

JS Mueller & Co Forum | 06.05.16

BRUCE BENTLEY | Termination & Renewal of Strata Schemes

FAIYAAZ SHAFIQ | Levy Collection

JAMES MOIR | Works By-laws

ADRIAN MUELLER | Meetings



**CHAIRPERSON:** Bruce Bentley | Partner | BA LLB, LLM, AIAMA, FACCAL



**JS MUELLER & CO**  
LAWYERS

# **Works By-laws**

## **How will they operate under the new laws**

---

**James Moir | Senior Lawyer | BA LLB**



**JS MUELLER & CO**  
LAWYERS

# Works By-laws

---

This presentation covers the following key areas from the new reforms:

- A. Summary of new legislation affecting works by-laws
- B. Summary of changes to works – old to new
- C. Blanket or generic by-laws
- D. Individual works/renovation by-laws



# A. Summary of Relevant Legislation

New Section	Old Section	Description	Comment
134(3) and Reg 35	New	By-laws for pre-1996 schemes are those in Schedule 2	This will repeal any existing ones, except special by-laws
Sched 3	New	New model residential by-laws, applying to newly registered schemes	<ul style="list-style-type: none"> <li>Pet option A – any animal can be kept (not only small dogs) on notice being given</li> </ul>
			<ul style="list-style-type: none"> <li>Smoking – 3 options now</li> </ul>
			<ul style="list-style-type: none"> <li>A – smoke must not penetrate CP or another lot</li> </ul>
			<ul style="list-style-type: none"> <li>B – smoking only allowed with consent of OC or in a designated area, plus smoke must not penetrate CP or another lot</li> </ul>
			<ul style="list-style-type: none"> <li>Massive by-law re 15 re disposal of waste</li> </ul>
			<ul style="list-style-type: none"> <li>By-law 17 – compliance with planning – much more basic than the Muellers short-term letting one</li> </ul>
106(1)	62(1)	Maintain CP and keep it in good and serviceable repair	No change, same wording used
106(3)	62(3)	Can decide by special res not to maintain certain CP	Same

# A. Summary of Relevant Legislation con't

New Section	Old Section	Description	Comment
106(4)	New	If an OC takes action against an owner for damage, it can defer compliance (obligation to maintain) until that action is determined, assuming no safety issues	New – previously there was no exemption
106(5)	New	Owner can sue for breach of statutory obligation (losses resulting from failure to maintain) for up to 2 years of becoming aware of the loss	Clarifies the case law which has gone back and forth on this issue. As the case law currently stands, this is a significant change.
106(7)	54(3) partly	Obligation to maintain is subject to any CP memorandum, any s108 by-law and any excl. use by-law	Probably the same position as current, but sets it out more clearly. S54(3) only applies to excl. use by-laws
108(1)	65A(1)	Can by special res add to, alter or erect a new structure on CP	No change, though we think s110(6) means this work can be deemed a minor renovation (and can be approved by the EC) unless it is a 110(7) exclusion
108(5)	65A(4)	If owner is to be responsible for maintenance, need by-law and owner's written consent	No change



# A. Summary of Relevant Legislation con't

New Section	Old Section	Description	Comment
109(1)	New	<p><u>Cosmetic work</u> can be done without needing approval, but subject to owner rectifying damage to CP and carrying out work properly.</p> <p>By-law may specify additional work that is cosmetic, but can't be one of the exclusions in s109(5).</p>	Some of these items involve alterations to CP and would previously have required a written approval under by-law 5 or a special res and by-law. For example inserting hooks, nails and screws, installing built-ins and installing internal blinds/curtains.
109(5)	New	<p>Exclusions – this cannot be deemed cosmetic work:</p> <ul style="list-style-type: none"> <li>▪ minor renos (s110)</li> <li>▪ structural work</li> <li>▪ work changing the external appearance</li> <li>▪ waterproofing or work affecting plumbing or exhaust system</li> <li>▪ work affecting safety, like fire systems</li> <li>▪ reconfiguring walls</li> <li>▪ work needing a DA</li> </ul>	A by-law can deem other work to be cosmetic so no approval is needed, as long as that work is not excluded from the section. For that work (eg structural work or a bathroom reno), you still need the usual blanket by-law specifically authorising that work.

# A. Summary of Relevant Legislation con't

New Section	Old Section	Description	Comment
110(1)	New	Minor renovations can be done with the approval of OC by ordinary resolution, no by-law needed. Minor renos include:	Re the walls – this means altering non-structural walls can be done as a minor reno.
		▪ kitchen renos	The OC can pass a by-law saying the strata committee (EC) can determine these applications.
		▪ recessed light fittings	
		▪ hard flooring	
		▪ wiring or electrical work	
		▪ reconfiguring walls	
110(6)	New	Can provide that additional work is a minor reno, subject to 110(7)	The OC can pass a by-law saying all work that is not excluded can be approved by the strata committee. This is likely to become a popular new blanket by-law

# A. Summary of Relevant Legislation con't

New Section	Old Section	Description	Comment
110(7)	New	Exclusions – this cannot be deemed a minor renovation:	The following works can be minor renos, as they are not excluded under 110(7) like they were under 109(5):
		▪ cosmetic work (s109)	▪ work affecting safety, like fire systems. Not excluded like it was for cosmetic work
		▪ structural work	▪ work affecting plumbing or exhaust system
		▪ work changing the external appearance	
		▪ waterproofing	
		▪ work needing a DA	
111	New	An owner must not do work on CP unless authorised or under a by-law or by a special res	This sort of summarises the other sections.
143(1)	52(1)(a)	Common property rights by-laws (like exclusive use ones) can be made with the consent of each owner on whom rights are conferred	Currently says with the consent of the owner of the lot(s) concerned. This clarifies the legal position & means the James case position will continue to apply, & Young's case is history





