

Queensland Management Rights Variation Guide

昆士蘭管理權變更指南

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ENGLISH & TRADITIONAL CHINESE

CHAPTER 3 第3章

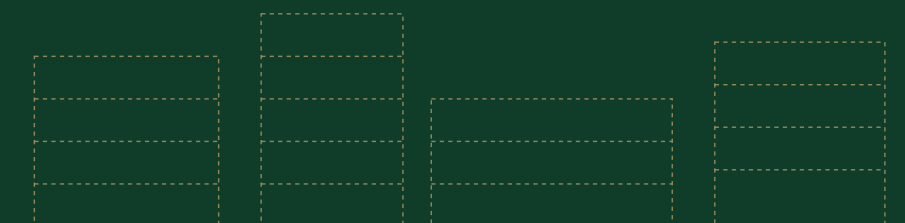
03

The Body Corporate's Perspective

業主法人團體的角度

4 sections · pages 16–19 of the complete guide

4節 · 全書第16至19頁



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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). This guide is a companion to the Queensland Management Rights Assignment Guide and uses the same three-perspective method.

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。本指南為《昆士蘭管理權轉讓指南》的姊妹篇，採用相同的三角度編寫方法。

PRACTICE

Strata & community title development
分層及社區產權發展

FIRM

Bugden Allen Group Legal
合夥人

MEMBERSHIPS

ACSL · UDIA (Qld) · SCA (Qld)
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. Whether a particular variation is available, and how it must be approved, depends on the actual engagement or authorisation, the community management statement, the applicable regulation module and current law. Obtain independent Queensland legal advice before submitting a motion, voting on one, or executing a deed of variation.

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。某項變更能否進行，以及須經何種程序批准，取決於實際的聘任合約或授權、社區管理聲明、適用規管模組及現行法律。在提交動議、就動議表決或簽立變更契據前，應取得獨立的昆士蘭法律意見。

References to the Standard Module are to the Body Corporate and Community Management (Standard Module) Regulation 2020. The Accommodation Module contains materially identical provisions under different section numbers, and the corresponding section is noted where it matters. Where a translation and the English differ, the English text governs.

本指南所稱標準規管模組，指《2020年業主法人團體及社區管理（標準規管模組）規例》。住宿規管模組載有實質相同的條文，惟條號不同；凡具重要性者，均註明對應條文。如譯文與英文有異，概以英文為準。

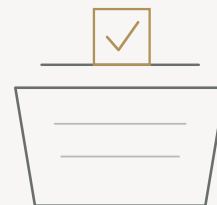
Legislation current to 6 August 2026.

法例資料截至2026年8月6日。

03

The Body Corporate's Perspective

業主法人團體的角度



3.1 The committee cannot decide it
委員會無權作出決定

3.2 What to ask for, and what not to
應要求與不應要求的事項

3.3 Running the meeting properly
妥善進行會議

3.4 Advice, cost and conflict
意見、成本及利益衝突

On a variation the body corporate is not a gatekeeper applying statutory criteria, as it is on a transfer. It is a contracting party deciding whether to give something away and what it wants in return. That is a commercial judgment, and the committee's function is to prepare it properly for the owners rather than to make it for them.

在變更事宜上，業主法人團體並非如在轉讓事宜中那樣，作為適用法定準則的把關者，而是作為合約一方，決定是否給予某項權益，以及希望換取甚麼。這屬商業判斷；委員會的職能，是為業主委為準備此項判斷，而非代其作出。

3.1

The committee cannot decide it

委員會無權作出決定

Approving an amendment is not within committee power. The committee's role is to obtain advice, negotiate the proposed terms, settle the motion and the explanatory material, and put it to a general meeting. A committee that agrees terms with a manager and treats the general meeting as a formality has misunderstood where the decision sits.

That said, the committee shapes the outcome more than any other participant. It controls whether the motion is put at all, what it says, what supporting material accompanies it, and whether the owners receive a considered committee position. Those are substantial powers exercised before the vote rather than at it.

批准修訂並不屬委員會的權限。委員會的角色是取得意見、就擬議條款進行商議、擬定動議及解釋資料，並提交業主大會。委員會若與管理人議定條款，並把業主大會視為形式程序，即是誤解了決定權的所在。

話雖如此，委員會對結果的影響大於任何其他參與者。它決定動議是否提交、內容為何、隨附哪些支持資料，以及業主能否收到經審慎考慮的委員會立場。這些都是在表決之前而非表決之時行使的重要權力。

3.2

What to ask for, and what not to

應要求與不應要求的事項

A top-up request is the one moment in a long agreement when the body corporate has something the manager wants. Used well, it produces a better agreement for the balance of the term: a duties schedule updated to the building as it now stands, defined performance standards, a reporting obligation, clarity about what is included in the caretaking fee and what is charged separately.

