The QLD STRATA MAGAZINE

MARCH 2025

LookUpStrata

About Us

LookUpStrata is Australia's Top Property Blog Dedicated to Strata Living. The site has been providing reliable strata information to lot owners, strata managers and other strata professionals since 2013.

As well as publishing legislative articles to keep their audience up to date with changes to strata, this family owned business is known for their national Q&A service that provides useful responses to lot owners and members of the strata industry. They have created a national network of leading strata specialists across Australia who assist with 100s of the LookUpStrata audiences' queries every month.

Strata information is distributed freely to their dedicated audience of readers via regular Webinars, Magazines and Newsletters. The LookUpStrata audience also has free access to The LookUpStrata Directory, showcasing 100s of strata service professionals from across Australia. To take a look at the LookUpStrata Directory, flip to the end of this magazine.

Meet the team

Nikki began building LookUpStrata back in 2012 and officially launched the company early 2013. With a background in Information Management, LookUpStrata has helped Nikki realise her mission of providing detailed, practical, and easy to understand strata information to all Australians.

Nikki shares her time between three companies, including Tower Body Corporate, a body corporate company in SEQ.

Nikki is also known for presenting regular strata webinars, where LookUpStrata hosts a strata expert to cover a specific topic and respond to audience questions.

Nikki Jovicic
Owner / Director

Liza came on board in early 2020 to bring structure to LookUpStrata. She has a passion for processes, growth and education. This quickly resulted in the creation of The Strata Magazine released monthly in New South Wales and Queensland, and bi-monthly in Western Australia and Victoria. As of 2021, LookUpStrata now produce 33 state based online magazines a year.

Among other daily tasks, Liza is involved in scheduling and liaising with upcoming webinar presenters, sourcing responses to audience questions and assisting strata service professionals who are interested in growing their business.

Liza Jovicic
Sales and Content Manager

LookUpStrata

Learn more here → https://www.lookupstrata.com.au/about-us/

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Contents

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Is a VOC required to call the EGM to fill a committee position?

Q **What is the process for filling a committee vacancy if the committee members fall below a quorum? Is a VOC required to call the EGM?**

Regulation 48(1)(b) of the Standard Module states that if the number of committee members falls below the number required for a quorum, the committee must call a general meeting of the body corporate to choose a person to fill the vacancy.

Is a VOC required to call the EGM? If yes and there has been no VOC or committee meeting, can the EGM proceed?

What if the entire committee resigns before holding a VOC?

A **As the EGM is a mandated step in the process, a VOC of the remaining members is not required.**

When a committee member resigns, the remaining committee members have 30 days to nominate an eligible person to fill the vacancy, otherwise, an EGM must be called.

As the EGM is a mandated step in the process, a VOC of the remaining members is not required. However, it may be sensible to write to owners before calling the EGM to explain the situation and seek nominations.

If the entire committee resigned it would still be the case that the EGM would be required. If you had a body corporate manager, they would probably call this for you as the powers of the secretary would be delegated to them.

If you didn't have a manager, that might be more complicated. If no one is prepared to make the arrangements, you might have to go to the commissioner's office to seek a Part 5 Agreement to **have a manager appointed**, but that will still require someone to do something. That something might as well be calling the EGM to at least get you to the stage where you have a committee to carry things forward.

The BCCM website's **Filling casual vacancies** states it's important to note that the process for filling a vacancy at a general meeting is different to electing a committee at an annual general meeting. Changes include that:

- the notice of the meeting must include an explanatory note about nominating and voting for the position,
- nominations can be made at the meeting or given in writing before the election occurs,
- an owner must be present personally at the meeting to be able to vote in the election.

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Can we stop a resident from parking an unregistered vehicle in their allotted car space?

Q Can a resident leave an unregistered vehicle in their nominated car park? A few of our committee members are advocating for towing the vehicle.

I'm a committee member of an apartment complex on the Gold Coast. A resident has parked their unregistered vehicle in their nominated car park.

Through our building manager, we asked for the car to be registered or removed. Although the owner said his son would remove the vehicle within 2 weeks, it is still there 4 weeks later. If the tenant resists removing the vehicle, is leaving an unregistered vehicle in their nominated car park legal? A few of our committee members are advocating for towing the vehicle.

A Qld strata legislation does not distinguish between registered and unregistered cars.

