The WA STRATA MAGAZINE

MARCH 2023



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LookUpStrata

About Us

LookUpStrata is Australia's Top Property Blog Dedicated to Strata Living. The site has been providing reliable strata information to lot owners, strata managers and other strata professionals since 2013.

As well as publishing legislative articles to keep their audience up to date with changes to strata, this family owned business is known for their national Q&A service that provides useful responses to lot owners and members of the strata industry. They have created a national network of leading strata specialists across Australia who assist with 100s of the LookUpStrata audiences' queries every month.

Strata information is distributed freely to their dedicated audience of readers via regular Webinars, Magazines and Newsletters. The LookUpStrata audience also has free access to The LookUpStrata Directory, showcasing 100s of strata service professionals from across Australia. To take a look at the LookUpStrata Directory, flip to the end of this magazine.

Meet the team



Nikki began building LookUpStrata back in 2012 and officially launched the company early 2013. With a background in Information Management, LookUpStrata has helped Nikki realise her mission of providing detailed, practical, and easy to understand strata information to all Australians.

Nikki shares her time between three companies, including Tower Body Corporate, a body corporate company in SEQ.

Nikki is also known for presenting regular strata webinars, where LookUpStrata hosts a strata expert to cover a specific topic and respond to audience questions.

Nikki Jovicic
Owner / Director

Liza came on board in early 2020 to bring structure to LookUpStrata. She has a passion for processes, growth and education. This quickly resulted in the creation of The Strata Magazine released monthly in New South Wales and Queensland, and bi-monthly in Western Australia and Victoria. As of 2021, LookUpStrata now produce 33 state based online magazines a year.

Among other daily tasks, Liza is involved in scheduling and liaising with upcoming webinar presenters, sourcing responses to audience questions and assisting strata service professionals who are interested in growing their business.



Liza Jovicic
Sales and Content Manager

LookUpStrata

Learn more here → https://www.lookupstrata.com.au/about-us/

You can contact us here → administration@lookupstrata.com.au

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Wait now, pay later.



Lannock This article is brought to you by Lannock Strata Finance.

There has been a lot of discussion about record increases in the price of real estate recently but there is a more pressing issue that strata owners need to be aware of – the rising cost of construction works.

A combination of booming demand, labour shortage, material shortages and supply chain disruptions are creating the perfect storm for increased construction costs.

According to CoreLogic's Research Director Tim Lawless, the heightened construction activity and rising costs experienced across Australia won't be going away soon and will likely cause affordability challenges for owners across the country.

"The quarterly rate of growth in construction costs is happening everywhere and is not restricted to one city or state, it's a national trend," he said.
"This construction cost inflation could continue for another 12 to 18 months. It's unlikely the industry can absorb a cost increase this significant into their margins and higher construction costs will ultimately be passed on to the consumer, placing further upwards pressure on the price of a new dwelling or renovation."

"The quarterly rate of growth in construction costs is happening everywhere and is not restricted to one city or state, it's a national trend,"

Already we've seen just how much pressure is being placed on the construction industry, with Probuild and Condev both going into liquidation in recent weeks.

In short, costs are going up and the construction industry is buckling under the pressure.

The more you delay, the more you will pay.

Owners corporations who choose to delay any rectification, maintenance or uplift work on their property may be setting themselves up for a shock later on.

Regarding funding of any works, the corporation always has three options: to accumulate a Maintenance Fund over time, to have a Special Levy or to Borrow (or a combination of these three methods).

It takes time to accumulate moneys in a Maintenance Fund. Special Levies should be a quick solution but will be delayed if there are owners who find the cash flow impost too large.

"In short, costs are going up and the construction industry is buckling under the pressure. "

A strata loan is immediate, unsecured and does not involve a mortgage, personal financials or guarantees.

So, what's the right decision?

As with any big decision, it's important to be informed. If your clients are looking at rectifying defects or considering maintenance or renewal/ uplift projects over the next few years, it will be important to discuss with them the implications should they choose to delay the works.



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Changing the landscape of consumer protection



Life comes with unexpected surprises, not all good. The same can be said for the construction industry, frequently plagued by supply chain disruptions, cashflow constraints, labour shortages, cost increases and defective construction. The latter often leaves consumers to pursue contractors on their own, with few options to address these issues, or feeling that costly litigation is their only recourse.

That said, the industry appears to be shifting towards a more consumer-centric market. With over 340,000 strata schemes across the country, owners have the right to expect a quality product.

BETTER CHOICES, LESS DISTRESS

For the first time in Australia, purchasers have an evidence-based rating to make an informed choice when purchasing a property. The independent construction industry rating tool - iCIRT- helps purchasers know which businesses are best equipped to build quality assets.

Created by Equifax in conjunction with the NSW government, key industry bodies and consumer stakeholders, iCIRT will improve trust and transparency in the construction industry. Trustworthy constructors that attain three gold stars or higher (maximum five) are recognised on a register at www.buildrating.com

To obtain a gold-rating, constructors must participate in an independent and rigorous review of their entire business. This process rewards those that perform highly while calling attention to those that don't.

Karen Stiles, Executive Director of the Owners Corporation Network (OCN), confirms they support a simple star rating system to help purchasers make better choices, and reduce the risk of dealing with building defects. To drive proactive change, we need to work together — consumer, industry and government — by investing in and taking advantage of the programs available.

A NEW ERA OF CLAIMS MANAGEMENT

High-rise residential strata buildings have been in the spotlight globally, with highly publicised structural failures resulting in assets being condemned, buildings deemed uninhabitable, and even injury and deaths. In 2021, the NSW building commissioner's office indicated that 39% of NSW buildings presented serious defects. Extrapolated nationally, that alarming figure would indicate nearly 80% of new apartments could suffer from serious defects.