# B. Summary of Changes to How Works are Dealt with

Type of work	Position under current Act	Position under new Act
Installing hooks, nails and screws	Under standard by-law 5, written approval required, maintenance and repair not clear	Can be done without approval
Installation of built-ins	Special resolution and by-law needed if being bolted into a common property wall	No approval needed unless work involves structural changes
Installing blinds or curtains	Special resolution and by-law needed if work constitutes an alteration to common property (which is likely)	No approval needed. Some argument that approval is needed if there is a change to the external appearance of a lot, but probably won't be interpreted that way
Kitchen renovation with appliances staying in same position	Special resolution and by-law needed if any change to common property	Only an ordinary resolution required and no by-law (and can be decided by SC meeting if power delegated)
Kitchen renovation with exhaust or plumbing changing	Special resolution and by-law needed if plumbing or exhaust penetrates common property, which is most likely	Only an ordinary resolution required and no by-law
Bathroom renovation with no change to waterproofing, (eg just changing vanity and shower screen)	Special resolution and by-law needed if changes to common property. Otherwise no approval needed.	Ordinary resolution only. Special res and by-law needed if change to waterproofing.
Installing or changing recessed light fittings i.e. within ceilings	Special resolution and by-law needed, as these are going above the paint on the ceiling (ie into common property)	Ordinary resolution only
Changes to wiring, cabling or power or access points	Most likely involves an alteration to common property, so special resolution and by-law required	Ordinary resolution only



# B. Summary of Changes to How Works are Dealt with

Type of work	Position under current Act	Position under new Act
Other work involving change to external appearance of lot	If no change to common property, then no special resolution needed. Possible approval needed under by-law 17 (if not in keeping with the rest of the building)	Special resolution and probably by-law required
Installation of bathroom exhaust fan	Special resolution and by-law needed, as this will penetrate a common property external wall	Ordinary resolution only
Solar panels	Special resolution and by-law needed as these are alterations to common property and exclusive use of it	Does it change the external appearance of the building, if the change can only be seen from the sky? If not, then not excluded under s110(7), so can deem that only ordinary res required
Air conditioners	Special resolution and by-law needed – through a wall, bolted to balcony, on an external wall etc	If it doesn't change the external appearance of the building, then OC can deem that only ordinary res required (and strata committee can deal with it)
Double glazing windows	Windows are usually common property, so by-law and special res needed	Not excluded under s110(7), so if new blanket by-law is passed, can be done with approval by SC
Ceiling insulation	Above the paint on the ceiling, so by-law and special res needed	Not excluded under s110(7), so if new blanket by-law is passed, can be done with approval by SC
Pergolas	Connected to CP, so by-law and special res needed	Probably approval needed as external appearance changed
Whirlybirds	Through CP, so by-law and special res needed	If hard or impossible to see from the street, can argue no change to external appearance, so can be one of the works which can be approved under a new blanket by-law



## C. Generic or Blanket By-laws

Once the new Act comes into effect, there will be two types of generic or blanket by-laws which will become very useful:

- Type 1

The same one currently used, whereby specified works involving alterations or additions to CP are approved, subject to the conditions in the by-law. These will remain an option for the types of works they previously dealt with. They will become very useful for those which are exclusions under s110(7) and cannot be deemed minor renovations, being:

- a. Structural work (internal walls)
- b. Work changing the external appearance (pergolas, awnings, & possibly solar panel & skylights)
- c. Work involving waterproofing (most bathroom renos)



Again, in section 108(2), the work has to be *specifically authorised* by a special resolution. This is the same wording as is in s65A, so the *Stolfa* comments will continue to apply. A general approval of renovations will not be enough: it will have to be specific.



## C. Generic or Blanket By-laws

- Type 2

A new type of generic/blanket by-law, whereby:

- a. All work not excluded under s110(7) is deemed to be a minor renovations for the purposes of s110 and specifically 110(6)(a). Despite ss108(1) & (2), this can include work changing or adding to CP as long as it is not excluded under s110(7) (ie structural, changing external appearance and waterproofing);
- b. The OC delegates its functions under s110 to the strata committee (EC). This is what we are commonly asked, for the EC to be able to approve works. Currently it cannot approve any work which involves an alteration or additional to CP, but after the new Act comes in, if this by-law is passed, it will be able to.
- c. The conditions set out in this by-law will apply if such work is carried out. We would set out the usual pre-work, during work and post-work conditions. Section 110 only includes that any damage to CP is repaired and the work must be done in a competent and proper manner.



# D. Individual Works By-laws

---

All works for individual lots will continue to require their own individual special resolution and by-law, if they are an alteration or addition to common property, *unless*:

- they are cosmetic work (eg nails, screws, built-ins); or
- they are one of the listed minor renovations (in s110(3)), such as kitchen renos, recessed light fittings or electrical work. In this case they will have to be approved by ordinary resolution, unless the Type 2 by-law has been passed; or
- the work has been deemed to be cosmetic work (s109(4)) or a minor renovation (Type 2). If cosmetic work then no approval needed, and if a minor renovation, then once the Type 2 by-law is passed, the SC can approve it.

Any works by an owner which constitute structural work, a change to the external appearance or a change to the waterproofing, must be passed by special resolution and by-law. If a Type 1 blanket by-law has been passed in respect of that specific work, this is enough.



# Thank You!



**JS MUELLER & CO**  
LAWYERS

# **Meetings**

## **What are the changes under the new laws**

---

**Adrian Mueller | Senior Lawyer | BCOM, LLB, FACCAL**

# **Strata Schemes Management Bill 2015**

---

## **Reforms to Meeting Practice & Procedure**





# Objective of Reforms to Meeting Procedure

---

- The reforms concerning meeting practice and procedure are intended to modernise and improve the way strata schemes are managed.
- This will be achieved by:
  - Creating flexible meeting options;
  - Introducing new ways to vote at meetings;
  - Preventing proxy farming;
  - Improving tenants' participation in meetings; and
  - Making miscellaneous changes to meeting practice and procedure.

# Flexible Meeting Options

- Meeting notices will be able to be sent by email to owners who provide an email address for service (without an empowering by-law).
- Attendance at meetings will be possible via video if permitted by an owners corporation.
- Flexible quorum arrangements – if no quorum, wait half an hour then declare a quorum.
- The AGM can be held at any time each financial year.



# New Ways to Vote

- The owners corporation and strata committee will be able to determine that a vote at a meeting may be made other than in person (e.g. postal vote and votes cast by video-link).
- The strata regulations will provide for:
  - a) the means of voting (other than in person) that may be adopted;
  - b) procedures for voting by those means; and
  - c) prohibiting the use of specified means of voting
- This will allow voting by secret ballot.



# Proxy Farming

- The new strata laws will curb proxy farming.
- The reforms will limit the number of proxy votes able to be held by one person to:
  - for schemes of up to 20 lots - one proxy vote only; or
  - for schemes with more than 20 lots - proxy votes of not more than 5% of the total number of lots.



