

Commissioner Foreword



Dear Subscribers,

Welcome to our March edition of Common Ground.

It is hard to believe the new body corporate regulations have already been in place for a month. It is still early days, however we have not seen a significant number of additional enquiries from bodies corporate adapting to the new provisions about committees and meetings.

Our community education campaign for the new regulations was the most extensive campaign conducted by our office since 2008. Our aim was to ensure that we had the right information available for clients to fully inform themselves early about how the new regulations might impact them so they could prepare.

However, you can still find the following publications about the regulation changes on our website:


- [Webinars](#)
- [Summary of new standard module regulation webpages](#)
- [Common ground articles](#)

I would like to acknowledge the efforts of the dedicated team in our Information and Community Education Unit in developing these publications. If you have any feedback or suggestions for future publications, please let us know at bccm@justice.qld.gov.au.

The latest community titles scheme statistics from the Department of Resources indicate that there are approximately 50,600 community titles schemes in Queensland and almost 508,000 individual lots within those schemes. Off the back of ongoing increases in previous years, the data bears out that there has been significant growth in the number of schemes and in their size - demonstrating more and more people are choosing to live, work and invest in community titles schemes and that the sector is of growing significance to the Queensland community.

Whether a new or existing owner, renovating properties seems to be becoming an increasingly popular thing to do. I encourage you to read this month's article about lot owner improvements. When you live in a community titles scheme there are some important things to consider before picking up your tool belt.

Finally, at the time of writing many of us in South East Queensland are in lockdown, with greater Brisbane having been declared a COVID-19 hotspot. If your scheme is affected by these recent developments, during lockdown you may wish to read our previous information and [frequently asked questions](#) about COVID-19 in bodies corporate, and the Queensland Government's [current initiatives to assist schemes to manage financial and other impacts of COVID-19](#). Earlier this month, the Government introduced Bills into Parliament to extend the expiry date for these initiatives from 30 April 2021 to 30 September 2021. The Bills have not yet been debated; however they can be viewed on the [Queensland legislation website](#). While our office is currently closed to visitors, other services are continuing as usual. If you need information during this period you can still contact us on 1800 060 119 or www.qld.gov.au/bodycorporatequestion.



Best wishes for a happy and safe Easter break.

Michelle Scott
Commissioner
Office of the Commissioner for Body Corporate and Community Management



Owner improvements

Renovating property seems to have become an increasingly popular trend over the past decade. Australian television shows have been constructed entirely around the trials of fast paced, high drama renovations. Owners in community titles schemes are not immune to the lure of improving the value of their property investment.

Owners need to be mindful that increasing the value or liveability of their home does not necessarily mean they can go ahead and make whatever changes they want. This article outlines what the law says about making improvements to your property.

Improvements to the lot

As a lot owner you might think 'it's my lot, so I can do what I like with it'. While that may be the case in a lot of situations, you still need to ask yourself the following questions.

Is my renovation:

- going to impact the common property?
- in breach of any of my body corporate's by-laws?


If you answer yes to either of these questions, you may have to ask for body corporate approval to improve your property. Ripping out and replacing a bathroom may seem like an obvious owner improvement that does not need body corporate approval, as a bathroom is usually located completely inside the boundaries of a lot. However, you may need to alter the pipes or wiring that service your bathroom. If this is the case, the location of those pipes and wiring will determine if they are your responsibility or the body corporate's responsibility and whether approval is required. Be aware that if you make an improvement to the common property for the benefit of your lot, you may have ongoing maintenance responsibilities for that improvement, unless you are excused by the body corporate.

Bodies corporate often have by-laws which state that owners need to seek approval for renovations. In most cases, the by-laws relate to the external appearance of a lot. However, some by-laws require owners to ask for approval for things like floor coverings and removing structural elements of the lot. You may only be allowed to have white backed curtains hanging inside your lot, as another example.

Even if a lot owner needs to ask for approval to make an improvement to their lot, the body corporate must act reasonably when making its decision.

Case Study

George is the owner of a lot that is joined on both sides to other lots. He has decided to paint the outside of



his lot green. It doesn't need painting – he would just like the shade to match the surrounding bushland. All the other lots are white, but George does not care that his lot will stand out from the others.

George's first step is to find out what plan of subdivision his community titles scheme is registered under. This will help determine if painting his lot is his responsibility or the body corporate's. George has found out that his scheme is registered under a standard format plan of subdivision – therefore, painting the lot is his responsibility. His next step is to see if there are any by-laws that apply to painting. After obtaining a copy of his scheme's community management statement, George confirms there is no by-law requiring him to paint in a particular colour or seek body corporate approval. This means that George can go ahead and paint his lot whatever colour he chooses.

