

## **Body Corporate Certificate –**

### **For the sale of a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997***

#### **Important information for buyers**

**WARNING - YOU ARE STRONGLY ADVISED TO READ ALL THE INFORMATION PROVIDED TO YOU BY THE SELLER AND OBTAIN INDEPENDENT PROFESSIONAL LEGAL ADVICE BEFORE SIGNING THE CONTRACT**

The property to which this certificate relates is part of a community titles scheme regulated under the *Body Corporate and Community Management Act 1997*. Owning a lot (for example, a unit, apartment or townhouse) in a community titles scheme comes with different rights and obligations to those associated with owning a property that is not part of a community titles scheme. This certificate contains important information about owning a lot in a community titles scheme, as well as information specific to the lot you are considering buying.

You may rely on this certificate in a claim against the body corporate as conclusive evidence of matters stated in the certificate (other than to the extent to which the certificate contains an error that is reasonably apparent).

#### ***Membership of body corporate***

Upon becoming the owner of a lot in a community titles scheme, you will:

- automatically become a member of the body corporate for the scheme and can take part in the management of the scheme;
- have to pay contributions towards the body corporate's expenses in managing the scheme;
- have to comply with the body corporate by-laws.

You must notify the body corporate that you have become the owner of a lot in the scheme within 1 month. [Insert link/QR Code link to the relevant form.]

#### ***Seller's statutory warranties***

Under the *Body Corporate and Community Management Act 1997*, certain warranties about some aspects of the community titles scheme are implied in a contract for the sale of a lot. If you discover a breach of a warranty before settlement you may have a right to terminate the contract. The warranties are:

- at the date of the contract there are no latent or patent defects in the common property or body corporate assets (other than defects arising through fair wear and tear or disclosed in the contract) known to the seller or disclosed in the body corporate records;
- at the date of the contract there are no actual, contingent or expected liabilities of the body corporate that are not part of the body corporate's normal operating expenses (other than disclosed in the contract) known to the seller or disclosed in the body corporate records; and
- at completion of the contract there are no circumstances known to the seller in relation to the affairs of the body corporate likely to materially prejudice the buyer.

#### ***Short term letting in community titles schemes***

The lawful use of a lot, including whether a lot can be used for short-term letting, is determined by the relevant local government under the applicable planning laws, instruments and documents. You may wish to seek advice from the relevant local government authority or your solicitor about the permitted lawful use of the lot, including whether the permitted lawful use may subsequently change.

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It is possible that lots in the community titles scheme are currently being used (or will in future be used) lawfully or unlawfully for short-term or transient accommodation (for example, by being advertised on AirBNB).

Relevant planning and development documents can be obtained from the relevant local government. Some relevant documents, such as the development approval, may be available from the body corporate, depending on when and how the body corporate was established.

If you are considering purchasing a property for short-term letting, it is important you explore any approvals you will need or whether there are any rules prohibiting short-term letting.

#### ***Obtaining further information***

You are strongly advised to conduct a search of the body corporate records for the community titles scheme which the property you are buying is part of. A search of the body corporate records, including financial records and statements; minutes of body corporate general meetings and committee meetings; and correspondence sent and received by the body corporate, can provide important information about the scheme that is not included in this certificate, such as:

- disputes relating to the community titles scheme;
- the need for major body corporate expenditure in the future;
- any legal action the body corporate may be involved in;
- orders made against the body corporate, or in relation to the scheme, by a judicial or administrative authority.

To search the body corporate records, contact the person responsible for keeping the body corporate records:

<b>Person responsible for keeping body corporate records</b>	<b>Name:</b>
	<b>Role (secretary, body corporate manager or other):</b>
	<b>Address:</b>
	<b>Phone:</b>
	<b>Email:</b>

Further information about your rights and obligations under the *Body Corporate and Community Management Act 1997* and its regulations is available at [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate).

### **Property**

<b>Name of Community Title Scheme that lot is part of</b>	
<b>Community Management Statement (CMS) number</b>	
<b>Lot number and plan number</b>	<b>Lot:</b>  <b>Plan number:</b>
<b>Plan format applying to lot</b>	<input type="checkbox"/> Standard Format <input type="checkbox"/> Building Format <input type="checkbox"/> Volumetric Format

