

Queensland Strata Property Guide

昆士蘭分層產權物業指南

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ENGLISH & TRADITIONAL CHINESE

CHAPTER 1 第1章

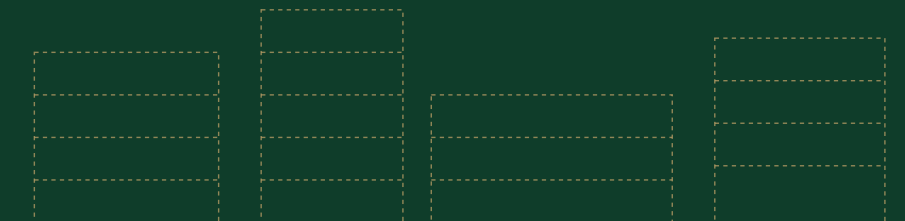
01

History of Strata Legislation in Australia

澳洲分層產權立法沿革

8 sections · pages 6–12 of the complete guide

8節 · 全書第6至12頁



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This chapter is extracted from the complete guide and is bound with the guide's reader note, core terminology, author profile and important notice so that it can be read alone. Page and figure numbers follow the complete guide.

Reader note

讀者須知

IMPORTANT 重要提示

This guide is general educational information, not legal, financial, tax, building or investment advice. Property and body corporate outcomes turn on the contract, title, survey plan, community management statement, applicable regulation module and current law. Obtain independent Queensland legal advice before signing, waiving a condition, settling, or buying management rights.

本指南僅提供一般教育資訊，並非法律、財務、稅務、建築或投資意見。物業及業主人團體的法律結果，取決於契約、產權、測量圖則、社區管理聲明、適用的規管模組及現行法例。簽署契約、放棄條件、辦理交割或購買管理權前，應取得獨立的昆士蘭法律意見。

The guide uses “strata” as a convenient Australian umbrella expression. Queensland legislation generally uses “community titles scheme” and “body corporate”; New South Wales uses “strata scheme” and “owners corporation”. State and territory statutes are not interchangeable.

本指南以「分層產權」作為澳洲制度的概括用語。昆士蘭法例一般使用「社區產權項目」及「業主人團體」；新南威爾斯州則使用「分層產權項目」及「業主立案法團」。各州及領地的法例不可互換適用。

Traditional Chinese terms follow the supplied Australian Strata Titles Glossary. They are practical explanations rather than official translations. Where a translation differs from the English text, the English text governs.

繁體中文用語依照所提供的《澳洲分層產權術語表》。中文屬實務解釋，並非官方譯文。如譯文與英文有異，概以英文為準。

Editorial method

編寫方法

The English narrative uses a proposition–operation–consequence method. Each subject first identifies the legal structure, then explains how it operates and finally states the practical result for an owner, buyer, body corporate, manager or adviser. The wording and analysis in this guide remain original.

英文正文採用「法律命題—運作方式—實務結果」的編寫方法。每一主題先確定法律架構，再說明其運作方式，最後指出對業主、買方、業主人團體、管理人或顧問的實際影響。本指南的文字及分析均為原創。

- Define the statutory object before discussing its commercial effect.
- 先界定法定對象，再討論其商業效果。
- Keep title, governance, management and contractual rights analytically separate.
- 分開分析產權、治理、管理及契約權利。
- Use legislative history and worked examples to explain why the present rule exists.
- 以立法沿革及實例說明現行規則的由來。

- State the jurisdictional qualification and practical consequence, rather than relying on labels.