Improvements to the common property by the lot owner

Owners in a body corporate can also make improvements to the common property for the benefit of their lot. While there is common property in all schemes, if your lot is part of a community titles scheme that is registered under a building format plan of subdivision, be mindful that a number of elements of the building are common property and, as such, require body corporate approval if your renovation impacts them. For example, if you want to install an air conditioner with a compressor on the outside wall of your unit, replace the current timber balustrade with a glass one, or change your sliding window to louvres, you will most likely require body corporate approval to do so.

[Section 187 of the Body Corporate and Community Management \(Standard Module\) Regulation 2020](#) provides that the committee can approve an owner's request for an improvement to the common property if the:

- cost of the improvement is less than \$3,000
- improvement does not detract from the appearance of the lot or the common property
- body corporate is satisfied that use and enjoyment of the improvement is not likely to promote a breach of the owner's duties as an occupier (e.g. not cause a nuisance).


A motion must be considered at a general meeting and passed by ordinary resolution if the conditions above are not satisfied.

The by-laws for most schemes (particularly those registered under a building format plan of subdivision) state that any external changes to a lot require body corporate approval or dictate specific colours and materials to be used. For example, the by-laws might specify a particular shade of cream for your outside walls, dictate the height, colour and material for your fence, or require your roof to be made of tile. Provided the body corporates by-laws are not oppressive or unreasonable, they can impose conditions which may limit the ability of owners to freely renovate as they please.

Case study

Karen is an owner in a high-rise building that is registered under a building format plan of subdivision. Karen wants to paint the walls to her balcony black and replace her timber balustrade with glass. The rest of the building and balustrades are white. While the walls that she wants to paint are inside the boundaries of her lot and technically hers to paint, as they are an external part of the lot, they are subject to the by-law for Karen's scheme requiring approval for any changes to the external appearance of the lot.

The cost of the painting is less than \$3,000 and it does not detract from the appearance of the lot or the common property, as her balcony cannot be seen by anyone else in the scheme or from the common property. This means the committee can decide if Karen can paint her walls black. As the by-law does not dictate a colour scheme, it may be considered an unreasonable refusal by the committee if they do not



approve Karen changing the colour to black. Karen also requires approval to replace the balustrade, as it is situated on the boundary of common property and the lot, which makes it part of the common property. The fact that the balustrade can be seen from the common property may factor into the body corporate's decision. Karen needs to be aware that she may become responsible for the continued maintenance of the balustrade unless she is excused by the body corporate.

Improvements to exclusive use areas by the lot owner

Some lot owners have areas of common property that are attached to their lot by way of an exclusive use by-law. This usually means that the owner is responsible for this area and can make improvements to the area subject to the wording of the exclusive use by-law.

The exclusive use by-law may authorise the owner of the lot who benefits from the by-law to make improvements. If the by-law is silent on the issue of improvements, the owner must seek body corporate approval to make any improvements to the area. The body corporate committee can approve up to \$3,000 worth of improvements. If the improvement being requested is over \$3,000, the decision must be made by passing a motion at a general meeting by ordinary resolution.

The owner of a lot in this situation must also consider what the general by-laws for the scheme provide. The exclusive use by-law might state that the owner of the lot to which it applies can erect structures such as pergolas. However, the general by-law might state that all external structures in the scheme must be made from coated metal. This means that while the owner may be able to erect a pergola in the exclusive use area without the body corporate's approval, the owner must also comply with the by-law that stipulates that the pergola be made from coated metal.

Case study

Bernice owns a lot that has an exclusive use area attached. She wants to paint the back wall of her lot, which is situated on the boundary of her lot and the exclusive use area. The by-law states that the wall is Bernice's responsibility to paint. She wants to paint her wall purple which is different from everybody else's wall.

Bernice needs to consider both the exclusive use and the general by-laws for the scheme. She discovers that while the general by-laws do not state a particular colour scheme for the buildings, any changes made must fit with the original colour of slate grey. Also, approval is needed from the body corporate to ensure that the colour chosen fits with the other lots in the scheme. This means that although Bernice does not need approval to paint her back wall, she must still seek approval from the body corporate for the colour. The body corporate decided that purple was a nice combination with grey and approved the colour choice. The fact that the back wall could not be seen by anyone else was another factor in their decision.

The painting example has been used in all three of our case studies to highlight the fact that renovating in a body corporate is not always straightforward. What needs to be approved in one community titles scheme can be vastly different in another. It is good practice for owners to check their plan of subdivision to determine where their lot boundaries are and also confirm what by-laws (both general and exclusive use) apply to the scheme.



Body Corporate and Community Management

www.qld.gov.au/bodycorporate

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