

Queensland Strata Property Guide

昆士蘭分層產權物業指南

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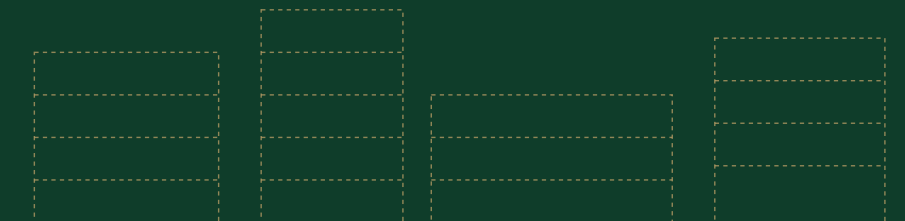
08

Buyers' Agents: Selection and Due Diligence

買方代理人的選擇及盡職調查

7 sections · pages 87–93 of the complete guide

7節 · 全書第87至93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.
- 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。

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 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

FIRM

Bugden Allen Group Legal
合夥人

MEMBERSHIPS

ACSL · UDIA (Qld) · SCA (Qld)
專業學會成員

08



Buyers' Agents: Selection and Due Diligence

買方代理人的選擇及盡職調查

8.1 Minimum checks

最低限度查核

8.2 What a good scope looks like

良好服務範圍

8.3 Interview questions

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8.4 Licensing and the written appointment

牌照與書面委任

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8.6 Fees, commissions and conflicts

費用、佣金與利益衝突

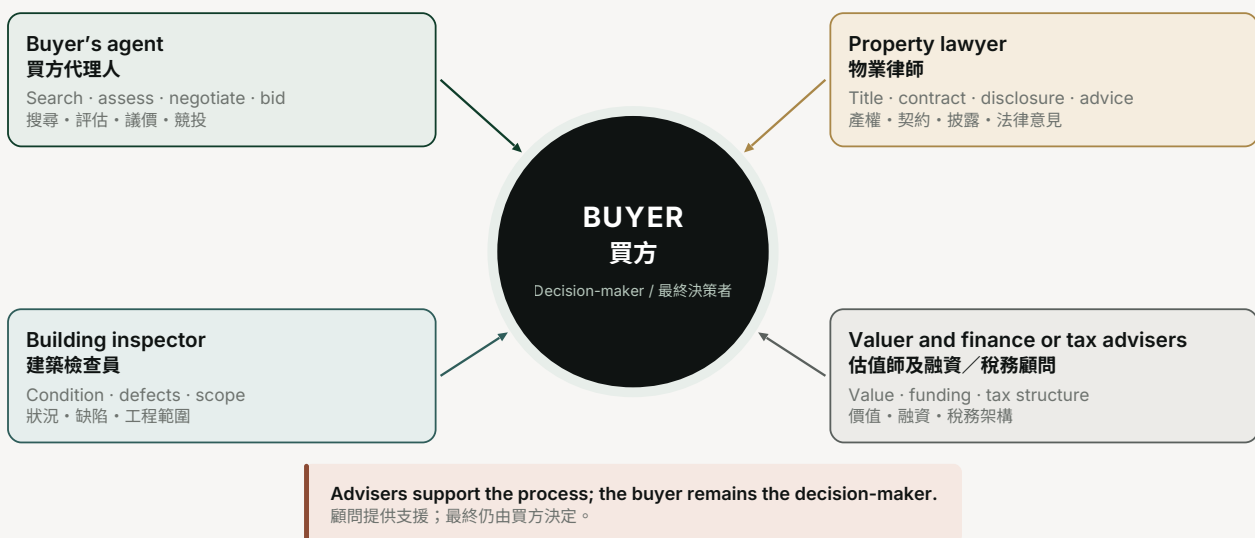
8.7 Interview, evidence and exit

面談、證據與退出機制

A buyer's agent acts under a written appointment and within the authority, services and remuneration stated in it. The label does not enlarge the legal role. Searching, market assessment, negotiation and bidding may fall within the engagement; legal advice, building inspection, surveying, valuation, tax and finance do not become the agent's functions merely because they are relevant to the purchase. A sound appointment identifies each boundary.

