



## Notice of termination resolution

*Body Corporate and Community Management Act 1997, section 81L*

This form is effective from 21 June 2024

# IMPORTANT PLEASE READ

Please ensure that you carefully consider the contents of this form

### Why are you receiving this form?

You are receiving this form because you are an interested party for a community titles scheme that has recently considered a motion for a termination resolution. A termination resolution is a resolution to implement the terms of a termination plan in order to terminate the scheme.

### What is termination for economic reasons?

Termination for economic reasons is a process allowing a body corporate to pass a **termination resolution** (75% of all lot owners must vote in favour) to sell the scheme and all its lots in accordance with a **termination plan**.

### Key things to know about the process:

To terminate for economic reasons, the body corporate must first pass an **economic reasons resolution** (by majority resolution) that there are **economic reasons for termination**. This decision must be based on independently sourced expert information in a **pre-termination report**.

#### **Economic reasons for termination** are:

- if all of the lots included in the scheme are used for a commercial purpose—that it is not economically viable for the scheme to continue
- or-
- that it is not, or will not be (within 5 years), economically viable for the body corporate for the scheme to carry out repairs and maintenance to any property or assets the body corporate must maintain in good or structurally sound condition.

The body corporate must also pass a **termination plan resolution** to prepare a termination plan, and give a notice (BCCM form 29) to lot owners and other relevant persons advising of the resolution.

After preparing a termination plan, the body corporate may pass a termination resolution to implement the terms of a termination plan (75% of all lot owners must vote in favour). The **termination plan** will include a range of information about the termination, including how assets and liabilities of the body corporate and proceeds of the sale of the scheme will be distributed for each lot.

The termination plan will also include information about how the interests of a lessee that will extend past the proposed sale of the scheme will be compensated by the lessor.

The body corporate must appoint an independent **facilitator** to implement the termination plan.

### What should you do now?

Thoroughly review this form along with the information in the termination plan to understand what the body corporate's decision on a motion to terminate means for you.

You have 90 days from when you are given this form to apply for an order of the District Court about a termination plan (unless the court allows an application after that date, at its discretion). See below for further information about applying to the District Court for an order.

You are strongly advised to seek legal advice if you have concerns about the body corporate's decision about the termination plan, or your rights and obligations under the termination plan.

## Section 1 – Relevant person or entity details

Name: .....

Address: .....

Locality / Suburb: ..... State: ..... Postcode: .....

Lot on plan description: .....

## Section 2 – Scheme details

Name: .....

Community titles scheme (CTS) number: .....

Address: .....

Locality / Suburb: ..... State: **QLD** ..... Postcode: .....

Plan description: .....

## Section 3 – Required notice

The body corporate for the community titles scheme described in section 2 hereby advises that within the last 2 weeks a motion for a termination resolution was considered. The outcome of the motion is advised in section 4.

## Section 4 – Resolution details

Date resolution made:

Resolution outcome:     Passed     Not passed

Termination plan:        Attached     Link provided

## Section 5 – Description of lot owner and lessee obligations

## Guide to completing and understanding the notice of termination resolution form

The contents of this guide are designed to assist in the completion and understanding of the notice of termination resolution form (BCCM form 30). Please read this guide carefully. The section number of the guide corresponds to the section numbering in the form.

