



Department of
Building and Housing
Te Tari Kaupapa Whare

Regulations to Support the Unit Titles Act 2010

Summary of Submissions Report

June 2010



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Background

On 1 April 2010 the Unit Titles Act 2010 was passed by Parliament. Before the Act can come into force, regulations are required to support some of the main provisions in the Act.

In April 2010 a discussion document, *Discussion paper on regulations to support the Unit Titles Act 2010*, was released for public consultation. The discussion document outlined proposals for required regulations and possible regulations to support the Unit Titles Act 2010. In particular, public opinion was sought on two key questions:

- **what the details should be** where certain matters need to be described in regulations (e.g. body corporate rules, disclosure, body corporate meetings)
- **whether regulation or consumer guidance is more appropriate** in other cases (e.g. long-term maintenance, additional governance requirements).

Public consultation closed on 10 June 2010. The discussion document is still available to read on the Department of Building and Housing website.

A total of 73 submissions to the discussion paper were received. The submissions were very informative and reflected a wealth of knowledge and experience.

A wide range of people made submissions, including unit owners, bodies corporate, body corporate managers and developers. A number of submissions were also made by professional institutions such as the New Zealand Law Society, the New Zealand Institute of Surveyors, the New Zealand Institute of Building Surveyors and Home Owners and Buyers Association of New Zealand.

This report summarises the wide range of opinions presented and the relative importance of each issue.

The submissions will be used to formulate decisions on what will be covered in the regulations. The issues raised in the submissions will also be used in developing the finer detail of the proposals that were outlined in the discussion document, and will inform government decision-making.

This report does not reflect the views of the Department of Building and Housing and does not represent official government policy.

The Department of Building and Housing would like to thank all submitters for their contributions.

Executive Summary

Governance structures

This section of the discussion document dealt with proposals where regulations were required to provide governance arrangements for bodies corporate, including:

- the register of unit owners
- election of the body corporate chairperson
- body corporate meetings
- body corporate committee reporting.

Overall, there was wide support for proposals for regulations in this section. Many submitters made additional comments and suggestions for improvements.

Some of the key issues that arose in this section were:

- register of unit owners – submissions raised the issue of privacy for unit owners versus the ability of unit owners to have access to the contact details of other owners so they could freely communicate with them over body corporate matters
- election of chairperson – many submitters strongly favoured clearer eligibility criteria for who could be elected chairperson
- body corporate meetings – submissions showed divergence over the proposed notice periods. Some submissions thought the period should be shorter, others longer and many thought a different notice period should apply to emergency meetings
- committee reporting – submissions were primarily concerned with compliance costs. Suggestions for lowering compliance costs included having some documents available for inspection only or non-disclosure of committee meeting minutes.

Management and maintenance

This section of the discussion document dealt with proposals for default body corporate operational rules.

A majority of submitters agreed with the proposals on default body corporate operational rules, with many submitters providing comments on additions to the lists.

The key issue raised by submitters was that there needed to be clarity in how the default rules provided in regulations could be amended by bodies corporate to suit the individual characteristics of their development.

Financial statements

This section of the discussion document dealt with proposals for the contents of financial statements to be prepared and disseminated by the body corporate.

A majority of submitters agreed with the proposals on financial statements, although there was some divergence over certain issues.

The key issues raised by submitters include:

- whether the benefits in disclosing the proposed financial information outweighed the costs that might be incurred

- whether regulations should prescribe that information be made available for inspection as a way to reduce compliance costs.

Disclosure requirements

This section of the discussion document dealt with proposals for the content of disclosure statements prescribed under the Unit Titles Act 2010.

A majority of submitters agreed with the proposals on disclosure statements.

A key issue for submitters was whether the lists provided the right information at the right time in the sale and purchase process. Submitters thought that regulations and template statements would be a useful way to provide more clarity about what must be disclosed and when it should be disclosed.

Long-term maintenance plans

This section of the discussion document dealt with proposals for potential regulations detailing what should be included in a long-term maintenance plans. Submitters were asked whether regulations or consumer guidance was the best way to support unit owners and bodies corporate in establishing long-term maintenance plans.

