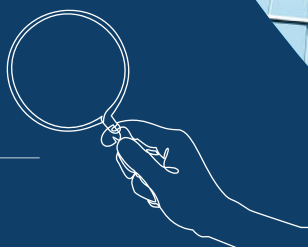


Best Practice Guide

Strata Searches



PREAMBLE

Ensuring that owners and purchasers (or their agents) can view the records of the owners corporation in accordance with Section 183 of the Strata Schemes Management Act 2015 (the Act) and maintaining the integrity of the records is a standard delegation for strata managing agents under their agency agreement.

BOOKING A STRATA SEARCH

Searches may only be carried out by a lot owner, mortgagee or covenant chargee, or people authorised by them, to search the records. The Act requires that the request must be in writing and with the fee prescribed by the regulations. Bookings for searches can be accepted over the phone, but the actual search cannot be conducted unless a written request is received, and accompanied by the prescribed fee (as per Schedule 1 of the Strata Schemes Management Regulations 2016).

GST Registered Strata Plans

1st Hour or part thereof	\$34.10
Each subsequent ½ hour or part thereof	\$17.60

Searches are conducted at an agreed time and place. Therefore, searchers are not within their rights to demand an immediate search of the books and records. If agreement cannot be reached within three days of the written request being received, managers (on behalf

of the owners corporation) are entitled to nominate a time and place for the search to take place, not later than 10 days after the written request being received.

It is important for a strata manager to verify if the person booking the search has obtained consent of the owner of the lot to do the search if they are not the owner, mortgagee or covenant chargee. It is appropriate and best practice to request a written authority from one of the listed parties prior to arranging the strata search.

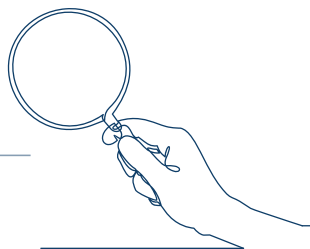
PREPARING FOR A SEARCH

The owners corporation is obligated under the Act to provide the person viewing the records the following documents as outlined in Section 182(3) of the Act:

- the strata roll,
- any other records or documents required to be kept under this part,
- the plans, specifications, certificates, diagrams and other documents required to be delivered to the owners corporation before its first annual general meeting by the original owner or the lessor of a leasehold strata scheme,
- if in its custody or under its control, the

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certificate of title comprising the common property or, in the case of a leasehold strata scheme, the certificate of title for the lease of the common property,

- e. any applicable 10-year capital works fund plan,
- f. the last financial statements prepared,
- g. every current policy of insurance taken out by the owners corporation and the receipt for the premium last paid for each such policy,
- h. if a strata managing agent has been appointed, a copy of the instrument of appointment,
- i. if a strata renewal plan has been given to owners for their consideration under Part 10 of the Strata Schemes Development Act 2015, a copy of the plan,
- j. any other record or document in the custody or under the control of the owners corporation,
- k. if the duties of the owners corporation under this subsection have been delegated to a strata managing agent, any other records (including records of the strata managing agent) relating to the strata scheme that are prescribed by the regulations,
- l. if a building manager agreement is in force or has been entered into but has not yet commenced, a copy of the building manager agreement,
- m. particulars of any service agreement entered into by the owners corporation,
- n. particulars of any agreement entered into with a local council for a strata parking area,
- o. if the request is made within 5 years after the end of the initial period, particulars of any orders made under section 27 and copies of any related contracts or other documents.

Considering the requirements of (j) above documents in a physical or electronic archive

should be recovered for the search.

A strata managing agent should be aware that they cannot charge the person undertaking the search of the records for the cost of retrieving archived documents. This is considered to be a cost to the owners corporation.

DOCUMENTS WHICH MAY NOT BE AVAILABLE

A strata managing agent should seek advice on limiting the availability of the following documents for inspection:

1. Documents that are subject to legal professional privilege;
2. Documents that are commercial in confidence;
3. Correspondence that may relate to litigation or potential litigation; and
4. Information that may be considered a breach of another person's privacy.

Best practice would require that you contact legal practitioners working for the strata plan to confirm if any of their documentation attracts legal professional privilege and seek their advice on how to best reflect these files in the owners corporations records

CONDUCTING THE SEARCH

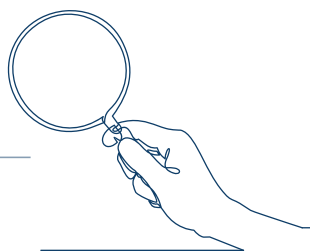
Managers should confirm that the books and records are available and that searcher has lodged an approved written request and paid the prescribed fee.

Managers should not respond to questions regarding the documents. The searcher is entitled to view documentation, not obtain advice from the manager. Statements made by Managers may be incorporated into the searcher's report, and a purchaser may rely on this when making the decision to purchase or not, ultimately leading to an increased professional indemnity exposure for managers.

Searchers should be provided a suitable location within the strata managing agents

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Strata Searches



office to allow for “loose supervision” to ensure the safe keeping of the records and for the searcher to view the records and take copies of any documents that they may so choose. An owners corporation may recover the cost of the copying of documents if copying services are being provided.

AFTER THE SEARCH

Managers should ensure that the physical records provided for the search have not been removed by the searcher and the records returned to their ordinary storage location.

Managers should ensure that the fee paid by the searcher has been sufficient to cover the time taken for the search and obtain additional fees as appropriate.

Search fees should be banked to the strata plan’s trust account before the end of the next banking day after receipt, or if this is not practicable, as soon as practicable after receipt.

SEARCHES BY THE STRATA COMMITTEE

Strata managers should consider the provisions of Section 43 of the Act and primarily that the

Secretary is in theory the keeper of the records and as such the secretary of the owners corporation should be given access to the records of the strata scheme, as they also have responsibilities about providing access to the records to enable inspection of the records of the owners corporation.

Strata managers should also be aware of the obligations under clause 38 of the Property Stock and Business Agents Regulation 2016 that requires that the records must be made available for inspection by any strata committee member.

SEARCHES BY THE ORIGINAL OWNER

For the purpose of preparing notices of the first annual general meeting, an original owner (whether or not he or she has ceased to be an owner) or an agent authorised in writing by the original owner is entitled to inspect the strata roll without making payment or written application (section 182(4) of the Act).

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Strata Community Association (NSW) is the peak industry body for Strata and Community Title Management in New South Wales. Membership includes strata managers, support staff, committee members and suppliers of products and services to the industry. SCA (NSW) has in excess of 3,000 members who represent over 75% of strata lots in NSW by way of helping to oversee, advise or manage a combined property portfolio with an estimated replacement value of over \$400 Billion. SCA (NSW) proudly fulfils the dual roles of a professional institute and consumer advocate.

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