

Queensland Strata Property Guide

昆士蘭分層產權物業指南

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ENGLISH & TRADITIONAL CHINESE

CHAPTER 3 第3章

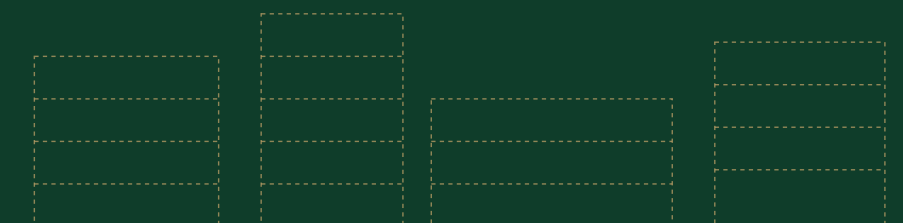
03

Sanctuary Cove and Hope Island Resort Schemes

神仙灣與希望島度假村項目

10 sections · pages 22–30 of the complete guide

10節 · 全書第22至30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 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

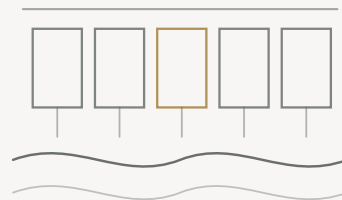
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03



Sanctuary Cove and Hope Island Resort Schemes

神仙灣與希望島度假村項目

3.1 Why the schemes are different
為何有所不同

3.2 A layered governance model
分層治理模式

3.3 Sanctuary Cove
神仙灣

3.4 Hope Island Resort
希望島度假村

3.5 Due-diligence questions
盡職調查問題

3.6 Start with title diagnosis
先從產權架構著手

3.7 How the governance layers interact
治理層級如何運作

3.8 Roads, security, waterways and resort infrastructure
道路、保安、水道及度假村基礎設施

3.9 Development control and residential activity rules
發展控制及住宅活動規則

3.10 Resort purchase file: enhanced due diligence
度假村購買檔案：加強盡職調查

Sanctuary Cove and Hope Island are not merely marketing descriptions. Parts of those developments operate under special statutes which create their own bodies corporate, thoroughfare structures, precinct controls and cost-sharing arrangements. The practical question is not where the property is advertised as being located, but which Act and registered instruments apply to the particular title.

神仙灣及希望島並非純粹的市場推廣名稱。這些發展項目的部分土地依特別法例運作，由該等法例設立其自身的業主法人團體、道路層級、分區控制及成本分攤安排。實務上的問題不在於物業廣告所稱的位置，而在於哪一部法例及哪些註冊文件實際適用於該項產權。

TITLE-SPECIFIC WARNING 產權專屬提示

A street address in Sanctuary Cove or Hope Island does not by itself establish the governing Act. The registered title, plan and body corporate records must be checked.

物業地址位於神仙灣或希望島，並不自動表示適用特別法例。必須查核註冊產權、圖則及業主法人團體紀錄。

3.1

Why the schemes are different

為何有所不同

Sanctuary Cove is governed by the site-specific Sanctuary Cove Resort Act 1985. Hope Island Resort land may be governed by the Integrated Resort Development Act 1987. These statutes were designed for large, staged resort communities containing residential precincts, golf or marina facilities, commercial land and private thoroughfares. They pre-date the BCCM Act and use their own statutory vocabulary and hierarchy.