買方代理人依書面委任，在其中列明的權限、服務及報酬範圍內行事；名稱本身不會擴張其法律角色。搜尋、市場評估、議價及競投可屬委任範圍；但法律意見、驗樓、測量、估值、稅務及融資不會僅因與交易有關而成為代理人的職能。完善的委任文件會逐一界定這些分界。

FIG 15 Buyer's agent role boundaries / 買方代理人的角色界線



8.1

Minimum checks

最低限度查核

- Verify the individual and agency licence on the Queensland public register.
- Use the prescribed residential appointment form 6 (or commercial form 6A) and read exclusivity, term, fees and termination provisions.
- Ask who pays the agent and require disclosure of referral fees, developer commissions, rebates and related businesses.
- Confirm professional indemnity insurance and a written complaints process.
- Check direct experience with the target suburb, property type and body corporate regime.
- 在昆士蘭公共登記冊核實個人及代理公司牌照。
- 使用規定的住宅委任表格6（或商業表格6A），並審閱獨家權、年期、費用及終止條款。
- 詢問誰支付代理人費用，並要求披露轉介費、開發商佣金、回扣及關聯業務。
- 確認專業彌償保險及書面投訴程序。
- 核實其對目標地區、物業類型及業主人團體制度的直接經驗。

8.2

What a good scope looks like

良好服務範圍

SERVICE 服務	EVIDENCE EXPECTED 應有證據	LIMIT TO CONFIRM 須確認的限制
Search and shortlist 搜尋及篩選	Written brief, comparable sales, ownership-cost assumptions. 書面要求、可比成交、持有成本假設。	On-market only or off-market access; geographic limits. 只限公開市場或包括非公開盤源；地域限制。
Property assessment 物業評估	Inspection notes, risks, body corporate red flags and resale factors. 視察紀錄、風險、業主人團體警示及轉售因素。	Not a legal, structural or valuation report. 並非法律、結構或估值報告。
Negotiation 議價	Documented strategy, authority limit and contract-condition instructions. 有紀錄的策略、授權上限及契約條件指示。	Agents must not pressure the buyer to waive legal or finance protections. 代理人不得施壓要求放棄法律或融資保障。
Auction bidding 拍賣競投	Written maximum and bidding authority. 書面最高價及競投授權。	Auction contracts generally have no cooling-off period. 拍賣契約一般沒有冷靜期。

