

## Residential Strata Insurance...your questions answered.

We know that the subject of Body Corporate and Two-lot Module (Duplex) Ownership can cause some confusion. As such we have put together a list of Frequently Asked Questions to assist.

### What is a Body Corporate / Strata Property?

A Body Corporate is a legal entity which is created when land is subdivided and registered under the Land Title Act 1994 to establish a Community Titles Scheme (CTS). All of the owners in a CTS are automatically members of the body corporate when they buy their lot.

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

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Role of the Body Corporate")

### What is a Community Titles Scheme?

Community Titles Schemes (CTS) allow you to privately own an area of land or part of a building, as well as share common property and facilities with other owners and occupiers.

A CTS is made up of 2 or more lots and can include properties such as a duplex, residential unit block, townhouse complex, high rise accommodation building, shopping complex or business park.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Role of the Body Corporate")

### What does a Body Corporate do?

The Body Corporate is given powers under the legislation to carry out its necessary duties. These include:

- Maintains, manages and controls the common property.
- Decides the amounts to be paid by owners to make sure the body corporate can operate.
- Makes and enforces its own rules, called by-laws, which tells owners and other people who live in the scheme what they can and cannot do.
- Takes out insurance on behalf of owners, such as public risk insurance over the common property and building insurance.
- Manages and controls Body Corporate assets.
- Keeps records for the Body Corporate, including minutes of meetings, roll of owners details, financial accounts, registers of assets, improvements to common property by owners, engagements and authorisations.

The Body Corporate makes decisions about these and other things at general meetings and through the committee.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Role of the Body Corporate")

### Who is responsible for the insurance?

A Body Corporate must have insurance for:

- Common property.
- Body corporate assets.
- Public risk.
- Every building that contains a lot (see over for definition).

The insurance a Body Corporate must have is affected by the type of survey plan the scheme is registered under. The 2 common types of survey plan are 'Building Format' and 'Standard Format'. As such this should be checked to ensure you have fulfilled these responsibilities.

The building insurance which a Body Corporate takes out must cover:

- Damage to the building.
- Other costs to reinstate or replace the insured buildings (i.e. Professional fees and costs of removing debris).

Under the insurance policy the property must be returned to new condition. The Body Corporate can also take out extra building insurance for things like floods.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Building Insurance and Valuation")

### Does my Body Corporate need a building valuation?

If the Body Corporate has to insure 1 or more buildings, it must get those buildings valued for the full replacement cost. An independent valuation must be done at least every 5 years. Each

owner must pay part of the cost to have the property valued. How much they pay depends on their share of the building.

Replacement Calculations Basis:

- Re-building costs at date of valuation
- Removal of debris
- Professional fees including council fees
- An allowance for GST
- An allowance for cost escalation during the planning, tendering, construction and fit-out stages
- An allowance for cost escalation for the lapse time between insurance renewal date and the occurrence of the event leading to the claim.

You may also want to consider catastrophe cover and loss of rent/temporary accommodation.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Building Insurance and Valuation")

### What is common property?

Common property may include lawns, access roadways, swimming pools and common contents (e.g. furniture, benches, etc.). You may need to refer to a copy of your plan to confirm these areas. Copies of plans may be obtained from the Department of Environment and Resource Management. The Titles Registration Service Centre can be contacted on 131304.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Body Corporate Maintenance")

### Why do I need to have a Body Corporate committee?

The Body Corporate must elect a committee at each annual general meeting. The committee is made up of lot owners or people who act for them. The size of the committee can vary in size from at least 3 members up to no more than 7 members. The committee will usually include a chairperson, secretary and treasurer (known as the executive). One person may hold the positions of secretary and treasurer at the same time.

For schemes under the Small Schemes Module, the committee consists of a maximum of 2 members. The committee will only include a secretary and treasurer. For schemes under the Specified Two-lot Schemes Module, there is no committee.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Forming a Body Corporate Committee")

### Do I need a Body Corporate Manager?

A Body Corporate can engage a body corporate manager to supply administrative services to the body corporate. There is no legal obligation for a body corporate to have a manager, however you may choose to engage a manager when:

- There is a committee – the manager would assist by performing some or all of the powers of the executive members of the committee.
- There is no committee – the manager would carry out the functions in place of the committee.

If a body corporate decides to engage a Body Corporate Manager, the manager can only do what the body corporate asks them to do. The duties of the manager are contained in the written engagement entered into with the body corporate.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Body Corporate Manager")

### Why do I need a Body Corporate bank account?

A Body Corporate must have 1 or more bank accounts kept in its name. The account must be at a financial institution such as a bank, building society or credit union.

An account opened after 4 March 2003 must only be opened with the consent of the body corporate.

All owners are required to contribute funds into this account and any expenses such as maintenance, repairs and insurance should be transacted via this account. Equally, all claims and reimbursements must be made payable directly into this Body Corporate bank account.

