

# Purchasing a Property

## Owning a Strata Title Home Unit or Townhouse



The following summarises some aspects of home unit ownership. It is not intended to be exhaustive. In the event of a particular question arising, please contact a solicitor at Baldock Stacy & Niven who would be happy to provide specific advice.

### **The Owner's Corporation and its Council**

The owner's corporation comes into existence after registration of the Strata Plan. Each owner of a unit is a member of the owner's corporation and the executive that manages and administers the building is elected annually by the members of the owner's corporation. Unit owners have a right to attend executive meetings but they cannot speak or vote at these meetings. The election of competent members to the executive is important.

### **Common Property**

The common property is all the areas of the land and building not included in any Lot. The common property boundaries of each Lot are generally formed by the upper surface of the floor, the under surface of the ceiling and all external or boundary walls (including doors and windows). The owner's corporation must look after the common property.

### **Managing Agents**

A Strata Managing Agent may carry out some, or all, of the functions, duties or powers of the owner's corporation. Managing Agents are usually appointed in buildings containing more than four units.



### **Unit Entitlement**

The entitlement of a unit is set out in the Strata Plan which shows the fraction of the individual's unit entitlement in relation to the total of all unit entitlements in a building (eg. a unit may have an entitlement of 10 out of a total of 100). It is on the basis of this fraction that your voting rights at meetings, contribution to levies and share of the common property are determined.

### **By-Laws**

The by-laws of the owner's corporation are a set of rules that all people living in a Strata Scheme must follow. The owner's corporation can change or cancel any of the by-laws to help in the running of the Strata Scheme. A special resolution is needed. By-laws cannot prevent guide dogs or hearing dogs being in the building and cannot prevent children living in the building.

### **Levies, Funds etc.**

#### *Administrative Fund*

The owner's corporation decides the amounts necessary to be raised to meet its actual and expected liabilities in properly maintaining the common property.

#### *Sinking Fund*

The owner's corporation is also required to decide the amounts necessary to be raised by way of future liabilities for painting the common property, acquiring personal property and renewing any fixtures or fittings comprised in the common property. On payment of the amounts determined they are paid into a sinking fund of the owner's corporation.

#### *Levies Generally*

Your share of the total levy in respect of the above matters is calculated on the basis of your unit entitlement. It should be noted that a unit owner has no voting rights until his levy has been paid in full.

### **Insurance**

The owner's corporation must insure the building under a damage policy with an approved insurer. This does not apply to an owner's corporation for a Strata Scheme comprising only two Lots if certain criteria are met.

The damage policy must cover the building if damaged or destroyed by fire, lightning, explosion or any other thing. The owner's corporation must also have a public risk policy for a cover of \$10,000,000.00 and in appropriate circumstances a worker's compensation policy.

It is up to each individual unit owner to ensure his contents which should include any unit owner's fixtures (e.g. carpet, stove, bath etc.). As a member of the owner's corporation you should check regularly to see that the overall insurance of the building is maintained in the light of current values and costs of replacement.

### **Sale, Leasing, Mortgaging etc.**

Strata titles units can be sold, mortgaged or leased without telling the owner's corporation and you as a unit owner have no control over the people who may become your neighbours.

If you arrange to lease your unit, you must ensure that the tenant is supplied with a copy of the by-laws. If you do not you may be liable to a fine. You should also take out an insurance policy covering your legal liability to members of the public since the owner's corporation policy would not cover accidents inside the unit. You should also consider taking out an insurance cover for malicious damage.

### **Disputes**

The Strata Schemes Management Act, 1996 provides the machinery for determining disputes between individual unit owners. Should a dispute arise you should contact the Strata Schemes office or Baldock Stacy & Niven.

### **Standard By-Laws**

All owners and residents in a strata scheme must obey the by-laws. The by-laws are a set of rules that all people living in a strata scheme must follow. Strata Schemes existing before 1 July 1997 have by-laws 1-19 set out below. A strata scheme registered after 1 July 1997 must choose and register its own by-laws. The Owners Corporation can change or cancel any of the by-laws to help in the running of the strata scheme. A special resolution is needed.

