



COMMITTEE TRAINING

April 2014



Disclaimer

While all care has been taken in the preparation of this material, no responsibility is accepted by the presenter, Capitol Body Corporate Administration or its team, for any errors, omissions or inaccuracies.

The material provided in this presentation has been prepared to provide general information only. It should not be relied upon or be a substitute for legal or other professional advice.



Introduction

Welcome

What and who is Capitol Body Corporate Administration

Established 1996

Capitol Directors

Ian D'Arcy, Josephine D'Arcy and Ashley Fox



Introduction

The Capitol Team

- Community Relationship Manager (CRM)
Body Corporate Manager
- All CRMs are supported by a Community Relationship Assistant
- Accounts Team
- Insurance Manager
- Event Coordinator



Introduction

Our Culture at Capitol

Followers of: Fish! Philosophy and Speed of Trust

What we do:

- Agreed services (secretarial and treasury)
- Non Agreed services (maintenance co-ordination)

We proudly support Act for Kids as our chosen charity



Introduction

Where are our offices located?

Brisbane ~ Gold Coast ~ Redcliffe

How to contact our team via our website

www.capitolbca.com.au

Standard request forms on our website:

- Maintenance Application
- Air Conditioning Application
- General Improvement Application
- Pet Application
- StrataMax Login Request
- Certificate of Currency Request
- Information Certificate Request
- Information for Disclosure Statement Request
- Change of Roll Details



Introduction

Session topics

Responsibility to Maintain Common Property

Mark Mellick - Active Lawyers

Frank Higginson - Hynes Legal

General Body Corporate Insurance including Flood Insurance and how to claim

Mark McGuire - CHU Insurance

Fire Safety

Jeff Wood - FireVac Services

TYPES OF SCHEMES

PRESENTED
BY
MARK MELLICK

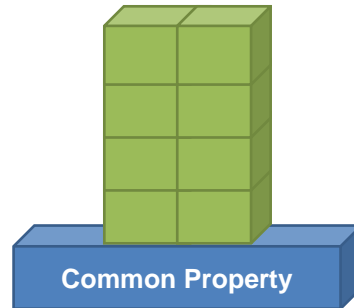


1. Types of Schemes

A. Building Format Plan



Utilised for the subdivision of a building



B. Standard Format Plan



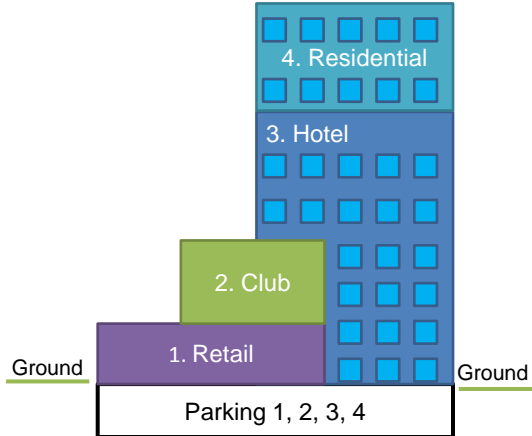
Utilised for the subdivision of Land



C. Volumetric Format Plan



Utilised when different ownership is required within or around a building

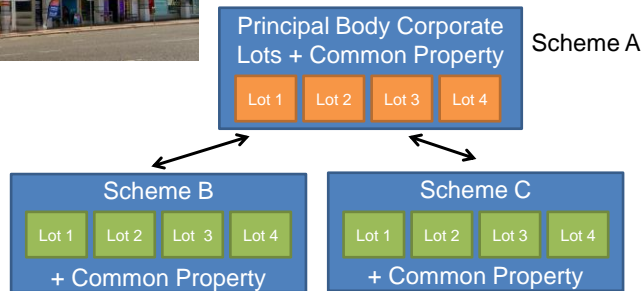


D. Layered Arrangement



Typically used in resort style developments.

Utilises a Principal Body Corporate which is made up of lots; its own common property with at least one of its lots being a basic subsidiary scheme.



E. Staged Development



Utilised where a developer does not wish to finish development in one go, for example, because of cashflow and/or market conditions.

Staging involves leaving a balance development lot.