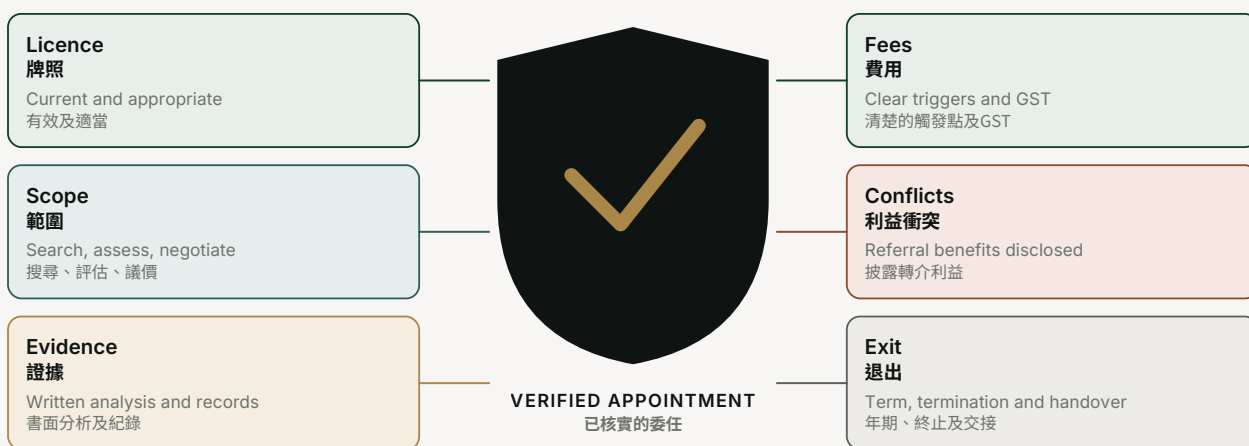
8.3

Interview questions

面談問題

- How many recent purchases have you completed in this exact market and property type?
- Do you or an associate receive money or benefits from sellers, developers, mortgage brokers, conveyancers or property managers?
- Will you review body corporate records, or only identify that a specialist search is required?
- What happens if I find the property myself, cancel, or buy after the appointment ends?
- How is your recommended price supported, and who verifies rental or growth assumptions?
- 你最近在這個市場及物業類型完成多少宗買方交易？
- 你或關聯人士是否從賣方、開發商、按揭經紀、產權轉讓律師或物業管理人收取金錢或利益？
- 你會審閱業主法人團體紀錄，還是只提示需要專業查冊？
- 如我自行找到物業、取消委任，或在委任期結束後購買，會有何後果？
- 建議價格有何依據？誰核實租金或升值假設？

FIG 16 Buyer's agent appointment shield / 買方代理人委任保障



8.4

Licensing and the written appointment

牌照與書面委任

A Queensland buyer's agent is a licensed real estate agent appointed to act for the buyer. The engagement should use the prescribed appointment form and clearly identify services, fees, expenses, term, exclusivity and termination. Licensing confirms that a provider is regulated, not that the provider is expert in every market or property type.

Before signing, the buyer should check the public licence record, the contracting entity, professional indemnity insurance and the person who will actually perform the work. An agency may promote a senior adviser while delegating research and inspections to junior staff. The appointment should state the expected deliverables and the standard for reporting conflicts or referral benefits.

昆士蘭買方代理人是由買方委任的持牌地產代理。委任應採用指定表格，並清楚列明服務、費用、開支、年期、獨家性及終止。牌照只證明其受規管身份，並不證明其在每個市場或物業類型均具專業能力。

簽署前，買方應查核公開牌照紀錄、契約實體、專業彌償保險及實際執行工作的人員。代理公司可能以資深顧問推廣服務，卻把研究及驗樓交由初級人員處理。委任文件應列明預期交付成果，以及披露利益衝突或轉介利益的標準。

PRACTICAL CHECKLIST 實務清單

- Search the individual and agency licences.
- Name the responsible adviser in the scope.
- Read exclusivity and post-termination fee clauses.
- Require written disclosure of referral benefits.
- 查核個人及代理公司牌照。
- 在服務範圍中列明負責顧問。
- 審閱獨家及終止後收費條款。
- 要求書面披露轉介利益。

PRACTICAL EFFECT 實務效果

A valid licence is the price of entry, not the whole of the selection test.

有效牌照只是最低入場要求，而不是完整選擇標準。

8.5

Designing a useful scope of work

設計實用服務範圍

The scope should reflect what the buyer cannot efficiently do alone. It may include strategy, suburb and building research, off-market sourcing, inspections, comparable sales, rental evidence, ownership-cost analysis, negotiation, auction bidding and coordination of legal, building, valuation and body corporate specialists.

The engagement should distinguish information gathering from professional opinions. A buyer's agent can identify a possible structural or body corporate red flag but should not present legal, engineering, tax or valuation conclusions without the relevant qualification. The written report should record evidence, assumptions, limitations and unresolved issues before an offer is made.

