



Body corporate records

This factsheet deals with establishing, keeping and allowing access to body corporate records under the *Body Corporate and Community Management Act 1997* (the BCCM Act) and the *Body Corporate and Community Management (Standard Module) Regulation 2008* (the Standard Module).

What are records? (BCCM Act section 204)

The records a body corporate must establish and keep include:

- the roll
- registers
- other documents and information (eg meeting minutes, correspondence etc).

The body corporate must allow access to all of these records and may only dispose of them if the regulation module applying to scheme provides for their disposal.

The roll of lots and entitlements (Standard Module section 196)

The roll is a detailed list of information about each lot (unit) in a community titles scheme, as well as information about the original owner (developer).

The roll must contain, among other things:

- the name and residential or business address or the address for service (if this is not the residential or business address) of the current owner of each lot
- the name and address of the lessee of a lot and the term of the lease (for a lease of at least six months)
- if the owner of a lot is a corporation, the name and address for service of each nominee
- the contribution and interest schedule lot entitlement for each lot
- details about the original owner (e.g. name, address and ABN number if a corporation).

Notices for roll (Standard Module section 193)

The information that appears on the roll about a particular lot must be provided by the lot owner. Within two months of becoming a lot owner or for example leasing the lot or engaging a person as

a letting agent, the lot owner must give the body corporate notice about the event. While there is no prescribed form of notice, the BCCM Office provides BCCM Form 8 for this purpose.

If a lot owner fails to give the body corporate the notice of information for the roll, the body corporate (via the committee) may, by written notice require the lot owner to provide the information. There is no prescribed form of notice, however the BCCM Office provides BCCM Form 9 for this purpose.

Note: among other things, the lot owner must provide their name and an 'address for service' which must be an Australian address. However, the lot owner is not required to include their phone number in the notice for the body corporate roll.

The registers (Standard Module sections 197-201)

There are a number of registers a body corporate must maintain, including:

Register of assets

A body corporate asset is an item of real or personal property acquired by the body corporate, other than property which is incorporated into and becomes part of the common property. Any assets more than \$1000 in value must be listed in an assets register.

The details of the asset must include:

- a brief description of the asset
- if purchased, its cost, where and when it was purchased
- if a gift, its estimated value and the donor.

Register of engagements and authorisations

If the body corporate engages a body corporate manager or service contractor, or has authorised a person as a letting agent, the body corporate must show the following details in the register:

- the name and address of the body corporate manager, service contractor or letting agent
- their duties
- the basis of their remuneration
- the term

- the body corporate manager's authorised powers
- an original copy of the contract.

Register of common property authorisations

The details of any authorisation to a service contractor or letting agent to occupy the common property, or to a lot owner to make improvements to the common property, must be included in the register, including the following:

- when the resolution giving the authorisation was passed
- a description of the authorised area of common property
- any conditions stated in the authorisation.

Register of exclusive use allocations

The body corporate may from time to time at general meeting, allocate areas of common property under an exclusive use by-law to particular lots. The details of each allocation authorised by an exclusive use by-law must be included in the register and must state:

- the relevant exclusive use by-law
- the relevant area of common property
- the lot that has the benefit of the exclusive use.

Register of reserved issues

The body corporate may, by ordinary resolution, restrict the committee from making particular decisions. Known as reserved issues, the body corporate must keep a register of issues that have been reserved for decision by ordinary resolution of the body corporate.

The register must include:

- a description of the issue; and
- the date of the ordinary resolution reserving the issue.

The notice of the annual general meeting must be accompanied by a copy of the register of reserved issues.