The standard by-laws deal with the following:

#### **1 Noise**

You must not make any noise at any time within your lot or on common property that is likely to disturb the peaceful enjoyment of another resident.

#### **2 Vehicles**

You must not park or stand a vehicle on common property without the written permission of the Owners Corporation.

#### **3 Obstruction of Common Property**

You must not stop lawful use of common property by another person.

#### **4 Damage to Lawns, etc, on Common Property**

You must not damage any lawn, garden, tree, shrub, plant or flower on the common property. You cannot use part of common property as your own garden.

#### **5 Damage to Common Property**

You must not damage any structure that is part of the common property unless you have the Owners Corporation's written permission.

#### **6 Behaviour of Owners and Occupiers**

You must be adequately clothed when on the common property. You must not use language or behave in a way which might offend or embarrass others using the common property.

#### **7 Children Playing on Common Property**

You must make sure any child under your control does not play on dangerous common property areas or inside the building, unless an adult supervises and controls them. This does not stop children from playing on common property areas outside the building that are not dangerous (e.g. a lawn).

#### **8 Behaviour of Invitees**

You must make sure that your visitors do not behave in a way which might disturb the peaceful enjoyment of another in a lot and on common property.

#### **9 Depositing Rubbish etc, on Common Property**

You must not throw rubbish, dirt or other materials on the common property that may interfere with the peaceful enjoyment of another resident.

#### **10 Drying of Laundry Items**

Unless you have written permission you must not hang washing, towelling, bedding, clothing or other articles on any part of the strata scheme (e.g. on the balcony of you lot) so that it may be seen from outside the building.



### 11 Cleaning Windows, etc.

You must clean all glass in windows and doors on the boundaries of your unit even though they may be common property.

### 12 Storage of Inflammable Liquids, etc

You must get written permission from the Owners Corporation if you want to store any inflammable materials in your lot or on common property except if they are to be used for domestic purposes.

### 13 Moving Furniture

You must tell the owners' corporation council if you are going to move large objects or furniture through common property areas of the building.

### 14 Floor Coverings

You must cover the floor of your lot or treat it to stop noise which may disturb another resident. This does not apply to the kitchen, laundry, lavatory or bathroom of a lot.

### 15 Garbage Disposal

- you must keep a clean dry and adequately covered garbage bin
- you must make sure that your garbage is securely wrapped and all tins and containers are properly drained
- you must put your garbage out to be collected, in the area chosen by the owners corporation, no earlier than 12 hours before collection;
- you must return your garbage bin to the proper place as soon as possible after collection;
- you must not put any rubbish in another resident's garbage bin without permission;
- you must make sure that any rubbish spilt from your garbage bin is removed.

### 16 Keeping of Animals

You must not keep an animal, unless you have the written permission of the Owners Corporation. But the Owners Corporation must not unreasonably refuse permission to keep an animal.

### 17 Appearance of Lot

Unless you have the written permission of the Owners Corporation you must not keep anything within your lot that is not in keeping with the appearance of the rest of the building.

### 18 Noticeboard

A council must put up a noticeboard somewhere on common property.

### 19 Notice of Alteration to Lot

You must give the Owners Corporation at least 14 days written notice before altering the structure of your lot. The owners corporation can stop alterations to a lot if they interfere with the common property or any support to the rest of the building.



## About Us - Baldock Stacy & Niven

### Who are we?

Baldock Stacy & Niven is a firm of lawyers with offices in Western Sydney and in Central Western New South Wales. We have a heritage going back more than 100 years to the firm's founding by Herbert Henry Lee in 1891.

### What is our aim?

Over a century after the firm's founding our focus remains unchanged: a belief in the importance of understanding our client's needs, of adapting to the continuing challenges of business, and of delivering quality professional services in a timely and cost effective manner.

### Who are our clients?

Baldock Stacy & Niven has a wide range of city and country clients from various industries and lifestyles. We offer a broad legal practice offering professional legal advice and service in many varied areas.

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