

## Body Corporate and Community Management

# Common Ground Issue 12

Welcome to issue 12 of *Common Ground*, the bi-annual e-newsletter for the Office of the Commissioner for Body Corporate and Community Management.

### Commissioner's Office update

The Commissioner's Office has had several staffing changes in recent months.

The most notable is that the Commissioner Robert Walker is undertaking a temporary secondment to another part of the Department of Justice and Attorney-General. During his absence, I am acting as Commissioner – as I have done on several previous occasions.

We have also welcomed several new staff around the Office as others have taken up secondments or left to pursue other opportunities. It has been great to have new faces and fresh ideas, and our new starters have done a great job in hitting the ground running. All areas of the Office have assisted in training our new staff and ensuring that there has been minimal disruption to service delivery.

In March and April the Commissioner's Office held five public information seminars, in Brisbane, Southport and Maroochydore. The seminar topics included how to resolve a body corporate dispute, trends in by-laws, the Queensland Government's property law review, and the Queensland Government's One-Stop Shop initiative. These seminars were very well attended (around 500 attendees across the five seminars) and it was great to see so many people interested in learning more about bodies corporate. If you missed the seminars, read on for more information on some of the topics or contact the Information Service on 1800 060 119.

A further seminar is planned for North Queensland later in the year. Information about that seminar, and future events, will be sent to *Common Ground* subscribers.

If you are not yet a *Common Ground* subscriber, you can subscribe online by [clicking here](#). Alternatively you can call our Information Service on 1800 060 119.

**Ingrid Rosemann**  
Acting Commissioner

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## Community titles scheme statistics



The number of community titles lots in Queensland has now passed 400,000! As at the end of March 2014 there were 401,972 lots, an increase of 2.9% in the last 12 months.

There are now 42,948 registered schemes in Queensland. Of these:

- 66.0% are registered under the Standard Module
- 20.9% are governed by the Small Schemes Module
- 7.5% are under the Accommodation Module
- 4.3% are Commercial Module schemes
- and 1.3% are under the Specified Two-Lot Schemes Module

Also:

- 30,211 schemes have 6 or fewer lots
- 5,356 schemes have 7-10 lots
- 3,554 have 11-20 lots
- 2,480 have 21-50 lots
- 986 schemes have 51-100 lots
- 361 schemes have over 100 lots

## Payments to the Commissioner's Office



If you are making a payment to the Commissioner's Office for a dispute resolution application, or for the inspection or copies of documents associated with an application, you currently have the following payment options:

- Credit card payment over the phone
- [Credit card payment](#) by mail or fax using the *Credit card payment authorisation form* (BCCM Form 21)
- Cheque or money order made payable to BCCM
- Cash at the BCCM reception counter
- EFTPOS at the BCCM reception counter

Please note that *Credit Card Payment Authorisation* form has recently been updated. To ensure the security of your details, this form must not be emailed.

We will soon be introducing an online credit card payment option and will notify *Common Ground* subscribers when it becomes available.

For those requesting a 'search of adjudicators orders', you can still use the [BCCM Form 3](#) to make your request and pay by one of the payment options above.

But did you know that you can also request and pay by credit card for a '[search of adjudicators](#)' orders online? Please open the link for further information.

## Queensland Government 'One-Stop Shop'

The Queensland Government is currently undertaking a significant project to make it simpler and easier for Queenslanders to access government information and services.

The project involves a one-stop shop approach for service delivery to deliver a better and more consistent customer experience regardless of where customers are and how they contact Government.

The One-Stop Shop plan will enable Queensland Government services to be accessed:

Online: [www.qld.gov.au](http://www.qld.gov.au)

By calling: 13 QGOV (13 74 68)

By visiting a local service outlet: [www.qld.gov.au/about/contact-government/contacts/government-service-offices](http://www.qld.gov.au/about/contact-government/contacts/government-service-offices)

A key element of the project is expanding online Government information in a single location. Sometimes it is difficult for customers to know which individual government department's website to go to and how to find the information they need from that department. With a single website it will be easier to go to the one place to look for the plain English information you need.

For the Commissioner's Office, this project has included updating and expanding our online information resources. Some body corporate content has already been uploaded to the central website with more to come soon.

You can go straight to the body corporate information [here](#). Ultimately the current Commissioner's Office website will be decommissioned, but once it is you will be directed from that web address to the new site.

While there is a general phone number for all Queensland Government services, you can still call the Commissioner's Office direct on freecall 1800 060 119.

## Review of property law in Queensland



The Queensland Government has established a review of Queensland's property laws with the aim of reducing red tape, regulation and property law duplication. The review seeks to achieve a more streamlined approach to how Queenslanders buy, sell and manage property.

The Government has engaged highly-respected and experienced property law experts from the Queensland University of Technology (QUT) to conduct the review. It will examine legislation including the *Property Law Act 1974*, *Land Sales Act 1984* and the *Body Corporate and Community Management Act 1997* (BCCM Act).

In March community feedback was sought on two issues papers – one about seller disclosure requirements and one about lot entitlements in community titles schemes. Further issues papers are likely to be released in future.

Information about the issues papers released to date is [available online](#).

