

Conciliation Application

Guide and Form 22

Form 22 guide

The contents of this guide are designed to assist applicants in completing the *Conciliation Application Form* (form 22). Please read this guide carefully before completing the form 22. The section numbering of the guide corresponds to the section numbering in the form 22.

Accurate information

A copy of your *Conciliation Application Form* and any attachments will be provided to other parties listed on your application, for example, the respondent, affected parties or the body corporate manager (BCM). 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 any other persons. Please refer to sections 297 and 298 of the [Body Corporate and Community Management Act 1997](#) (the Act) in respect of providing false or misleading information/documents to the commissioner.

If all relevant information is not provided section 240 of the Act provides for the commissioner and/or the commissioner's delegate to request further information from you to meet the legislative requirements of the Act.

Practice directions and fact sheets

The commissioner issues practice directions and fact sheets which provide more detailed information on the policies and processes applying to dispute resolution applications. Practice directions and fact sheets are available on the BCCM website under the heading [Forms & Publications](#).

Checklist



- Have you arranged payment of the prescribed fee?
(See our website for [current application fees](#)).
- Have you named the correct party as the applicant and respondent?
(Refer sections 4 and 5 below for further information)
- Have you attempted to resolve the dispute with the respondent yourself?
(See the [Self Resolution Fact Sheet](#))
- Have you attached documents necessary to satisfy evidence of self resolution?
- Have all the applicants signed and dated the form?
- Have you completed all sections on the application form?

<p>Section 1</p> <p>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 (CTS) (for example, <i>Seaview CTS 1234</i>); the physical / street address of the scheme (please do not include a PO Box address or the address of the appointed body corporate manager (BCM)); and the number of lots in the scheme and which regulation module is currently recorded on the community management statement (CMS) for the scheme. (If you do not know which regulation module applies, please leave this field blank.) <p>Note: For a copy of your scheme's CMS, the CTS number and details of the plan types and numbers contact the Land Titles Registry on 13 QGOV (13 74 68).</p>
<p>Section 2</p> <p>Secretary's information</p>	<p>Please list the name, address and contact details for the elected secretary of your body corporate in this section. This information is required as the secretary may be contacted by the BCCM Office after the lodgment of the application.</p> <p>Further contact details such as address and telephone numbers can be obtained by making a written request to the body corporate and paying the prescribed fee. Please review the fact sheet titled Body Corporate Records and <i>section 205</i> of the Act.</p>
<p>Section 3</p> <p>Body corporate manager's information</p>	<p>Please include the name, address and contact details for the appointed BCM of your body corporate (if your body corporate has appointed one). For details of the BCM for your scheme you should refer to the contents of minutes of meetings or other information previously sent to you as an owner.</p> <p>If your body corporate has not appointed a BCM please indicate this on the form by writing 'self managed'.</p>
<p>Section 4 (a) and (b)</p> <p>Applicant's information</p>	<p>Section 4(a):</p> <p>Owner and/or occupier is the applicant</p> <ul style="list-style-type: none"> your name, preferred postal address and contact details; and the number of the lot you are the owner or occupier of; and the type of plan under which your scheme is registered. Examples; Building Format Plan (BFP) previously known as Building Unit Plan (BUP) or Standard Format Plan (SFP) previously known as Group Title Plan (GTP); and if you are representing a company, organisation or corporation then you should name this entity as the applicant. This may include a caretaking service contractor, letting agent or a service contractor. <p>Note: If you are applying as the owner of a lot, the owner's details must match those details recorded with the Land Titles Registry. If you are not the registered owner and you wish to make an application as the owner you must provide evidence that you are entitled to make an application as the owner of the lot (<i>section 183 Land Titles Act 1994</i> and the meaning of 'owner' in <i>Schedule 6 Dictionary, Act</i>).</p> <p>Body corporate or committee is the applicant</p> <ul style="list-style-type: none"> The body corporate for Seaview; or The body corporate committee for Seaview. <p>Note: Please do not enter the details of an individual committee member as the applicant. Your application may be rejected under <i>section 241</i> of the Act if your dispute is not between one of the combinations as listed in section 5(a) of this guide. If the body corporate or the committee is the applicant, a copy of the minutes of meeting containing the resolution authorising the application <u>must</u> be provided.</p> <p>Section 4(b)</p> <p>Tick the capacity in which you are making the application. For example, if you are applying as an owner, tick the box next to the owner. If you are an owner/occupier you may tick both the owner and the occupier boxes.</p>