ACTIVE

LAWYERS CONSULTANTS

DELIVERING SOLUTIONS



@bodycorpplawyer

Active Lawyers Pty Ltd

ACN 147 527 875

ABN 21 921 462 902

Street Address:
Level 2,
121 Logan Road
HOLLAND PARK QLD 4121
AUSTRALIA

Postal Address:
PO Box 213
HOLLAND PARK QLD 4121
AUSTRALIA

Contact Details:
Phone: (07) 3343 7096
Fax: (07) 3349 5845
www.activelawyers.com.au



Maintenance and improvements

Frank Higginson
Director, Hynes Legal



Building maintenance

A legal introduction, covering:

- Standard, building and volumetric format plans
- Responsibilities for different areas in scheme land
- Maintenance as against improvement

Plans of subdivision

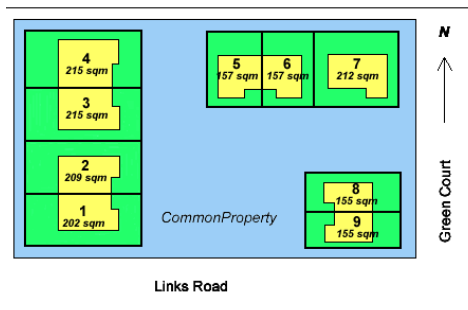


- What is land?
- Purpose of a plan: Identify boundaries
- For a community title schemes, to identify land that is being subdivided
- Different plans for different purposes, eg:
 - Townhouses
 - Multi-level
 - Mixed use

Standard format



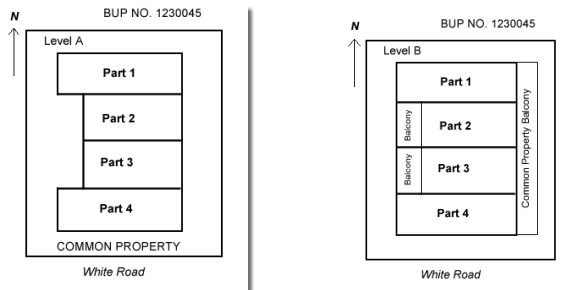
- Flat land defined by marks, ie pegs, posts, corner of a building



Building format



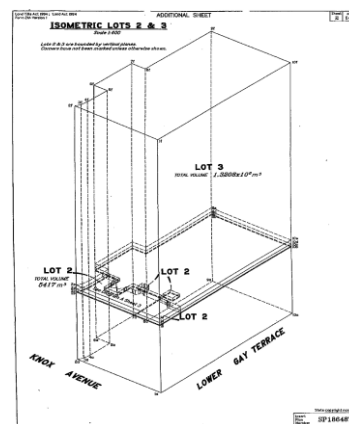
- Land defined by the structural elements of a building, eg floors walls and ceilings
- Boundary is taken to be the centre point



Volumetric format



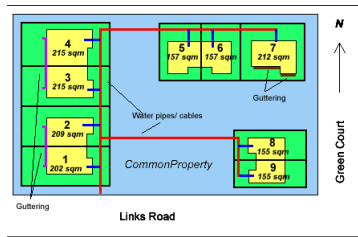
- Land defined by 3D points to identify the position, shape and dimensions of each boundary.
- Further subdivision of volumetric lot usually by BFP, which can become a CTS



Statutory duties for all bodies corporate

Responsible for maintenance of:

- Common property in good and structurally sound condition
- Utility infrastructure that services more than one lot



Statutory duties re BFPs

If a BFP, maintain in good condition—

- railings, parapets and balustrades on (whether precisely, or for all practical purposes) the boundary of a lot and common property;
- doors, windows and associated fittings situated in a boundary wall separating a lot from common property;
- roofing membranes that provide protection for lots or common property.
- maintain in a structurally sound condition:
 - foundation structures;
 - roofing structures providing protection;
 - essential supporting framework, including load-bearing walls.

Statutory duties re VFP

- Same as BFP
- Building management statement – deals with:
 - Supply of services
 - Access to lots
 - Support and shelter
 - Insurance
- Is it a body corporate document?

Statutory duties re VFP

- Same as BFP
- Building management statement – deals with:
 - Supply of services
 - Access to lots
 - Support and shelter
 - Insurance
- It should mirror chapter 8 of the regulation module

When is the duty excused?