There was significant debate in submissions over whether any regulations should be made for long-term maintenance plans.

The key issue raised by submitters was that bodies corporate wanted flexibility to make their own decisions, but with some certainty to provide support for those bodies corporate who wanted to make their own long-term maintenance plans.

Body corporate management

This section of the discussion document dealt with proposals for potential regulations about a range of body corporate management matters, including:

- election and duties of chairperson
- subsidiary body corporate representative for layered developments
- quorum requirements and voting at body corporate meetings
- body corporate funds.

Overall, there was support for regulating most of the proposals in this section – in many cases to provide clarity and certainty for unit owners and bodies corporate.

Some of the key issues in this section include:

- election and duties of chairperson – submissions showed support for more clarity over who is eligible to be the chairperson and more detail over what their duties are
- subsidiary body corporate representative – submissions thought regulations should provide more clarity over who is eligible to the representative
- quorum and voting – submissions strongly supported more flexibility in rescheduling meetings
- body corporate funds – submissions thought spending limits should be imposed but did not agree a dollar amount cap was the best way to do this.

Body corporate committees

This section of the discussion document dealt with proposals for potential regulations about body corporate committees, including:

- delegation of body corporate duties or powers to a committee
- election of the committee and the chair of the body corporate committee
- body corporate committee meetings.

Overall, there was support for regulating many of the proposals.

Some of the key issues raised in this section include:

- delegation to a committee – many submissions thought there should be more clarity over the duties of the body corporate chair and the committee chair, including whether they should be the same person
- election of the committee and chair – submissions did not support having to call a body corporate meeting for replacing committee members and made suggestions for alternatives
- body corporate meetings – many submissions thought there should be more flexibility in the frequency of committee meetings and that this could be left to the committee

Section 1 – Governance structures

Register of unit owners *(P1-P3 in the discussion document)*

P 1: The content of the register must include:

- full name of every unit owner
- unit number
- address for service for every unit owner
- contact details (phone number, email, fax with preferred contact method identified)
- ownership interest and utility interest.

P 2: Restrict the use of the register to access unit owners' details to:

- advise of body corporate meetings
- advise of resolutions of the body corporate
- serve documents on unit owners
- advise of other important matters connected to the body corporate and the development.

P 3: Only the chairperson of the body corporate committee or an individual approved by the body corporate can access the register.

Questions *(Q1-Q3 in the discussion document)*

Submitters were asked whether they agreed with the proposals, what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

The majority of responses agreed with the proposals regarding the content of, and access to the register of owners.

Of 73 submissions:

- 30 submitters agreed
- 8 disagreed
- 23 did not comment on this section
- 12 made suggestions and raised other issues.

There were several salient issues raised by submitters.

- The point was raised that representatives of owners should also be included of the register of owners. This would include members of trusts, companies and agents of owners who were based overseas.
- There was some discussion around whether there should be an obligation to update details on the register, with one submitter favouring an annual update.
- Many submitters strongly favoured having unrestricted access for owners and their representatives to the register. A common reason was in order for owners to be able to communicate information to one another, though some submitters favoured restricting access to the register in order for not to be used to harass others or for improper purposes.

Election of chairperson *(P4-P6 in the discussion document)*

P 4: Any unit owner may nominate any eligible person to be the chairperson. The nominee for chairperson must agree to the nomination.

P 5: The body corporate must decide who runs the election process (collecting the nominations, advising vote collecting and counting) by ordinary resolution. This person must not be a nominee, nominator or the incumbent chairperson.

P 6: The body corporate must decide whether the voting is by secret or open ballot by ordinary resolution.

Questions *(Q4-Q6 in the discussion document)*

Submitters were asked whether they agreed with the proposals, what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

The proposed process for electing a chairperson was supported by the majority of submitters.

Of 73 submissions:

- 25 submitters agreed
- 4 disagreed
- 27 did not comment on these questions
- 17 made suggestions and raised other issues.