Please note that the Commissioner's Office is not directly involved in conducting the review. The general contact for the review is:

Property Law Review  
C/- Strategic Policy  
Department of Justice and Attorney-General  
GPO Box 149  
BRISBANE QLD 4001  
[propertylawreview@justice.qld.gov.au](mailto:propertylawreview@justice.qld.gov.au)

## Frequently asked questions



The following outlines some of the common questions to the Information Service in the Commissioner's Office:

**1. *My body corporate passed a motion at the last general meeting to engage a contractor to paint all townhouses in the scheme, and to raise a special levy to pay for it. I don't want to use that contractor. Can I organise to paint my townhouse myself?***

If your scheme is registered under a building format plan of subdivision (and so the surface of the external wall is common property) then painting of the buildings will be the responsibility of the body corporate. The body corporate is entitled to decide to carry out the painting and to engage a contractor.

However, if your scheme is registered under a standard format plan, each lot building will fall completely within the boundaries of the lot. In this case the maintenance of these buildings (which includes painting) is the responsibility of each owner. In this case the body corporate has no authority under the BCCM Act to carry out the painting against owner's wishes or to levy owners to paint their lot. However, the body corporate can enter into an agreement with individual owners to arrange a painting contractor to paint the lot buildings of those owners and to recover the full painting cost from those owners.

**2. *Does the Commissioner's Office have a form for a 'remedial action notice' to give to a service contractor or body corporate manager?***

The 'remedial action notice' is not specified as a 'prescribed form' in the legislation and the Commissioner's Office does not produce templates or sample forms for this process.

When considering the termination of a service contractor or body corporate manager a body corporate should have careful regard to the requirements of *section 131* of the Standard Module (or equivalent) and the terms, duties and functions specified in the contract of engagement. A body corporate should consider seeking private legal advice when drafting a remedial action notice and pursuing termination processes.

**3. Does the Commissioner's Office have a 'disclosure statement' form for the seller of a lot to give to a purchaser?**

A person selling their lot must give the purchaser a 'disclosure statement' providing certain information. Essentially the statement sets out relevant financial details and other matters about the scheme, and gives a prospective buyer information to consider prior to signing a contract.

The statement must be signed by the seller or a person authorised by them and given to the buyer before they enter into the contract of sale.

The obligation to provide the disclosure statement, and the information to be provided, are set out in *section 206* of the BCCM Act.

There is no approved form or template provided by the Commissioner's Office. However the Real Estate Institute of Queensland has produced a 'Disclosure Statement' form which sets out the legislative requirements.

As the statement must be provided by a seller, there is no obligation on a body corporate to produce a statement for a seller. However an owner can request access to body corporate records (under *section 205* of the BCCM Act). Those records should contain the information required to compile the disclosure statement.

**4. When the committee prepares explanatory material for motions at a general meeting, does it need to present all sides of the issue fairly or can it just put its preferred position on the motion?**

In *Body Corporate for Palm Springs Residences CTS 29467 v J Patterson Holdings Pty Ltd* [2008] QDC 300 the District Court said that explanatory material presented by the committee does not need to be a balanced assessment of the issue. However the committee would have a duty to inform owners of material disadvantages to a proposal that it knows of.

In another decision, *Lattuga & Anor v Body Corporate for Merrimac Heights CTS 19563* [2011] QCATA 253, the Queensland Civil and Administrative Tribunal said that to overturn a vote based on concerns about the adequacy of the explanatory material, there would need to be material evidence that voters were misled, confused or overborne.

## G20 Summit



The G20 Leaders Summit will be held on 15-16 November 2014 at the Brisbane Convention and Exhibition Centre. Friday 14 November 2014 will also be a public holiday for people who work in the Brisbane local government area.

Residents and businesses, including bodies corporate, should bear in mind the following issues in the area:

- Road closures
- Parking restrictions
- Changes to bus and train services
- Potential delays to deliveries
- Increased security scrutiny

The greatest impacts will be in the designated “Restricted Areas”, which include the Convention Centre and numerous hotels which will be utilised by delegates. Entry to venues in these areas will be by accreditation only and staff, residents and visitors can expect high levels of security. Detailed maps of the Restricted Areas are available at <http://www.police.qld.gov.au/g20/maps.htm>.

It is also noted that the G20 Finance Ministers and Central Bank Governors meeting will be held on 20 and 21 September 2014 at the Cairns Convention Centre. While the impacts on Cairns are expected to be less significant, Cairns bodies corporate, residents and visitors should be aware that there will be an increased police presence and may be some disruption to roads and transport.

Visit [www.qld.gov.au/g20](http://www.qld.gov.au/g20) for more information on the G20 Summit and its impacts.

## Practice directions update



The Commissioner’s Office produces (pursuant to *section 233* of the *Body Corporate and Community Management Act 1997*) a series of 32 practice directions to provide further information on the policies and procedures applying to dispute resolution applications lodged with the Office.

Several of these practice directions have recently been updated with minor amendments. In particular, changes have been made to Practice Direction 4: *Fees and Charges for Dispute Resolution Applications*; Practice Direction 24: *Debt Disputes*; and Practice Direction 29: *Legal and Other Assistance*.

All practice directions are available online at: [www.justice.qld.gov.au/bccm](http://www.justice.qld.gov.au/bccm) . They will also be available soon on the one-stop shop website: [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate)

## Insurance costs in North Queensland



On 9 May 2014 the Federal Minister for Finance and Acting Assistant Treasurer, Senator the Hon Mathias Cormann, released a discussion paper canvassing policy options to address the high cost of home and strata title insurance in North Queensland.

The discussion paper is available online at [www.treasury.gov.au/ConsultationsandReviews/Consultations/2014/Addressing-the-high-cost-of-home-and-strata-title-insurance-in-North-Queensland](http://www.treasury.gov.au/ConsultationsandReviews/Consultations/2014/Addressing-the-high-cost-of-home-and-strata-title-insurance-in-North-Queensland) .