

Frequently asked questions

1. As a lot owner my strata manager refused to give me the names and addresses of all my fellow owners. Why does he not provide me with what I seek?

The Federal Privacy Act does not permit an agent to divulge the information, as it is not a matter of public record that is freely available to all consumers. However, under section 108 of the Strata Schemes Management Act, as an owner you can make arrangements with the agent to inspect the books and records of the owners corporation and pay the fee as required by the Strata Schemes Management Regulations.

2. My balcony door needs to be fixed. Who is responsible for the repairs?

If your strata plan was registered before 1 July 1974 the balcony wall including the door and its working parts are generally part of the lot and the lot owner's responsibility for maintenance and repairs (unless there is a notation on the strata plan).

If the plan was registered after 1 July 1974 the balcony wall including the door and its working parts are generally common property and the owners corporation's responsibility (unless the strata plan says otherwise). (Section 62).

Information and copies of your strata plan are available from Land and Property Information NSW.

In some cases the repairs may be covered by the building insurance policy and an owner can ask the owners corporation to make a claim.

If the owners corporation refuses to repair common property an owner may lodge an application for mediation to help resolve the dispute.

3. Water has leaked through my ceiling from the unit above and has damaged my carpet. Who is responsible?

Firstly, the ceiling is generally common property and the owners corporation's responsibility to repair (Section 62). The lot owner is responsible for the paintwork except where it is damaged by the owners corporation while repairing the ceiling. (Section 65(6))

Who is responsible for the carpet?

Repairs to the carpet within a lot are the lot owner's responsibility. (You may be able to make a claim on your home contents insurance policy if you have one.)

Alternatively, you may seek independent legal advice about the possibility of compensation from either the owners corporation or the other lot owner.

4. I want to install an air conditioner. What do I need to do?

It needs to be established whether the unit is to be installed on common property or on a common property wall within the airspace of the lot

Airspace of the lot

The owner needs to ask for permission under by-law 5 to drill the holes in the common property wall.

The owner may also need to refer to by-law 17 in regards to any changes to the appearance of the lot.

Common property

An exclusive use by-law may be passed by special resolution at a general meeting and then registered with Land and Property Information NSW.

A special resolution is one against which not more than 25% in value of votes is cast. The value of the vote is the unit entitlement. (Section 51)

5. I am buying into a strata scheme. What documents can I see before I go to the auction and do I have to pay a fee?

An owner or person authorised by an owner, mortgagee or covenant chargee may write to the owners corporation requesting to view the records of the owners corporation. A fee of \$24 for the first hour is payable. The records would include the strata roll, minutes, accounting records, plans, specifications etc. (Section 108)

A certificate with relevant information can also be obtained (Section 109 Certificate).

6. How are levies worked out?

Levies are decided at a general meeting by a majority vote. A budget or forecast is produced at the meeting detailing the existing financial position and an estimate of income and expenditure for the coming year. Levies are payable by each owner in proportion to the unit entitlements for each lot. (Section 75,76 and 78)

7. How do I get the owners corporation to hold a meeting to decide on repairing the retaining wall?

If a meeting is not already planned or the executive committee is not going to deal with it, owners entitled to vote and who together hold at least one quarter of the total unit entitlements, may send a request asking for a general meeting to be called by the Secretary. The Secretary must convene the meeting in a reasonable time. (Schedule 2, Clause 31)

An owner, who is entitled to vote, may write to the secretary of the owners corporation asking for a motion to be placed on the agenda for the next executive or general meeting.

8. An owner is behind in their levies. What can be done?

Unpaid levies bear 10% simple interest (per annum) if not paid within one month of the payable date. An owners corporation may recover as a debt (through the local court) any contribution not paid within one month of the payable date together with any interest payable and the expenses incurred in recovery. (Section 79 & 80)

9. Can the by-laws for my scheme be changed or cancelled?

Yes, the by-laws can only be changed or revoked by special resolution (i.e. where no more than one quarter of the vote is against the motion) at a general meeting. An amendment or repeal of a by-law has no force unless it has been registered with Land and Property Information NSW within two years after being passed. (Section 48)

10. A tenant in the unit opposite me is constantly making noise. What can be done?

Under by-law 1 - Noise, an owner or occupier must not make any noise at any time within a lot or on common property that is likely to disturb the peaceful enjoyment of another resident or anyone using common property.

If you know the tenant's landlord/agent you should advise them of the problem.

Alternatively, if an owners corporation is satisfied that the by-law is being breached, a notice to comply may be served on the person allegedly breaching the by-law.

If the notice is not complied with (within 12 months) an application may be lodged with the Consumer, Trader and Tenancy Tribunal for a penalty of up to \$550 to be imposed or an application for mediation may be lodged.

Alternatively, if the owners corporation decides not to enforce a by-law, an individual owner may apply for mediation to help resolve the dispute.

11. How do we stop people parking on common property?

Under by-law 2 - Vehicles, an owner or occupier must not park or stand a vehicle on common property without the written permission of the owners corporation. That permission does not give you a permanent right to park on common property and can be cancelled.

If an owners corporation is satisfied that the by-law is being breached, a notice to comply may be served on the person allegedly breaching the by law.

The owners corporation can then follow the same process as in the previous example.

12. I think the managing agent fees are too high for the work they do. What can be done?

The fees paid to your strata managing agent (and the services to be provided) are set out in the management agreement. If you are not satisfied with the services being provided, you may wish to discuss this with the agent or even terminate the agent's appointment. You should request that an appropriate motion be included on the agenda for the next general meeting. The motion must be passed by majority decision. The owners corporation should also check the notice conditions on the contract.

These questions were extracted from the NSW Office of Fair Trading website 2006, and the NSW Office of Fair Trading Strata and Community Living pamphlet