# Tenants Participation

---

- Where the majority of units are tenanted, tenants will be able to:
  - attend owners corporation meetings (but not vote);
  - speak at owners corporation meetings (if permitted to);
  - have an elected representative on the strata committee (who will not be able to vote).
- A tenant may be excluded from a meeting in certain circumstances (e.g. raising levies or terminating scheme).
- The new laws will only apply to those tenants who have been notified to the owners corporation under a written tenancy notice.



# 1<sup>st</sup> AGM

- The agenda for the 1<sup>st</sup> AGM will now need to include motions to:
  - consider the strata manager's report concerning commissions;
  - receive the documents to be provided by the developer;
  - consider the developer's initial maintenance schedule;
  - consider building defects and rectification.



# AGM Notice

- The notice of each AGM will now need to include:
  - a call for nominations to the strata committee and the nominations already received;
  - a motion to consider a report as to commissions by the strata manager;
  - a motion to decide how to deal with overdue levies.
- The AGM notice will no longer need to include financial statements





# Minutes

- Minutes of meetings will now need to be given within 14 days after the meeting to:
  - each member of the strata committee;
  - each owner - if the strata scheme is not a large strata scheme;
  - any owner who requests a copy of the minutes - if the strata scheme is a large strata scheme and the owner requests a copy within the period of 7 days.





# Unfinancial Owners

---

- Unfinancial owners will now be allowed to:
  - require motions to be included in the agenda for a general meeting;
  - nominate a candidate for election to the strata committee.
  
- Unfinancial owners will not be allowed to:
  - vote at general meetings;
  - be elected onto the strata committee
  
- A member of the strata committee will not be entitled to move a motion or vote if the member:
  - is unfinancial; or
  - was nominated by an owner who is unfinancial.

# Conflicts of Interest

- A developer will not be entitled to vote or exercise a proxy vote on a matter concerning building defects.
- Members of a strata committee will need to disclose any pecuniary interest in a matter and, unless the committee otherwise determines:
  - must not be present for any deliberations on the matter; or
  - vote on the matter.



# Strata Managers

---

- An owner who is seeking appointment as a strata manager will not be entitled to vote or cast a proxy vote on the appointment at a meeting of the owners corporation.
- A strata managing agent will need to report the following at each AGM:
  - a) whether any commissions have been paid to the agent (other than by the owners corporation) during the previous 12 months and particulars of any such commissions;
  - b) any such commissions and the estimated amount of any such commissions that the agent believes are likely to be received by the agent in the following 12 months.
- A strata manager will need to update the report concerning commissions if there are any changes.
- A strata manager who does not give or update that report will be liable to a penalty of up to 20 penalty units.

# Insurance and Vacancy in Office

---

## Insurance

- A strata manager will need to provide an owners corporation with at least 3 insurance quotes.
- If a strata manager provides less than 3 insurance quotes, written reasons will need to be given to the owners corporation.



## Vacancy in Office of Executive Committee Member

- A strata committee will now be able to fill a casual vacancy on the strata committee



# Budgets and Special Levies

---

## Budgets

- The initial budget prepared before the 1<sup>st</sup> AGM will need to take into account the initial maintenance schedule provided by the developer.
- An owners corporation of a large strata scheme will need to explain any differences between the estimates in the budget and the estimates in the 10-year capital works fund plan.

## Special Levies

- Special levies will now be able to be raised to either the administrative fund or the capital works fund.

# Audits, Legal Action & Building Defects

---

## Audits

- Audits will be mandatory for:
  - large strata schemes; or
  - strata schemes with an annual budget greater than \$250,000.

## Legal Action

- An owners corporation will still need to pass a resolution at a general meeting before taking certain types of legal action but if it fails to that will not invalidate any legal action it takes.

## Building Defects

- AGM agendas will need to include a motion concerning building defects until the end of any applicable statutory warranty period.

# Conclusion

- The Bill contains some very useful reforms concerning strata meeting practice and procedure.
- The highlights of the new laws include provisions allowing:
  - meeting attendance and voting by video;
  - flexible quorum arrangements;
  - power to decide when to hold the AGM each year.
- The new laws that will outlaw proxy farming and clarify that strata committees will be entitled to fill casual vacancies on committees will also prove helpful.
- However the jury is still out on whether the reforms designed to increase tenant participation will prove worthwhile. And some of the new laws, particularly those giving more rights to unfinancial owners, will certainly prove controversial.
- Ultimately, the new laws will prove useful and should modernise and improve the way strata schemes are managed.

# Thank You!



**JS MUELLER & CO**  
LAWYERS



# **Levy Collection**

## **Procedural Changes under the new laws**

---

**Faiyaaz Shafiq | Senior Lawyer | LLB, GDLP**

# Levy Collection

---

**Strata Schemes Management Act 2015 (SSMA)**  
**Strata Schemes Development Act 2015**



**JS MUELLER & CO**  
LAWYERS

# Levy Recovery

---

This presentation covers the following key areas from the new reforms:

1. Current and New Position
2. Section 83 SSMA
3. Section 84 SSMA
4. Recovering Levies, Interest & Costs
5. Jurisdiction



# Current and New Position

Current Position	New Position
<p>Section 78 – regulates levy for:</p> <ul style="list-style-type: none"><li>○ owners</li><li>○ other persons; and</li><li>○ mortgagees in possession.</li></ul>	<p>OC to now raise levies under s83 SSMA 2015.</p>



# Section 83 SSMA

## Key Points

Current Position	New Position
<p>Section 78:</p> <ul style="list-style-type: none"><li>▪ one stop shop for owners, other persons and mortgagees in possession</li><li>▪ no specific date required in levy notice</li><li>▪ no obligation to issue notice</li></ul>	<p>Section 83:</p> <ul style="list-style-type: none"><li>▪ will regulate levies for owners</li><li>▪ date to be specified in the notice</li><li>▪ no obligation to issue notice</li></ul>



# Section 84 SSMA

---

## Section 84

- regulates liability for other persons and mortgagees in possession
- adopts s78 (3), (4) and (5)
- Mortgagees in possession liable for costs (84(2) (c))
- s78 was silent

## Other Key Points

- 10% Interest retained. S85 (1)
- Waiver of interest
- Discount on levies
- Payment plans