Qld strata legislation does not make a link between a vehicle being registered or unregistered, and then it being parked in the designated spot. The references to a 'vehicle' under strata legislation point to a definition of 'motor vehicle' under Department of Transport legislation, which does not distinguish between registered and unregistered.

Your scheme's by-laws may refer to a vehicle being registered, or needing to be registered. Even if they did, there may be a question about whether a by-law of that nature is valid. For the purposes of parking it, why exactly would it matter whether a vehicle is registered or unregistered, especially if the occupier is correctly using their allocated car park?

Putting aside validity questions for a moment, if a by-law about parking is being contravened then that **by-law needs to be enforced** by the committee.

If you are concerned about things such as liability for the body corporate from an unregistered vehicle, you may want to seek legal advice or advice from your insurer about that. You can also make enquiries with the Department of Transport about the implications – if any – of having an unregistered vehicle parked in the scheme.

My suggestion? First and foremost, get clarity in your mind about the relevance of the vehicle's registration status to you and the committee, and then proceed – taking into account the above – from there.

This is general information only and not legal advice.

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STRATA SOLVE UNTANG STRATA PROBLEM

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Using personal contents insurance for damage to other lots

Q Due to rising premiums and higher excesses, should strata committees advise owners to use their personal contents insurance liability coverage if they cause damage to other lots?

Given the significant rise in strata premiums leading many **body corporates** to adopt much higher excesses, should strata committees advise owners to utilise the legal liability coverage within their personal contents insurance policies when owners are responsible for damage (such as water damage) to another person's property? This would allow the affected party to be compensated.

A Understanding key points in this context is crucial.

Legal liability coverage comes into play when an owner is deemed responsible for causing damage to another person's property. It is crucial to understand key points in this context:

- **Damage contained within the owner's lot:** If the damage is confined to the owner's lot, a legal liability claim is not viable since one cannot pursue legal action against oneself for damages.

- **Nature of water leaks:** Insurance companies often classify water leaks as unforeseen incidents, especially when the lot owner had no prior knowledge of the leak's potential or cause. In many cases, these leaks are attributed to unforeseen causes without any negligence on the part of the lot owner. Insurers may argue there was no foreseeable action the owner could have taken to mitigate the loss more effectively. Consequently, they may deny liability by asserting that the owner's actions (or lack thereof) do not constitute negligence under common law principles.
- **Lot owner as an insured party:** Importantly, a lot owner is an insured party under the strata insurance policy, which grants them the right to make a claim. This aspect underscores the potential for seeking to claim through the strata insurance policy, rather than personal contents insurance, especially when it is challenging to meet the criteria for establishing a claim for legal liability under contents insurance.

This reality suggests that, in many cases, turning to personal contents insurance for coverage under legal liability may not be an option.

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Strata Insurance SOLUTIONS

Can a committee lawfully and wilfully refuse to implement resolutions in defiance of the majority?

Q Can a committee lawfully and wilfully refuse to implement resolutions in defiance of the majority view simply because they disagree with the majority?

At the 2023 AGM, Motion 1 was passed for good reasons, requiring the committee to prepare a more detailed set of financial statements for the 2023-24 financial year. Motion 2 was passed, requiring auditing of the financial statements by Firm A. The committee disagreed with both motions, failed to implement Motion 1 and overrode Motion 2 by engaging Firm B to be the auditor of far less detailed financial statements.

The committee submitted a motion at the 2024 AGM to revoke 2023 Motion 1. This was defeated. The committee submitted a motion to the 2024 AGM to validate their decision to appoint Firm B and not require an audit of the more detailed financial statements by Firm A.

As the committee is acting against the wishes of the majority of lot owners in both cases, how can they be compelled to act in accordance with the expressed wishes of the majority first expressed at the 2023 AGM and now confirmed at the 2024 AGM? Can a committee lawfully and wilfully refuse to implement resolutions in defiance of the majority view simply because they disagree with the majority?

A Take your dispute to the commissioner's office – that's what they are there for.

You need to take your dispute to the commissioner's office – that's what they are there for.

A conciliator or adjudicator can then consider the matter, and they will help guide or order your scheme to take action.

Provided the requirements in an agreed motion are legal, the committee is obliged to follow the instruction of the body corporate as per that motion. If your explanation above is accurate, you might reasonably expect a judgment against the committee.

