

Queensland Management Rights Variation Guide

昆士蘭管理權變更指南

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CHAPTER 6 第6章

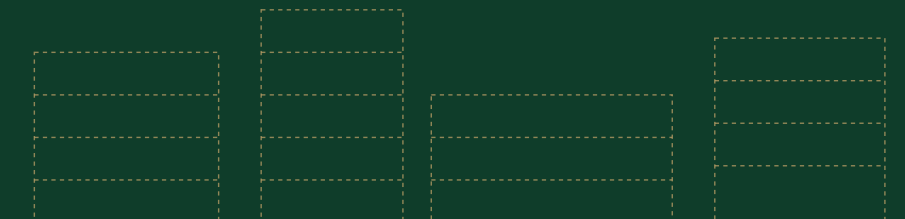
06

Challenging and Defending a Variation

對變更的挑戰與抗辯

3 sections · pages 26–28 of the complete guide

3節 · 全書第26至28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 author profile, the guide's reader note and the closing colophon so that it can be read alone. Page and figure numbers follow the complete guide.

ABOUT THE AUTHOR · 關於作者

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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

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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。

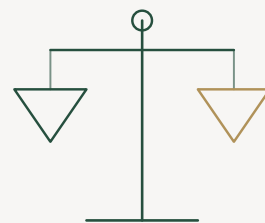
References to the Standard Module are to the Body Corporate and Community Management (Standard Module) Regulation 2020. The Accommodation Module contains materially identical provisions under different section numbers, and the corresponding section is noted where it matters. Where a translation and the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

06



Challenging and Defending a Variation

對變更的挑戰與抗辯

6.1 The grounds that succeed

成立的理由

6.2 The pathway and its timetable

處理途徑及時間表

6.3 The relationship with performance

與履約表現的關係

6.1

The grounds that succeed

成立的理由

GROUND 理由	NATURE 性質
Explanatory note not provided with the meeting material 會議資料未附解釋說明	Procedural 程序性
Proxy votes counted on the motion 在該動議上計入代表票	Procedural 程序性
Ballot not conducted secretly 未以不記名方式投票	Procedural 程序性
Second motion of the kind in the same financial year 同一財政年度內第二次提交同類動議	Procedural 程序性
Increment or aggregate term exceeds the module limit 新增年期或餘下總年期超出模組上限	Substantive 實質性
Consideration given to the body corporate for agreeing 因同意事宜而向業主法人團體提供代價	Substantive 實質性
Unfair influence on the outcome of the motion 以不當方式影響動議結果	Conduct 操守

6.2

The pathway and its timetable

處理途徑及時間表

A dispute about the validity of a resolution is brought under the dispute resolution provisions in Chapter 6 of the Act, beginning with conciliation and proceeding to adjudication, with an appeal to the Queensland Civil and Administrative Tribunal on a question of law. An adjudicator can make orders including declaring a resolution void.

The timetable is the difficulty for everyone. A manager whose extension is under challenge cannot give a financier certainty; a body corporate defending a resolution is spending scheme funds on a decision the owners have already made. This is the strongest argument for procedural care at the meeting, where the cost of doing it properly is an hour of preparation.

就決議有效性的爭議，須依該法第6章的爭議解決條文提出，先經調解，繼而進入裁決，並可就法律問題向昆士蘭民事及行政審裁處提出上訴。裁決官可作出多種命令，包括宣告決議無效。

時間問題對各方均構成困難。延期受到挑戰的管理人，無法向融資機構提供確定性；為決議抗辯的業主法人團體，則須就業主已作出的決定動用計劃資金。這正是在會議上審慎處理程序的最有力理由——而妥善處理的代價，不過是一小時的準備工夫。

6.3

The relationship with performance

與履約表現的關係

A body corporate dissatisfied with a manager sometimes treats the next top-up motion as the remedy, and votes it down. That is a legitimate exercise of the vote, and it is not a substitute for the performance regime. Refusing an extension leaves the existing term running with the same performance problem in it.

Where the concern is performance, the instruments are the codes of conduct in Schedules 2 and 3, a documented record, a remedial action notice under the module, and if the breach is not remedied, termination approved by ordinary resolution at a general meeting. Those provisions address the problem. A refused extension merely defers it.

對管理人不滿的業主法人團體，有時把下一次續期補足動議視為補救方法而予以否決。此屬正當行使表決權，但不能取代履約制度。拒絕延期後，現有年期仍然繼續，其中的履約問題依然存在。

若關注點在於履約，可用的工具包括附表2及附表3的行為守則、書面記錄、模組下的補救行動通知，以及在違約未獲補救時經業主大會普通決議批准的終止。上述條文能處理問題，拒絕延期則只是把問題押後。

PARTNER'S CLOSING TEST 合夥人最終測試

BEFORE THE MOTION IS PUT 提交動議前

Which mechanism is this — an option, a top-up, an amendment or a statutory review? What is the end date in calendar years if it passes? Is the increment within five years and the aggregate within the module ceiling? Has a motion of this kind already been considered this financial year? Is the explanatory note in the material, are proxies excluded, and is the ballot secret? What does the scheme receive, and is any part of it something the body corporate may not lawfully receive?

這屬哪一種機制——選擇權、續期補足、修訂還是法定檢討？如獲通過，以公曆計算的屆滿年份為何？新增年期是否在五年之內、餘下總年期是否在模組上限之內？本財政年度內是否已審議過同類動議？解釋說明是否已載於會議資料？是否已排除代表票？是否以不記名方式投票？該社區產權項目可得到甚麼，其中有否任何部分是業主法人團體依法不得收取的？

DOCUMENT CONTROL 文件控制

ITEM 項目	DETAIL 內容
Title 名稱	Queensland Management Rights Variation Guide 昆士蘭管理權變更指南
Version 版本	Version 1 第1版
Date 日期	6 August 20262026年8月6日
Author 作者	Kevin Pai, PartnerKevin Pai，合夥人

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。