

Does a body corporate have a vote for a unit it owns?



By [Adjunct Professor Graham Paddock](#)

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The Sectional Titles Act, 1986, allows a body corporate to purchase a unit when this is essential for the proper fulfillment of its duties. The Act does not distinguish between units in the scheme administered by the body corporate and those in other schemes.

This means that a body corporate can, when absolutely necessary, purchase and take transfer of a unit in its own or in another scheme.

Typically, the purpose of the acquisition of a unit by a body corporate would be to provide accommodation for a caretaker or office space from which to manage and administer the scheme.

When the unit acquired is in another scheme, all the ordinary principles apply in respect of the body corporate's participation in the management and administration of the other scheme. In practice, this means that the trustees will take a resolution authorising one of them or some other suitable person to exercise the body corporate's rights, principally the right to representation at general meetings, the right to speak and vote at such meetings and to take part in round robin resolutions.

However, when a body corporate acquires a unit in the scheme it administers, the circumstances are more complicated. The questions that often arise are: who is to represent this section at body corporate meetings and can be trustees sign a proxy form in the chairperson's favour?

When the members of the body corporate meet, they do so to exercise their membership rights. A body corporate cannot exercise voting rights in the making of its own decisions, as this would skew the balance of voting rights amongst those who hold interests in the body corporate.

Therefore, while the body corporate can own a unit in its own scheme, during the time it does so the membership rights associated with that unit are suspended. By way of comparison, a company cannot be a member of itself and when it does buy back or otherwise acquire its own shares, these are cancelled so the company does not acquire any associated voting rights.

If your body corporate is the registered owner of a unit in its own scheme, there are no voting rights associated with that unit and neither the owners in general meeting nor the trustees can authorise anybody to represent the body corporate at its own meetings. When applying the quorum percentages set out in the scheme's rules, you must deduct the participation quota of the section owned by the body corporate from the total, so that the percentage is calculated of the total

participation quotas of all other owners, those who are entitled to vote at the meeting.

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