- 明確指出司法管轄區限制及實務後果，而不依賴名稱標籤。

Core terminology

核心術語

CORE TERMS

核心術語

Strata title 分層產權

Separate ownership of a lot plus shared interests and obligations.
單元之獨立所有權，並附帶共有權益與共同義務。

Body corporate 業主法人團體

The statutory collective body comprising all lot owners.
由所有單元業主組成的法定集體組織。

Common property 公共財產／共有財產

Shared land and infrastructure outside individual lots, subject to the plan.
位於個別單元範圍以外、依圖則界定的共用土地及基礎設施。

Volumetric subdivision 空間體積式分割

Three-dimensional division of land into separately titled spatial lots.
將土地以三維空間方式分割為可獨立登記的空間地塊。

By-laws 管理規約

Scheme rules regulating use and enjoyment of lots and common property.
規管單元及共有財產使用與享用的項目規則。

Sinking fund 儲備基金／維修基金

Fund for forecast capital expenditure and major replacement work.
用於預計資本開支及主要更換工程的基金。

Committee 委員會

Elected body that administers the scheme between general meetings; its authorised decision is a decision of the body corporate.
由業主選出、在兩次業主大會之間管理項目的機關；其獲授權的決定即屬業主法人團體的決定。

CORE TERMS

核心術語

Community titles scheme 社區產權項目

Queensland's main statutory scheme structure.
昆士蘭主要的法定社區產權項目架構。

Lot 單元／地塊

The separately owned property shown on the registered plan.
註冊圖則所示並由個別業主持有的獨立產權部分。

Community Management Statement (CMS) 社區管理聲明

Recorded document containing scheme identification, entitlements, by-laws and module.
載有項目識別資料、權益表、管理規約及適用規規模組的註冊文件。

Building Management Statement (BMS) 建築管理聲明

Registered reciprocal rights and obligations coordinating shared building interfaces.
以註冊互惠權利及義務協調共用建築界面的文件。

Levy 管理費

An owner's contribution to body corporate expenditure.
業主為支付業主法人團體開支而繳付的管理費。

Management rights 管理權

A combined caretaking and authorised letting business connected with a scheme.
與項目相關的管理維護服務及獲授權出租業務的組合。

General meeting 全體業主大會

Meeting of all owners at which reserved and restricted issues are decided by the prescribed resolution.
全體業主參與的會議，保留及受限制事項須在此以規定決議決定。

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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 has particular experience with Queensland's historical and site-specific regimes and advises developers, bodies corporate, managers, 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、問題項目重組、業主人團體治理及管理權，並對昆士蘭歷史及特定地點制度具有專門經驗。他為開發商、業主人團體、管理人、投資者及海外參與者就交易、治理及爭議提供意見。

Kevin is an honours law graduate of the University of Queensland, a member of the Australian College of Strata Lawyers, the Urban Development Institute of Australia (Queensland) and Strata Community Association (Queensland). His practice connects development structuring with the long-term operational consequences of the title, governance and management documents.

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。他的執業把發展架構與產權、治理及管理文件的長期運作後果結合分析。

PRACTICE

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

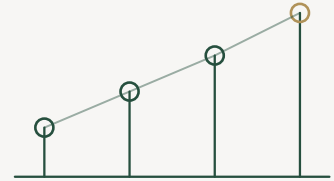
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01



History of Strata Legislation in Australia

澳洲分層產權立法沿革

1.1 The 1961 breakthrough

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1.3 From apartment blocks to communities

從公寓大廈到社區

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全國採用但並非全國統一

1.8 Reform waves and the modern policy agenda

改革浪潮與現代政策方向

Statutory strata title converts a defined part of a building into land capable of separate ownership, transfer and mortgage, while preserving compulsory rights and obligations in relation to the balance of the property. Before that legislation, company title commonly gave the purchaser shares and a contractual occupation right, not a separate registered title to the apartment. The history is therefore the history of a legal technique developed to combine individual ownership with collective administration.

法定分層產權把建築物中明確界定的部分轉化為可獨立擁有、轉讓及抵押的土地，同時保留對其餘物業的強制權利及義務。在相關立法出現以前，公司產權通常只給予買方股份及契約上的佔用權，而不是公寓本身的獨立註冊產權。因此，這段歷史實質上是法律如何把個別所有權與集體行政管理結合起來的發展史。

1.1

The 1961 breakthrough

1961年的突破

New South Wales enacted the Conveyancing (Strata Titles) Act 1961, widely recognised as the first modern strata-title statute. It allowed a registered plan to create individually transferable lots and common property, supported by collective management. The model was commercially important because a lot could be mortgaged and conveyed as land, making apartment ownership easier to finance.