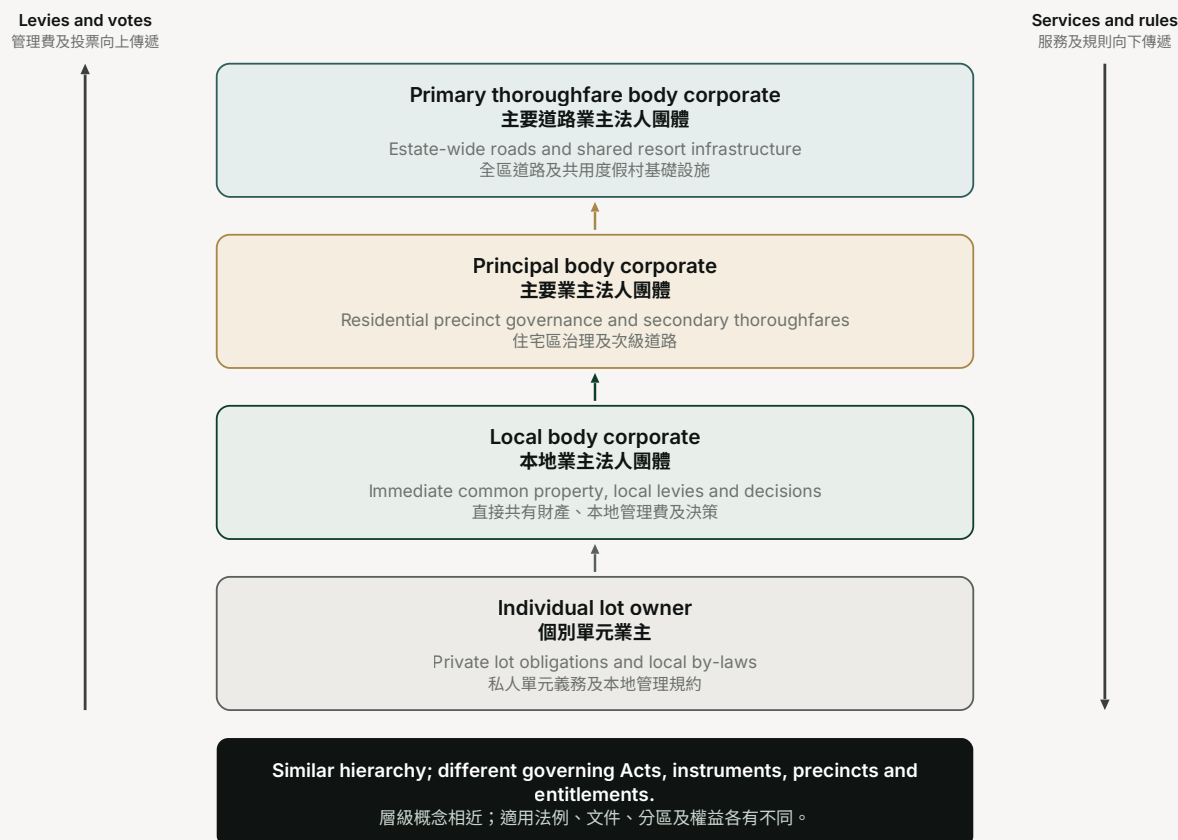
神仙灣受特定地點的《1985年神仙灣度假村法》規管。希望島度假村範圍內的土地則可能受《1987年綜合度假村發展法》規管。這些法例為大型分期度假社區而設，涵蓋住宅區、高爾夫球場或遊艇碼頭設施、商業土地及私人道路。它們早於BCCM法，並採用自身的法定術語及層級。

3.2

A layered governance model

分層治理模式

FIG 5 Layered governance in Sanctuary Cove and Hope Island / 神仙灣與希望島的分層治理



3.3

Sanctuary Cove

神仙灣

The Sanctuary Cove Resort Act creates the resort site, residential zones, a principal body corporate and a primary thoroughfare body corporate. It also supports resort-specific planning and by-laws. The primary body corporate controls and maintains the primary thoroughfare; the principal body corporate performs a similar function for secondary thoroughfares within residential areas.

《神仙灣度假村法》設立度假村範圍、住宅分區、主要業主法人團體及主要道路業主法人團體，並支援度假村專屬規劃與管理規約。主要道路業主法人團體管理及維修主要道路；主要業主法人團體則就住宅區內的次級道路履行類似職能。

3.4

Hope Island Resort

希望島度假村

The Integrated Resort Development Act uses a comparable multi-level structure for designated integrated resort land. It provides for a primary thoroughfare body corporate and, within residential precincts, a principal body corporate controlling secondary thoroughfares. The legal structure is similar in concept to Sanctuary Cove but comes from a different Act, with different site instruments, precincts, entitlements and by-laws.

