

Exclusive Use versus On-Title Car Parks

專用使用車位與登記於產權之上的車位

VERSION 1 · 10 SEPTEMBER 2026
ENGLISH & TRADITIONAL CHINESE

CHAPTER 4 第4章

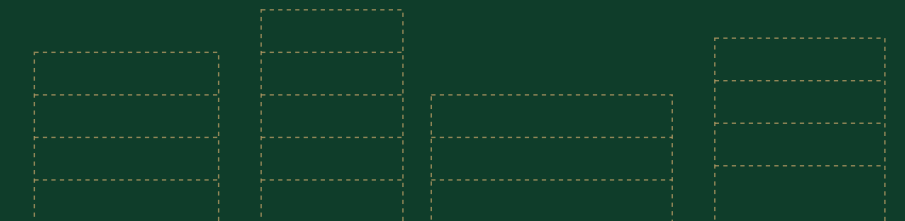
04

The weaker arrangements

較弱的安排

3 sections · pages 18–20 of the complete guide

3節 · 全書第18至20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。

04

The weaker arrangements

較弱的安排

- 4.1 Lease and licence of common property
共用部分的租賃與使用許可
- 4.2 Informal allocation
非正式配置
- 4.3 Visitor parking is not available
訪客車位不得配置

4.1

Lease and licence of common property

A body corporate may dispose of an interest in, or lease or licence, common property, subject to the Act and the scheme's regulation module (s 154). The module caps the term that may be granted on a special resolution: three years under the Standard Module, ten years under the Accommodation and Commercial Modules.

This is the sensible route where a scheme has spare spaces and wants to charge for them without committing the common property permanently. It is a contract, not a property right recorded on the scheme's title documents. It ends with its term. It does not pass with the lot on a sale unless it is assigned, and a buyer who assumes otherwise will find the space is not theirs.

4.2

Informal allocation

The fourth category is not an arrangement at all. A committee minute from 2009. A number stencilled on the wall. A letter from a former manager. An assurance from the seller that space 14 "goes with" unit 6, repeated by three successive owners until everybody believes it.

None of it creates a right. Common property that has not been allocated by an exclusive use by-law, a lease or a licence is available to all owners, and the body corporate can re-line the basement next year. The owner's remedy, if there is one, is usually against the person who told them otherwise — which is little comfort and expensive to pursue.

4.3

Visitor parking is not available

Visitor spaces cannot be allocated to owners or occupiers, and the reason is not primarily a body corporate one. The development approval for the building will usually impose a condition requiring a minimum number of visitor spaces to be provided and kept available. Converting them breaches the approval, whatever the body corporate resolves.

Adjudicators have consistently held that an owner is not a visitor to their own scheme, including an owner who does not live there. A person who occasionally stays overnight is not an occupier (Summer Waters [2004] QBCCMCmr 244); a person who does so regularly may be (Gresham Gardens [2006] QBCCMCmr 355); and whether a contractor is a visitor depends on who engaged them (127 Charlotte Street [2015] QBCCMCmr 19).

共用部分的租賃與使用許可

業主法人團體得依本法及該計劃適用的施行細則，處分共用部分之權益，或就共用部分為租賃或使用許可（第154條）。施行細則就得以特別決議設定的期間定有上限：標準施行細則為三年，住宿及商用施行細則為十年。

計劃有餘裕車位、欲收取費用而不願永久處分共用部分時，此為合理的途徑。其性質為契約，而非登錄於計劃產權文件上的財產權；期間屆滿即告終止；除經讓與外，不隨單元於出售時移轉。買方若有相反的認知，將發現該車位並不屬於自己。

非正式配置

第四類根本稱不上是一種安排。2009年的一份管理委員會會議紀錄；牆上噴印的一個號碼；前任管理人的一封信函；賣方保證第14號車位「隨附於」第6單元，此說經三任業主輾轉相傳，終致眾人信以為真。

凡此種種均不創設任何權利。未經專用使用管理規約、租賃或使用許可配置的共用部分，供全體業主使用；業主法人團體明年即可重新劃設地下停車場的車道線。業主若有救濟，通常僅得向當初為相反陳述之人請求——此既無多大實益，追訴成本亦高。

訪客車位不得配置

訪客車位不得配置予業主或住戶，其理由主要並非源於業主法人團體法制。該大樓的開發許可通常設有條件，要求提供並持續保留一定數量的訪客車位。無論業主法人團體作成何種決議，將其變更用途均違反該開發許可。

裁決官一貫認為，業主並非自身計劃的訪客，縱使該業主並未居住於該處亦然。偶爾留宿之人並非住戶（Summer Waters [2004] QBCCMCmr 244）；經常留宿者則可能構成住戶（Gresham Gardens [2006] QBCCMCmr 355）；承包商是否為訪客，則取決於係由何人委任（127 Charlotte Street [2015] QBCCMCmr 19）。

WHAT A BODY CORPORATE CANNOT DO 業主法人團體不得為之事項

A Queensland body corporate cannot fine an owner, cannot tow a vehicle of its own motion, and cannot impose time limits on visitor parking that the by-laws do not support. Enforcement runs through contravention notices and, if that fails, an application to the Commissioner's office for an adjudicator's order.

昆士蘭的業主法人團體不得對業主科處罰款、不得逕行拖吊車輛，亦不得就訪客車位設定管理規約所不支持的時間限制。執行須循違規通知的途徑；如仍無效，則向專員辦公室申請裁決官命令。



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。