

Friday AAN: 4 October 2024

In today's "Ask Amanda Now" session, Amanda answered a question from Susan and Peter: does the Act compel owners corporations to get any particular number of independent quotes at the time that Management Agency Agreements expire?



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Hello and welcome to ask Amanda now. I am your host, strata lawyer, Amanda Farmer. It is Friday. We're heading out live to the your strata property facebook page. We're going out to LinkedIn, we're heading out to YouTube. We are here to chat about strata. This is our short Friday afternoon session where I have promised to answer one strata question for you. I am coming to you from a very special location.

You might be able to tell a little bit from the background here. I'm actually in a rainforest, a very, very important rainforest. I'm in the Dane tree at the moment, the world's oldest living rainforest, World Heritage listed site. I have been lucky enough to be spending the past week up in far north Queensland with my family, taking a little bit of a break over the school holidays. We have spent a little bit of time outside Cairns this week and we have just today arrived in the daintree, staying in a treehouse of sorts.

So I hope we're all coming through loud and clear. I've just jumped on the Wi Fi here. We've just settled in. But it is such a spectacular, spectacular place and I think when we spend so much of our time living in, talking about urban environments, concrete structures, it is so, so important to get out there and get in touch with nature. So I'm really lucky to be able to do that this week.

Hello to all of my Queenslanders. I am in the neighbourhood huge state. This is absolutely beautiful part of the world. My hellos are coming in. Lots of you here live. Hello to Sean M Shawn. Oh, hello. Hey, Debbie. Saying hi from brizzy Daintree is beautiful indeed, Debbie. We were earlier in the week able to get out to the reef as well. Our little boy had not been to the reef before and it's a soon as he put his head in the water he went, oh, my God, this is amazing.

So, so nice to be able to see that and share that with him. Hey, Philip, how you doing? Philip saying lucky you. I do feel very lucky, Philip, if you come in, give me a hello. If you here live, if you are catching the replay, I like to see your hellos as well. If you're new to the page, this is how we run on a Friday. I had a little break last week after a massive week.

We had our trust from transparency webinar. The week before, we welcomed lots and lots of new members into the your strata property online membership community. I was wrapping up the week in the office knowing that I was going to be heading away for the school holidays. Then I got the call from the producers at a current affair. Could I pop in and have a chat to Ali Langton on Thursday night?

So I ended up in Sydney a little earlier than I had planned. It was a bit of a whirlwind week. That is part of the reason why I wasn't around here last Friday, but determined to pop in and say hello here today. This is our ask Amanda now session. We do one of these about every fortnight, if we can, where I have chosen one question from a list of those that you have sent to me over the last 12 hours or so.

One question to answer here today. I'm going to get into that every other Friday. We have a longer Friday live. That's often when I'm at home in my home studio. We can dig into some cases. We can talk about the week that was in strata. I might be able to answer a few more questions for you here live. Debbie is here saying, I used to live in Cairns.

Lucky lady you are. Debbie Lower saying, hi, everyone. Hey, Wendy. Hey, Shana. Saying hello from Sunny Coffs Harbour. It is definitely a sunny part of the world. When I left Sydney I. It was raining. It was pouring with rain. The weather was awful. I had planned all my wardrobe for far north Queensland, where I am now. And I was freezing. I was freezing, but definitely not now. Lucky to be enjoying this weather.

Lois saying saw aka a current affair very close to home. Yeah, I think I know. I might know a little bit about that, Lois. Hey, Deb. Giving me a wave. All right. Excellent. Great to have you all here. So lovely to be connecting with you again after a couple of weeks and we're going to jump in to our question for today. Team, bring it on up. This is Susan and Peter's question.

Susan and Peter, who wrote to me under that one name via email responding to my call out today. Does the act ask Susan and Peter Compel owners corporations to get any particular number of independent quotes at the time that management agency agreements expire? Great question. I've chosen this one because the answer has changed in recent times. We have some relatively new legislation in New South Wales that commenced in December last year that has changed the answer to this

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question.