《綜合度假村發展法》為指定綜合度假村土地採用相近的多層架構，設有主要道路業主人團體，並在住宅區內設主要業主人團體以管理次級道路。其概念與神仙灣相似，但法律依據不同，並有不同的場地文件、分區、權益及管理規約。

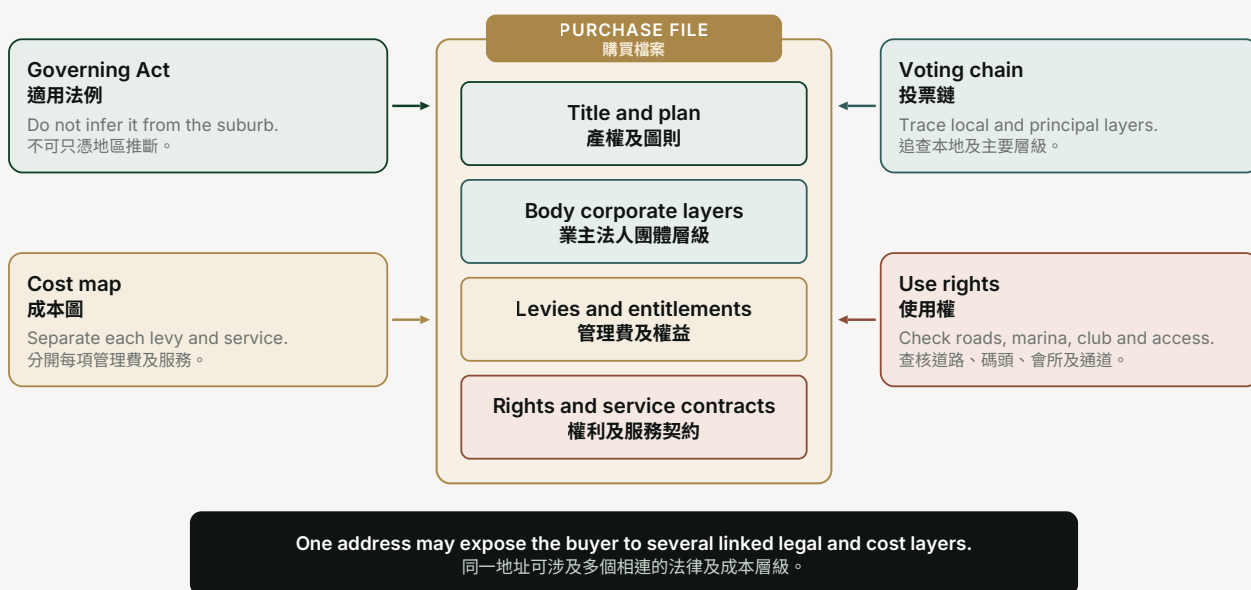
3.5

Due-diligence questions

盡職調查問題

- Which Act and registered plan govern the lot?
- How many bodies corporate affect the lot, directly or indirectly?
- What are the levies at each level, and are special levies expected?
- Which thoroughfares, security systems, waterways, gates and amenities are maintained collectively?
- Which development-control, architectural, residential-activities and local by-laws apply?
- Are there easements, marina rights, club arrangements or service contracts outside the usual body corporate records?
- 該單元受哪一部法例及註冊圖則規管？
- 有多少個業主人團體直接或間接影響該單元？
- 各層級管理費是多少？是否預期徵收特別管理費？
- 哪些道路、保安系統、水道、閘門及設施由集體維修？
- 適用哪些發展控制、建築設計、住宅活動及本地管理規約？
- 是否存在一般業主人團體紀錄以外的地役權、碼頭權利、會所安排或服務契約？

FIG 6 Resort-scheme purchase file / 度假村項目購買文件組合



3.6

Start with title diagnosis

先從產權架構著手

Sanctuary Cove and Hope Island contain ordinary and special statutory structures. A suburb, estate name, gatehouse or marketing reference is not enough to determine which regime applies. The lawyer must begin with the current title, survey plan, plan notation and the names of every body corporate or statutory entity affecting the lot.

The diagnostic exercise should then trace the lot upward through any local body corporate, principal body corporate and primary thoroughfare body corporate. It should also identify precinct boundaries, secondary and primary thoroughfares, easements, development-control instruments and any club, marina or utility arrangements. Only after mapping this structure can levies, voting and maintenance responsibility be explained reliably.

