

## being part of a body corporate

### Do I have to be part of a body corporate once I own a lot? Can't I just decide to go it alone?

Short answer: no, you can't just go it alone.

Longer answer: Ultimately, a community titles scheme is comprised of individual lots and common property. The body corporate is comprised of all lots and their owners. More to the point, a body corporate is responsible for maintenance of common property. So even if there is only a very small amount of common property or shared facility, it still needs to be managed by 'someone' – that someone being the collective of all the owners, namely, the body corporate. For these reasons alone, there is no option to separate from the body corporate

Your membership of the body corporate is actually noted on your Title Deed eg

#### ESTATE AND LAND

Estate in Fee Simple

LOT 1 SURVEY PLAN 312440  
Local Government: TOOWOOMBA  
COMMUNITY MANAGEMENT STATEMENT 53121

The above lot is part of the Community Titles Scheme 53121.

Very occasionally it is possible for a lot to leave a Community Titles Scheme, however, the process involves new Survey Plans, Applications to Councils, Payment of Development Application Fees, Moving of Common Property Services, New Community Management Statement, Passing Resolutions Without Dissent etc. Finally, in some instances it is just physically not possible.

### Do I have to...have a body corporate manager?

Short answer: no.

Longer answer: appointing a body corporate manager is a choice a body corporate may make. A body corporate manager operates under contract (and thus, instruction)

issued by the body corporate to carry out defined duties of an administrative and financial nature. For example, sending meeting notices, or collecting levies. It is perfectly acceptable for an individual lot owner (usually a committee member) to do this themselves. That said, it can be an onerous task, particularly in larger schemes and the legislation itself is sometimes challenging to comply with. For these reasons, body corporate managers are routinely appointed by bodies corporate to save them having to do this work themselves. Importantly, though, appointing a body corporate manager doesn't mean a body corporate avoids its responsibilities. Far from it – it means the body corporate is also responsible for managing the relationship with the body corporate manager.

### Do I have to...pay my body corporate levies?

Short answer: yes.

Longer answer: body corporate levies represent each owner's share of costs for the body corporate's expenses. Those expenses are for essential things such as insurance, as well as maintenance or improvements. So it is actually in an owner's interests to pay levies. Otherwise, the property can get run down or there is risk that it is not properly insured, which in the long run can have serious consequences for all owners.

Other consequences for an owner not paying their levies can be that penalties of up to 2.5% per month can be applied to any levies that are overdue. An owner may also miss out on any discount that is applied to levies that are paid on time.

The other consequence of not paying levies is that an owner ceases to be 'financial'. Being non-financial means that an owner loses the right to vote at meetings and be on the committee. This in turn means that an owner loses the ability to 'have a say' in how the scheme is being managed.

Bear in mind also that a body corporate is legislatively obliged to pursue a lot owner for non-payment of levies. The decision to pay or not to pay levies might ultimately be taken out of your hands at some point.

## **Do I have to...return my voting papers or cast a vote?**

Short answer: no, but really, you should.

Longer answer: unlike voting at a state or federal election, voting in a body corporate context is not compulsory and so there are no fines or other penalties for not voting. That said and as noted above, voting at general or committee meetings is how individual owners get to have their say. Crucial decisions which have a major impact on the scheme may either not get made, or not get made in the way a lot owner prefers, if votes are not cast.

If not enough owners vote at a general meeting then a quorum is not established and the meeting has to be adjourned and held 7 days later. This is an additional expense to the body corporate which can be avoided.

## **Do I have to...contribute to insurance?**

Short answer: yes.

Longer answer: There are legislative requirements about body corporate insurance regarding insuring buildings, the common property of the scheme and public liability. There are only limited situations where an owner can take out their own building insurance, being those registered under a standard format plan, with no common walls. All others must contribute to a building insurance policy in the name of the body corporate. Even if you are one of those owners who can take out their own building insurance you will still have to contribute to any insurance of the common property and public liability. All owners are responsible for insuring their own contents.