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## Council of Owners – General Information

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*The information in this document is a guide only, and is derived from the relevant Strata Titles Act 1985 Section 42(2) Schedule 1 and 2 by-laws.*

*Should there be any inconsistency between the information in this document and the content of the Strata Titles Act 1985, then the content of the Act shall apply in preference to this document.*

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### What is the Council of Owners of a Strata Company?

The strata Council of Owners can be regarded as the ‘board of directors’ of the strata company. Councillors are elected at each Annual General meeting.

Strata companies have a range of duties and discretionary powers that are there to protect and promote the interests of all owners. An active Council of Owners is the best way of ensuring that those duties are performed and those powers handled correctly.

Any owner can be a member of the Council of Owners. The size of a council can be from 3 to 7 people. Meetings are held as and when required and as long as a quorum is achieved those present can exercise all council functions. (*refer The Strata Titles Act 1985, Sections 44 to 48*).

### What does the Council of a Strata Company do, and what decisions can it make?

The Council acts for and on behalf of the strata company and is charged to carry out the duties and responsibilities of the strata company

The Council actions or oversees all the decisions and works agreed at the Annual General Meeting, and ensures the well being of the strata scheme is properly attended to.

If a Strata Manager is engaged, that strata manager acts as *agent* for the strata company at the direction of the Council to achieve the functions and roles of the Council of Owners.

### Functions & Role of the Council of Owners

**\*\*\*Note\*\*\*:** *As previously mentioned, many of the functions listed below are delegated to the Strata Manager, but always under the direction and instruction of the Council of Owners.*

- The functions of a Strata Company shall be performed by the Council of the Strata Company, subject to the Strata Titles Act 1985 and to any restriction imposed or direction given at a general meeting of the Strata Company. (*Section 44 (1) of the Strata Titles Act 1985*).
- The functions of a Strata Company is to -
  - (a) enforce the by-laws;
  - (b) control and manage the common property for the benefit of all the proprietors;
  - (c) keep in good and serviceable repair, properly maintain and, where necessary, renew and replace –
    - (i) the common property, including the fittings, fixtures and lifts used in connection with the common property; and
    - (ii) any personal property vested in the strata company, and to do so whether damage or deterioration arises from fair wear and tear, inherent defect or any other cause.

*(Section 35 of the Strata Titles Act 1985).*

### **Duties of the Chairman of the Council of Owners**

- To instruct and assist the Strata Manager in achieving the objectives set out at each Annual General Meeting.
- To instruct and assist the Strata Manager in obtaining quotes or reports for common property maintenance.
- To co-ordinate the planning and obtaining quotes for any proposed upgrades or improvements (that is, anything not considered repair and / or maintenance of existing common property structures and facilities), including obtaining specialist advice if required (for example, project management, etc)
- To instruct the Strata Manager in making decisions on Strata Company expenditure within the budget (as adopted at each Annual General Meeting) and within the specifications of the Strata Titles Act, and authorising payment of any invoices that may be outside the budget.

### **Duties of the Members of the Council of Owners**

- To instruct and assist the Chairman in achieving the objectives set out at each Annual General Meeting.
- Inspection of maintenance works carried out by contractors on the common property.
- Regular inspection of the common property, and reporting of any maintenance issues or breaches of Strata Titles Act by-laws to the Chairman (who then notifies the Strata Manager).
- To direct and assist the Chairman in setting out the agenda for general meetings.
- To liaise with other owners on any decisions made by the Council of Owners that have not been detailed at a general meeting. (*Section 42, Schedule 1 Bylaws of the Strata Titles Act 1985*)

### **Office bearers of the Council of Owners**

- The members of a Council are required to appoint a Chairman, a Secretary and a Treasurer of the Council at the first meeting of the Council after they are elected as members.
- A person cannot be appointed to be an office bearer unless that person is a member of the council; and any Council member may be appointed to one or more of those offices. (*Section 42, Schedule 1 Bylaw 6 of the Strata Titles Act 1985*)
- The Council may employ on behalf of the strata company such agents as it thinks fit in connection with the control and management of the common property, and the exercise and performance of the powers and duties of the strata company (for example, a Strata Manager).

*Note: Typically, most or all of the powers and duties of the Secretary and Treasurer (as defined under Section 42, Schedule 1 Bylaw 9 and Schedule 1 Bylaw 10 of the Strata Titles Act 1985) are performed by a Strata Manager.*

- The Council may delegate to one or more of its members its powers and duties as it thinks fit, (subject to any restriction imposed or direction given at a general meeting of the strata company) and at any time revoke the delegation. (*Section 42, Schedule 1 Bylaw 8 of the Strata Titles Act 1985*)

### **Office bearers of the Council of Owners - definitions**

**Note:** *Many of the functions of each office bearer are also delegated to the Strata Manager.*

- **Chairman** - as per Section 42(2) Schedule 1 By-laws 6(4) and 7(2)

The chairman shall preside at all meetings of the council at which he is present and, if he is absent from any meeting, the members of the council present at that meeting shall appoint one of their number to preside at that meeting during the absence of the chairman. A strata company

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may at a general meeting authorise a person who is not a proprietor to act as the chairman of the Strata Company for the purposes of that meeting.

- **Secretary** - as per Section 42(2) Schedule 1 By-law 9
  - (a) the preparation and distribution of minutes of meetings of the strata company;
  - (b) the giving on behalf of the strata company and of the council of the notices required to be given by the Act;
  - (c) the supply of information in accordance with section 43 (1) (a) and (b) of the Act.
  - (d) the answering of communications addressed to the strata company;
  - (e) the calling of nominations of candidates for election as members of the council; and
  - (f) subject to sections 49 and 103 of the Act the convening of meetings of the Strata Company and Council.
- **Treasurer** - as per Section 42(2) Schedule 1 By-law 9
  - (a) the notifying of proprietors of any contributions levied pursuant to the Act;
  - (b) the receipt and banking of and the accounting for any money paid to the strata company;
  - (c) the preparation of any certificate applied for under section 43 of the Act; and
  - (d) the keeping of the books of account referred to in section 35 (1) (f) of the Act and the preparation of the statement of accounts referred to in section 35 (1) (g) of the Act.

### **Meetings of the Council of Owners**

- Quorum for a meeting is one half of the members of the Council (in person or represented by proxy). For example, if there are 7 members of the Council, 4 present constitutes quorum.
- At meetings of the council, all matters shall be determined by a simple majority vote.
- The Council may meet together for the conduct of business and regulate or adjourn its meetings as it thinks fit, but the Council must meet when any member of the council gives to the other members not less than 7 days' notice of a meeting, specifying in the notice the reason for calling the meeting.
- The council shall keep minutes of its proceedings (*Section 42, Schedule 1 Bylaw 8 of the Strata Titles Act 1985*)

### **Proxy representation at Council of Owners meetings**

- A Councillor may appoint another owner to act in their place at a Council of Owners meeting. (*Section 42, Schedule 1 Bylaw 8 of the Strata Titles Act 1985*)

Note: *Non-owners cannot act for an owner in a Council of Owners meeting. (This is different to general meetings of the Strata Company, where any natural person may be nominated to act as proxy for any owner.)*

### **Attendance at Council of Owners meetings**

- The Council of Owners meetings are for Council members only.

Any owner or other person may only attend a Council of Owners meeting by invitation, and with permission of the Chairman of the meeting.

(Note: *unless it's another owner acting as a proxy for an absent Council member*).

A person who has been invited to attend who is not a Council member is unable to participate in the transaction of business of the meeting (moving motions, voting, etc), but may be given leave to provide input, information or opinion on matters to be considered.