



Body Corporate and Community Management

Online Training – Unit 2 – General meetings

Topic 03 – Holding a general meeting and voting

Meaning of voter ([SM s101](#))

A voter for a general meeting is an individual who is a lot owner, or the representative of a lot owner, and whose name is entered on the body corporate roll. A representative can be a guardian, trustee, receiver, or other representative e.g. subsidiary scheme representative.

A voter may also be a nominee for a corporate owner; a subsidiary scheme representative; or a nominee of a corporation which itself is entered on the body corporate roll as the representative of a lot owner.

A representative must give to the secretary a copy of their authorisation or must satisfy the secretary of their genuine representative capacity and provide the secretary with an address for service. A nominee for a company must also provide the secretary with a notice of the nomination under the seal of the company or corporation.

Restrictions on powers of attorney

A representative of the owner may be authorised as the voter for a lot under a power of attorney. A person may only act as the owner's representative under a power of attorney for more than one lot if:

- the owner of each of the lots is the same person or
- for each lot, the representative holding the power of attorney is a family member of the owner of the lot

The original owner (developer) cannot hold a power of attorney for a lot owner except in the first year of the scheme under [Section 211](#) or [Section 219](#) of the Act.

A body corporate manager, service contractor or letting agent cannot hold a power of attorney to represent the owner of the lot as a voter ([SM s101](#) (2) & (3)).

Quorum ([SM s99](#))

There must be a **quorum** present in order to hold a meeting.

A quorum is the minimum number of people who must be present at an annual general meeting before it can start. To know if there is a quorum, you need to work out 25% (if the body corporate has not decided on a minimum percentage of voters for a quorum) of the **number of voters** (not the number of lots) for the body corporate.

Before the meeting can start there must be at least 25% (or the minimum percentage) of the voters **present at the meeting**. A voter is taken to be present at a general meeting if they have:

- attended in person,
- appointed a proxy, or
- cast their hard copy or electronic vote before the start of the meeting

Part of the 25% must include:

- when there are 3 voters or more, at least 2 voters must present in person unless the body corporate has voted by special resolution that only one person may be present, or
- when there is less than three voters, at least one voter must be present in person.

Calculating the quorum

To calculate the quorum and declare whether the meeting can start, the chairperson must first work out 25% (or the minimum percentage) of the total voters.

Two or more co-owners of a lot are counted as 1 voter and have 1 vote for their lot.

Voters who own or represent more than one lot are counted as one voter for calculating the quorum. Each voter still has one vote for each lot they own when voting on a motion ([SM s99](#) (6)).

An owner who owes a body corporate debt, is counted as a voter for working out 25% (or minimum percentage) of the total voters. They are still a voter for the general meeting as their name is listed on the body corporate roll ([SM s99](#) (7)). However an owner who owes a body corporate debt cannot cast a vote at the meeting unless it is a vote for a motion that must be decided by resolution without dissent.

For determining voters and calculating the quorum please also see the adjudicator's order for [Sierra Grand \[2015\] QBCCMCmr 447](#) and website pages for [running a general meeting](#).

Changing quorum requirements ([SM s99](#))

The body corporate can pass a motion by special resolution to change how a quorum is calculated for a general meeting.

The body corporate can decide to:

- reduce the number of voters required to be present in person from 2 to 1
- change the minimum percentage of voters required to vote to between 10% and 25%.

Only 1 person needs to be present in person if there are fewer than 3 voters in the body corporate.

The body corporate can decide by ordinary resolution that a voter is present personally at a meeting if they vote by electronic means, such as video conferencing.

Being present at a meeting

Owners or authorised representatives are taken to be present for a general meeting if they:

- attend in person,
- appoint a proxy for the meeting,
- cast a hard copy vote before the start of the meeting, or
- have cast an electronic vote before the start of the meeting.

The body corporate can decide by passing a motion by ordinary resolution a voter is present personally if they vote by electronic means e.g. teleconferencing or videoconferencing.

