

## Changing Strata/Community Managing Agents

This document will use the term 'committee' to describe a strata or executive committee and 'scheme' to describe strata or community scheme.

### Objective

To assist an Owners Corporation (OC) and its committee:

- a) To resolve conflict with their strata managing agent (SMA).
- b) Conduct a successful tender to find the right strata manager (SM) for their scheme.
- c) With useful information to identify management requirements for their schemes.

### 1. FAQs

#### 1.1. Our committee has a problem with our strata manager, what should the committee do?

- a) List the concerns that the committee has with its current manager. Arrange a face to face meeting if possible to go through the issues and document in writing. Encourage as many committee members as possible to attend.
- b) Consult with the strata manager or the Principal and see if the committee can work through the issues that it is experiencing. The strata manager may be having issues with you / personalities / external issues such as defects etc. / harmony in the scheme. Could mediation help with any problems your committee is experiencing?
- c) It is always easier to work with the schemes' strata manager to deal with any issues rather than change management firms and have a new strata management firm briefed on your scheme.
- d) If all else fails, review your agency agreement to determine the termination provisions of the current agreement.
- e) The Executive should formally meet and review the issues, what actions have been taken, and if a decision is made by the committee to recommend a change of strata manager, the committee should resolve to request a General Meeting of the entire OC.

**NB:** A change in a SMA must be done at a General Meeting, not just by the committee.

Our committee has a problem with our strata manager, what should we do?



## 1.2. How to search for a Strata Managing Agent

- a) Different strata managers offer different services. A review of the agency agreement will detail what services the strata manager will provide and for how much remuneration.
- b) It is important to understand what type of manager and services you want and select a manager that meets your requirements. A Tender Document could be prepared to help you find the best manager for your scheme.
- c) Always choose a member of Strata Community Australia (NSW) (SCA (NSW))- search on the SCA (NSW) website [nsw.strata.community](http://nsw.strata.community)
- d) Search online.
- e) Use a brokerage firm (although a fee will be payable for the service).
- f) Tender/Advertise (See below for advice on preparing a successful tender).
- g) Search for disqualified licences at [http://www.fairtrading.nsw.gov.au/ftw/Property\\_agents\\_and\\_managers/Licensing\\_and\\_certification/Disqualified\\_persons.page](http://www.fairtrading.nsw.gov.au/ftw/Property_agents_and_managers/Licensing_and_certification/Disqualified_persons.page)

...review of the agency agreement will detail what services the strata manager will provide...



## 1.3. Why use a Strata Community Australia (NSW) member?

- a) By choosing a member of Strata Community Australia (NSW), you can be assured that they are bound by the Code of Conduct adopted by the Board and required by NSW Fair Trading.
- b) Members undergo industry relevant accreditation, Continuing Professional Development, further educational courses and are kept abreast of industry changes through updates from regular publications and communications.
- c) SCA (NSW) members have access to industry experts and resources.
- d) Members of SCA (NSW) use the SCA (NSW) Agency Agreement which has also been endorsed by the Owners Corporation Network (OCN).

## 1.4. Are all strata management firms licensed?

- a) Yes, all strata management firms that operate in NSW must have either a Corporate Licence or be individually licensed. You can check a Property Licence at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au).
- b) Strata managers (employed by strata firms) do not have to be licensed but must hold a Certificate of Registration as a minimum requirement.

## 1.5. Are management fees charged by strata managers regulated by the government?

- a) No, the fees charged by strata managers differ from strata manager to strata manager, depending on the services and level of resourcing they provide you.
- b) Fees that are usually charged are:
  - i. **Base Management Fees** which is usually called the Agreed Services Fee.
  - ii. **Disbursement Fees** for items such as postage, photocopying, telephone calls and the like.
  - iii. **Additional Fees** for work associated with extra meetings, dealing with bylaw breaches and other additional work associated with the strata scheme which is not included in the agreed services fee.
- c) It is important when assessing a potential new strata manager that you take into consideration the fee charged and the level of service that the strata manager will provide you, the cheapest may not necessarily be the best for your scheme.
- d) Strata Management is a highly regulated area and your agency agreement with your manager will set out the terms and conditions, pricing and other critical factors affecting the management of your scheme.

... all strata management firms that operate in NSW must have either a Corporate Licence or be individually licensed.

## 2. Items to include in your tender for strata management

2.1 A tender document is an invitation to submit a proposal to manage your scheme. The following items may be included:

### a) About the scheme

Provide a description of your scheme including the following information:

- Location
- Strata Plan / Deposited Plan number
- Scheme name (if applicable)
- Number of lots
- Information about the scheme (e.g. low rise, central courtyard – multi entrances or three-story walk-up etc.)
- % of owner/occupiers
- Details of any commercial/retail lots

- Details of any common property facilities and equipment, such as lifts or pools
- A brief background on any open issues or matters that will require management and input from the scheme
- Describe the lifestyle your scheme offers residents

#### **b) Proposed term of appointment**

There could be potential savings in extending terms.

