

BCCM Guide | Animals in a body corporate

If you are looking to bring an animal into a property that is part of a body corporate, you may need permission from the body corporate (even if the animal is only visiting or will be kept wholly within your lot).

The [Body Corporate and Community Management Act 1997](#) (the Act) makes it clear that:

- by-laws prohibiting animals are not permitted
- there are limited reasons for refusing a request for an animal
- if animal requests are not decided within a specified period, the animal is deemed approved by the body corporate.

This guide is intended to develop your understanding of the rules about animals in a body corporate.

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Animal by-laws

The keeping of animals is something that is regulated by the body corporate's by-laws.

Each body corporate has a unique set of by-laws. By-laws are rules in addition to the Act and regulation modules that owners and occupiers need to follow. If you are a tenant, you are considered an occupier within a community titles scheme (CTS) and must also follow the by-laws.

Checking the by-laws

The Act does not automatically require you to seek approval to bring an animal onto a CTS. However, you will need to request the body corporate's approval for your animal if your by-laws say you must.

The by-laws are contained in your body corporate's community management statement (CMS). You can request a copy of your CMS from [Titles Queensland](#).

If you are a tenant, you should be able to obtain a copy of the by-laws from your landlord as part of your residential tenancy agreement.

If your CMS does not contain a by-law about animals, then you **do not need to seek body corporate approval**. However, to avoid a future dispute, it is suggested that you notify the body corporate if you intend to keep or bring an animal on a lot or common property (even if the by-laws do not specify you need to request approval).

Limitations of by-laws

While a body corporate may choose its own by-laws, the legislation sets limitations on what a by-law can and cannot do. By-laws are usually permissive or prohibitive.

Permissive by-laws

A permissive by-law requires you to seek the body corporate's approval for the animal and may subject the approval to reasonable conditions. The legislation generally allows permissive by-laws.

Prohibitive by-laws

A prohibitive by-law does not allow any animals or imposes unreasonable restrictions on the type of animal.

The legislation does not allow prohibitive by-laws. [Section 169B](#) of the Act provides that a by-law must not:

- prohibit animals, or
- restrict the number, type or size of an animal.

If your body corporate has one of these by-laws, your body corporate will not be able to approve your animal. You may have to get the by-law changed before seeking approval for your animal.

Changing prohibitive by-laws

The committee does not have authority to approve an animal if a by-law prohibits them, even if the by-law is invalid under the legislation. This is because the body corporate must enforce the registered by-laws ([Act, section 94](#)).

Before gaining approval you will need to take steps to [change the by-law](#). Changing the by-laws is a [restricted issue for the committee](#) and can only be completed by a passing a motion by [special resolution](#) at a general meeting.

Steps to change the by-laws

There are different options for requesting a change to the by-laws.

The option that suits you best will depend on your relationship to the body corporate (owner or an occupier) and when the next general meeting is to be held.



Option 1: Submitting a motion to the next general meeting

If you are an owner, you can [submit a motion to a general meeting](#) to change the by-law. Your motion must be included on the next general meeting agenda (where practicable). Keep in mind that bodies corporate only need to have 1 general meeting a year – the annual general meeting (AGM).

Owner's motions can only be included on the AGM agenda if they are submitted before the body corporate's end of financial year. If you have missed this date or the AGM is too far away, you may wish to request an extraordinary general meeting (EGM).

Option 2: Requesting an EGM

It is possible to ask for an EGM to be called. You need to obtain the signatures of the owners (or their representatives) of at least 25% of lots in the scheme. You can read more about this on our [calling an EGM](#) webpage.

Option 3: Asking the committee to act

An occupier can ask the committee to call an EGM to consider changing the by-law.

While the committee may not have the same legal obligation to call the meeting with an occupier's request as they do with an owner's request, the committee must still act reasonably when making decisions ([Act, section 100](#)). If an occupier does not hear back from the committee that they are going to call a general meeting, after a reasonable period (for example, 6 weeks), the occupier may consider applying for [conciliation](#).

Seeking approval for your animal

If your body corporate has a permissive by-law, then you can request approval for the animal.

Most requests to keep or bring an animal onto the scheme can be decided by the body corporate **committee**.

However, if approving animals has previously been made a reserved issue by the body corporate, it means that animal requests are a [restricted issue](#) for the committee. These requests must be decided by the body corporate at a **general meeting** of owners.

If you have a disability under the *Guide, Hearing and Assistance Dogs Act 2009*, you do not need to seek approval before bringing any animal you rely on onto scheme land.

How to seek approval

If you have a permissive animal by-law, you must submit a written request to:

- the secretary; or
- the chairperson in the secretary's absence (treasurer for schemes under the Small Schemes Module), or
- a body corporate manager authorised to carry out some or all of the secretary's powers.