However, there is something quite odd about your situation. It seems you likely have a majority of owners against, at least some of, the committee and their decisions since 2023. That's fine, but I can't understand why you seem to have had the same committee members reappointed in 2024 to keep doing the same thing owners are voting against.

There is probably a complicated story there, but if you have the numbers on your side, it may be easier to **replace some or all of the committee with other owners** who will abide by the will of the body corporate.

If you can get 25 per cent of owners to agree, you can call an EGM to dissolve the current committee and appoint new members. Is there a reason why you wouldn't do that?

I'm also curious about what kind of detailed financial statements you want. I haven't seen your statements, but **detailed financial reporting** is a basic standard for most body corporate companies these days. If you are not getting that, you may need to appoint a body corporate manager if you don't have one, or you may need to look at **changing managers** if you do.

See the BCCM website for information on dispute resolution: **Disputes in a body corporate**

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TOWER BODY CORPORATE

What if EV owners or visitors charge their vehicle in a common property power point?

Q Can an EV owner or visitors charge their vehicle in a GPO in their own garage, which is part of the communal electricity costs, meaning everyone pays for their EV charging?

A ‘Fair’ looks like making sure that the non-EV drivers in the building aren’t picking up the tab for the energy going into one resident’s car.

EV owners across the country routinely charge from a general purpose outlet (GPO) in their garage or driveway. It’s very common practice, especially for drivers who typically drive less than ~150km per day. This is fine, provided they’re the ones paying the bill for the electricity. This is almost always the case in standalone homes and will often be the case in strata settings like townhouses and units, but is not always the case in apartment blocks. They sometimes have private garages supplied by common property power.

In that case, ‘fair’ looks like making sure that the non-EV drivers in the building aren’t picking up the tab for the energy going into one resident’s car.

There’s a spread of ways to achieve this, inclusive of, but not limited to:

- Shared EV chargers in buildings can be installed with software over the top, so the driver pays with their credit card. The software operator then kicks back the majority of the money paid by the driver to the body corporate, minus a percentage to cover their operating costs.
- Sub-metering can be installed in individual garages or allocated parking spaces to measure the energy used for EV charging by a specific resident. The measured value can be used as the basis for cost recovery by the body corporate, **subject to suitable by-laws**. Regulations around sub-billing and **embedded networks** vary by jurisdiction. Plenty of specialist providers can assist you.

- If you're looking for a really simple approach as a starting place, without installing anything – take the odometer reading from the car and multiply the kilometres travelled by 4.2 cents to determine 'reasonable value for the electricity'. The ATO has some guidance along these lines, which wasn't designed for this specific purpose, but which will work, subject to a suitable by-law in the building: **PCG 2023/D1 – Electric vehicle home charging rate – calculating electricity costs when a vehicle is charged at an employee's or individual's home**

In any of the above cases, it's a good idea to encourage drivers **not to charge their cars at peak time.** Peak time EV charging will tend to drive up the common property bill (due to capacity charges associated with peak power draw). It will potentially bring forward the need for electrical upgrades.

Setting the car to charge off-peak is easy for the driver to do, it just needs to be encouraged.

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Strata and Technology: Embracing Smart Building Solutions for the Future

The rise of smart technology is transforming the strata industry in 2025, offering new opportunities for improved building management, enhanced security, and energy efficiency. From smart lighting and temperature control to automated maintenance tracking and building access systems, the use of smart technology is becoming increasingly common in strata properties.

As strata properties increasingly adopt smarter building technologies, it's essential to recognise the importance of maintaining these systems and budgeting for their long-term capital replacement costs. Smart technologies, such as automated energy management, security systems, and climate controls, require ongoing maintenance to ensure they function effectively and continue to deliver cost-saving benefits. Additionally, these systems have a finite lifespan and may require significant capital investment for replacement or upgrades over time.

By proactively planning for future capital expenses, you can avoid unexpected financial burdens, ensuring the property remains in optimal condition. Our team of experts can provide a detailed Sinking Fund Forecast Plan report that ensures your strata property is financially prepared for future capital projects and ongoing maintenance.

Maintenance of trees that were part of the original approval of the development

Q Who is responsible for maintenance and liability of trees located outside a lot's exclusive use area but within the fenced boundary? The trees were mandated for preservation during the development approval.

We live in an Accommodation Module complex on the Gold Coast. The boundaries of each lot's exclusive use areas are marked on the plans within the CMS.