新南威爾斯州於1961年制定《物業轉讓（分層產權）法》，普遍被視為首部現代分層產權法例。註冊圖則可劃分可獨立轉讓的單元及共有財產，並設立集體管理機制。由於單元可如土地般抵押及轉讓，公寓購置更容易取得融資，因而具有重大商業意義。

1.2

National adoption and local variation

全國採用與地方差異

Other states and territories adopted their own unit, strata or group-title statutes through the 1960s and 1970s. The shared architecture was similar—registered lots, common property, compulsory membership and levies—but terminology, voting, maintenance boundaries, disclosure and dispute forums developed differently. There is no single Australian strata Act.

其他州及領地在1960至1970年代先後制定各自的單元、分層或組合產權法例。共同架構大致相似，包括註冊單元、共有財產、強制成員資格及管理費；但術語、投票、維修界線、披露及爭議處理機制各有發展。澳洲並不存在一部全國統一的分層產權法。

1.3

From apartment blocks to communities

從公寓大廈到社區

- Early schemes focused on vertical apartment buildings.
- 早期制度主要處理垂直式公寓大廈。
- Group and community-title laws later accommodated townhouses, shared roads and staged estates.
- 其後的組合及社區產權法容納了聯排住宅、共用道路及分期發展屋苑。

- Layered and mixed-use structures enabled residential, retail, hotel and marina components to share infrastructure.
- Modern reforms increasingly address consumer disclosure, building defects, sustainability, pets, electronic meetings and redevelopment of ageing schemes.
- 分層級及混合用途架構，使住宅、零售、酒店及遊艇碼頭可共用基礎設施。
- 現代改革日益關注消費者披露、建築缺陷、可持續發展、寵物、電子會議及老舊項目重建。

1.4

The enduring legal bargain

持續存在的法律平衡

Strata ownership combines private title with mandatory collective governance. An owner gains a marketable lot but accepts by-laws, levies, shared maintenance and majority decision-making. Most recurring disputes—noise, pets, parking, repairs, insurance and expenditure—flow from the tension between individual autonomy and collective responsibility.

分層產權把私人業權與強制集體治理結合。業主取得可買賣的單元，同時須接受管理規約、管理費、共同維修及多數決策。噪音、寵物、泊車、維修、保險及支出等常見爭議，均源自個人自主與集體責任之間的張力。

