

3B. Meaning of “special resolution”

- (1) For the purposes of this Act a special resolution of a strata company shall be passed at a duly convened general meeting —
 - (a) of which sufficient notice (as defined by section 3C) has been given; and
 - (b) without limiting subsection (5), at which a sufficient quorum (as defined by section 3C) is present.
- (2) Except where subsection (3) applies, a special resolution is passed if —
 - (a) it is supported by votes, within the meaning in subsections (4) and (5) —
 - (i) having a value of not less than 50% of the aggregate unit entitlement of the lots in the scheme; and
 - (ii) of the proprietors of not less than 50% of the lots in the scheme;and
 - (b) the votes, within the meaning in subsections (4) and (5), against the resolution —
 - (i) do not have a value of 25% or more of the aggregate unit entitlement of the lots in the scheme; or
 - (ii) are not cast by the proprietors of 25% or more of the lots in the scheme.
- (3) A special resolution is passed in the case of a strata company for a scheme in which there are no more than the following number of lots, if it is supported by the votes, within the meaning in subsections (4) and (5), of the following number of proprietors —
 - (a) 3 lots, the votes of the proprietors of not less than 2 of the lots;
 - (b) 4 lots, the votes of the proprietors of not less than 3 of the lots; or
 - (c) 5 lots, the votes of the proprietors of not less than 4 of the lots,and if those votes have a value of not less than 50% of the aggregate unit entitlement of the lots.
- (4) References in subsections (2) and (3) to votes are to the votes of persons entitled to exercise the powers of voting conferred under this Act voting at the meeting either personally or by proxy.
- (5) Despite subsection (4), a person entitled to exercise the powers of voting conferred under this Act is also to be taken to vote —
 - (a) in support of a resolution if he signifies in writing served in accordance with subsection (6) that he agrees to the resolution; or
 - (b) against the resolution if he signifies in writing served in accordance with subsection (6) that he disagrees with the resolution,within 28 days after the day of the meeting, whether that writing is signed by the person or by another person who at the time of the signing is entitled to exercise the power of voting in place of that person.

- (6) The writing referred to in subsection (5) is not effective unless it is served —
- (a) on the strata company; or
 - (b) where under section 36A or 36B a roll is not maintained by the strata company, on the other proprietors.
- (7) A special resolution referred to in subsection (3) does not have effect —
- (a) until the expiration of the period referred to in section 103D (2); or
 - (b) if an application is made for an order under that section, until the application is dismissed, or withdrawn; or
 - (c) if the referee refuses to make the order, until the time for appeal under Division 4 has expired or any appeal has been dismissed or withdrawn or determined in such a way that an order under section 103D is not made.
- (8) In subsection (3) “**lot**” does not include a lot in a survey-strata scheme that is designated as a common property lot.

[Section 3B inserted by No. 58 of 1995 s.6.]