#### **c) Terms of tender**

- Closing date
- Delivery method
- Delivery address

#### **d) Service Deliverables**

Provide a list of essential services important to your scheme - as a minimum include:

- Maintain the schemes' records to a high standard
- Prepare agendas and minutes for annual general meeting and strata committee meetings
- Attend meetings
- Financial management incorporating trust account establishment and management, payment of supplier invoices, issue levy notices, perform monthly bank reconciliation and preparation of budgets
- Arrange audit, prepare BAS and tax return, provide quarterly financial reports, monitor and manage levy arrears
- Issue work orders
- Arrange quotations for works expected to cost more than the negotiated value
- Maintain data base of trades compliance information
- Advise and assist in the appointment of service providers
- Arrange lodgement of compliance documents (lift, cooling towers, annual fire safety statement)
- Reply to and manage all routine correspondence
- Issue and manage by-law breaches
- Provide advice and assistance to owners and committee members

... the committee can use the SCA (NSW) member search function to find contact details for management firms.



## 2.2 Consider what services and attributes are important to your scheme

Think about your scheme and your needs and what extra services are important to you such as online access to financial statements, regular site visits, committee training, etc.

### a) Create your selection criteria:

- Decide on and prioritise what services and attributes of a strata management firm are important to the scheme
- Consider - fee structure, service offering, location, size of the business, experience, online presence, management of similar properties etc. Refer to your service deliverables to assist. When deciding which firms to request to tender also consider the selection criteria. The committee can use the SCA (NSW) member search function to find contact details for management firms. Before committing to issuing a tender to a firm, call and speak to them to get an idea if they are a potential match for your scheme

### b) Tender returnables include:

- Certificate of currency for PI insurance
- Detailed biography on proposed strata manager and management team
- Customer service charter and Key Performance Indicators
- References
- WH&S policies of the firm

## 3. Once you have the tenders

- Review them against the schemes' selection criteria
- Short list two or three firms and arrange an interview for a member of senior management and the proposed strata manager
- The committee to make a decision on what recommendation to provide to the Owners Corporation/Association. Ensure the appropriate motions are included on an AGM agenda or an EGM called in accordance with the process required under the Act.

### About Strata Community Australia (NSW)

Strata Community Australia (NSW) is the peak industry body for Strata and Community Title Management in New South Wales. SCA (NSW) has in excess of 2,700 members who manage more than 75% of all lots under management in strata schemes in NSW. SCA (NSW) proudly fulfils the dual roles of a professional institute and consumer advocate. Membership includes strata managers, support staff, committee members and suppliers of products and services to the industry.

### Date created:

20 June 2017

### Date reviewed:

## Sample Motions

### Sample "Terminating a Strata Manager" Motion

- (i) That Owners Corporation RESOLVE to terminate the services of (old agent – legal name – who SP pay every month) Pty Ltd as managing agent and revoke the delegated powers, authorities, duties and function of the Owners Corporation.
- (ii) That (old agent name) Pty Ltd be notified of the preceding resolution in writing and issued with the requisite Notice under the previous agency agreement.
- (iii) That the Owners Corporation RESOLVE to approve the Strata Committee to negotiate an earlier handover of books and records as contemplated by the preceding motion and approve payment in lieu to (old agent name) Pty Ltd for any early handover than required in the Agency Agreement.
- (iv) That the Owners Corporation RESOLVE in accordance with Section 49 of the Strata Schemes Management Act 2015:
  - a) To appoint (new agent name) Pty Ltd as Strata Managing Agent of the Strata Scheme (the Owners Strata Plan number 123).
  - b) Delegate to (new agent name) Pty Ltd all the functions of the Strata Committee, including its Chairperson, Treasurer and Secretary as necessary to enable the Agent to carry out the written "agreed services" and the "additional services" as defined in the written Agreement attached to this notice of meeting and tabled at the meeting.
  - c) Provide the delegation to the Agent and that it be subject to the conditions and limitations in the Agreement.
  - d) Execute the Agreement to give effect to this appointment and delegation.
  - e) Authorise the Common Seal of the Owners Corporation to be affixed to the Agreement by (Secretary and one other committee name to go here) or 2 other owners (their names) approved to sign the Agreement in attendance at the meeting.

## Sample "Appointing a Strata Manager" Motion

That The Owners – Strata Plan XXXXX, RESOLVE pursuant to Part 4, Division 1 of the Strata Schemes Management Act 2015 ("Act") the following: –

- a) Appoint XXXXX, ("Agent") under the instrument of appointment (Agreement), a copy is attached to the agenda at which this resolution is made.
- b) Delegate to the Agent all of the functions of:
  - (i) The Owners Corporation (other than those listed in Section 52(2) of the Act); and
  - (ii) Its chairperson, treasurer, secretary, and Strata Committee, necessary to enable the Agent to carry out the 'agreed services' and 'additional services' as defined in the Agreement;
- c) That the delegation to the Agent is to be subject to the conditions and limitations in the Agreement; and
- d) That it will execute the Agreement to give effect to this appointment and delegation;
- e) That two persons, being owners of lots or members of the Strata Committee, execute the agreement in accordance with Section 273 of the Act. In the absence of a determination, the secretary and any other member of the Strata Committee shall execute the Agreement.

That upon execution of the Agreement, the Owners Corporation and the Agent mutually agree that this Agreement supersedes and cancels all previous delegations and instruments of appointment or agreement between the Owners Corporation and the Agent.