



# Effectively Manage your Body Corporate

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## About Pinnacle Strata and the Service Manual

Pinnacle Strata is a professional Body Corporate Management Company dedicated to providing exceptional service and value to our clients. We take a proactive approach to Body Corporate Management by providing expert management, financial services, problem solving and owner education. This “Service Manual” is designed to help you understand how a Body Corporate functions and the roles that various parties play in ensuring the Body Corporate operates smoothly, like a well-oiled machine. This manual provide general provisions for Bodies Corporate as a whole and, while they should provide useful information for use within your Body Corporate, we are happy to answer any specific queries you may have. You can contact our office via phone (07 5502 2888) or email ([info@pinnaclestrata.com.au](mailto:info@pinnaclestrata.com.au)) and we will happily answer any of your queries. Now, onto the Service Manual on how to Effectively Manager your Body Corporate.

### 1. What is a Body Corporate?

“Strata” is a word commonly used in all states of Australia and overseas to describe the subdivision of property into lots (which are individually owned) and common property (which is property and facilities shared by the owners). The language is different in different jurisdictions but the concepts are the same.

In Queensland, the “Body Corporate” is the legal entity created when the plan of subdivision is registered in the titles office. For a short time the original developer is the sole member of the Body Corporate. There are restrictions on what a developer can do during this time to avoid abuses of this power, which can work against future members of the Body Corporate.

The owners of the lots automatically become members of the Body Corporate on becoming an owner (it's like family—you don't get to choose). The owners remain members of the Body Corporate until they die or sell their lot, when the new owner becomes a member.

The purpose of the Body Corporate is to control, manage and maintain the common property. The common property is property that is not within a lot. The powers of a Body Corporate (and hence the Committee) are quite limited. They include enforcing the rules about the use of common property (by laws), collecting money from the owners to pay for the cost of repairs and maintenance of common property and other costs of running the Body Corporate, and keeping the records of the Body Corporate.

The Body Corporate must meet at least once a year for its Annual General Meeting. At the Annual General Meeting, a Committee is elected each year to administer the Body Corporate on a day to day basis and that's where you come in because you blinked and got yourself elected. Congratulations!

## **2. What is the Committee for the Body Corporate?**

Strata Titled developments are becoming more prevalent in Queensland and, as a result, more of us are being called upon to serve as members of Committees for bodies corporate.

The Committee for a Body Corporate is usually made up of volunteers that have an interest in the operation and management of their home or investment. This form of community service can be rewarding for people on a number of different levels. Firstly, it is an opportunity to get to know some of the people who live around you and who own property in common with you. Secondly, it is an opportunity to preserve and enhance the value of your property. Thirdly, and perhaps most importantly, it is an opportunity to help create a harmonious living environment.

Whatever your motivation, serving on a Committee for a Body Corporate can be a complex and daunting task. It is a role that carries with it the burden of responsibility and indeed personal liability for negligent acts and omissions. You will confront some challenging legal and accounting issues. However, the most difficult of all issues you will face will be the people issues.

As a member of the Committee for a Body Corporate you will be called on make decisions that affect the way people live their lives. These people will have different views about what you and other Committee Members are trying to achieve and you may be criticised for the way you are doing your job. The effectiveness of your Body Corporate Committee will be largely determined by the way you handle these people issues.

The basic rules when it comes to handling people in the context of strata titled developments are:

- understand the technicalities of what you are doing
- and be reasonable.

As to the technicalities of your role and responsibilities as Committee Members, it is important to know both your strengths and limitations. Our role, as Strata Managers, is to provide the Committee with expert support and advice on technical Body Corporate matters. Committee Members are not expected to know all of the answers and should seek professional and technical advice on areas outside their individual areas of expertise.

Reasonableness is difficult to quantify as it means different things to different people but it helps to put the concept in a relevant context. A Body Corporate is simply an entity to control some property you own in common with other people. Given that a Body Corporate's primary functions are to manage the common property, manage the by-laws and manage its finances, making reasonable decisions should be straightforward and not stressful.

### **3. How does the Committee work?**

The Committee on which you serve will be presided over by a Chairperson. The Committee has executive members, ordinary members and non voting members. The executive members are the Chairperson, secretary and treasurer. The significance of the executive roles is that the Committee may authorise the Body Corporate manager— that's us—to exercise some or all of the powers of an executive member. However, if we are authorised to exercise these powers, then the executive members can still exercise the power and may direct us how to use the power. The authorisation may also be revoked any time so we are on a pretty tight leash.