FIG 1 The evolution of Australian strata law / 澳洲分層產權法的演變

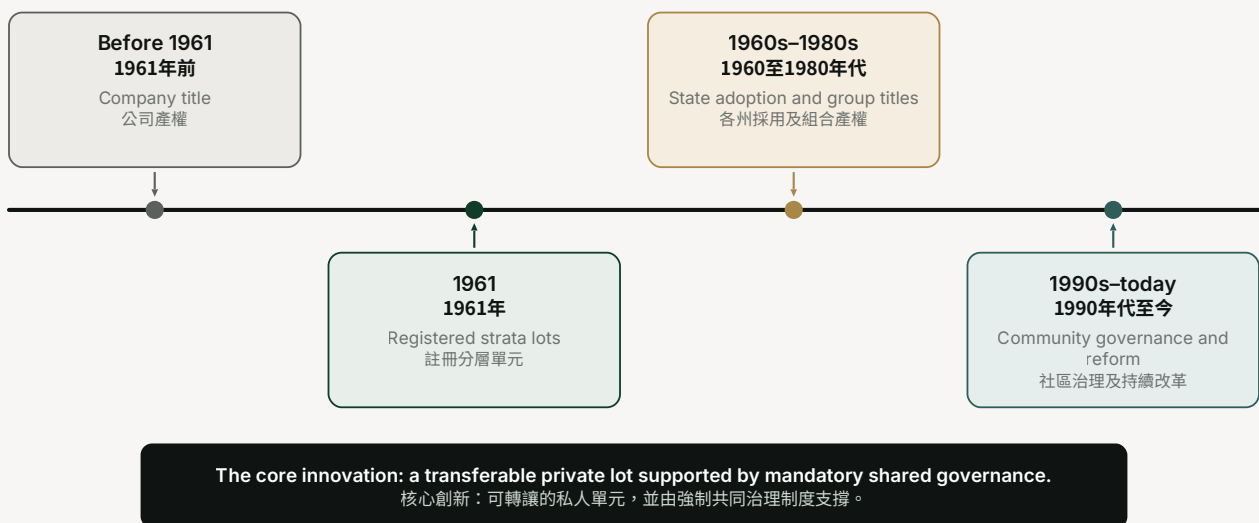
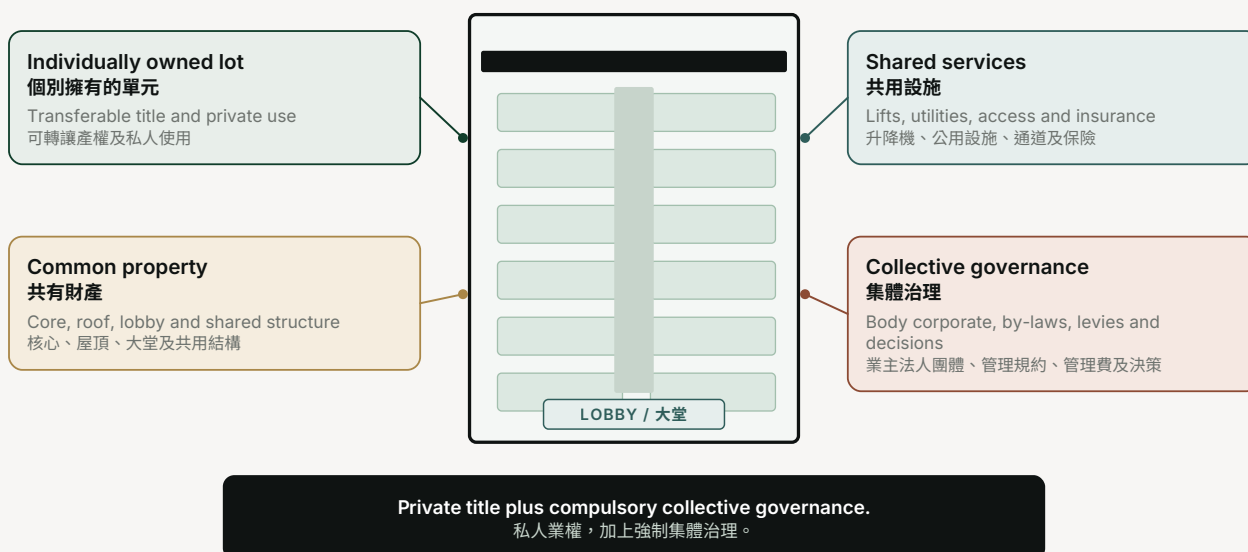


FIG 2 The strata ownership bargain / 分層產權的法律平衡

1.5

Company title before strata

分層產權前的公司產權

Before statutory strata title, many Australian apartment buildings used company title. A company owned the whole land and building; each resident acquired shares carrying a contractual right to occupy a nominated apartment. The occupier therefore owned personal property—the shares—rather than a separately registered freehold lot.

The model could work, but it depended heavily on the company constitution, occupancy agreement and directors. Transfers, leasing and renovations might require company approval. Mortgage finance was more difficult because the lender did not receive a conventional registered mortgage over the apartment. These constraints created the commercial demand for legislation that could turn a three-dimensional part of a building into transferable land while preserving collective control of shared areas.

