



BUILDING MANAGEMENT COMMITTEE (BMC) GUIDE

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INTRODUCTION

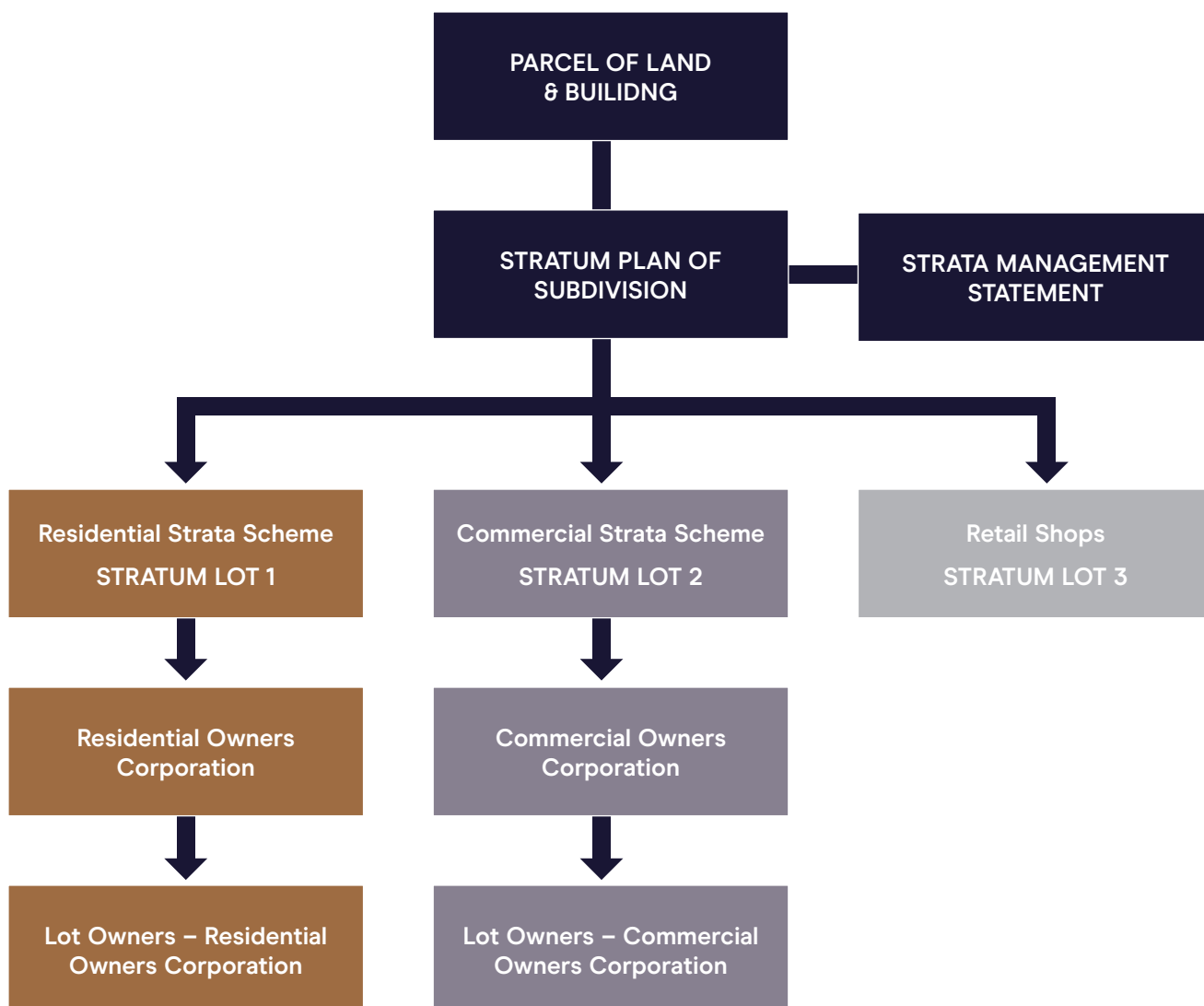
A BUILDING MANAGEMENT COMMITTEE (BMC) IS A POPULAR WAY OF SETTING UP A BUILDING WHEREBY MULTIPLE INDIVIDUAL ENTITIES OCCUPY A PARCEL OF LAND.

For example, a building may be a tower with a residential strata scheme occupying the upper 8 levels, with a separate retail strata scheme on Lower 2 levels. Each entity would have separate Owners Corporations however each contribute to the shared facilities within the building such as a shared lift, common foyer, car parking etc.