# Recovering Levies, Interest & Costs

Current Position	New Position
<ul style="list-style-type: none"><li>▪ s80 (1) SSMA 1996 regulates this</li><li>▪ <i>"together with"</i> interest and expenses in the same one action</li><li>▪ Remember – Court of Appeal in Dimitriou</li><li>▪ Expenses - <i>"reasonably incurred"</i> and <i>"reasonable in amount"</i></li><li>▪ Court of law has jurisdiction to hear a levy recovery claim</li></ul>	<ul style="list-style-type: none"><li>▪ Sections 86(1) &amp; (2) – will now regulate recovery</li><li>▪ No <i>"together with"</i></li><li>▪ Dimitriou's case still good law on the reasonableness of the expenses</li></ul>



# Jurisdiction

---

- OC can now recover in two places:
  - NCAT; and
  - Court of Law
- Under s86 (1) – query if the outstanding levies, interest and expenses a “*statutory debt*”
- Section 86(1) does not have the words “*statutory debt*” in it
- Under s86 (1) – query if the owners corporation can still include expenses on the owner ledger? Not clear and doubtful





# Jurisdiction

---

- Section 86(2) – a better provision and similar to s80 (1)
- Under s86(2):
  - I. you go to Court to recover.
  - II. Levies, interest and expenses treated as a “*statutory debt*”.
  - III. no need to claim interest and expenses in the same one action because the words “*together with*” have been omitted.

## Splitting of Jurisdiction

- Query if you can commence action for levies in NCAT and action in Court for interest and expenses or vice versa.

# Thank You!

---



# **Termination & Renewal of Strata Schemes**

## **What impact will the new laws have?**

---

**Bruce Bentley | Partner | BA LLB, LLM, AIAMA, FACCAL**



**JS MUELLER & CO**  
LAWYERS

# Strata Renewal Proposal

---

**STRATA  
RENEWAL  
PROPOSAL**



**JS MUELLER & CO**  
LAWYERS

# Strata Renewal Proposal

---

- Given to an owners corporation by any person.
- Applicable to all strata schemes except those subject to:
  - a development contract;
  - the *Retirement Villages Act 1999*
- Must contain the prescribed information.
- Must be given in accordance with s262 of the *Strata Schemes Management Bill*.

# Strata Committee Meeting

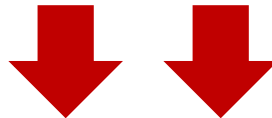
---



**30  
DAYS**



**STRATA  
COMMITTEE  
MEETING**



**JS MUELLER & CO**  
LAWYERS

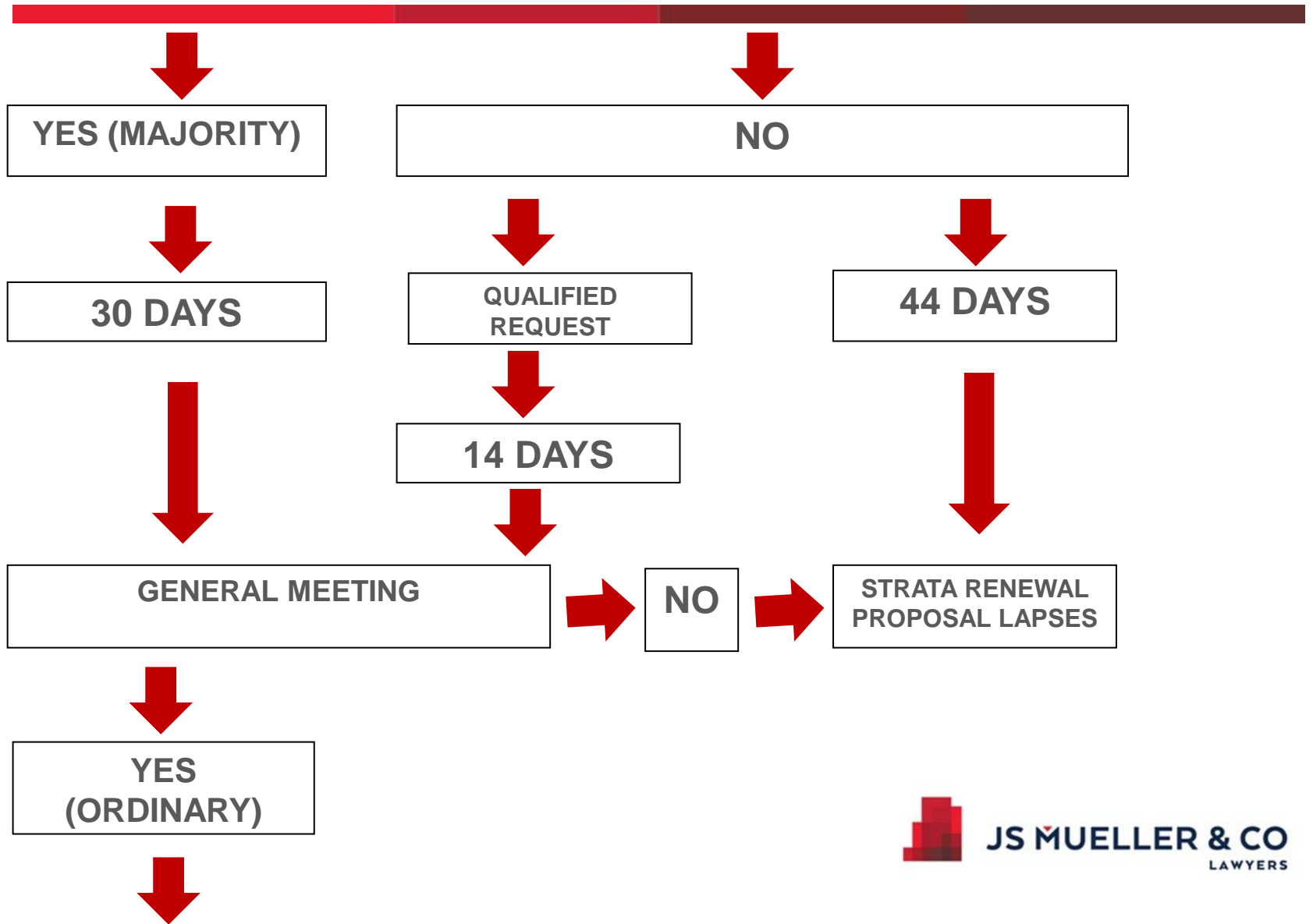
# Strata Committee Meeting

---

- Secretary or other committee member convenes strata committee meeting not less than 30 days after receipt of strata renewal proposal.
- Meeting to decide whether the strata renewal proposal warrants further consideration by the owners corporation.
- Decision made by a majority of the members of the strata committee at a meeting attended by not less than half the members.
- Strata committees may comprise 1-9 members.
- Minutes of the meeting must contain detailed reasons for the decision and a complete copy of the strata renewal proposal and be given to each owner within 14 days of the meeting.