The non voting members are the Body Corporate manager and the caretaking service contractor. The caretaking service contractors are sometimes called management rights operators or resident managers and are the people or entities holding the long term rights to look after the common property (on a paid basis) for the Body Corporate. They also usually have the right to conduct onsite letting, a business by which the members of the Body Corporate who want to let their apartments may do so on a user-pays basis.

This brings us to an important point—the distinction between a Body Corporate manager and a resident manager. Basically a Body Corporate manager helps the Body Corporate Committee with the paper work and a resident manager helps with the building itself.

## 4. What are the powers of the Committee?

Most people make the mistake of thinking a Body Corporate functions like a company however, the operation, powers and management of a company and a Body Corporate are vastly different.

In a company the shareholders elect the board and the board elects the Chairperson. The board has the power and the shareholders have no real power other than to remove the board. The shareholders of some recently collapsed companies may think otherwise but generally this is regarded as a pretty sensible arrangement because companies can act quickly through a small number of people with power to make things happen.

A Body Corporate is exactly the opposite of a company in the way it operates. The real power is with the lot owners and is reserved for general meetings where all owners are invited to a meeting and may vote on issues. The Committee has limited powers—really just enough for them to implement the decisions of the Body Corporate made at general meetings. The Chairperson has virtually no power—quite simply this person just chairs the meetings.

This restriction on the powers of the Committee can frustrate some but must be understood and respected by all for the effective management of your Body Corporate. The restrictions on the Committee include dealing with matters which must go to a general meeting of lot owners.

For example—

- fixing levies
- changing rights, privileges or obligations of lot owners
- reversing previous decisions made in a general meeting
- starting court proceedings (except levy recovery and by-law contraventions), and
- issues requiring ordinary, special, majority or without dissent resolutions.

There are also restrictions on the powers of expenditure of the Committee. The limit is \$200 times the number of lots in the scheme. A Committee can only spend in excess of this if the expenditure has been previously authorised by a general meeting.

Typically, Committees will discuss issues relating to—

- building defects (particularly if the building is a new one)
- insurance claims (where knowledge of the difference between lots and common

property is important)

- correspondence (again in this area, a knowledge of the limits of the power of the Body Corporate is important)
- budgets and finances (ensuring the Body Corporate has enough money for its day to day functioning and its long term capital expenditure), and
- by-law enforcement (here it is important for Committees to be consistent and fair).

## **5. What happens at Committee Meetings?**

After a long days' work, you look forward to going home to put your feet up and relax, only to remember you had, for reasons that now escape you, agreed to be on the Committee for your Body Corporate and the next meeting is scheduled to start at 5:30 that evening. Committee meetings, if not run correctly, can be long and seemingly pointless affairs. However, if run correctly, you will begin to see the achievements and gain satisfaction in your role on the Committee.

Here are our suggestions for running an efficient and constructive Committee Meeting:

- Prepare meaningful agendas. A proforma agenda that thoughtlessly lists routine matters will not help people prepare their thoughts in advance. Spell out in the agenda what it is you want the meeting to decide and attach notes and letters which you want people to read beforehand. Your Chairperson can help us to plan the agenda for your Committee meetings.
- Read and digest the material circulated with the agenda BEFORE the meeting. It is sent to Committee Members for a reason. Committee Meetings are for making decisions, not reading.
- Start your meeting on time. If the meeting is scheduled for 5:30pm, start on the dot. People who arrive late will soon realise the Chairperson means business.
- End the meeting on time. Body Corporate meetings (or any meeting for that matter) should not go for more than 2 hours. If you state the time for it to end, then it will be more likely to end at this time.
- Hold your meeting at a time and place convenient to most members. You are always welcome to use our office both during and after business hours and our staff are happy to meet with you after hours if this is your preference.
- Be brisk. This is where a good Chairperson will make all the difference and will keep

the meeting buzzing along. Sometimes this means people will have to be told to keep it brief and maybe even to be quiet. This can be done in a courteous almost comedic way without hurting people's feelings.

