

Office of the Commissioner for Body Corporate and Community Management

Online Training

Unit 1 – The committee

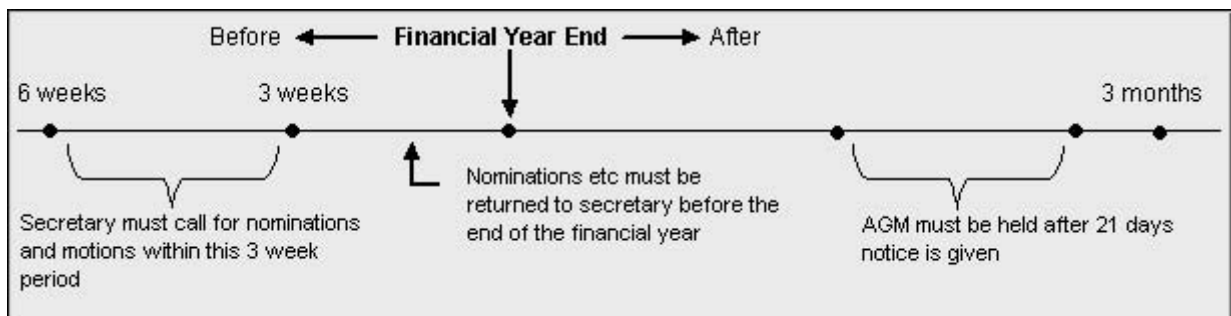
Topic 08 – Nominations

Prior to every annual general meeting, the secretary must give each lot owner a notice inviting the lot owner to nominate an individual for committee membership (SM. s16).

The secretary has a 3 week period in which to do this. The notice must be given at least 3 weeks before, but not earlier than 6 weeks before, the end of the body corporate's financial year. All completed nominations must be returned to the secretary by the end of the body corporate's financial year; and

The secretary must forward written notice to the candidate acknowledging that the nomination has been received. While there is no specific timeframe for this, it must be done as soon as is practicable.

The diagram below illustrates these provisions together with the timeframes for convening the annual general meeting.



The notice inviting nomination

There is no prescribed or approved form of notice inviting nominations. The secretary must draft the notice in a way that informs the lot owner they may nominate one person for election as an executive member or an ordinary member; or if they own more than one lot, that the owner may nominate as follows –

(a) if the owner owns 2 lots or there are fewer than 7 lots included in the scheme—the owner may nominate 2 persons;

Examples—

1. Ms Jones owns 3 lots in a scheme that includes 6 lots. Ms Jones may nominate 2 persons for election.
2. Ms Smith owns 2 lots in a scheme that includes 8 lots. Ms Smith may nominate 2 persons for election.

(b) if the owner owns more than 2 lots and there are 7 or more lots included in the scheme—the owner may nominate 3 persons.

Example—

Mr and Mrs Brown own 5 lots in a scheme that includes 12 lots. Mr and Mrs Brown may nominate 3 persons for election.

Additionally, the notice must advise that the owner may nominate themselves or another individual in accordance with the provisions of section 10(b)(i) of the Standard Module. Alternatively, if the owner is a corporation or the body corporate for a subsidiary scheme, it may nominate in accordance with 10(b)(ii) or (iii) of the Standard Module as described in Topic 7: Eligibility. Also, the notice must state that:

- a member of the body corporate or a person nominated by a member of the body corporate is not eligible to be a voting member of the committee if the member owes a body corporate debt when the members of the committee are chosen; and
- the lot owner may not nominate a person for membership if the lot owner owes a debt when the nomination is received by the secretary.

Nominating

There is no prescribed or approved nomination form. However, there are quite specific provisions in the regulations to be complied with when nominating. Failure to comply with these provisions may result in a nomination being rejected.

As members of bodies corporate may be aware, it is sometimes difficult for a body corporate to find sufficient numbers to form a committee. Rather than risk having nominations rejected for minor flaws, the body corporate may need to consider producing a nomination form that the secretary sends with the notice inviting nomination providing owners with clear directions about nominating.

The requirements for nomination

Nominations must be in writing and must contain the following (SM. s18):

Signing

- A nomination from a lot owner nominating themselves must be signed and dated by lot owner must state the lot owner's lot number; and
- A nomination from a lot owner nominating another individual must be signed and dated by the individual, countersigned by the lot owner (or a person acting under the authority of the lot owner) and must state the lot owner's lot number.

Other details to be included

- The surname and either the first given name or other name or abbreviation by which the candidate is generally known;
- The position or positions the candidate is nominated for; and
- Whether the candidate is a lot owner.
- If the candidate is not a lot owner the nomination should also include:
 - the candidates residential or business address; and
 - the category under which the candidate is eligible for nomination.
- Any payment sought by the candidate for carrying out the duties of a committee member. For example a committee member may request travelling expenses.