There were several notable issues raised by submitters.

- Many submitters thought the eligibility criteria for being a chairperson should be clarified, with many suggesting this should only be a unit owner.
- Another point raised by many was that more processes needed to be regulated for different circumstances arising – for example, a process for dismissing a chair before the annual general meeting or a process for electing a chairperson before the annual general meeting if the incumbent sold their unit.
- A minority of submitters thought the term length of the chairperson should be longer.
- Several submitters thought there should be no secret voting.

Body corporate meetings *(P7-P10 in the discussion document)*

P 7: The chairperson of the body corporate must give a minimum of 21 days' notice of a meeting to all unit owners by their preferred contact method (which is noted on the register, see section 1.1).

P 8: A parent body corporate in a layered development must give 28 days' notice to the chairperson or nominated representative of their subsidiary bodies corporate of any general meeting.

P 9: The following information must accompany a notice of a general meeting:

- an agenda including any matters that unit owners will vote on at the meeting
- postal voting papers

- proxy voting forms
- any documents necessary for a unit owner to vote on any resolution proposed at the meeting (for example, quotes for spending, audit reports, details of proposed contracts).

P 10: Unit owners can submit agenda items for the annual general meeting by sending them to the chairperson. Unit owners must submit any agenda items at least four weeks before the annual general meeting takes place.

Questions *(Q7-Q9 in the discussion document)*

Submitters were asked whether they agreed with the proposals, what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

The majority of submitters agreed with the proposals for meetings, but requested more clarification around some aspects.

Of 73 submissions:

- 23 submitters agreed
- 8 disagreed
- 25 did not comment on these questions
- 17 made suggestions and raised other issues.

There were several salient issues raised by submitters.

- Although many agreed with the proposals for body corporate meetings, there was some divergence over the notice period. The number of submitters who thought the notice period should be shorter was more or less equal with those who thought it was just long enough.
- Many submitters thought there should be an ability for meetings to be called at short notice to deal with matters of emergency.
- A number of submitters thought an extra notice be sent out calling for agenda items, prior to the notice of the meeting.

Body corporate committee reporting *(P11-P13 in the discussion document)*

P 11: The body corporate committee must report to the body corporate at least once a year at the annual general meeting. The body corporate must decide on the reporting period for the next yearly report at each annual general meeting.

P 12: The committee may report more often, either at a general meeting or by other means (such as a regular newsletter), as agreed by ordinary resolution. The body corporate may, in addition, require further reporting by written request.

P 13: The matters contained in the annual report should include:

- all matters delegated to the body corporate committee during that year
- financial information (such as expenditure, auditing, investment performance) relating to matters delegated to the body corporate committee

- property information (such as repairs and maintenance issues) relating to matters delegated to the body corporate committee
- governance and administration (such as whether any members' terms are due to expire)
- contracts (new contracts and contracts up for renewal) relating to matters delegated to the body corporate committee
- copies of minutes of all body corporate committee meetings.

Questions *(Q10-Q12 in the discussion document)*

Submitters were asked whether they agreed with the proposals, what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

Many submitters agreed in principle with the proposals on body corporate committee reporting and made a number of suggestions for improvements.

Of 73 submissions:

- 24 submitters agreed
- 9 disagreed
- 27 did not comment on these questions
- 13 made suggestions and raised other issues

There were several salient issues raised by submitters.

- Some submitters thought having to report too frequently would incur compliance costs that outweighed the benefit of unit owners having information. Many of these submitters thought providing access to documents would suffice.
- Many submitters thought body corporate committee meeting minutes should not be disclosed – both because this would be a very large amount of documentation, but also because of confidentiality reasons.

