

Body Corporate:

A quick guide to community living in Queensland



Introduction

As Queensland's population continues to grow at a rapid pace, many people are embracing the opportunities offered by community living. Queensland has over 42,000 community titles schemes, with around 393,000 individual lots. The community titles sector is a significant and growing contributor to Queensland's economy.

Community living can be an affordable and convenient lifestyle choice. It can benefit singles or retirees looking to downsize yet continue independent living. People with common interests can meet socially or simply develop a closer relationship with their neighbours. Members can share facilities, such as pools and gardens that may be too costly or difficult for them to build or maintain on their own.

Along with its many benefits, community living does involve a whole new set of commitments which in many cases can be different to traditional house and land ownership. Bodies corporate, which comprise all lot owners, are a vital part of community living, given their role in making decisions on matters of shared responsibility for the community.

Many new owners and potential purchasers are unclear about their rights and responsibilities as body corporate members. That's why the Queensland Government has produced this publication – *Body Corporate: A quick guide to community living in Queensland*.

It provides valuable guidance about community titles schemes, bodies corporate and the obligations and rights people have as owners and others involved in a body corporate.

This publication is a general guide to those who own a lot in a community titles scheme or are considering buying into a community titles scheme. It provides a broad overview of community living and the role of the body corporate. This guide is not intended as legal advice but aims to better inform consumers, particularly before signing a contract to buy into a community titles scheme.

If you require further information, the Queensland Government, through the Office of the Commissioner for Body Corporate and Community Management (BCCM Office), provides an information service for those involved in community titles schemes. The BCCM Office also provides a dispute resolution service to resolve any disagreements which may arise within the body corporate and which cannot be resolved internally.



What is a community titles scheme?

A community titles scheme may include any duplex, residential unit block, high rise accommodation complex, shopping complex or business park. Such schemes are comprised of individually owned lots or units and common property.

Community titles schemes allow for flexible living arrangements where a person can privately own an area of land or part of a building as well as share common property areas with other owners.

If you are considering purchasing a unit or townhouse, you need to be aware you will be buying into a community titles scheme.

You will not only have certain rights and responsibilities for your own property, but also the common property shared with other owners within your complex.

Therefore, it is important for potential owners to understand what the common property is and what the costs will be for maintenance and general upkeep.

Examples of common property range from a shared driveway or letterbox area to communal lifts and stairways, swimming pools, tennis courts, roadways and golf courses.

What is a body corporate?

The body corporate for a community titles scheme is composed of all the owners in the scheme. Every new owner automatically becomes a member of the body corporate.

The body corporate must comply with the *Body Corporate and Community Management Act 1997* (the BCCM Act) and regulations.

The body corporate (owners or their representatives) makes decisions on matters with shared responsibility. These include:

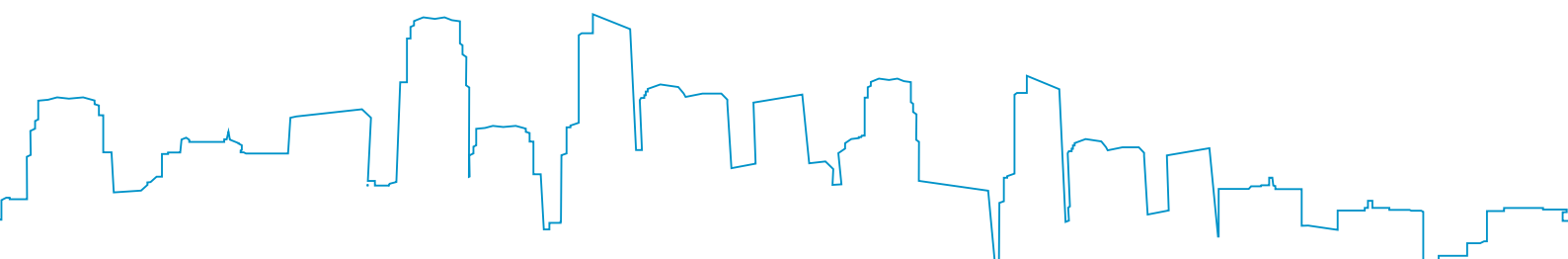
- maintenance and management of common property, including equipment and services
- determining levies (financial contributions) which owners must pay to fund its operation
- public risk insurance
- any compulsory building insurance
- establishing and enforcing by-laws (rules) relating to the management and control of lots and the common property.

