

Exclusive Use versus On-Title Car Parks

專用使用車位與登記於產權之上的車位

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ENGLISH & TRADITIONAL CHINESE

CHAPTER 1 第1章

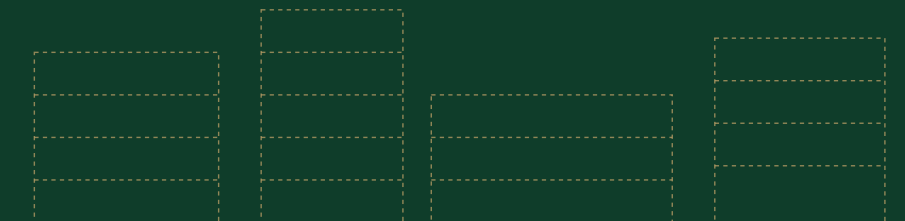
01

Four ways a car park is held

車位的四種持有方式

2 sections · pages 5–7 of the complete guide

2節 · 全書第5至7頁



Kevin Pai

白宗翰

PARTNER · BUGDEN ALLEN GROUP LEGAL

STANDALONE CHAPTER EDITION

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This chapter is extracted from the complete guide and is bound with the note to the reader, the author profile, the glossary of terms used in the guide and the partner's closing test so that it can be read alone. Page and figure numbers follow the complete guide.

A note to the reader

致讀者

This guide explains how car parking is held in a Queensland community titles scheme, and what turns on the difference. It is written for two readers at once: the owner or buyer who wants to know what they are getting, and the developer or adviser who has to choose a structure before the plan is registered. Chapters 1 to 7 are written for the first reader; chapters 8 and 9 are written for the second. Both should read chapter 5.

The English text and the Traditional Chinese text are set paragraph against paragraph and are intended to say the same thing. Where a translation and the English text differ, the English text prevails.

The law stated is the law of Queensland as at 10 September 2026. Statutory references are to the Body Corporate and Community Management Act 1997 (Qld) unless another Act is named. This guide is general information. It is not legal advice on any particular scheme, lot or transaction, and no car parking question should be resolved without reading the scheme's own documents.

本指南說明昆士蘭社區產權計劃中車位的持有方式，以及不同持有方式所產生的法律後果。本指南同時面向兩類讀者：希望確認自己究竟取得何種權利的業主或買方，以及必須在測量圖登記之前選定架構的開發商或其顧問。第一章至第七章為前者而寫；第八章及第九章為後者而寫。第五章兩類讀者均應閱讀。

英文本與繁體中文本逐段對照排版，兩者用意相同。若譯文與英文本有出入，以英文本為準。

本指南所述法律為截至2026年9月10日的昆士蘭法律。除另有指明外，法條援引均指《1997年業主法人團體及社區管理法》（昆士蘭）。本指南僅為一般性資訊，並非針對任何特定計劃、單元或交易的法律意見；任何車位問題，均須先閱讀該計劃本身的文件，方可作出判斷。

About the author

關於作者

Kevin Pai

白宗翰

Partner, Bugden Allen Group Legal

合夥人，Bugden Allen Group Legal

Kevin Pai practises in property and commercial law in Brisbane, in a practice built around community titles schemes, development structuring, loans and secured transactions. He advises developers, bodies corporate, owners and lenders, and acts on Queensland schemes from two-lot duplexes to staged mixed use towers.

He writes this series in English and Traditional Chinese because a significant part of the Queensland strata market reads both, and because the questions that cause the most expensive mistakes are usually the ones nobody thought worth asking.

白宗翰於布里斯本執業，專攻不動產法與商務法，業務核心涵蓋社區產權計劃、開發架構、貸款及擔保交易。其為開發商、業主法人團體、業主及貸款人提供法律意見，承辦案件遍及昆士蘭各類計劃，自兩單元雙拼住宅至分期開發的混合用途大樓。

其以英文及繁體中文撰寫本系列，蓋昆士蘭區分所有權市場中有相當比例的參與者兼讀兩種語言；且釀成最昂貴錯誤者，往往正是無人認為值得一問的問題。



01

Four ways a car park is held 車位的四種持有方式

- 1.1 The question behind the question
問題背後的問題
- 1.2 Terms from other jurisdictions
其他法域的用語

1.1

The question behind the question

Almost every car parking dispute in a Queensland scheme comes back to one question that was never asked at the right time: what, exactly, does the owner hold? A number painted on the floor answers nothing. Two spaces that look identical in the basement can sit at opposite ends of the legal spectrum — one is land the owner owns, the other is a permission the body corporate could withdraw.

In Queensland there are four ways a car space is held, and they are not variations on a theme. They differ in who owns the space, whether it can be sold or rented separately, who maintains it, who pays levies and rates on it, what has to be disclosed on a sale, and what it takes to change the arrangement.

