

Friday AAN: 2 August 2024

In today's "Ask Amanda Now" session, Amanda answered Frank's question: which section of the NSW legislation allows an owners corporation to pass on the costs of an increased insurance premium?



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Hello and welcome to ask Amanda. Now I am coming to you live from the beautiful, the sunny, the sparkling, the warm Gold coast. This is our short Friday afternoon session where I have chosen one strata question to answer for you. I am lucky enough to be here on the Gold Coast. I am at a lovely hotel at the moment where we're just wrapping up a reasonably, considering it's 04:00 p.m.

a reasonably long lunch to conclude the strata Impact conference, the inaugural strata Impact conference hosted by Doctor Nicole Johnston of Strata knowledge. Many of you have heard me talking about this, this conference in the leader. It has absolutely delivered, as we all expected it to, had very high expectations of our conference. And what we're hearing is the strata impact conference will be continuing next year as well, which is very exciting.

I have just lost my light that I've had set up here, but we're going to keep rolling on. You've got the beautiful background here to have a look at. I've perched myself in a rather scenic position. That is an infinity pool that is here behind me. I hope you are similarly enjoying your Friday afternoon in strata. Let me know if you are tuning in. Sean O'Day is here.

Hey, Sean, how are you going? I have been enjoying the last day and a half or so with many friends and colleagues in the strata space. We have heard from leading academics in our space professor Kathy Sherry, Hazel East Hope, doctor Nicole Johnston herself. I've shared a little peek at Cathy Sherry's presentation on the page. I think I shared that yesterday. So have a little scroll down and you'll hear a snippet from Professor Kathy Sherry.

More where that came from. So some more little snippets of what we have been learning, what we've been hearing from our presenters here at the conference. I have been sharing the last hour or so of lunch with another Sean, well known to many of you here on live. One of the Shaun trifectas is here with us at the conference and I've been enjoying our long lunch there with him.

Special. Hello, if you're still upstairs there, Sean, enjoying lunch. Heidi is tuning in, saying happy Friday. Happy Friday to you. Heidi tuning in from LinkedIn. Good to see you. I hope you're well. Kristen's here saying hi, Amanda. The Langham looks particularly luscious. I have a little secret to share, Kristen. I'm not at the Langham right now. I have been. You're right, I have been at the Langham for the last couple of days, but we still snuck off for what was indeed a vip a vip lunch at the close of our conference.

And that lunch has been posted at the star. So I'm up in one of the higher levels of the star. Shana's here saying you've had a busy week and another one next week. I love you and I love that you know my schedule, guys. Yes. I am off to Hobart next week, so I'll be here until Tuesday and then jumping on a plane from here to Sydney and then from Sydney to Hobart.

And then eventually, at some stage, I will get back home. So, yeah, busy couple of weeks of travel, but I'm here. Can't miss our Friday afternoon chats. I have chosen one question from the many that have come through this afternoon to answer for you. Lois is here saying, managed to get home just on four. Welcome, Lois. I'm pleased that you could make it. Kristen saying sneaking off is also fair game.

Yeah. So this is a special lunch open to everybody. I've said it's a vip lunch, but open to anybody to buy a ticket to this lunch that Doctor Nicole Johnston has put on at the end of the strata impact conference. I've taken some photos, I've taken some video. You know me. Those around the table know me. There's no secrets in strata. You are going to see inside that lunch soon.

I will be putting those together for you this evening and over the weekend to bring you those insights into the conference. Desert is saying, welcome to the Gold coast. Thank you very much, desert. It's good to be here, Thaleera. I hope I've said that right. It's saying, hi, Amanda. Hello to you, Valera. And Averil has a question already jumping in. My strata manager is delaying my units repairs work, saying strata key is not approving.

What should I do? Very common question, Avril. It is one that I'm answering most days of the week. It's not the question that I have chosen for today. I put the call out earlier today, as we do ahead of our ask Amanda now sessions, inviting you to email me your

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question or to post it under the event here on the page. And we have, as we like to do ahead of time, prepare for these sessions.

