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NEW RULES ON STRATA MEETINGS AND VOTING

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NEW RULES ON STRATA MEETINGS AND VOTING

Under the new strata regulations, proxy voting will prevent any individual attempting to control owners' decisions by obtaining a majority of proxy votes.

The number of proxy votes able to be held by one person will be limited to:

1. Schemes – 20 lots or less

For schemes with up to 20 lots, a person will be permitted one proxy vote.

2. Schemes – more than 20 lots

For schemes with more than 20 lots, a person will not be able to hold proxies for more than 5% of the total number of lots in that scheme (rounded down to the nearest whole number). There is also an introduction of remote voting meaning owners need not be in the same country, let alone the same room, to cast a vote.

Telephone, video conferencing, email voting and even a voting website will all be permissible, with the approval of the owners corporation or strata committee.

Strata managers

An owner who is seeking appointment as a strata managing agent will not be entitled to vote or cast a proxy vote on the appointment at a meeting of the owners corporation (Schedule 1, clause 49). A strata managing agent will need to report the following at each annual general meeting:

- whether any commissions have been paid to the agent (other than by the owners corporation) in connection with the exercise by the agent of functions for the scheme during the preceding 12 months and particulars of any such commissions
- 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 (section 60).

A strata manager will need to inform the strata committee of any changes that need to be made to the report presented at the annual general meeting as soon as practicable if, for example, commissions are paid to the strata manager which differ from those referred to in the report (section 60).

A strata manager who does not give or update that report will be liable to a penalty of up to 20 penalty units.



Object of reforms to meeting practice and 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 meeting
- Making miscellaneous changes to meeting practice and procedure

Flexible meeting options

The strata law reforms will enable use of modern forms of communication in connection with meetings of owners corporations and executive committees.

Service of meeting notices

An owner of a lot will be able to give an owners corporation an email address as an address for service of meeting notices and other documents under the Act (section 256).

Meeting notices will be able to be distributed to owners and others by email given as an address for the service of documents without an empowering by-law (section 258).

Attendance at meetings via video or phone

The strata regulations that will supplement the Act will allow attendance at meetings through social media, video and teleconference.

This is because:

- the owners corporation or strata committee (as the executive committee will become known) will be able to allow votes to be cast at meetings other than in person (Schedule 1, clause 28; Schedule 2, clause 10)
- a person who votes, or intends to vote, at a meeting by a permitted means other than a vote in person will be taken to be present for the purposes of determining whether there is a quorum (Schedule 1, clause 17; Schedule 2, clause 12).

Flexible quorum arrangements

If there is no quorum for business at a general meeting, the chairperson, after half an hour, will be able to declare that the persons present constitute a quorum for that purpose (Schedule 1, clause 17).



The chairperson will also still be able adjourn the meeting for at least seven days.

Tenants' participation

The new strata laws will allow tenants in schemes, where the majority of units are tenanted, to take part in owners corporation meetings and have an elected representative on the strata committee, while respecting the financial decisions of owners.

The new laws concerning tenants will only apply to those tenants who have been notified to the owners corporation under a written tenancy notice.

A tenant will be entitled to attend a general meeting but not to vote (unless a proxy holder) and may be excluded from a meeting when financial matters and termination of a strata scheme are being discussed or determined (Schedule 1, clause 21).

A tenant will also not be entitled to speak at a meeting unless permitted to do so by resolution of the owners corporation.

Minutes

Minutes of general meetings and strata committee 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 (Schedule 1, clause 22).

Conflicts of interest

A developer will not be entitled to vote or exercise a proxy vote on a matter concerning building defects or rectification of building defects (Schedule 1, clause 15).

Members of a strata committee will need to disclose any pecuniary interest in a matter that is being or is about to be considered at a meeting of the committee and, unless the committee otherwise determines, must not be present for any deliberations on the matter or vote on the matter (Schedule 2, clause 18).

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About JS Mueller & Co

JS Mueller & Co has been servicing the strata industry across metropolitan and regional NSW for almost 40 years. We are a specialist firm of strata lawyers with in depth and unmatched experience in, and comprehensive knowledge of strata law and levy collection.

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