

Amenities Agreement for Allocating Strata Scheme Costs to Owners

A common funding issue for owners corporations involves provision of facilities or services which are enjoyed disproportionately by one or more owners, making it unfair to fund these through levy contributions. This is becoming more and more of an issue as technology progresses and owners and occupiers increasingly desire services not within the usual functions of the owners corporation. There are options and we have considered these in previous articles. This article will focus on the option of entering into amenities agreements and the ways in which we can assist you with these.

This is a frequent source of dispute and there have been a number of cases before the tribunal and courts. Some key points which emerge from those cases include:

- An owners corporation can generally only raise levies pro rata to unit entitlements, preventing it from fairly distributing costs of providing facilities disproportionately benefiting particular owners and occupiers.
- There are a number of facilities which an owners corporation must provide, as they fall within the functions of the owners corporation. However, there are also facilities and services which are not within the functions of the owners corporation and it is dubious whether the owners corporation will be acting properly if it resolves to provide those services if they disproportionately benefit particular members and are funded only through levy contributions.
- Owners corporations can provide additional facilities and services which they are not required to provide as part of their functions as owners corporation, whether or not disproportionately benefiting particular owners, by means of an agreement to provide amenities and services to a lot pursuant to Section 117 of the Strata Schemes Management Act 2015 ("Act").
- As an alternative, it would be possible to establish a framework in which strata managing agents will provide additional services directly to owners and occupiers on a charged basis, where the owners corporation is not required and does not wish to provide those services.

There are a broad range of facilities and services which could be considered, e.g. provision of electricity or other utilities, potentially extending to electric vehicle charging infrastructure, telecommunication services, window cleaning, garbage disposal and recycling services. It might also be possible to address after-hours emergency services required by lot owners and occupiers, potentially reducing the burden of callout fees on the owners corporation.

Schemes wishing to pursue this could consider a range of facilities and services which owners and occupiers would otherwise need to arrange for themselves. It may be more cost-effective and/or convenient for these to be provided by the owners corporation, e.g. through an embedded network or other collective arrangement. Generally, this will involve making a by-law and adopting a standard agreement.

We have expertise in relation to these issues and could assist you with implementing such arrangements in your scheme. This could result in flexible arrangements tailored to your needs, covering the facilities and services relevant to you and adopting procedures and payment structures which make sense to you. There are some technical issues, particularly where supply of electricity and other utilities is involved, but we can guide you through these issues.

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