When considering purchasing a unit in a community titles scheme, you should find out if there are any fees and charges still owing – as the new owner, you will be obligated to honour the payments.

The committee

The body corporate must elect a committee at each annual general meeting. The committee consists of executive members (a chairperson, secretary and treasurer) and any ordinary members. Depending on the size of the scheme, committees vary in size from at least three to no more than seven people.

If not enough body corporate members are interested in forming a committee or at least one of the executive positions is not filled, regulations allow a body corporate to employ a body corporate manager to carry out the functions of a committee.



Maintaining common property

It is the responsibility of the body corporate to maintain common property. As common property may include lawns, access roadways, swimming pools, common doors and windows, it is very important for the body corporate to know what type of plan the scheme is recorded as. A scheme recorded as a 'building format plan' will have a significantly different area of responsibility than one recorded as a 'standard format plan'.

Copies of plans may be obtained from the Department of Natural Resources and Mines, Lands Registry Office on 13 QGOV (13 74 68).

The body corporate can engage the services of professionals such as gardeners and pool cleaners to carry out maintenance. In some smaller schemes, body corporate members volunteer their own services. Naturally, professional services will involve some costs, and these and other financial matters must be considered by the body corporate at the annual general meeting.

The annual general meeting

By law, every body corporate must hold an annual general meeting (AGM) each year. At the AGM, owners consider the financial position and direction of the body corporate. There are two budgets that a body corporate must approve each year:

The **administrative fund budget** covers the day to day expenses such as:

- general maintenance of the common property
- insurance premiums paid by the body corporate
- other recurrent expenditure (for example, a weekly gardening service).

The **sinking fund budget** is based on future major/

capital maintenance for the next 10 years for items such as:

- painting the building (if the body corporate is responsible)
- pool refurbishment
- the purchase or replacement of major assets (for example, ride-on mowers or pool furniture).

Other items most likely to be on the AGM agenda are:

- election of committee members for the next year
- fees and levies for the year (based on the two budgets mentioned above)
- renewal of insurance and any additional insurance
- any motions submitted by owners.

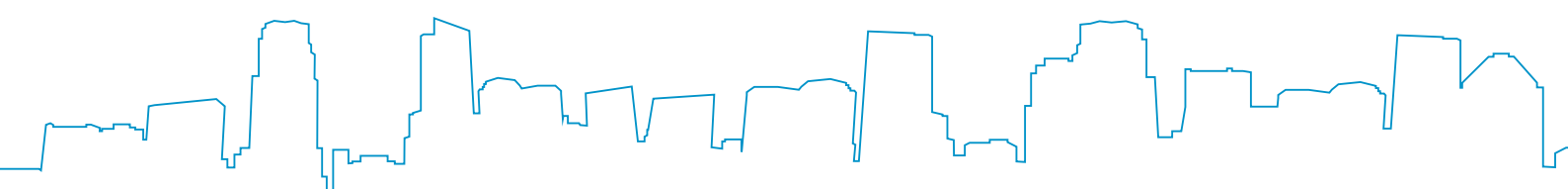
Special general meetings (known as extraordinary general meetings) can be held during the year when there are items to be discussed or decided upon as a matter of urgency. Items to be considered could include repairs, disputes or changes to by-laws.

What costs are involved as a body corporate member?

Based on the budgets, the body corporate must determine the contributions (levies) each owner will have to make and when they will be due. The levies are calculated in accordance with the lot entitlement schedules.

There are two lot entitlements schedules (the contribution schedule and the interest schedule), and expenses for maintenance of common property are divided amongst the owners in the same proportion as the contribution schedule lot entitlements.