Unless it has previously been changed, two voters be present personally where the scheme has 3 or more voters.

If the number of voters for the scheme is less than three, one voter must be present personally before there is a quorum present ([SM s99](#)).

Adjourning the meeting ([SM s100](#))

If there are not enough voters present to make a quorum within 30 minutes of the time scheduled for the start of the meeting, the meeting must be adjourned to the following week at the same time and place. If it is not practicable to hold the meeting in the same place, all lot owners must be given notice of the new venue before the start of the adjourned meeting. There is no requirement to give notice of the adjourned meeting unless the place of the meeting changes.

At the adjourned meeting, if a quorum is still not present within 30 minutes of the starting time, those persons present either personally or by another means form a quorum provided that the chairperson is present in person. If the chairperson is not present in person, the body corporate manager who is authorised by the body corporate to exercise the powers of the chairperson, must be present in person to form the quorum.

Who chairs the meeting? ([SM s97](#))

The chairperson must chair all general meetings at which they are present. If the chairperson is not present, or the office of chairperson is vacant for any reason, those present at the meeting may elect any person with a right to vote, to chair the meeting.

A body corporate manager (who has been authorised to exercise the powers of the chairperson) may chair the meeting. If the chairperson is not present, the body corporate manager can only chair the meeting if elected to do so by the persons present at the meeting or if the body corporate manager is the only person forming a quorum at an adjourned meeting. If the body corporate manager is not authorised to chair the meeting they may advise and help the person chairing the meeting.

The chairperson does not have any more voting power at a general meeting than they have as a lot-owner of a particular lot or lots. A body corporate manager acting as a chairperson with the authority of the body corporate is not empowered to vote.

Power of the person chairing the meeting to rule a motion out of order ([SM s98](#))

The person chairing the meeting has the power to rule a motion out of order. The chairperson must rule a motion out of order if:

- the motion (if carried) would -
 - conflict with the Act
 - conflict with the regulation module governing the scheme
 - conflict with a motion already voted on at the meeting
 - be unlawful, or unenforceable for another reason, or
- the substance of the motion was not included in the agenda of the meeting (except for a procedural motion for the conduct of the meeting or a motion to correct minutes).

If a motion is ruled out of order, the person chairing the meeting must give reasons for the ruling. With regards to the first dot point above, the chairperson must explain that those who are present at the meeting and entitled to vote on the issue, may reverse the ruling by passing an ordinary resolution to do so.

The reasons of the person chairing the meeting must be recorded in the minutes ([SM s117](#)).

Losing the right to vote ([SM s102](#))

If the owner of a lot owes a body corporate debt at the time of the meeting, they do not have the right to exercise a vote for a particular lot unless the motion requires a resolution without dissent. A mortgagee in possession also displaces the right of the registered owner or their representative to vote if the mortgagee claims the right to vote by written notice to the secretary.

Voting at a general meeting ([SM s107](#))

One vote only may be exercised for each lot included in the scheme.

For a vote to be recorded on a motion, the motion must be included on the agenda and stated in a voting paper accompanying the notice of the meeting (unless it is a procedural motion, a motion to correct minutes, or a motion to amend a motion).

Unless a ballot is required by the legislation or by-laws for the scheme, or the person chairing the meeting decides that a ballot is necessary to ensure an accurate count of votes, voting is done by:

- a show of hands by those persons present (either personally or present by electronic means), or
- giving completed hard copy or electronic voting papers before the start of the meeting or at the meeting before the votes are counted.

Voting papers must be given to the secretary or to the person chairing the meeting, if the secretary is not present. Voting papers can be sent to the secretary via a body corporate manager who is authorised to carry out the duties of the secretary ([SM s222](#)).

The body corporate may decide by special resolution that voting is to be done another way.