In response, Resilience Insurance introduced latent defect insurance (LDI). iCIRT-rated developers can earn additional financial benefits, further protecting consumers with a 10-year insurance policy. This could change how Australia delivers quality buildings to consumers.

Corey Nugent, CEO at Resilience Insurance, explains that as one element of recent building industry reforms, LDI drives improved consumer confidence. More importantly, consumers will discover their bargaining power, demanding transparency in delivery and security of built assets.

LDI provides cover against loss from physical damage arising out of inherent defects within 10 years of the completion date. The cover extends to issues relevant to the structural works and building envelope, including waterproofing.

This is a new era of claims management. By monitoring performance throughout construction, LDI gives consumers an additional layer of quality assurance, ensuring buildings are constructed to the appropriate standards and comply with design and engineering specifications.

sedgwick

SEDGWICK BUILDING CONSULTANCY DIVISION

To navigate this ever-changing landscape, we must continue to adapt and challenge the norm — even as we're asked to do things faster and more cost-effectively, whilst keeping the consumer front of mind.

In working alongside Resilience Insurance, Equifax, and consumer advocacy groups like the OCN, Sedgwick has become a trusted partner in the industry.

We have been providing expert building consultancy services for the past 20 years. As the largest home warranty specialist consultancy firm in Australia, Sedgwick has extensive capability in forensic building consultancy, technical inspection service (TIS), policy assessments, preparation of scopes of work, tender validation processes and construction management. We specialise in managing remediation work within the residential, multi-storey residential and mixed-use strata complex landscapes.

For more information, please contact **sales@au.sedgwick.com**



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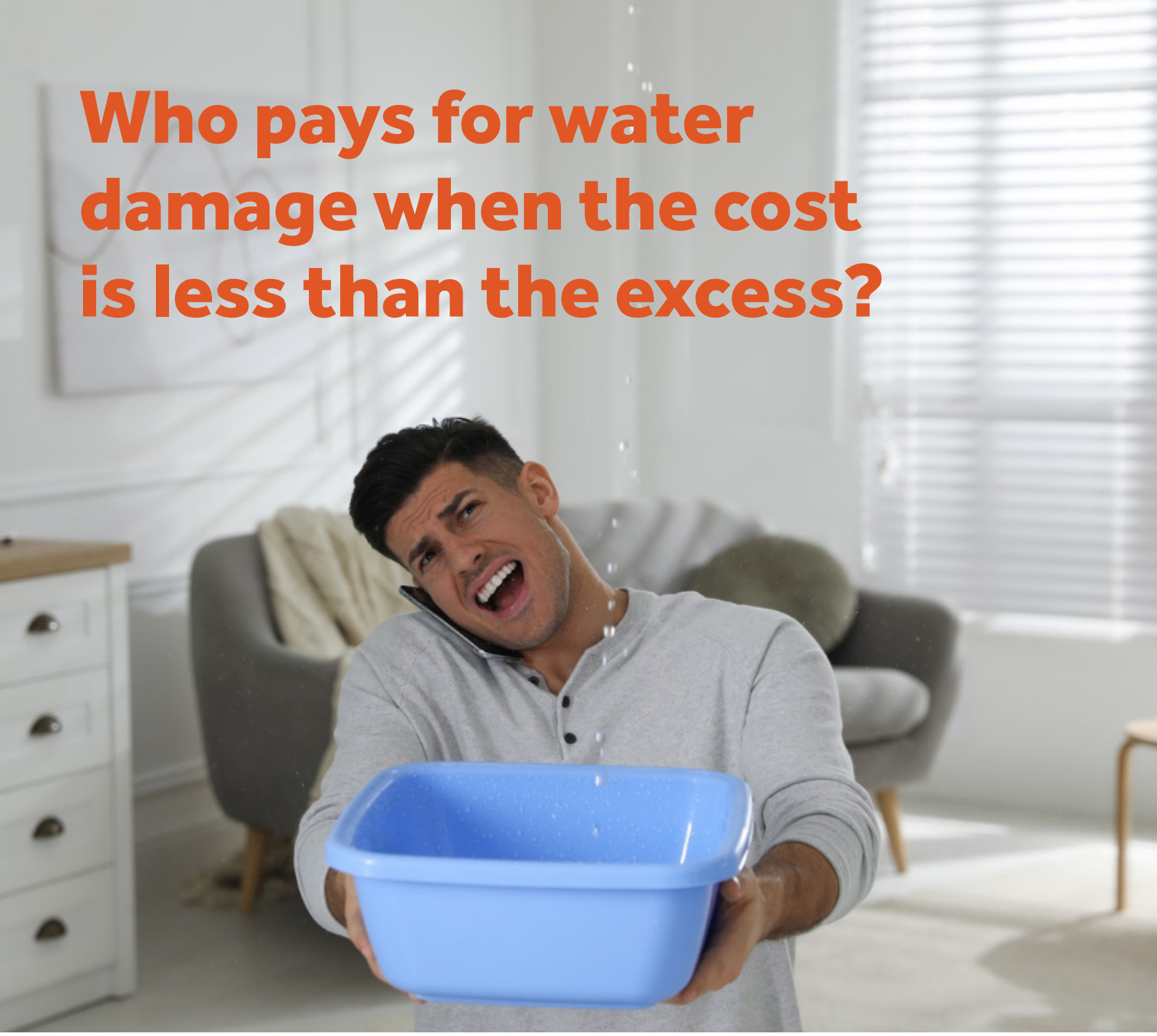


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Who pays for water damage when the cost is less than the excess?



Q **Our ceiling was damaged by a burst pipe above. The repairs are less than the insurance excess. Are we responsible for our repairs and can we claim the expenses from the above unit?**

Our ceiling was water damaged from a burst water pipe exclusively servicing a unit above. The owner of the tenanted unit above denied responsibility for repairing the damage to my ceiling once it was established that the combined insurance assessment costs did not exceed the strata insurance excess of $15K.