A BMC is a Stratum Subdivision (or Air Space/Vertical Subdivision) whereby the plans detail the horizontal boundaries as well as the height limits. The lots are known as 'Stratum Lots' which do not need have to a Strata Scheme involved (however often do) and are separated to define different component use areas, each component area can be owned by a different entity outside of an Owners Corporation structure. The example on the right would be a two (2) stratum lot development.



A BMC is typically referred to as the ‘upper tier’ of management, or an umbrella arrangement whereby the BMC oversees the site, an example of a BMC’s hierarchical structure is as follows:



PURPOSE OF A BMC

A BMC structure is typically used when different usage types occupy the same building. A BMC structure ensures that any operational decision which only affects one component is managed by that entity itself, whereas decisions affecting the shared facilities are made by the BMC. Each entity appoints a representative to attend BMC Meetings from time to time.

Each entity may have different goals, for example a residential owners corporation may aim to have a good quiet lifestyle and keep costs low, whereas a commercial and Retail owners corporation aim to maximise revenue, signage and patronage to their customers to add value to their businesses. Noise is less of an issue than with a residential property.

The main purpose of a BMC is to manage the shared infrastructure as well as maintain the architectural code of the development. A BMC does not have to have a strata scheme involved, however it is very common that they do. If a BMC does not have a strata scheme as a subsidiary, they simply have a Building Management Statement (BMS) which governs the site and details the responsibilities for each party and how they interrelate. In most cases where a strata scheme is involved, the BMS is morphed into a Strata Management Statement (SMS)

SHARED FACILITIES REGISTER

A BMC will have a Management Statement registered with the stratum plan that is accompanied with a list of shared facilities. A Strata Management Statement (also known as an 'SMS') or a Building Management Statement (also known as a 'BMS') are the primary governance tool for Building Management Committees. The management statement also contains what is known as the 'Shared Facilities Schedule' which identifies and allocates the shared costs within the building. An example of a shared facilities register is below:

Division of costs for shared Facilities

This schedule sets out the percentage of the total cost for each Shared Facility that each Member must pay.

No	Shared Facility	Lot 1 Supermarket	Lot 2 Retail	Residential Strata Scheme	Method of Dividing Costs
SF 1	Sewer Pump Station	20%	5%	75%	Estimate of Use
SF 2	Fire Stairs and egress paths	37%	8%	55%	Gross Floor Area
SF 3	Essential Fire Services	37%	8%	55%	Gross Floor Area
SF 4	Shared Driveways and Ramps	32%	6%	62%	Number of Car Spaces
SF 5	Garage Roller Door	32%	6%	62%	Number of Car Spaces
SF 6	Mechanical Risers	32%	6%	62%	Number of Car Spaces
SF 7	Electrical Switch Room	37%	8%	55%	Gross Floor Area
SF 8	Gas Meter Room	37%	8%	55%	Gross Floor Area
SF 9	Gutters and Downpipes	37%	8%	55%	Gross Floor Area
SF 10	Exterior Paintwork and Render	37%	8%	55%	Gross Floor Area
SF 11	Exterior Architectural/ Façade Embelishments	37%	8%	55%	Gross Floor Area
SF 12	Subsurface Drainage System and Stormwater	37%	8%	55%	Gross Floor Area
SF 13	Plant Rooms & Associated Equipment	37%	8%	55%	Gross Floor Area
SF 14	Insurance	24%	6%	70%	Replacement Cost
SF 15	Security Systems	37%	8%	55%	Gross Floor Area

The following items are normally detailed in a Shared Facilities Register:

- Shared facility number
- Shared facility description
- Shared facility detail (sometimes in a separate sheet)
- Percentage split of costs for each item
- All lots listed
- Method of dividing costs

The shared facilities register is generally prepared by a Quantity Surveyor and will explain the method of calculation. Quite simply the plans of the building are scrutinised, and any shared services are noted on a register. It is normally then the quantity surveyor's role to work out the best method to divide the costs and work out the percentage split between the stratum lots. The most common methods of allocation are:

a) GFA (Gross Floor Area)

The proportion of total GFA of each benefited stratum lot relative to the aggregate of total GFA of the benefitted stratum lots.

Example: Fire services throughout a building, hydraulic (plumbing) services.

b) Assessed Benefit/Estimated Usage

The percentage of estimated usage based on factors such as:

- Amount of people/estimated population per stratum
- Intended use of the shared facility
- Estimated consumption of each stratum

Example: Electricity, lift usage

c) Car Space Based Percentage

The proportion of the number of car spaces of the relevant stratum lot relative to the aggregate number of total car spaces in the car park.