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<b>Building Management Statement</b> <i>Some community titles schemes in mixed-use buildings are bound by a building management statement. A building management statement contains provisions that can benefit and burden a community titles scheme, including in relation to <u>costs</u> that the community titles scheme <u>must</u> pay for shared areas and services. Details of the building management statement will be listed on a title search for the lot, and you may obtain a copy of the building management statement from the Titles Registry: <a href="http://www.titlesqld.com.au">www.titlesqld.com.au</a>.</i>	<b>Does a building management statement apply to the community titles scheme?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes, check with your solicitor to obtain further details about your rights and obligations (and the rights and obligations of the community titles scheme) relating to the building management statement.</i>
<b>Name and contact details of person who has been appointed as body corporate manager (if any)</b>	<b>Name:</b>
	<b>Address:</b>
	<b>Phone:</b>
	<b>Email:</b>

**Community Management Statement**

A copy of the community management statement for the scheme must be provided by the seller with this body corporate certificate. The community management statement contains important information about the rights and obligations of lot owners. Before signing the contract, you may wish to investigate whether there is a proposal to record a new community management statement for the scheme, or if the seller has received notice of any proposed resolution or a decision of the body corporate to consent to the recording of a new community management statement for the scheme.

***Lot entitlements***

As an owner of a lot in a community titles scheme, you are required to pay contributions to cover the body corporate's expenses.

Each lot owner's contribution to the body corporate's expenses is determined by the 'lot entitlements' allocated to the lot, relative to the total lot entitlements for all lots in the scheme. The lot entitlements for lots in the scheme are listed in the community management statement. Lots may have different lot entitlements and therefore pay different contributions to the body corporate's expenses. You should be satisfied that the lot entitlements allocated to the lot you are considering buying are fair before you sign a contract of sale.

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<b>Contribution schedule lot entitlements</b> <i>This is used to calculate the lot owner's contributions to most body corporate expenses.</i>	<b>Contribution schedule lot entitlement for the lot:</b>  <b>Total contribution schedule lot entitlements for all lots:</b>
<b>Interest schedule lot entitlements</b> <i>This is used to calculate the lot owner's share of ownership of the common property as well as the lot owner's contributions to the body corporate's insurance expenses.</i>	<b>Interest schedule lot entitlement for the lot:</b>  <b>Total interest schedule lot entitlements for all lots:</b>

#### **By-laws**

You must comply with the body corporate by-laws. Body corporate by-laws control and manage the use of lots, common property (for example, stairways, lifts, foyers, pool areas and gardens), services and facilities provided by the body corporate and body corporate assets. By-laws can cover a range of matters, including noise, pets, smoking, carrying out work on the lot (including renovations), and parking, so it is important that you understand them before signing a contract.

The body corporate by-laws are usually listed in the community management statement for the scheme. If the community management statement doesn't contain body corporate by-laws, you should seek further information about the by-laws that apply from the body corporate or your solicitor.

A body corporate may change its by-laws by special resolution at a general meeting of the body corporate, with the changed by-laws taking effect once a new community management statement for the scheme containing the changed by-laws is recorded by the Registrar of Titles. Before signing the contract, you should investigate whether there is a proposal to record a new community management statement for the scheme, or if the seller has received notice of any proposed resolution or a decision of the body corporate to consent to the recording of a new community management statement for the scheme.

#### **Exclusive use areas**

An exclusive use area is part of the common property that a lot owner has exclusive use of and could include, for example, a courtyard, car park or storage area. The community management statement usually identifies exclusive use areas for a lot in a by-law and a plan identifying the location and boundaries of the exclusive use area. The seller must disclose to a buyer any exclusive use area that is not included in a community management statement. If the lot has the benefit of an exclusive use area, the lot owner will usually be required to maintain the area and pay for any repairs.

#### **Layered arrangement of community titles schemes**

A layered arrangement of community titles schemes is a grouping of community titles schemes which includes a principal community titles scheme and one or more subsidiary community titles schemes. If the community titles scheme forms part of a layered arrangement of community titles schemes, the community management statement will explain the structure of the layered arrangement.

The community management statement (including by-laws) of a subsidiary community titles scheme is subject to the community management statement for each scheme that sits above it in the layered arrangement. A subsidiary community titles scheme also contributes towards the costs of the body corporate for each scheme that sits above it in the layered arrangement.

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If the property you are considering buying is in a community titles scheme that is part of a layered arrangement of community title schemes, it is recommended that you obtain further details about your rights and obligations (and the rights and obligations of the community titles scheme) relating to the layered arrangement of community titles schemes.

