PRACTICAL LAW · ILLUSTRATED BILINGUAL GUIDE · CHAPTER EDITION

Queensland Strata Property Guide
昆士蘭分層產權物業指南

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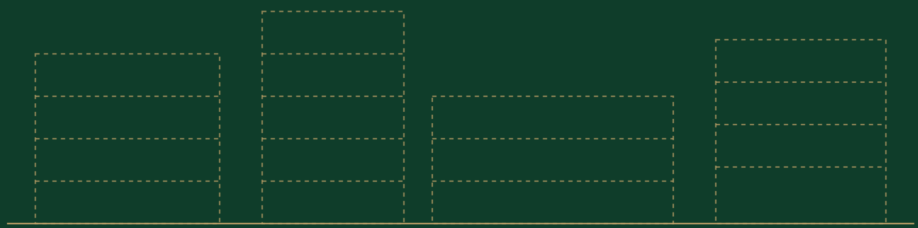
CHAPTER 6 第6章

06

Buying Off-the-Plan Land under the Land Sales Act 1984

依《1984年土地銷售法》購買樓花土地

10 sections · pages 67–75 of the complete guide
10節 · 全書第67至75頁



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STANDALONE CHAPTER EDITION
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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。物業及業主法人團體的法律結果，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「業主法人團體」；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、業主法人團體、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.
- Keep title, governance, management and contractual rights analytically separate.
- Use legislative history and worked examples to explain why the present rule exists.

- 先界定法定對象，再討論其商業效果。
- 分開分析產權、治理、管理及契約權利。
- 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	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。	**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。
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。	**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。
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。	**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、管理規約及適用規管模組的註冊文件。
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。	**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介面的文件。
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。	**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。
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。	**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。
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。	**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、業主法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、業主法人團體、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	FIRM	MEMBERSHIPS
Strata & community title development 分層及社區產權發展	Bugden Allen Group Legal 合夥人	ACSL · UDIA (Qld) · SCA (Qld) 專業學會成員

CHAPTER 6 · 第6章

06

Buying Off-the-Plan Land under the Land Sales Act 1984

依《1984年土地銷售法》購買樓花土地

This chapter is confined to off-the-plan contracts for proposed land to which the Land Sales Act 1984 (Qld) applies. It does not apply to a proposed lot governed by the Body Corporate and Community Management Act 1997, the Building Units and Group Titles Act 1980 or the South Bank Corporation Act 1989. Those body corporate contracts are addressed in Chapter 7.

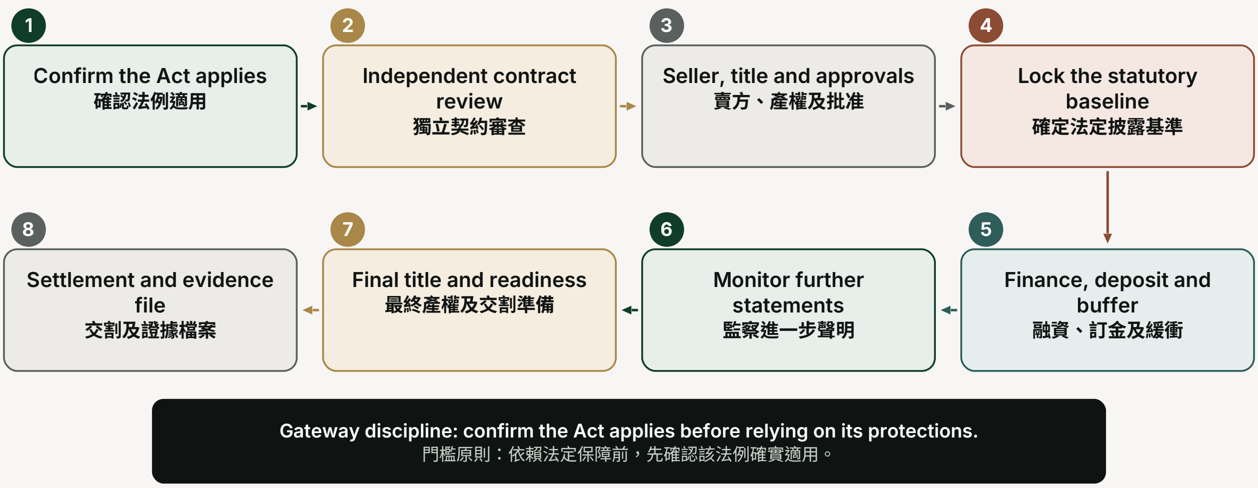
本章只處理受昆士蘭《1984年土地銷售法》規管的擬議土地樓花契約；不適用於受《1997年業主法人團體及社區管理法》、《1980年建築單元及組合產權法》或《1989年南岸公司法》規管的擬議單元。該等業主法人團體契約於第7章處理。