- Exclusive use grant
- Improvements to common property
- Lease / licence
- Easement

Maintenance vs improvement

- Repair includes 'replacement', 'refurbishment' and 'maintenance'
- It may include an element of improvement
- Maintaining is to keep something; improving is to introduce a new thing

Maintenance v improvement (cont)



- Examples:
 - Changing paint colour
 - Balustrade replacement
 - Increasing capacity of utility infrastructure

27

Contact



Frank Higginson, Director

Frank.Higginson@hyneslegal.com.au

07 3193 0500

Have you subscribed to our newsletter?

Visit www.hyneslegal.com.au/subscribe

28

CHU Australia



Body Corporate Insurance

Mark McGuire

BUSINESS DEVELOPMENT OFFICER - QLD

What We will cover:

1. Obligations the Body Corporate has to insure in accordance with the Body Corporate Community Management Act 1997.
2. Other Insurances available for the Body Corporate.
3. What you need to insure for as a Lot owner.
4. Claims.
5. Preventative Maintenance.



Obligation to Insure

The Regulation Module adopted by the body corporate contains the requirements for a body corporate to insure all common property and Body Corporate assets to full replacement value.

This means in the Building Sum insured you need to allow for:

- The total removal of the damaged property
- Professional fees relating to architects and other providers.
- Reinstatement of the building in as new condition.



This could happen to your building...





Summary

Gas explosion:

12 Units in complex
Building Sum Insured \$1,050,000

2 Units destroyed
Reconstruction Costs - \$600,000

If there were another 2 units damaged, the Body Corporate would have been raising a special levy to cover the full replacement costs.



Building Costs Increases

Previous years: 10% - 15%

Recently: 0 - 5%

It is important that an independent valuation be obtained on a regular basis to protect the Body Corporate from being under insured.



Insurance Inclusions

The Body Corporate must also ensure the building is insured for the following events:

FIRE
EARTHQUAKE
LIGHTNING
STORM
TEMPEST
WATER DAMAGE
GLASS BREAKAGE
DAMAGE FROM IMPACT
MALICIOUS DAMAGE (excluding damage caused by tenants)
RIOTING



**Ensure you are comparing 'like for like'
when taking out OR
renewing your insurance policies.**

Questions to Ask:

- ? Specified perils (defined events)
- ? Accidental damage
- ? More/Less Benefits



Insurance Inclusions (Cont'd)

Public Liability

The Body Corporate must also place Public Liability insurance to a minimum of \$10 million for:

- Death
- Illness
- Bodily Injury
- Property Damage



Other insurances for the Body Corporate:

The body corporate may also consider other insurances as appropriate such as:

- Flood
- Voluntary Workers
- Fidelity Guarantee
- Office Bearers
- Machinery Breakdown.
- Catastrophe

Flood



This policy will pay for flood damage when chosen & accepted and falls within the 'New Definition of 'Flood''.

Depending on the risk address, flood cover may be automatically included or upon application, often for the full building sum insured and standard excess.



Definition of Flood Cover

'Flood' means the covering of normally dry land by water that has escaped or been released from the normal confines of any of the following:

- (a) a lake (whether or not it has been altered or modified);
- (b) a river (whether or not it has been altered or modified);
- (c) a creek (whether or not it has been altered or modified);
- (d) another natural watercourse (whether or not it has been altered or modified);
- (e) a reservoir;
- (f) a canal;
- (g) a dam.



Benefits of Flood Cover

The benefits of including **Flood Cover** are:

- Certainty that Flood is covered when a policy is in force
- Peace of mind for policyholders
- Fewer delays in settlement of any storm / Flood claims



Voluntary Workers



This policy will pay a Voluntary Worker, or that person's estate, compensation in the event of such Voluntary Worker sustaining bodily injury:

- whilst voluntarily engaged in work on Your behalf and
- caused solely and directly by violent, accidental, external and visible means.

Fidelity Guarantee



This policy is designed to protect the Body Corporate from the fraudulent misappropriation of Your funds.

Office Bearers Liability



This policy will indemnify the Members of the Body Corporate who sit on a committee for any wrongful act as specified in the policy.