I have chosen a question that I will be answering for you very, very shortly. Megan saying, just off the phone to Professor Easthope. Rave reviews about the conference. PSA here. The bar is calling. Well, here's the thing. Lunch was just upstairs. I finished up there about 03:00. 03:15 time to get prepped for Friday. Live. Need to come down, make sure everything's charged and working and I heard from Doctor Nicole that there is a bar just behind me that opens at about 04:00 and I've just seen the doors open and there's a nice lounge that you can kind of see behind.

And I'm expecting that there will be 25 or so strata professionals about to descend the stairs and come past. So if we can time it right, you might be able to get a few cameos in the background there. Mark Atkinson telling me, hi, Amanda. The Gold coast looks spectacular. It does from this vantage point. Indeed, Mark, excellent. Suzanne is saying hi, Amanda, what a busy lady. I would like to join you.

You're welcome anytime, Suzanne. It is a lovely part of the world to be in. I left Mudgee, which is my home in central west New South Wales, at about 08:00 a.m. on Wednesday morning and my car was frosted over. It was a very cold morning, as we've had in mudgee. I eventually, at the end of that day, got off plain here on the Gold coast and it was a balmy 21 degrees, which is lots of fun.

Very lucky to live in this country where you can come to a place like this and enjoy this gorgeous weather. Andrew is here. Hey, Andrew on LinkedIn, the professor was rocking the dance floor last night. Everyone was rocking the dance floor last night, thanks to you. Andrew Sutte on the saxophone. Yes, that was pretty awesome. Thank you very much for entertaining us last night's dinner. Cassie, good to see you saying hi.

Keep up the great work as always. Thank you, Cassie. And it was lovely to see you here at the conference as well. Elizabeth is here. Great to see you there. It was a great inaugural conference. Met some terrific people. Elizabeth absolutely was here in person, as I said last week, I think after I'd been in Sydney doing a few live events. It's so wonderful to see those of you who are here often, every week here, tuning in on Friday Live, then seeing you in person at these events, as I did a few of you at last week's events.

And again, seeing Elizabeth here, seeing Shawn M here this week has been awesome. So I appreciate all of you who also come up and say hi and tell me that you listen to the podcast, you listen to Friday Live. I was chatting to Ryan, strata manager last night who said, amanda, thank you for these sessions with find them all so useful. It is hearing from you telling me that you find these so useful that drives me to keep them going, keep them coming even if I am finishing up a long lunch, popping in and answering one strata question for you.

So let's do it. Team Rochelle and Mina. Let's bring up this week's question today. I have chosen Frank's question. Which section of the New South Wales legislation, if there is one, Frank said in his email. If there is one, which section of the New South Wales legislation allows an owner's corporation to pass on the costs of an increased insurance premium? Nice tight one for today, Frank. I really appreciate you bringing that one to our ask Amanda now session.

And look, I told you guys that 04:00 down here the bar is going to open. That is indeed what has happened. And we have a few colleagues that are starting to stream through here and head over to the bar. And as they're. You're seeing them as they're behind me, I'm seeing them as they're walking towards me and they're rapidly attempting to distract me from what I'm doing here today.

So I might call them out as they come through. You've just seen Michael tease. I don't want to embarrass anybody, but they will let me know if they want to come in and make a cameo. We're going to continue on to Frank's question. Which section of our New South Wales legislation allows an owners corporation to pass on the costs of an increased insurance premium? I'll give you a bit more background on Frank's question.

He has said we have an owner who is renting out their shop to someone who is operating. For example, says Frank, for example, a tobacconist business, and there has been an incremental increase in the insurance premium that is directly attributable to that lot owner renting out their shop to a tenant who's operating a tobacconist business. Is there a section, Amanda, please let

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me know of the New South Wales legislation that allows an owners corporation to pass on the increase in the insurance premium that we have experienced as a result of the operation of that business.

Short answer, Frank, is yes. There is a section of the New South Wales legislation that allows that to happen and it is section 82. We have a link here for you if you want to go and cheque it out. Section 82, I will summarise it for you. It says that if an occupier is using a lot in a strata scheme that causes an insurance premium to be greater than it would be if the lot was not being put to that use, the contribution that is payable by the owner of the lot may be increased.

So the levy that is payable by the owner of the lot may be increased to reflect the amount of the increased insurance premium. So that is your black and white answer. Yes. You can, by way of levies, increase the amount that an owner has to pay if the use to which they are putting their lot increases the insurance premium and you have to increase the levy by that same amount as the insurance premium increase.

