

# Corporate Governance and Owners Corporations

By Gary Bugden\*

**With 50 years' experience behind us, the emergence of larger and more complex strata schemes and two legislative reviews underway, the time has come to examine the possibility of applying main stream corporate governance principles to Owners Corporations.**

Any examination of this proposition must start with an understanding of the difference between governance and management. Governance is the providence of the Board or committee while management is the responsibility of its executive officers, such as the secretary and treasurer of an Owners Corporation.

## **Governance**

Governance is concerned with setting and monitoring the strategic direction of the corporation. It involves the adoption of goals and setting the course for management to achieve those goals, including the establishment of frameworks for responsibility and assessment of performance. Strategic direction is usually documented in a Strategic Plan, which may have management input but which will ultimately be the responsibility of the Board.

A key feature of good governance is ensuring that the roles of governance and management remain segregated. In simple terms this means ensuring that management related matters are not dealt with at Board level. Other aspects of governance include the appointment of key executive officers, the delegation of powers and functions to those persons, the supervision of their performance and the monitoring of progress against the goals in the Strategic Plan.

## **Management**

Management is responsible for implementing the Strategic Plan and working on the day to day operation of the corporation. In turn, this involves the acquisition and allocation of required resources, establishing systems, monitoring those resources and systems and controlling risks. Management reports direct to the Board and between Board meetings the Chief Executive Officer of the corporation usually liaises with the Chairman on important strategic and risk issues.

## **Application to strata**

These principles of corporate governance cannot be universally applied to strata Owners Corporations. The extent to which they can be applied to a particular Owners Corporation will depend upon the nature of the strata scheme and its capacity to bear the costs involved. For example, the model would be different for a 12 storey walk-up than it would be for a large mixed use high rise scheme or a layered community scheme. However, there is the potential to apply the model in one form or another to all schemes.

## Large schemes

In the case of the large mixed use high rise scheme, ignoring the current legislative constraints and manager skills, the model might involve:

- A Committee comprising say 5 to 7 members (with the possibility of one member being a paid independent member having no connection to the Scheme).
- Three sub-committees reporting to the Committee – the Audit and Risk Management Sub-Committee, the Building Sub-Committee and the Social Sub-Committee – each comprising at least one Committee member and unit owner volunteers.
- A Chief Executive Officer (who would also be an ex-officio member of the Sub-Committees).
- A Corporation Secretary, responsible for the operational side of the Committee and Sub-Committees, as well as regulatory compliance.
- A Corporation Treasurer, responsible for the financial management of the corporation and an ex-officio member of the Audit and Risk Management Sub-Committee.
- A Building Manager (Caretaker) reporting to the Chief Executive Officer.
- A Concierge, reporting to the Building Manager.

The roles of Chief Executive Officer, Corporation Secretary and Treasurer would be performed by staff of a strata management firm. While the roles of Chief Executive Officer and Corporation Secretary could be combined, the role of Treasurer (equivalent to a Chief Financial Officer) should remain as a separate role.

## Small schemes

In the case of the 12 storey walk-up, the model might look like this:

- A Committee of say 4 unit owners, responsible for the strategic governance of the Owners Association and performance monitoring but having little or no involvement in management.
- An Executive Officer, responsible for the roles of Chief Executive Officer, Corporation Secretary and Treasurer.
- The Executive Officer being delegated all of the powers and functions necessary to enable him or her to implement strategy and attend to the day to day operational matters of the Owners Corporation.

The role of Executive Officer would be performed by the normal portfolio manager within a strata manager's office.

## Evaluation

The large scheme model moves substantially in the direction of a mainstream corporate governance model while the small scheme model adopts the general principles of corporate governance but retains the resourcing of existing practice. Interestingly, the small scheme model represents a return to the model introduced by second generation Australian strata legislation – a model that was

largely dismantled in some States by their third generation legislation. This dismantling was at the time justified by the alleged poor performance and lack of professionalism of some strata managers.

The large scheme model provides a huge opportunity for strata managers. Although they would need to up-skill in order to perform to the required standard they would be able to command much higher fees, justified not only by the new role but, more importantly, by the intense focus on asset management and communal wellbeing that would inevitably flow from a properly resourced Strategic Plan. This new focus would potentially pay significant dividends for owners in the form of enhanced unit values and improved lifestyle.

Now some managers will point out that this new approach to corporate governance would involve more responsibility and an increase in liability risk. That is correct, but the rewards should more than compensate for those factors and, after all, the acceptance of responsibility and the resultant risk is what professionalism is all about. And isn't that what strata managers are so eager to achieve?

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