



Submitting motions for a body corporate meeting

This factsheet provides information for submitting motions to a general meeting of the body corporate under the *Body Corporate and Community Management Act 1997* (the Act) and the *Body Corporate and Community Management (Standard Module) Regulation 2008* (the Standard Module).

Who makes body corporate decisions?

There are two ways in which the body corporate can make decisions:

- most day-to-day decisions can be made by the committee
- more significant decisions need to be made by the lot owners in the scheme voting at a general meeting.

Once a decision has been made, the committee is generally responsible for making sure the decision is put into effect.

Who cannot make body corporate decisions?

The following parties cannot make body corporate decisions:

- individual committee members (for example, the chairperson acting without the authority of a majority resolution of the committee)
- body corporate managers (unless appointed under Chapter 3 Part 5 of the Standard Module (see Body corporate elections factsheet for further information)), or
- resident managers.

How are decisions made?

1. At committee meetings

A lot owner may submit a request or motion in writing for consideration by the committee.

At a committee meeting a motion is passed if the majority of voting members present and entitled to vote are in favour of the motion.

The committee can deal with most day-to-day issues such as authorising minor maintenance or giving approvals in relation to by-laws.

However, there are restrictions on the types of matters that the committee can decide. For example, under the Standard Module the committee cannot make decisions that involve spending more than \$200 per lot or another amount previously set by an ordinary resolution of the body corporate.

If the committee cannot or does not make a decision on the lot owner's motion, the lot owner can present their proposal as a motion for the body corporate to vote on at a general meeting.

For more information about committee meetings and restricted issues see the *Role of the committee* factsheet on the BCCM Office website.

2. At general meetings

All lot owners have the right to submit motions. If a motion is submitted, it must be included on the agenda of the next general meeting on which the body corporate is able to include the motion.

Lot owners in a general meeting may vote on a motion only if it is included as an item of business on the agenda and is stated in the voting papers accompanying the notice of the meeting.

Depending on the outcome sought, the motion must be passed by an ordinary resolution, special resolution, resolution without dissent or majority resolution.

For more information on meeting procedures and resolutions see the *General meetings* factsheet.

Drafting a motion

Motions must be carefully written so that owners can respond with a simple yes or no vote.

The action the committee is expected to take to implement the resolution should be clearly set out in the motion.

For example, instead of proposing that '*the committee investigate ways of fixing the roof*', you should propose that owners '*accept the attached quotation from AAA Engineers to report on alternative methods and costings for fixing the roof*'.

Motions you put forward should follow the CLEAR guidelines: Concise, Legal, Economic, Action-based and Realistic.

1. Concise — Are you clearly and concisely proposing what should happen so the committee can implement the proposal without the need for any further decisions?
2. Legal — Does this type of proposal have to meet any special legal requirements under the body corporate legislation or any other legislation (for example, building regulations)?
3. Economic — Does the motion approve the necessary funds? Are the funds available in the budget or will a special levy be required? Instead of submitting just one motion, should two quotations and two alternative motions be submitted?
4. Action-based — Is there a clear action to be taken? Is a time frame specified?
5. Realistic — Is the proposed action achievable? Is it something that other owners are likely to support?

Examples of motions for consideration

Example 1: The roof is leaking and must be fixed.

The following is an example of an unsatisfactory motion submitted by a lot owner. It does not put forward a solution or propose who will fix the roof and how. Also, it does not state where the money to fix the roof will come from.

Leaking Roof: That the committee fix the waterproofing membrane because it is leaking into units 4, 5 and 6.

The regulations provide that the person proposing the motion must obtain at least two quotations when proposing any significant spending by the body corporate. All quotations should then be submitted as separate motions with all relevant details.

Following are good examples of motions that should be submitted. (Note that the higher quotation requires a special levy to be raised to supplement budgeted funds.)

Leaking Roof — ABC Quotation: That the body corporate accept the attached quotation to engage ABC Engineering to replace the waterproofing membrane above units 4, 5 and 6 at a cost of \$3999. This quotation needs to be accepted by 5 December so that ABC Engineering can complete the work by February next year.

The work is to be paid for from the \$4000 available in the sinking fund for roof repairs. As stated in the quotation, the work will be guaranteed for three years.

Leaking Roof — XYZ Quotation: That the body corporate accept the attached quotation to engage XYZ Engineering to replace the waterproofing membrane above units 4, 5 and 6 at a cost of \$4550. This quotation needs to be accepted by 30 November so that XYZ Engineering can complete the work by Christmas.

The work is to be paid for from the \$4000 available in the sinking fund for roof repairs with an additional special levy of \$550 to be paid by 15 December. As stated in the quotation, the work will be guaranteed for ten years.

If these motions were submitted the secretary would prepare a voting paper with a single motion proposing repair of the roof and each quotation listed as an alternative. Owners would then vote for their preferred quotation by firstly voting in favour of the motion and then selecting their preferred alternative.

Example 2: The owner of Lot 5 wants body corporate permission to build a pergola.

The following is an example of an unsatisfactory motion. It is unlikely owners will pass this motion as there is not enough information for them to assess the proposal.

It also fails to address technical issues of whether the body corporate legislation requires a special resolution and whether any local government requirements for certification or council approval apply.

Permission to build pergola: That the body corporate grant the owner of lot 5 permission to build a pergola in front of their lot.

The motion should be drafted so that it specifies all the information owners are likely to consider relevant.

The owner of lot 5 should firstly discuss the proposal with the committee and neighbouring owners to see if there is a good chance the proposal will be approved before any additional time and money is invested into the proposal.

Informal discussions with other owners may assist in the subsequent drafting of the motion so that it addresses any concerns or questions raised.

A good example of the motion, which includes all the relevant details, is as follows:

Permission to build pergola (special resolution): *That the body corporate grants the owner of lot 5 permission to build a 1 metre (m) wide, 2.2 m long, 1.8m high pergola on the exclusive use lawn in front of their lounge room. Permission is granted subject to:*

- the owners of lot 5 gaining all necessary local council approvals
- the pergola being built as shown in the attached drawing and plan
- the pergola being painted heritage green to match the building trim
- the owners of lot 5 being responsible for maintaining the pergola and
- this approval being recorded in the register of improvements made to the common property for the benefit of a lot.

Summary

- Most day to day decisions can be made by the committee.
- More significant decisions are made by the lot owners at a general meeting.

Motions should be drafted so that owners can respond with a simple yes or no vote and then easily implemented without any additional decisions.

Check that the motion is CLEAR:

- Concise
- Legal
- Economic
- Action-based
- Realistic.

A good tip is to start preparing your motion well before the deadline for submitting motions to the secretary. This will give you time to talk to committee members and the body corporate manager about your motion and to obtain any necessary quotations.

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

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Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council by visiting:

www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm

Copies can be purchased online by visiting

www.bookshop.qld.gov.au, or by contacting SDS Customer Service by phoning (07) 3883 8700 or 1800 801 123.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.

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