

NSW Supreme Court Rules By-law Void for Uncertainty

A recent NSW Supreme Court ruling invalidated a by-law that required several owners corporations in a prominent strata complex in Sydney to all use the same strata manager.

The Finger Wharf at Woolloomooloo Bay is a well-known Sydney landmark. It was redeveloped about twenty-five years ago and remains a prominent Sydney landmark where many people now live, and businesses thrive.

The Finger Wharf structures, including the associated marina, are subdivided into seven strata schemes and a stratum lot. The Finger Wharf is governed by a management statement (SMS).

Up until recently, the SMS required all owners corporations to appoint the same strata managing agent as the Building Management Committee's (BMC) agent. There was a corresponding by-law for each strata scheme.

However, at a general meeting in 2022 three of the owners corporations voted to appoint a new strata managing agent for their buildings, challenging the SMS that had existed for the last two decades without issue.

The dispute among the residents and occupants of the Finger Wharf about its management ended up in the NSW Supreme Court.

The Supreme Court ruled that the SMS provision and by-law that required all of the strata schemes to use the same strata manager as the BMC was void for uncertainty and invalid.

The Court concluded that the SMS provision and by-law were void because it was not clear what functions of each owners corporation were required to be delegated to the same strata manager.

The full case details can be found here:

[Walker Corporation Pty Ltd v The Owners – Strata Plan No 61618 \[2022\] NSWSC 1246](#)

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