Example: Garage doors, visitor parking, car park cleaning

d) Number of Lots Factor

The proportion of the number of lots within relevant stratum lot relative to the aggregate number of lots in all stratum lots.

Example: Strata management, building management, cleaning, pest control

e) Replacement Value Proportion

The proportion of the replacement value of each stratum lot.

Example: Building Insurance

BUDGETING

Similar to a Strata Scheme, a BMC is required to set an annual budget. The budget will include those items which appear in the list of shared facilities.

Once a budget is set for each item listed in the shared facilities register, the BMC then levy each separate entity in accordance with their share. For example, the table below displays a lift which is shared between three (3) entities:

Shared Facility	Lot 1 – Supermarket	Lot 2 – Retail Strata Scheme	Lot 3 – Residential Strata Scheme	Method of Dividing Costs
Lift	10%	20%	70%	Estimate of Usage

In this example, if a budget line item was set at \$5,000 to maintain the lift, each entity contributes as they benefit from using the lift. Their contribution to the aforementioned budget amount would be:

Shared Facility	Lot 1 – Supermarket	Lot 2 – Retail Strata Scheme	Lot 3 – Residential Strata Scheme	Method of Dividing Costs
Lift	10% of \$5000 = \$500	20% of \$5000 = \$1,000	70% of \$5,000 = \$3,500	Estimate of Usage

IMPORTANT NOTE: Those lot owners who live in a Strata Scheme that is part of a BMC, will note that the individual Strata Scheme's budget will include a line item which funds the BMC levies. For example, if an Owners Corporation contribute \$50,000 a year to the BMC, they will raise these funds in their administration fund budget in order to pay the BMC levies.

ARCHITECTURAL CODE

The Management Statement will detail the Architectural Code or 'theme' for the building. The primary reasons for having an Architectural Code and controlling building works and the external appearance of a building (which is a BMC) are:

- a) To preserve the design integrity and architectural quality of the building;
- b) To recognise the different requirements of the various entities within the site; and
- c) To uphold property values for the owners of the building.

Typically, the Architectural Code will outline the sorts of window treatments (blinds) a site should have, what sorts of landscaping or outdoor furniture is permitted, signage obligations, and so on.

MEETING REQUIREMENTS

A Management Statement will normally note the frequency of meetings that a BMC should hold each year i.e. Annually, bi-annually, quarterly etc. Typically, an annual meeting will be held to establish a budget for the coming year, as well as to confirm items such as building insurance, auditing requirements, confirmation of the previous year's financial documents and so on.

Throughout the year, there may be a need to hold additional meetings as required in the Management Statement. These meetings would generally deal with operational items that arise.

Each entity within the BMC appoint a representative (and sometime a substitute representative) who attend meetings of the BMC. The Strata Managing agent will normally issue meeting agendas to the representatives, those entities that involve strata schemes typically have their representatives seek direction from the Strata Committee on how to vote at the meetings.

Meeting notice periods differ from statement to statement, usually 5 or 10 business days' notice is normal. If the Management Statement is silent on key meeting criteria, Schedule 4 of the Strata Schemes Development Act 2015, Clause 5 lists 'Implied Provisions' as below:

Implied provisions

A strata management statement is taken to include the following provisions, except to the extent that it provides otherwise:

- (a) the building management committee must meet at least once a year,
- (b) at least 7 days' notice of a meeting must be given to each person who is a member of the committee (and notice may be given personally or by post or in any way any other notice may be given to the person under this Act),
- (c) the quorum for a meeting of the committee is a majority of the members,
- (d) the decision of a majority of the members present and voting at a meeting of the committee is the decision of the committee.

APPOINTMENT OF REPRESENTATIVES AND SUB-REPRESENTATIVES

To appoint a representative from a subsidiary Strata Scheme, a special resolution motion is required (at the respective Strata Scheme's general meeting). Some Management Statements allow for a substitute representative in the event that the main representative cannot make the meeting. Any person appointed by a subsidiary Strata Scheme must act in good faith, and represent the Owners Corporation, ordinarily instructions on how to vote would be sought from the Strata Committee.

DISPUTE RESOLUTION

Disputes in BMC's are dealt with differently to general strata disputes. The Management Statement will normally include the way in which disputes are to be resolved, generally advising that an independent arbitrator is required. Usually the process would look like this:

Step 1: The parties meet and attempt to resolve the dispute;

Step 2: The party with the dispute issues a dispute notice, noting:

- What the dispute is about;
- Identifying the provisions of the SMS that they are relying upon;
- Stating the position of the party;
- Setting out the facts that they are relying upon; &
- Attaching any evidence or facts that they are relying upon.

