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## Research Brief

### Research and Information Service

**For** Ms Sandy Bolton, MP

**Attention** Dylan Hafey

**Request** Body corporates - contribution schedules

**Date** 17 April 2024

Thank you for your request as follows:

*This inquiry is regarding the Contribution Schedule for Body Corporates.*

*Are you able to confirm whether Queensland laws are different to other states in regard to below:*

*For Queensland and each other states:*

- What methods are used for establishing the contribution schedule or lot entitlements at the time the body corporate is established*
- What rules are used to determine the particular method used, or is a particular method compulsory*
- What method can be used to alter the contribution schedule/lot entitlements after the subdivision is made and the body corporate running*

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## Scope

Tables 1 – 6 below provide information regarding unit entitlements in each State, including:

- governing legislation
- description of lot entitlements
- setting lot entitlements
- requirements for setting
- adjusting lot entitlements.

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**Table 1 Queensland lot entitlements**

Queensland	
<b>Legislation</b>	<p>The development, operation and management of community titles schemes in Queensland are regulated primarily by the <a href="#">Body Corporate and Community Management Act 1997 (Qld)</a> (BCCMA) and 5 regulation modules.</p> <p>Lot entitlements are governed under <a href="#">chapter 2, part 5</a> of the BCCMA.</p>
<b>Lot entitlements</b>	<p>In Queensland lot entitlements in community titles schemes set out each owner's:<sup>1</sup></p> <ul style="list-style-type: none"> <li>• <i>body corporate costs and voting rights</i></li> <li>• <i>share of common property and other assets</i></li> <li>• <i>lot value for calculating government rates and other charges.</i></li> </ul> <p>There are 2 lot entitlement schedules:<sup>2</sup></p> <ul style="list-style-type: none"> <li>• contribution schedule</li> <li>• interest schedule</li> </ul>
<b>Setting lot entitlements</b>	<p>Lot entitlements are set by 'the original owner (the developer) when the community titles scheme is established'.<sup>3</sup></p> <p>Lot entitlement schedules are recorded in the community management statement.<sup>4</sup></p>
<b>Requirements for setting</b>	<p>When a lot entitlement is established the following principles must be followed:<sup>5</sup></p> <ul style="list-style-type: none"> <li>• contribution schedule lot entitlements: <ul style="list-style-type: none"> <li>○ equality principle; or</li> <li>○ relativity principle</li> </ul> </li> </ul>

<sup>1</sup> Queensland Government, [About lot entitlements](#), 7 February 2018.

<sup>2</sup> Queensland Government, [About lot entitlements](#), 7 February 2018.

<sup>3</sup> Queensland Government, [Setting lot entitlements](#), 7 February 2018.

<sup>4</sup> Queensland Government, [Setting lot entitlements](#), 7 February 2018.

<sup>5</sup> Queensland Government, [Setting lot entitlements](#), 7 February 2018.

- interest schedule lot entitlements:

- market value principle.

The Queensland Government provides the following summary for each principle:

- equality principle:

*Lot entitlements must be equal under the equality principle (except to the extent that it is just and equitable for them not to be equal)*

- relativity principle:

*Under the relativity principle, lot entitlements must consider the relationship between the lots according to a number of factors.*

*Factors include:*

- *how the scheme is structured*
- *the nature, features and characteristics of the lots*
- *what the lots are used for*
- *how each lot affects the costs of maintaining the common property*
- *the market value of each lot.*

- market value principle:

*The principle for deciding interest schedule lot entitlements is the market value principle except to the extent that it is just and equitable not to reflect the market value.*

*The community management statement must say whether the market value principle applies and if not, explain why.*

Relevant provisions of the BCCMA include:

- [s 46](#) - lot entitlements
- [s 46A](#) - principles for deciding contribution schedule lot entitlements
- [s 46B](#) - principle for deciding interest schedule lot entitlements.

## Queensland

### Adjusting lot entitlements

There are 3 ways to adjust the contribution schedule lot entitlements:<sup>6</sup>

- a vote is passed at a body corporate general meeting
- 2 or more lot owners agree
- a decision is made by a specialist adjudicator or the [Queensland Civil and Administrative Tribunal](#).

A body corporate can change 'the community management statement including its interest schedule lot entitlements by 'resolution without dissent', at a general meeting'.<sup>7</sup>

The change must be consistent with the market value principle.<sup>8</sup>

Relevant provisions of the BCCMA include [ss 47A – 51C](#).

For further information, please see:

- Queensland Government, [Adjusting lot entitlements](#), 29 May 2018.