Where there is one or more, but not all, co-owners of a lot present, the co-owner who is present votes as the owner of the lot. If there is a conflict between the votes of the co-owners, no vote is counted.

A voter cannot give the completed voting paper to another person to hand to the secretary or chairperson.

Voting on open motions

A voter for a general meeting may vote on an open motion in any of the following ways:

- personally
- by proxy
- by casting a hard copy vote
- by electronic communication in accordance with any requirement under the [Electronic Transactions \(Queensland\) Act 2001](#) about how a document must be signed or sent electronically (e.g. by scanning and emailing the voting paper).
([SM s105](#), [SM s221](#))

However, there are some restrictions on the types of open motion which may be voted on [by proxy](#).

Hard copy votes may be withdrawn by a voter (but not a proxy holder) at any time before the motion is declared.

Electronic voting on open motions ([SM s106](#))

The body corporate must decide by ordinary resolution that voters may cast electronic votes via an electronic system.

The electronic system must be able to reject votes cast by a person that:

- is not eligible to vote on a motion (e.g. owes a body corporate debt or not on the body corporate roll)
- has already cast a vote on the motion.

The system must not allow anyone but the secretary to receive the electronic votes. It may be able to allow a voter who is present personally to cast a vote electronically at the meeting (e.g. by using a computer, smart phone or tablet).

If the body corporate has authorised electronic voting, a voter may cast an electronic vote on an open motion by following the instructions given by the secretary accompanying the voting papers.

The voter must cast their electronic vote so the secretary receives the vote before the general meeting or, if the system allows, cast a vote at the meeting before the votes are counted on the motion.

The electronic vote must comply with any requirement under the [Electronic Transactions \(Queensland\) Act 2001](#) about how a document must be signed or sent electronically.

Electronic votes may be withdrawn by a voter (but not a proxy holder) at any time before the motion is declared.

Voting on secret ballots ([SM s109](#))

One vote only may be exercised for each lot included in the scheme.

For a vote to be recorded on a motion, the motion must be present on the agenda and stated in a voting paper accompanying the notice of the meeting (unless it is merely a procedural motion, a motion to correct minutes, or a motion to amend a motion).

A voter for a general meeting may vote on a motion decided by secret ballot:

- by casting a hard copy vote or
- by casting an electronic vote.

All completed hard copy and electronic votes received before the votes are counted must be given to and held by the returning officer until the votes are counted for the motion.

Secret ballot votes may be withdrawn by a voter (but not a proxy holder) at any time before the motion is declared.

Voting by hard copy secret ballot ([SM s110](#))

To cast a secret ballot hard copy vote, a voter must:

- mark the voting paper to indicate their vote
- place the voting paper in the secret voting paper envelope and seal it
- if supplied, put the secret ballot envelope in the separate particulars envelope
- complete the particulars envelope or particulars tab by signing and dating and stating the following:
 - the number of the lot for which the vote is exercised
 - the name of the owner of the lot
 - the name of the person having the right to vote
 - the basis for the person's right to vote
- give the completed particulars envelope with the secret voting paper envelope enclosed, or the secret voting paper envelope with the completed particulars tab attached, to the returning officer, or forward the envelope to the returning officer so that the returning officer receives it before the votes are counted at the general meeting.

The envelope must be received and held by the returning officer directly with no other person having access to the envelope.

Voting papers sent via another person have been held to be invalid (order [Rose-A-Lyn – 0043-2018](#)).

Electronic voting on secret ballots ([SM s111](#))

The body corporate must decide by ordinary resolution that voters may cast electronic votes via an electronic system.

The electronic system must:

- not disclose a voter's identity
- be able to reject votes cast by a person that:
 - is not eligible to vote on a motion (e.g. owes a body corporate debt or not on the body corporate roll) or
 - has already cast a vote on the motion.

The system must not allow anyone but the returning officer to receive the electronic votes. It may be able to allow a voter who is present personally to cast a vote electronically at the meeting eg by using a computer, smart phone or tablet.

