

Strata Committees

Strata Schemes Management Act 2015 (NSW)

Answers to Questions Raised in Workshop 21 October 2016

Question: *Strata committees for large strata schemes (more than 100 lots) must consist of at least 3 members. What if the building cannot get 3 people to nominate for the committee?*

Answer: If no one nominates for the strata committee, then section 29(4) of the *Strata Schemes Management Act 2015* ("New Act") applies and the strata scheme must be administered by the owners corporation. This subsection also expressly states "...*nothing in this subsection prevents a strata managing agent appointed under this Act from exercising any functions conferred on the agent.*" So, if a strata manager has been appointed and delegated the functions of the strata committee, then the strata manager could exercise the functions of the strata committee under that delegated authority.

If there are only one or two members of the strata committee, then the remaining one or two positions are vacant. Section 38 of the New Act applies where there is a vacancy on the strata committee (or any defect in the appointment of a member, or any disqualification of a member). Section 38(2) provides that: "*Any act or proceeding of a strata committee done in good faith is as valid as if the vacancy, defect or disqualification did not exist and the strata committee were fully and properly constituted.*" So the strata committee would legally operate with less than 3 members, the remaining position/s being vacant.

Question: *Can strata committees still vote in writing, without the need for a meeting (equivalent to the current Schedule 3, clause 10?)*

Answer: Yes. Schedule 2, clause 9(2) in the New Act contains the equivalent of schedule 3, clause 10:

(2) Voting in writing: A motion proposed to be put to a meeting is taken to have been validly passed even if the meeting was not held if:

- (a) notice was given of the meeting in accordance with this Schedule, and*
- (b) a copy of the motion was given to each member of the strata committee, and*
- (c) the motion was approved in writing by a majority of the members of the committee (other than the tenant member).*

Question: *in the case of pre-meeting electronic voting, when the time comes for the actual meeting to be held, how is the quorum calculated? Are those who have already voted but do not turn up for the meeting counted?*

Answer: Schedule 2, clause 12(3) in the New Act provides that “A person who has voted, or intends to vote, on a motion or at an election at a meeting by a permitted means other than a vote in person is taken to be present for the purposes of determining whether there is a quorum.”

Therefore, where a strata committee has resolved to permit pre-meeting electronic voting (for example), and all committee members vote before the meeting, none need turn up to the actual meeting. They are all considered present because they have been able to vote by a permitted means other than a vote in person. The meeting is still held, with non-member owners permitted to attend if they wish (schedule 2, clause 13 in the New Act).



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