

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 3 第3章

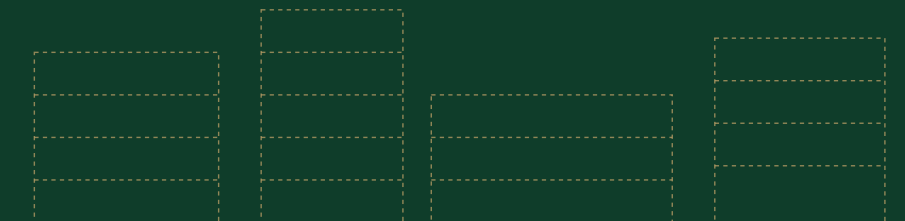
03

Exclusive use car parks

專用使用車位

6 sections · pages 12–17 of the complete guide

6節 · 全書第12至17頁



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STANDALONE CHAPTER EDITION

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。



03

Exclusive use car parks

專用使用車位

- 3.1 What an exclusive use by-law is
何謂專用使用管理規約
- 3.2 How one is made
專用使用管理規約的設立
- 3.3 Where it lives in the scheme documents
其於計劃文件中的所在
- 3.4 Conditions, payments and obligations
條件、給付與義務
- 3.5 Allocation, reallocation and swaps
配置、重新配置與互換
- 3.6 Maintenance and improvements
維護與改良

3.1

What an exclusive use by-law is

A by-law is an exclusive use by-law if it attaches to a lot a right of exclusive use of, or other rights over, common property or a body corporate asset (s 170). That is the whole of the concept, and each element of it matters.

It attaches to a lot, not to a person. The right belongs to whoever owns the lot from time to time. It cannot be given to a tenant in their own right, it cannot be sold to a neighbour on its own, and it does not stay behind when the owner sells. It passes automatically with the lot without being mentioned in the contract or the transfer.

It is a right over common property, not ownership of it. The body corporate remains the owner of the space. What the owner has is a statutory right, recorded on the scheme's title documents, to exclude everyone else from it.

PRACTICAL EFFECT 實務影響

For day-to-day use, an exclusive use car space and an on-title car space feel identical. The difference shows up in three places: when the owner wants to sell or rent the space separately, when something needs repairing, and when the scheme wants to change the layout.

何謂專用使用管理規約

管理規約若將共用部分或業主法人團體資產的專用使用權或其他權利附加於某一單元，即為專用使用管理規約（第170條）。此即該概念的全部，其中每一要素均具意義。

其附加於單元，而非附加於個人。該權利歸屬於當時的單元所有權人。該權利不得單獨授予承租人，不得單獨出售予鄰居，亦不因業主出售單元而留存於原業主。縱使契約及移轉文件均未提及，該權利仍隨單元自動移轉。

其為對共用部分的權利，而非共用部分的所有權。該車位的所有權人仍為業主人團體。業主所擁有者，係一項載於該計劃產權文件、得排除他人使用該車位的法定權利。

就日常使用而言，專用使用車位與登記於產權之上的車位並無二致。其差異顯現於三處：業主欲單獨出售或出租該車位時、車位需要修繕時，以及該計劃欲變更配置時。

3.2

How one is made

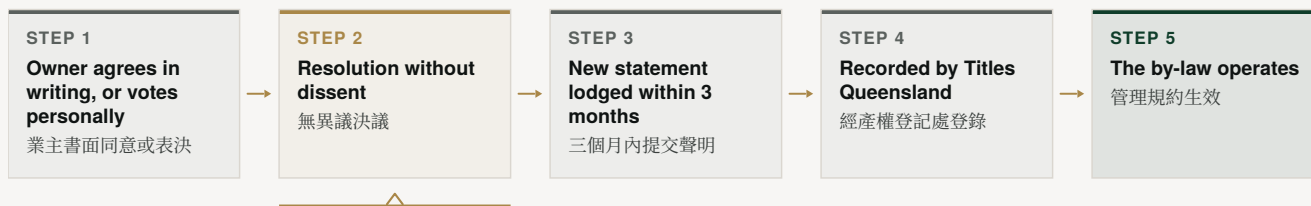
Outside the original owner's first community management statement, an exclusive use by-law is expensive to create, and deliberately so. The body corporate must pass a resolution without dissent to record a new community management statement containing the by-law, and the owner of the lot to which the by-law will attach must agree in writing before the resolution or vote personally on it (s 171). The new statement must then be lodged with Titles Queensland within three months, and the by-law does not operate until it is recorded.

A resolution without dissent means exactly what it says: not a single vote against. One owner of one lot, present and voting no, defeats it. In a large scheme this is the practical reason why exclusive use allocations are almost always made by the developer at the outset and almost never created afterwards.