<b>Is the community titles scheme part of a layered arrangement of community titles schemes?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes, insert name and community management statement number for each community titles scheme that sits above the community titles scheme in the layered arrangement:</i>
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### Regulation module

The regulation modules made under the Body Corporate and Community Management Act 1997 provide detailed rules and requirements for community titles schemes. The regulation modules are:

- Body Corporate and Community Management (Accommodation Module) Regulation 2020
- Body Corporate and Community Management (Commercial Module) Regulation 2020
- Body Corporate and Community Management (Small Schemes Module) Regulation 2020
- Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011
- Body Corporate and Community Management (Standard Module) Regulation 2020

<b>What regulation module applies to this scheme?</b>	
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### Financial Information

As an owner of a lot in a community titles scheme, you are required to pay contributions to the body corporate to cover the body corporate's expenses.

[Note - do not fill out this section for a specified two-lot scheme – instead, please fill out the specified two-lot scheme section below]

### CONTRIBUTIONS

Your body corporate contributions may vary from year to year depending on the body corporate's anticipated expenses.

You may need to pay additional contributions, known as special contributions, if the body corporate has unexpected or additional expenses that were not budgeted for.

The contributions payable by the lot owner for the most recent body corporate financial year - for which the body corporate has determined contributions - appear below. Contributions are assigned to two different funds – an administrative fund for recurrent expenses and a sinking fund for capital and non-recurrent expenses.

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**ADMINISTRATIVE FUND CONTRIBUTIONS**

Total amount of Administrative Fund contributions	Period	Number of instalments
\$		

**Due dates for contributions**

Amount	Due date	Paid
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No

**SINKING FUND CONTRIBUTIONS**

Total amount of Sinking Fund contributions	Period	Number of instalments
\$		

**Due dates for contributions**

Amount	Due date	Paid
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No

**SPECIAL CONTRIBUTIONS:**

Total amount of Special contributions (if any)	Date determined	Period	Number of instalments
\$			

**Due dates for contributions**

Amount	Due date	Paid
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No
\$		<input type="checkbox"/> Yes <input type="checkbox"/> No

**DISCOUNTS**

Discount payable for timely payment of contributions	%
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**PENALTIES**

Penalty payable for late payment of contributions

%

**OTHER AMOUNTS PAYABLE BY THE LOT OWNER**

**Other amounts payable to the body corporate by the lot owner for the current body corporate financial year:**

**Amounts payable under an exclusive use by-laws:**

\$

**Amounts payable under service agreements (that are not included in body corporate contributions for the lot):**

\$

**Other amounts:**

\$

**Summary of amounts due but unpaid by the current owner**

If you buy a lot in a community titles scheme, you will become liable for any contributions, penalties or other amounts payable to the body corporate associated with the ownership of lot that are due but unpaid when you become the owner. For instance, if body corporate contributions have been issued, but have not yet been paid by the previous owner when you become the owner, you will become liable for these contributions. You should ask your solicitor to arrange for appropriate adjustments to the purchase price to be made at settlement to account for any amounts due but unpaid at the time of settlement and then pay any outstanding amounts payable to the body corporate after settlement.

**Contributions:**

\$

**Penalties:**

\$

**Other amounts (for example recovery costs):**

\$

**Total amounts due but not paid:**

\$

**Common Property and Body Corporate Assets**

When you buy a lot in a community titles scheme, you also obtain a share in the common property for the scheme. Common property can include driveways, lifts and stairwells, and shared facilities.

The body corporate is responsible for maintaining the common property and body corporate assets.

It is important to find out the costs for maintenance and general upkeep of the common property and body corporate assets, including costs for major future capital expenses that are likely to be required, as this will impact on future body corporate expenses and contributions payable by lot owners towards body corporate expenses.

The body corporate must have a sinking fund to pay for future capital expenses, such as repairs or replacement of common property and assets (unless your scheme is regulated under the Specified Two-lot Schemes Module)

If the sinking fund is inadequate at the time a replacement or repair is necessary, lot owners will be required to pay additional contributions.

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Prior to signing a contract, you should make enquiries of the body corporate about unbudgeted anticipated expenditure and seek independent advice on whether the sinking fund balance is appropriate to meet likely future capital expenditure. The body corporate may have recently obtained a sinking fund forecast – if so, you can compare the current sinking fund balance to the recommended sinking fund balance contained in the sinking fund forecast.

Current sinking fund balance	\$
Recommended sinking fund balance contained in the sinking fund forecast (if available) at start of current financial year	\$

### Improvements to common property for which the lot owner is responsible

A lot owner may be responsible for maintaining improvements which are for the benefit of the lot but located on common property. These improvements may or may not be within an exclusive use area.

Improvements to the common property for which the owner of the lot is responsible are listed below.

Insert details or attach copy of the body corporate improvements register (if applicable)

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### Body corporate assets

Insert details of assets more than \$1,000 in value or attach copy of the body corporate assets register (if applicable).

