PRACTICAL LAW · ILLUSTRATED BILINGUAL GUIDE · CHAPTER EDITION

Queensland Management Rights Assignment Guide
昆士蘭管理權轉讓指南

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CHAPTER 2 第2章

02

The Transfer Approval Regime

轉讓批准制度

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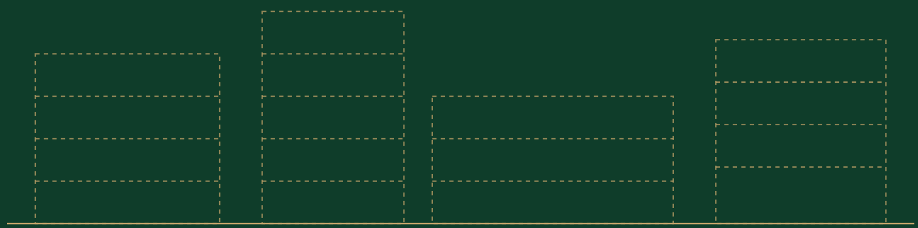
8節 · 全書第11至17頁



Kevin Pai
白宗翰
PARTNER · BUGDEN ALLEN GROUP LEGAL

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ABOUT THE AUTHOR · 關於作者

Kevin Pai

白宗翰

PARTNER · BUGDEN ALLEN GROUP LEGAL

Kevin Pai is a Partner of Bugden Allen Group Legal. His work focuses on strata and community title development, complex and mixed-use titling, project restructuring, body corporate governance and management rights. He acts for developers, bodies corporate, resident managers, financiers, investors and overseas participants on transactions, governance and disputes.

白宗翰是Bugden Allen Group Legal合夥人。他專注於分層及社區產權發展、複雜及混合用途產權架構、項目重組、業主法人團體治理及管理權，並為發展商、業主法人團體、駐場管理人、融資機構、投資者及海外參與者處理交易、治理及爭議事宜。

Kevin is an honours law graduate of the University of Queensland and a member of the Australian College of Strata Lawyers, the Urban Development Institute of Australia (Queensland) and Strata Community Association (Queensland). He acts on both sides of the management rights relationship, which is the reason this guide is written from three perspectives rather than one.

白宗翰以榮譽成績畢業於昆士蘭大學法律系，並為澳洲分層產權律師學院、澳洲城市發展學會（昆士蘭）及昆士蘭分層社區協會成員。他同時代表管理權關係的雙方，這也是本指南以三個角度而非單一角度撰寫的原因。

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專業學會成員

Reader note

讀者須知

IMPORTANT 重要提示

This guide is general educational information, not legal, financial, tax or investment advice. Outcomes in a management rights transaction turn on the actual caretaking agreement, letting authorisation, community management statement, applicable regulation module and current law. Obtain independent Queensland legal advice before signing a contract, granting or withholding approval, waiving a condition, or settling.

本指南僅提供一般教育資訊，並非法律、財務、稅務或投資意見。管理權交易的法律結果，取決於實際的看管合約、出租代理授權、社區管理聲明、適用規管模組及現行法律。在簽署合約、給予或拒絕批准、豁免條件或完成交割前，應取得獨立的昆士蘭法律意見。

Terminology follows the statute. The Body Corporate and Community Management Act 1997 (Qld) speaks of a "service contractor" and a "letting agent"; the market speaks of a "caretaker", an "onsite manager" or a "resident manager". Where the legal consequence depends on the statutory category, this guide uses the statutory word. Traditional Chinese terms follow the standard Australian strata glossary; where a translation differs from the English text, the English text governs.

本指南術語以法例為準。《1997年業主法人團體及社區管理法》（昆士蘭）使用「服務承辦商」及「出租代理」，市場則慣稱「看管人」、「駐場經理」或「駐場管理人」。凡法律後果取決於法定分類者，本指南一律採用法定用語。繁體中文詞彙依據澳洲分層產權標準詞彙表；如譯文與英文有異，概以英文為準。

Editorial method

編寫方法

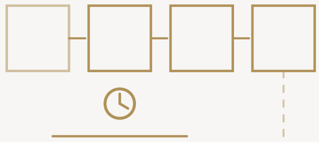
Each subject first identifies the legal structure, then explains how it operates in practice, then states the consequence for the party whose perspective is under discussion. Chapters 1 and 2 establish the framework common to all three parties. Chapters 3, 4 and 5 take the body corporate, the seller and the buyer in turn. Chapter 6 addresses what happens when an assignment fails.

