

## Response to options paper

### Overview

- My major reason for responding are the insurance “anomalies” to be addressed - Question 45
- The other questions I have addressed are based on some OC Committee experience
  - Personally I resonate to the unstated purpose of making liveable communities

### Individual Questions

Q #	Question - (poss shortened)	Response
1	What option do you support..features of that option most practical and cost effective way of improving the quality and conduct of owners corporation managers?	<p>My response is to recognise the great diversity, especially by size, of owners corporations. A licensing regime is appropriate for:-</p> <ul style="list-style-type: none"> <li>• Large Owners corporation managers - mandated</li> <li>• smaller OC’s unless the OC is managed by volunteer lot owners</li> </ul>
9	Under option 3A, if certain terms are to be prohibited as unfair what types of terms should be prohibited and what types of terms should not be prohibited and why?	<p>As the Act contains model rules then a “standard” contract could be part of the package. This would not prevent other contract terms but would make them “transparent”.</p> <p>Our previous OC contract (Strata standard now superseded) mandated that termination could only be done at an AGM leading to an unseemly, unpleasant changeover</p>

Q #	Question - (poss shortened)	Response
12	<p>Are the disclosure requirements proposed under Option 4A sufficient to address potential conflicts of interest for managers and, if not, what other measures are required?</p>	<p>As this is better than what is mandated now this is a step in the right direction.</p> <p>e.g. Our new OC Manager put us in touch with an insurance agent (some unknown connection) who demanded exclusivity before acting thus shutting out competitive offers.</p>
13	<p>Is Option 4B sufficient to address the issues arising from the pooling of funds, or is the extra level of regulation under Option 4C required, and if so, why?</p>	<p>Nearly so - restrict the pooling to “pooling of funds in a statutory trust account held by a legal practitioner, licensed estate agent or licensed conveyancer.”</p> <p>That way there is no need to set up a process that has additional costs to the community.</p>
18	<p>If it is desirable to expand the rule-making power to include rules on smoke drift, renovations and access to common property:</p> <p>(a) should Model Rules also be made on those subjects, and if so</p> <p>(b) are the proposed Model Rules based on reasonable presumptions about what most lot owners in owners corporation would regard as unobjectionable, and are they adequate?</p>	<p>This is a well intentioned and near impossible to resolve. The reason being the range of OC’s from hundreds of free standing residences to Towers, to three unit town houses etc.</p> <p>The power to make rules is important, and model rules need to be able to have “universal” applicability.</p>

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22	<p>Is it sufficient simply to expand on the existing duties of committee members to address the issue raised, or is a complete reformulation of committee members' duties, along the line of the Associations Incorporation Reform Act, necessary, and if so, why?</p>	<p>“If an office holder makes a business decision in relation to the operation of the association they must, among other things:</p> <ul style="list-style-type: none"> <li>• make the decision in the best interests of the association, and</li> <li>• not have a personal interest in the decision.”</li> </ul> <p>Difficult as the OC c'tee and office bearers are lot owners (or their proxies) they have a personal interest in any decision. That interest needs to be obvious and acknowledged.</p> <p>“exercise their powers and discharge their duties in good faith <b>in the best interests of the association</b>, and for a proper purpose” being able to point to the best interests .. in their actions is critical.</p>

Q #	Question - (poss shortened)	Response
23	<p>What risks or unintended consequences might arise with options 8A, 8B and 8C, which propose extending the powers of owners corporations to deal with community building, water rights and abandoned goods?</p>	<p>Response is confined to “Water Rights”. Our OC has as its common property a key piece of broader community infrastructure, that is a series of lakes integral to the storm water management of the wider community and to the environmental support of RAMSAR wetlands.</p> <p>The developer (and ongoing owner of a lot) has foisted on the community (the existence of the common property via rules) a obligation to maintain, denoied access to the common property as it is an integral part of the Golf Course design and given himself a “99 year” right to draw water, The licence for this may not exist.</p> <p>“Under this option, the definition of ‘common property’ in the Owners Corporations Act would be amended to include water that falls, occurs or flows on common property, and the Act would be further amended to permit owners corporations to deal with water rights as with any other type of personal property.” <b>Ideally with retrospective effect!</b></p>
29	<p>Is further relaxation of the special resolution process required for inactive owners corporations and, if so, which alternative under Option 9C is preferable and why?</p>	<p>Yes - an interim status requiring no objection is too onerous, interim status based on 50% or more affirmative and less than 25% negative in the absence of a quorum would assist in taking the special resolution out of the domain of too hard, love with rules that are “garbage” and loose interest. Interim status provides the necessary protection against abuse of power.</p>

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30	<p>Under this option, the maximum size of committees would be seven members but with provision for owners corporations to resolve on a larger committee, up to 12 members.</p> <p>Under this option, the chair or secretary of a committee would be permitted to arrange a ballot of the committee</p>	<p>As the state is up to it power should be left for the OC to restrict its size, alternatively a “sliding scale” based on number of lots - 12 is not too many in a 600 plus lot OC.</p> <p>Formalising the committee ballot process, and expediting with e-mail option is worthwhile. However any committee member should be able to force an issue to a ballot.</p>
31	<p>How well do options 11A and 11B address the issues raised about the role of owners corporations in dispute resolution and the procedures under Model Rule 6?</p>	<p>11 A should be confined to “routine” debt collection, all other issues benefit from sitting down to talk through</p> <p>11 B - 14 days is enough to get together, perhaps permit “Skype” hook up.</p> <p>Grievance committee is unnecessary - our OC wants the disputes process handled by OC manager, not burdening committee members, who have a governance role. Delegation to OC manager is adequate. Speed, communication, and transparency are the essence of the process</p>
34	<p>Which option, and why, best balances the need for owners corporations to be able to commence legal actions with protection for those lot owners opposed to an action?</p>	<p>13 C is a touch of sanity, get disputes “decided by a competent legal body” and minimise the risk of fee feasts for the legal profession. The ability to start a proceeding on an ordinary resolution needs to be included in the delegation to the committee (perhaps excluded from delegation to the OC Manager)</p>

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45	What would be the cost of increasing the minimum public liability insurance amount to \$20, \$30 and \$50 million?	<p>The critical part in option 16 A is <b>“correct anomalies concerning plans of subdivision that contain separate buildings ”</b></p> <p>16 B “levy lot owners with excesses payable on claims and on increased premiums resulting from claims, where the claim arose from the culpable or wilful act or the gross negligence of a lot owner, their lessees or guests ” - Would this not be better handled in Model rule prohibiting “dangerous” actions and having VCAT make orders to recover the consequences. Ideally the dangerous action would have been stopped by the disputes process.</p>
53	What, if any, risks arise from removing the requirement for owners corporations to have and use a common seal?	Retain seal till a committee is elected