The landlord advised my only course of action is to independently take the strata company to SAT because the water damage is an insurable event. This appears contrary to their earlier action of lodging a strata insurance claim for damages to both units under a one-event scenario.

What options do I have? I'd prefer to take the owner of the above unit to SAT, as they negligently contributed to damage that escalated due to their delay in arranging a plumber.

A **Where a claim falls below the excess, the lot owner is responsible for repairing the damage to their property.**

In instances where a claim falls below the excess, the lot owner is responsible for repairing the damage to their property, however, if they believe another party is legally responsible for the damage, they can take action to hold them responsible.

If you believe you have grounds to hold the owner of the unit above responsible the first step in the process is to issue a letter of demand to that lot owner outlining:

- A description of the event including the date.
- Why you believe the owner is liable and include any evidence to support this.
- The amount you are seeking compensation for (include your quotes/invoices).
- How you can be reimbursed (bank account).

If the owner of the unit above has contents or landlord insurance, they can refer the demand letter to their insurer to claim under the public liability (also known as legal liability) section of their policy. This section is designed to cover claims for damage to other's property you become legally liable for.

When you issue the letter, it is good practice to include a recommendation that the owner refers this to their contents or landlord insurer.

If you are not satisfied with the response of the owner (or their insurer), you can follow **the guide provided by Landgate** in resolving disputes which may include referring the issue to the State Administrative Tribunal (SAT).

Tyrone Shandiman | Strata Insurance Solutions
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To redeem this offer email a copy of your current policy schedule to Strata Insurance Solutions within 1 month of the publication of this magazine. Your policy can expire any time in the next 12 months, however we can only provide quotes 30 days prior to the expiry of your policy – if your policy is not due now, we will schedule to quote at the appropriate time. To ensure we apply this offer to our quotes, please specifically mention you would like to redeem the **"LookUpStrata Special Offer"** .

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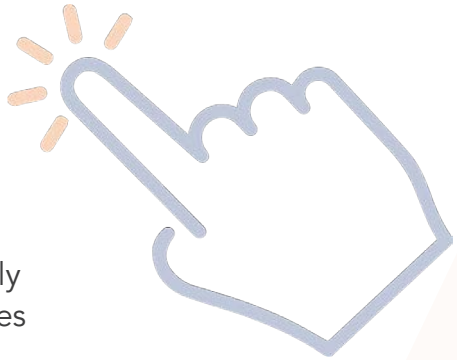


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MIMOR

SMARTPHONE ACCESS CONTROL

Security. Convenience.



Two words you don't often see in the same sentence. Just ask anyone who's had to replace a key or a fob or arrange for friends and relatives to share their strata facilities.

Click to Access (C2A) is a new smartphone tool that seamlessly delivers reliable access control for common property. It manages permissions, simplifies security administration, and creates smarter more secure buildings.

Security risks associated with traditional key administration are eliminated by controlling and logging who enters, what time they can enter, and through which entry point – all from MIMOR's cloud-based dashboard.



HOW IT WORKS

C2A communicates to access readers on entry points and connects mobile devices to verify credentials. Access to a building is granted via the MIMOR's dashboard, and an SMS or email link is used to gain access.

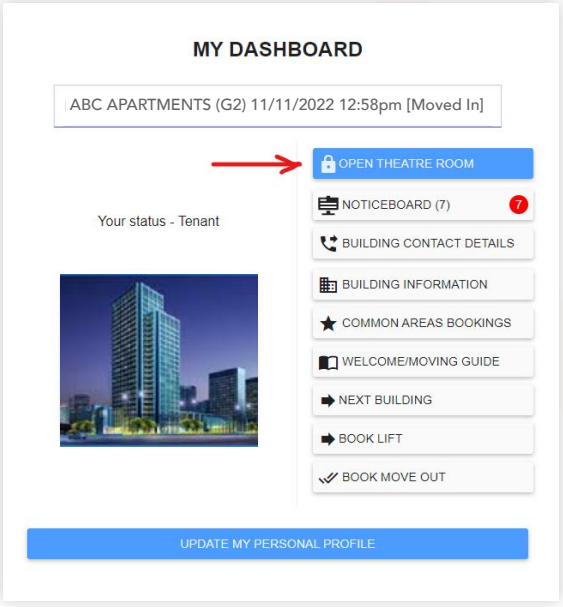
Mobile access control is also touchless since users can open doors without touching surfaces.

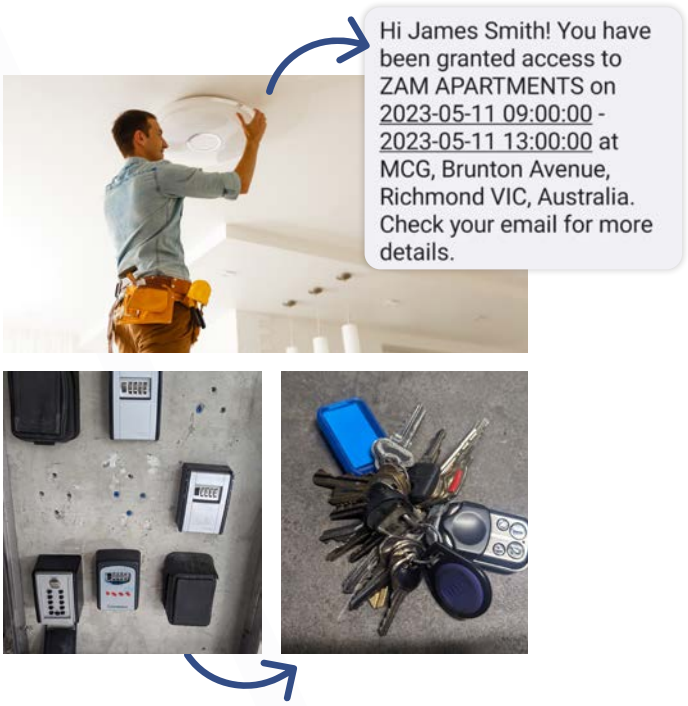
Subscriptions are scalable, from three apartments to more than 500.