每個主題先確認法律架構，再說明其實際運作，最後指出對所討論一方的後果。第1章及第2章建立三方共通的法律框架；第3、4、5章分別處理業主法人團體、賣方及買方；第6章處理轉讓失敗時的情況。

Legislation current to 6 August 2026.

法例資料截至2026年8月6日。

CHAPTER 2 · 第2章



02

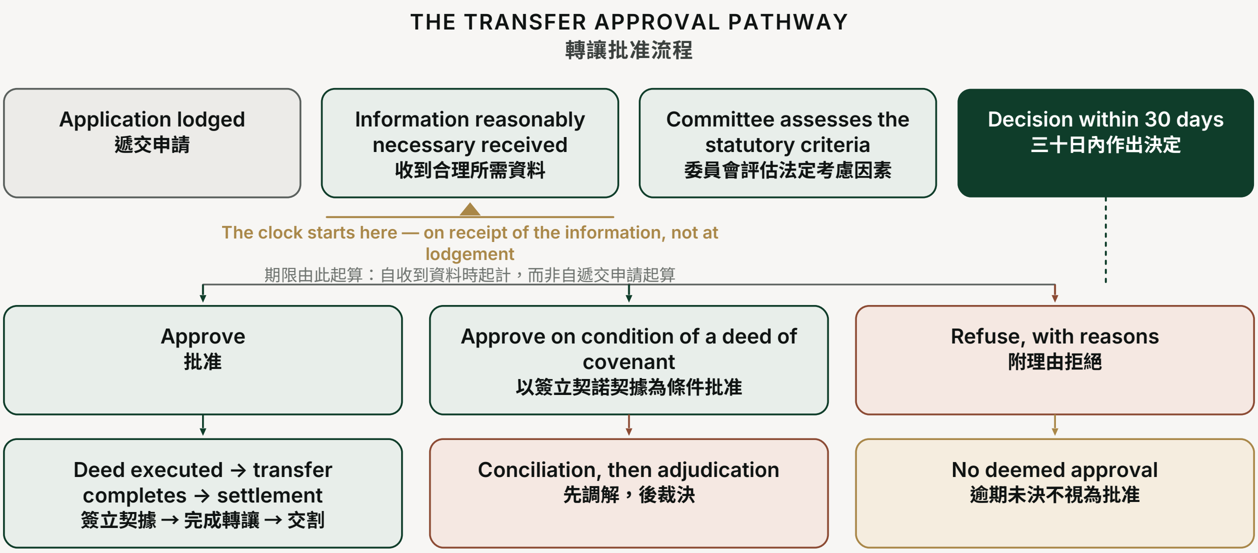
The Transfer Approval Regime

轉讓批准制度

The approval provision is short, and almost every contested assignment turns on how it is read. Section 143 of the Standard Module, and section 133 of the Accommodation Module in identical terms, provide that an engagement as a service contractor, or an authorisation as a letting agent, may be transferred only if the body corporate approves the transfer.

批准條文本身簡短，但幾乎每宗有爭議的轉讓，都取決於如何解讀該條文。標準規管模組第143條，以及條文相同的住宿規管模組第133條訂明：服務承辦商的聘任或出租代理的授權，僅在業主法人團體批准轉讓的情況下方可轉讓。

FIG 2 **The transfer approval pathway** ／ 轉讓批准流程



2.1

Who decides

由誰決定

The module declares, to avoid doubt, that the approval may be given by the committee. That is the ordinary course, and it matters commercially: a committee can convene quickly, whereas a general meeting cannot. The committee decision approves a transfer of the existing instrument on its existing terms. It does not amend the instrument.

