

## How Important Are Unit Entitlements?

### Voting

Unit entitlements reflect your “share” in the strata scheme. Unlike Queensland however, NSW only has one form of unit entitlement.

Many people believe that unit entitlements only exist to determine voting rights in the event that a “poll” is called at a general meeting of an Owners Corporation. Essentially, voting at a general meeting is conducted on a “one person, one vote” basis unless an owner asks for voting to be determined by a poll. This then means that voting is counted based on unit entitlement, so if one owner has a unit entitlement which is double that of another owner, that person will have double the vote.

### Levies, Charges and Insurance

Unit entitlements however also determine other key issues such as the amount of your Owners Corporation levies and Council rates, land tax apportionment and even possible depreciation for investors. Also, if the building is destroyed and the Owners Corporation resolves not to rebuild, insurance proceeds will be paid to owners pro rata in accordance with unit entitlement. Clearly, if unit entitlement has not been set correctly, it can have a detrimental flow-on effect to many owners.

### Old Legislation = Old Rorts!

Before the new strata legislation commenced in November 2016, unit entitlement allocation was always determined by the developer and/or the surveyor at the time that the draft strata plan was prepared. There was no requirement for the allocation to be based on a valuation of lots in the strata scheme. There are many examples of developers manipulating unit entitlements to benefit certain lots (and correspondingly, burdening other lots). A classic example is where developers set artificially low unit entitlements for commercial lots in mixed-use developments to entice purchasers.

### New legislation = No Rorts!

Under the new legislation, a qualified valuer must now determine the unit entitlements when a strata scheme is established. The valuer must certify that the unit entitlements have been apportioned based on “market value” at the “valuation date”.

“Market value” means estimating the amount for which each lot will be sold on an arms-length transaction between a buyer and seller. The “valuation day” means a day that is no more than two months before the day on which the strata plan is lodged for registration.

### Conclusion

The new legislation is great, in that it brings honesty and transparency into the setting of unit entitlements. The days of developer rorts are over and this can only be good for the millions of people living in strata.