**Table 2 New South Wales unit entitlements**

## New South Wales

### Legislation

In NSW strata schemes and unit entitlements are governed under the following legislation:

- [Strata Schemes Management Act 2015 \(NSW\)](#) (SSMA)
- [Strata Schemes Management Regulation 2016 \(NSW\)](#)
- [Strata Schemes Development Act 2015 \(NSW\)](#) (SSDA)
- [Strata Schemes Development Regulation 2016 \(NSW\)](#) (SSDR)

<sup>6</sup> Queensland Government, [Adjusting lot entitlements](#), 29 May 2018.

<sup>7</sup> Queensland Government, [Adjusting lot entitlements](#), 29 May 2018.

<sup>8</sup> Queensland Government, [Adjusting lot entitlements](#), 29 May 2018.

## New South Wales

<b>Unit entitlements</b>	<p>A unit entitlement is the number assigned to strata property and is based on its value in the scheme when the scheme was first registered.<sup>9</sup></p> <p>A unit entitlement is the:<sup>10</sup></p> <p><i>relative proportion of each lot owner's share in the strata scheme as a whole, and is the basis for the determination of levy contributions. The higher the value of the lot, the larger the unit entitlement, and the greater the contribution to levies will be.</i></p> <p>Unit entitlements determine an owner's:<sup>11</sup></p> <ul style="list-style-type: none"> <li>• strata levies</li> <li>• voting rights</li> <li>• interests in common property.</li> </ul>
<b>Setting unit entitlements</b>	<p>Unit entitlements for each lot are recorded on the strata plan.<sup>12</sup></p> <p>All strata schemes registered from 30 November 2016 'require their unit entitlements to be apportioned based on the market value of individual lots.'<sup>13</sup></p> <p>A qualified valuer must determine the unit entitlement when the strata scheme is established and must certify that the unit entitlement was apportioned in the way that the SSDA requires.<sup>14</sup></p>
<b>Requirements for setting</b>	<p><a href="#">Schedule 2</a> of the SSDA sets out the requirements for schedules of unit entitlement.</p> <p><a href="#">Section 7</a> of the SSDR supports the requirements of Schedule 2 of the SSDA and includes the following definition of market value basis for unit entitlements:</p> <p><i>the basis for determining the value of a lot or development lot is to estimate the amount for which the lot or development lot would be</i></p>

<sup>9</sup> New South Wales Government, [Strata levies, finances and insurance](#), 12 December 2023.

<sup>10</sup> New South Wales Government, [Strata Renewal Information Sheet](#), n.d., accessed 12 April 2024, p 3.

<sup>11</sup> NSW Land Registry Services, [Changes to unit entitlements](#), n.d., accessed 12 April 2024.

<sup>12</sup> New South Wales Government, [How to run a strata meeting](#), 12 December 2023.

<sup>13</sup> NSW Land Registry Services, [Changes to unit entitlements](#), n.d., accessed 12 April 2024.

<sup>14</sup> New South Wales., Land and Property Information, [Regulatory Impact Statement, Strata Schemes Development Regulation 2016](#), April 2016, p 4.

*sold by a willing but not anxious seller to a willing but not anxious buyer.*

The NSW Government provides that s 7 of the SSDR requires:<sup>15</sup>

*each lot in the scheme to be allocated a unit entitlement as a proportion of the aggregate unit entitlement for the scheme. Clause 7 requires a proposed schedule of unit entitlement to set out each lot in the scheme, except where a strata plan of subdivision subdivides a development lot. There, only the lots created by the subdivision need to be separately detailed. The clause also prescribes the “market value basis” that is to be used by the valuer when setting the unit entitlement for the scheme. The regulation uses a well-accepted definition of market value. It is consistent with the definition of market value used in clause 26. Determining the unit entitlement on the market value of each lot will allow for a fair unit entitlement to be set, based on a comparison between those values. To make sure the unit entitlement is up to date the valuation must be made no more than 2 months before the day on which the relevant plan is lodged for registration.*

#### **Adjusting unit entitlements**

[Section 236](#) of the SSMA provides that interested parties, including the owner’s corporation, individual lot owners, and local councils can apply to the NSW Civil and Administrative Tribunal for a reallocation of unit entitlements if they believe they are unfair.<sup>16</sup>

[Section 236\(1\)](#) of the SSMA provides:

*The Tribunal may, on application, make an order allocating unit entitlements among the lots that are subject to a strata scheme in the manner specified in the order if the Tribunal considers that the allocation of unit entitlements among the lots:*

*(a) was unreasonable when the strata plan was registered or when a strata plan of subdivision was registered, or*

*(b) was unreasonable when a revised schedule of unit entitlement was lodged at the conclusion of a development scheme, or*

*(c) became unreasonable because of a change in the permitted land use, being a change (for example, because of a rezoning) in the ways in which the whole or any part of the parcel could lawfully be used, whether with or without planning approval.*

<sup>15</sup> New South Wales., Land and Property Information, [Regulatory Impact Statement, Strata Schemes Development Regulation 2016](#), April 2016, p 4.

