

MEDIA RELEASE

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APARTMENT OWNERS ASK : DO WE STILL NEED TO HOLD MEETINGS IN PERSON?

The owners and managers of apartment buildings across the nation are demanding to know whether they are still required to have face-to-face body corporate meetings, while trying to reduce the risk of infection and spread of the coronavirus, COVID-19.

Legislation requires body corporates to convene an Annual General Meeting, at which important decisions for the ongoing operation and management of the building are made, including the raising of quarterly levies.

The Australian College of Strata Lawyers is calling for government intervention in all states to make clear to owners and strata managers that, during this unprecedented period, their communities will not be penalised should they choose to delay the convening of a meeting or fail to hold a meeting strictly in accordance with the legal requirements.

Legislation mandates face-to-face meetings for strata buildings in particular circumstances. In some states, buildings can 'opt-in' to conduct their meetings in writing or electronically. If buildings have not already opted-in, owners will need to meet in person to make the decision to opt-in to an electronic regime.

Spokesperson for the Australian College of Strata Lawyers, Amanda Farmer, says *"Permitting owners to vote via a proxy would remove the need for owners to attend a meeting in person to have their vote considered, but in NSW there is a limit to the number of proxies that may be held by one person. People will still need to meet in person to make decisions for their community unless they have opted-in for electronic voting."*

“Strata buildings are unique”, says Ms Farmer. “Owners do not necessarily have the same rights shareholders have in a regular corporation: they may not be able to simply post in their vote for the Annual General Meeting or appoint the chairperson as their proxy. There are strict requirements around the conduct of meetings, designed to ensure that all owners have the opportunity to have their voice heard. Whilst this is an important goal to strive for, extraordinary situations like the one we are all currently experiencing point out the blocks this system can cause. Meetings that are not conducted strictly in accordance with legislative requirements may be invalidated by later legal challenge.”

“Swift intervention from our state governments could remove these burdens, or at least assure owners and strata managers that a failure to achieve strict compliance will not result in important decisions – such as the raising of money or the renewal of a contract - being invalidated in the future.”

The current situation is fast-changing. The College urges owners and strata managers to consult a strata lawyer qualified to practice in their state and seek legal advice specific to their building.

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