問題背後的問題

昆士蘭計劃中幾乎每一宗車位糾紛，最終都回到一個在正確時點從未被提出的問題：業主究竟持有什麼？地面上漆的號碼並不能回答任何問題。地下停車場中兩個外觀完全相同的車位，可能位於法律光譜的兩端——其一為業主所有的土地，其二則僅為業主法人團體隨時可撤回的許可。

在昆士蘭，車位有四種持有方式，彼此並非同一概念的變體。四者在下列各點上均有差異：車位的所有權人、能否單獨出售或出租、由何人負責維護、由何人負擔管理費及市政稅、出售時須披露何種事項，以及變更該安排需要何種程序。

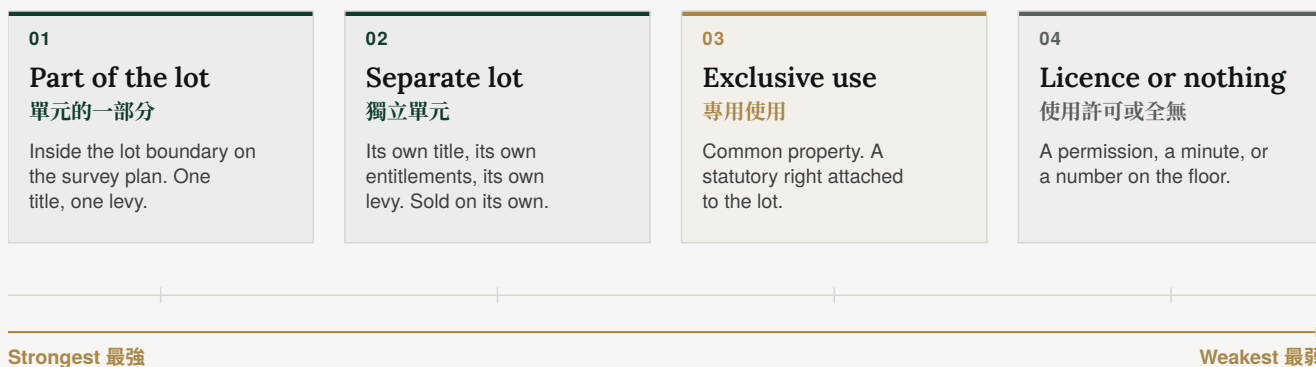


Figure 1 — The four holdings, from the strongest to the weakest.

圖一——四種持有方式，由最強至最弱。

THE FOUR HOLDINGS 四種持有方式

- | | |
|--|---|
| <ul style="list-style-type: none"> — Part of the lot. The space lies within the lot's boundaries on the registered survey plan. One title, one lot entitlement, one levy. It cannot be separated from the apartment. | <p>屬於單元的一部分。車位位於登記測量圖上該單元的界線之內。一份產權、一份分攤權益、一份管理費。無法與住宅單元分離。</p> |
| <ul style="list-style-type: none"> — A separate lot. The space is a lot in its own right, with its own indefeasible title, its own lot entitlements and its own levy liability. It can be sold and mortgaged on its own. | <p>獨立單元。車位本身即為一個單元，擁有獨立且不可推翻的產權、獨立的分攤權益及獨立的管理費責任，可單獨出售及設定抵押。</p> |
| <ul style="list-style-type: none"> — Common property under an exclusive use by-law. The body corporate still owns the space. A statutory right of exclusive use is attached to a lot and travels with that lot on every sale. | <p>受專用使用管理規約規範的共用部分。車位所有權仍屬業主法人團體。專用使用的法定權利附加於某一單元，並隨該單元於每次出售時一併移轉。</p> |
| <ul style="list-style-type: none"> — Common property under a lease, a licence, or nothing at all. A contractual permission at best; at worst, a committee minute and thirty years of habit. | <p>受租賃、使用許可規範，或全無任何依據的共用部分。至多為契約性的許可；至劣者，僅有一份管理委員會會議紀錄及三十年來的習慣。</p> |

The first two are what people mean when they say a car park is "on title". The third is not on title in that sense, but it is a real and durable statutory right, recorded in the scheme's community management statement and enforceable against the body corporate. The fourth is not a property right at all.

1.2

Terms from other jurisdictions

Buyers who have owned apartments in New South Wales, Victoria or overseas often arrive with terms that do not exist in Queensland. New South Wales has "utility lots", whose sale away from a principal lot is restricted by statute. Victoria has "accessory lots" on a plan of subdivision, tied to a principal lot on the plan itself.

Queensland has neither. The Body Corporate and Community Management Act contains no mechanism that makes one lot the accessory of another, and no statutory tie between a car park lot and an apartment. A scheme that wants that tie has to build it, and every device available for the purpose has limits. Chapter 8.5 deals with those limits.