Used badly, it produces an unenforceable resolution and a dispute. Requests for payment to the body corporate, or for a contribution to the sinking fund, as the price of the extension engages the limitations in sections 114 and 115 of the Act, and an amount paid under such a requirement is recoverable from the scheme.

續期補足的請求，是漫長合約期內業主法人團體唯一手握管理人所需事物的時刻。善加運用，可換來在餘下年期內更完善的合約：按大廈現狀更新的職責清單、明確的履約標準、匯報義務，以及清楚劃分看管費已涵蓋與另行收費的項目。

運用失當，則只會換來無法執行的決議及爭議。以向業主法人團體付款、注資償債基金，或放棄已累算的合約權益作為延期代價的要求，觸及該法第114及115條的限制，難以通過審視。

REQUEST 要求事項	ORDINARILY AVAILABLE 一般可行	REASON 理由
Updated duties schedule reflecting the current building 按大廈現狀更新的職責清單	Yes 可行	Improves the bargain itself 改善交易安排本身
Defined performance standards and reporting 明確的履約標準及匯報安排	Yes 可行	Goes to performance 關乎履約
Shorter increment than requested 低於所要求的新增年期	Yes 可行	The term is what is being granted 年期正是所授予的內容
Payment to the body corporate for agreeing 就同意事宜向業主法人團體付款	No 不可行	Engages sections 114 and 115 觸及第114及115條
Contribution to the sinking fund as the price 以注資償債基金作為代價	No 不可行	Recoverable from the scheme 可向社區產權項目追討

3.3

Running the meeting properly

妥善進行會議

Most successful challenges to a top-up resolution are procedural rather than substantive. The recurring failures are an explanatory note omitted from the meeting material, proxies counted on a motion where they are prohibited, a ballot conducted openly, and a motion put in a financial year in which one has already been considered.

Each is avoidable at negligible cost and none is curable afterwards. Where the secretary is unsure, the correct course is to defer the motion to a properly constituted meeting rather than to proceed and hope. A resolution set aside on adjudication cannot simply be re-run if the financial year has been used.

對續期補足決議的成功挑戰，大多屬程序性而非實質性。反覆出現的失誤包括：會議資料遺漏解釋說明、在禁止委任代表表決的動議上計入代表票、以公開方式進行投票，以及在同一財政年度內已審議過同類動議後再次提交。

每一項均可以極低成本避免，事後卻無一可補救。秘書如有疑問，正確做法是把動議押後至妥為召開的會議，而非姑且進行、寄望無事。決議一旦在裁決中被撤銷，若該財政年度的次數已用，亦不能直接重新提交。

3.4

Advice, cost and conflict

意見、成本及利益衝突

The body corporate should take its own advice on any material variation, and it should not rely on the manager's solicitor to draft the deed. Where the manager offers to pay the body corporate's legal costs of the variation, that is ordinarily unobjectionable as a transaction cost, but the retainer and the instructions must remain the body corporate's.

就任何重大變更，業主法人團體均應自行取得意見，不應倚賴管理人的律師草擬契據。管理人如提出承擔業主法人團體就該變更的法律費用，一般作為交易成本並無不當，惟委聘關係及指示必須仍屬業主法人團體。

Committee members who let their units through the manager have an interest that should be disclosed. It does not disqualify them, and it is exactly the kind of matter that damages a resolution when it emerges for the first time in an adjudication application.

透過管理人出租單元的委員會成員存有利益關係，應予披露。此並不會令其喪失資格，但正是此類事項，若在裁決申請中方首次被揭露，會對決議造成損害。

ITEM 項目	DETAIL 內容
Companion volume 姊妹篇	Queensland Management Rights Assignment Guide 昆士蘭管理權轉讓指南
Scope 範圍	Queensland; Standard and Accommodation Modules 昆士蘭；標準及住宿規管模組
Status 狀態	General educational information 一般教育資訊

Principal sources: Body Corporate and Community Management Act 1997 (Qld), ss 112, 114–115, 130–135 and schs 2–3; Body Corporate and Community Management (Standard Module) Regulation 2020, ss 86, 135, 137–138, 140–141; Body Corporate and Community Management (Accommodation Module) Regulation 2020, ss 76, 125, 130–131; BCCM Form 20; 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）第112、114至115條、第130至135條及附表2至3；《2020年業主法人團體及社區管理（標準規管模組）規例》第86、135、137至138、140至141條；《2020年業主法人團體及社區管理（住宿規管模組）規例》第76、125、130至131條；BCCM第20號表格；Atlantis West [2024] QBCCMCmr 340。