

Strata Reform: What Documents Need to be Provided Before the First Annual General Meeting by the Original Owner?

At least 48 hours prior to any first annual general meeting held on or after 30 November 2016, the following documents must be provided by the original owner (as prescribed under s16 of the Strata Schemes Management Act 2015 (**SSMA 2015**) and clauses 6 and 29 of the Strata Schemes Management Regulation (**SSMR 2016**)):

- *all plans, specifications, occupation certificates or other certificates (other than certificates of title for lots), diagrams, depreciation schedules and other documents (including policies of insurance) relating to the parcel or any building on the parcel,*
- *without limiting paragraph (a), all planning approvals, complying development certificates and related endorsed plans, approvals, “as built” drawings, compliance certificates (within the meaning of the [Environmental Planning and Assessment Act 1979](#)), fire safety certificates and warranties relating to the parcel or any building, plant or equipment on the parcel,*
- *the certificate of title for the common property, the strata roll and any notices or other records relating to the strata scheme,*
- *the initial maintenance schedule – which must include maintenance and inspection schedules for:*
 - *exterior walls, guttering, downpipes and roof,*
 - *pools and surrounds, including fencing and gates,*
 - *air conditioning, heating and ventilation systems,*
 - *fire protection equipment, including sprinkler systems, alarms and smoke detectors,*
 - *security access systems,*
 - *embedded networks and micro-grids,**and must attach:*
 - *all warranties for systems, equipment or any other things referred to in the schedule,*
 - *any manuals or maintenance requirements provided by manufacturers for any of those things,*
 - *the name and contact details of the manufacturer and installer of any of those things.*
- *any interim report or final report of a building inspector prepared under Part 11 and relating to any building on the parcel,*
- *any other document or item relating to the parcel or any building, plant or equipment on the parcel that is prescribed by the regulations for the purposes of this section.*
- *if a building is required to be insured under Division 1 of Part 9 of the Act, any valuation of the building,*

- *maintenance and service manuals,*
- *all service agreements relating to the supply of gas, electricity or other utilities to the parcel,*
- *copies of building contracts for the parcel, including any variations to those contracts, and*
- *the most recent BASIX certificate (issued under the [Environmental Planning and Assessment Act 1979](#)) for each building on the parcel.*

If the above documents are not provided, the original owner faces either or both potential penalties of up to \$11,000.00 and orders to produce those records.

Obligation of an original owner to create a document if it is not in existence

Is there an obligation to 'create' a document if it is not in existence?

s16 (2) of the SSMA 2015 requires an original owner to deliver a thing '*if that thing is in the possession or control of the original owner or lessor or may be obtained by the lessor by taking reasonable steps to do so*'.

s16 (3) of the SSMA 2015 provides that an original owner is not required to deliver any documents that '*exclusively evidence rights or obligations of the original owner or lessor and that are not capable of being used for the benefit of the owners corporation or any of the other owners*'.

If the document can be created '*by taking reasonable steps*', the original owner should do so. In the case of a depreciation schedule, a cautionary approach would be to create the schedule with regards to both lot and common property.

What is the impact of the Initial Maintenance Schedule on an owners corporation?

Some further interesting points arise about the Initial Maintenance Schedule, are:

- s115 (3) of the SSMA 2015 states an '*owners corporation is not required... to comply with the initial maintenance schedule for the maintenance of common property vested in it*'.
- However, s115 (4) of the SSMA 2015 provides that the '*initial maintenance schedule may be considered in any proceedings for the purpose of determining whether or not a defect in or damage to a building could have been avoided by the taking of specified action*'.

Key takeaways

- The original owner must provide various documents at least 48 hours before the first AGM.
- Failure to provide these documents may result in penalties of up to \$11,000.
- The Initial Maintenance Schedule must include detailed maintenance and inspection schedules.
- An original owner is not required to create documents that exclusively evidence their rights.
- Documents must be in the possession or control of the original owner or obtainable through reasonable steps.

****The information contained in this article is general information only and not legal advice. The currency, accuracy and completeness of this article (and its contents) should be checked by obtaining independent legal advice before you take any action or otherwise rely upon its contents in any way.*

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24 October 2016**



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