<p>Section 5(a)</p> <p>Respondent's information</p>	<p>Naming the respondent Please include the name, postal address and contact details of the other party to your dispute (the respondent).</p> <p>Your dispute must be within the jurisdiction of the BCCM Office (see table below) before it can be dealt with under the Act. Under <i>section 2 27</i> 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" data-bbox="448 434 1433 947"> <tr> <td data-bbox="448 434 890 528"> <p>1. You are (the applicant):</p> <ul style="list-style-type: none"> • an owner, or • an occupier </td> <td data-bbox="890 434 986 528">and</td> <td data-bbox="986 434 1433 528"> <p>2. They are (the respondent):</p> <ul style="list-style-type: none"> • another owner or occupier; or • the body corporate </td> </tr> <tr> <td data-bbox="448 528 890 562"> <ul style="list-style-type: none"> • the committee </td> <td data-bbox="890 528 986 562">and</td> <td data-bbox="986 528 1433 562"> <ul style="list-style-type: none"> • a member of the committee </td> </tr> <tr> <td data-bbox="448 562 890 595"> <ul style="list-style-type: none"> • a member of the committee </td> <td data-bbox="890 562 986 595">and</td> <td data-bbox="986 562 1433 595"> <ul style="list-style-type: none"> • the committee </td> </tr> <tr> <td data-bbox="448 595 890 801"> <ul style="list-style-type: none"> • the body corporate </td> <td data-bbox="890 595 986 801">and</td> <td data-bbox="986 595 1433 801"> <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 data-bbox="448 801 890 947"> <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 data-bbox="890 801 986 947">and</td> <td data-bbox="986 801 1433 947"> <ul style="list-style-type: none"> • the body corporate </td> </tr> </table> <p>(**limited to an application about the return of body corporate property)</p> <p>For example, an owner or occupier may lodge an application against another owner/occupier or the body corporate, but an owner or occupier may not lodge an application directly against the body corporate committee or the body corporate manager.</p> <p>Note: Your application will be rejected under <i>section 241</i> of the Act if your dispute is not between one of the combinations as listed above.</p>	<p>1. You are (the applicant):</p> <ul style="list-style-type: none"> • an owner, or • an occupier 	and	<p>2. They are (the respondent):</p> <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"> • a member of the committee 	and	<ul style="list-style-type: none"> • 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
<p>1. You are (the applicant):</p> <ul style="list-style-type: none"> • an owner, or • an occupier 	and	<p>2. They are (the respondent):</p> <ul style="list-style-type: none"> • another owner or occupier; or • the body corporate 														
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<p>Section 5(b)</p> <p>Capacity of the respondent</p> <p>Section 5(c)</p> <p>Affected parties</p>	<p>Section 5(b) Please tick the appropriate box to state the capacity of the respondent.</p> <p>Section 5(c) In addition to the respondent, please give the name and contact details of any other person(s) who may be affected by, or have an interest in the outcome, of your application. For example:</p> <ul style="list-style-type: none"> • a particular person or persons in an adjoining lot; or • if you are an occupier of a lot you may like to nominate the owner of your lot as an affected party. <p>Note: If details of an affected party are provided they may be invited to participate in the conciliation session if the conciliator is satisfied the person may help to resolve the dispute.</p>															
<p>Section 6</p> <p>Evidence of self resolution with the respondent</p>	<p>One of the requirements of the Act is that an applicant <u>must</u> attempt to resolve their dispute with the other party <u>prior</u> to bringing an application to this office. Accordingly, an applicant must demonstrate their attempts to achieve self resolution by providing any relevant documentation as attachments to the form 22, making reference to the attachments at section 8 on the form 22. Relevant documentation may include copies of:</p> <ul style="list-style-type: none"> • body corporate committee minutes or general meeting minutes; • emails or letters between the applicant and the respondent; and • copies of any contravention notices issued. <p>The legislation sets out preliminary procedures for applications seeking to enforce body corporate by-laws (<i>sections 184-186</i> of the Act). Practice Direction 6 provides further information on the policies and procedures relating to by-law breaches.</p>															

