last general meeting, the usual quorum would be 5.

In the event 1 committee member was unable to vote due to being unfinancial, then the quorum would be calculated based on 8 members entitled to vote, meaning the quorum is now 4.

OWNER ATTENDANCE AT MEETINGS

All owners that are not members of the Strata Committee are entitled to attend Strata Committee meetings, however, non-committee owners may not address the meeting unless a resolution is passed by the committee giving permission for them to do so.

TENANT ATTENDANCE

There is no provision in the Act for a tenant to attend a Strata Committee meeting, unless the tenant has been duly elected as the tenant representative for the committee or nominated as a substitute committee member that has been approved by the committee.

A duly appointed Tenant Representative is not entitled to vote on any motion put before a committee meeting, nor is their attendance to be included in the calculation of the quorum for the Meeting.

The committee may ask the Tenant Representative to leave the meeting when discussing matters surrounding financial or auditors’ reports, debt recovery, levying of contributions or a Strata Renewal proposal

CONVENING A MEETING

A meeting of the Strata Committee may be convened in a number of ways:

- By 1/3 of members requesting a meeting in writing**;
- The Secretary may convene a strata committee meeting at any time (Section 39(1));
- A resolution of a previous committee meeting;
- A resolution passed at a General Meeting of the Owners Corporation;
- An order of a Tribunal Member at N.C.A.T.

**Where a committee meeting has been requested by 1/3 of committee members the secretary must convene the meeting:

- For a Large Scheme (containing more than 100 lots) within 28 Days;
- For Non-Large scheme (containing 100 Lots or less) within 14 Days.

The 2015 Act still does not provide any remedy to non-committee owners to request that the committee convene a meeting, nor do they have the authority to request that a matter be put before the committee, however owners do have the authority to request a general meeting of the Owners Corporation via a request signed by owners representing 25% of the total unit of entitlement for the scheme.

DISCLOSURE OF PECUNIARY INTERESTS

Clause 18 of Schedule 2 sets out a new requirement for committee members to disclose any direct or indirect pecuniary interests on a matter that is to be determined by the committee.

Examples of a pecuniary interest include being employed by, or being the partner of, or have some other financial or specified interest in a company that is tendering for work with the Owners Corporation. These circumstances may create a conflict of interest. The conflict of interest may include the receipt of a commission for the recommendation of services.

A committee member must make the disclosure as soon as they become aware of a potential conflict of interest and that member may be asked to leave a committee meeting when other members of the committee are deliberating on the matter.

Any disclosure made must be kept in a book maintained by the committee which is to be made available for inspection by other owners in the scheme.

For a committee consisting of 1 member, it is recommended that any such pecuniary interest be disclosed to the Owners Corporation at a General Meeting and any determination on the matter made by the Owners Corporation.

DISTRIBUTION OF COMMITTEE MEETING MINUTES

The 2015 Act also sets out new obligations for the secretary to distribute minutes of a Strata Committee meeting, which are as follows:

Within 7 days of a Strata Committee meeting the secretary must:

- Give each member of the Strata Committee a copy of the minutes;
- For non-large schemes give each owner a copy of the Strata Committee minutes;
- For Large schemes, give any owner a copy of the minutes if requested to do so.

Note: There is NO longer a requirement to place a copy of the Strata Committee minutes on the common property notice board, regardless of whether the scheme is large or otherwise.

voting

- (i) Strata Committee Resolutions Clause 9(1) of Schedule 2 specifies that there is only one type of resolution for a Strata Committee meeting that is simply a majority vote. For example, if there were 6 members of the Strata Committee and 3 votes were cast in favour of a motion and 3 votes were cast against, the motion WOULD NOT pass. If there is a deadlock a vote CANNOT be undertaken by Units of Entitlement as there is no provision for this in the Act and the Chairperson DOES NOT have a casting vote.
- (ii) Methods of Voting The 2015 Act allows a Strata Committee to determine voting in numerous ways, including:

- In Person; Via Telephone or Video Conference (if approved by the committee); Email or other electronic means (if approved by the committee, other than an election for office bearers); A substitute representative (if approved by the committee).

How Strata Manager Fits in

Due to the detailed and exacting legislative requirements imposed by Strata Legislation, owners corporations often engage managing agents to administer the scheme’s day-to-day functions on their behalf.

In order to perform these duties an Owners Corporation may delegate to the strata manager some or all of their functions pursuant to Section 52(1) of the Act, including the roles of Secretary, Treasurer, Chairperson and the Strata Committee. Like the Strata Committee, a managing agent cannot be delegated the authority to perform restricted matters (i.e. those matters that can be determined by the Owners Corporation, such as passing By-laws).

Regardless of what delegation may be provided to a managing agent, it does not affect the authority of the Owners Corporation or the Strata Committee to exercise their powers under the Act.

CONTACT US

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