Here's the kicker, however, Frank. You have to do that with the consent of the lot owner, so you need their consent. If you don't have their consent, you can make an application to the tribunal for an order that they pay levies in a different amount. You would have to show the tribunal that the lot owner has unreasonably refused to consent to that increase. So there is a section.

It is section 82. We have a link here for you in the notes. Have a look at that one, Frank. I think it's pretty straightforward. I am not aware others who are tuning in who might be aware, I'm not aware of any cases that have actually tested this section and asked the tribunal to make an order in a situation where the lot owner may not give their consent to pay that increased levy on behalf of their increased insurance premium.

But I think asking the lot owner for their consent to meet that increase is definitely the first step in that scenario. Heading over to those conferences, Megan's saying, you're making me thirsty. My good friend Nicole Wilde from the new company in Queensland has just quietly walked past and she has brought me what I really like. What I would really like right now is a glass of water after doing this talking, but she's brought me a glass of wine from upstairs, as those who have attended the closing lunch of the strata impact conference.

I'm filtering through to the bar here. Chu, how are you doing? Saying, our strata manager said that the OC cannot pass on the premium due to Airbnb. Is there a difference? No, I can't see that there is a difference. And that's the typical example, I think, that's used. I mean, Frank has used this example. Say it's a tobacconist that's operating. Not sure why that would increase the insurance premium, but I have been in a situation where maybe a tattoo parlour or some mechanical repairs business, or where we're using highly flammable materials and equipment for a particular business.

It might increase the insurance premium, but Airbnb is one that. Yeah, I understand, does increase the insurance premium. And I don't see why you couldn't rely in New South Wales on section 82 in our strata schemes Management act to seek the lot owner's consent to pass on that increase. And you pass it on by way of increasing the levies. I think there is a question I just saw pop up here from Vivian saying, does a motion need to be made?

So if we have a look at section 82, it doesn't specifically say that a motion needs to be made, but bearing in mind that you are increasing that particular lot owner's levy, I think it's probably a good idea to put it to the general meeting to have that record and to make sure I wouldn't be putting it to the general meeting until I knew that I had the lot owner's written consent.

And you might attach that lot owner's written consent to the agenda of the general meeting at which the motion is being put forward, that I would suggest that just as a best practise, but from what I'm seeing in section 82, there's no specific requirement to have a motion. If it is something that you're thinking about doing, you might want to get some specific legal advice on it, just to make sure that you've covered all your bases in that respect.

But section 82 is definitely your starting point there, especially if you think that you might not get the ordinary resolution through at a general meeting. Definitely get some legal advice to see if that's something that in your specific situation, a lawyer would recommend that you do go and get that legal advice. Shaun is saying, I don't know how you can focus with all that activity behind you. Thank you, Sean.

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I am glad that I appear to be focused. I'm trying really hard here. Andrew saying, wow, we don't need consent from the owner in Queensland, but we have to act reasonably. Yeah, interesting. Not needing consent from the owner. I imagine this consent piece in New South Wales is a big block to being able to increase somebody's levies where the insurance premium has increased. So interesting that you don't need that in Queensland.

Margaret saying, wishing you a happy Queensland. Thank you, Margaret. Vivian saying, Chu, we have short term rental accommodation and the OC requested the owner pay the increase and it happened. There you go. Love that real life example. Thank you very much, Vivienne Frank, if you are tuning in, then please let me know if that is helpful to you. And if you are tuning in and you had a question for today, didn't manage to get it answered, wasn't the one chosen for today, then?

You know, if you are a member of the your strata property online community, you can pop into our Q and a forum at any time and ask me your questions. I was in there the morning answering some questions. I'll be in there again catching up over the weekend for our members. The place to go if you want to join us. If you're not a member but you've got a burning strata question or two that needs my attention, head over to stratamembership.com

and cheque out all the benefits that membership has to offer. It is time to wrap up our Ask Amanda now for today. Thank you to all of you who have tuned in, enjoyed with me the beautiful surroundings here on the Gold Coast. I am, with some trepidation, going to follow that crowd that just headed into the bar there might be sticking to my soda water for the rest of the afternoon.

I hope you have a fabulous weekend in strata and I look forward to seeing you all next time. Bye for now.