

How to appoint/revoke appointment of an Owners Corporation Manager

(note this information is meant as guide only if any doubt appropriate legal advice should be sought.)

(the information relates to appointment/dismissal of an OC manager only and does not apply to other matters)

Extract from the Owners Corporations Act 2006 Part 6

119 Appointment and removal of manager

- (1) An owners corporation may appoint a person to be the manager of the owners corporation.
- (2) If the manager is to receive a fee or reward for carrying out the functions of manager, a person is not eligible to be appointed unless the person is a registered manager.
- (3) An instrument or contract of appointment must be in the approved form.
- (4) A manager need not be a lot owner.
- (5) A person must not be appointed as a manager for fee or reward unless the person holds professional indemnity insurance that is sufficient to meet claims up to a level of the prescribed amount in any one year.
- (6) An owners corporation may revoke the appointment of a manager.

How to appoint a manager

The appointment requires an ordinary resolution at a meeting or by ballot.

Annual General Meeting, Special General Meeting or Ballot

The owners corporation can delegate its decision to appoint a manager to the committee or to a lot owner, but it is preferable to appoint a manager at a general meeting to enable powers and functions to be delegated.

The appointment of the manager at a general meeting will also enable the lot owners to meet the manager, ask any questions and affix the common seal to all the relevant documents confirming the appointment.

Before appointing a manager, check their registration details by contacting the Business Licensing Authority on 1300 13 54 52 or by searching the public register at www.bla.vic.gov.au.

A professional manager MUST be registered.

(If revoking appointment you should check any contractual arrangements you may have with current manager)

How can a ballot be conducted?

A ballot may be conducted by post or by telephone, facsimile, the Internet or other electronic communication.

Notice of ballot The person arranging a ballot must give notice in writing of the ballot to each lot owner at least 14 days before the closing date for the ballot.

Note *The Electronic Transactions (Victoria) Act 2000 will permit this notice to be given electronically.*

The notice must include the following—

- (a) the closing date for the ballot; and
- (b) the ballot document containing the motion, including the text of any resolution to be voted on in the ballot; and
- (c) a statement that the lot owner has the right to appoint a proxy.

Resolution by ballot

- (1) A person may vote in a ballot by completing the ballot form and forwarding it to the secretary of the owners corporation in accordance with the rules of the owners corporation.
- (2) A resolution of the owners corporation by ballot is made as follows—
 - (a) The decision requires an ordinary resolution and must be passed by a majority of the votes returned by the closing date but the number of votes returned must be not less than 50% of the Units of Entitlement
- (3) If a ballot is arranged by a person nominated by lot owners, the lot owners must give the owners corporation all information necessary to enable it to keep records of the ballot.

Who can arrange a ballot?

A ballot of an owners corporation may be arranged by—

- (a) the chairperson of the owners corporation; or
- (b) the secretary of the owners corporation; or
- (c) a lot owner nominated by lot owners whose lot entitlements total at least 25% of all lot entitlements for the land affected by the owners corporation

Special general meetings

What is a special general meeting?

A special general meeting is a meeting of an owners corporation other than an annual general meeting.

Who can convene a special general meeting?

A special general meeting may be convened by—

- (a) the chairperson of the owners corporation; or
- (b) the secretary of the owners corporation; or
- (c) a lot owner nominated by lot owners whose lot entitlements total at least 25% of all lot entitlements for the land affected by the owners corporation

Agenda for special general meeting

- (1) The person convening a special general meeting must prepare an Agenda setting out the matters to be dealt with at the special general meeting.
- (2) If the person convening the meeting has been nominated under section (c) above the Agenda must be in accordance with an Agenda approved by the relevant lot owners when making their nominations.

Notice of special general meetings

(1) The person convening a special general meeting must give notice in writing of the meeting to each lot owner at least 14 days before the meeting.

Note The **Electronic Transactions (Victoria) Act 2000** will permit this notice to be given electronically.

(2) The notice must include the following—

- (a) the date, time and place of the meeting; and
- (b) the Agenda for the meeting; and
- (c) a statement that the lot owner has the right to appoint a proxy.

Procedure at general meetings Quorum for a general meeting

A quorum for a general meeting is at least 50% of the total votes or if 50% of the total votes is not available the quorum is at least 50% of the total lot entitlement.

Can a general meeting proceed even without a quorum?

- (1) Subject to subsection (4), if there is not a quorum, the general meeting may proceed but all resolutions are interim resolutions.
- (2) Notice of all interim resolutions and the minutes of the meeting at which the interim resolution is made must be forwarded to all lot owners within 14 days of the meeting.
- (3) The minutes must be accompanied by a notice setting out the effect of subsection (4).
- (4) Interim resolutions become resolutions of the owners corporation—
 - (a) subject to paragraphs (b) and (c), 29 days from the date of the interim resolution; or
 - (b) if notice of a special general meeting is given within that 29 day period and the meeting is held within 28 days after the notice is given, only if confirmed at that meeting; or
 - (c) if notice of a special general meeting is given within that 29 day period and the meeting is not held within 28 days after the notice is given, at the end of that 28 day period.

Note

The effect of subsection (4) is that an interim resolution cannot be acted on for 29 days after it is made but if notice of a special general meeting is given within that 29 day period, the interim resolution cannot be acted on until the resolution is confirmed at that meeting (which must be held within 28 days after the notice is given) or if the meeting is not held, until the end of that 28 day period.

Minutes of meeting must be kept and provided as proper authority of appointment/dismissal

The basic principal is that a MAJORITY of the Owners must be in favor of appointment of a Professional Owners Corporation Manager

The above also applies to dismissal of a Professional Manager

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