Section 2 – Management and maintenance

Body corporate operational rules *(P14-P16 in the discussion document)*

P 14: Regulations prescribe operational rules for the following matters for all unit title developments, where applicable:

Pets
A unit owner or occupier must not, without the body corporate's written consent: <ul style="list-style-type: none">○ bring or keep an animal in the unit or the common property; or○ permit an invitee to bring or keep an animal in the unit or common property.
An exception to this rule is any person who relies on a guide, hearing or assistance dog and has the right to be in a unit or on common property.
Car parking (residential only)
A unit owner or occupier must only park in their designated parking area or designated part of the common property.
Unit owners or occupiers must keep their car parking areas tidy and free of litter and not used for storage. Other than minor maintenance work, unit owners or occupiers cannot carry out any repair work on any motor vehicle located in the development.
A unit owner or occupier must not <ul style="list-style-type: none">○ park a vehicle, or allow a vehicle to stand, on any part of the common property without the written consent of the body corporate; or○ permit an invitee to park a vehicle on common property, other than in a regulated parking area.
Consent to park on common property must state the period for which it is valid.
The body corporate may cancel the consent by giving seven days' written notice to the occupier.
Washing lines
A unit owner or occupier shall not erect or fix any washing lines, poles, or other attachments without the written consent of the body corporate. They must not hang any clothes, washing or other items outside the unit or on any common property.
Use of common property and facilities
A unit owner or occupier must not obstruct the lawful use of the common property by another person.
A unit owner or occupier must not, without the body corporate's written consent, mark, paint, drive nails, screws or other objects into, or otherwise damage or deface a structure that forms part of the common property.
A unit owner or occupier must not erect outside wireless, television aerials, satellite dishes or antenna without the consent of the body corporate (which shall not unreasonably be withheld).

Rubbish and recycling collection
A unit owner or occupier must not leave rubbish or other materials on the common property in a way or place likely to interfere with the enjoyment of the common property by someone else.
Unless the body corporate provides some other way of rubbish disposal, a unit owner or occupier must keep a rubbish receptacle clean and covered in the unit grounds or the designated area of common property.
In disposing of rubbish, a unit owner or occupier must ensure that they do not adversely affect the health, hygiene or comfort of occupiers of the unit title development.
External appearance
A unit owner or occupier must not, without the body corporate's written consent, change the external appearance of the unit.
Noise
A unit owner or occupier must not create noise likely to interfere with the quiet enjoyment of a person lawfully in the development or on the common property.
A unit owner or occupier must take reasonable steps to ensure their invitees do not behave in a way likely to interfere with the quiet enjoyment of another unit or the common property.
Lawns and gardens
A unit owner or occupier must not, without the body corporate's written consent: <ul style="list-style-type: none"> o damage a lawn, garden, tree, shrub, plant or flower on the common property; or o use a part of the common property as a garden.
Consent must state the period for which it is valid.
The body corporate may cancel the consent by giving seven days' written notice to the unit owner or occupier.

P 15: Regulations prescribe operational rules for the following matters for commercial unit title developments where applicable:

Hours of business
A unit owner or occupier must only operate a business within the timeframes specified by the body corporate or body corporate committee. The body corporate may not restrict hours of business to less than what would be permitted under the relevant local council's district plan.
Cleaning windows and doors
A unit owner or occupier must keep clean all exterior surfaces of glass in windows and doors on the boundary of their unit.
Notification of change in use of unit

A unit owner or occupier must not change the use of a unit in a way that may affect the insurance premiums for the development without the written consent of the body corporate.
Car parking (commercial only)
A unit owner or occupier must ensure that they clearly mark any parking spaces designated solely for their staff or customers' use.
Signage
A unit owner or occupier must ensure they display any signage in a way that does not obstruct or interfere with the use of any other unit or the common property. Unit owners or occupiers must only display temporary signage (for example, sandwich boards) during the permitted opening hours of the unit's business.

P 16: Any amendment, revocation or addition to body corporate operational rules must be made in the prescribed form.

Summary of responses

The majority of submitters agreed with the proposals on body corporate operational rules.

Of 73 submissions:

- 26 submitters agreed
- 6 disagreed
- 29 did not comment on these questions
- 12 made suggestions and raised other issues.

There were several salient issues raised by submitters.