模組為免生疑問，明文訂明該項批准可由委員會給予。此乃常規做法，且具商業意義：委員會可迅速召開會議，業主大會則不能。委員會的決定是批准按現有條款移轉現有文件，並不修改該文件。

Any change to the terms — a longer term, a revised duties schedule, a different remuneration figure — is an amendment requiring an ordinary resolution at a general meeting under section 135 of the Standard Module. A committee that purports to vary the agreement while approving the transfer has exceeded its authority, and the variation is exposed.

任何條款變更——延長年期、修訂職責清單、調整報酬金額——均屬修訂，須依標準規管模組第135條經業主大會普通決議通過。委員會如在批准轉讓的同時意圖變更合約，即屬越權，該項變更亦可被推翻。

DECISION 決定事項	ORGAN 決策機關	THRESHOLD 通過門檻
Approve a transfer of the engagement or authorisation 批准聘任或授權的轉讓	Committee 委員會	Committee resolution 委員會決議

DECISION 決定事項	ORGAN 決策機關	THRESHOLD 通過門檻
Amend the engagement or authorisation 修訂聘任合約或授權	General meeting 業主大會	Ordinary resolution 普通決議
Add a further option or top up the term 新增選擇權或補足年期	General meeting 業主大會	Ordinary resolution 普通決議
Terminate after a remedial action notice 在發出補救行動通知後終止	General meeting 業主大會	Ordinary resolution 普通決議

2.2

The statutory criteria

法定考慮因素

In deciding whether to approve, the body corporate may have regard to the character of the proposed transferee and of related persons; the financial standing of the proposed transferee; the competence, qualifications and experience of the transferee and related persons, including training received or likely to be received; and other matters stated in the engagement or authorisation itself.

業主法人團體在決定是否批准時，可考慮：擬承讓人及其關連人士的品格；擬承讓人的財務狀況；承讓人及關連人士的能力、資格及經驗，包括已接受或可能接受的培訓；以及聘任合約或授權本身所列明的其他事項。

The module defines related persons. For a corporate transferee they are its directors, substantial shareholders and principal staff; for a partnership, the partners and principal staff. A body corporate assessing a corporate buyer is therefore entitled to look through the company to the people who will actually run the building, and a buyer structuring through a company should expect that scrutiny.

模組界定了關連人士。就法團承讓人而言，指其董事、主要股東及主要職員；就合夥而言，指合夥人及主要職員。因此，業主法人團體在評估法團買方時，有權穿透公司架構審視實際管理該大廈的人；以公司架構進行交易的買方，亦應預期會受到此等審查。

PRACTICAL EFFECT 實務效果

The criteria are directed at the person who will perform the agreement. Matters unconnected to performance — the price paid, the seller's conduct, an unrelated grievance about levies — are outside them.

各項考慮因素均針對將履行合約的人。與履約無關的事項——成交價、賣方的行為、與管理費有關的無關投訴——均不在其列。

2.3

The thirty-day rule and what starts the clock

三十日期限及其起算時點

The body corporate must decide whether to approve a proposed transfer within thirty days after it receives the information reasonably necessary to decide the application. The clock therefore does not start when the application is lodged. It starts when the body corporate holds enough information to make the decision.

業主法人團體須在收到足以作出決定所合理需要的資料後三十日內，決定是否批准擬進行的轉讓。因此，期限並非自遞交申請之日起算，而是自業主法人團體掌握足夠資料以作決定之時起算。

That formulation cuts both ways. A body corporate cannot restart the period by issuing successive requests for information it does not reasonably need. Equally, a buyer who lodges a thin application and then complains about delay has usually created the delay. The module attaches no deemed approval to a failure to decide within the period; the remedy is an application under the dispute resolution provisions, which takes considerably longer than thirty days.