<sup>16</sup> NSW Land Registry Services, [Changes to unit entitlements](#), n.d., accessed 12 April 2024.

**Table 3 Victoria lot entitlements**

Victoria	
<b>Legislation</b>	<p>In Victoria owners corporations and lot entitlements are governed under the following legislation:</p> <ul style="list-style-type: none"> <li>• <a href="#">Owners Corporation Act 2006 (Vic)</a> (OCA)</li> <li>• <a href="#">Subdivision Act 1988 (Vic)</a>.</li> </ul>
<b>Lot entitlements</b>	<p>Lot entitlements and liabilities are set out in the plan of subdivision.<sup>17</sup></p> <p>The OCA contains the following definitions:<sup>18</sup></p> <ul style="list-style-type: none"> <li>• lot entitlements: <p><i>means a number specified in the plan as the lot entitlement for that lot, expressing the extent of the lot owner's interest in any common property affected by the owners corporation;</i></p> </li> <li>• lot liability: <p><i>means a number specified in the plan as the lot liability for that lot, expressing the proportion of the administrative and general expenses of the owners corporation which the lot owner is obliged to pay;</i></p> </li> </ul>
<b>Setting lot entitlements</b>	<p>The lot entitlements and liabilities are:<sup>19</sup></p> <p><i>determined by the developer in conjunction with the licensed surveyor before lodgment at Land Use Victoria, the basis of which must be described on the owners corporation additional information form.</i></p> <p><a href="#">Section 27EA</a> of the <i>Subdivision Act</i> provides that an initial owner must ‘engage a licensed surveyor to set out the initial allocation of lot liability and lot entitlement in the plan’.</p> <p><a href="#">Section 27F</a> of the <i>Subdivision Act</i> provides:</p> <p><i>(1) A plan providing for the creation of an owners corporation or for the merger of owners corporations must—</i></p> <p><i>(a) specify details of lot entitlement and lot liability; and</i></p>

<sup>17</sup> Victoria. Department of Transport and Planning, [Understanding owners corporations](#), 11 July 2023.

<sup>18</sup> [Owners Corporation Act 2006 \(Vic\)](#), s 3

<sup>19</sup> Victoria. Department of Transport and Planning, [Understanding owners corporations](#), 11 July 2023.



Victoria	
	<i>(b) be accompanied by a statement detailing how the lot entitlement and lot liability is allocated in accordance with subsection (4).</i>
<b>Requirements for setting</b>	<p><a href="#">Section 27F(4)</a> of the <i>Subdivision Act</i> outlines how lot entitlements and liabilities must be allocated.</p> <p>Consumer Affairs Victoria provided the following summary regarding setting lot entitlements and liabilities:<sup>20</sup></p> <ul style="list-style-type: none"> <li>lot liability: <p><i>Lot liability in a plan must be allocated equally between the lots except where:</i></p> <ul style="list-style-type: none"> <li><i>there is a substantial difference in the size of the lots. Lot liability must be determined by the size of the lot and the proportion that size bears to the total size area of the lots</i></li> <li><i>different lots have a bearing on the consumption or use of common utilities or the cost of maintaining the common property. Lot liability must be determined by the size of the lot and level of consumption or use by that lot of the common utilities and the common property.</i></li> <li><i>the number of occupiers in each lot has a greater bearing on the consumption or use of the common utilities or the cost of maintaining the common property than the size of the lot. Lot liability must be determined by the number of bedrooms in the lot.</i></li> </ul> </li> <li>lot entitlements: <p><i>Lot entitlement in the plan must be allocated on the basis of the market value of the lot and the proportion that value bears to the total market value of the lots.</i></p> </li> </ul>
<b>Adjusting lot entitlements</b>	<p>If there is a unanimous resolution to vary the lot entitlements and liabilities:<sup>21</sup></p> <p><i>an application to Land Use Victoria can be made at a later date to record the new lot entitlements and liabilities.</i></p> <p>See <a href="#">s 33</a> of the <i>Subdivision Act</i> governs how a lot entitlement and liability may altered and provides:</p>

<sup>20</sup> Consumer Affairs Victoria, [Developers' obligations to owners corporations](#), September 2019.