Often, the lot's fences are not where the **exclusive use boundaries** are marked. Some fences are up to four meters outside of the exclusive use areas. In two cases, very old, large fig trees are on the land between the exclusive use area and the fence.

The fig trees were required to remain in the original approval of the development, to the point where one tree was relocated from within the complex to another point to satisfy this requirement.

The body corporate has always paid for the maintenance of these trees. The current committee would like lot owners to be responsible for maintaining these trees, including any damage they may cause.

As these trees are not on the exclusive use area and were part of the approval process for the development, this seems unreasonable.

Does body corporate legislation or case law clarify this issue?

A It would seem probable that if the tree is on unallocated common property and not subject to exclusive use, the body corporate would have the maintenance obligation over the tree.

We need to review a few details to properly advise on this issue. This includes (most importantly) the terms of the exclusive use by-law that authorises the grant, the exclusive use plans attached to the **CMS** and the survey plan.

However, it would seem probable that if the tree is on unallocated common property and not subject to exclusive use, the body corporate would have the maintenance obligation over the tree.

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Can a body corporate dictate patio furniture colour?

Q Can a body corporate breach residents for having the wrong colour patio furniture?

My mother's body corporate is trying to enforce a rule that all resident's outdoor patio furniture be the same colour, even if the furniture is not visible to other residents. Any residents with white, black or grey furniture are in breach. Is this legal or fair?

A I don't see how the committee could attempt to regulate furniture in those circumstances.

At first glance, I don't see how that is objectively reasonable. The question would be, why do they want/need that to be the policy? If it cannot be seen by anyone else, I don't see how the committee could attempt to regulate furniture in those circumstances.

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Do your by-laws deal with EVs?

By-laws should be kept up-to-date with current considerations and latest laws. Get a free assessment to understand where your scheme stands.

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Caretaker's use of resort facilities during work hours

Q Should the caretaker use the resort pool during their designated working hours?

Is there an industry "standard" for a service contractor using the resort pool during their designated working hours? It is accepted that given the QLD heat, the on-site manager may wish to vary their hours to those specified in the agreement. That, in turn, may benefit both themselves and owners. However, it is hardly professional to have guests/people making enquiries faced by somebody in swimming attire who has left the pool to answer their enquiry. Can a committee set ground rules? On the one hand, the on-site manager is an owner by the management rights agreement, but there are wider implications.

A There is no standard when it comes to MR agreements.

This is an intriguing query.

I take your point about 'professionalism', although I would counter that by saying that I think there would be some guests who would find it quite 'authentic' to encounter the management rights (MR) holder in this way. For example, it may signal that the MR holder is an avid proponent of the scheme and its facilities, which could be a useful marketing tool. That may of course be subject to the type of swimming attire they are wearing…

Putting that to one side for a moment, the reality is that there is no standard when it comes to MR agreements.They can vary greatly in scope and terms.

If your agreement does not address this or any other specific MR situation, then it remains open to negotiation between the parties on how to address it. That said, if the parties cannot come to a resolution about the situation, and noting there is no scope to unilaterally change the terms of the MR agreement (it's a contract, after all), then the only option left is the dispute resolution proceedings provided for under the **Body Corporate and Community Management Act 1997** and in the MR agreement itself. To put it bluntly, you really don't want to go down that path if you can help it – the time, cost and emotional toil involved is astronomical.

And yes, as you correctly note, the MR holder is often a lot owner, with the attendant rights that go with that (which in this case, mean access to and enjoyment of common property facilities). This is a point that sometimes gets lost in these types of discussions, so it is good you are cognisant of it.

Reading between the lines of your query, I suspect there are probably further concerns about the MR holder that you and the committee might hold. That of itself is neither uncommon nor surprising: it happens. It's how you approach it from here that is vital. Strata Solve does a lot of work in this space, and you may (or may not) be surprised at how often communication and interpersonal relationships are at the heart of the issue and solution. Feel free to get in touch to find out more.

This is general information only and not legal advice.

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STRATA SOLVE UNTANGLING STRATA PROBLEMS

Strata Solve helps people untangle and resolve their strata issues. Sounds simple when you put it like that, doesn't it?