此一表述對雙方均有約束。業主法人團體不得藉連番索取其並非合理需要的資料，而重新起算該期限；同樣，買方若遞交內容單薄的申請，其後又投訴延誤，延誤通常是其自己造成的。模組並未就逾期未作決定訂明視作批准的效果；補救途徑是依爭議解決條文提出申請，而其所需時間遠超三十日。

PRACTICAL EFFECT 實務效果

Neither party should treat thirty days as a settlement date. It is a decision deadline that begins on a date determined by the completeness of the application.

任何一方均不應把三十日視為交割日。它是作出決定的期限，起算日取決於申請資料是否完整。

2.4

Reasonableness and the prohibition on charging

合理性及不得收費的規定

Section 143 provides that the body corporate must not unreasonably withhold approval, and must not require or receive a fee or other consideration for approving the transfer beyond reimbursement of expenses reasonably incurred in relation to the application. The two limbs are related: a demand for value in exchange for approval is both a prohibited charge and evidence that the refusal was not based on the statutory criteria.

第143條訂明，業主法人團體不得無理拒絕批准，亦不得就批准轉讓要求或收取任何費用或其他代價，惟就申請合理招致的開支獲得補償者除外。兩項規定互有關連：以批准換取利益的要求，既屬被禁止的收費，亦足以顯示拒絕並非基於法定考慮因素。

Reimbursable expenses are the body corporate's actual costs of assessing the application — the legal fee for reviewing the deed, the cost of the interview, the meeting cost. They are not a fee calculated by reference to the sale price, and they are not a contribution to the scheme's sinking fund.

可獲補償的開支，是業主法人團體評估申請的實際成本——審閱契據的法律費用、面談費用、會議費用。它不是按成交價計算的費用，亦不是對該計劃償債基金的注資。

2.5

The deed of covenant

契諾契據

Approval may be given on condition that the transferee enters into a deed of covenant to comply with the terms of the engagement or authorisation. This is the body corporate's principal protective mechanism and it should be used in every assignment. Without it the body corporate may find itself with a transferee who disputes whether particular obligations bind it.

批准可附加條件，要求承讓人簽立契諾契據，承諾遵守聘任合約或授權的條款。這是業主法人團體最主要的保障機制，每宗轉讓均應採用。若無此契據，業主法人團體可能面對承讓人爭辯某些義務對其不具約束力的情況。

The deed is a covenant to comply with the existing terms. It is not a vehicle for introducing new obligations. A deed presented to a transferee with additional duties, a shortened term or a reduced remuneration embedded in it is an amendment in substance, and the committee has no power to require it as a condition of approval.

該契據是承諾遵守現有條款的契諾，並非引入新義務的工具。若向承讓人提出的契據內載有額外職責、縮短年期或削減報酬，實質上即屬修訂，委員會無權將其作為批准條件。

> **PRACTICAL EFFECT 實務效果**
>
> Ask of every proposed condition: does this secure performance of the agreement as it stands, or does it change the agreement? Only the first is available to the committee.
>
> 對每項擬議條件均應自問：這是確保現有合約得以履行，還是改變了合約？委員會僅可採用前者。

2.6

The transfer fee within the prescribed period

訂明期間內的轉讓費

Sections 145 to 148 of the Standard Module, and sections 135 to 138 of the Accommodation Module, impose a transfer fee payable by the transferor to the body corporate where a transfer is approved within the prescribed period after the transferor's own initial contract date. If the approval day falls not more than one year after that date the fee is three per cent of the amount representing fair market value for the transfer; if it falls more than one year after that date the fee is two per cent.

標準規管模組第145至148條，以及住宿規管模組第135至138條，訂明凡轉讓在轉讓人本身的首份合約日期起計的訂明期間內獲批准，轉讓人須向業主法人團體繳付轉讓費。若批准日期距該日不超過一年，費用為轉讓公平市值金額的百分之三；若超過一年，則為百分之二。

The head of power sits in section 122(3) of the Act, which allows the regulation module to provide for a payment to the body corporate where rights under the engagement or authorisation are transferred within a prescribed period. That subsection operates by reference to section 122(2), so whether a fee is payable in a particular scheme is a question about the history of the engagement and not only about the calendar.