<sup>21</sup> Victoria. Department of Transport and Planning, [Understanding owners corporations](#), 11 July 2023.

Victoria	
	(2) In making any alteration to the lot entitlement or lot liability, the owners corporation must act in accordance with section 27F(4).

**Table 4 Tasmania unit entitlements**

Tasmania	
<b>Legislation</b>	<p>In Tasmania strata titles and unit entitlements are governed under the following legislation:</p> <ul style="list-style-type: none"> <li>• <a href="#">Strata Titles Act 1998 (Tas)</a> (STA)</li> </ul>
<b>Unit entitlements</b>	<p>Each lot on a strata plan has a unit entitlement:<sup>22</sup></p> <p><i>Unit entitlements determine a lot owner's rights and responsibilities in the strata scheme, including such things as voting rights, the lot owner's body corporate contribution, and the lot owner's share in the common property.</i></p> <p>In Tasmania there are 2 types of unit entitlements:<sup>23</sup></p> <ul style="list-style-type: none"> <li>• general unit entitlements: <p><i>All lots have a general unit entitlement which is set out in a schedule on the last page of the strata plan. These general unit entitlements apply for all purposes of the Act unless special unit entitlements apply for a particular purpose.</i></p> </li> <li>• special unit entitlements: <p><i>Some lots may have a special unit entitlement. Special unit entitlements allow differing circumstances to be taken into account, for example in a multi-storey development some lots may benefit from lift facilities and others may not. Whilst these lifts would form part of the common property only those lots which could use them would need to pay for such things as maintenance and upkeep. This would be achieved by means of a special unit entitlement.</i></p> </li> </ul>
<b>Setting unit entitlements</b>	<p>The unit entitlement of each lot are recorded on the strata plan when it is registered.<sup>24</sup></p>

<sup>22</sup> Tasmania, Department of Primary Industries and Water, [Strata Living in Tasmania](#), 2nd, February 2008, p 6.

<sup>23</sup> Tasmania, Department of Primary Industries and Water, [Strata Living in Tasmania](#), 2nd, February 2008, p 6; [Strata Titles Act 1998 \(Tas\)](#), s 16.

<sup>24</sup> [Strata Titles Act 1998 \(Tas\)](#), s 5.

Tasmania	
<b>Requirements for setting</b>	<p><a href="#">Section 16(6)</a> of the STA provides that unit entitlements ‘must be fixed on a fair and equitable basis’.</p> <p>The STA provides no guidance on the meaning of ‘fair and equitable basis’ or what should be considered when fixing unit entitlements.</p>
<b>Adjusting unit entitlements</b>	<p>Unit entitlement values can be changed by:<sup>25</sup></p> <ul style="list-style-type: none"> <li>• a unanimous resolution of the body corporate</li> <li>• an order by the Recorder of Titles.</li> </ul>

**Table 5 South Australia unit entitlements**

South Australia	
<b>Legislation</b>	<p>In South Australia strata titles and unit entitlements are governed under the following legislation:</p> <ul style="list-style-type: none"> <li>• <a href="#">Strata Titles Act 1988 (SA)</a> (STA).</li> </ul>
<b>Unit entitlements</b>	<p>Unit entitlements:<sup>26</sup></p> <p><i>determine the shares in which unit owners make monetary contributions to the strata corporation and are responsible for liabilities of the corporation and the shares in which the assets of the corporation are divided on cancellation.</i></p>
<b>Setting unit entitlements</b>	<p>A schedule of unit entitlements is annexed to the strata title plan.<sup>27</sup></p> <p>A unit entitlement sheet must be lodged with the relevant application under the STA and include:<sup>28</sup></p> <ul style="list-style-type: none"> <li>• <i>Schedule of Unit Entitlements</i></li> <li>• <i>Certificate of Land Valuer</i></li> </ul>

<sup>25</sup> [Strata Titles Act 1998 \(Tas\)](#), s 17.

<sup>26</sup> Land Services SA, [Guidance Notes: Unit Entitlement Sheet](#), n.d., accessed 10 April 2024, p 1.

<sup>27</sup> [Strata Titles Act 1988 \(SA\)](#), s 5(3).

<sup>28</sup> Land Services SA, [Guidance Notes: Unit Entitlement Sheet](#), n.d., accessed 10 April 2024, p 1.