服務範圍應針對買方無法有效自行完成的工作，可包括策略、地區及大廈研究、非公開盤源搜尋、視察、可比成交、租金證據、持有成本分析、談判、拍賣競投，以及協調法律、建築、估值及業主法人團體專家。

委任應區分資料搜集與專業意見。買方代理人可指出潛在結構或業主法人團體警示，但如無相關資格，不應提供法律、工程、稅務或估值結論。書面報告應在出價前記錄證據、假設、限制及未解決事項。

PRACTICAL CHECKLIST 實務清單

- Specify target location, asset type, budget and time horizon.
- Require a written shortlist rationale.
- Allocate responsibility for specialist reports.
- Define the approval required before bidding or signing.
- 列明目標地區、資產類型、預算及持有期。
- 要求提供書面入圍理由。
- 分配專家報告責任。
- 界定競投或簽約前所需買方批准。

PRACTICAL EFFECT 實務效果

A strong scope controls the process; it does not promise a particular investment return.

良好服務範圍控制的是程序，而不是承諾特定投資回報。

8.6

Fees, commissions and conflicts

費用、佣金與利益衝突

Buyer's-agent fees may be fixed, tiered, retainer-based or linked to the purchase price. A percentage fee can rise when the buyer pays more; a fixed fee may reduce that tension but does not guarantee effort or quality. The buyer should understand when the fee is earned, whether GST and expenses are additional and what happens if no property is purchased.

買方代理費可採固定、分級、聘用費或與購買價掛鉤的模式。百分比費用會隨買方支付更高價格而增加；固定費用可減少此張力，但不保證工作量或質素。買方應了解費用何時產生、GST及開支是否另計，以及最終沒有購買物業時如何處理。

Conflicts can arise from developer stock, selling-agent relationships, mortgage-broker or conveyancer referrals, property-management appointments, renovation work and rebates. The buyer should ask whether the agent receives any benefit from any person connected with the recommended property. Disclosure allows assessment; it does not automatically neutralise the conflict.

PRACTICAL CHECKLIST 實務清單

- Calculate the total fee under several purchase prices.
- Ask what events trigger payment.
- Require disclosure of commissions and related businesses.
- Check whether the agent can act for both sides.
- 按不同購買價計算總費用。
- 詢問哪些事件觸發付款。
- 要求披露佣金及關聯業務。
- 查明代理人是否可同時代表雙方。

PRACTICAL EFFECT 實務效果

Independence is a structure created by the appointment and remuneration model, not a marketing adjective.

獨立性是由委任及報酬模式建立的結構，而不是銷售形容詞。

8.7

Interview, evidence and exit

面談、證據與退出機制

Selection should test recent experience in the exact market, price range, property type and body corporate structure. The buyer should ask for examples of rejected properties and the reasons for rejection, not only successful purchases. A disciplined adviser adds value by preventing a poor acquisition as well as by sourcing an attractive one.

The appointment should require document retention, written instructions for bids, confirmation of price limits and a complaints process. Termination should address active negotiations, confidential information, continuing fee claims and return of documents. If performance is unsatisfactory, the buyer should give clear written notice rather than relying on informal dissatisfaction.

PRACTICAL CHECKLIST 實務清單

- Ask for a sample property assessment report.
- Test knowledge of strata records and levy risk.
- 要求提供物業評估報告樣本。
- 測試其對分層產權紀錄及管理費風險的認識。

選擇代理人時，應測試其在相同市場、價格範圍、物業類型及業主法人團體架構的近期經驗。買方應要求提供曾被否決物業及其否決理由，而不只是成功購買案例。嚴謹顧問的價值不只在尋找合適物業，亦在避免不良收購。

委任應要求保存文件、競投須有書面指示、確認價格上限及設立投訴程序。終止條款應處理正在進行的談判、保密資料、持續收費申索及文件歸還。如表現不滿意，買方應發出清楚書面通知，而不只作非正式抱怨。

- Require written authority before every binding step.
- Read the complaints and termination pathway.
- 每項具約束力步驟前要求書面授權。
- 審閱投訴及終止途徑。

PRACTICAL EFFECT 實務效果

The buyer remains the decision-maker. Delegating research does not delegate responsibility for the final risk choice.

買方仍是最終決策者；委託研究不等於把最終風險選擇責任轉移。

Important notice

重要聲明

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