Director Chris Irons (pictured, with his strata-approved greyhound Ernest) has an unrivalled strata perspective. As Queensland's former Body Corporate Commissioner, Chris has seen and heard virtually every strata situation and nuance. He knows that while legislation provides a framework, there are many ambiguities to navigate through and in which pragmatism, common-sense and effective communication are vital.

As an independent strata consultant, Chris provides services which are all about empowering owners, committees, managers, caretakers, and others, to protect their strata interests. With a high-profile media and online presence, and as an accredited mediator, Chris is also able to carefully 'read the room' and craft the right narratives in even the most complex strata situation.

Strata Solve is not a law firm. Chris instead thinks of steps you can take before you embark on lengthy, costly, and stressful legal proceedings. Regardless of the client, all people in strata have one thing in common: their substantial investment in the strata scheme. Strata Solve prioritises that investment in each tailored solution we provide.

Get in touch to find out more.

email: chris@stratasolve.com.au
web: stratasolve.com.au

GUIDE TO BODY CORPORATE BY-LAWS

By-laws are an integral part of the administration of a body corporate. The purpose of by-laws is to provide the committee with the power to regulate the use of lots, body corporate assets and common property.

Committees have a statutory obligation to enforce the body corporate's by-laws. However, by-laws are often forgotten about until they need to be enforced.

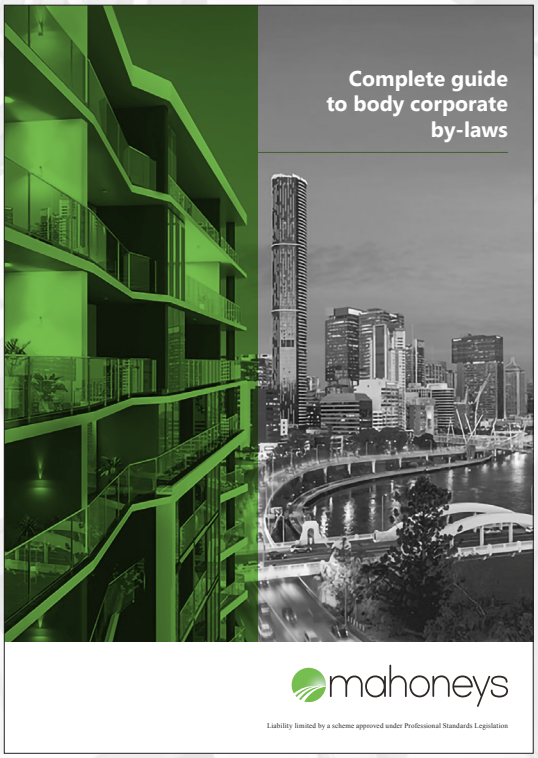
The problem for bodies corporate is that:

- there are a myriad of legislative requirements for a by-law to be valid (and if it is not valid it cannot be enforced);
- the laws that govern by-laws change from time to time (making some by-laws obsolete or unenforceable); and
- changing by-laws is not necessarily a quick process.

"Poorly drafted by-laws can leave the committee in a position where it cannot effectively regulate improper conduct".

In our complete guide to body corporate by-laws we cover off:

- what are body corporate by-laws
- why they are important
- how they are made
- how they are changed
- what can by-laws include
- what can't by-laws include
- how they are enforced



Mahoneys is recognised as one of Australia's leading body corporate law firms – having recently been awarded "Strata Law Firm of the Year" at the most recent Strata Community Association (QLD) awards.

Our dedicated Body Corporate team is made up of industry-leading lawyers with experience in providing body corporate advice, transaction support and dispute resolution services.

Feel free to contact us if you have any questions about preparing, changing, registering and enforcing body corporate by-laws – including for the recent BCCMA changes relating to smoking, towing and pets.

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- regulate hard flooring properly
- regulate owner and occupier communication

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for a free review and assessment of your by-laws.

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Why should I pay for damage to another person's lot?

Q **An owner who experienced water damage to their lot expects all owners to contribute to repairs. Why should I pay for damage to another person's property?**

In our body corporate, we are all on individual lots and appear to own the land allocated to lots under the survey plan. We do not share common walls but have an insurance policy in common. I believe we are governed by the standard format. Can we opt out of an insurance policy in common, where each owner is responsible for their insurance, and the body corporate is responsible for common property insurance?

An owner suffered damage to their roof and interior water damage. Due to **high excess**, an insurance claim may not be feasible. The owner expects all lot owners to contribute to repairs if the insurance claim does not proceed. I cannot understand why I should pay for damage to another person's property.