<p>Section 7</p> <p>What outcome are you seeking?</p>	<p>The BCCM Office can only deal with disputes that fall within its jurisdiction. These are primarily disputes about rights and obligations under the Act or a body corporate's CMS.</p> <p>You must specify the outcomes sought by clearly and concisely stating the specific action that you would like the respondent to take, or cease, in order to resolve the dispute. For example, if you are an owner or occupier seeking approval to keep a pet on your lot and the body corporate have not approved your written request to keep your pet, then your outcome might be:</p> <ul style="list-style-type: none"> • I would like the body corporate to grant me approval to keep my pet 'Cindy' on my lot; or alternatively • I dispute the decision of the body corporate made at a committee meeting on 16/02/2013 to not give me approval for the keeping of my pet as I believe they have acted unreasonably.
<p>Section 8</p> <p>Background to your Dispute?</p>	<p><i>Section 239A</i> of the Act requires the applicant to provide a brief summary of the background to the dispute. You are required to provide grounds for <u>each</u> outcome sought outlining:</p> <ul style="list-style-type: none"> • a brief timeline/history of the dispute also outlining what you think the respondent should do to resolve the dispute; and • on what basis you consider that you are entitled to the outcome sought; and • if you believe the respondent is in breach of the Act and/or by-laws then you must state how you believe the respondent has breached, or is continuing to breach, the Act and/or by-laws.

Signing the application

You should note the requirements set out in **Section 4(a)** of this guide 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. Evidence of authority to sign on behalf of the named applicant must be provided. **If the applicant is the body corporate, a committee or general meeting resolution must be included with the application.**

For individual applications, 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 the body corporate legislation and previous adjudicator's decisions.

For more detailed information, please refer to the [Self Resolution Fact Sheet](#) and the [Conciliation Fact Sheet](#).

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 can be made (Please refer to [Practice Direction 9](#)). Possible examples might include:

- where the body corporate is making an application to change its financial year end 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 entitlements schedules, or is a contractual matter as defined in Schedule 6 of the Act.

Further assistance

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

Freecall: 1800 060 119

Email address: bccm@justice.qld.gov.au

Website: www.justice.qld.gov.au/bccm

Postal address: GPO Box 1049, Brisbane QLD 4001

For **Land Titles** enquiries including information on the community management statement, registrations and plans contact the Land Titles Registry on:

Enquiries: 13 QGOV (13 74 68)

Service Centre: 13 QGOV (13 74 68)

Location: Level 11, 53 Albert Street, Brisbane QLD 4000

Postal address: GPO Box 1401, Brisbane QLD 4001

IMPORTANT INFORMATION REGARDING PRIVACY AND ACCESS TO PERSONAL INFORMATION ABOUT AN INDIVIDUAL

Individuals contemplating lodging a conciliation application should be aware that a department conciliator is authorised to disclose information to other persons in accordance with the following provisions of the *Body Corporate and Community Management Act 1997* ("the Act").

Under *section 252B* of the Act the functions of a department conciliator include promoting the parties' open exchange of information relevant to the dispute.

Section 252E of the Act further provides that the department conciliation session must be conducted in the way the department conciliator considers appropriate. Pursuant to *section 252E* the department conciliator, as the department conciliator considers appropriate, may accept written material from any person and distribute written material to any person for the purpose of the conciliation. In addition a person who is not a party to the application may attend and take part in the department conciliation session.