While expenses for common property maintenance are calculated using the contribution schedule lot



entitlements, insurance is an expense that is treated differently and will depend on the type of plan of subdivision applying to the scheme (that is, 'building format plan' or 'standard format plan'). For more information on insurance, visit the website of the Office of the Commissioner for Body Corporate and Community Management (BCCM Office) www.justice.qld.gov.au/bccm.

Lot entitlements are determined by the original owner (the developer) when preparing the first community management statement (CMS) for the scheme. Copies of the CMS for each community titles scheme can be accessed from the Department of Natural Resources and Mines, Lands Registry Office on 13 QGOV (13 74 68).

All individual lot owners are legally obligated to maintain their own property in good condition. If the lot is not kept in a clean and tidy condition and can be seen from another lot or the common property, the body corporate may have the right to proceed with any repairs or maintenance at the owner's cost.

What by-laws apply?

The by-laws are a set of rules for a community titles scheme that regulate various matters including the keeping of animals, noise and parking on common property. The BCCM Act allows a body corporate to adopt standard by-laws set out in the BCCM Act, or to make by-laws that best suit its individual circumstances.

Owners are encouraged to obtain copies of the by-laws to ensure they are familiar with their rights and responsibilities. By-laws are contained in the CMS for a community titles scheme. The statement is a document held by Department of Natural Resources and Mines, Lands Registry Office. If you are unclear which by-laws apply to your scheme, contact the body corporate secretary or the Lands Registry Office on 13 QGOV (13 74 68).

Buying to invest

As an investor, your rights and responsibilities are exactly the same as if you were an owner/occupier. Your individual property must be maintained in good condition and levies and additional costs will still be calculated as if you were living there.

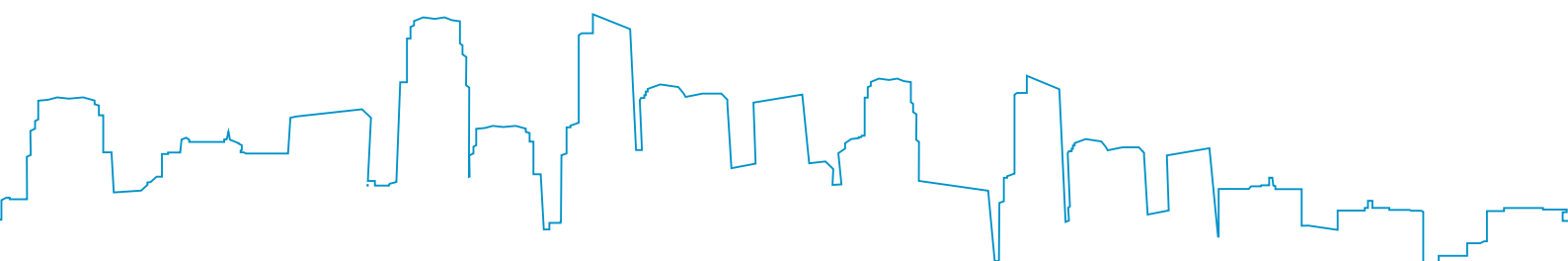
All owners must provide an Australian residential or business address to the body corporate. If you are letting a unit, you are obligated under the *Residential Tenancies and Rooming Act 2008* to provide your tenant with a copy of the body corporate by-laws, as well as new by-laws as they are made.

When letting your unit for more than six months, you must advise the body corporate of the name and residential or business address of your tenant. For more information on letting or renting a unit, contact the Residential Tenancies Authority on 1300 366 311 or visit www.rta.qld.gov.au.

Get the foundations right

As well as conveyancing searches, potential buyers should try and find out information about the body corporate. Searches are available through the following areas:

1. Department of Natural Resources and Mines, Lands Registry Office: obtain a copy of the CMS. The CMS provides important details about the particular community titles scheme, including details of any proposed future development of the scheme, the lot entitlements, by-laws and the regulation module applying to the scheme. Further information is available from the Lands Registry Office by phoning 13 74 68 or visiting www.dnrm.qld.gov.au.