PRACTICAL CHECKLIST 實務清單

- Order a current title and every relevant plan.
- List each statutory entity and its governing instrument.
- Trace direct and indirect levy exposure.
- 取得現行產權及所有相關圖則。
- 列出每個法定實體及其管治文件。
- 追蹤直接及間接管理費風險。

神仙灣及希望島同時存在一般及特別法定架構。僅憑郊區名稱、屋苑名稱、閘口或銷售描述，不能判定適用哪一制度。律師必須先查閱現行產權、測量圖則、圖則註記，以及所有影響該單元的業主法人團體或法定實體名稱。

制度識別其後須由單元向上追溯至本地業主法人團體、主要業主法人團體及主要道路業主法人團體，並確認分區界線、次級及主要道路、地役權、發展控制文件，以及會所、遊艇碼頭或公用設施安排。完成架構圖後，方可可靠解釋管理費、投票及維修責任。

- Confirm whether BCCM forms and dispute pathways apply.

- 確認BCCM表格及爭議途徑是否適用。

PRACTICAL EFFECT 實務效果

Treat the estate as a legal network, not a single body corporate.

應把屋苑視為法律網絡，而不是單一業主法人團體。

3.7

How the governance layers interact

治理層級如何運作

A local body corporate generally deals with the immediate building or group-title property. A principal body corporate may coordinate residential precincts and secondary thoroughfares. A primary thoroughfare body corporate deals with estate-wide roads and related infrastructure. The actual allocation depends on the special Act, registered plans, by-laws and subsidiary instruments.

An individual owner may participate directly at the local level while broader rights and obligations are exercised through that local body corporate. Costs can therefore flow down through more than one budget. A buyer should not add only the levy notices supplied for the immediate scheme; the records must show whether upstream amounts are already included, separately collected or subject to future adjustment.

本地業主法人團體一般處理直接相關的大廈或組合產權財產；主要業主法人團體可統籌住宅分區及次級道路；主要道路業主法人團體則處理全區道路及相關基礎設施。實際分工取決於特別法例、註冊圖則、管理規約及附屬文件。

個別業主可能直接參與本地層級，而更廣泛的權利及義務則透過本地業主法人團體行使。因此，成本可經多個預算層級向下分攤。買方不能只合計直接項目的管理費通知；紀錄須顯示上層費用是否已包含、另行收取或日後調整。

PRACTICAL CHECKLIST 實務清單

- Prepare an entity-and-levy chart.
- Check voting representation at each layer.
- Identify duplicated or shared insurance cover.
- Review minutes at more than one level where material.

- 製作實體及管理費架構圖。
- 查核每個層級的投票代表方式。
- 確認重疊或共同保險保障。
- 在重要情況下審閱多個層級的會議紀錄。

PRACTICAL EFFECT 實務效果

The lowest levy figure is not necessarily the total ownership cost.

最基層的管理費金額不一定等於全部持有成本。

3.8

Roads, security, waterways and resort infrastructure

道路、保安、水道及度假村基礎設施

Special resort legislation responds to infrastructure that is more extensive than the common property of an ordinary apartment building. Private roads, gates, security systems, landscaped verges, lakes, canals, bridges and estate signage may be controlled at a thoroughfare or principal level. Access can depend on statutory rights and registered easements rather than ordinary public-road status.

Maintenance quality can support amenity and value, but the infrastructure creates long-term capital exposure. Roads require resurfacing; gates and electronic access become obsolete; revetment walls and waterways may need specialist work. Due diligence should therefore examine condition reports, reserve planning, insurance, service contracts and responsibility for emergency works—not merely current annual levies.

特別度假村法例處理的基礎設施，往往超越一般公寓大廈共有財產的範圍。私人道路、閘門、保安系統、園景路旁地、湖泊、運河、橋樑及屋苑標誌，可能由道路或主要層級管理。通行權可能依賴法定權利及註冊地役權，而非一般公共道路地位。

優質維修可提升環境及價值，但此類基礎設施亦帶來長期資本支出。道路須重鋪；閘門及電子門禁會淘汰；護岸牆及水道可能需要專業工程。因此，盡職調查應審閱狀況報告、儲備規劃、保險、服務契約及緊急工程責任，而不應只看現行年度管理費。

PRACTICAL CHECKLIST 實務清單

- Ask who owns and who maintains each asset.
- Review capital forecasts for civil and marine infrastructure.
- Check access rights during works or emergencies.
- Identify insurance exclusions for water, retaining structures and machinery.
- 查明每項資產由誰擁有及維修。
- 審閱土木及海事基礎設施的資本預測。
- 查核工程或緊急情況下的通行權。
- 確認水體、擋土結構及機械設備的保險除外責任。

PRACTICAL EFFECT 實務效果

Resort presentation is an operating outcome supported by contracts, capital reserves and enforceable rights.