6.1

Land Sales Act buyer workflow

《土地銷售法》買方流程

FIG 11 **Land Sales Act buyer journey** ／《土地銷售法》買方流程



6.2

Key contract risks

主要契約風險

- Broad seller rights to change dimensions, services, earthworks, retaining walls, estate works or staging.
- A long settlement window and limited buyer control over delay.
- Finance approval expiring before completion or a bank valuation shortfall.
- GST, transfer duty, foreign-buyer rules, FIRB and tax consequences.
- Construction and defect risk, particularly where the land contract and building contract are separate.

- 賣方廣泛更改尺寸、服務設施、土方、擋土牆、屋苑工程或分期的權利。
- 交割期長，買方對延誤的控制有限。
- 融資批准在完工前失效，或銀行估值不足。
- 商品及服務稅、轉讓印花稅、海外買方規則、FIRB及稅務後果。
- 建築及缺陷風險，尤其土地契約與建築契約分開時。

- Assignment restrictions and developer consent fees if the buyer needs to sell before settlement.

- 如買方需在交割前轉售，可能受轉讓限制及開發商同意費約束。

6.3

The statutory gateway: only Land Sales Act contracts

法定門檻：只限《土地銷售法》契約

The first question is whether the Act applies. Section 3 excludes a sale forming part of a large transaction and a sale arising from reconfiguration into not more than five lots. More importantly for this guide, the Schedule 1 definitions of “lot” and “proposed lot” expressly exclude land to which the BCCM Act, BUGTA or the South Bank Corporation Act applies. The statutory gateway must be answered before any Land Sales Act protection is relied upon.

首要問題是該法例是否適用。第3條排除構成大型交易的銷售，以及由土地重劃為不多於五個地塊所產生的銷售。對本指南更重要的是，附表1對「地塊」及「擬議地塊」的定義，明確排除受BCCM法、BUGTA或《南岸公司法》規管的土地。依賴任何《土地銷售法》保障前，必須先確定法定適用門檻。

For a qualifying Land Sales Act contract, sections 10–14 regulate pre-contract disclosure, further statements and settlement; sections 17–19 protect purchase money in prescribed trust accounts; and Part 2 Division 4A restricts a seller’s use of a sunset clause. A seller may terminate under that statutory sunset regime only with the buyer’s written consent, a Supreme Court order or another prescribed pathway. Those restrictions do not apply to body corporate off-the-plan contracts.

如契約符合《土地銷售法》適用門檻，第10至14條規管簽約前披露、進一步聲明及交割；第17至19條以指定信託帳戶保障購買款；第2部第4A分部則限制賣方使用日落條款。賣方在該法定日落制度下，只可在取得買方書面同意、最高法院命令或符合法規另訂途徑時終止。該等限制不適用於業主法人團體樓花契約。

FIG 12 **Land Sales Act risk wheel** ／ 《土地銷售法》風險輪

6.4

Define the product before reviewing the contract

審閱契約前先界定產品

Within this chapter, the buyer may be acquiring a proposed vacant lot, an estate lot, the land component of a house-and-land package or a volumetric-format lot that is not governed by an excluded body corporate statute. A separate building contract may be commercially linked to the land contract, but it does not become a Land Sales Act contract merely because the documents were marketed together.

在本章範圍內，買方可能購買擬議空置地塊、屋苑地塊、房地組合中的土地部分，或不受被排除業主法人法例規管的空間體積格式地塊。獨立建築契約可在商業上與土地契約相連，但不會僅因文件一併銷售而成為《土地銷售法》契約。

The first legal task is to map what must exist at land settlement: the registered title and plan, dimensions, access, services, easements, retaining work, fill and contours, estate covenants, approvals and promised incentives. If a separate building contract exists, its completion obligations and defaults must be mapped separately. Marketing language should be converted into enforceable obligations or identified as non-binding.