2. Department of Justice and Attorney-General, Office of the Commissioner for Body Corporate and Community Management (BCCM Office): conduct a search for any adjudicator's orders made concerning the scheme. General information is also provided about body corporate legislation. For more information, phone 1800 060 119 or visit www.justice.qld.gov.au/bccm.
3. Body Corporate Secretary: A request for an information certificate from the body corporate may provide you with important information such as whether or not the lot you are purchasing owes a body corporate debt, for which you may become liable. The certificate also sets out the levies currently set by the body corporate for the current financial year. A search of the body corporate records can provide other important information, including whether any improvements to the lot you are purchasing (balcony enclosure, air conditioning) were approved, whether any conditions apply, and who is responsible for their maintenance and insurance. Also, check for any agreements the body corporate may have entered into, for example, caretaking, letting, body corporate management or lift maintenance.

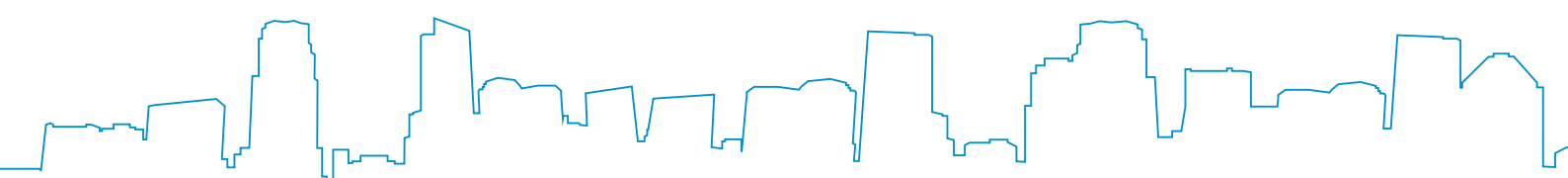
So, you've just signed on the dotted line – what's next?

Once you have purchased into a community titles scheme, you will need to:

- Ensure your solicitor has forwarded a BCCM Form 8 'Information for body corporate roll' to the body corporate, notifying change of ownership. The roll includes a list of the names and addresses of the current lot owners and having your name included ensures you receive body corporate notices such as meeting and levy notices. The roll forms part of a body corporate's records and access to it and other registers and documents is provided for in the BCCM Act and regulations.
- Ensure you have a copy of the CMS relevant to your scheme. Knowing in advance what the by-laws are may prevent any misunderstandings. The CMS also outlines what your lot entitlements are (for levy purposes) and it will also tell you what regulation module applies to the scheme.
- obtain a copy of the registered plan from Department of Natural Resources and Mines. If maintenance issues arise and you need to seek information from the BCCM Office, it is very helpful to know what type of plan the scheme is registered as so that relevant information may be provided.

Buyer's checklist

- ✓ By purchasing this property, do you know you will be part of a body corporate?
- ✓ Are you aware of any contracts the body corporate is a party to?
- ✓ Have you read and understood the body corporate by-laws and understand how they apply to you?
- ✓ Do you understand your likely financial contributions to the body corporate?
- ✓ Do you understand your maintenance responsibilities?
- ✓ Do you understand the role of the body corporate manager and on-site manager (if applicable)?
- ✓ Have you confirmed there are no unpaid body corporate fees, outstanding adjudicator's orders or defects in either the common property or the lot?



Further information

Office of the Commissioner for Body Corporate and Community Management

Provides information on the body corporate legislation and dispute resolution when disagreements are unable to be resolved by parties.

telephone: 1800 060 119

website: www.justice.qld.gov.au/bccm

Department of Natural Resources and Mines

Lands Registry Office (Land Titles and Valuations)

Provides a land registry system for property ownership and other transactions, including the registration of plans and community management statements for bodies corporate.

telephone: 13 QGOV (13 74 68)

website: www.dnrm.qld.gov.au

ARAMA (Australian Resident Accommodation Managers' Association) Queensland Inc.