If the body corporate has authorised electronic voting, a voter may cast a secret ballot electronic vote by following the instructions given by the secretary accompanying the voting papers. The voter must cast their secret ballot electronic vote so the returning officer receives the vote before the general meeting or, if the system allows, cast a vote at the meeting before the votes are counted on the motion. The electronic vote must comply with any requirement under the [Electronic Transactions \(Queensland\) Act 2001](#) about how a document must be signed or sent electronically.

All completed hard copy and electronic votes received before the votes are counted must be given to and held by the returning officer until the votes are counted for the motion ([SM s109](#)).

Electronic votes may be withdrawn by a voter (but not a proxy holder) at any time before the motion is declared.

The role of the returning officer ([SM s 112](#))

The body corporate must appoint a returning officer for each general meeting at which there is to be a secret ballot. A lot owner cannot be a returning officer, nor can a body corporate manager, service contractor or letting agent, or their respective associates.

A secret ballot motion is different from a secret ballot committee election. A returning officer is not required for a secret ballot committee election.

The returning officer will have duties as set out in the appointing instrument, and these may generally include:

- deciding questions about eligibility to vote
- receiving hard copy and electronic votes for secret ballots
- counting votes, or inspecting the counting of votes; and
- deciding whether a vote is valid.

The returning officer do the following:

- check the outer particulars envelope or particulars tab to confirm the vote is from a person who has a right to vote
- remove the secret voting paper envelope from the outer particulars envelope, or removes the particulars tab
- for a motion being voted on by special resolution, record on the secret ballot envelope, the contribution schedule lot entitlement for the lot
- place the secret voting paper envelope in a receptacle in full view of the meeting and mixes them up
- take each secret voting paper out of the secret voting paper envelopes and inspects and counts the votes
- for a motion being voted on by special resolution, record on the voting paper, the contribution schedule lot entitlement for the lot
- for an **electronic vote** the returning office must ensure that each electronic vote received can be viewed by a person present at the meeting and inspect and count the votes.

([SM s109](#) (5) & (6))

After the votes are counted, the returning officer must provide the person chairing the meeting with the following documents:

- all the hard copy voting papers, secret voting paper envelopes and particulars envelopes or particulars tabs
- the number of electronic votes cast for and against the motion and abstentions on the motion recorded electronically
- the total number of votes cast for and against the motion
- the total number of abstentions
- the number of votes rejected, and the reason for any rejected votes.

([SM s109](#) (7))

The body corporate must keep all voting papers and envelopes for two years ([SM s231](#)).

When motions must be by secret ballot

Some motions are required to be secret ballot under the Act or regulations. These are:

- For a service contractor who is also authorised to be the letting agent:
 - engaging or amending an engagement ([SM s135](#)),
 - terminating the engagement for conviction of certain indictable offences ([SM s151](#)),
 - terminating an engagement for failure to comply with a remedial action notice ([SM s152](#)),
 - giving a code contravention notice to a letting agent ([Act s139](#)),
 - requiring letting agent to transfer the management rights ([Act s140](#)).

Other than the above, the body corporate may decide by resolution at a general meeting that a particular motion or motions on a particular subject must be decided by secret ballot. This type of resolution applies for the period stated in the resolution, ending no later than the end of the next AGM held after the general meeting at which the resolution is passed ([SM s108](#) (3)).

The committee can recommend that a particular motion be decided by secret ballot, but only if there is enough time for the required voting material to be prepared and sent out to lot owners ([SM s108](#) (2)).

Restrictions on proxy use ([SM s130](#))

While a member of the body corporate (the member) may appoint a person to act as their proxy (the proxy), there are a number of restrictions on their use.