- Have a balanced Committee comprised of people with different skills and different interests. Diversity is good for effective Committees. You will probably prefer a Committee of PLUs (people like us) but this might not be the best for your Body Corporate. Encourage a mix of letting owners and resident owners. As the Italians say, 'keep your friends close and your enemies closer'.
- Be realistic about what you will be able to achieve. Yours is a compulsory not-for-profit organisation that probably meets quarterly at best. Only take on matters which you must deal with by law and make sure you only pick the battles you can win. Don't be afraid to outsource duties to share the load, even if this costs a bit extra.
- Use teleconference facilities to include absentee owners who may wish to participate in the meeting. This is not as effective as face-to-face meetings but it is better than excluding someone because of distance or ill health.

Your Committee should meet as required. For larger complexes we recommend four meetings per year but smaller complexes may be able to confine their meetings to just one or two. Remember it is quality not quantity of meetings that counts.

Assuming you have four meetings, we recommend they be themed so your Committee deals with all the important matters at least once per annum as well as transacting any other business that may arise from meeting to meeting. The four themed meetings we recommend are as follows:

1. The induction Committee meeting—where new members are briefed by continuing members about the history of the Body Corporate and the way the Committee operates.
2. The service contracts review Committee meeting—where members review the terms of each of the service contracts for the Body Corporate and the performance of the service contractors.
3. The repairs and maintenance review Committee meeting—where members review issues relating to the physical condition of the common property of the Body Corporate.
4. The Budget Committee Meeting - where members prepare the budget ahead of the next annual general meeting for the Body Corporate and discuss the whole agenda of the

annual general meeting.

### **The Induction Meeting**

Continuity is important to the effective running of any organisation including bodies corporate. At the first Committee meeting following the annual general meeting, you should take the time to induct your new members.

Start with a simple get-to-know-each-other exercise. Have one of your continuing members lead off by telling the Committee a little about themselves, their life experience, why they joined the Committee. You might also invite people to briefly recount the best and worse experiences they have had as a Committee Member. This will help the Committee bond.

At the induction meeting you should also ensure all members, both continuing members and new members, have the following documents in their possession:

- A contact list for the members of the Committee with their name, address and contact details for each member together with our contact details.
- A copy of your community management statement (this will include the by-laws).
- A copy of our Body Corporate management agreement so the members can review at the outset of the Committee year what we do for your Body Corporate.
- A copy of your Body Corporate service contracts (usually this will comprise contracts for caretaking, letting, Body Corporate management, and perhaps lift maintenance and the like).
- A copy of the Act, but if members do not want to read the Act itself, then we recommend *A Layman's Guide to the Body Corporate and Community Management Act 1997* as a useful reference document. We will organise to purchase copies of this publication for your members on request.

### **The Service Contract Meeting**

The biggest ticket item on the budget of any Body Corporate with a resident manager will be the fee paid annually to this service provider for caretaking services. Even if your Body Corporate does not have a resident manager, chances are the cost of caretaking of the common property, including repairs and maintenance, will be a significant item of expenditure. Accordingly, at least once per year the Committee should review the service contracts for your Body Corporate.



This checklist will help you review the most significant of these contracts, your caretaking contract:

- Check the term is current. The contract will have a beginning date and an end date as well as options. Make sure you are not working to an out of date contract.
- Note the date by which the service contractor (caretaker) must exercise any option contained in the contract. Sometimes there are complicated periods of time in which these options must be exercised.
- If the service contractor does not strictly adhere to these timeframes, then the contract will be at an end and his or her rights will be lost.
- Calculate the correct amount to be paid and check you are not paying more or less than you should be. Most service contracts will start with an annual fee which is increased each year with reference to movements in the consumer price index or some other escalator.
- Read the document and check the service contractor is doing all the things the contract obliges him or her to do. It is surprising how often Committee Members and service contractors fail to read their service contracts. Often service contractors simply go about doing tasks in the way in which they always have been done or in the way in which their predecessors carried out their duties. You might be getting good value for money but, alternatively, you might find you are paying a significant sum to someone who is not doing everything he or she should according to the contract.
- Ask yourself whether the quality of the work is up to scratch. If not, then think about tactful ways to improve the standard of the services. A good point to remember when doing this is to provide positive feedback about things that are being done well at the time you raise the matter which could be improved. Doing this on a person-to-person basis is far more productive and less threatening to service contractors than issuing written directives.

### **Maintenance Review Meeting**

The physical condition of your common property is a very tangible measure of your success as a Body Corporate Committee.

Common property which is kept clean and in good repair will contribute significantly to the harmony of your strata community and will impress owners and their visitors. For letting owners, it will mean it is easier for them to find quality tenants.