Today we are seeing more and more Members of the Body Corporate insisting that this cover is taken out before accepting a position on the Body Corporate Committee.

Machinery Breakdown



This cover may be required if you have large motors in your buildings

Such as:

- * **Lifts, Escalators**
- * **Large basement water pumps**
- * **Generators**
- * **Large Pool motors**



Catastrophe



Catastrophe Cover - provides for escalation in costs to reconstruct your building in case of a major catastrophe (such as fire, earthquake Tsunami etc...) which severely damages a city or town.





Protect your Buildings from this type of destruction

Percentage of Buildings “underinsured”:

Cyclone Tracey - 70%

Newcastle Earthquake - 35%

Cyclone Larry- 50%

The Cost to insure is around **27.5%** of the normal building rate.

You should insure your Buildings for a minimum **30%** above the normal replacement cost.





Example:

Building Sum Insured:	\$1,000,000
Building Base Premium	\$800.00

Catastrophe Sum Insured (30%):	\$300,000
Catastrophe Base Premium:	\$66.00

Total BLD & Cat Premium	\$866.00
-------------------------	----------

(excl stamp duty & GST)

Not much premium for peace of mind in the event of a Major Catastrophe.



Insurance Exclusions

What is not included in the body corporate insurance?

- Temporary wall, floor, or ceiling cover
- Fixtures which can be removed
- Mobile or fixed air conditioners
- Curtains, blinds or other internal window coverings
- Mobile dishwashers
- Clothes dryers
- Other electrical or gas appliances not plumbed or wired in.

Lot Owners Insurance Requirements

Personal Property

+

Legal Liability

= Contents Insurance

(Landlords or Unit Owners)



For example: Carpets, light fittings, personal belongings such as furniture, clothing, dishwashers within a lot/unit.



Insurance claims



Claims

Cover is usually provided for
"accidental loss or damage".



Accidental Damage is usually defined as an "Unforeseeable and/or Sudden event"

Majority of declined claims involve wear and tear and/or gradual deterioration.

Such losses fall under the heading of "maintenance" and usually have been occurring for a long period of time and a result are not covered by the policy.



**Following are some examples of
common maintenance issues:**





The trees are too close to the building, the roots extract moisture which consequently caused subsidence of the foundations.



Ill-fitted shower screens are a major source of water damage.

Note: deterioration outside shower area.

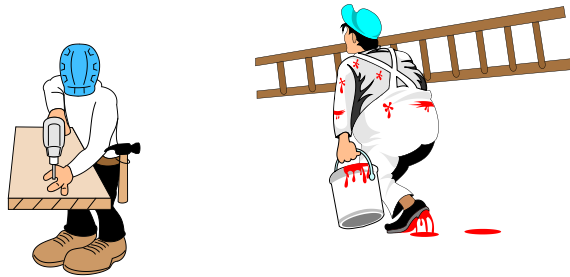


Potential Liability Claim resulting from deterioration of the stairway.



These roof capping tiles have been 'bed down' using an insufficient amount of mortar, allowing water to enter & cause damage to the building.

It is strongly recommended, the Body Corporate have an on-going maintenance program to ensure that wear and tear and gradual deterioration problems are promptly identified and rectified.



Common "Trip/Slip & Fall" or Hazardous Areas



- Driveway and Pathway Hazards



Recreation Areas

Common "Trip/Slip & Fall" or Hazardous Areas



Moss on Courtyard Pavers or Paths



Uneven Stairs and pathways

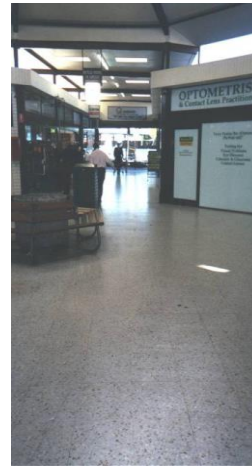
Common Commercial Property "Hazards"



Common "Trip/Slip & Fall" or Hazardous Areas



Shopping Centres



*What can the Body Corporate do to **REDUCE** potential liability Hazards?*



- Should be proactive – safety conscious.
- Maintenance issues should become regular items on your agenda.

Carry out regular inspections of the Common Areas.