Documents and information (Standard Module section 202)

In addition to the rolls and registers, the body corporate must keep certain documents and information, including:

- general meeting material including:
 - the notices calling for committee nominations
 - proxy appointment documents
 - general meeting notices, including the agenda, written voting papers, and other attachments

- completed voting papers and completed ballot papers for committee elections
- voting tally-sheets for motions and election ballots
- minutes of each general meeting
- committee meeting material including:
 - notices of meetings, including the agendas for meetings
 - committee member proxy appointment documents
 - notices for resolutions to be passed other than at a committee meeting, and the responses of committee members
 - notices of opposition to committee resolutions
 - minutes of each committee meeting
 - full and accurate record of each motion voted on other than at a committee meeting.
- accounting records and statements of account for each financial year
- reconciliation statements
- each policy of insurance
- correspondence received and sent by the body corporate
- orders made against the body corporate, or in relation to the scheme, by a judicial or administrative authority.

Access to records (BCCM Act section 205)

A person with an interest in the body corporate has a right to inspect any body corporate records, obtain a copy of any record kept by the body corporate, and obtain a certificate which gives financial and other information about a lot in the scheme.

A person has an interest in the body corporate if that person is:

- the owner, or mortgagee, of a lot included in the scheme
- the buyer of a lot included in the scheme
- another person who satisfies the body corporate of a proper interest in the information sought
- the agent of an abovementioned person.

A request for information from the body corporate records must be in writing and must be accompanied by the fee prescribed by the regulation module (Standard Module section 205).

Note: committee members must be given reasonable access, without payment of a fee.

The body corporate can not impose additional charges or fees when providing information. If under their agreement, a body corporate manager requires the payment of additional fees for providing information, this is a matter between the body corporate and the manager. The interested person being provided the information is only required to pay a fee in accordance with the regulations.

The *Privacy Amendment (Private Sector) Act 2000* (the Privacy Act)

Principle 2.1(g) of the National Privacy Principles contained in the Privacy Act states:

'An organisation must not use or disclose personal information about an individual for a purpose other than the primary purpose of collection unless the use or disclosure is required or authorised by law.'

Numerous provisions in the BCCM Act and regulation modules require that certain information be provided or disclosed (BCCM Act section 205). Therefore, where a specific provision in the body corporate legislation authorises or requires use or disclosure of certain information, the *Privacy Act 2000* cannot be relied upon as a reason for refusing the use or disclosure of the information.

Return of body corporate records

Under section 206 of the Standard Module, the body corporate committee can resolve to require a person in possession of a body corporate record (e.g. a body corporate manager) to return that record to the body corporate. The resolution of the committee must be served, as a notice, on the person and require the person to deliver the body corporate record to a named committee member within fourteen days after the notice has been served.

The person must comply with the notice.

Penalties

Section 205 of the BCCM Act (Information to be given to interested persons) and section 206 of the Standard Module (Return of body corporate property) prescribe penalties for breaches of the legislation. Penalties may be imposed by a Magistrates Court, acting under powers given by section 19 of the Justices Act 1886.

For further information on the process for taking a proceeding to the Magistrates Court see the *Enforcement of adjudicators' orders and penalties* factsheet.

Disposal of records

Certain body corporate records cannot be disposed of while others may be disposed of after either two or six years.

Records that cannot be disposed of include:

- the roll of lots and entitlements
- the registers the body corporate must maintain
- the minutes of general meetings and committee meetings
- a document which has a current relevance to the scheme (eg a contract that is in force for longer than six years).

Records that may be disposed of after six years include:

- statements of account, including certificates of auditors
- notices of meetings including agendas and attachments
- orders made against the body corporate, or in relation to the scheme, by a judicial or administrative authority
- documents evidencing or detailing major repairs or installations carried out on common property.

Records that may be disposed of after two years include:

- associated meeting material, other than notices including agendas and attachments
- correspondence of no significance or continuing interest
- reconciliation statements and associated financial statements and invoices.

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

Information Service telephone (freecall): 1800 060 119

Email: bccm@justice.qld.gov.au

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

Street address: Level 11, 259 Queen St, Brisbane

Postal address: GPO Box 1049, Brisbane Qld 4001

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council at: www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm or purchased from SDS, Ground Floor, Mineral House, 41 George Street, Brisbane. SDS Customer Service can be contacted on: 07 3118 6900 or 1800 679 778 or at: www.publications.qld.gov.au.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.

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