授權來源為該法第122(3)條，該條容許規管模組就聘任合約或授權下的權利在訂明期間內移轉時，訂定向業主法人團體支付款項的規定。該款須參照第122(2)條運作，故個別社區產權項目是否須繳費，涉及該聘任合約的沿革，而不僅是日期的計算。

The provisions contain exceptions, including where a financier exercises a power of sale, and a transferor who claims that no fee is payable must tell the body corporate. The fee is a seller cost and is frequently missed in the sale of a business acquired only recently. It should be identified before the price is agreed, not at settlement.

有關條文載有例外情況，包括融資機構行使強制出售權的情形；聲稱無須繳費的轉讓人，須通知業主法人團體。該費用屬賣方成本，在出售近期方購入的業務時經常被忽略，應在議定價格前而非交割時確認。

2.7

The financier is a statutory participant

融資機構是法定參與者

Divisions of Part 2 of Chapter 3 of the Act protect the financier of a management rights contract. Sections 123 to 127 define who is a financier, require the body corporate to be given an address for service, require notice to the financier of changes affecting the financed contract, limit termination of a financed contract, and prohibit certain agreements between the body corporate and the financier.

該法第3章第2部相關分部為管理權合約的融資機構提供保障。第123至127條界定何謂融資機構、規定須向業主法人團體提供送達地址、規定影響受融資合約的變動須通知融資機構、限制受融資合約的終止，並禁止業主法人團體與融資機構之間訂立某些協議。

For all three parties this has a practical consequence. A body corporate that proposes to act against a manager must check whether a financier has registered an address. A seller cannot deliver clear title to the agreements without the financier's release. A buyer's own financier will impose its own conditions, commonly including a minimum unexpired term, which is the mechanism by which lenders drive top-up motions.

此對三方均有實際影響。業主法人團體如擬對管理人採取行動，須先查核是否有融資機構已登記送達地址；賣方若未取得融資機構解除擔保，即無法交付無負擔的合約權益；買方本身的融資機構亦會提出自身條件，常見者為最低餘下年期要求，而這正是貸款機構推動續期補足動議的機制。

2.8

A drafting trap worth naming

值得指出的引註陷阱

Section 143 of the Standard Module governs voluntary transfers. Section 143 of the Act does something quite different: it sits within the division dealing with the required transfer of a letting agent's management rights and concerns the body corporate's choice of transferee where a transfer has been compelled. Correspondence that cites "section 143" without identifying the instrument is a recurring source of confusion, and occasionally of costs.

標準規管模組第143條規管自願轉讓；而該法第143條的內容截然不同：它屬於處理強制轉讓出租代理管理權的分部，涉及在轉讓被強制進行時業主法人團體對承讓人的選擇。信函中引用「第143條」而未指明所屬法律文件，是反覆出現的混淆來源，有時更引致費用損失。

PRACTICAL CHECKLIST 實務清單

- Cite the instrument as well as the section number in every letter.
- Record the date on which the body corporate held sufficient information.
- Separate the transfer application from any amendment or top-up motion.
- Check the transferor's initial contract date against the prescribed period.
- Confirm whether a financier has an address for service on the body corporate record.

- 在每封信函中，除條文編號外亦須指明所屬法律文件。
- 記錄業主法人團體掌握足夠資料的日期。
- 把轉讓申請與任何修訂或續期補足動議分開處理。
- 對照訂明期間，查核轉讓人的首份合約日期。
- 確認業主法人團體記錄中是否載有融資機構的送達地址。

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Principal sources: Body Corporate and Community Management Act 1997 (Qld); Body Corporate and Community Management (Standard Module) Regulation 2020; Body Corporate and Community Management (Accommodation Module) Regulation 2020; Property Occupations Act 2014 (Qld); Atlantis West [2024] QBCCMCmr 340.

主要資料來源：《1997年業主法人團體及社區管理法》（昆士蘭）；《2020年業主法人團體及社區管理（標準規管模組）規例》；《2020年業主法人團體及社區管理（住宿規管模組）規例》；《2014年物業職業法》（昆士蘭）；Atlantis West [2024] QBCCMCmr 340。