度假村整體形象是由契約、資本儲備及可執行權利共同支撐的營運成果。

3.9

Development control and residential activity rules

發展控制及住宅活動規則

Sanctuary Cove and Hope Island resort structures can contain development-control, architectural and residential-activity rules beyond ordinary body corporate by-laws. These controls may regulate external appearance, building works, setbacks, landscaping, signage, vehicles, watercraft, security and use of precinct facilities. Their legal source and approval pathway must be identified.

Council planning approval does not necessarily satisfy private or statutory estate controls, and estate approval does not replace council or building approval. An owner proposing renovation or redevelopment may require several independent consents. Contracts should allocate the risk that a desired design, marina use, short-term letting plan or home business is not permitted.

神仙灣及希望島度假村架構可包含超越一般業主法人團體管理規約的發展控制、建築設計及住宅活動規則。這些規則可能規管外觀、建築工程、退界、園景、標誌、車輛、船隻、保安及分區設施使用，必須確認其法源及批准途徑。

取得市政府規劃批准不一定符合私人或法定屋苑控制；屋苑批准亦不能取代市政府或建築批准。業主擬裝修或重建時，可能需要多項獨立同意。契約應分配擬議設計、碼頭用途、短期出租或居家業務不獲准的風險。

PRACTICAL CHECKLIST 實務清單

- Obtain all current architectural and activity rules.
- Map each proposed use to every required approval.
- Check whether approvals expire or bind successors.
- Do not rely solely on neighbouring examples.
- 取得所有現行建築設計及活動規則。
- 把每項擬議用途對應至所有所需批准。
- 查明批准是否會失效及是否約束繼受人。
- 不可只依賴鄰近物業的既有做法。

PRACTICAL EFFECT 實務效果

Visible precedent is not legal permission. Another owner's structure or use may be unlawful, grandfathered or differently approved.

肉眼可見的先例不等於法律許可；其他業主的建築或用途可能違法、獲舊制保留或經不同批准。

3.10

Resort purchase file: enhanced due diligence

度假村購買檔案：加強盡職調查

A resort purchase file should include the ordinary contract, title and physical investigations plus a scheme map, entity chart and consolidated cost schedule. The records search should target minutes, budgets, insurance, disputes, security and infrastructure contracts, proposed capital works and any dealings affecting club, marina or thoroughfare rights.

度假村購買檔案除一般契約、產權及實體調查外，亦應包括項目地圖、實體架構圖及綜合成本表。紀錄查冊應針對會議紀錄、預算、保險、爭議、保安及基礎設施契約、擬議資本工程，以及影響會所、碼頭或道路權利的任何交易。

The buyer's intended use should be tested explicitly. A permanent residence, holiday home, investment letting, marina lifestyle and renovation project each raise different questions. Finance and valuation instructions should describe the special statutory structure so that the lender and valuer do not assume an ordinary BCCM scheme.

買方的擬議用途須明確測試。永久自住、度假屋、投資出租、遊艇生活方式及裝修改建，均會提出不同問題。融資及估值指示應說明特別法定架構，避免貸款人及估值師錯誤假設屬一般BCCM項目。

PRACTICAL CHECKLIST 實務清單

- Confirm total recurrent and special levies at all levels.
- Test the intended use against every rule set.
- Review long-term infrastructure funding.
- Obtain lender approval for the actual title structure.
- 確認所有層級的經常及特別管理費總額。
- 按每套規則測試擬議用途。
- 審閱長期基礎設施資金安排。
- 就實際產權架構取得貸款機構批准。

PRACTICAL EFFECT 實務效果

The premium setting does not reduce the need for legal analysis; it usually increases the number of instruments that must be read.

高端度假定位不會降低法律分析需要；反而通常增加必須審閱的文件數目。

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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