Step 3: Within a set time-frame (normally 5-10 business days) the parties will sit down and again try to resolve the dispute.

Step 4: Should step 3 fail, an independent arbitrator or expert is to be appointed and evidence of the dispute to be given to them. If the parties cannot agree on the expert, the statement may include a note of what industry body to seek assistance in order to appoint an expert.

Step 5: The expert/arbitrator would conduct investigations on the matter and make a determination on the matter which is binding on all parties.

BMC INSURANCES

A BMC is required to insure the building as a whole. The BMC is required to take out a building damage policy (replacement cost/sim insured) as well as any items noted in the Management Statement, notably public liability, voluntary works and any additional items required.

Each subsidiary Strata Scheme requires an ancillary policy which does not have any building damage element, however covers public (general) liability, office bearers (management committee) liability and so on, which is specific to the strata scheme only.

How are the BMC premiums split? I'm glad you asked.... Section 162 Clauses (1) & (2) of the Strata Schemes Management Act 2015 notes:

162 Insurance premiums where strata scheme is for part only of building

(1) This section applies if a requirement is imposed on an owners corporation for a strata scheme for part of a building and any other person to insure the building under a damage policy.

(2) The premium for a damage policy is to be paid by the owners corporation or other person according to the proportion that the replacement value of the part (or parts) of the building subject to the strata scheme or held in fee simple by the other person bears to the replacement value of the whole building.

Given this, you will note that BMC Shared Facility registers will note 'Valuation' or the like as the method of calculation for insurance premiums.

CHANGING OR ADDING TO A MANAGEMENT STATEMENT OR SHARED FACILITIES REGISTER

A Management Statement will outline the way in which parties can amend the statement and/or the shared facilities register. Whilst the resolution at BMC level may differ (ie. Ordinary or special resolution), there are requirements as set out in the Strata Schemes Development Act 2015 as follows:

Section 103 – Amendment of Strata Management Statement

- (1) A registered strata management statement may be amended only if the amendment is:
 - (a) supported by the following:
 - (i) a special resolution of the owners corporation of each strata scheme for part of the building,
 - (ii) each person in whom is vested an estate in fee simple in a part of the building or its site that is not included in a part strata parcel,
 - (iii) if the building is the subject of a leasehold strata scheme—each person in whom is vested a leasehold estate, recorded in a folio, in a part of the building or its site that is not included in a part strata parcel, or
 - (b) ordered under this Act or another Act by a court, or
 - (c) consequential on the revocation or modification, under section 103 of the Environmental Planning and Assessment Act 1979, of a planning approval.
- (2) An amendment of a strata management statement must be in the approved form and has effect under this Part only if it is recorded in the folio for:
 - (a) each owners corporation of a strata scheme for part of the building, and
 - (b) each part of the building or site that does not form part of a part strata parcel.

Further, any Management Statement amendment requires a special resolution by any subsidiary Strata Scheme(s) to be passed and submitted along with the minutes of the BMC meeting whereby the final decision is made. The documentation is submitted to Land Registry Services (LRS) to lodge a change.

It is important that when a statement is amended, the parties are clear on the process. Common amendments may include:

- Adding a shared facility;
- Amending the distribution of costs for a shared facility;
- Changing the type of resolution needed for a matter;
- Changing insurance requirements or processes;
- Changing voting rights (some BMC's move away from 1 vote each to the percentage split formula for certain matters);

When adding or amending the Shared Facilities Register, it is prudent that a quantity surveyor is involved to give a report on whether the percentage split between the parties is accurate for each shared facility. Additionally, the Strata Schemes Development Act 2015 requires a shared facility review every 5 years.

FIRE SERVICES

As you can imagine, where multiple entities share a building, the fire services are going to be integrated throughout the site and therefore are a BMC responsibility. The list of Shared Facilities will usually detail the apportionment of costs that each stratum lot pay towards the fire measures. It is also common that several fire apparatuses are separately listed on the register.

RULES

Much like a Strata Scheme, any BMC will have a set of rules (or By-Laws) that occupants MUST adhere to. These include items such as the keeping of animals, noise, parking and the like. Any subsidiary Strata Scheme must ensure that their individual By-Laws do not contradict those within the Management Statement.

CONCLUSION

As you will note from this information guide, there are many references back to the Management Statement, each BMC is different. BMC's are complex management structures and require careful management.

Should you have any questions about a BMC that you are a part of, feel free to contact Netstrata and speak with your Strata Manager.



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