

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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CHAPTER 2 第2章

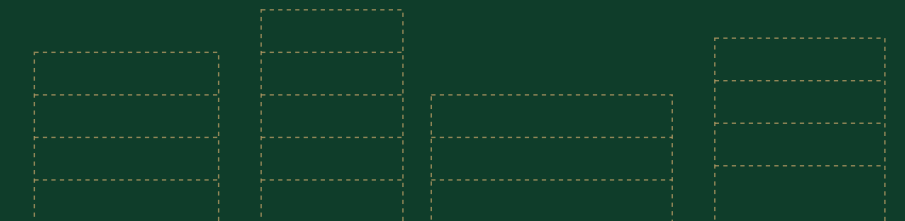
02

On-title car parks

登記於產權之上的車位

3 sections · pages 8–11 of the complete guide

3節 · 全書第8至11頁



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獨立章節版 · 可與全書其他章節合併閱讀

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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

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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。



02

On-title car parks

登記於產權之上的車位

- 2.1** Part of the lot
作為單元一部分的車位
- 2.2** A separate lot
作為獨立單元的車位
- 2.3** What on-title ownership does not give you
登記於產權之上所不包括者

2.1

Part of the lot

The strongest arrangement is also the simplest. The car space lies inside the boundaries of the lot as those boundaries are drawn on the registered survey plan. In a building format plan — the format used for most apartment buildings, where boundaries are the structural elements of the building — a lot may be defined in two or more parts. Lot 12 is then the apartment on level 6 and the car space in the basement, both parts of the one lot.

One title issues for the lot. One set of lot entitlements attaches to it. One levy is struck against it and one rate notice is issued for it. On a sale the car space passes with the apartment because it is the same lot: it does not need to be mentioned in the contract for it to pass, although it should be described accurately anyway.

Nothing the body corporate resolves can take the space away. The by-laws still regulate how it is used, and the body corporate retains its statutory power to enter a lot in the circumstances the Act allows (s 163), but the space itself is the owner's land.

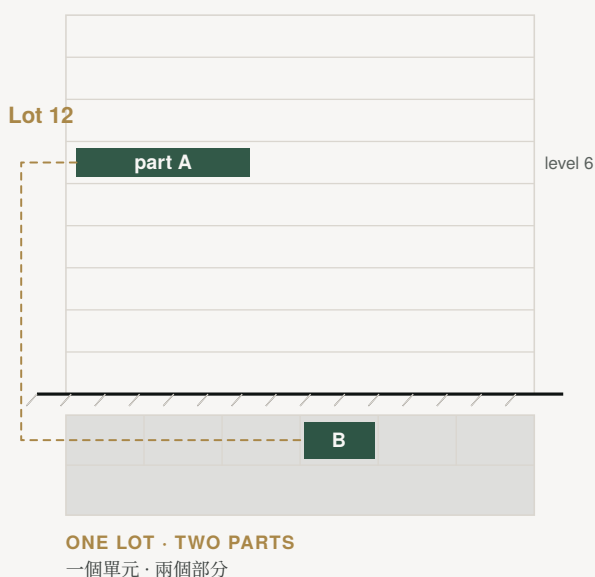


Figure 2 — A building format plan lot defined in two parts.

作為單元一部分的車位

最強的安排同時也是最簡單的。車位位於登記測量圖上該單元界線之內。在建築格式測量圖中——此為多數公寓大樓所採用的格式，其界線即為建築物的結構構件——一個單元可由兩個或以上的部分構成。如此，第12單元即由六樓的住宅與地下室的車位共同組成，二者同屬一個單元。

該單元僅核發一份產權證書、僅附有一組分攤權益、僅課徵一份管理費、僅核發一份市政稅單。出售時，車位隨住宅一併移轉，因二者本屬同一單元：縱使契約未予提及，車位仍隨之移轉，惟仍應在契約中準確描述。

業主法人團體的任何決議均無法剝奪該車位。管理規約仍規範其使用方式，業主法人團體亦仍保有法律所允許情形下進入單元的法定權限（第163條），但車位本身即為業主的土地。

WHAT THIS HOLDING GIVES

- One title, one set of lot entitlements, one levy, one rate notice.
一份產權、一組分攤權益、一份管理費、一份市政稅單。
- The car space passes with the apartment on every sale because it is the same lot.
車位於每次出售時隨住宅單元移轉，因二者本屬同一單元。
- The boundary is generally the finished surface: the slab below, the structure above and the services running through stay common property.
界線一般為完成面：其下的樓板、其上的結構及貫穿其間的管線仍屬共用部分。

圖二——由兩個部分構成的建築格式測量圖單元。

WATCH THE BOUNDARY 注意界線位置

Owning the space is not the same as owning everything around it. On a building format plan the boundary is generally the finished surface, so the slab beneath, the structure above and the services running through remain common property, and remain the body corporate's to maintain. An owner who bolts a car stacker to a common property slab is altering common property, not their own lot.