- Clarity was needed over the purpose of default body corporate operational rules and how the default rules could be amended to suit the individual characteristics of bodies corporate
- Where bodies corporate could give consent to certain actions that consent should not be unreasonably withheld
- More standard rules should be added, especially those relating to odour, security and dangerous materials.

Section 3 – Financial statements

Financial statements *(P17 in the discussion document)*

P 17: The financial statements include:

- an itemised statement of income and expenditure for the most recent financial year
- the balance of each of the operating account, long term maintenance fund (if any), optional contingency fund (if any), and the optional capital improvement fund (if any) and their corresponding bank account(s) as at the end of the financial year
- any outstanding debt owed by the body corporate and to whom
- any outstanding credit due to the body corporate
- the assets and liabilities of the body corporate as at the end of the financial year.

Questions *(Q10-Q12 in the discussion document)*

Submitters were asked whether they agreed with the proposals, what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

Many submitters agreed with the proposals for the content of body corporate financial statements.

Of 73 submissions:

- 22 submitters agreed
- 6 disagreed
- 33 did not comment on these questions
- 12 made suggestions and raised other issues.

There were several salient issues raised by submitters.

- Submissions overall showed some divergence of the cost versus the benefit of disclosing. Some submitters thought the amount of disclosure would be too costly for relatively little benefit; others thought the disclosure was about right, with some going further to say all details (down to individual receipts and invoices) should be disclosed.
- Some submitters suggested a good way to reduce costs would be to make detailed financial records available for inspection.
- Many submitters thought those who had not paid their levies should be identified on the statements sent out to body corporate members.

Section 4 – Disclosure requirements

Disclosure requirements *(P18-P23 in the discussion document)*

P 18: The pre-contact disclosure statement will be a list of relevant documents publicly available, with a short description of the significance of the documents. These could include, where applicable:

- computer registers (formerly certificates of title)
- unit plans, including stage unit plans and proposed unit plans
- ownership and utility interests
- body corporate operational rules
- any easements or other restrictions affecting the title
- Land Information Memorandum (and other information including subdivision consents, land use consents and building consents)
- claims settled or currently with the Weathertight Homes Resolution Service.

P 19: The pre-contract disclosure statement must include a list of documents included in the pre-settlement disclosure (see section 4.2) and a list of documents available for additional disclosure.

P 20: The pre-contract disclosure statement must include general information about unit title developments to help buyers understand how unit titles and common property work, and the role and significance of the body corporate.

P 21: The pre-settlement disclosure statement must include, where applicable:

- any contribution the body corporate requires the unit owner to pay to the body corporate in respect to the unit(s) being sold and for what period
- the manner and time of payment for those contributions
- whether the contribution relating to the unit(s) being sold has been paid
- any amount of the contribution that is outstanding
- whether there are any unpaid metered charges in respect to unit(s) being sold
- whether the body corporate has entered any contract for repair or maintenance which the owner of the unit(s) being sold will incur a levy to meet those costs
- the rate at which interest is accruing on any money owing to the body corporate
- whether the body corporate has received notice that any court or tribunal proceedings involving the body corporate are pending
- the body corporate operational rules
- the long-term maintenance plan.

P 22: If requested, the seller must provide the buyer with (where applicable):

- balances of all funds or bank accounts operated by the body corporate
- accounts of body corporate
- recorded minutes of body corporate general meetings (if any)
- all body corporate insurance details
- key details of contracts between body corporate and committee
- ground lease details (if applicable)
- contact details for body corporate and the body corporate committee.

P 23: The turnover disclosure statement must include:

- as-built building plans and specifications
- asset schedules
- code compliance certificates
- any recommended maintenance schedules of construction materials and infrastructure from manufacturers or installers
- warranty and guarantee details for products used in the construction of the unit title development
- fire evacuation plans
- building warrant of fitness
- existing and proposed maintenance and service contracts, including contractors' contact details
- any direct or indirect interest the original owner or any associate of the original owner has in any contract or arrangement
- the date the control period ends (that is, the date from which the original owner or the associate of the original owner no longer exercises 75% of the votes of the body corporate according to:
 - unit ownership or ownership interest in the units
 - the number of proxy votes held by the original owner or the associate of the original owner
 - whether the unit owners have contractual obligations to the original owner or the associate of the original owner to vote in a particular way).