New strata communities will need to attend to defects promptly to have these done at the cost of the original developer. An expert's report will be essential in having defective building work repaired.

Each three years we recommend Committees engage quantity surveyors to do a 10 year forecast for repairs and maintenance of common property. This will help the Body Corporate to save progressively for these items so the owners of the day pay their fair share of these costs rather than leaving the burden to future owners. Committees which do not do this run the risk of personal liability for negligence.

On a more regular basis your Body Corporate may wish to have a repairs and maintenance review conducted by a qualified builder. This will identify small and large matters that need urgent attention as well as non urgent matters that nevertheless need to be addressed to avoid unnecessary costs in the future, concrete cancer is a classic example. If detected early, then remedial work can be done which can avoid very significant costs which will be incurred if this condition is allowed to spread. If you have a resident manager, then it may be his or her responsibility to monitor these matters. If not, then speak with us and we will make a recommendation to you about somebody qualified to do this review on your behalf.

This is an area where a subCommittee of owners with appropriate qualification and skills can save the Body Corporate money. Remember that to co-opt someone onto a subCommittee does not mean they have to be a member of the Committee. In fact, some owners will prefer to contribute their skills in this way. This is a good technique for sharing the workload of the Committee.

### **Budget Meeting**

Seldom has any Committee been praised for increasing the budget for their Body Corporate. As the prices of petrol and labour steadily rise, members of your Body Corporate will unreasonably expect your Body Corporate levies to decrease not increase.

The truth about strata communities is that, as a general proposition, they do not spend sufficient money on the upkeep of their common property. Sometimes property owners should spend a little more to save a lot in the future.

The budget session of your Body Corporate Committee will usually be the last Committee meeting before your annual general meeting. At this meeting, we will prepare a draft budget for your consideration. This will draw on your actual expenses for the previous year and contain our estimates of the increases you will face in the coming year.

The capital expenditure budget (the sinking fund) is the easiest area to neglect. There are quite clear legal obligations upon the Committee to make sure the Body Corporate is properly advised about the adequacy of the sinking fund for future needs. Body Corporate Committees who neglect their responsibility in this area will be sued in the future by subsequent owners who have to disproportionately fund repairs and maintenance.

Beware of understating expenses. This can be tempting but leads only to frustration if the Body Corporate runs out of money mid year. If this happens, then you will be forced to convene an extraordinary general meeting to raise a special levy, this will not be popular and will reflect badly on the management of the Body Corporate by the incumbent Committee.

## **6. What should the Committee do about conflicts?**

Despite your best efforts as a Committee, conflict will arise in your strata community. This is a consequence of human nature and the fact that your members will have nothing in common except the ownership of some property. The way in which conflict is resolved in the strata community will be the difference between an effective Body Corporate and one which is unpleasant and dysfunctional.

Conflict in strata communities can be quite personal because often we are dealing with personalities and personal habits. Conflict in these communities can also be intense because it arises at the very centre of our personal life, our home.

Members of the Committee have an important role to play in managing conflict. As Committee Members you should be well-versed in simple conflict resolution techniques. An effectively run Committee which follows the principles set out in this guide is likely to preside over a strata community with less conflict than one which is thoughtlessly run on an unprofessional basis. More information on resolving conflicts will be available in an upcoming Service Manual.

## Useful terms

Here are some more terms you will encounter:

- **By-laws**—these are the rules about conduct in and around common property.
- **Levies**—a payment made usually on a quarterly basis by all owners towards the running costs of the Body Corporate including the upkeep of the common property.
- **Contribution entitlement**—this is a figure attached to each individual lot that determines your contribution to the levies and your voting power at meetings. These are set by the original developer and may be varied by a number of means specified under the Act.
- **Community management statement (CMS)**—this is the document that identifies the land on which your building or development stands, determines what are lots and what is common property and, among other things, contains the by-laws.
- **The Act**—this is the law that governs strata communities. In Queensland this is called the *Body Corporate and Community Management Act 1997*.
- **Regulation module**—this is the part of the Act that governs your type of strata community. There are different rules for different types of property. The standard module applies to most residential property. The accommodation module may apply when the apartments are primarily for investment. The commercial module may apply to commercial property.
- **Management rights**—these are the long term service contracts for the caretaking and letting services for your Body Corporate. Managers are also known as resident managers, RUMs, onsite managers and building managers. Under the Act they are called caretaking service contractors.