

Management Rights Extension

Fact Sheet



A LITTLE BIT ABOUT US FIRST

Active Law is a boutique body corporate law firm.

We act ONLY for Bodies Corporate!

THE MANAGEMENT RIGHTS EXTENSION PROCESS

Often owners will be asked to agree to management rights agreements being extended.

This is sometimes colloquially referred to as the agreement being “topped up”.

The manager, where it is also a lot owner, or where persons associated with the manager own a lot in the scheme, will submit a “top up” motion for inclusion in a general meeting agenda, usually the AGM agenda.

FACT #1 - Given you are receiving this Fact Sheet probably means your body corporate manager has received formal notification of the manager requesting a top up motion be included in a meeting agenda.

SHOULD A COMMITTEE APPOINT A LAWYER TO ACT FOR THE BODY CORPORATE?

FACT #2 – Absolutely!

A committee must be seen to be acting in the best interests of the body corporate.

Given there is a distinct legal element to an extension to management rights, a committee ought to obtain legal advice in regards to any proposal to extend management agreements.

Active Law is highly experienced at reviewing and advising bodies corporate on the legal documents submitted in regards to the extension of management rights.

The key legal documents, being the “top up” motion and the deed of variation, are prepared by lawyers acting for the owner of the management rights.

Accordingly, it is usually the case that these extension documents will contain terms prejudicial to the body corporate and will not contain terms we would request be included for the body corporate’s benefit.

The body corporate also needs to be advised on its rights and obligations under the relevant legislation.

WHO PAYS?

FACT #3 – Unlike an assignment of management rights, the reasonable legal and administrative costs incurred by a body corporate in considering the top up material are not statutorily required to be paid by the manager.

We will always seek an amendment to the motion and deed of variation to provide the manager is required to reimburse to the body corporate the reasonable administrative (including the cost of retaining the required returning officer) and legal costs incurred by it in considering the top up material.

DOES A BODY CORPORATE HAVE TO AGREE TO A TOP UP?

FACT #4 – No. It is entirely a matter for the owners to decide if the management rights agreements will be extended.

The committee may wish to lobby the owners to vote against a top up motion.

Where the committee wishes to do so, it will need to be expertly guided to ensure it does not misrepresent the facts or make inaccurate statements in the lobbying process.

WHY CHOOSE ACTIVE?

FACT #5 - We are body corporate legal specialists. Acting for bodies corporate is in our DNA. It’s all we do!

FACT #6 – We will provide you with easy to understand, no nonsense legal advice.

FACT #7 – You will deal with a specialist body corporate lawyer with over 20 years’ experience in acting for bodies corporate.

FACT #8 - We have excellent relationships with “manager’s” lawyers. Feel free to ask any of them.



Level 2, 121 Logan Road
Woolloongabba Qld 4102

PO Box 6116
Woolloongabba, Qld 4102

Ph: (07) 3160 0000

www.activelaw.com.au