In a standard format plan scheme — townhouses and villas, where boundaries are marked on the ground — the same logic applies to a driveway or hardstand within the lot. In a volumetric format plan the boundary is a defined three-dimensional volume, which is how a car space in a shared podium is sometimes cut out and attached to a lot above.

2.2**A separate lot**

The second on-title arrangement gives the car space its own lot number, its own indefeasible title and its own place in the scheme. It is a lot like any other lot, and that is both its advantage and its cost.

The advantage is liquidity. A separate car park lot can be sold to another owner in the scheme, mortgaged, leased on its own and dealt with independently of any apartment. In buildings where parking is scarce, that flexibility is worth real money.

The cost is that the scheme has to carry it. A separate lot has contribution schedule and interest schedule lot entitlements, so it attracts its own share of administrative fund and sinking fund levies and its own share of the insurable value. It is counted for voting and for quorum. It usually attracts its own local government rate notice. It adds a lot to the scheme for every purpose the Act measures by lots.

A QUESTION WORTH ASKING EARLY 宜及早提出的問題

Where a buyer takes an apartment and a separate car park lot in the one transaction, the duty and concession consequences are not always what the buyer assumes, because the residence and the car park lot are separate parcels. Confirm the position with the Queensland Revenue Office before the contract is signed rather than after.

擁有車位並不同於擁有其周邊的一切。在建築格式測量圖中，界線一般為完成面，因此其下的樓板、其上的結構及貫穿其間的管線仍屬共用部分，仍由業主法人團體負責維護。業主若將雙層停車設備固定於共用部分的樓板上，即為變更共用部分，而非變更自身單元。

在標準格式測量圖的計劃中——即界線標示於地面的聯排住宅與獨立式住宅——同一原理適用於單元範圍內的車道或硬鋪面。在立體格式測量圖中，界線為經界定的三維空間，共用平台中的車位有時即以此方式劃出，並附隨於上方的單元。

作為獨立單元的車位

第二種登記於產權之上的安排，賦予車位自身的單元編號、獨立且不可推翻的產權，以及在該計劃中的獨立地位。它與其他任何單元無異——這既是其優點，也是其代價。

其優點在於流通性。獨立的車位單元可出售予計劃內其他業主、可設定抵押、可單獨出租，並可獨立於任何住宅單元而為處分。在車位稀缺的大樓中，此種彈性具有可觀的價值。

其代價則在於該計劃必須承擔之。獨立單元擁有出資表分攤權益與權益表分攤權益，因而須負擔其應分攤的行政基金與償債基金管理費，並分擔保險價值。該單元於表決及法定人數計算時均計入，通常亦會收到獨立的地方政府稅單，並在法律以單元數為衡量標準的一切事項上增加一個單元。

買方於同一交易中取得住宅單元及獨立車位單元時，其印花稅與優惠的後果未必如買方所想，因住宅與車位單元屬各自獨立的地塊。宜於簽約前而非簽約後，向昆士蘭稅務局確認相關立場。

The other cost is the one that surprises people at settlement. Because the car park is a separate lot, it does not pass with the apartment unless it is sold with the apartment. It must be described in the contract and it must appear in the transfer. A contract that recites "Lot 12 on SP 123456" and says nothing about Lot 112 conveys the apartment alone, and the seller walks away still owning the car space.

2.3

What on-title ownership does not give you

On-title ownership is not immunity from the scheme. The by-laws regulate what may be done in and around the space, and a by-law that regulates use is valid even though the space is the owner's land. Parking a derelict vehicle, storing goods that create a fire risk, or running a business from the space can each breach the by-laws.

Nor does it give access. The space is reached across common property, and the right of access is the ordinary right of an owner to use common property — it is not an easement the owner controls. Where a scheme proposes to change the layout of a basement, an on-title owner's protection lies in the requirement that the body corporate act reasonably and not unreasonably interfere with access, not in a proprietary right of way.

另一項代價，則往往於交割時令人措手不及。由於車位為獨立單元，除非與住宅單元一併出售，否則不隨住宅單元移轉。車位必須在契約中載明，並必須出現於移轉文件之上。契約若僅載明「SP 123456 之第12單元」而對第112單元隻字未提，則僅移轉住宅單元，賣方於交割後仍保有該車位。

登記於產權之上所不包括者

登記於產權之上並不代表可豁免於計劃的規範。管理規約規範車位及其周邊得為之行為，縱使車位為業主的土地，規範其使用方式的管理規約仍屬有效。停放廢棄車輛、堆放具火災風險的物品，或於車位經營業務，均可能違反管理規約。

登記於產權之上亦不當然賦予通行權。車位須經共用部分抵達，而該通行權僅為業主使用共用部分的一般權利，並非業主所控制的地役權。計劃擬變更地下停車場配置時，登記於產權之上的業主，其保障來自業主法人團體必須合理行事、不得無理妨礙通行的要求，而非來自物權性質的通行權。



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。