Nice. Neat one here from Susan and Peter. Sometimes I get emails with questions that go on for a few paragraphs. Sometimes it's a little bit complex, sometimes it's a little bit too unique to your specific situation. So if you do want your question to be featured here on an ask Amanda. Now remember that these are the short, sharp, more general ones that I do tend to pick out of.

So let's get into it. Do we have to get independent quotes? Do we have to get a certain number of independent quotes when we are looking at appointing a strata manager? That's how I read those words. Management agency agreements. Strata manager's contract is up in New South Wales. That might be a maximum three year term. That is up. Strata manager might be happy to continue. The owner's corporation might be happy to have their manager continue.

But because we have to enter into a new contract, is there a requirement to go and get other independent quotes for this service? Now, the answer to this question depends on the contract amount in New South Wales, and I am talking about New South Wales legislation. We start with section 102 of the Strata Schemes Management act in New South Wales. Team has a link here for you that they'll pop into the comments if you want to cheque it out.

This is the section that has recently changed. So December, I'm saying recently. But you know what? We're in October now, so it's nearly a year. December 2023. Section 102, along with a few other sections, changed to require all owners corporations to obtain at least two quotes for any one item of expenditure that exceeds \$30,000. So if you are in a larger building, perhaps, or a more complex building, or you're a building that I don't know, a strata manager has just decided that this is how much that they need to charge you.

If the quote is coming in at over \$30,000, then yes, you will need to get at least one other quote for your strata management services. That is in section 102. You won't see the figure \$30,000 in section 102. What you'll see in section 102 is the requirement that an owners corporation gets at least two independent quotations for proposed expenditure for an item or a matter that is more than the amount prescribed by the regulations.

The amount prescribed by the regulations is \$30,000. We find that in regulation 25 of the strata Schemes management Regulation. Link to that one here for you as well. Peter is here. Peter, I think you may be the one who asked this question. \$30,000 per annum or \$30,000 over the life of the agreement? Oh, that's a really great question. I would say that's over the life of the agreement, Peter, because I'm looking again, I've got it in front of me, and if you've got access to that link that is in the comments on Facebook, you can click through and get it in front of you as well.

Section 102, two independent quotations for proposed expenditure for any item or matter that is more than the amount prescribed. So it doesn't say any item in the course of a year that is more than the amount prescribed. Any item, full stop, that is going to be more than the amount prescribed. So if you're entering into a three year contract and over that three years you are committing to spend more than \$30,000.

Yeah, I think that means you've got to get at least two independent quotations. Happy to hear anyone who disagrees. Great question. Section 102 does go on to provide some exemption. I'm going to say there, if you're not able to get at least two independent quotations, the secretary must put a motion on the agenda of the next general meeting of the owners corporation to note the item for which the quotations were required and the reasons the owners corporation was unable to obtain the quotations.

So if you can't get at least two quotes, and this is not just limited to management agreements, strata manager agreements, this is works contracts, building manager agreements, any project where we're going to be spending over \$30,000 on that particular project, whatever the period of time, in my view, you really do need to be getting those two, at least two independent quotations. If you can't get it, then a motion on the agenda explaining why you can't get it.

I'm just heading back to those comments, Deb, saying. Guessing that is excluding Schedule B fees. Yeah, Deb, I think it probably is excluding Schedule B fees because they're not certain. So these are the additional services that may come up, the additional charges that there may be under a managing agents agreement. We don't know whether they're going to be incurred. Most likely they are going to be incurred. We don't know how much that's going to be.

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Then they're certainly nothing confirmed. So I think that would exclude schedule B fees. But great point by Peter. If we're looking at a three year contract and it's eleven grand a year over three years just for your agreed services, then yeah, you're determining an item that is more than the amount prescribed by the regulations. You should be getting that second quote. Sean O chiming in there saying contract value.

Yep, that's it. That's a great way to describe it there, Sean. We're looking at the entire value of the contract. Peter's saying, so discretion to just, just rollover management agreement. So, Peter, I'm assuming you're in New South Wales. Let me know if that's wrong because I am talking about New South Wales legislation. There are no rollovers of agreements in New South Wales. We can't just continue on our management agreements month to month or rollover for another year or for another couple of years.

