

A guide to completing the *Conciliation Application Form*



The contents of this guide are designed to assist applicants in completing the *Conciliation Application Form*. Please read this guide carefully before completing the application form. The provision of all requested and relevant information will assist in processing your application with minimal delay. The section numbering of the guide corresponds to the section numbering in the *Conciliation Application Form*.

<p>Section 1 Body corporate / scheme information</p>	<p>In this section, please include:</p> <ul style="list-style-type: none"> the name of your body corporate scheme and its Community Titles Scheme Number (for example, <i>Seaview CTS 1234</i>) the physical / street address of the scheme (please <i>do not</i> include a PO Box address or the address of the appointed Body Corporate Manager) and the number of lots in the scheme and which regulation module is currently recorded on the community management statement for the scheme. (If you do not know which regulation module applies, please leave this field blank.) 															
<p>Section 2 Secretary's information</p>	<p>Please list the name, address and contact details for the secretary of your body corporate in this section.</p>															
<p>Section 3 Body corporate manager's information</p>	<p>Please include the name, address and contact details for the appointed body corporate manager of your body corporate (if your body corporate has appointed one).</p>															
<p>Section 4 (a) and (b) Applicant's information</p>	<p>4(a) Please include your information as the applicant:</p> <ul style="list-style-type: none"> your name* and preferred postal address and contact details the number of the lot of which you are the owner, or with which you are connected and the type of plan under which your scheme is registered (for example, Lot 5 in BUP 64037). <p>* If you are representing a party (including a corporation), then that party, or the corporation, should be named as the applicant and you should provide evidence of your authority to act on their behalf, or on behalf of the corporation.</p> <p>If the body corporate or the committee is the applicant, a copy of the minutes of meeting containing the resolution authorising the application should be provided.</p> <p>4(b) Ensure your application is within the BCCM Office's jurisdiction</p> <p>Your dispute must be within the jurisdiction of the BCCM Office (see table below) before it can be dealt with under the <i>Body Corporate and Community Management Act 1997</i> (the Act).</p> <p>Under section 227 of the Act, jurisdiction for a dispute exists only between a party mentioned in column one (the applicant) and a party mentioned in column two (the respondent), in each row:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">1. You are (the applicant):</th> <th style="width: 10%;"></th> <th style="width: 40%;">2. They are (the respondent):</th> </tr> </thead> <tbody> <tr> <td> <ul style="list-style-type: none"> an owner, or an occupier </td> <td style="text-align: center;">and</td> <td> <ul style="list-style-type: none"> another owner or occupier; or the body corporate </td> </tr> <tr> <td> <ul style="list-style-type: none"> the committee </td> <td style="text-align: center;">and</td> <td> <ul style="list-style-type: none"> a member of the committee </td> </tr> <tr> <td> <ul style="list-style-type: none"> the body corporate </td> <td style="text-align: center;">and</td> <td> <ul style="list-style-type: none"> an owner or occupier a member of the committee the body corporate manager the caretaking service contractor the letting agent a service contractor a former body corporate manager** </td> </tr> <tr> <td> <ul style="list-style-type: none"> a member of the committee the body corporate manager the caretaking service contractor the letting agent a service contractor </td> <td style="text-align: center;">and</td> <td> <ul style="list-style-type: none"> the body corporate </td> </tr> </tbody> </table> <p>(**limited to an application about the return of body corporate property)</p>	1. You are (the applicant):		2. They are (the respondent):	<ul style="list-style-type: none"> an owner, or an occupier 	and	<ul style="list-style-type: none"> another owner or occupier; or the body corporate 	<ul style="list-style-type: none"> the committee 	and	<ul style="list-style-type: none"> a member of the committee 	<ul style="list-style-type: none"> the body corporate 	and	<ul style="list-style-type: none"> an owner or occupier a member of the committee the body corporate manager the caretaking service contractor the letting agent a service contractor a former body corporate manager** 	<ul style="list-style-type: none"> a member of the committee the body corporate manager the caretaking service contractor the letting agent a service contractor 	and	<ul style="list-style-type: none"> the body corporate
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<p>Section 4(b) continued</p>	<p>In Item 4(b) of the application, please tick the basis on which you are making the application and note that your application will be checked for jurisdiction under the Act.</p> <p>Note: If your dispute is not between one of the combinations of parties specified under section 227 of the Act, your application will be rejected under section 241 of the Act as 'not within the jurisdiction of a dispute resolution officer', and you will not be allowed to proceed with your application.</p>
<p>Section 5 (a) (b) and (c)</p> <p>The respondent's information</p>	<p>5(a) Who is the respondent to your application? Please include the name and postal address and other contact details of the other party to your dispute (the respondent).</p> <p>5(b) jurisdiction - the capacity of the respondent Please tick the capacity of the respondent. Again, please note that your application will be checked for jurisdiction under the Act on the basis outlined in the table in Section 4.</p> <p>5(c) Persons affected by your application In addition to the respondent, please give the name and contact details of any other persons who might be affected by, or have an interest in the outcome, of your application. This might include:</p> <ul style="list-style-type: none"> • a particular person or persons (for example, an adjoining lot owner although this person is not the named respondent) • all owners and occupiers (if the outcome sought will affect all owners and occupiers generally, then write 'all owners') or • a specified class of owners or occupiers sufficient to identify them, if the outcome sought will affect a particular class of owner or occupiers (for example, the lot owners in the canal units or the lot owners who voted 'no' to the motion).
<p>Section 6</p> <p>What outcome are you seeking?</p>	<p>Please state the outcome which you consider would resolve the matter in dispute. This should be a succinct statement which indicates clearly what outcome you believe would reflect a satisfactory resolution of this dispute for you.</p> <p>Please note that in an application involving a contravention of a by-law, there are preliminary procedures (see the <i>By-laws Fact Sheet</i>) which must be complied with. Failure to comply with these procedures may result in a rejection of your application.</p>
<p>Section 7</p> <p>What attempts have you made to resolve this dispute with other parties?</p>	<p>The Act requires that you as the applicant must have attempted to resolve the dispute by internal dispute resolution (self resolution) before an application for conciliation can be made. For information on what constitutes self resolution and actions you might take to satisfy this requirement, please refer to the <i>Self Resolution Fact Sheet</i>.</p> <p>In the <i>Conciliation Application Form</i>, please specify what attempts you have made to resolve the dispute by internal dispute resolution (self resolution).</p>
<p>Section 8</p> <p>Background to your dispute</p>	<p>In the <i>Conciliation Application Form</i>, your background statement should be a <u>brief summary</u>, rather than a detailed chronological statement of your dispute. For example:</p> <p style="padding-left: 40px;"><i>My dispute concerns motion 7 passed at the extraordinary general meeting held on (date) (copy of minutes attached). I challenge this resolution because I do not believe it complies with the legislation due to a lack of proper notice of meeting, and that the motion is not fair and reasonable to me as an owner. In particular, my concerns regarding the motion are:</i></p> <ul style="list-style-type: none"> • <i>(include a list in dot point form of relevant concerns).</i> <p>In contrast to an adjudication application which requires an applicant to specify 'the grounds, in detail, on which the outcome is sought', in a conciliation application, an applicant is required to provide only 'a brief summary of the background to the dispute'. In conciliation, the conciliator is not a decision maker and consequently does not need to know in advance and in detail all issues in dispute. The difference is significant, and should your dispute proceed to adjudication, you will be required to complete an <i>Adjudication Application Form</i> providing a more detailed statement of the basis of your application (<i>BCCM Form 15</i>).</p>