PRACTICAL EFFECT 實務影響

Do not import the word "accessory" into a Queensland contract or by-law and assume it carries the meaning it has elsewhere. In Queensland it carries no statutory meaning at all, and a buyer who relies on it is relying on nothing.

前兩種即一般所稱車位「登記於產權之上」之意。第三種在此意義上並非登記於產權之上，但仍屬真實而持久的法定權利，載於該計劃的社區管理聲明之中，並可對業主法人團體強制執行。第四種則根本不是財產權。

其他法域的用語

曾在新南威爾斯州、維多利亞州或海外持有公寓的買方，往往帶著昆士蘭並不存在的用語前來。新南威爾斯州設有「附屬用途單元」(utility lot)，其與主單元分離出售受制定法限制；維多利亞州則於分割圖上設有「附屬單元」(accessory lot)，於圖上即與主單元相連結。

昆士蘭兩者皆無。《業主法人團體及社區管理法》並無使某一單元成為另一單元附屬物的機制，車位單元與住宅單元之間亦無任何法定連結。欲建立此種連結的計劃必須自行設計，而可資運用的每一種手段均有其限制。第8.5節將處理該等限制。

切勿將「附屬」一詞逕行引入昆士蘭的契約或管理規約，並假定其具有他處的含義。在昆士蘭，該詞並無任何制定法上的意義；買方若據以行事，等同於毫無憑據。



10

Terms used in this guide

本指南所用名詞

10.1 Glossary
名詞對照

10.1

Glossary

名詞對照

ENGLISH AND TRADITIONAL CHINESE 英文與繁體中文對照

TERM 名詞	WHAT IT MEANS HERE 本指南中的意義
Body corporate 業主法人團體	The entity created on registration of the scheme, comprising all lot owners. 計劃登記時所成立之法人，由全體單元業主組成。
Common property 共用部分	Scheme land that is not part of any lot. Owned by the owners collectively. 不屬於任何單元之計劃土地，由全體業主共同所有。
Community management statement 社區管理聲明	The recorded document containing lot entitlements, by-laws and exclusive use allocations. 載有分攤權益、管理規約及專用使用配置之登錄文件。
Exclusive use by-law 專用使用管理規約	A by-law attaching to a lot a right of exclusive use over common property. 將共用部分之專用使用權附加於某一單元之管理規約。
Lot entitlement 分攤權益	The figures fixing a lot's share of levies (contribution) and of the scheme (interest). 確定某一單元管理費分攤（出資）及計劃權益（權益）比例之數值。
Resolution without dissent 無異議決議	A resolution on which no vote is cast against. 無任何反對票之決議。
Special resolution 特別決議	A resolution passed by the majority the regulation module prescribes, with no more than the permitted number of votes against. 依施行細則所定多數通過，且反對票不超過所允許數目之決議。
Building format plan 建築格式測量圖	A survey plan whose boundaries are the structural elements of a building. 以建築物結構構件為界線之測量圖。
Original owner 原始業主	The developer, in its capacity as the owner of the scheme land at registration. 開發商，以其於登記時計劃土地所有權人之身分而言。
Utility infrastructure 公用設施基礎設施	Cables, pipes, plant and similar equipment supplying a utility service to the scheme. 為計劃提供公用服務之電纜、管線、設備及類似設施。

Partner's closing test

合夥人最終測試

Six questions. If any of them cannot be answered from documents, the car park is not settled, whatever anybody has been told.

六個問題。其中任何一題若無法自文件中得到答案，則該車位之權屬即未確定，無論何人曾作何種說明。

1	Which of the four holdings is it, and which document says so?	屬於四種持有方式中的哪一種？何份文件如此記載？
2	If it is a separate lot, is that lot in the contract and in the transfer?	若為獨立單元，該單元是否已載於契約及移轉文件之中？
3	If it is exclusive use, do Schedule E and the exclusive use plan agree with each other?	若屬專用使用，附表E與專用使用圖二者是否一致？
4	Who maintains it, and does the by-law try to impose anything that cannot lawfully be imposed?	由何人維護？該管理規約是否試圖課予依法不得課予的義務？
5	What does the development approval require, and does the allocation respect it?	開發許可有何要求？該配置是否與之相符？
6	If the owner needed to move or swap this space, what exactly would it take?	業主若需移動或互換該車位，究竟須經何種程序？

This guide is general information about Queensland law as at 10 September 2026. It is not legal advice and cannot be relied on as advice about any particular scheme, lot or transaction. Schemes differ, and the answer for any given car space is found in that scheme's own survey plan, community management statement and by-laws.

本指南為截至2026年9月10日昆士蘭法律之一般性資訊，並非法律意見，亦不得作為就任何特定計劃、單元或交易之意見而予以信賴。各計劃情況互異；任何特定車位的答案，均應於該計劃自身的測量圖、社區管理聲明及管理規約中尋得。