Information and support service for Queensland resident managers providing caretaking and letting services in community titles schemes.

telephone: 07 3257 3927

website: www.arama.com.au

Strata Community Australia (Qld)

Information and support regarding body corporate managers and others involved in the administration of community titles schemes in Queensland.

telephone: 07 3839 3011

website: www.stratacommunity.org.au

The Unit Owners Association of Queensland Inc. (UOAQ)

Information, advocacy and support for owners of units and townhouses.

telephone: 07 3220 0959

website: www.uoaq.org.au

Queensland Civil and Administrative Tribunal (QCAT)

Determination of complex body corporate disputes, including lot entitlement adjustments, contractual matters and appeals of adjudicator's orders.

telephone: 1300 753 228

website: www.qcat.qld.gov.au

Residential Tenancies Authority (RTA)

Provides information and support regarding the *Residential Tenancies and Rooming Act 2008* to tenants, lessors, agents, residents and service providers. The RTA also provides rental bond management, dispute resolution and community education services free of charge.

telephone: 1300 366 311

website: www.rta.qld.gov.au

Legal Aid Queensland

Free legal information and advice in criminal, family and civil law, and representation to financially and socially disadvantaged Queenslanders.

telephone: 1300 651 188

website: www.legalaid.qld.gov.au

Department of State Development, Infrastructure and Planning

Has planning, infrastructure and local government responsibilities, including the provision of building, plumbing and sustainable housing information and advice.

telephone: 13 QGOV (13 74 68)

website: www.dsdip.qld.gov.au

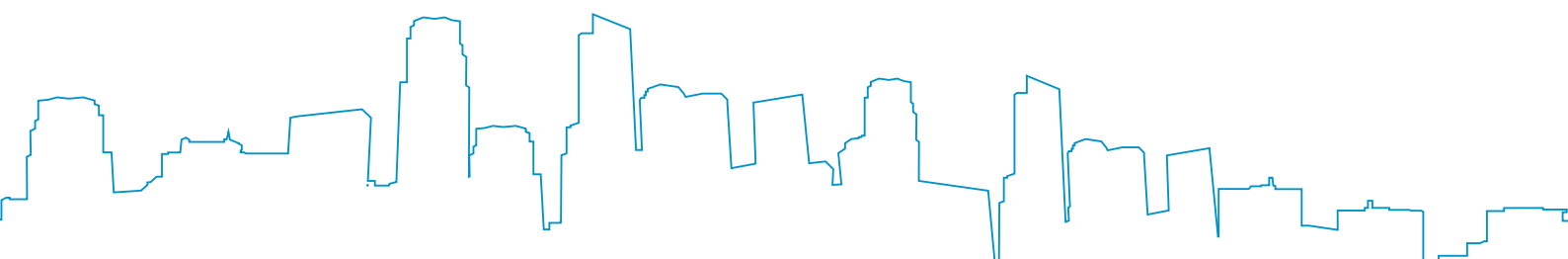
Queensland Fire and Rescue Service

Building Fire Safety Section

Provides fire and rescue services including enforcing compliance with fire safety standards for buildings.

telephone: 07 3247 8100

website: www.fire.qld.gov.au



This publication is provided by the Queensland Government through the Office of the Commissioner for Body Corporate and Community Management.

Brisbane Magistrate's Court

Level 4, 363 George Street, Brisbane.

Freecall telephone: 1800 060 119.

Email: bccm@justice.qld.gov.au

Website: www.justice.qld.gov.au/bccm

Information provided in this guide outlines the basic principles for living in a community titles scheme established under the *Body Corporate and Community Management Act 1997* (the BCCM Act) and operating under the *Body*

Corporate and Community Management (Standard Module) Regulation 2008 (the Standard Module). A community titles scheme is governed by the BCCM Act and regulations and the scheme's CMS. The laws referred to are complex and various qualifications may apply to the provisions in different circumstances. You are encouraged to obtain independent legal advice if you are unsure how the body corporate laws apply to your situation.

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be obtained from Lit Support via:

Their website: www.litsupport.com.au

Phone: 1300 548 787



Copies of the body corporate legislation can also be downloaded, at no cost, from the Office of the Parliamentary Council at www.legislation.qld.gov.au