Questions *(Q21-Q23 in the discussion document)*

Submitters were asked whether they agreed with the proposals, what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

Many submitters agreed with the proposals for the content of disclosure statements.

Of 73 submissions:

- 20 submitters agreed
- 5 disagreed
- 29 did not comment on these questions
- 19 made suggestions and raised other issues.

Submitters raised several salient points:

- Some submitters queried whether the lists provided the right documents at the right stage of the sale and purchase process. Many people wanted information about the development upfront, so they could make a good purchasing decision.
- Many submitters thought the Department could provide a pre-contract disclosure statement template.
- Many people wanted clarity in who would provide or certify the information in the pre-settlement disclosure statement.

Section 5 – Long-term maintenance plans

Long-term maintenance plan *(P24 of the discussion document)*

P 24: Regulations could prescribe the components of the long-term maintenance plan, for example:

- an asset register – a stock take of buildings and materials
- review periods
- itemised list of building elements or infrastructure, such as:
 - exterior cladding – materials used, washing, painting, repair and replacement
 - paint colours
 - roof – including spouting repair and replacement
 - foundations
 - shared infrastructure (such as wastewater and storm water pipes)
 - electricity and telecommunications cables
 - air-conditioning
 - fire detection
 - lifts
 - framing
 - communal hot water cylinders
- specific items of common property maintenance (such as tennis courts and swimming pools).

Questions *(Q24-Q28 in the discussion document)*

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

There was significant debate over whether any regulations should be made for long-term maintenance plans.

Of 73 submissions:

- 16 submitters said none of the proposals should be regulated
- 7 said some of the proposals should be regulated
- 13 said all the proposals should be regulated
- 32 did not comment on these questions
- 5 made suggestions or raised other issues.

Submitters raised several salient points.

- The key issue for many was that any regulations needed to be flexible to deal with the different kinds of developments across New Zealand and the range of common property and building types.
- Another issue for some was that some degree of certainty should be provided to those bodies corporate who wanted to undertake long-term maintenance planning without the assistance of a hired specialist.
- Others thought that some degree of regulation should be provided, but only around the process of developing a long-term maintenance plan rather than what should be in it.

Section 6 – Body corporate management

Election and duties of chairperson *(P25-P29 in the discussion document)*

P 25: The term of the chairperson expires at the beginning of each annual general meeting (following the first annual general meeting), when the body corporate must nominate and elect a new chairperson.

P 26: The body corporate may nominate and re-elect a chairperson for as many terms as they wish to stand for election. There are no restrictions on the number of terms a chairperson may hold office.

P 27: Only unit owners or a person engaged by the body corporate to undertake that role (for example, a professional body corporate manager) are eligible to be chairperson.

P 28: The chairperson or nominee must declare any conflict of interest that may exist if he or she takes up the position before the election or when the conflict arises.

P 29: The chairperson is responsible for:

- setting meeting agendas
- keeping records of meetings
- keeping accurate and proper account books of financial dealings
- organising reporting from the body corporate committee
- holding and providing necessary information for unit owners to meet disclosure requirements.

Questions *(Q29-Q32 in the discussion document)*

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

A significant number of submitters who responded to this section thought regulations needed to be made for elections and duties of the chairperson.

Of 73 submissions:

- 5 submitters said none of the proposals should be regulated
- 11 said some of the proposals should be regulated
- 21 said all proposals should be regulated
- 28 did not comment on these questions
- 8 made suggestions or raised other issues.

Submitters raised several salient points.

- Many submitters thought there needed to be more clarity on what the chairperson would be responsible for doing.
- A number of submitters thought regulations should clarify who is eligible to be the chairperson – many thought this position should only be open to unit owners.
- There was some divergence over whether regulations should provide more detail around terms of the chairperson – for example, some submitters thought there should

be a maximum number of terms, others thought a one-year term was too short and 2-3 years would be better.