BENEFITS

There are obvious benefits for individual owners who can easily create and revoke permissions for visitors using the tool. These include simplifying logistics for short-term letting but also anyone inviting family or friends to visit or providing access to cleaners.

- Strata professionals, property and building managers and committees can also grant and revoke mobile credentials at any time – slashing admin times, reducing site visits, and increasing building security.
- Physical keys and fobs are easily lost or copied and expensive to replace. There is also significant administration time spent arranging new keys and coding new fobs.
- C2A is safer, more secure, and simpler to manage. The feature can be added to entry points including individual apartment and building front doors, garage doors and other entry and exit points without modification to the existing security system.
- C2A provides an efficient system for shared amenity spaces. Residents can book BBQ areas, tennis courts and so on via the MIMOR dashboard, gaining keyless access via their mobile phone which activates at their booking time. Access is therefore restricted to only those booked. The system keeps a real-time log of attempted access and users.





- Access for tradespeople is also simplified. C2A provides remote access control and tracks when trades enter and exit buildings – simplifying the process for strata professionals & building managers, saving the need for a site visit, and mitigating security risks around the sharing of codes. C2A can provide access to all required areas or front door and codeless key safe access.
- For buildings with short-stay apartments, there's no need for a physical key hand-over or multiple unsightly and insecure key safes on the outside of buildings. Guests are provided with a secure access link, activated remotely at check-in time, and deactivated on check-out. Owners can also opt to install C2A on their front doors, eliminating physical keys altogether.
- Entering a property using a mobile phone makes end-of-lease and move-ins seamless for tenants and property staff. Property managers can grant access remotely to front doors, garages etc., to let end-of-lease cleaners in or aid new tenant move-ins.

For more information about MiMOR's C2A feature, contact:

1300 0MIMOR.

Deciding on the colour of the pool lining

Q **We are replacing the pool lining of our pool. Are there any legislative restrictions on the colour lining we can have?**

We are replacing the pool lining of our pool. Are there conditions on what colour we can choose?

Some of us would like a change from the standard light blue to a darker blue with flecks of silver.

We've been told that because there are more than 20 residents over eight levels, we are restricted to the standard light blue. Is this correct?



A The works should comply with relevant government regulations.

In general, there are no specific by-laws or regulations stipulated in the *Strata Titles Act 1985 or Strata titles (General) Regulations 2019* that clarify any regulations on a pool lining colour in a strata scheme. However, the works should comply with any relevant government regulations.

First, it would be ideal to seek appropriate advice on the classification of the aquatic facility in your strata scheme and its use, as different regulations and requirements for each classification may apply.

With the assumption that the strata company is engaging a qualified contractor to carry out the replacement of the pool lining, it is suggested that the contractor also exercise due diligence and review any necessary regulations with the selection of the pool lining colour to ensure it is compliant, before submitting a quote.

Some suggestions on where you may like to seek further information:

- WA Health, Government of Western Australia
- Explore the department: | Department of Mines, Industry Regulation and Safety
- WALW – Home

refer to document; *Health (Aquatic Facilities) Regulations 2007*

Or it may be best to contact your local government office. They may be able to point you in the right direction for seeking appropriate information.

Ashlee Whitwell | Emerson Raine
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Claiming loss when electricity of off for repairs



Q **Without notice, our electricity was cut for 8 hrs to carry out long overdue repairs. Residents experienced the loss of food items due to the long outage. Can we claim compensation for this loss? Would the claim be against the strata insurance?**

A **The service provider could be liable if they failed to correctly notify residents of the planned service outage.**

Food items within residents' fridges are contents items and are not covered under strata insurance. The strata insurance only covers building and common area contents.

Building: means building or buildings as defined in the strata legislation applying where your building is situated, including:

i. outbuildings;

ii. fixtures and structural improvements, gates and fences;

iii. in-ground swimming pools and spas;

iv. marinas, wharves, jetties, docks, pontoons, swimming platforms, or similar type facilities (whether fixed or floating) that are used for non-commercial purposes and which do not provide fuel distribution facilities, unless We are advised and otherwise agree in writing;

v. satellite dishes, radio, television and other antennas including their associated wiring, masts, footings, foundations, moorings and towers;

vi. underground and overhead services;

We suggest owners and tenants approach their contents insurers to claim the cost of damaged food items.

Alternatively, the service provider could be liable if they failed to correctly notify residents of the planned service outage.

Tyrone Shandiman | Strata Insurance Solutions
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Luke Downie.
Head of Strata Management

Realmark’s clear commitment to managing strata properties is refreshing. And it’s well beyond the everyday practicalities and compliance of property management.

It’s simply to work collaboratively with a community of strata owners and advise them of how to achieve the best of outcomes.

Accordingly, and with our 30 years of local in-depth experience with both commercial and residential complexes, we’re also well sought-after by developers and owners for our insights into the future requirements of their project after the registration of their strata plans.

To learn more on how Realmark can help create a better result for strata owners, simply get in contact. Luke Downie, Head of Realmark Strata Management on 0479 095 889 or 9328 0909.

Realmark Strata 9328 0909 www.realmark.com.au/strata-management

EV Charging in Strata

WA's State of Play

March 2023

Australia is in the early stages of electrifying our road transport network. This process is broadly recognised to be a key step towards reducing greenhouse gas emissions to safer levels. The Federal Government is drafting a 'National Electric Vehicle Strategy' aiming to provide Australians better access to modern road transport technology and ensure infrastructure and industries are ready to support the transition.