I understand that might be the case in other jurisdictions. If you're talking about just a reappointment, reappointing the same manager under a fresh agreement, if that's what you mean by rollover, you can do that. But section 102 is saying you need to have that other quote. You need to have obtained that other quote even if you are happy with your current manager and you know that you're going to have majority support for continuing on with that current manager under a new agreement.

Peter saying, yep, New South Wales. Excellent. So this is new. It used to only apply to large buildings. So I have in the last nine months or so with this legislation being in place, come across some owners who are saying to me, Amanda, my strata manager, tells me we're not a building that is over 100 lots. So this requirement to get more than one quote doesn't apply to us.

Short answer to that is that used to be the law. This requirement to get at least two quotes only applied to large buildings. It now applies to all owners corporations. That was the change in our December reforms that extended this requirement to all owners corporations. Lois is saying, should proposals, tenders and agreements be made to owners prior to the general meeting? Might be a missing word. They're Lois made available to owners prior to the general meeting.

Good question. I've previously given some advice on this when the law did only apply to large schemes and I was asked this question, does that mean we have to have two motions on the agenda? We've got to get the two quotes, but do we have to put the two motions on the agenda or can the committee decide its preferred contract? Put that motion on the agenda and the two quotes are simply available to owners if they want to go and cheque them out.

And my advice when I looked into this for what was then an owners corporation client, I said there's no requirement to put two motions on or to put both quotes forward. And for the owners to decide at a general meeting, the requirement is only to obtain the two quotes. The committee can do that. The committee can decide which it prefers or which it wants to recommend to owners.

But those at least two quotes do need to be on the owners corporation's records. And as I've talked about at length in our trust from transparency webinar a few weeks ago, owners are entitled to inspect those records and to be able to cheque, to see that two quotes were obtained and what that other quote said, what it was for. And if you're an informed owner, as I know and am happy to say and see, many of you who tune in here are you now know this.

So if you know that there is a project coming up, there is an item where you know it's going to be 50 grand expenditure, 100 grand expenditure. There's a million dollar remedial works project that's underway. You know about this requirement in section 102. You are the agenda's come out. You've only seen one option on the agenda, to appoint a contractor, to appoint a new manager. You can reach out to your strata manager, to your secretary, send an email saying, hey, I'm aware that we should have obtained at least two quotes for this particular item of expenditure.

Can I please have a copy of that other quote? Where is it, please? I know that I am entitled to look at that. Elizabeth is saying to that with quotes, is that seek a quote or obtain a quote. As my strata committee, who are onto every port there, is saying they sought quotes, but the company failed to submit. The emphasis is seek sort. So going back to those words in section 102, obtained.

So the word in 102 is an owners corporation must obtain at least two independent quotes. If the owners corporation is unable to comply with that, they can't obtain the two independent quotes. They have to add an item to the agenda of the next general meeting to note that they couldn't obtain the quotes or obtain the extra quote and the reasons why. So I hope that answers that one

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for you, Elizabeth.

All right, I. That is Susan and Peter's question answered. I'm glad that you could be here, Peter, to listen in for that one great question. You now have this resource for you here on the Facebook page. We put these videos inside our member video library as well. For anyone else who should ask this question in future now has this short discussion. Many of you put your questions forward.

Only one of them got chosen today. If you didn't get your question answered, if you're not Peter and Susan, the place to go to have your question answered by me is the your strata property online membership community inside our members Q and a forum. That's where I am answering your questions. I'm going to be jumping in there probably at this stage, be tomorrow afternoon will be the next time that I am in there answering questions for our members.

If you are not a member and you haven't been able to access our forum, don't panic. You can become a member. It's as easy as heading over to strata.membership.com. joining us, jumping in that forum, putting your question to me. I would love to hear what it is. I would love to help you out in strata. Thank you to the team for posting those links here in the comments.

I'm going to wrap up. I'm going to go and enjoy the Daintree rainforest. Spectacular. Spectacular sight that it is. I hope you two are doing something lovely this weekend. Enjoy and I will. What's happening next Friday? Think I'll be in the home studio next Friday. I will look forward to catching up with you again soon. Enjoy your weekend. Bye everyone.