首項法律工作是列明土地交割時必須存在的成果：註冊產權及圖則、尺寸、通道、服務設施、地役權、擋土工程、填土及等高線、屋苑契諾、批准及承諾優惠。如另有建築契約，其完工義務及違約後果須分開列明。銷售用語應轉化為可執行義務，否則須明確指出其不具約束力。

PRACTICAL CHECKLIST 實務清單

- Identify every contract and the party responsible under each.
- List the exact completion and settlement deliverables.
- Separate inclusions from illustrative marketing.
- Check whether defaults under one contract affect another.

- 確認每份契約及其責任方。
- 列出確切完工及交割交付成果。
- 區分契約包含項目與示意銷售資料。
- 查明一份契約的違約是否影響另一份契約。

PRACTICAL EFFECT 實務效果

Do not begin with the brochure’s product name. Begin with the legal interests and obligations actually being sold.

不要從銷售冊的產品名稱開始；應先確認實際出售的法律權益及義務。

6.5

Developer, land and approval due diligence

開發商、土地與批准盡職調查

A buyer contracts before the final product exists, so counterparty and approval risk deserve greater attention than in an established-property purchase. The file should identify the registered owner, developer, builder, guarantor and sales entity; confirm their contractual roles; and review material development approvals, staging conditions and infrastructure obligations.

買方在最終產品尚未存在時訂約，因此交易對手及批准風險比既有物業購買更重要。檔案應確認註冊業主、開發商、建築商、擔保人及銷售實體，查明各自契約角色，並審閱重要發展批准、分期條件及基礎設施義務。

Searches may reveal mortgages, easements, resumptions, environmental constraints, flood or bushfire exposure, heritage controls and infrastructure charges. Approval does not guarantee commercial completion, and a reputable brand may not be the contracting party. Where financial capacity is material, the buyer should consider what security, guarantees or termination rights exist if the development stalls.

查冊可能顯示抵押、地役權、徵收、環境限制、水浸或山火風險、文物控制及基礎設施費用。取得批准並不保證商業上必然完成，知名品牌亦未必是契約當事人。如財務能力屬重要因素，買方應考慮發展停滯時可依賴的擔保、保證或終止權。

PRACTICAL CHECKLIST 實務清單

- Match the seller's name to the title and development structure.
- Check builder licensing and contractual responsibility.
- Read approval conditions affecting timing or design.
- Investigate material title and planning constraints.

- 把賣方名稱與產權及發展架構核對。
- 查核建築商牌照及契約責任。
- 審閱影響時間或設計的批准條件。
- 調查重要產權及規劃限制。

> **PRACTICAL EFFECT 實務效果**
>
> However strong the brand, the buyer still needs to identify the entity that actually owes the contractual promise.
>
> 品牌實力不能取代確認實際承擔契約承諾的法律實體。

6.6

Disclosure documents and continuing disclosure

披露文件與持續披露

For a Land Sales Act proposed lot, the seller must give the statutory disclosure plan and statement—or an approved survey plan—before contract. The cadastral survey material should be compared with the proposed dimensions, orientation, contours, fill, retaining walls, services, easements, approvals and intended use. Community-title disclosure does not belong in this chapter and is addressed in Chapter 7.

就《土地銷售法》擬議地塊而言，賣方須在訂約前提供法定披露圖則及聲明，或已批准測量圖則。地籍測量資料應與擬議尺寸、方向、等高線、填土、擋土牆、服務設施、地役權、批准及擬議用途比較。社區產權披露不屬本章範圍，於第7章處理。

Disclosure is not frozen at signing. If the disclosure plan was inaccurate or would no longer be accurate, section 13 requires a further statement at least 21 days before settlement. A buyer considering termination must establish material prejudice and comply with the strict notice period. Changes to dimensions, fill, retaining walls, access, easements or services can have substantial use, valuation and construction consequences.