## South Australia

	<p>A certified property valuer is required to:<sup>29</sup></p> <p><i>provide the entitlement sheet, which confirms the divisions of unit entitlements. This document is needed when setting up a strata scheme or to re-evaluate the current unit entitlements. This is prepared in accordance with the Strata Titles Act 1988.</i></p> <p>A unit entitlement sheet is required from an independent property valuer: including:</p> <ul style="list-style-type: none"> <li>• <i>During the creation of a strata scheme, such as for a new development or recently divided building</i></li> <li>• <i>In cases when the existing strata scheme needs an adjusted entitlement sheet due to developments or changes to the building</i></li> <li>• <i>In order to determine fair and accurate unit entitlements when a dispute occurs over a current division</i></li> </ul>
<b>Requirements for setting</b>	<p><a href="#">Section 6</a> of the STA provides:</p> <p><i>(1) The unit entitlement of a unit is a number assigned to the unit that bears in relation to the aggregate unit entitlements of all of the units defined on the relevant strata plan (within a tolerance of <math>\pm 10</math> per cent) the same proportion that the capital value of the unit bears to the aggregate capital value of all of the units.</i></p>
<b>Adjusting unit entitlements</b>	<p>Amendments to the schedule of unit entitlements may be made pursuant to:<sup>30</sup></p> <ul style="list-style-type: none"> <li>• a unanimous resolution of the Corporation under <a href="#">s 12(1)</a> of the STA</li> <li>• an Order of the Environment, Resources and Development Court under <a href="#">s 13</a> of the STA.</li> </ul> <p>Land Services SA provides the following regarding applications under s 12(1) of the STA:</p> <ul style="list-style-type: none"> <li>• <i>A land valuer's certificate, certifying that the schedule of unit entitlements is correct must be lodged with the form AP2SP...</i></li> <li>• <i>As the unit entitlements for a strata plan have changed a copy of the unanimous resolution, being a copy of the</i></li> </ul>

<sup>29</sup> Adelaide Property Valuers, [Adelaide Unit Entitlement Valuations](#), n.d., accessed 12 April 2024.

<sup>30</sup> Land Services SA, [Guidance Notes: Application for Amendment to Schedule of Unit Entitlements](#), n.d., accessed 10 April 2024, p 1.

South Australia	
	<i>minutes, certified by an officer of the Strata Corporation is to be attached to the AP2SP.</i>

**Table 6 Western Australia unit entitlements**

Western Australia	
<b>Legislation</b>	<p>In Western Australia strata titles and unit entitlements are governed under the following legislation:</p> <ul style="list-style-type: none"> <li>• <a href="#">Strata Titles Act 1985 (WA)</a> (STA).</li> <li>• <a href="#">Strata Titles (General) Regulations 2019 (WA)</a> (Regulations)</li> </ul>
<b>Unit entitlements</b>	<p>The unit entitlement of a lot determines:<sup>31</sup></p> <ul style="list-style-type: none"> <li>• the interest of the owner of the lot in the common property</li> <li>• the contributions payable by the owner of a lot</li> <li>• the voting rights that attach to the lot.</li> </ul>
<b>Setting lot entitlements</b>	<p>A schedule of unit entitlements, or an amendment of a schedule of unit entitlements must be prepared and certified by a licensed valuer.<sup>32</sup></p> <p>According to the Western Australian Government:<sup>33</sup></p> <p><i>Unit entitlement is set and certified by a licensed valuer. In a strata scheme, the unit entitlement of strata lots is calculated by reference to the capital value of each of the lots.</i></p>
<b>Requirements for setting</b>	<p><a href="#">Section s 37(2)</a> of the STA provides that when allocated:</p> <p><i>the proportion that a unit entitlement of a lot bears to the sum of the unit entitlements of all the lots in the strata titles scheme must not be greater than 5% more, or 5% less, than the proportion that the value of the lot bears to the sum of the value of all the lots in the strata titles scheme.</i></p> <p><a href="#">Part 7</a> of the Regulations prescribe matters relating to the determination of the value of a lot</p>

<sup>31</sup> [Strata Titles Act 1985 \(WA\)](#), s 37(1).

<sup>32</sup> [Strata Titles Act 1985 \(WA\)](#), s 37(5).

<sup>33</sup> Western Australia. Landgate, [Guide to Strata Titles](#), July 2022, p 10.

## Western Australia

### Adjusting lot entitlements

An amendment of a schedule of unit entitlements may only be registered:<sup>34</sup>

- due to an amendment of the scheme plan to give effect to a subdivision
- if the amendment is authorised by resolution without dissent of the strata company
- if the amendment is authorised by order of the State Administrative Tribunal.

Please do not hesitate to contact us if we can be of any further assistance.

### Research and Information Service

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<sup>34</sup> Western Australia. Landgate, [STP-10 Schedule of Unit Entitlements](#), 1 May 2020.

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