Subsidiary body corporate representative for layered developments *(P30-P35 in the discussion document)*

P 30: A nominee for subsidiary body corporate representative must agree to the nomination.

P 31: The body corporate should decide by ordinary resolution who runs the election process (the nominations, vote collecting and counting).

P 32: The body corporate should decide by ordinary resolution whether voting is by secret or open ballot.

P 33: The term of the representative expires at the beginning of each annual general meeting, when the body corporate nominate and elect a new representative. The body corporate may re-elect the incumbent.

P 34: Only unit owners or any person engaged by the body corporate to undertake that role (for example, a professional body corporate manager) is eligible to act as representative.

P 35: The representative or nominee must declare any conflict of interest that exists if he or she takes up the position before election or when the conflict arises.

Questions *(Q33-Q36 in the discussion document)*

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

A significant number of submitters who responded to this section thought the proposals about subsidiary body corporate representatives should be regulated.

Of 73 submissions:

- 5 submitters said none of the proposals should be regulated
- 5 said some of the proposals should be regulated
- 10 said all the proposals should be regulated
- 49 did not comment on these questions
- 4 made suggestions or raised other issues.

Submitters raised several salient points.

- Several submitters thought the regulations should clarify who is eligible to be the subsidiary body corporate representative.
- Some submitters thought the regulations should clarify what term lengths should apply to subsidiary body corporate representatives.

Quorum requirements and voting at body corporate meetings (P36-P38 in the discussion document)

P 36: If the meeting does not achieve quorum, the meeting will adjourn until the following week (same time and place). If the required quorum is not present at the adjourned meeting, those present will form the quorum.

P 37: A person asked to act as a proxy must identify themselves at or before the meeting to the chairperson and hand over the completed prescribed form proving their position.

P 38: For a postal vote, the voter needs to complete the prescribed form and return it to the named person and place within a specified time for the vote to count.

Questions (Q37-Q40 in the discussion document)

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

A significant number of submitters who responded to this section thought the proposals about quorum and voting should be regulated.

Of 73 submissions:

- 3 submitters said none of the proposals should be regulated
- 6 said some of the proposals should be regulated
- 24 said all the proposals should be regulated
- 33 did not comment on these questions
- 7 made suggestions or raised other issues.

Submitters raised a salient point.

- A majority of submitters thought there should be more flexibility in rescheduling meetings – especially in terms of meeting place.

Body corporate funds (P39-P40 in the discussion document)

P 39: Any expenditure over \$5000, not being expenditure which the body corporate is legally obliged or previously authorised to incur, shall be referred to a meeting for approval by ordinary resolution.

P 40: If any share of the expenditure referred to a meeting exceeds \$500 for any principal unit, the body corporate shall not incur that expenditure unless approved by a special resolution.

Questions (Q41-Q44 in the discussion document)

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

A significant number of submitters who responded to this section thought the proposals about subsidiary body corporate representatives should be regulated.

Of 73 submissions:

- 8 submitters said none of the proposals should be regulated
- 12 said some of the proposals should be regulated
- 19 said all the proposals should be regulated
- 29 did not comment on these questions
- 5 made suggestions or raised other issues.

Submitters raised several salient points.

- The majority of submitters questioned the method of setting spending limits – although many thought some kind of restriction on spending was warranted, many thought a dollar amount was not the best approach.
- Many submitters thought there should be some process in place for authorising spending in an emergency – for example, if a water main burst.

Section 7 – Body corporate committees

Delegation of body corporate duties or powers to a committee *(P41-P44 in the discussion document)*

P 41: The written notice advising of delegation includes:

- the delegated function(s)
- how long it is in effect for
- whether there are any financial or other constraints on the committee in undertaking the delegation
- a statement to the effect that the notice is evidence of the committee's authority to act
- how often the committee is required to report to the body corporate on the matter(s) delegated.

