

The Tricky Stuff

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The Tricky Stuff - Agenda:

- 1. Calling for Committee nominations and Owners motions**
 - Best Practice - Dealing with non-compliant submissions
- 2. Committee Elections and Secret ballot motion requirements**
 - When to engage a returning officer
- 3. Amending AGM motions**
 - How to record the meeting minutes
- 4. Ruling AGM motions out of order**
 - How to record the meeting minutes

Calling for Committee nominations and owners motions

- **Committee nominations:**
 - Notice to each owner 3 to 6 weeks Before Financial Year End
- **Notice must include:**
 - Owners right of nomination, clearly inviting nominations
 - Owner/Person nominated not eligible for election if a debt is owed at the AGM
- **Owner Motions:**
 - Must be invited at the same time as inviting nominations

Best Practice - Dealing with non-compliant Nominations

- **Committee nominations:**

- State additional requirements for compliant nominations on the notice
- Must be acknowledge when received – confirm compliance/non-compliance when acknowledging

- **Compliant Nominations:**

- <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/committees-meetings/form-change-committee/eligibility>

Best Practice - Dealing with non-compliant Motions

- **Owner Motions:**

- State requirements for compliant motions on the invitation
- Not required to be acknowledged – but....
- Keep Committee informed and seek instructions to respond

- **Compliant Submissions:**

- <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/committees-meetings/general-meetings/submitting-motions>
- <https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/committees-meetings/general-meetings/drafting-motions>

Committee Elections

- **Committee Elections:**

- **Module stipulates how chosen**
- **SM: Secret ballot by default unless ordinary resolution for open or special resolution for another way....must be fair and reasonable**
- **Ballot required when more nominations than positions, separate for executive positions and together for ordinary positions**
- **Last item of on the AGM agenda**

- **Election Process:**

- **<https://www.qld.gov.au/law/housing-and-neighbours/body-corporate/committees-meetings/form-change-committee/electing-committee/standard-module>**

Secret ballot motion requirements

- **Secret Ballot Motions:**

- **Act and Modules stipulate motions requiring secret ballot**
- **Committee can recommend motion decided by secret ballot**
- **Ordinary Resolution can require motion decided by secret ballot**
- **Poll vote not permitted**

- **Ballot Process:**

- <https://www.smartstrata.com/commissioners-corner-secret-ballots-explained/>

When to engage a returning officer

- **Returning Office Required:**
 - When a motion is decided by secret ballot
 - May be appointed for any other general meeting
 - Cannot be a lot owner, body corporate manager or associate of either
- **Duties (any or all when appointed):**
 - Decide eligibility, entitlements, receive secret voting papers, count or inspect counting of votes and decide if vote is valid
 - <https://www.smartstrata.com/returning-officers/>

Amending AGM motions

- **Amendment Eligibility:**
 - Present and have the right to vote
 - Cannot change the subject matter of the motion
 - Must use the same resolution type to amend
- **Amendment Process:**
 - Procedural motion submitted at the meeting to amend a particular motion (new motion)
 - Votes cast by voters present (can be present by proxy)
 - Votes by voting paper on the motion counted against amendment

Amending motions - How to record the meeting minutes

Full and Accurate Minutes:

- The words of the motions voted upon
- Votes for, against and any abstentions

Example

- **The following motion was read to the meeting:**
 - That by ordinary resolution, the minutes of the previous general meeting held on 25 December 2017 be adopted as a true record of that meeting.
- **The following motion to amend a motion was read to the meeting:**
 - That by ordinary resolution, the body corporate amend motion 1 confirmation of minutes, to reflect the meeting held on 25 December 2018.
- **The following amended motion was read to the meeting:**
 - That by ordinary resolution, the minutes of the previous general meeting held on 25 December 2018 be adopted as a true record of that meeting.

Ruling AGM motions out of order

- **Ruling Requirements – The Chairperson Must when:**
 - **Conflicts with the Act, regulations, by-laws or a motion already voted on**
 - **Be unlawful or unenforceable**
 - **The substance of the motion was not included in the agenda (except procedural or a motion to correct minutes)**
- **Ruling Process:**
 - **Give reason for the ruling**
 - **State how the ruling may be reversed, unless due to substance missing**
 - **Voters present can reverse ruling by ordinary resolution disagreeing**

Motions out of order - How to record the meeting minutes

Full and Accurate Minutes:

- The words of the motions voted upon
- Reason/s for the ruling
- Votes for, against and any abstentions

Example

- **The following motion was read to the meeting:**
 - **That by ordinary resolution, the caretaker is provided access to enter all lots at any times**
- **The chairperson ruled the motion out of order for the reason that if carried, the motion would conflict with the Act and Regulation which requires compliance with entry to lot notice and process.**
- **The following procedural motion was read to the meeting:**
 - **That by ordinary resolution, the chairperson ruling be reversed.**

Questions and Further Contact

For more information on this session please contact:

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