A **If the damage appears to affect only one lot, the body corporate is not automatically responsible for contributing to the repairs unless it decides otherwise.**

Based on the details provided, it appears that the scheme is governed under the **standard format** plan (SFP), which generally requires the body corporate to insure buildings when they share a common wall.

However, where there are no shared walls, and each lot is freestanding, lot owners may be able to opt out of the body corporate's building insurance, with each owner responsible for their building insurance and the body corporate responsible for insuring the common property.

Regarding the roof and **interior water damage** to one unit, if a claim under the body corporate insurance is not feasible due to high excess, the lot owner is typically responsible for covering the cost of repairs to their lot.

If there was a claim, as per **Section 197** of the Body Corporate and *Community Management (Standard Module) Regulation 2020*, when an insurance claim is made for damage affecting only one lot, the owner of that lot is responsible for the excess, unless the body corporate determines it is reasonable to cover the excess in the circumstances.

In this instance, as the damage appears to affect only one lot, the body corporate is not automatically responsible for contributing to the repairs unless it decides otherwise. If the insurance claim does not proceed, the affected lot owner would generally be responsible for the full cost of repairs.

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Can we supply our own fire panel batteries?

Q Can we purchase fire panel batteries for our contracted fire services company to install?

As per AS1851, our fire panel and diesel pump room batteries need replacing every 2 years. Can our body corporate purchase the replacement batteries through a certified supplier for our contracted fire services company to install? There will be considerable cost savings if we purchase the batteries.

A We strongly recommend coordinating with your contracted fire services company to supply and install the batteries.

While I understand the desire to achieve cost savings by sourcing the replacement batteries directly, it is important to note that the installation and servicing of fire safety equipment is classed as fire protections work under the legislation and therefore must be carried out by licensed and certified technicians. This is a requirement to ensure compliance with the Building Fire Safety Regulations.

Additionally, performing this work without the involvement of a licensed professional could leave the body corporate legally vulnerable and impact the insurance coverage.

We strongly recommend coordinating with your contracted fire services company to supply and install the batteries to guarantee proper installation and continued compliance. This ensures the safety of the building and its occupants while also safeguarding our insurance coverage and meeting legal obligations.

Stefan Bauer I Fire Matters
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FIRE MATTERS

Fire Safety in Residential Buildings

Are you properly prepared?

Many residential buildings in Queensland fall short when it comes to fire safety, with most lacking a comprehensive fire management plan (FMP). Meeting only the minimum legal requirements isn't always enough to protect lives during emergencies.

Smoke alarms, fire exits and basic fire safety measures are mandatory under Queensland regulations. However, interconnected alarms, evacuation drills, residential sprinklers and resident training are often missing from fire management plans. This leaves occupants vulnerable and unprepared to respond effectively in the event of a fire.

For strata managers, body corporates and property owners, proactive fire safety planning is vital. Key steps include:

- **Enhanced Safety Features**: Interconnected smoke alarms, accessible fire extinguishers and clear exit signage.
- **Evacuation Plans**: Marked routes and designated assembly points for quick and safe exits.
- **Resident Education**: Training and annual fire drills to ensure everyone knows what to do in case of an emergency.

By addressing these gaps, body corporates not only comply with safety standards but also protect residents and property.

Contact us for expert advice and to ensure that your building has a comprehensive fire management plan in place.

Stefan Bauer
Fire Matters

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DON'T RISK IT!

If a retrospective investigation finds any aspect of your fire safety non-compliant, you risk voided insurance, hefty fines and even jail. That's why it's crucial to get an independent third-party consultant to audit your building.

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Do by-laws regarding mowing heights apply to exclusive use areas or only to lot areas?

Q **Our by-laws require lot owners to maintain the grass under a certain height. One owner does not comply, saying the by-law only refers to lot property, not his exclusive use area. Is this correct?**

In our rural estate, the front of each lot has an exclusive use area. Our by-laws require lot owners to keep the grass below 75mm if there is a dwelling or 150mm without a dwelling. This by-law specifically refers to the "lot" and not "exclusive use". Owners must maintain their exclusive use areas, and all do except one owner.