The effect of the above provisions is to **authorise** the department conciliator to disclose the contents of a conciliation application - which may contain personal information - to parties to the dispute and to other relevant persons. While the Office of the Commissioner for Body Corporate and Community Management is bound by the *Information Privacy Act 2009*, which imposes obligations on Queensland government agencies in respect of the collection, storage, use and disclosure of personal information, disclosure of personal information in accordance with the above provision does not breach the *Information Privacy Act 2009* as such disclosure "**is authorised or required under a law**".

A person lodging a conciliation application with this Office is therefore responsible for ensuring that the documentation provided contains only information which the person is prepared to have made available to other persons.

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.

If all relevant and accurate information is not provided in the application *section 240* of the Act provides for the commissioner and/or the commissioner's delegate to request further information to meet the legislative requirements of the Act. If further information is requested your application may not proceed until such time as the information has been provided.

<p>Section 4(b)</p> <p>Are you applying as?</p> <p>Refer to guide and <i>section 227</i> of the Act</p>	<p><input type="checkbox"/> an owner</p> <p><input type="checkbox"/> the body corporate</p> <p><input type="checkbox"/> the committee</p> <p><input type="checkbox"/> letting agent</p> <p><input type="checkbox"/> service contractor</p> <p><input type="checkbox"/> an occupier</p> <p><input type="checkbox"/> the body corporate manager</p> <p><input type="checkbox"/> a committee member</p> <p><input type="checkbox"/> caretaking service contractor</p>
<p>Section 5(a)</p> <p>Respondent's information</p> <p>Refer to guide</p>	<p>Name</p> <p>Address</p> <p>Locality / Suburb</p> <p>Daytime phone</p> <p>Mobile</p> <p>Email</p> <p>State</p> <p>Home phone</p> <p>Fax</p> <p>Postcode</p>
<p>Section 5(b)</p> <p>Is the respondent?</p> <p>Refer to guide and <i>section 227</i> of the Act</p>	<p><input type="checkbox"/> an owner</p> <p><input type="checkbox"/> the body corporate</p> <p><input type="checkbox"/> the committee</p> <p><input type="checkbox"/> letting agent</p> <p><input type="checkbox"/> service contractor</p> <p><input type="checkbox"/> an occupier</p> <p><input type="checkbox"/> the body corporate manager</p> <p><input type="checkbox"/> a committee member</p> <p><input type="checkbox"/> caretaking service contractor</p>
<p>Section 5(c)</p> <p>Are other persons affected by the outcome sought by you?</p> <p>Refer to guide</p>	<p><input type="checkbox"/> Yes (<i>provide details below or attached</i>)</p> <p><input type="checkbox"/> No</p>
<p>Section 6</p> <p>What attempts have you made to resolve your dispute by internal dispute resolution with the other parties?</p> <p>Your application may be rejected if you have not attempted internal dispute resolution</p> <p>Please attach supporting documentation</p>	

<p>Section 7</p> <p>What outcome are you seeking?</p> <p>If insufficient space on this page attach detailed outcomes sought on an A4 page under the heading -</p> <p>7. Outcome sought</p>	
<p>Section 8</p> <p>Background to your dispute</p> <p>What are your reasons for making your application? Provide full details here</p> <p>If insufficient space on this page attach concise and relevant details of the background to the dispute on an A4 page under the heading –</p> <p>8. Grounds</p>	

Warning: Sections 297 and 298 of the *Body Corporate and Community Management Act* (the Act) provide that it is an offence for a person to supply false or misleading information or documents in relation to an application.

The information requested in this form is collected under the authority of the Act. Information in the application and any attachments will be disclosed to other parties in the dispute (Please refer to the Privacy Statement located in the guide to the *conciliation application* for further information). It is collected for the purpose of resolving disputes under the Act and for providing information to the community.

I believe the information given in this application to be true.

Signature _____ **Date** _____

Signature _____ **Date** _____

Note: Each applicant must sign the application. An unsigned or undated application cannot be accepted. If the applicant is a corporation, this form may be signed by a person authorised by the corporation to act on its behalf, and must be accompanied by evidence of authorisation. Additional A4 pages may be attached.

If the applicant is a body corporate, a copy of minutes containing the resolution authorising the application must be provided.

APPLICATION FEE: See our website for [current application fees](#).