Vehicle manufacturers are racing towards a monumental shift from Internal Combustion Engines (ICE) to Electric Vehicles (EV).

The WA Government are providing grants to encourage businesses to install EV Charging equipment at the workplace. However, currently these 'Charge Up Workplace EV Charging Grants' do not include for the strata residential sector.

Less focus has been placed on electrifying our privately owned strata carparks, *"the home of the stationary car"* which most would acknowledge is the most convenient and practical location for EV charging.

The National Construction Code has been recently changed to mandate that all new apartment developments be built with access to EV charging in the car park. This is being rolled out nationally but may take some time to be adopted in Western Australia.

Provisioning for EV in new strata developments is quite straight forward, however retrofitting EV charging stations in existing properties is a new and potentially complex process for strata communities.

> *"Body corporates are trying to work out how to handle requests for installing individual EV chargers while looking for an equitable charging and billing solution for all lot owners."*

Provisioning brownfield strata schemes to become "EV ready" involves a range of new technologies, infrastructure modifications and changes to management practices. A comprehensive process of investigation, preparation, planning and provisioning needs to be followed to make sure that the electrical infrastructure is adequate and electrical capacity available to enable the successful integration of EV charging systems into our private electrical networks.

As more and more residents are driving their new EV's into their strata complexes for the first time, we at Energy-Tec work with Strata Managers and Body Corporates to develop and implement equitable "EV ready" solutions which includes integrating these systems into the energy accounting process.

The primary options being offered to

strata residences are either, Electric Vehicle Charging (EVC) as a service or private ownership. Financially it is beneficial for Strata schemes to own and operate their EV charging solutions, as the electricity pricing can be much cheaper and more convenient. This way they maintain ownership of the infrastructure and will have control over the energy billing solution. Handing over to a third party EVC provider, means the third party will benefit by being in control of the energy pricing and will gain on sell profits.

Analysing the many options available including the location of chargers, cost to residents, equitable billing solutions and available funding mechanisms is directly impacted by the energy network configuration of a strata scheme. Properties configured as Embedded Networks, especially where the scheme owns the meter infrastructure, can benefit the most compared to sites configured as multi master meter networks.

EVC Implementation Guides are emerging from peak body groups such as the EV Council of Australia and the SCA's National "Strata Electric Vehicle Infrastructure Taskforce" (SEVIT). SEVIT have produced a state of play report and will soon publish a second phase report, outlining the challenges of deploying EV's into Strata.

These guides are important tools for Strata Managers and Council of Owners in understanding how to engage in the investigation, preparation, planning, provisioning and funding phases.

With the absence of guidance, funding and focus from the State Government



regarding EV charging in the strata sector; it is important that the industry is proactive and works together to drive initiatives and implement solutions that are fair and equitable.

"As the popularity of electric vehicles increases, EV charging will increasingly be valued by owners and tenants of strata schemes."

There is a pathway and many opportunities for retrofitting existing properties so that they can offer EV charging facilities in line with many new developments. The WA property sector and specifically, the Strata Sector can play a massive role in supporting climate change by becoming part of the electrification revolution.

Damien Moran
Managing Director
Energy-Tec



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Should the strata manager maintain the roll?

Q **Our strata roll is outdated. Our strata manager's agreement states they maintain the roll. The manager refuses to carry out this task. Is this part of their duties as our strata manager?**

Our Strata Roll has not been updated for several years. A lot of the information is no longer correct. As the **Secretary of the CoO**, I directed the Strata Manager to email all owners asking for their updated contact information, including tenant details if applicable.

The strata manager replied it was not their responsibility to get updated information or check for changes in details. The management agreement states under the "Agreed Services" that the strata manager will "Maintain strata roll and minute book".

All further inquiries by the CoO to update the roll are ignored. The WA STA 1985 is fairly silent on maintaining the Strata Roll (one sentence). What are the requirements?

A **The strata manager should request updated contact details as per the instruction of the Council of Owners and ensure that it is updated when they are made aware of any changes.**

There are some important facts to be reminded of in relation to this query:

1. *The Strata Titles Act 1985* **Section 105** states that the strata roll is to be prepared and maintained by the strata company;
2. A Strata Company has the right to authorise a strata manager to perform scheme functions (**STA Section 143**);
3. Maintenance of the strata roll is not listed in the **STA (Section 143(5)**) as a function that the strata manager cannot carry out on behalf of the scheme
4. Maintenance of the strata roll is listed as part of the agreed services in the Management Agreement.

Based on this, the strata manager should request updated contact details as per the instruction of the Council of Owners and ensure that it is updated when they are made aware of any changes. Maintaining an up-to-date strata roll is essential to the operational management of your scheme.

Rick Blampey | SVN Perth
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ASBESTOS IN STRATA AND COMMUNITY SCHEMES

The new WHS Legislation commenced 31 March 2022 in WA, and there are significant fines for non compliance.



By Wal Dobrow - Director

BIV REPORTS
1300 55 18 30
STRATA COMPLIANCE SPECIALISTS

Wal Dobrow has a Cert IV is WHS and is a specialist in risk, safety and negligence. He has been a trusted advisor to the strata profession for over 35 Years. BIV Reports provides strata compliance reports, including Asbestos Registers and Management Plans, Insurance Valuations, and Safety Reports and is one of the largest provider of 10 Year Plans in WA.

WHS LEGISLATION SUMMARY

A summary of this new legislation requires:

- Every 'Workplace' to have an Asbestos Register
- An Asbestos Management Plan if asbestos is identified or likely to be present
- Suspected Asbestos Containing Material (ACM) does not have to be tested (to avoid releasing deadly fibres).

This relates to all properties, including residential, commercial, retail, industrial and mixed use, built before 31 December 2003.