披露不會在簽約時固定不變。如披露圖則原有不準確或其後已不再準確，第13條要求賣方最遲在交割前21日提供進一步聲明。買方考慮終止時，須證明重大不利並遵守嚴格通知期限。尺寸、填土、擋土牆、通道、地役權或服務設施的變更，可對用途、估值及建築產生重大後果。

PRACTICAL CHECKLIST 實務清單

- Keep the signed disclosure package as the comparison baseline.
- Diary every change-notice deadline immediately.
- Assess impact on use, value, finance and resale.
- Obtain legal advice before accepting or terminating.

- 保存簽署時的披露文件作為比較基準。
- 立即記錄每份更改通知的期限。
- 評估對用途、價值、融資及轉售的影響。
- 接受更改或終止契約前取得法律意見。

PRACTICAL EFFECT 實務效果

A change is assessed by legal effect and practical prejudice, not simply by whether the drawing looks similar.

更改須按法律效果及實際不利評估，而不是只看圖則外觀是否相似。

6.7

Deposit protection and finance risk

訂金保障與融資風險

Off-the-plan deposits are generally held in trust until settlement or lawful termination rather than released to fund the development. That protection does not solve valuation or finance risk. A lender may assess the completed property close to settlement, years after the buyer committed, and lend less than the buyer expected.

樓花訂金一般由信託帳戶持有至交割或合法終止，而不是提前撥給開發商作發展資金。此保障並不能消除估值或融資風險。貸款人可能在買方訂約數年後、接近交割時才評估完工物業，並提供低於買方預期的貸款額。

The contract usually requires the buyer to settle regardless of valuation, interest-rate movement, exchange-rate change or loss of finance approval unless an express finance condition applies at the relevant time. Buyers should plan for deposit, duty, legal costs, adjustments, lender fees, fit-out and a valuation shortfall. Foreign buyers must separately confirm FIRB, tax and lending requirements.

除非契約在相關時間設有明確融資條件，否則即使估值下降、利率或匯率變動、融資批准失效，買方通常仍須交割。買方應預算訂金、印花稅、法律費用、交割調整、貸款費、裝修及估值差額。海外買方另須確認FIRB、稅務及貸款要求。

PRACTICAL CHECKLIST 實務清單

- Confirm who holds the deposit and on what terms.
- Obtain finance advice for the expected settlement horizon.
- Maintain a cash buffer for valuation shortfall.
- Do not assume a pre-approval will remain valid.

- 確認訂金由誰持有及其條款。
- 按預期交割時間取得融資意見。
- 為估值差額保留現金緩衝。
- 不可假設預先批准會持續有效。

PRACTICAL EFFECT 實務效果

Deposit protection secures the money already paid. It does not relieve the buyer of the obligation to fund settlement.

訂金安全保障的是已存款項，並不保障買方免除籌措交割資金的義務。

6.8

Sunset dates, delay and seller termination

日落日期、延誤與賣方終止

For a qualifying Land Sales Act contract, a sunset date is an outside date linked to registration, creation of title, settlement or another prescribed event. Since 22 November 2023, Part 2 Division 4A prevents automatic termination and restricts seller termination to the statutory pathways: buyer consent in writing after the required notice, a Supreme Court order, or another prescribed way. The restriction is confined to contracts within the Act.

如契約符合《土地銷售法》適用門檻，日落日期是與圖則註冊、產權成立、交割或其他訂明事件相連的最遲日期。自2023年11月22日起，第2部第4A分部禁止自動終止，並把賣方終止限制於法定途徑：按規定通知後取得買方書面同意、取得最高法院命令，或採用其他訂明方式。該限制只適用於受該法例規管的契約。

Even where seller termination is restricted, delay can still expose the buyer to finance expiry, rent and accommodation costs, market change and uncertainty. The contract should be reviewed for extensions, force-majeure events, buyer termination rights, notice mechanics and the relationship between statutory long-stop provisions and contractual sunset dates.

即使賣方終止權受限制，延誤仍會使買方面對融資失效、租金及住宿成本、市場變動及不確定性。契約須審查延期、不可抗力事件、買方終止權、通知方式，以及法定最長期限與契約日落日期之間的關係。

PRACTICAL CHECKLIST 實務清單

- Identify each date and the event it measures.
- List every contractual extension event.
- Separate buyer and seller termination rights.
- Re-confirm the statutory gateway before relying on the seller-termination restriction.