Signing the application

You should note the requirements set out at Item 4(a) if you are signing the application form as a representative of a party, including a corporation, or on behalf of the Committee or Body Corporate as the applicant.

For individual applicants, each applicant must sign and date the application. An unsigned or undated application cannot be accepted.

Other matters an applicant should note

The conciliation process

Conciliation is a relatively informal and flexible process whereby parties to a dispute are assisted by an impartial conciliator to achieve a mutually agreed resolution of their dispute, thus avoiding the requirement for adjudication of the dispute. The conciliator will have knowledge of both the Body Corporate and Community Management legislation and previous determinations of departmental adjudicators.

For more detailed information, please refer to the *Self Resolution Fact Sheet* and the *Conciliation Fact Sheet*.

Practice directions

The Commissioner issues practice directions providing more detailed information on the policies and processes applying to dispute resolution applications. Practice directions are available from the Commissioner's Office website.

Disputes not appropriate for conciliation

The Commissioner may reject a conciliation application if they are satisfied the dispute is not appropriate for department conciliation. In these circumstances an application for adjudication may be made. Possible examples might include:

- where the body corporate is making an application to change its financial year date
- where the applicant is the sole owner of all lots in the scheme and an order is sought for appointment of an administrator to convene a general meeting and
- where the dispute concerns the adjustment of lot entitlement schedules, or is a contractual matter as defined in Schedule 6 of the Act.

Accurate information

A full copy of your conciliation application form will be provided to the respondent listed on your application. It is your responsibility as the applicant to ensure the accuracy of the information provided and to ensure that the information is not defamatory of the respondent or other persons. Please refer to sections 297 and 298 of the Act in respect of providing false or misleading information / documents to the Commissioner or an adjudicator.

Application fee

The application fee under the Act for a conciliation application is currently \$65.00.

Further assistance

For general information related to **Body Corporate and Community Management** legislation, contact the Office of the Commissioner for Body Corporate and Community Management Information Service on:

Freecall: 1800 060 119
Email address: bccm@justice.qld.gov.au
Website: www.justice.qld.gov.au/bccm
Location: Level 4,
Brisbane Magistrate's Court
363 George Street
Brisbane QLD 4000
Postal address: GPO Box 1049, Brisbane QLD
4001

For **Land Titles** enquiries including information on the community management statement for your scheme, or the BUP / GTP / SP no. of your scheme, contact the **Registrar of Titles**.

Enquiries: (07) 3405 6900
Service centre: (07) 3227 6626
Location: Level 11, 53 Albert Street,
Brisbane QLD 4000
Postal address: GPO Box 1401, Brisbane QLD
4001

For details of the **Secretary or Body Corporate Manager** for your scheme, you should refer to the contents of minutes of meetings and other information previously sent to you as an owner

Disclaimer

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this fact sheet 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.

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