Refer to section 151 of the BCCM Act for further information.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Body Corporate Accounts")

**PLEASE NOTE: Insurance policies will not be considered current/renewed until all parties pay their share of the Annual premium. Renewal periods are for a full 12 months and cannot be taken out for shorter periods.**

### **The Legislation**

The Body Corporate and Community Management Act 1997 (the BCCM Act) is the Queensland legislation regulating bodies corporate. It sets out the rights and responsibilities of certain people associated with bodies corporate, particularly lot owners and tenants.

A number of regulation modules complement the BCCM Act and are designed to meet the needs of different types of community titles schemes. The regulation modules set out rules relating to committees, general meetings, financial and property management and insurance. Every owner should know which regulation module applies to their scheme. In this information sheet, the BCCM Act and the regulation modules are referred to as the legislation.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Body Corporate Legislation Definitions")

### **How will I know if my duplex or block of units / flats is on a Community Titles Scheme?**

It is uncommon for a duplex (now known as a Two-lot Module) or a block of units / flats not to be part of a Community Titles Scheme.

To verify the status of your lots, the current owners, or any prospective purchasers, will need to check their survey plans at the Department of Environment and Resource Management and see whether a Community Management System (CMS) for the scheme has been recorded. If a CMS has been recorded with the plan then it is a Community Titles Scheme and a Body Corporate will exist.

Duplexes on a Community Titles Scheme are like any other Community Titles Scheme, and must comply with the provisions of the BCCM Act and the applicable regulation module.

### **Applying the Specified Two-lot Schemes Module**

The Specified Two-lot Schemes Module applies:

- If there are only two lots in the scheme.
- If the community management statement (CMS) for the scheme shows that the Specified Two-lot Schemes Module applies.
- If the lots are residential.

### **The Specified Two-lot Schemes Module does not apply:**

- If there is a letting agent for the scheme.
- If the scheme is part of a layered arrangement of Community Title Scheme (CTS).

### **Note:**

- The Body Corporate under the Two-lot Schemes Module is formed by the owners of the 2 lots.
- A residential lot is a lot that is used for residential purposes (people live there) including short or long term leases.

### **Exceptions:**

In some cases the Specified Two-lot Schemes Module can still apply even when the lots are not residential. This could happen if:

- The first CMS showed that the Specified Two-lot Schemes Module applied, and the lots were originally meant to be residential, but they were not used as residential lots;  
OR
- The lots were previously residential lots, but no longer are, even though the first and later CMS showed that the Specified Two-lot Schemes Module applied.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Two Lot Scheme Module")

### **How is my Strata Title policy different to a Domestic Insurance policy?**

A strata title policy is different to a domestic insurance policy as it is held in the name of the Body Corporate on behalf of all body corporate members; and covers buildings, common property and public risk insurance. It does not cover the individual/personal contents of residents/owners.

Payments for this policy must be made from the Body Corporate bank account and equally any refunds or claim payments made out to this account, not individual members.

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A domestic insurance policy is only held in the name of an individual owner/s covering items on their property including their personal contents.

Payments for this policy can be made by the individual owner from their normal transaction account and any refunds or claim payments can be made direct to the individual owner/s.

### **Who owns what?**

One of the major differences between owning a house and owning a unit (known as a 'lot') in a scheme is that the external walls, the floor and roof do not usually belong to the lot owner. These areas are usually common property and the maintenance and repair of these parts of the building are usually the responsibility of the body corporate. As it is common property, the lot owner is not able, without permission of the body corporate, to alter or renovate these areas, or install services such as cable television. As a further example, a lot owner is not allowed to put an additional window in a common property wall without obtaining owners corporation approval.

In most schemes, the lot owner owns the inside of the unit but not the main structure of the building including internal walls. Usually the main internal & external walls, the ceiling, roof, floor and fixtures such as baths, toilet bowls and bench tops are classified as building.

Per the Strata Building Definitions - A 'building' also includes any improvements made to the building and fixtures added to the building however it does not include:

- Temporary wall, floor and ceiling coverings, carpets.
- Fixtures that can be removed by a lessee or tenant at the end of a lease or tenancy.
- Mobile or fixed air conditioning units for a particular lot.
- Curtains, blinds or other internal window coverings.
- Mobile dishwashers, clothes dryers or other electrical or gas appliances that are not wired or plumbed in.

You should check with your individual Body Corporate "By Laws" for any variations to the above.

(Reference – [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate) "Body corporate insurance", "Building insurance and valuation")

### **Claims and Exclusions**

In order to claim under the strata insurance policy, you will need to get in touch with the Body Corporate manager or broker to discuss the details/nature of the claim and they will discuss with you whether to proceed with the claim or not from there. You will need to read the specific policy wording or product disclosure statement for definitions and exclusions. It is also important to keep the following in mind when thinking about making a claim:

- A property claim can only be "triggered" under the Body Corporate policy if there is or has been physical resultant loss or damage to the building.
- Maintenance, wear and tear, defects, design flaws, deterioration, tree roots, etc are not covered by the Body Corporate/Strata insurance policy.

### **Where do I find more information?**

The above information has been provided as assistance to you, the Body Corporate Member(s) for compliance. Information extracted from the Queensland Government Web Site. For additional information please refer to the following:

**Office of the Commissioner for Body Corporate and Community Management**

Phone: 1800 060 119 Web: [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate)

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