**Why does the Letting Pool pay common property expenses?**

Under New South Wales strata law, an Owners Corporation (OC) has a strict statutory duty to maintain and repair common property, and that duty is legally distinct from the operation of a letting business.

However, when a building operates entirely as short-term rental accommodation (STRA) with an on-site letting pool, letting pool funds frequently pay or reimburse common property expenses. This happens due to specific contractual, operational, and legal mechanisms:

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**1. Commercial Use Agreements & Exclusive Use By-Laws**

When an on-site manager runs a letting pool, their business relies directly on common property infrastructure (such as pools, BBQ's, foyers, stairwells, storerooms etc).

- Under the *Strata Schemes Management Act 2015* (NSW) (SSMA s 112, s 142–143), the OC has granted licences or "common property rights by-laws" to the operator.
- As a condition of that right, the Beachside" By-Law 19" together with the "Appointment to Act as Letting Agent" contract obligates the letting operator to maintain those specific areas, supply the consumables, or pay a licence fee/reimbursement that covers operational costs directly from the letting pool revenue.

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**2. Disproportionate Wear, Tear, and Utility Consumption**

Even when an entire building participates in short-term letting, hotel-style operations consume significantly more common resources than standard residential schemes:

- Utilities: Stairwells, Garage Lighting, Lobbies, shared corridors and pool heating run constantly.
- Cleaning & Consumables: Pool maintenance, lobby cleaning, rubbish removal, and key replacement cycles occur at commercial frequencies.

Because these costs are direct overheads of running a commercial accommodation business, the management agreement often specifies that operational upkeep and utility surcharges are deducted directly from the gross rental pool before net returns are distributed to participating owners.

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**3. Integrated "Care-and-Letting" Management Structures**

In fully short-term complexes (such as serviced apartments or holiday resorts), the on-site operator usually wears two hats:

1. The Building Manager / Caretaker: Contracted by the OC to clean, maintain, and oversee common property.
2. The Letting Agent: Contracted privately by lot owners via a letting agreement to rent out units and manage guest services.

To streamline administration, the operator's agreement often bundles services. Rather than the OC levying owners through quarterly strata levies and then writing a cheque to the manager, the manager is contractually authorised to pay routine operational vendors (pool technicians, cleaners, waste contractors) directly from the operational letting pool account.

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**4. Cash Flow & Levy Offsets**

In a letting pool building, every lot owner is both a member of the letting pool and a member of the Owners Corporation:

- Under NSW law, the OC must technically raise administrative and capital works levies proportional to unit entitlements (SSMA s 81–83).
- In practice, letting agreements often contain an authorisation clause allowing the letting agent to deduct common area operating costs straight from the owner's monthly rental distribution statement. This has the effect of keeping the Strata Administration Fund Levy at a minimum.

This ensures the scheme never suffers from arrears and keeps common property amenities running seamlessly for incoming guests.

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**The Legal Boundary**

While pooling and deducting operational costs is routine, there is a clear legal boundary under NSW strata law:

- Routine Operating vs. Capital Works: Day-to-day servicing (pool chemicals, lobby carpet cleaning, light bulbs) can be covered by the letting pool agreement.
- Strict Statutory Duty (SSMA s 106): Long-term capital renewals (re-tiling the pool, replacing lifts, structural repairs) legally remain the responsibility of the Owners Corporation via its Capital Works Fund. A letting pool agreement cannot unlawfully displace this statutory obligation, though the funds to pay those levies are often sourced from the rental pool distributions.

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## BEACHSIDE BY-LAWS EXTRACT

### CLAUSE 18 PROVISION OF AMENITIES OR SERVICES

18.1 The owners corporation may, by special resolution, determine to enter into arrangements for the provision of the following amenities or services to one or more of the lots, or to the owners or occupiers of one or more of the lots:

(a) window cleaning,
(b) waste disposal and recycling services,
(c) electricity or gas supply.
(d) telecommunication services (for example, cable television).

18.2 If the owners corporation makes a resolution referred to in subclause (1) to provide an amenity or service to a lot or to the owner or occupier of a lot, it must indicate in the

resolution the amount for which, or the conditions on which, it will provide the amenity or service.

**CLAUSE 19 AGREEMENT WITH MANAGER**

19.1 In addition to the powers under the Strata Schemes Managed Act, the Owners Corporation have the power to enter into agreements for letting and to provide maintenance and other services to the Owners Corporation.
The Owners Corporation must have proper regard to prudent and current market practices in determining:-

1) any manager's fee; and
2) the terms and conditions of any agreement with the manager.

Such services and amenities may include:-

A. common property, gardening, cleaning of the grounds;
B. cleaning and maintenance of the pool, spa and steamroom;
C. security services;
D. promotional services;
E. advertising;
F. commercial cleaning;
G. garbage disposal and recycling services;
H. telecommunication services;
I. such other services as might be considered necessary and in keeping with the standard and quality of the resort facility.

The manager's duties will be defined in such agreements.

19.2 The manager shall have the right to enter into an agreement with the owners of lots in Beachside to conduct an on site letting service and a tenancy management service and to provide ancillary services, but such services may only be conducted from Lot 31 in the Strata Plan.

19.3 An owner or occupier must not interfere with or stop the manager performing his duties or interfere with or stop the manager using and maintaining common property.