This owner's grass in the exclusive use area is up to a metre. The body corporate asked the owner to maintain the area in accordance with the by-laws. The owner responded to the committee that the grass height in the by-laws applies to the "lot" and not the "exclusive use" area. The owner advised the committee they are "maintaining the exclusive use area", although the grass is now a metre high. Do by-laws regarding mowing heights also apply to exclusive use areas or is the owner correct?

A **It's frustrating when the body corporate has to pay to resolve an issue with an owner who may be annoying for the sake of being annoying.**

Unless specifically stated otherwise, the by-laws would apply equally to all areas of the site including the exclusive use areas.

Check **your CMS** for any particular wording around the exclusive use areas and their maintenance. If not, the idea that an exclusive use area is somehow excluded from the general by-laws doesn't carry water.

The question is, what do you do now?

If the owner refuses to cut the grass, the body corporate could do it. It can give an **entry notice** to the owner and rectify the issue. See the BCCM website for the regulations on lot entry: **Entering a lot or exclusive use area**

As per that page, a body corporate may be entitled to enter a lot or an exclusive use area because *the owner or occupier has not complied with their maintenance obligations under the legislation or a by-law.*

You could also look to resolve the issue with the owner via the Commissioner's office. Mediation may help the owner see the body corporate's perspective. Perhaps simply making the filing would indicate the body corporate means business.

The other alternative is to seek legal advice. This could be to provide a letter of warning to the lot owner or to help you draft an entry notice letter. You might **consider whether your by-law is reasonable**, and a lawyer could advise you on this.

The main question with these issues is, who should pay the costs? It's frustrating when the body corporate has to pay to resolve an issue with an owner who may be annoying for the sake of being annoying, but it is hard to avoid this cost. The body corporate can go through a legal process to reclaim its funds, but it's hard to do that when you are talking about what might be a few hundred dollars. If the body corporate enters the lot and has the mowing done, it might vote to pass these costs onto the owner and let the owner challenge that decision. If they do, the body corporate might lose, but at least it will have made its point.

William Marquand | Tower Body Corporate
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TOWER BODY CORPORATE

Can a proxy committee member spend body corporate money without committee approval?

Q **Can a general committee member who is a proxy spend body corporate money without committee approval to engage a contractor to perform work? The amount spent is within the authorised amount for our scheme.**

A **Decision-making in a committee is group decision-making.**

No single member of a committee is authorised to make decisions on their own. Decision-making in a committee is group decision-making. The fact a committee member holds a proxy makes no difference either way. When someone holds a proxy, they are, for all intents and purposes, acting as the person they represent.

In your situation, there may be some relevant circumstances, although, for example, **even if this was an emergency**, there is still the opportunity to quickly email other committee members first so they are involved in decision-making. In other words, it is difficult to rationalise what might have occurred here.

This is general information only and not legal advice.