CIVIL LIABILITY LEGISLATION AND DUTY OF CARE

Asbestos is a known carcinogenic and is an obvious dangerous material.

In addition to the WHS legislation, a Strata Company is still bound by other legislation such as the Civil Liability Act 2002, Strata Titles Act 1985, Occupiers Liability Act 1985, and can be sued in negligence for any act or omission for a significant risk causing injury that they knew **or ought to have known** about and failed to act reasonably.

Negligence considerations...

1. **Was the risk foreseeable** - a risk the person knew or ought to have known (owners cannot place their heads in the sand to save themselves from being sued),
2. **The risk was not insignificant,** and
3. **What precautions a reasonable person (in control or management) would take** in those circumstances.

The Court also has to weigh up the probability and likely seriousness of harm, the social utility and the burden of taking precautions. Referred to as the 'time, cost and trouble'. Simply put, did a Strata Company owe a duty of care, breach that duty, and cause harm or damage.

For Owners to prove that they acted reasonably, steps would include obtaining (and making available) an Asbestos Register, an Asbestos Management Plan, and a Safety Report, and acting upon the recommendations.

ASBESTOS REGISTERS AND MANAGEMENT PLANS

A good Asbestos Register will:

- Have a **proper Risk Assessment** for each item describing the likelihood of being Asbestos as well as the Contamination Risk
- Include **references to the National Safe Work Practices**
- Be **live documents** with a Safety Action or Management Plan
- Include **recommended control measures** (ie removal, encapsulating, sealing, signage etc)
- Meet the respective State WHS legislative requirements.

Typical cost is around $90 per lot for 12 lots down to $65 per lot for 30 or more lots.

Wal Dobrow, Director, BIV Reports
1300 55 18 30

THE THREE BUCKETS

In my view, when considering asbestos, safety and similar issues, there are three key buckets.

1 WHS LEGISLATION

Being safe from prosecution and other penalties

2 THE CIVIL LIABILITY ACT

Meeting the key tests and principles above

3 THE RIGHT THING

There is no statutory requirement for street numbers on a property but would be handy for emergency services, or additional handrails for elderly or mobility limited occupants, or chaining furniture near pool fences or balconies to prevent children climbing, and the like, (those safety and prudent considerations that do not belong in the WHS or Civil Liability buckets).

Can owners short term let?



Q **If there is no bylaw for our building prohibiting short term letting, and the local council has no restrictions. Can owners short term let?**

There is no by-law in my Western Australian block of flats prohibiting short-term (eg Airbnb) lettings. However, Schedule 1 of my by-laws does say:

LEASING OF LOTS

Prior to the leasing of a lot the proprietor shall before the commencement date of the lease –

a. Inform the strata company of the name of the proprietor's managing agent for the lot (if any) and the name of the lessee. This information shall be recorded on the strata company roll;

b. provide the lessee with a copy of the strata company by-laws;

c. provide to the strata company a copy of an executed and stamped lease and ensure that such lease states that any non-compliance with the by-laws of the strata company shall default under the terms of such lease."

Does this by-law apply to, and or prohibit short-term tenants such as Airbnb or is it only relevant to tenants with a long-term lease under a Residential Tenancy Agreement?

The local council does not appear to have any short-term letting restrictions.

A **The most obvious disagreements with short term letting is the overuse of common property facilities and the comings and goings of people at all hours of the day a night.**

When in doubt, consult the by-laws…

Schedule 1 Duties of Owner

1. The owner of a lot must —

   a. notify in writing the strata company immediately on becoming the owner of the lot, including in the notice the owner's address for service for the purposes of this Act; and

   b. if required in writing by the strata company, notify the strata company of any mortgage or other dealing in connection with the lot, including in the case of a lease of a lot, the name of the lessee and the term of the lease.

Also, be familiar with what is in the Act as well…

Section 105 Roll to be kept by strata company

4. The particulars to be entered in the roll are —

   a. the name of the strata company; and

   b. the name and address for service of each member of the council, or officer, of the strata company; and

   c. the name and address for service of the owner of each lot; and

   d. the name and address for service of each strata manager of the strata company; and

   e. the name and address for service of any lessee or tenant of a lot notified to the strata company; and

   f. the name and address for service of any mortgagee of a lot notified to the strata company.

So by implication of the requirements of the Act, there is a requirement to keep a roll of the tenants who have a lease.

The most obvious disagreements with short term letting is the overuse of common property facilities and the comings and goings of people at all hours of the day a night. I have no doubt that the additional noise created would **disturb the peaceful enjoyment** of other owners who reside in the strata scheme.

Some Local Councils have their own use requirements for residential strata schemes in that the purpose of the building is not zoned for accommodation on a short term basis.

A by-law specifically banning short term use should or could be registered if it is correctly approved at a general meeting of the strata company.

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How do we ensure AGMs are completely and correctly minuted?



Q **How can we ensure all points and discussion topics are completely and correctly minuted? Would it be better if our strata manager records the meeting and transcribes it later?**

How can we ensure all points and discussion topics are completely and correctly minuted? Our strata manager chairs the meetings. Over the years, when AGM minutes are published, key points have been missed. Obviously, there is a lot to write down. Can the strata manager record the meeting and transcribe it later?

A **Recording what everyone said at the meeting is not what we're out to do. That's not the purpose of the AGM. All we're looking for is a motion that directs the Council on what they need to do.**

I don't prescribe to the idea that the strata manager needs to minute verbatim. It's not relevant. In the end, the only relevant point is 'what was the motion'? Have you detailed the motion? For example, 'it was resolved that the strata company direct the council to appoint John Doe to fix the brick wall at a cost not to exceed $5,000'. Now, did that pass? Yes, it did. That's all that needs to be recorded. We don't have to talk about all the other contractors that were considered, or anything else. It really just comes down to the specifics of the motion and did a pass. Yes or no.

