

Clarification

The information provided below has been sourced from – Titles Qld – REIQ and BCCM Act 1997 Qld

Covenants

In new Estate developments there are very often Covenants – there is no requirement to have a Body Corporate for a Covenant to exist.

General Law states;

A covenant is a voluntary agreement that creates an obligation by a deed entered into by the parties. Covenants may be of a positive nature in that they require the performance of an action. They may also be negative or restrictive, that is one of the parties is forbidden from undertaking or performing a specified action.

Most Estate Building Covenants are Restrictive.

Covenants – referred to as ‘estate covenants’ in housing estates – place restrictions on how a home owner can use or alter their property. Covenants are known as Architectural Guidelines at PHGCC.

They can relate to big picture things like the number of homes on a block or the style of house or finer details, such as the type of fence or letterbox allowed. Since 1 January 2010, covenants and body corporate by-laws have been prevented from: requiring specific design elements **in** houses, townhouses, units or enclosed garages. Householders and builders have been able to benefit from greater choice of sustainable building features and designs including: efficient floor areas.

Covenants are legally binding **and can be enforced by local councils**. However, there may be something in the PHGCC Development Approval documentation that requires the Developer to undertake some or all of the Covenant enforcement role?

Covenants are not developed or enforceable by a Body Corporate

By Laws

By-laws allow a body corporate to control things like common property and assets.

By-laws are a set of rules that a body corporate makes to control and manage:

- the common property
- body corporate assets
- services and facilities provided by the body corporate
- the use of lots.

A body corporate can choose to adopt the standard by-laws that are set out in Schedule 4 of the *Body Corporate and Community Management Act 1997* (QLD) or it can make its own.

The by-laws for a body corporate are in the community management statement which is recorded for each community titles scheme.

The body corporate committee may want to give copies of the by-laws to owners and occupiers, so they know their rights and responsibilities.

A body corporate can make new by-laws, or change its existing ones at any time.

To do this a body corporate must pass a motion to record a new community management statement that includes changes to the by-laws.

Lifestyle Inspections

An invention of the PHGCC Developers and/or PBC of PHGCC

Not referred to in the Body Corporate and Community Management Act 1997 (Qld).