- 確認每個日期及其所衡量事件。
- 列出所有契約延期事件。
- 區分買方與賣方的終止權。
- 依賴賣方終止限制前，再次確認法定適用門檻。

> **PRACTICAL EFFECT 實務效果**
>
> Do not summarise a sunset clause as “the contract ends on this date.” The legal effect is usually more conditional.
>
> 不可把日落條款簡化為「契約在此日期終止」；其法律效果通常附帶更多條件。

6.9

Variations, inspection and settlement readiness

變更、驗收與交割準備

Land-sale contracts often permit variations to plans, dimensions, services, earthworks, landscaping and staging. The review should distinguish changes required by authorities from discretionary commercial changes and identify every threshold, notice obligation, price adjustment or termination remedy. A broad variation clause does not displace the statutory further-statement regime where the Act applies.

土地銷售契約常准許更改圖則、尺寸、服務設施、土方、園景及分期。審查應區分主管機關要求的更改與賣方酌情商業更改，並確認每項門檻、通知義務、價格調整或終止補救。如法例適用，廣泛修改權條款不會排除法定進一步聲明制度。

Before settlement, the buyer should compare the delivered product with the contract package, inspect for incomplete or defective work, confirm approvals and services, test inclusions, verify title and easements and obtain an updated valuation if required. Defects should be recorded precisely with photographs; the contract determines whether they justify delay, retention, rectification after settlement or no settlement remedy.

交割前，買方應把交付產品與契約文件比較，檢查未完成或有缺陷工程，確認批准及公用設施，測試包含項目，核實產權及地役權，並按需要取得更新估值。缺陷應以照片準確記錄；契約決定其是否支持延期、保留款、交割後整改，或不構成交割補救。

PRACTICAL CHECKLIST 實務清單

- Compare final title and dimensions with the disclosure baseline.

- 把最終產權及尺寸與披露基準比較。

- Arrange an independent building inspection where appropriate.
- Confirm occupancy and statutory approvals.
- Issue defect notices in the required form and time.

- 在適當情況下安排獨立建築驗收。
- 確認佔用及法定批准。
- 按指定形式及期限發出缺陷通知。

PRACTICAL EFFECT 實務效果

A pre-settlement inspection creates evidence; on its own, it creates no right to refuse settlement.

交割前驗收可建立證據，但本身不會自動產生拒絕交割的權利。

6.10

Contract version-control worksheet

契約版本控制工作表

An off-the-plan file can accumulate a reservation form, initial contract, disclosure plan, specifications, colour selections, incentives, side letters and several change notices. The buyer should maintain a version-control register showing the document date, parties, signature status, subject matter and whether the document changes price, dimensions, inclusions, timing or termination rights.

樓花交易檔案可能累積預留表格、首份契約、披露圖則、規格、顏色選擇、優惠、附函及多份更改通知。買方應建立版本控制登記冊，列明文件日期、當事人、簽署狀況、主題，以及文件是否更改價格、尺寸、包含項目、時間或終止權。

The register should distinguish contractual documents from marketing material and identify any inconsistency requiring written clarification. Near settlement, the signed baseline and all valid amendments should be reconciled against the final title, approvals, inspection results and settlement statement. This process reduces the risk that an important promise remains only in an email or an outdated drawing.

登記冊應區分契約文件與銷售資料，並標示任何須以書面澄清的不一致。接近交割時，應把已簽基準文件及所有有效修訂，與最終產權、批准、驗收結果及交割結算表核對。此程序可減少重要承諾只存在於電郵或過時圖則中的風險。

PRACTICAL CHECKLIST 實務清單

- Number and date every received document.
- Mark whether it is signed, binding or illustrative.
- Record each change to price, product or timing.
- Reconcile the complete register before settlement.

- 為每份收到的文件編號及記錄日期。
- 標明文件是否已簽署、具約束力或只供示意。
- 記錄價格、產品或時間的每項更改。
- 交割前核對完整登記冊。

PRACTICAL EFFECT 實務效果

A disciplined document register turns a long transaction history into a reviewable chain of enforceable promises.

有紀律的文件登記冊可把漫長交易歷史轉化為可審查的可執行承諾鏈。

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.

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。

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.

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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