P 42: The written notice revoking delegation includes the revoked function and the date the revocation is effective.

P 43: Only the body corporate has the authority to serve the above notices.

P 44: The above notices are served on the chairperson of the body corporate committee.

Questions *(Q45-Q48 in the discussion document)*

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

A significant number of submitters who responded to this section thought the proposals about delegation of body corporate duties should be regulated.

Of the 73 submissions:

- 8 submitters said none of the proposals should be regulated
- 8 said some of the proposals should be regulated
- 21 said all the proposals should be regulated
- 30 did not comment on these questions
- 6 made suggestions or raised other issues.

Submitters raised several salient points.

- Several submitters thought there should be more clarification over the duties between the body corporate chair and the body corporate committee chair – including whether they should be the same person.
- Many submitters thought regulations should clarify whether sub-committees could be established and how delegation should work in that situation.

Election of the committee and the chair of the body corporate committee *(P45-P55 in the discussion document)*

P 45: The body corporate will elect members of the committee at each annual general meeting, to hold office until the next annual general meeting.

P 46: Any unit owner may nominate any person to be on the committee. The nominee must agree to the nomination.

P 47: The body corporate must decide who runs the election process (collecting the nominations, advising vote collecting and counting) by ordinary resolution. This person must not be a nominee, nominator or incumbent.

P 48: The body corporate must decide whether the voting is by secret or open ballot by ordinary resolution.

P 49: The body corporate may, by resolution at an extraordinary general meeting, remove any committee member before the expiration of their term of office and appoint another member in their place to hold office until the next annual general meeting.

P 50: There must be a minimum of three and maximum of nine members on the committee.

P 51: Only unit owners or a person engaged by the body corporate to undertake the role (for example, a professional body corporate manager) can be a committee member.

P 52: A committee member or nominee must declare any conflict of interest before the election or when the conflict arises.

P 53: When a vacancy arises on a committee, the body corporate must, within four weeks, call a general meeting to nominate and elect a new member.

P 54: The committee members elect the chairperson at the first committee meeting.

P 55: Only a committee member or a person engaged by the body corporate to undertake the role (for example, a professional body corporate manager) can be chairperson.

Questions *(Q49-Q52 in the discussion document)*

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

A majority of submitters who responded to this section thought all or at least some proposals about body corporate committees should be regulated.

Of 73 submissions:

- 2 submitters said none of the proposals should be regulated
- 14 said some of the proposals should be regulated
- 18 said all the proposals should be regulated
- 32 did not comment on these questions
- 7 made suggestions or raised other issues.

Submitters raised several salient points.

- Many submitters thought regulations should prescribe a process or other solution where a vacancy arises on the committee other than calling a body corporate meeting.
- Several submitters thought only unit owners should be able to be on the committee
- Some submitters wanted further clarification on who would be eligible to be on the committee.

Body corporate committee meetings *(P53-P56 in the discussion document)*

P 53: The committee must first meet within one month of its creation.

P 54: The committee must hold meetings at least quarterly.

P 55: For a postal vote, the voter needs to complete the prescribed form and return it to the named person and place within a specified time for the vote to count.

P 56: The quorum necessary for transaction of committee business must be:

- half if there is an even number of members
- a majority if there is an odd number of members
- in any case a minimum of three.

Questions *(Q53-Q56 in the discussion document)*

Submitters were asked whether some, all or none of the proposals should be regulated; whether anything should be added to the list; what the advantages and disadvantages were for them and whether the proposals would affect them financially.

Summary of responses

Submitters were divided over whether body corporate meetings should be regulated.

Of 73 submissions:

- 10 submitters said none of the proposals should be regulated
- 13 said some of the proposals should be regulated
- 15 said all the proposals should be regulated
- 32 did not comment on these questions
- 3 made suggestions or raised other issues.

Submitters raised several salient points.

- A majority of submitters thought there should be more flexibility in rescheduling meetings – especially in terms of meeting place.
- Many submitters thought there should be more flexibility in the frequency of committee meetings and that perhaps this could be left to the committee.

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