在法定分層產權出現以前，澳洲不少公寓大廈採用公司產權。公司持有整幅土地及大廈，每名住戶購入與指定公寓佔用權相連的公司股份。因此，住戶擁有的是作為動產的股份，而不是獨立註冊的永久業權單元。

公司產權可以運作，但高度依賴公司章程、佔用協議及董事決策。轉讓、出租及裝修可能需要公司批准。由於貸款人不能就公寓取得傳統註冊抵押，融資亦較困難。這些限制促成了立法需求：把大廈內三維空間轉化為可轉讓土地，同時保留對共用地方的集體管理。

PRACTICAL CHECKLIST 實務清單

- Identify whether the interest is land, shares or a long-term lease.
- Read every occupancy restriction and approval mechanism.
- Confirm lender acceptance before assuming ordinary home-loan finance is available.
- 確認所購權益屬土地、股份還是長期租賃。
- 審閱所有使用限制及批准機制。
- 在假設可取得一般住宅貸款前，先確認貸款機構是否接受該產權形式。

- Check whether liabilities attach to the company as well as the occupier.

- 查明責任是否同時由公司及其佔用人承擔。

PRACTICAL EFFECT 實務效果

Company title is not simply an older name for strata title; it is a different ownership structure, and it calls for a different legal and finance review.

公司產權並非分層產權的舊稱，而是不同的所有權架構，必須採用不同的法律及融資審查方法。

1.6

The legal innovation of the 1961 model

1961年制度的法律創新

The New South Wales legislation enacted in 1961 separated ownership vertically and horizontally by reference to a registered strata plan. It connected three elements that had previously been difficult to combine: an individually transferable lot, an inseparable interest in common property, and a statutory collective body responsible for administration.

This architecture made an apartment recognisable to the land-titles and mortgage systems. Registration supplied certainty about the lot, while the statutory organisation supplied continuity when owners changed. The key insight was that private ownership and compulsory community governance are not alternatives: they must operate together. That insight remains visible in every modern Australian strata or community-title regime.

新南威爾斯州於1961年制定的法例，透過註冊分層圖則把所有權按垂直及水平空間劃分。該制度結合了過往難以並存的三項元素：可獨立轉讓的單元、不可分割的共有財產權益，以及負責行政管理的法定集體組織。

此架構令公寓可被土地登記及抵押制度辨識。註冊確定單元範圍；法定組織則在業主更替時維持治理延續。其核心創見在於：私人所有權與強制社區治理並非二選一，而必須並行。現代澳洲所有分層或社區產權制度仍沿用此理念。

PRACTICAL CHECKLIST 實務清單

- The plan defines the proprietary object.
- Common property supports access, structure and shared services.
- Membership follows ownership automatically.
- Levies convert collective obligations into enforceable owner contributions.

- 圖則界定所有權標的。
- 共有財產支援通道、結構及共同設施。
- 成員資格隨所有權自動轉移。
- 管理費把集體義務轉化為可執行的業主分攤責任。

PRACTICAL EFFECT 實務效果

A registered plan is not a marketing floor plan but a legal instrument, capable of determining ownership, maintenance, insurance and renovation responsibility.

註冊圖則並非銷售平面圖，而是可決定所有權、維修、保險及裝修責任的法律文件。

1.7

National adoption without national uniformity

全國採用但並非全國統一

The 1961 concept spread across Australia, but each state and territory enacted and repeatedly revised its own legislation. The result is a family of related systems rather than one national code. Similar buildings can therefore have materially different meeting rules, maintenance boundaries, disclosure obligations, terminology and dispute forums depending on location.

New South Wales now separates development and management legislation; Victoria uses an owners-corporations framework; Western Australia substantially modernised its strata legislation; South Australia distinguishes strata and community titles; and Queensland organises most modern schemes through the BCCM Act and regulation modules. Federal laws still intersect—tax, corporations, competition, privacy and migration rules may matter—but they do not replace the state land-title regime.

