

GENERAL INFORMATION GUIDE

NSW STRATA SCHEME –TENANTS PARTICIPATION IN A STRATA SCHEME

1	<i>Can tenants participate in an Owners Corporation meeting?</i>	<p>The SSMA 2015 has made provisions for tenants in the of NSW strata schemes to attend Owners Corporation meetings and if the Owners Corporation determines, they may speak. There is no provision for tenants to have any voting rights.</p> <p>Tenant attendance at OC meetings is conditional on them being registered with the OC.</p>
2	<i>Do tenants have a vote at Owners Corporation meetings?</i>	No. Tenants may participate under certain conditions but they do not have a right to vote.
3	<i>Do tenants have to receive notices and documents of meetings?</i>	<p>Yes. Schedule 1 section 11 of SSMA 2015 states:11 Notice to be given to tenants</p> <p>(1) A copy of the agenda for a meeting must, at least 7 days before the meeting is held:</p> <p>(a) Be given to each tenant, who has been notified to the owners corporation in accordance with this Act as a tenant of the lot, or</p> <p>(b) Be prominently displayed on any notice board required to be maintained by or under the by-laws on some part of the common property.</p> <p>(2) Copies of other documents relating to a meeting may be given to each tenant of a lot if the owners corporation so decides</p>
4	<i>Do tenants have a right to receive minutes of any strata scheme meeting?</i>	<p>No. Schedule 1 section 11 of SSMA 2015 states:</p> <p>(2) Copies of other documents relating to a meeting may be given to each tenant of a lot if the owners corporation so decides.</p>
5	<i>How does the Owners Corporation know which lots are occupied by tenants?</i>	<p>The lot owner who is leasing their lot(s) is responsible for notifying the Owners Corporation in writing through the Secretary within 14 days of a new lease. This is usually done by the lot owner's property agent, however it is the responsibility of the lot owner to ensure that they comply with SSMA 2015.</p> <p>Completion of a tenancy notice allows for the new tenant information to be included on the strata roll. This information on the role is used to determine whether a tenant meeting needs to be called to address the issue of a tenant representative.</p> <p>A tenant needs to be registered on the strata roll to:</p> <ul style="list-style-type: none"> ▪ exercise their right to attend meetings of the Owners Corporation ▪ Be communicated with (e.g. notice of meetings) ▪ Be counted in the lot count of registered tenants.
6.	<i>What details of a tenant is the Owners Corporation entitle to have?</i>	<p>A tenancy notice needs to include:</p> <ul style="list-style-type: none"> ▪ An address at which the tenant can be contacted. ▪ The names of all tenants occupying the lot ▪ The commencement date of the lease ▪ The termination date of the lease ▪ Tenant contact details in case of emergency or to arrange access for building maintenance etc.

7. <i>Can a tenant be a member of the Strata Committee?</i>	There is provision for a tenant representative to attend strata committee meeting meetings if the legislative conditions is meet.
	They do not have any voting rights and are not considered in a quorum count.
	They may be excluded from participating in financial matters, levy discussions; levy arrears discussion.
8. <i>Is there any form of tenant specific meeting with a strata scheme?</i>	Yes. The SSMA 2015 requires that a tenant representative meeting be called at least 14 days prior to an AGM for the purpose of electing a tenant representative.
	This meeting taking place is conditional on:
	<ul style="list-style-type: none"> ▪ Tenants being registered with the OC on the strata roll ▪ 50% or more of the total lots are occupied by registered tenants.
9. <i>Who is responsible for providing tenant details to the Owners Corporation?</i>	The owner of the lot. This should be addressed by the owner's property manager if they have one but the lot owner remains responsible. This registration is required to be undertaken within 14 days of the signing of the lease agreement.
10. <i>Can a lot owner make it a condition of their lease arrangement that their tenant does not become a tenant representative?</i>	The SSMA 2015 prohibits a lot owner from preventing their tenant form becoming a tenant representative.
11. <i>What is the quorum for a tenant specific meeting?</i>	A quorum for a tenant meeting is one (1). This is provided the scheme qualifies by having 50% or more of lots occupied by registered tenants (formal notice provided to the Owners Corporation).
12. <i>Who is responsible for calling tenant specific meetings?</i>	The SSMA 2015 requires the Owners Corporation to call tenant meetings. This is the responsibility of the Secretary and usually undertaken by the strata managing agent if one is appointed.
	The meeting is most commonly chaired by the strata managing agent if one is appointed otherwise by the Chairperson of the OC.
13. <i>What is a tenant representative?</i>	A tenant representative is a registered tenant in a strata scheme who is elected by the other tenants in the strata scheme to attend SC meetings on their behalf.
14. <i>What restriction(s), if any, are placed on tenants and the tenant representative at meetings?</i>	A tenant representative cannot vote at a SCM and may be required to leave when financial matters are being discussed.
	Tenants or a tenant representative may attend meetings but they are not entitle to speak at the meeting unless the OC has given permission.
	They have no voting rights unless they are appointed as a proxy by a lot owner. That lot owner does not have to be their landlord.
	Tenants may be excluded from meetings when financial matters are being discussed. (Administrative and Capital Works budgets. Levies, Special levies, Levy arrears and debt collection, Caretaker and Building Manager fees, Strata Management financial matters).
	Tenants are not considered when determining if a quorum is present.