# General Meeting





# General Meeting

---

- If the strata committee decides the proposal warrants further consideration it must convene a general meeting within 30 days.
- If the strata committee decides the proposal does not warrant further consideration the proposal lapses in 44 days if no qualified request is received.
- The strata committee must give each owner a copy of the minutes within 14 days.
- If the strata committee decides the proposal does not warrant further consideration any owner may convene a general meeting within 14 days of a qualified request by  $\frac{1}{4}$  of the aggregate unit entitlement.
- Notice of general meeting must contain a motion to consider whether the strata renewal proposal warrants investigation by a strata renewal committee.
- Notice must otherwise conform with Schedule 7 Clause 1.



# General Meeting

---

- General meeting must determine:
  - whether the strata renewal plan warrants investigation by a strata renewal committee; and, if so,
  - the number of committee members, not exceeding 9;
  - by election, the members;
  - the budget for preparing the strata renewal plan;
  - the authority to engage persons to help prepare the strata renewal plan.
- Motions are passed by ordinary resolution determined on a majority.
- Strata renewal committee members must be eligible for election to the strata committee.
- Persons with financial interests in more than 25% of the lots cannot vote or stand for election.

# Strata Renewal Committee

---



**STRATA  
RENEWAL  
COMMITTEE**



# Strata Renewal Committee

---

- Owners notified of the establishment of the committee within 14 days.
- Must prepare a strata renewal plan relating to the strata renewal proposal within 1 year from the day it is established.
- The time for preparation may be extended by special resolution of the owners corporation.
- May request the secretary to convene a general meeting to vary its budget or authority to engage experts.
- May set its own processes.
- Must keep and publish minutes.
- Decisions are made by a majority of votes at a meeting at which a majority of members are present.

# Strata Renewal Plan

---



**1 YEAR  
+ ANY EXTENSION**



**STRATA  
RENEWAL  
PLAN**

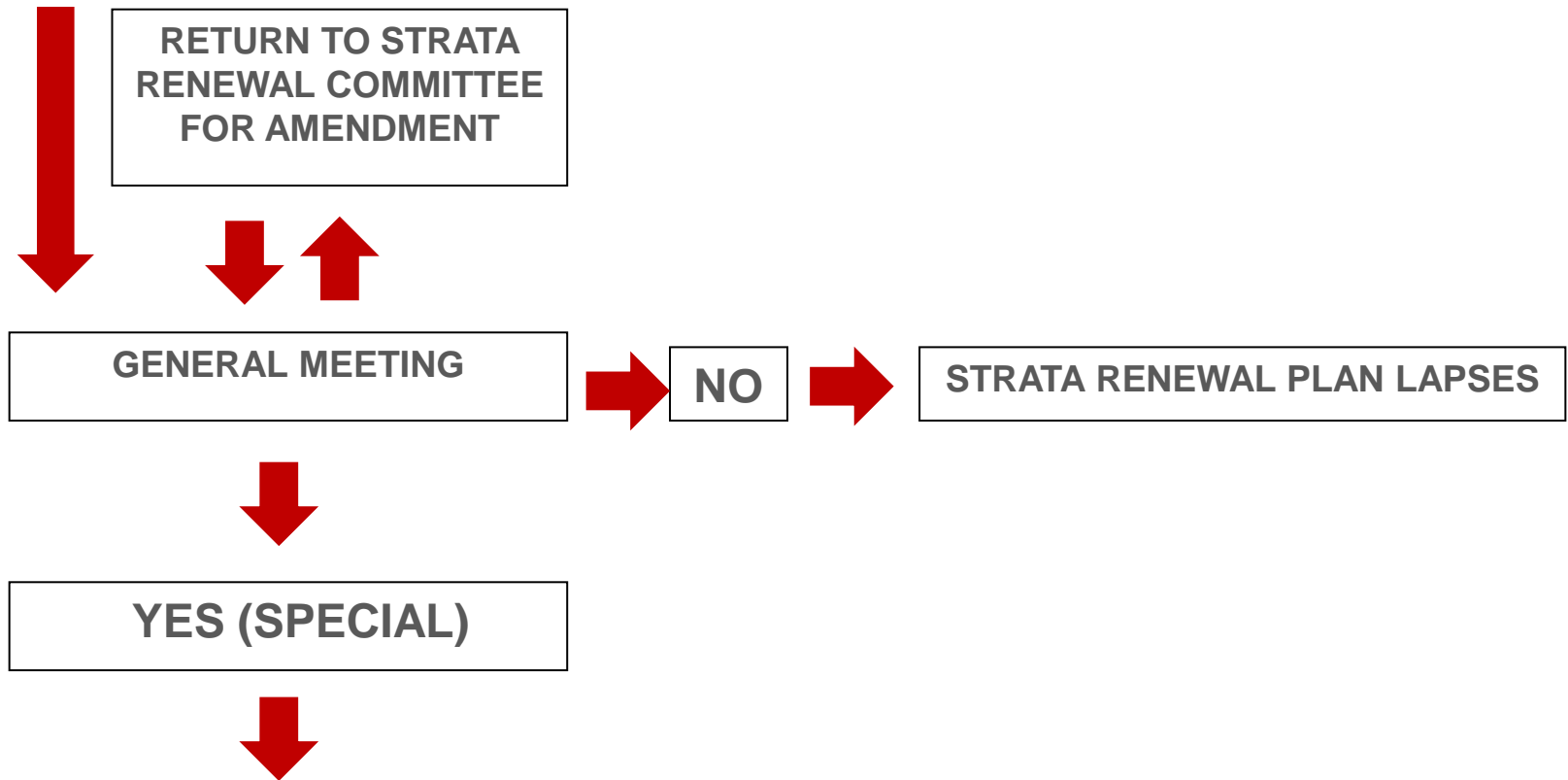


# Strata Renewal Plan

---

- Must be for:
  - collective sale of the scheme; or
  - redevelopment of the scheme.
- Renewal plan must contain:
  - details set out in s170(1);
  - such other information as is prescribed;
  - additional material decided on by the strata renewal committee.
- Must provide for Just Terms or agreed compensation.