Engage when warranted, specialist professionals to advise.

Thank you for your time.



CHU

chu.com.au

Fire Safety Obligations In Queensland

Jeff Wood



This Presentation

- The Legislation
- Building Codes & Building classifications
- High Occupancy & Low Occupancy Buildings
- Your main obligations for all buildings



Legislation and how it Applies

Driving Legislation – covers all obligations

- Fire & Rescue Service Act 1990 – The Act
 - Building Fire Safety Regulation 2008 – The Regs
 - Queensland Development Code (MP 6.1)
 - AS 1851:2005 Maint. of Fire Systems & Equipment
- The Building Act 1975
 - Building Code of Australia
 - Construction and building classification



All Class 1b to 9 buildings must comply

Covered

- Class 1b-9 buildings
 - Everything not in the column over there →

Not covered

- Class 1a & 10 buildings:
 - Stand-alone houses
 - Town, terrace, row, villa or similar houses



Basic definition under the *Building Act 1975*
'Active' fire safety installation
'Passive' fire safety installation
Maintaining *fire safety installations*

MAINTAIN FIRE SAFETY INSTALLATIONS



FSIs

- Maintain Fire Safety Installations (FSIs)
 - Maintain fire safety installation so that they can perform to a standard no less than they were originally required to achieve.
 - Ensure maintenance is carried out by a qualified person
 - Ensure maintenance is carried out at intervals required by MP 6.1 & special procedures for flow testing – Form 70
 - Keep records of all maintenance
 - Rectify Defects (repair or corrective action)



Repairs & req'd corrective action

- Must be rectified no later than 1 month after (revealing) maintenance was carried out
- Does not require recommendations to be addressed
- Does not require systems to be upgraded to current standards
- Recommendations MAY have OH&S implications but no statutory weight under Fire Act and Reg



Basic definition of *Fire Safety Installation*

- '*Fire Safety Installation*' is defined in Schedule 2 (Dictionary) of the Building Act 1975.
- Includes:
 - Structural features
 - Fire protection systems
 - Fire fighting equipment
 - Occupant safety features
 - Other features



TVS FIREVAC SERVICES
Innovation • experience • technology

'Active' *Fire Safety Installations*

- Technically, anything not in section 17 of AS 1851-2005.
- Basically, any *Fire Safety Installation* which you must use in some way.
- E.g.
 - ▣ Fire extinguisher
 - ▣ Emergency elevator
 - ▣ Emergency lighting



TVS FIREVAC SERVICES
Innovation • experience • technology

'Passive' Fire Safety Installation

- Passive fire and smoke containment systems in section 17 of AS 1851-2005.
- E.g.
 - ▣ Fire and smoke barriers
 - ▣ Structural elements
 - ▣ Fire and smoke doors
- Maintained according to MP 6.1 of the QDC



Maintaining Fire Safety Installations



- Dealt with under:
 - Section 104D Fire and Rescue Service Act
 - Part 5 Building Fire Safety Regulation
 - MP 6.1 Queensland Development Code
 - AS 1851



AS1851-2005



- Section 1 – Scope and General
- Section 2 – Automatic Fire Sprinkler Systems
- Section 3 – Fire Pumpsets
- Section 4 – Fire Hydrant Systems
- Section 5 – Delivery Lay Flat Hose
- Section 6 – Fire Detection Systems
- Section 7 – Smoke Alarms and Heat Alarms
- Section 8 – Fire Alarm Monitoring Systems
- Section 9 – Sound Systems for Emergency Purposes
- Section 10 – Intercom Systems for Emergency Purposes
- Section 11 – Gaseous Fire Extinguishing Systems
- Section 12 – Fixed Aerosol Fire Extinguishing Systems
- Section 13 – Open Nozzle Water Mist Fire extinguishing Systems
- Section 14 – Fire Hose Reels
- Section 15 – Portable and Wheeled Fire extinguishers
- Section 16 – Fire Blankets
- Section 17 – Passive Fire and Smoke Containment Systems
- Section 18 – Fire and Smoke Control Features of HVAC Systems
- Section 19 – Emergency Evacuation Procedures

Doors and Shutters Only – Altered Frequency – 6 months for class 5
6 9a and 9c otherwise annual ...