THIS INFORMATION IS GENERAL IN NATURE AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE. INDEPENDENT PROFESSIONAL ADVICE SHOULD BE SOUGHT.

15 <i>What happens if a tenant representative terminates their lease and no long resides in the strata scheme?</i>	<p>Like an owner in the scheme who ceases to be a strata committee member they cease to be a tenant representative at the time their lease terminates and they no longer rent a lot in the strata scheme.</p> <p>It is the obligation of the OC to arrange a tenant meeting to elect a representative for the remainder of the term.</p>
16 <i>How often are tenant meetings required to be held?</i>	<p>A tenant representative meeting is conducted annual to elect a representative.</p> <p>The position is spilt each year and the OC is obliged to conduct the meeting if the strata scheme meets the legislative requirements for a tenant meeting.</p>
17 <i>Are tenant representative positions permanent?</i>	<p>No. The continuance of a tenant representative is contingent on the legislative condition of 50% or more of lots being occupied by registered tenants.</p> <p>If the number of registered tenant falls below the 50% requirement the OC is not required to conduct a tenant representative meeting.</p>
18 <i>What happens in schemes where there is not 50% registered tenant occupancy? Can tenants still attend OC and SC meetings?</i>	<p>SC Meetings: Only an elected tenant representative is entitled to attend SC meetings.</p> <p>OC Meetings Tenants can still attend OC meetings with the same restrictions as set out in the legislation.</p>
19 <i>How do lot owners know who the tenant representative is?</i>	<p>At the AGM following the election of the tenant representative the chairperson is required to announce the name of the tenant representative. This will be recorded in the strata schemes minutes for the meeting.</p> <p>At the end of the AGM, the tenant representative's appointment officially begins.</p>
20 <i>Who determines who the tenant representative is?</i>	<p>The tenant representative is decided on by the registered tenants by a majority vote.</p> <p>A tenant may nominate themselves or any other registered tenant. A nominated tenant must be present at the time they are nominated to be able to accept the nomination. A person cannot be nominated in their absence unless they have provided a written acceptance to be tabled at the meeting. They then can be considered by the tenants.</p> <p>The OC, SC members, caretakers, building managers, strata managing agents', landlords or property agents' have no input or vote as to the tenant representative.</p> <p>There is no provision for proxy representation.</p>
21 <i>Are tenants provided any notice of a tenant representative meeting?</i>	<p>The OC is obliged to provide notice to tenants of any tenant representative meeting. The OC determines the method of notice.</p> <p>This may be done either by:</p> <ul style="list-style-type: none"> ▪ A notice being placed on the noticeboard of the OC or in a prominent place on common property ▪ Direct notice to the tenant (mail, email, notice in mail box)

AGM - Annual General Meeting; EGM – Extraordinary General Meeting; FAGM – First Annual General Meeting;
O.C. – Owners Corporation; SC – Strata Committee; SSMA – Strata Schemes Management Act;
NCAT – NSW Consumer & Administrative Tribunal; U.E. - unit entitlement