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### Insurance

#### ***Body corporate insurance***

The body corporate for the scheme must insure the common property and body corporate assets for full replacement value. The body corporate must also take out public risk insurance covering the common property and body corporate assets.

For multi-level apartment buildings, the body corporate is also required to insure the building for full replacement value (except if the building is the subject of a building management statement registered under the Land Title Act 1994; the building management statement provides for insurance for the building to a level comparable with insurance otherwise required under this part; and the insurance is in place).

For other types of community titles schemes, whether insurance of buildings is the body corporate's or owner's responsibility depends on the type of survey plan the scheme is registered under, or whether the buildings have common walls. More information is available from the Office of the Commissioner for Body Corporate and Community Management website [insert QR code for relevant page] or your solicitor.



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<b>Does the body corporate insurance comply with statutory coverage requirements?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Has the body corporate obtained authorisation from the Commissioner for Body Corporate and Community Management to put in place alternative insurance?</b> <i>Where a body corporate cannot comply with the required level of insurance, it may apply in writing to the Commissioner for Body Corporate and Community Management to put in place alternative insurance. In approving alternative insurance, the Commissioner must be satisfied that the required level of insurance cannot be obtained, and the alternative insurance provides cover that is as close as practicable to the required cover.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Details of the current policies of insurance that are held by the body corporate appear below. If no details are provided, you should seek legal advice prior to signing the contract.

Details of all insurance policies taken out by the body corporate								
Type of Policy	Name of Insurer	Policy Number	Sum Insured	Amount of Premium	Excess payable on claim	Due date of premium	Date and amount of last valuation obtained by body corporate	Insurance broker: name and organisation (if relevant)

***Lot owner and occupier insurance***

The occupier is responsible for insuring the contents of the lot and any public liability risks which might occur within the lot. If the building is a detached or freestanding building, the owner may be responsible for insuring the building. More information is available from the Office of the Commissioner for Body Corporate and Community Management website [insert QR code for relevant page] or your solicitor.

<b><u>Body corporate engagements and authorisations</u></b>	
<b>Has the body corporate engaged a body corporate manager?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes, provide name and address of the body corporate manager; and an overview of the duties the body corporate manager is required to perform, the basis on which the body corporate manager is remunerated, and the term of the engagement:</i>

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<b>Has the body corporate engaged any service contractors? For instance, a caretaking contractor under a management rights agreement</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes, provide name and address of each service contractor; and an overview of the duties the contractor is required to perform, the basis on which the contractor is remunerated, and the term of the engagement:</i>
<b>Has the body corporate authorised a person as a letting agent for the scheme? For instance, a letting agent under a management rights agreement</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <i>If yes, provide name and address of the letting agent and the term of the authorisation:</i>

**Specified Two-lot Schemes Module****To be completed only if the scheme is regulated under the Specified Two-lot Schemes Module**

Under the specified two-lot schemes module, decisions of the body corporate are made by a lot owner agreement. Existing lot owner agreements are binding on a person if the person becomes the owner of a lot in the scheme.

Under the specified two-lot schemes module, an item of expenditure that the body corporate has decided, by a lot owner agreement, to incur is an agreed body corporate expenses. The owner of a lot is liable to pay a contribution proportionate to the contribution schedule lot entitlement of the lot towards an agreed body corporate expense.

**Amounts payable in relation to lot**

If you buy a lot in a community titles scheme, you will become liable for any amounts payable for an amount payable associated with the ownership of the lot that is due but unpaid when you become the owner, for example, contribution towards agreed body corporate expenses, amounts payable under an exclusive use by-law or a penalty that has been imposed by a goods or service supplier for late payment of an agreed body corporate expense. You should ask your solicitor to arrange for appropriate adjustments to the purchase price to be made at settlement to account for any amounts due but unpaid at the time of settlement and then pay any outstanding amounts payable to the body corporate or other party after settlement.

Purpose of expense payable	Amount	Due date

<b>Is there a separate body corporate bank account?</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>If yes, the current amount/s in any body corporate bank account:</b>	\$
<b>A copy of the Lot Owner Agreement providing for the establishment of the bank account is:</b>	<input type="checkbox"/> Attached <input type="checkbox"/> Not attached

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Are there any other lot owner agreements binding on any new owner?

☐ Yes

☐ No

*If yes, a copy of any lot owner agreements must be attached.*

**BODY CORPORATE AUTHORITY**

This certificate is signed and given under the authority of the Body Corporate.

Name \_\_\_\_\_

Position held \_\_\_\_\_

Signature/s \_\_\_\_\_

Date \_\_\_\_\_

DRAFT