專用使用管理規約的設立

除原始業主的第一份社區管理聲明外，設立專用使用管理規約的成本甚高，且此乃刻意設計。業主人團體必須以無異議決議通過記載該規約的新社區管理聲明，且該規約所將附加之單元的業主，必須於決議前以書面同意或親自就該決議行使表決權（第171條）。新聲明其後須於三個月內向昆士蘭產權登記處提交，且該規約於登錄前不生效力。

無異議決議一如其字面之意：不得有任何一票反對。任何一個單元的業主出席並投下反對票，即足以否決該決議。在大型計劃中，此即專用使用的配置幾乎均由開發商於最初設定、而事後幾乎從不新設的實務原因。



A single vote against defeats it — and a single owner's written agreement, given before the vote, is what makes it possible. 任何一票反對即足以否決；而業主於表決前所出具的書面同意，正是使其得以成立的要件。

Figure 3 — Making an exclusive use by-law: the sequence, and where it fails.

圖三——設立專用使用管理規約的程序，及其可能失敗之處。

The same requirements apply in reverse. An exclusive use by-law ends only if the body corporate passes a resolution without dissent to record a new statement changing it, and the benefited owner agrees in writing or votes personally. An owner cannot be stripped of an exclusive use car space by a majority, however large.

For schemes still under the Building Units and Group Titles Act 1980 — many older Brisbane buildings — the mechanics differ in form but not in substance: a resolution without dissent, the owner's written consent, and recording on the registered survey plan within three months.

3.3

Where it lives in the scheme documents

The community management statement is where the answer is found, and it is organised in schedules. Schedule A carries the lot entitlements. Schedule B explains the development of the scheme land. Schedule C carries the by-laws. Schedule D carries other details such as service easements. Schedule E carries the allocation of exclusive use areas.

For a car park, three things have to line up: the by-law itself in Schedule C, the allocation in Schedule E naming the lot and the space, and a plan or sketch identifying the space on the ground. Before recording a statement containing an exclusive use by-law, the registrar may require the common property in question to be identified in a plan (s 172).

上述要求於解消時同樣適用。專用使用管理規約僅於業主法人團體以無異議決議通過記載變更的新聲明，且受益業主以書面同意或親自表決時，方告終止。無論多數多麼壓倒，均無法剝奪業主的專用使用車位。

對於仍適用《1980年建築單元及集體產權法》的計劃——布里斯本許多較舊的大樓即屬之——其程序在形式上有所不同，實質則相同：無異議決議、業主書面同意，並於三個月內登錄於已登記的測量圖之上。

其於計劃文件中的所在

答案存在於社區管理聲明之中，該聲明以附表方式編排。附表A載明分攤權益；附表B說明計劃土地的開發；附表C載明管理規約；附表D載明其他事項，例如公用設施地役權；附表E則載明專用使用區域的配置。

就車位而言，三者必須一致：附表C中的管理規約本身、附表E中載明單元與車位的配置，以及在實地標定該車位的圖說或草圖。登錄含有專用使用管理規約的聲明之前，登記官得要求以圖說標定所涉共用部分（第172條）。

COMMUNITY MANAGEMENT STATEMENT

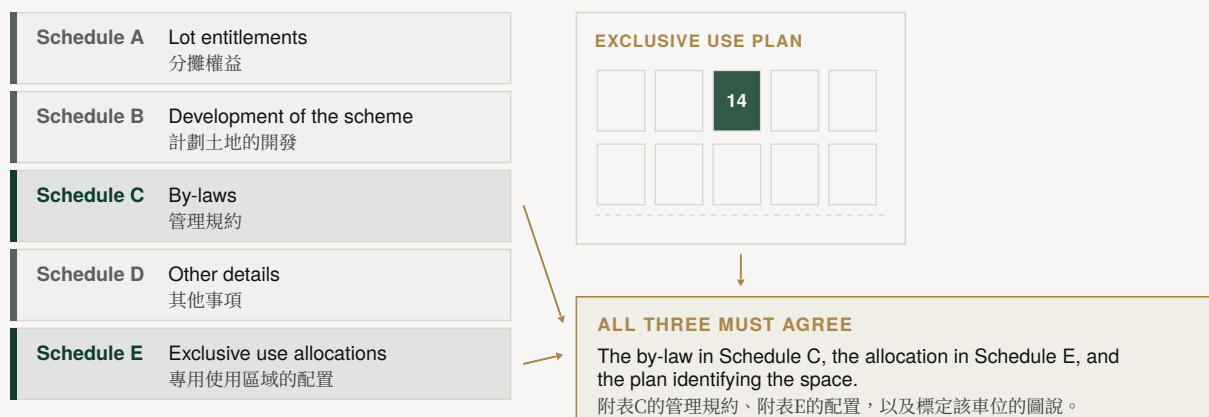


Figure 4 — Where a car park appears in a community management statement.

圖四——車位於社區管理聲明中出現的位置。

THE MOST COMMON DEFECT 最常見的瑕疵

An allocation sheet that refers to spaces by numbers that appear nowhere on the exclusive use plan, or a plan that was drawn for an earlier version of the basement. Where the two disagree, the scheme has a problem that will surface at the worst possible moment, usually on a resale.

