

Bannermans Lawyers

Top Ten Tips For New Strata Schemes

Purchasers of lots in a new strata plan find themselves members of a new owners corporation, which has a lot of work to do during the lead up to its first annual general meeting. That meeting must take place within two months of the expiry of the "initial period", i.e. the period within which one third of the lots owned by the developer change hands, which can pass quickly.

This can be a tricky period. The developer may still own lots and possibly a controlling interest. The owners corporation may be party to arrangements negotiated by the developer with a strata managing agent, caretaker and others. The strata plan will usually be new, with potential building defect issues. The first AGM itself can be complicated, there being mandatory agenda items, restrictions on developer voting rights and use of proxies.

Issues which new owners corporations need to consider include:

1. Strata Committee - When will we appoint the executive committee and who will we appoint?
2. Strata Roll – Is the strata roll up to date, e.g. have sales of lots by the developer been recorded?
3. Services - Will we continue with existing caretaking and other arrangements, which may be with associates of the developer and on poor terms or appoint replacements? What will we do about electricity supply? Has the developer implemented an embedded electricity supply network? What will we do about metering of electricity, water and other utilities? What will we do about Internet access, e.g. in relation to the NBN rollout?
4. Building defects - Are there building defect issues? Are we sure that there are no defect issues which have not yet become apparent? Without obtaining the report of an appropriate consultant, defect issues may not become apparent for some time, possibly not before the relatively short time frame for pursuing action against the builder, developer and other parties responsible has expired. Imminent amendments to the Home Building Act 1989 will have the effect of reducing the time limit to pursue many defect issues to 2 years from completion of the work.
5. Insurance – Has a valuation been obtained and is the level of cover adequate? This is only required every five years and may not have been done. Does it provide adequate office bearers liability cover? Have lot owners been advised of the importance of obtaining their own contents insurance, i.e. that certain risks, e.g. burst pipes may not be covered by common property insurance.
6. Statutory compliance - Have statutory requirements been satisfied, e.g. in relation to pool fencing and registration, childproof window barriers, fire safety and preparation of an asbestos register and registration of lifts and other equipment under the work health and safety legislation?

7. Safety - What measures should we take to mitigate any safety hazards on common property?
8. By-laws - Are amendments to existing by-laws or additional by-laws required? Different schemes will have different requirements, which may not have been contemplated by the developer, e.g. a scheme may require by-laws in relation to matters such as parking, pets, security, floor coverings/noise and architectural guidelines.
9. Budgets and contributions - Are we ready to adopt a 10 year sinking fund plan at the first AGM? Are levy contributions appropriate, those set by developers typically being too low?
10. Revenue enhancement & cost savings measures – Have we considered revenue enhancing measures such as licensing parts of the common property to commercial lot owners, telecommunications carriers and other third parties? Have we considered cost saving measures such as power saving and other sustainability measures?

Getting these things right early can save owners corporations and their executive committees a lot of expense and anxiety. Approached proactively and with appropriate legal and other advice, these issues can be addressed efficiently in a programmed manner over time. We have experience with all of these issues and can, in conjunction with a scheme's strata managing agent, assist a scheme in making the transition from new owners corporation to well oiled machine.

Prepared by Bannermans Lawyers

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