1961年的制度概念其後傳遍澳洲，但各州及領地分別制定並多次修訂本身法例。結果形成一組相近制度，而非一部全國法典。因此，即使大廈外觀相似，其會議規則、維修界線、披露義務、術語及爭議處理機關亦可能因所在地而有重大差異。

新南威爾斯州現把發展與管理法例分開；維多利亞州採用業主立案法團制度；西澳洲大幅現代化其分層產權法；南澳洲區分分層及社區產權；昆士蘭則主要透過BCCM法及規管模組管理現代項目。聯邦稅務、公司、競爭、私隱及移民法例可能同時適用，但不會取代州級土地產權制度。

PRACTICAL CHECKLIST 實務清單

- Use the law of the state or territory where the land is situated.
- Do not transplant form numbers, voting thresholds or terminology from another jurisdiction.
- Treat interstate experience as useful context, not legal authority for the transaction.
- Check transitional provisions for older schemes.
- 適用土地所在州或領地的法律。
- 不可把其他司法管轄區的表格編號、表決門檻或術語直接套用。
- 跨州經驗只可作背景參考，不能當作交易的法律依據。
- 舊有項目須查核過渡條文。

PRACTICAL EFFECT 實務效果

For a national portfolio, use a jurisdiction matrix. A single generic “strata policy” will usually miss local statutory requirements.

管理全國物業組合時，應建立司法管轄區對照表。單一通用「分層產權政策」通常會遺漏地方性法定要求。

1.8

Reform waves and the modern policy agenda

改革浪潮與現代政策方向

Australian strata legislation has moved through recurring reform waves. The first wave created registrable lots. The second accommodated horizontal estates, staged development and layered communities. Later reforms strengthened financial governance, records, consumer disclosure, dispute resolution and controls on long-term service arrangements.

Current policy pressures arise from ageing buildings, combustible cladding and other defects, rising insurance premiums, climate resilience, electric-vehicle charging, embedded networks, short-term letting, accessibility, pets and redevelopment/scheme termination. The legal system must allocate cost and decision-making power across owners who may have different time horizons. An investor, resident owner, developer and mortgagee may all assess the same proposal differently.

澳洲分層產權立法經歷多輪改革。第一輪建立可註冊單元；第二輪容納橫向屋苑、分期發展及分層級社區；其後改革則加強財務治理、紀錄、消費者披露、爭議處理及長期服務安排的規管。

現時政策壓力源自老舊大廈、可燃外牆及其他缺陷、保費上升、氣候韌性、電動車充電、內嵌網絡、短期出租、無障礙設施、寵物及重建。法律制度必須在持有期不同的業主之間分配成本及決策權；投資者、自住業主、開發商及抵押權人對同一方案可能有不同評價。

PRACTICAL CHECKLIST 實務清單

- Long-term capital planning is now as important as day-to-day administration.
- Disclosure must reveal governance and cost, not only physical condition.
- Digital participation improves access but requires reliable identity and records.
- Redevelopment rules must balance collective economic need with property rights.
- 長期資本規劃與日常行政同樣重要。
- 披露不應只涵蓋實體狀況，亦須反映治理及成本。
- 數碼參與可改善便利性，但須有可靠身份驗證及紀錄。
- 重建規則須平衡集體經濟需要與個人產權。

PRACTICAL EFFECT 實務效果

The history explains why modern strata ownership is a governance product as much as a real-estate product.

立法歷史說明：現代分層產權不只是房地產產品，同時亦是治理產品。

Important notice

重要聲明

This guide is general educational information. It is not legal, financial, tax, building or investment advice, and it does not create a lawyer–client relationship. Property and body corporate outcomes turn on the particular contract, title, survey plan, community management statement, applicable regulation module and the law in force at the relevant time.

Obtain independent Queensland legal advice before signing a contract, waiving a condition, settling, or buying management rights. Where the English and Chinese texts differ, the English text governs.

本指南僅提供一般教育資訊，並非法律、財務、稅務、建築或投資意見，亦不構成律師與客戶關係。物業及業主法人團體的法律結果，取決於個別契約、產權、測量圖則、社區管理聲明、適用的規管模組，以及相關時間的現行法例。

簽署契約、放棄條件、辦理交割或購買管理權前，應取得獨立的昆士蘭法律意見。如中英文本有異，概以英文為準。

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