# General Meeting



# General Meeting

---

- When a strata renewal plan is prepared a general meeting is convened on 14 days notice to owners.
- Notice is to contain the matters set out in Schedule 7 Clause 3.
- The owners corporation may resolve by ordinary resolution to refer the strata renewal plan back to the strata renewal committee for amendment.
- The owners corporation may resolve by special resolution to:
  - give the strata renewal plan to owners for consideration;
  - not give the strata renewal plan to the owners for consideration whereupon the plan lapses.
- If resolved, a copy of the strata renewal plan is given to owners within 14 days accompanied by the information prescribed in the Regulations.



# Support Notice

---



**14 DAYS**



**OWNERS RECEIVE STRATA  
RENEWAL PLAN**



**60 DAYS**



**SUPPORT NOTICES**



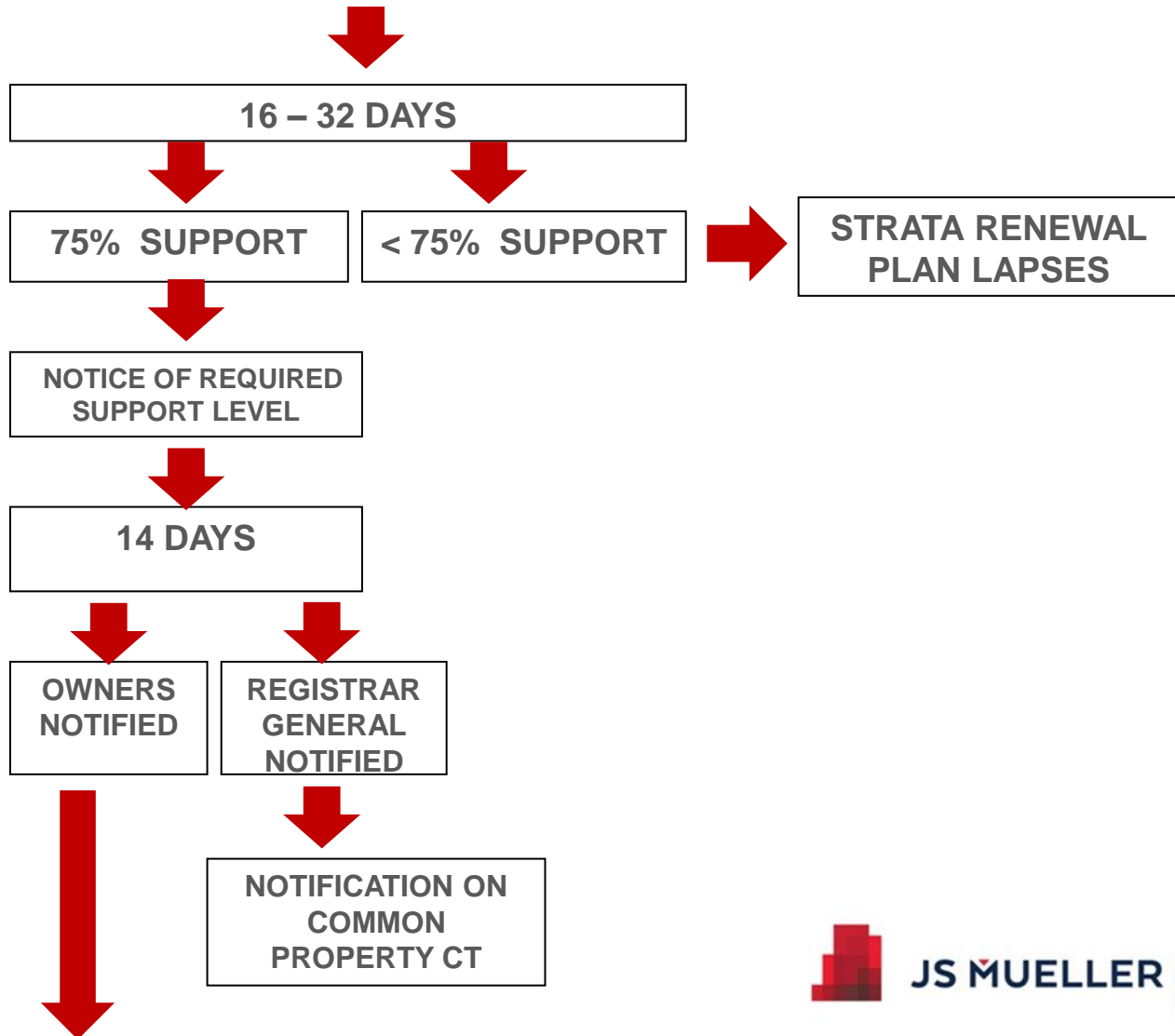
**JS MUELLER & CO**  
LAWYERS

# Support Notice

- At least 60 days after receiving a strata renewal plan but before the plan lapses, owners may provide a support notice to the returning officer.
- A support notice is to be in approved form signed by each owner, mortgagee and covenant chargee for the lot.
- If at least 75% of the lots do not give support within 3 months of the decision to give the strata renewal plan to owners, the plan lapses.
- An owner may withdraw a support notice before 75% support is received.