<b>Section 1</b>  <b>Relevant person or entity details</b>	Relevant person or entity means-  (a) each owner and registered mortgagee of a lot (b) each person whose leasehold interest in a lot, or other scheme land, is created by a lease or sublease for a term of 6 months or more (c) the caretaking service contractor (d) the letting agent.  <i>continued over page</i>
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<p><b>Section 1 cont.</b></p>	<p>If the motion is <b>passed (see section 4)</b>, the body corporate must also give a copy of this form to the following entities –</p> <ul style="list-style-type: none"> <li>(a) the registrar*</li> <li>(b) the local government in whose local government area the scheme land is located</li> <li>(c) if any scheme land is in a priority development area—the Minister for Economic Development Queensland (MEDQ)</li> <li>(d) if known—the proposed new owner of the scheme.</li> </ul> <p><i>*<a href="#">Titles Queensland</a> requires a Form 14 to be completed and lodged in conjunction with this form to give notice of the termination resolution. The termination resolution must be recorded (by Form 14) over all lots within the scheme. For more information please refer to Part 52-0340 of the <a href="#">Land Title Practice Manual</a>.</i></p>
<p><b>Section 2</b></p> <p><b>Scheme details</b></p>	<p>In this section, please include:</p> <ul style="list-style-type: none"> <li>(a) the name of your body corporate scheme and its community titles scheme (CTS) number (for example, Seaview CTS 1234)</li> <li>(b) 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))</li> <li>(c) the plan number of the scheme.</li> </ul>
<p><b>Section 3</b></p> <p><b>Required notice</b></p>	<p>A written notice advising that the body corporate for the community titles scheme outlined in section 2 has considered a motion for a termination resolution under the <i>Body Corporate and Community Management Act 1997</i>, Chapter 2, Part 9, Division 4 and advising whether the motion is passed.</p> <p>No additional information needs to be included in this section.</p>
<p><b>Section 4</b></p> <p><b>Resolution details</b></p>	<p>Insert the date the resolution was considered and the outcome confirmed. This form is required to be circulated within 2 weeks of the motion being declared passed or not passed.</p> <p>Indicate the resolution outcome by ticking the passed or not passed box.</p> <p>A copy of the termination plan is required to be attached and/or the recipient must be given a location/link where they can retrieve a digital copy.</p>
<p><b>Section 5</b></p> <p><b>Description of lot owner and lessee obligations</b></p>	<p>This section is not relevant and can be left blank if:</p> <ul style="list-style-type: none"> <li>(a) the motion for termination was not passed</li> <li>(b) the form is being sent to: <ul style="list-style-type: none"> <li>(i) the registrar</li> <li>(ii) the local government in whose local government area the scheme land is located</li> <li>(iii) if any scheme land is in a priority development area—MEDQ</li> <li>(iv) if known—the proposed new owner of the scheme.</li> </ul> </li> </ul> <p>Outline the details of the obligations of the lot owner or lessee as outlined within the approved termination plan. Example:</p> <ul style="list-style-type: none"> <li>• the date the owner must have the property vacated.</li> <li>• the requirements for a vacated property.</li> </ul>

## Other matters the recipient should note

### Disputing a termination plan

The *Body Corporate and Community Management Act 1997*, section 81N, provides that the following persons may apply to the District Court for an order in relation to a termination plan:

- the body corporate for a community titles scheme the subject of the termination plan
- each owner of a lot included in the scheme
- a person appointed as facilitator
- each person who has a leasehold interest in a lot, or other scheme land, created by a lease or sublease for a term of 6 months or more
- the caretaking service contractor for the scheme
- the letting agent for the scheme.

The application to the court must be made within—

- 90 days after the day the body corporate gives a person this notice; or
- another period allowed by the court.

The body corporate may only apply to the court for an order that:

- (a) if a termination resolution was considered but not passed—that the termination plan be implemented; or
- (b) that the termination plan be varied in accordance with the application.

The owner of a lot included in the scheme may only apply to the court for an order—

- (a) if a termination resolution was considered but not passed—that the termination plan be implemented; or
- (b) if a termination resolution was passed—
  - (i) that the resolution should not have been passed; or
  - (ii) that the termination plan is not to be implemented; or
  - (iii) that the termination plan be varied in accordance with the application.

A facilitator may apply to the court for an order—

- (a) to terminate a lease of a lot or other scheme land, on a day not earlier than the day of settlement for the contract for the sale of the community titles scheme; or
- (b) to require an occupier or a lessee of a lot or other scheme land to vacate the lot or scheme land on the day stated in the application; or
- (c) to require that each lot in the scheme be sold under the termination plan.

All other persons mentioned above may only apply to the court for an order that the termination plan be varied.

The *Body Corporate and Community Management Act 1997*, section 81Q, provides that if an owner makes an application because a termination resolution was considered but not passed, the onus is on the owner to prove that it is just and equitable to implement the termination plan.

However, if an application is made for other reasons, the body corporate—

- must pay the reasonable costs incurred in the proceeding; and
- has the onus of proving that it is just and equitable to implement the termination plan.

### **Further assistance**

For general information related to the body corporate legislation contact the Office of the Commissioner for Body Corporate and Community Management's information service on free-call 1800 060 119 or visit [www.qld.gov.au/bodycorporate](http://www.qld.gov.au/bodycorporate).

For land titles enquiries, including information on the community management statement, registrations and plans, contact Titles Queensland by visiting [www.titlesqld.com.au](http://www.titlesqld.com.au).

Queensland Law Society provides a free referral service to help members of the public find a licensed solicitor that can assist them with legal advice—visit [www.qls.com.au](http://www.qls.com.au) or phone 1300 367 757.

### **Disclaimer**

The laws referred to in this guide are complex and various qualifications may apply in different circumstances. The information in this document does not constitute legal advice. You are encouraged to obtain independent legal advice if you are unsure of how these laws apply to your situation.