Activity Frequencies

- Varies based on system and activity type
 - Weekly (sprinklers, pumps) – omitted under certain conditions
 - Monthly (sprinklers, pumps, fire alarms, sound systems, intercom systems, suppression systems, smoke control & HVAC, emergency procedures))
 - Quarterly (passive, smoke control & hvac)
 - 6 Monthly (all except layflat hose)
 - Annual (all except fire blankets)
 - 3 yearly (sprinklers)
 - 5 Yearly (pumps, hydrants, detection, sound systems, suppression systems, extinguishers, smoke control & hvac)
 - 12 Yearly (sprinklers)
 - 24 Yearly (sprinklers, smoke control & hvac)



Of course...

- That is all about to change ...
- New AS1851-2012
 - Optional from July 1 2014
 - Mandatory from January 1 2015



Records – Legislation

- keep *records* of any *maintenance* that is *required* in accordance with –
 - the *Building Fire Safety Regulation 2008* and
 - (aa) the *relevant standard*; or
 - (bb) the manufacturer's instructions; or
 - (cc) the directions of an *appropriately qualified person*; and
 - (dd) where applicable, the building's *certificate of classification* and *alternative solution*;
- AND complete and keep an occupier statement annually and give a copy to the commissioner ...



Documentation ...

- Record of maintenance (BFSR – on and offsite – electronic? – secure eg. from fire, readily accessible)
- Maintenance records (AS1851 – electronic?)
- System condition report (AS1851 – electronic?)
- Logbooks (AS1851) onsite or
- Tags (AS1851) - onsite
- Occupier statement (MP6.1 – on and offsite via BFSR s71 – 2 years via MP6.1)
- Flow test Form 70 (MP6.1 – tester obligation)
- Defect (and Critical Defect) Notices (AS1851)
- Critical Defect Notices (prescribed form - BFSR)



Fire Doors & Passive Elements

- Remember the overarching obligation from the Act to maintain
- MP6.1 is a response to 'perceived' difficulty in meeting S17 of AS1851 - 2005
- The regulation and MP6.1 stipulate specific activities for doors and shutters only, but that does not mean walls, ceilings and penetrations can be ignored
- Best way to meet those requirements is still to apply AS1851 2005 ...



Unfinished Construction



Ceiling Cable Penetrations



Ceiling Fan Penetrations



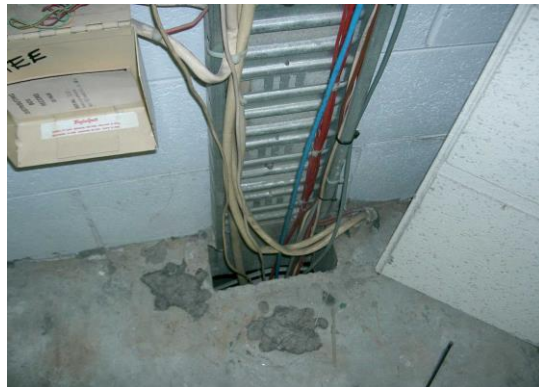
Unsealed Rising Pipe



Unprotected Water Services



Unprotected Cable Riser



Incorrectly Fitted Fire Collar



Incorrectly Fitted Fire Pillow



Incorrect Sealant



So what? Well ...

- None of these issues would be picked up if JUST the requirements of MP6.1 were met
- Yet all would be evidence of an occupant's failure to meet his obligations under the act
- Any of them could result in tragedy ...



SUBMIT THE OCCUPIER'S STATEMENT

What is it?

When is it required?

Who can complete the statement?



The Occupier's Statement

- What is it?
 - ▣ A statement that all FSIs have been maintained under MP 6.1
 - ▣ Submitted to the QFRS
- When is it required?
 - ▣ Must be submitted by 1 July 09
 - ▣ Must be completed at least every 12 months
- Who can complete it?
 - ▣ Must be signed by the occupier (the Body Corporate)



Summary continued

8. Certificate of Classifications due 23/04/09 post '97 at entry to building
9. HOBs need to have a Fire Safety Advisor (FSA)
10. The name of the game is..... records and documentation
11. When in doubt, call us on 1300 387 387 (FVS FVS)