配置表以編號指稱車位，而該等編號並未出現於專用使用圖上；或該圖係依地下停車場的先前版本繪製。二者不一致時，該計劃即存在瑕疵，且該瑕疵通常於最不利的時點浮現——多半是在轉售之時。

3.4

Conditions, payments and obligations

An exclusive use by-law can do more than allocate. The regulation module for the scheme may provide for conditions in the by-law, including conditions about payments the benefited owner must make, for obligations imposed on that owner including obligations that would otherwise be the body corporate's, for authorisation of improvements, and for recovery of amounts payable (s 173).

That last power is worth noting. Exclusive use by-laws are the only by-laws that may impose a monetary liability on an owner; ordinary by-laws may not (s 180). Where the by-law requires a payment and the owner does not pay, the amount is recoverable as a debt to the body corporate.

條件、給付與義務

專用使用管理規約的作用不以配置為限。該計劃適用的施行細則得就下列事項為規定：規約中的條件，包括受益業主應為給付的條件；課予該業主的義務，包括原應由業主法人團體承擔的義務；改良工程的授權；以及應付金額的追償（第173條）。

末項權限值得注意。專用使用管理規約是唯一得對業主課予金錢責任的管理規約；一般管理規約則不得為之（第180條）。規約要求給付而業主未為給付者，該金額得作為對業主法人團體的債務予以追償。

3.5

Allocation, reallocation and swaps

A by-law does not have to name the space itself. It may instead identify the common property and leave the allocation to be made — either by a person authorised by the by-law to allocate (an authorised allocation, typically the original owner during a staged development) or by agreement between owners (an agreed allocation). The Act then deals with making allocations, notifying them and notifying further allocations (ss 174 to 176).

This matters for swaps. Two owners who each hold an exclusive use space and want to exchange them can do so by agreement, without a general meeting resolution, provided the by-law is drafted to permit it. The body corporate must be notified and the change recorded. Where the by-law names each space against each lot instead, the same swap requires a new statement and a resolution without dissent — a very different exercise.

DRAFTING POINT 擬約要點

Whether a scheme can swap car parks in an afternoon or only after a unanimous general meeting is decided years earlier, in one clause of one by-law. It is the single most valuable thing a developer's lawyer can get right in the first statement.

配置、重新配置與互換

管理規約無須逐一指明車位。其得僅標定共用部分，而將配置留待其後為之——或由規約授權配置之人為之（授權配置，通常為分期開發期間的原始業主），或由業主間協議為之（協議配置）。法律其後就配置的作成、通知及後續配置的通知設有規定（第174條至第176條）。

此點於互換時至為重要。各自持有專用使用車位而欲互換的兩位業主，只要管理規約的擬定容許為之，即得以協議方式互換，無須經股東會決議。業主法人團體必須受通知，該變更亦須予以登錄。反之，若規約係逐一將各車位對應各單元指明，同一互換即須另行製作新聲明並取得無異議決議——兩者難易迥異。

某一計劃究竟能於一個下午內完成車位互換，抑或必須經全體無異議的股東會方可為之，早在數年前即已由某一管理規約的某一條款決定。此為開發商的律師在第一份聲明中所能做對的最有價值的一件事。

3.6

Maintenance and improvements

The default is that the owner who has the benefit of the exclusive use area maintains it, unless the by-law says otherwise. That default is subject to important carve-outs. For lots on a building format plan the owner is not made responsible for structural elements, or for roofing membranes and similar elements protecting other lots, that the owner did not build. And responsibility for utility infrastructure that is common property cannot be passed to an owner at all.

Improvements are separate again. An owner who wants to improve common property — and an exclusive use car space is still common property — needs approval. Under the Standard, Accommodation and Small Schemes Modules the committee may approve an improvement costing less than \$3,000; at \$3,000 or more an ordinary resolution of the body corporate is required. The Commercial Module sets no limit on the committee.

維護與改良

原則上，享有專用使用區域利益的業主負責維護，但管理規約另有規定者不在此限。該原則有重要的例外。就建築格式測量圖上的單元而言，業主無須就非其興建的結構構件，或就保護其他單元的防水層及類似構件負責。而屬共用部分的公用設施基礎設施，其責任根本不得轉嫁予業主。

改良工程則為另一回事。業主欲改良共用部分——專用使用車位仍屬共用部分——須經核准。依標準、住宿及小型計劃施行細則，管理委員會得核准費用低於3,000澳元的改良工程；達3,000澳元以上者，須經業主人團體的普通決議。商用施行細則則未對管理委員會設有上限。

This is the provision that now governs most electric vehicle charger requests. A wall box in an exclusive use space is an improvement to common property, it draws power that has to come from somewhere, and it usually needs both an approval and an agreement about metering and cost.

此即目前規範多數電動車充電設備申請的規定。設置於專用使用車位的壁掛式充電器，屬對共用部分的改良工程；其用電必須有其來源，通常既須取得核准，亦須就計量與費用另行達成協議。



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。