A proxy cannot be exercised:

- if the member is present personally at the meeting, unless the member consents at the meeting
- on a motion, if the member has exercised a hard copy or electronic vote on the motion
- on the election of, or for otherwise choosing a member of the committee
- on a vote to prohibit the use of proxies in any way at committee or general meetings
- on a vote to change the regulation module for the scheme
- on a vote decided by majority resolution
- on a vote to engage a body corporate manager or a service contractor or an amendment or termination of either engagement
- on a vote to authorise a person as a letting agent or an amendment or termination of the authorisation;
- on a motion decided by secret ballot
- for general meeting of a principal scheme in a layered arrangement
- voting to fill a vacancy if a general meeting is called under SM s48
- when a regulation provides that a proxy cannot be exercised for a particular vote.

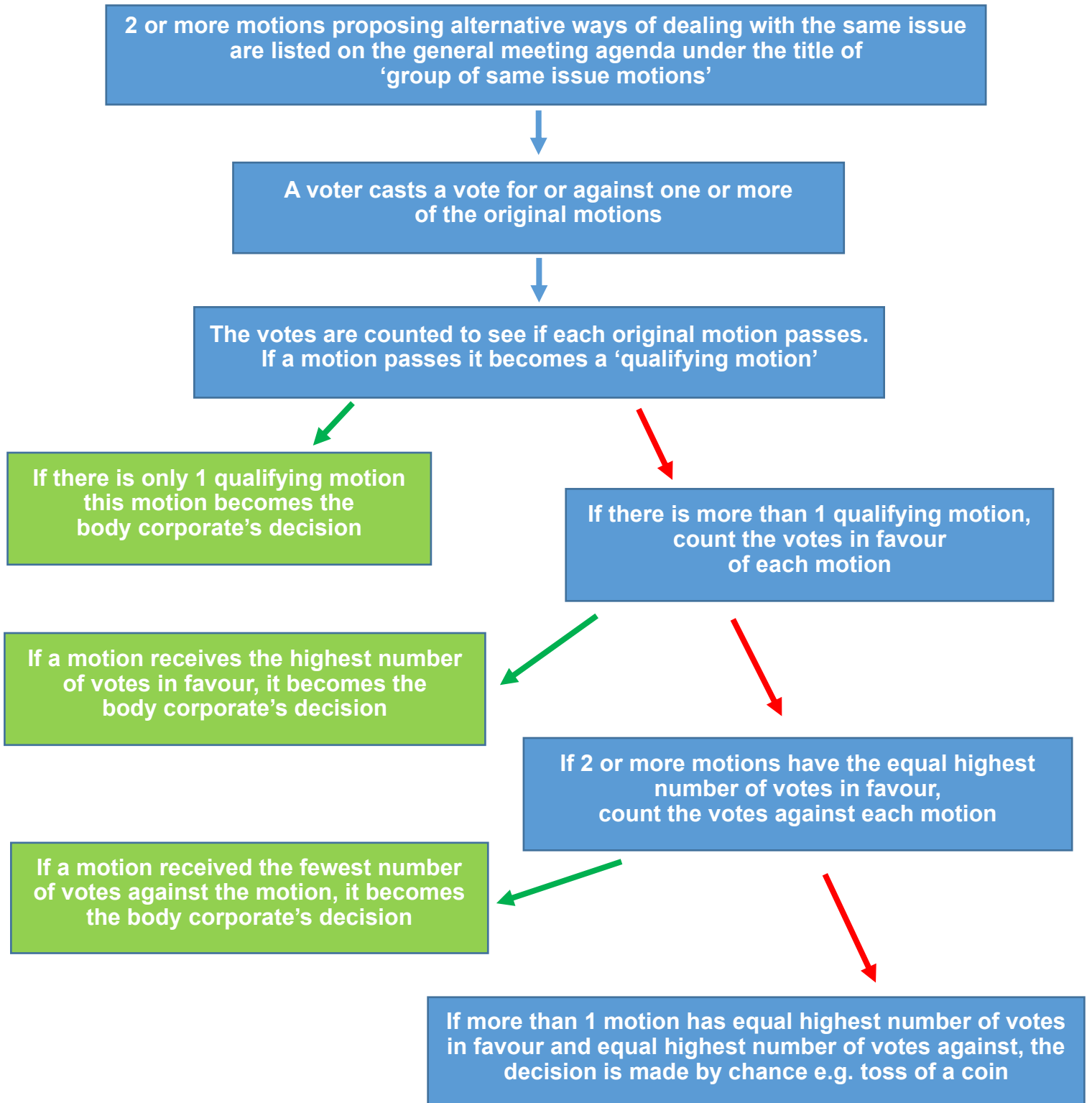
Counting a group of same-issue motions ([SM s89](#))