# Required Level of Support



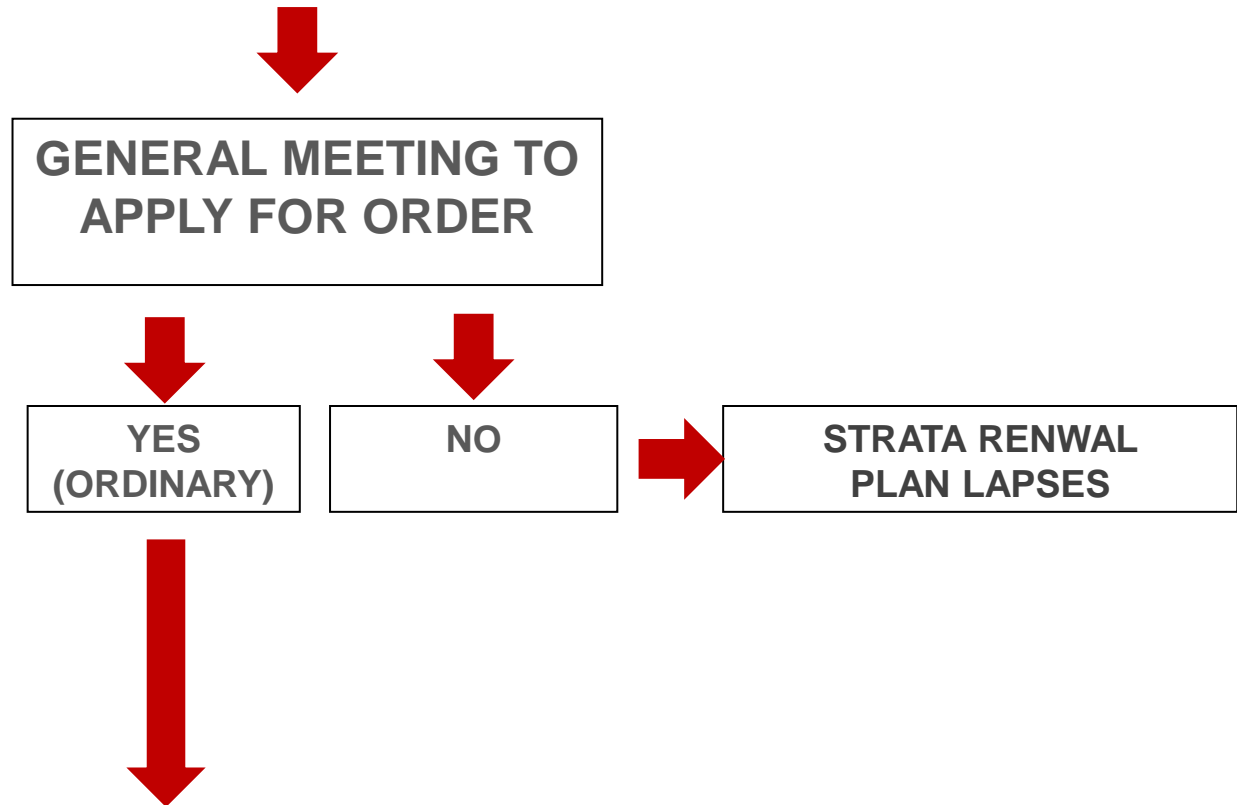
# Required Level of Support

---

- The required level of support is 75% of the lots excluding utility lots.
- The returning officer must, within 14 days of receiving the required level of support, give written notice to:
  - each owner;
  - Registrar-General.
- The Registrar-General must record on the folio of the common property that the scheme is subject to a strata renewal plan.
- Support notices will thereafter bind subsequent owners, mortgagees and covenant charges.

# General Meeting

---



# General Meeting

---

- The secretary must convene a general meeting within 14 days of receipt of support notices from 75% of owners.
- The general meeting is to decide by ordinary resolution whether to apply to the court for an order giving effect to the strata renewal plan.
- The owners corporation must satisfy itself that the strata renewal plan complies with s170.
- If the owners corporation resolves to apply for an order it must give written notice to each tenant notified to the owners corporation.
- If the owners corporation resolves not to make an application for a court order the strata renewal plan lapses.



# Application for Court Order

---



**APPLICATION FOR  
COURT ORDER**



**JS MUELLER & CO**  
LAWYERS

# Application for Court Order

---

- An application is made to the Land and Environment Court.
- An application is accompanied by material set out in s179(1).
- An application is served on:
  - each owner;
  - each registered mortgagee or covenant chargee;
  - the collective purchaser, where applicable;
  - the proposed developer, where applicable;
  - the local council, where the renewal plan is for redevelopment;
  - any other parties directed to be served by the court;
- Dissenting owners may lodge an objection within 21 days of service.





# Conciliation or Mediation

---



**CONCILIATION OR  
MEDIATION**



**90 + DAYS**



**JS MUELLER & CO**  
LAWYERS

# Conciliation or Mediation

---

- The court may order a mediation or conciliation conference.
- The parties may agree to a variation of the strata renewal plan at mediation or conciliation.
- Any variation must be signed by each lot owner who gave a support notice.
- Any variation must be served on each dissenting owner and each person served with a notice of the application.
- Any party may ask the court to terminate the mediation or conciliation and proceed to a hearing 90 days or more after the first session.

# Court Hearing

---



**COURT  
HEARING**



**COURT MAY MAKE  
MINOR VARIATION**



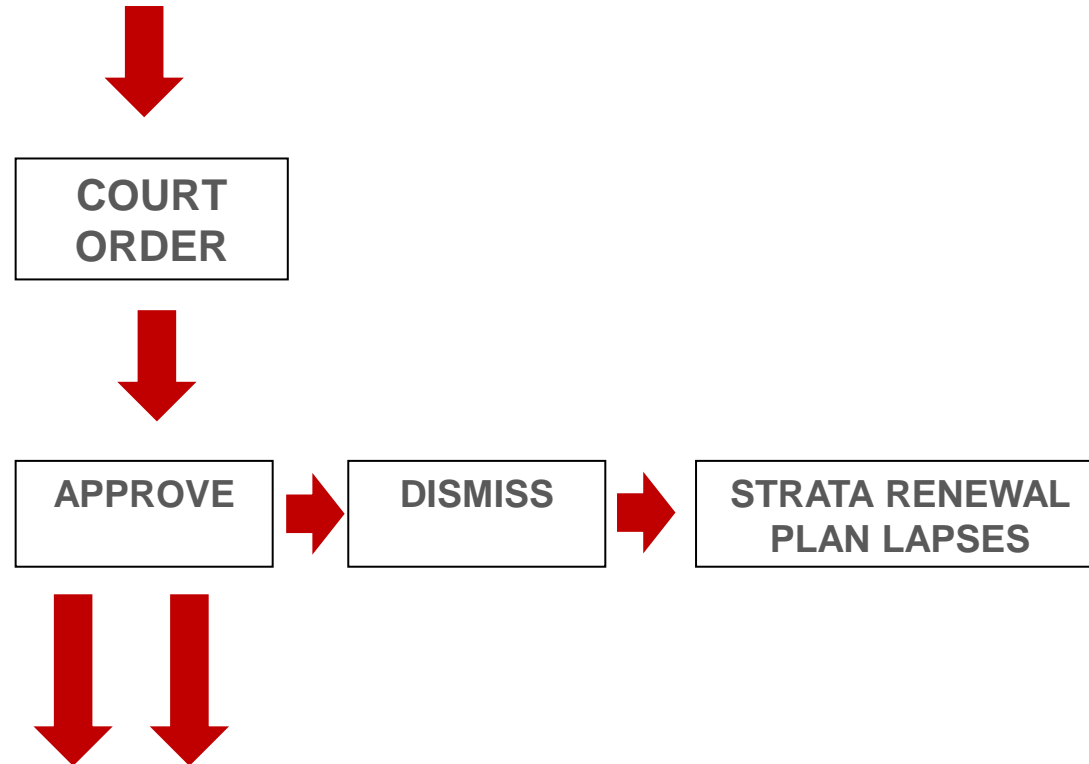
# Court Hearing

---

- The court must proceed to make a determination in relation to the strata renewal plan.
- It must consider the matters set out in s182(1).
- The court has the power to make minor variations of its own initiative.