We don't need to talk about or minute anything else. If there's anything critical that could lead to a litigious matter, you may make a few extra notes. But recording what everyone said at the meeting is not what we're out to do. That's not the purpose of the AGM. All we're looking for is a motion that directs the Council on what they need to do.

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Permission to move the HWS to a balcony

Q **I'd like to relocate our hot water system (HWS) from an internal space to our balcony. The HWS it will not be visible from the exterior of the unit.**

A **The owner would need to obtain permission from the strata company to have a hot water system installed to a balcony wall.**

There are several factors to consider when answering this question.

First of all, if it is a gas hot water system, it must be relocated to the external area as gas HWS are no longer allowed to be kept indoors. In this case, personally, if an external position can be found which is not obtrusive, the new HWS cannot be seen from the front of the complex and the installation is not negatively impacting the visual aesthetics of the building, then the strata company should come up with a policy. This policy could be used for all units as we assume it would be the same for everyone in the building.

Secondly, we would need to know what the lot boundaries are, so without having seen the strata plan, we cannot really answer this question.

However, assuming that the boundaries are the inner surfaces of the wall, to the upper surface of the floor to the underside of the ceiling, hence the external walls are common property and the HWS cannot or is not desired to be replaced in its original position, in our opinion the owner would need to obtain permission from the strata company to have a hot water system installed to a balcony wall. Permission can be granted by the following ways:

- Enter into an infrastructure contract with the strata company to vote on a common property easement under **Section 64** by an ordinary resolution;
- Adopt an exclusive use bylaw under **Section 43** at a general meeting/outside meeting resolution by a resolution without dissent;
- Enter into a lease agreement with the strata company over common property under **Section 93** (2) (c) by a resolution without dissent;
- Grant the owner a license of common property subject to **Section 91** (1) (b)

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Why do levies attract GST?



Q Why do levies attract GST? How is this represented in the accounts?

When reserve fund levies are collected, the strata manager includes a GST component on the invoice. Why do levies attract GST? They are neither a good nor a service. They are simply a contribution by the owners into a bank account.

If the strata company collects $10000 + 10% GST = $11000 in levies from owners, should the reserve fund balance be $10000 or $11000? If it's $10000, where does the $1000 go?

A The strata plan is carrying on an enterprise as defined in the GST act.

The strata plan is carrying on an enterprise as defined in the GST act and thanks to an amendment to the GST Act in 1999, strata levies are included as a taxable supply that attracts GST. Prior to this amendment, a strata levy did not qualify as a taxable supply as there was no consideration involved, as you correctly point out. I obtained a private ruling in 1998 confirming GST did not apply to levies. As a result, the Government changed the GST Act to include levies as a taxable supply.

As a result of this, the strata plan, if registered for GST, becomes a tax collector for the ATO. The Strata plan has a liability account on its balance sheet where it records GST collected and GST paid. The net balance at the end of each quarter is remitted to the ATO or refunded by the ATO. So the income account always shows the amount excluding GST with the GST going to the ATO liability in the balance sheet.

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Submitting a formal complaint letter to the CoO

Q Do formal complaints submitted to the council need to be discussed at a meeting?

We wrote a formal complaint letter to our council of owners and received a reply saying it was tabled for the next meeting in a few months. A few days later, we received a reply from the chairperson on behalf of the council, completely dismissing our complaint with reasons that had no bearing on what we outlined in our letter.

We were hoping for some discussion by the council. Can this be done or once tabled, do correspondence, especially complaints, have to be dealt with at a meeting?



A There is nothing in the Act to determine where, when or how a complaint letter needs to be addressed.

There are no laws in the *Strata Titles Act WA 1985* to determine where, when or how a complaint letter needs to be addressed. If you have written a complaint letter and provided it to the council of owners, they can choose to meet to address your concerns or reply in a format and time frame suitable to them.

Schedule 1 Governance By-laws Section 9 is titled the Powers and Duties of Secretary of the strata company and the powers and duties of the secretary of a strata company include under section (d) the answering of communications addressed to the strata company. It does not specify the time, manner or response required.

The Act does allow you to raise your motion (ie what you are proposing) at an annual general meeting and **have owners vote** and/or if you have more than 25% of unit entitlement (ie other owners) in support you can request the strata company convene an extraordinary general meeting.

Jamie Horner | Empire Estate Agents
JHorner@empireestateagents.com

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If there's a few boxes unticked give us a call or drop us an email and we would be happy to chat

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Who takes the bins out each week?



Q Whose responsibility is it to take out the bins on a weekly basis? If I don't do it, nobody does.

Whose responsibility is it to take out the bins on a weekly basis? We have a communal bin area but each unit has its own bins.

No one else takes any action so it falls to me each week. If I don't do it, they won't get emptied. I've left their full bins and they just keep piling up their rubbish in the bin area or use my empty bin.

How do I get everyone to take their own bin out or take it in turns?

A Constant reminders are needed to ensure residents are using the correct bins and taking them out.

If each unit has its own bins, they need to take out their bins and bring them back.

It does assist if bins are clearly marked but the strata company may need to send constant communication to remind people to take out their bins. It can also be raised in the annual general meeting and documented.

Does your complex have a 'Welcome Pack'? If so, bin requirements can be added so each new resident is also aware. When it comes to the communal bin store, unfortunately, constant reminders are needed to ensure residents are using the correct bins and taking them out.

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Noisy ventilation equipment is installed above our bedroom



Q The ventilation equipment is installed on the roof above our bedroom. We can hear the extractor fans 24/7. How do we stop this?

There is strata-owned ventilation equipment installed on the roof right above our bedroom. We live on the top floor of the building and can hear the extractor fans 24/7. The noise is particularly disturbing at night with the constant humming.