When two or more motions proposing alternative ways of dealing with the same issue, they must be listed as a group of same-issue motions on the voting paper. Read - Topic 2 - Calling a general meeting explained how the voting paper for a group of same-issue motions must be prepared.

The following steps explain how a group of same-issue motions is resolved:

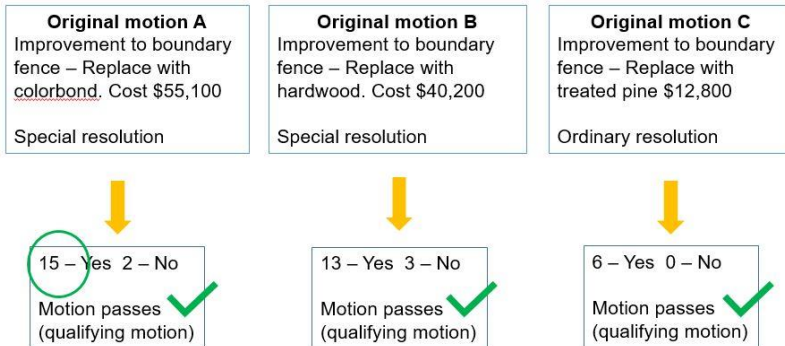
1. Firstly, the motions are listed on the agenda under the title of 'group of same-issue motions'.
2. A voter casts a vote for or against one or more of the original motions.
3. The votes are then counted to see if each original motion passes or fails
4. If an original motion receives enough votes to pass then it becomes a qualifying motion.
5. If there is only 1 qualifying motion, that motion is the decision of the body corporate.
6. If there is more than 1 qualifying motion the motion, the votes in favour of each motion are counted.
7. If a motion received the highest number of votes in favour, it becomes the body corporate's decision.
8. If 2 or more motions receive equal highest number of votes in favour, the votes are counted against the motion
9. If a motion receives the fewest votes against the motion, it becomes the body corporate's decision
10. If more than 1 motion receives equal highest of votes in favour and equal highest number of votes against, the decision is made by chance e.g. the toss of a coin.

Flow chart for the above process

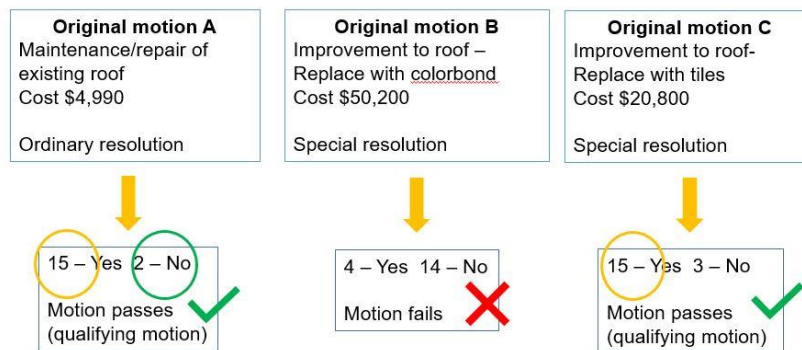


Examples for counting a group of same-issue motions

Group of same-issue motions – example 1



Group of same-issue motions – example 2



Group of same-issue motions – example 3

