Insurance

The following outlines the effect of the provisions of the *Body Corporate and Community Management Act 1997* (the BCCM Act) and the *Body Corporate and Community Management (Standard Module) Regulation 2008* relating to insurance. It is not an exhaustive guide to the insurance provisions and the legislation should be consulted as the primary reference.

General provisions

The body corporate must insure:

- common property and body corporate assets
- buildings in which lots are located.

The type of survey plan registered for the community titles scheme affects the body corporate's responsibility to insure a building.

The common categories of plans registered as community titles schemes are:

- Building Format Plan
  (previously a Building Units Plan)

  A building format plan of subdivision is a form of subdivision that normally occurs within a building. An example of a scheme that is established as a building format plan is a multi-storey block of residential units.

- Standard Format Plan
  (previously a Group Titles Plan)

  A standard format of subdivision plan defines land with references to marks on the ground or a structural element (for example, survey pegs in the ground). An example of a scheme that is established as a standard format plan includes a townhouse complex where on each lot is a building and a backyard or courtyard.

Definitions

The legislation provides statutory definitions of the following terms:

Building

A building includes improvements and fixtures (excluding carpet), but does not include:

- temporary wall, floor and ceiling coverings
- fixtures removable by a lessee or tenant at the end of a lease or tenancy
- mobile or fixed air conditioning units servicing a particular lot
- curtains, blinds or other internal window coverings
- mobile dishwashers, clothes dryers or other electrical or gas appliances not wired or plumbed in.

Damage

Damage includes:

- earthquake, explosion, fire, lightning, storm, tempest and water damage
- glass breakage
- damage from impact, malicious act and riot.

Valuations

If the body corporate is required to insure one or more buildings, the body corporate must, at least every five years, obtain an independent valuation for the full replacement value of the building or buildings.

Details about the most recent valuation must be included in the notice of the annual general meeting or any note attached to the administrative fund budget proposed for the annual general meeting. (Standard Module Section 177).

Compulsory insurance

Common property and assets

The body corporate must insure the common property (such as a pool or fences) and the body corporate assets (such as plant and equipment) to full replacement value.

The insurance policy must:

- cover damage and the costs associated with the reinstatement or replacement of insured buildings, (including the cost of taking away debris and the fees of architects and other professional advisers)
- provide for the reinstatement of property to its condition when new.

The body corporate must take out public risk insurance over the common property and for assets for which it is practical to have public risk insurance. The body corporate is not required to take out public risk insurance over any other property, such as a lot owned by a person other than the body corporate.

The public risk insurance must provide for the following type and level of coverage:

- for amounts the body corporate becomes liable to pay for compensation for death, illness and bodily injury and damage to property
- to the value of at least $10 million for a single event, and at least $10 million in a single period of insurance.

The body corporate may elect to take out more insurance than is required by the regulation module applying to the scheme. For example, it may obtain directors and office bearers liability cover for committee members.

Buildings

The body corporate must take out the following building insurance:

- building format plan — insurance for the full replacement value of each building which contains a lot
- standard format plan where a building on one lot has a common wall with a building on an adjoining lot — insurance for each building to its full replacement value.

A policy for building insurance must:

- cover damage and the costs associated with the reinstatement or replacement of insured buildings, (including the cost of taking away debris and the fees of architects and other professional advisers)
- provide for the reinstatement of property to its condition when new.

The terms 'building' and 'damage' are defined in the regulation module applicable to your community titles scheme and are referred to above under the heading 'Definitions'.

Optional building insurance

The body corporate for a scheme registered as a standard format plan may set up a voluntary insurance scheme. A voluntary insurance scheme covers a building on a lot that does not have a common wall with a building on another lot (a 'stand alone building'). The owner of a lot with a stand alone building is not obliged to take part in a voluntary insurance scheme.

An owner who chooses to take part in a voluntary insurance scheme must:

- notify the body corporate of the replacement value of the buildings to be insured
- comply with the body corporate decision to establish the voluntary insurance scheme
- comply with the policy of insurance.

Premiums

General premiums

The basis for calculating contributions for insurance premiums payable by a lot owner is outlined below.

<u>Insurance for common property and body corporate assets:</u> the interest schedule lot entitlement of the lot.

Insurance of a building that includes a lot under a <u>building format plan:</u> the interest schedule lot entitlement of the lot.

Building insurance under a <u>standard format plan where a building on one lot has a common wall with a building on an adjoining lot:</u> the cost of reinstating the building on the lot.

Insurance of a building that includes a lot under a <u>standard format plan where the building does not have a common wall with a building on another lot:</u> The proportion of the premium that fairly reflects:

- the value of the stand alone buildings on the owner's lot in proportion to the total replacement value of the buildings insured under the voluntary insurance scheme
- the proportion of the total risks covered by the policy attributable to activities carried on, or proposed to be carried on, on the owner's lot.

Additional premiums

The body corporate may adjust the amount payable by a lot owner where the premium is affected by:

Improvements made to the lot.
A lot owner must give the body corporate details of the nature and value of the improvements where:

- the fixtures and fittings that form part of the lot are of a higher standard than the fixtures and fittings of lots generally
- the premium for reinstatement insurance taken out by the body corporate is likely to increase as a result of the improvements made to the lot.

Improvements made to common property.
The amount payable by a lot owner for insurance may be adjusted where:

- the lot owner is authorised by the body corporate to make improvements to the common property for the benefit of the owner's lot
- because of the improvements, the premium for insurance which must be taken out by the body corporate is likely to increase.

Use of the lot

If a lot is used for a purpose which is likely to increase the premium for reinstatement insurance, a lot owner must disclose the use to the body corporate. For instance, a lot owner in a commercial complex may use flammable chemicals in carrying on a business. The increased risk of damage associated with the use may affect the premium. The lot owner is responsible for meeting any increase in the premium.

Insurance excess

Where the body corporate has an obligation to insure for full replacement value, it can take out insurance which includes excess provisions.

The BCCM Act and the regulation module applying to the scheme set out the basis for allocating liability for the payment of an excess under a body corporate insurance policy. For example, where an event covered by the insurance policy affects only one lot, the legislation provides that the lot owner is liable to pay the excess, unless the body corporate decides it is unreasonable in all the circumstances for the owner to bear the liability.

Disclosure of insurance details

The body corporate must disclose information about each policy of insurance to lot owners in the notice of each annual general meeting. These details must include:

- the name of the insurer
- the amount of cover under the policy
- a summary of the type of cover under the policy
- the amount of the premium
- the date the cover expires.

The body corporate must, at each annual general meeting, consider a motion to review each insurance policy held by the body corporate.

The Office of the Commissioner for Body Corporate and Community Management (BCCM Office)

Phone (freecall):	1800 060 119
Email:	bccm@justice.qld.gov.au
Website:	**www.justice.qld.gov.au/bccm**
Street address:	Brisbane Magistrate's Court, Level 4, 363 George Street, Brisbane
Postal address:	GPO Box 1049, Brisbane Qld 4001

Copies of the *Body Corporate and Community Management Act 1997*, the regulation modules, and any amendments can be accessed for free via the Office of the Parliamentary Council by visiting:
www.legislation.qld.gov.au/Acts_SLs/Acts_SL.htm
Copies can be purchased online by visiting **www.bookshop.qld.gov.au**, or by contacting SDS Customer Service by phoning (07) 3883 8700 or 1800 801 123.

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this factsheet does not constitute legal advice. You are encouraged to obtain independent legal or financial advice if you are unsure of how these laws apply to your situation.