Is the level of allowed noise regulated by the Environmental (Noise) Regulations or does it fall under the Strata Titles Act and by-laws? What can we do about it?

Andrew Chambers
Chambers Franklyn Strata Management
andrew@chambersfranklyn.com.au

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STRATA MANAGEMENT

A We recommend you contact your own local government authority. They will be able to guide you accordingly.

The noise emitted by air-conditioning and ventilation equipment falls under the provisions of the *Environmental Protection Act 1986 and the Environmental Protection (Noise) Regulations 1997*.

Those regulations are administered by each respective local government authority (e.g. City of Perth, City of Joondalup, etc). We recommend you contact your own local government authority. They will be able to guide you accordingly.

Most local government authorities also have guidelines, complaint procedures and forms published on their individual websites.

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STRATA MANAGEMENT

Who pays for maintenance of exclusive use areas?



Q A planter box, installed by a previous owner in our exclusive use courtyard, is causing water damage and must be removed at our cost. Why is it our cost to remove the planter box?

I have a residential strata ground floor lot. Our strata manager has advised us to remove a planter box in our exclusive use courtyard, at our expense. The planter box is causing water damage to the undercroft car park area.

I thought my courtyard was part of the common property. The planter box was erected years ago by a previous owner. Why is the removal of the planter box our cost?

A Your strata scheme is highly likely to have a registered by-law that denotes who is responsible for maintaining items in an exclusive use space.

In regards to the planter box in the exclusive use area, you will find your strata scheme is highly likely to have a registered by-law that denotes who is responsible for the maintenance of items in an exclusive use space. You need **to access and check** if there is an exclusive use by-law that will specify rights / responsibilities of the lot owner regarding the usage of the exclusive use space.

If the planter box is causing **water damage** to the undercroft, the strata company has power to enforce its removal / maintenance. Regardless of the planter box being erected by a previous owner, the responsibility as the current lot owner passes to you.



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Strata living is the archetype of a community, a microcosm of a thriving society, as people come together not only to occupy a shared space, but to lay down roots, work, and enjoy the myriad of benefits that strata living has to offer.

In fact, the increasing popularity of living in close proximity to work, transport and shopping precincts has recently skyrocketed the growth of apartment and townhouse living. In the same way, the global megatrends of sustainable development, urban densification and connected technology show us that the strata industry is in the midst of a period of significant change, and opportunity.

Strata communities already represent a significant proportion of the built environment in WA, with as many as (an estimated) one in five Western Australians living in strata. As such, as strata communities continue to reconstruct and grow, it is paramount that sustainable development and management are core priorities that sit at the front of everyone's minds.

Economies of scale are created in strata, whereby the provision of a grant to a single building can affect hundreds of people, and impart a monumental impact on sustainable outcomes through utilising the multiplier effect of strata communities.

With the launch of their new 'Sustainable Building Grants' program, the City of Perth is showing their commitment to supporting the development of liveable, green, efficient and smart strata communities, encouraging them to flourish and thrive in our states capital.

From 1 February 2023, sustainable building grants offered by the City of Perth will be available to undertake environmental ratings, certifications, audits and assessments. According to the City of Perth, this will assist existing strata buildings to determine their energy, water and waste use performance, and identify possible improvements to be resource efficient and work towards net-zero emissions.

strata community association® WA



The City of Perth have identified three core outcomes as a priority of its commitment to providing Sustainable Building Grants, as a foundational component of its overall sustainability strategy:

- Support the City's vision of being a sustainable city by championing environmental sustainability actions and empowering the community to contribute towards net-zero.
- Adapt and upgrade existing buildings to improve their environmental performance.
- Educate and encourage residents to reduce emissions through energy and water efficiency and waste minimisation.

To qualify, your strata community must be at least four lots, located within the City of Perth local government area, and have the appropriate insurances, licences and financial viability where required.

Examples of initiatives that will qualify for consideration by the City of Perth include:

- NABERS Energy Rating plus Water Rating, Waste Verification, and Waste Platform.
- Green Star Performance assessment and/or certification.
- Residential energy, water and waste audits.
- Renewables/electrification feasibility assessments (includes EV charging).
- Net-zero action plans.

Grants of up to $10,000 will be available for eligible projects, with applications accepted at any time until 30 June 2023.

To apply, you must visit the City's grant management portal perth.smartygrants.com.au and provide a submission. For more information on this incredible program, contact sponsorship@cityofperth.wa.gov.au or call (08) 9461 333.

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Contacting Landgate's Advisory Service

Applying to SAT

SCA Directory

Strata Titles Act 1985

Strata Titles General Regulations 2019

SCA (WA) Upcoming Events



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Time: 6pm - 8pm
Cost: $35

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CHU SCA (WA) Owner Convention
Date: 23/06/2023
Time: 9am - 3pm
Cost: $65

Register Now

Calling for a poll vote



Q

Can the chair request a show of hands before calling a poll vote to see if a poll vote is necessary?

If a poll vote is called for by an owner for motions and for the election of the strata council, can the chair request a show of hands first to see if a poll vote is necessary?

Can a written request for a poll vote be added to an AGM motion from an absentee owner? Or does the owner have to be present at the meeting to call the poll vote?

A

A vote by unit entitlement can be called by anyone prior to the motion being voted on.

A poll vote is a vote counted by entitlement. It's a term we use frequently within the industry, but it's not referenced in the legislation.

A vote by unit entitlement can be called by anyone prior to the motion being voted on. That can be in writing before the AGM commences. If an owner would like all the motions determined by a poll vote, they can write in and do so. That is an option.

You can't have a show of hands prior to moving to a poll vote. If a proxy or an owner elects that the motion is to be determined by unit entitlement, that motion must be determined by unit entitlement and the strata and you should record the the way the lots vote. That requires an extra administrative duty when it comes to the minute taking.

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