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| OC Amendment Act – Governance and decision-making |
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# Changes to the governance of owners corporations (OCs)

## Water rights

Any water on the common property (excluding a waterway or bore) is considered part of the common property and may be collected and used by the OC.

## Common property

A lot owner must not repair, alter or maintain the common property, or a service in or relating to a lot that is for the benefit of more than one lot.

This does not apply if a lot owner has been expressly authorised by the OC to carry out the repairs and maintenance as an agent of the owners corporation.

## Membership size of committees

A committee of an OC must have between three and seven members, although it can resolve by ordinary resolution to have between seven and 12 members.

The chairperson or secretary must give notice in writing of the ballot to each member of the committee. Notices can be given electronically.

## Expanding the duties of members of committees and sub-committees

A member of a committee or sub-committee must act honestly and in good faith, exercise due care and diligence and act in the interests of the OC. They must not make improper use of their position to gain an advantage (directly or indirectly) for themselves or any other person.

## Supporting an OC’s duty to repair and maintain common property

An OC may authorise someone to enter a lot or building on a lot to carry out repairs, maintenance or other works. VCAT can make an order requiring a lot occupier to grant entry to the common property to someone authorised by an OC to carry out those works.

## Disposal of abandoned goods on common property

An OC may dispose of goods abandoned on the common property.

A notice of the OC’s intention must be in writing and include:

* the plan number and address of the OC
* a description of the goods
* an address where the goods may be collected
* a statement stating when the goods will be disposed of unless they are collected, and
* a statement that the OC will retain funds from the sale of disposed items to cover its costs.

The OC can notify the owner of the goods, if known, of its intention to dispose of them, in person, by leaving notice at the premises, or by post to the person’s last known address.

Before disposing of the goods, an OC may move them to a safe place if they block reasonable access to a lot or the common property, and it has made a reasonable attempt to alert the person who abandoned the goods of its intention to dispose of them.

An OC must not dispose of the goods if the owner and the OC are in dispute over them, and the OC has made an application to VCAT in relation to the dispute.

An OC that disposes of abandoned goods is not liable for them.

## Availability of records

If someone who is entitled to inspect records asks to see them, the OC must provide a copy, for a reasonable fee.

## Availability of register

A lot owner must not authorise a representative (such as a commercial agent) to request a copy of the register (or any part of it) for a commercial purpose, without prior consent from the OC.

## Power to commence legal proceedings

There are changes to an OC’s ability to initiate legal actions by applying different voting thresholds for actions in different courts. If a matter is within the civil jurisdictional limit of the Magistrates’ Court, an OC only requires an ordinary resolution to commence legal proceedings.

# Changes to decision-making in owners corporations

## Improving decision-making in OCs (in particular inactive OCs)

If a matter voted on at a general meeting requires a special resolution, but does meet those requirements, it is taken to be passed as an interim special resolution, if there is a quorum and there are no votes against the matter.

An OC manager may pass an interim resolution at a general meeting if no lot owner is present (whether in person or by proxy).

The manager must not pass an interim resolution that:

* affects their contract of appointment
* involves an amount greater than 10 per cent of the OC’s annual budget for the current or previous year.

An OC may, by ordinary resolution, exclude or alter the power of the manager to make an interim resolution.

## New voting clarifications and ‘proxy farming’ restrictions

Any votes cast in a ballot must be based on one vote for each lot for ordinary resolutions and one vote for each unit of lot entitlement for special and unanimous resolutions.

Voting can take place by a show of hands, a prescribed manner or as otherwise resolved at the meeting. However, if a lot owner requires that a poll be taken before or after the vote is taken for an ordinary resolution, then the vote is based on one vote for each unit of lot entitlement.  This does not apply to special or unanimous resolutions.

An ordinary resolution is passed if a simple majority of votes cast at the meeting are in favour of the resolution. If there is a deadlock, a Chairperson who is a lot owner or authorised to vote on behalf of a lot owner as a proxy, has a casting vote. The vote will be deemed not to have passed if the Chairperson does not exercise that right.

There is also a new restriction on proxy voting. A person must not vote as a proxy on a resolution at a meeting on behalf of more than one lot owner if there are 20 or less occupiable lots; or on behalf of more than 5 per cent of the lot owners if there are more than 20 occupiable lots.

These restrictions do not apply if the lot owners for whom the person is authorised to vote are members of the person’s family, or if other exceptions prescribed in the OC Regulations 2018 apply.