

06 Meetings - voting requirements and proxies

Overview

The important decisions of owners corporations are made at general meetings in the form of resolutions. An annual general meeting (AGM) must be held once every year.

What is new

The amendment to the rules about absentee voting, the insurance disclosure requirements at each AGM and the reduction in the voting requirement for approval of general funds budgets from a special to an ordinary resolution took effect on 30 March 2012.

Who does this apply to?

All unit owners, owners corporations and executive committees.

Issues

The important decisions of owners corporations are made by way of resolutions passed by unit owners at general meetings.

An AGM must be held each financial year. At the AGM, important decisions must be made, including the election of members of the executive committee and the approval of general funds budgets.

The executive committee must send out notices to all unit owners, giving 14 days notice. Normally an agenda is prepared which lists the items to be decided at the meeting.

A unit owner can cast an absentee vote or appoint a proxy to represent him or her if unable to attend. Proxies cannot be appointed for more than 1 year or be the manager or a service contractor. There are also limits on the developer exercising proxy votes.

All decisions must be made by ordinary resolution, unless the Act otherwise provides. This means that there must be more votes cast for a motion than those cast against it. Where a poll is taken, the value of each vote is weighted by unit entitlement.

The law requires certain decisions to be made by special resolution. These include decisions to amend the rules (previously called the articles) of the owners corporation.

A special resolution requires that less than one-third of people present (including proxy votes and absentee votes) have voted against the resolution, and more votes have been cast in favour of the motion than against it. Where a poll is taken, the value of each vote is weighted by unit entitlement.

The law requires an unopposed resolution for certain decisions to be successful. This requires that no votes are cast against the resolution and at least one vote is cast in favour of it. Any decision to calculate unit owners' levies contributions by a method other than by unit entitlement requires an unopposed resolution.

Many unit owners do not attend meetings, because they are unable to attend in person or because of a lack of interest in the affairs of the owners corporation.

The result is that for some owners corporations, only reduced quorum decisions can be made – less than half of people entitled to vote being present at the meeting.

The decisions of owners corporations can have a significant financial impact on all members of the owners corporation. Poor decision-making may result in a significant loss of the value of the unit owner's investment.

Unit owners should actively involve themselves in the affairs of their owners corporation.

Some unit owners are genuinely unable to attend meetings. For this reason, the new Act allows an absentee vote to be cast for any motion. Previously, an absentee vote could only be cast for a motion requiring an unopposed or unanimous resolution

A unit owner can now choose to cast an absentee vote or appoint a proxy.

Meeting procedures

The law does not provide specific procedural rules about how owners corporations and executive committees must conduct their meetings and affairs, other than to require the chairperson elected by the executive committee to chair all owners corporation meetings, unless he or she is not present.

For many owners corporations, especially for smaller owners corporations that are not able to engage a manager to carry out their functions, there is little guidance as to how meetings are to be conducted.

It may be useful for the owners corporation to adopt, by ordinary resolution, rules about how the owners corporation and the executive committee are to conduct their meetings. The following Standing Orders about meeting procedure are an example of rules the owners corporation may wish to adopt:

Standing Orders: Procedure at meetings

1. The following standing orders must be observed at owners corporation and executive committee meetings. Subject to any suspension of, or amendment to these orders which is agreed to by members at a meeting by ordinary resolution:
 - a. *The mover of a motion must not speak for more than 10 minutes.*
 - b. *Subsequent speakers must be allowed five minutes, and the mover of the proposition five minutes to reply. The meeting may, however, by ordinary resolution, extend in a particular instance the time permitted by this rule.*
 - c. *Whenever an amendment to an original motion is proposed, no second amendment must be considered until the first amendment has been decided.*

- d. *If an amendment is carried, the amended motion will replace the original motion and may itself be amended.*
 - e. *If an amendment is defeated, a further amendment may be moved to the original motion. However, only one amendment shall be submitted to the meeting for discussion at one time.*
 - f. *The mover of every original motion, but not of an amendment, must have the right to reply. Immediately after this, the question must be put from the chair. No other member must speak more than once on the same question, unless permission is given for an explanation, or where the attention of the chairperson is called to a point of order.*
 - g. *Any discussion on a motion or amendment may be closed by a resolution "that the question be now put" being moved, seconded and carried. Such resolution must be put to the meeting without debate.*
2. Any motions and amendments must be submitted in writing if requested by the chairperson.
 3. Any member, or any visitor invited to attend the meeting by the board, may speak on any issue at a meeting with the permission of the chairperson provided that the permission may be conditional.
 4. Standing orders may be suspended for any period by ordinary resolution.

Within the limits imposed by the law (including privacy law) an owners corporation is an autonomous legal entity that is free to make its own rules about its internal governance and meeting procedures.

Resources

Unit Titles (Management) Act 2011 (www.legislation.act.gov.au)

Disclaimer

The factsheets are intended to guide users of the legislation, including unit owners, executive committees and managers to meet their requirements under the law.

While reasonable steps have been taken to ensure the information in this guide is accurate, you should not rely solely on that information. The factsheets do not constitute legal advice. If you are uncertain of your legal obligations or rights or if you are having a dispute involving an owners corporation, you should seek independent legal advice.

ENGLISH	If you need interpreting help, telephone:
ARABIC	إذا احتجت لمساعدة في الترجمة الشفوية، إتصل برقم الهاتف:
CHINESE	如果你需要传译员的帮助，请打电话:
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajjuna t'interpretu, ċempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ako vam je potrebna pomoć prevodioca telefonirajte:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

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