

BODY CORPORATE FACT SHEET

Exclusive Use Areas

Car spaces, courtyards and who maintains them

Most arguments about “my car space” are really arguments about whether an exclusive use by-law exists, what area it covers, and what it obliges the benefiting owner to do. The answer is not a matter of custom or of who has parked there for years — it is in a registered by-law, or it is nowhere.

This sheet explains what an exclusive use by-law is, how one is made and ended, and where maintenance responsibility lands.

1. What an exclusive use by-law is

An exclusive use by-law is attached to a lot in a body corporate. It gives the owner of that lot the right to the exclusive use — or other special rights — over a part of the common property or a body corporate asset. The part of the common property is usually identified in the by-law itself.

Because the by-law is attached to the lot rather than to a person, the rights pass with the lot when it is sold.

Typical subjects are car parking spaces, courtyards and small garden areas, storage cages, and parts of a roof or wall used for a lot's own equipment.

2. How one is made

Requirement	BCCM Act scheme	BUGT Act scheme
The resolution	Resolution without dissent to record a new community management statement including the by-law.	Resolution without dissent.
The benefiting owner	Must agree in writing, or vote personally on the resolution.	Must agree in writing.
Registration	A new CMS must be recorded with Titles Queensland within 3 months after the resolution is passed.	The by-law must be recorded with Titles Queensland within 3 months, on the registered survey plan.

It does not exist until it is recorded

The by-law only applies when the new community management statement is recorded. A resolution alone gives no rights.

3. Who maintains it and who pays

The lot owner with exclusive use must maintain the area and pay any operating costs for it — unless the by-law says otherwise.

That default also applies where the by-law is silent on maintenance. If the by-law says the owner is responsible, or says nothing about maintenance, the owner is responsible.

What stays with the body corporate

In a building format plan subdivision, the benefiting owner is not responsible for:

- roofing membranes on the part of the common property to which the by-law applies that give protection for other lots or common property
- maintaining in a structurally sound condition the structural parts on that common property which were not built by or for the owner — foundation structures, roofing structures providing protection, and the essential supporting framework including load-bearing walls.

Utility infrastructure cannot be pushed onto the owner

An exclusive use by-law cannot make a lot owner responsible for maintaining any utility infrastructure — pipes, wiring or equipment — that is common property or a body corporate asset.

Under the BUGT Act the default is expressed the other way around: the owner maintains and pays operating costs unless the by-law says the body corporate continues to maintain the common property.

4. Fees and monetary liability

A by-law generally cannot impose a monetary liability on an owner or occupier. An exclusive use by-law is the exception. The person who benefits from an exclusive use by-law might, for example, have to pay the body corporate a regular fee.

The debt follows the lot

The body corporate can recover the debt from the owner of the lot at the time the debt arose, or from any new owner of the lot if the debt is unpaid when the lot is sold. An unpaid exclusive use fee is a search item on a purchase.

5. Swapping or reallocating areas

Two or more owners can decide to swap or reallocate the areas identified in the exclusive use by-laws applying to their lots. Under the BCCM Act this is done by an agreed allocation. Under the BUGT Act the by-law itself must authorise swapping.

A general meeting resolution is not necessary for a reallocation under either Act.

The owners must give details of the reallocation to the body corporate, and once told, the body corporate must record it at Titles Queensland — a new CMS under the BCCM Act, or a change to the registered survey plan under the BUGT Act.

6. Improvements inside an exclusive use area

An exclusive use by-law may itself allow the benefiting owner to make improvements to the area. Where it does not, body corporate approval is needed. The Queensland Government guidance states that the committee can approve improvements to exclusive use areas costing \$3,000 or less, with improvements over \$3,000 approved by ordinary resolution at a general meeting.

The \$3,000 boundary is not stated consistently

The improvements page expresses the committee threshold as “less than \$3,000” while the exclusive use page says “\$3,000 or less”. At exactly \$3,000 the two readings differ. The safe course is to treat \$3,000 as needing a general meeting. Our fact sheet on improvements to common property covers this.

Under the Building Units and Group Titles Act 1980 there is no equivalent committee threshold. Improvements remain common property and are approved by resolution without dissent.

7. Ending an exclusive use by-law

Once an exclusive use by-law is recorded, it is difficult to have it removed or changed.

Under the BCCM Act it will only end if the body corporate passes a resolution without dissent to record a new CMS changing the by-law, and the owner of the benefiting lot agrees in writing or votes personally on the resolution. Under the BUGT Act the equivalent is a resolution without dissent to remove the by-law from the registered survey plan, plus the benefiting owner's written agreement.

In practice the benefiting owner holds a veto: removal needs both a resolution that a single dissenting vote defeats, and the affirmative agreement of the very owner who would lose the benefit.

8. Entering an exclusive use area

Under section 163 of the BCCM Act, a body corporate may authorise a person to enter a lot or an exclusive use area to inspect whether work it is authorised or required to carry out is necessary, or to carry out that work.

- Written notice must be given at least 7 days before entry, and should include the authorised person's name, the entry date and time, how long it will take, the reason, and contact details.
- Only persons authorised by the body corporate can enter, unless the occupier gives permission. The authorisation comes from a committee resolution or a vote at a general meeting — a manager or contractor cannot authorise themselves.
- In an emergency, an authorised person may enter at any time, with or without written notice.
- It is an offence to obstruct an authorised person exercising their power of entry.

Do not confuse this with a statutory easement

Entry under a statutory easement requires only reasonable written notice, with no fixed period. Entry under section 163 requires 7 days. They are different powers with different notice rules.

Source and disclaimer

Source: Queensland Government body corporate guidance at www.qld.gov.au/housing/body-corporate, current at 2 September 2026.

Legislation referred to: Body Corporate and Community Management Act 1997 (Qld) ss 163, 171 and 180; Building Units and Group Titles Act 1980 (Qld).

BCCM information line 1800 060 119 · www.qld.gov.au/bodycorporate

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