# Court Order



# Court Order

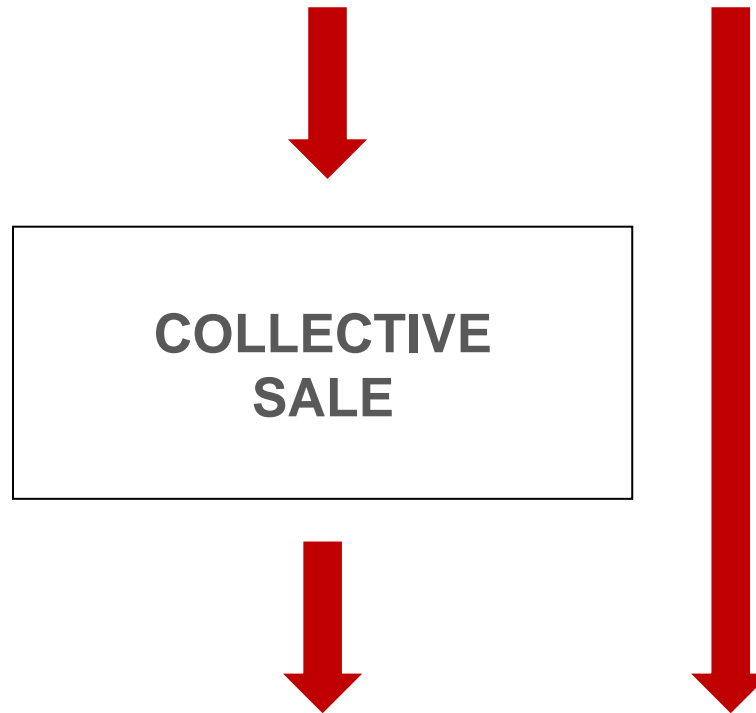
---

- The court must either dismiss or approve the strata renewal plan.
- If it dismisses the strata renewal plan the plan lapses.
- It may approve the plan and make directions as set out in s183(1) or ancillary orders pursuant to s186.
- The owners corporation must lodge the order for registration within 7 days.
- The order takes effect when registered by the Registrar-General.
- The order is recorded on the folio of the common property and each lot.



# Collective Sale

---



# Collective Sale

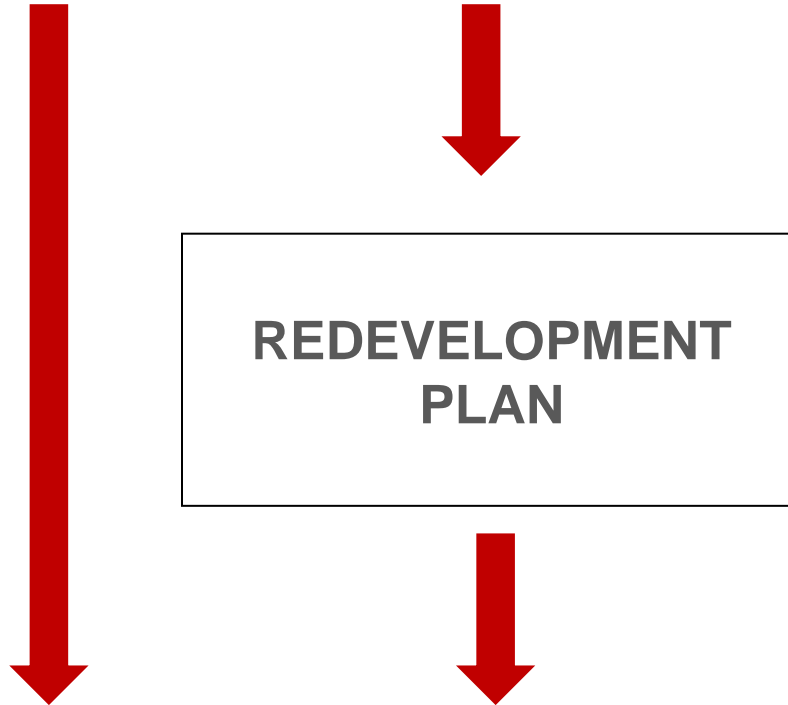
- Each owner must sell their lot in accordance with the strata renewal plan.
- The scheme is terminated on:
  - the day on which the last transfer of a lot or common property is registered;
  - or
  - such other day as the court order specifies.
- On termination the purchaser takes on the rights and liabilities of the owners corporation.
- The Registrar-General must create a new folio for the land in the former strata parcel.
- Leases terminate on the date on which the purchaser obtains vacant possession of the leased part of the strata parcel.
- Termination of the lease does not affect the rights of the lessee under the lease.





# Redevelopment

---



# Redevelopment

---

- Each dissenting owner must sell their lot to the developer in accordance with the strata renewal plan or the court order.
- The strata scheme is terminated on the date stated in the court order.
- After termination the rights and liabilities of the owners corporation vest in the developer or former owners in accordance with the strata renewal plan.
- The land vests in the former owners as tenants in common in shares proportional to their unit entitlements unless the strata renewal plan provides otherwise.



# Redevelopment

---

- The developer must notify the Registrar-General.
- The Registrar-General must cancel the folios for the lots and common property and create a folio for the former strata parcel.
- Leases terminate on the termination of the scheme.
- The termination of a lease does not affect the rights of the lessee under the lease.
- The developer must obtain development consent and any other appropriate approvals before redevelopment.

# Scheme Terminated

---



**DATE SPECIFIED BY COURT ORDER OR  
DATE OF LAST SALE OF LOT OR COMMON  
PROPERTY RECORDED**



# Scheme Terminated

---



**SCHEME  
TERMINATED**



# THANK YOU

---

P: 9562 1266 | E: [enquiries@muellers.com.au](mailto:enquiries@muellers.com.au) | W: [muellers.com.au](http://muellers.com.au)



**JS MUELLER & CO**  
LAWYERS