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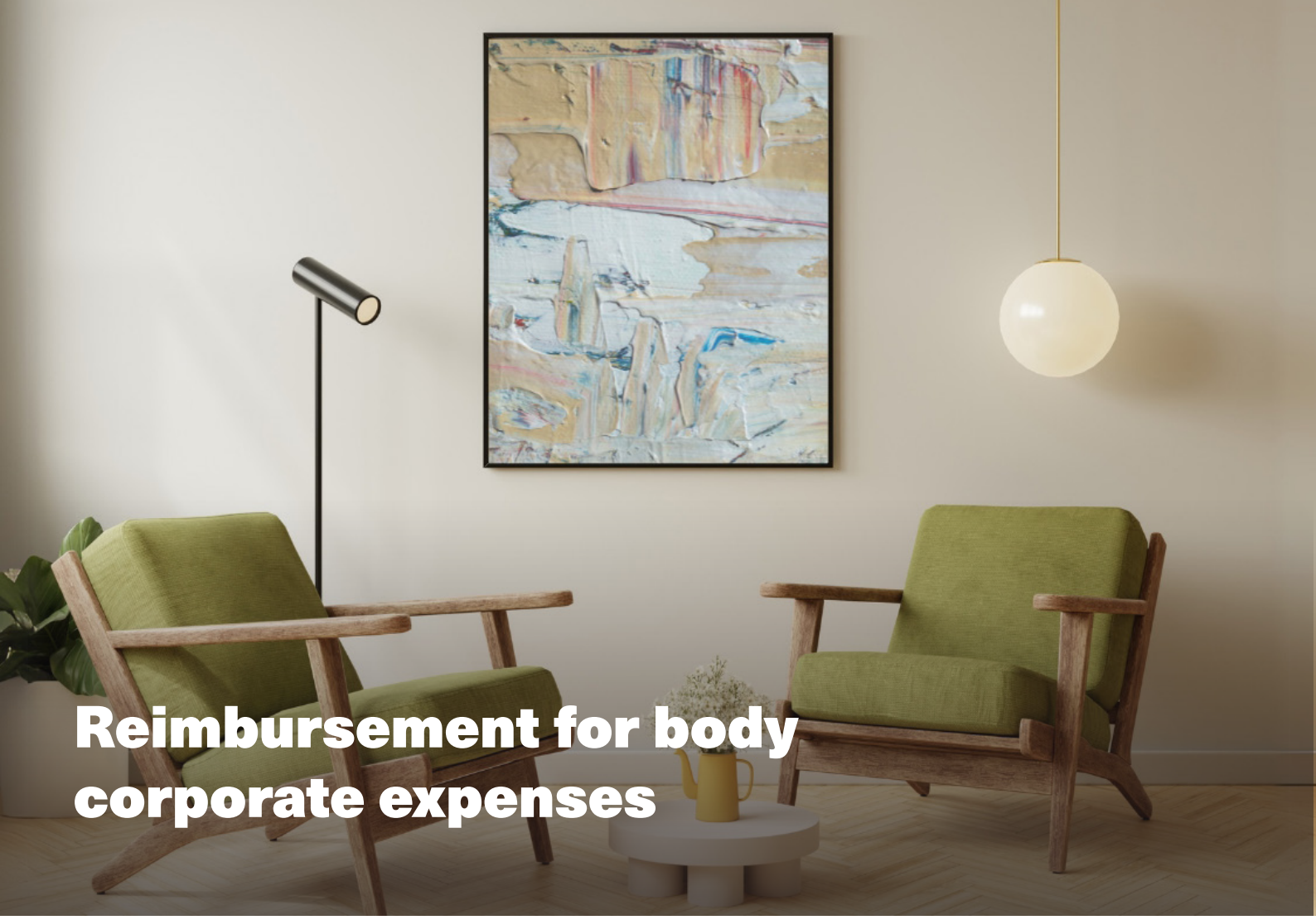

Reimbursement for body corporate expenses

Q We arranged artwork on behalf of the committee. We've been asked to pay the deposit and seek reimbursement from the committee. Is this usual?

We have secured a quote for new artwork on behalf of our committee. The company required a 50% deposit before releasing the artwork. Our committee requested that we pay the deposit on our credit card and submit a request for reimbursement. We will be paid within 2 weeks, and then the following month, we can claim the credit card interest on the transaction. Is this the usual procedure?

A The process is usually smooth as long as there is a clear chain of authority to undertake the expense and authorisation to reimburse the cost.

This sounds a bit convoluted. The fact that you are asking questions about the process indicates the process isn't clear, which is usually the start of a problem.

That said, it is fairly common for committee members to undertake some expenditure on behalf of the body corporate and then be reimbursed.

Body corporate companies are usually ably set up to make payments after the fact, but some expenses need to be paid on the spot. The easiest way to do that is often for a committee member to make the payment and claim the reimbursement.

The process is usually smooth as long as there is a clear chain of authority to undertake the expense and authorisation to reimburse the cost. If the expenses are regular, many body corporates also pass a motion to give a committee member an expenditure limit so they don't have to keep seeking approval for regular minor expenses.

That's fine if there is a clear system and people are comfortable with it. Here, the system doesn't seem clear, and you are adding complications like reimbursement for interest on a credit card payment. You indicate that it is a deposit for artwork. Is it possible to get an invoice and have the body corporate pay for it? Maybe not if you are buying from a shop, but if you make a payment and submit the invoice the same day to the body corporate it should still be possible to make a reimbursement payment to you within a week or so – two at the outside, so I'm not too sure how interest gets factored in. And, if your body corporate company can't arrange a payment in that time, it is operating inefficiently, and you might want to ask why.

Ultimately, if you can work with the committee and agree to a clear process for reimbursement that everyone is happy with, that's fine. Be careful of making agreements or payments when that isn't the case, as you could be heading for a dispute.

William Marquand | Tower Body Corporate
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