The legislation does not specifically require details of the animal to be given to the body corporate. However, the body corporate may be able to reasonably refuse an animal if not enough information is given. It is recommended that you include as much information as possible to avoid unnecessary delays or disputes.

You can use a 'Request to keep or bring an animal on scheme land' form ([BCCM form 31](#)) to submit your request for approval. Your body corporate may have its own preferred form for animal applications. The form may request additional information from you.

Examples of additional information that may be reasonably requested could include a photo of the animal, evidence of council registration (if required) and vaccination status.

Within 21 days of receiving your request the body corporate committee must:

- make a decision; or
- take steps to call an EGM if the decision about animals is a reserved issue for the committee.



Deemed decisions

Importantly, if the body corporate asks for any additional documents or information about the animal after the request has been submitted, this **does not extend the timeframe they have to decide the request**.

As explained below, the period before a request is 'deemed approved' starts directly after the request is made.

Deemed committee approval

The animal is taken to be approved if the committee does within 21 days (the 'prescribed period') after a request is made to them.

For a [vote outside of a committee meeting](#) (VOCM), this timeframe is called the 'relevant period'.

Deemed general meeting approval

Alternatively, if a general meeting is needed to decide the request, the animal will be taken to be approved by the body corporate if either:

- a general meeting is not called within 21 days after the request is made (the 'relevant period')
- the body corporate does not decide the request within 6 weeks after the general meeting notice is sent out (the 'prescribed period').

Given the considerable time and expense often involved in organising a general meeting, we suggest that bodies corporate take steps to allow animal requests to be decided by the committee. This might mean:

- changing the wording of the by-laws if they specify that a 'general meeting' is required; or
- overturning a previous general meeting decision to make animal requests an issue reserved for [ordinary resolution](#).

Adding conditions

A body corporate can generally attach reasonable conditions to the approval of an animal.

[Section 169B](#) of the Act confirms that a body corporate can grant the approval subject to conditions that are, in the circumstances, reasonable and appropriate.

Examples of possible reasonable conditions may include:

- animals must be in a carry cage, pet pram or on a leash when on common property
- the animal's waste on common property is to be promptly cleaned and disposed of by the person in control of the animal.

What is reasonable and appropriate may vary between different animals and different bodies corporate.

Conditions can be important, particularly when it comes to managing the impact the animal may have on others within the scheme.

If you bring an animal onto a CTS without approval, or if you do not comply with conditions of approval, the body corporate is entitled to request you remove the animal.

However, if the body corporate gives approval subject to conditions you think are unreasonable you may wish to write to the committee to find out if they will negotiate. If you cannot resolve the issue you can consider lodging a [dispute application](#) with the Office of the Commissioner for Body Corporate and Community Management (BCCM office).

Bodies corporate should be mindful that if an animal is 'deemed approved' because they did not decide the request within the specified timeframe, they will not have an opportunity to include conditions on that approval. A possible safeguard against this may be changing the by-laws to include conditions of approval – covering both normal decisions and any deemed decisions.





Refusing an application

[Section 169B](#) of the Act makes it clear that refusing a request for an animal simply because the scheme has a 'no animals allowed' by-law is unreasonable.

Further, the section confirms that the body corporate may only refuse a request where keeping the animal would:

- pose an unacceptable risk to the health and safety of an owner or occupier because:
 - the owner of the animal is unwilling or unable to keep the animal in accordance with reasonable conditions that address the risk
 - the risk could not reasonably be managed by conditions imposed on the keeping of the animal
- contravene a law (for example, a local council law about the type, breed or number of animals to be kept)
- unreasonably interfere with an occupier of another lot's use and enjoyment of the lot or common property and the interference could not reasonably be managed by conditions imposed on the keeping of the animal
- unreasonably interfere with native fauna that live on, or visit, the scheme land and the interference could not reasonably be managed by conditions imposed on the keeping of the animal.

The body corporate may also refuse an animal request if:

- the occupier does not agree to the reasonable conditions proposed by the body corporate
- the animal is a regulated dog under the [Animal Management \(Cats and Dogs\) Act 2008](#).

If the body corporate refuses your request and you do not believe they have a valid reason for refusing, you can apply for [dispute resolution](#) through the BCCM office.

Notice of body corporate decisions

Written notice of a committee or general meeting decision must be given to the person who made the request as soon as practicable afterwards.

For any decisions deemed to be approved, written notice must be given:

- for a committee approval – as soon as practicable after the end of the prescribed period (or the relevant period for a VOCM)
- for a general meeting approval – as soon as practicable after either:
 - the end of the relevant period
 - the end of the prescribed period.

Bodies corporate can use a 'Notice of body corporate response to request to keep or bring an animal on scheme land' form ([BCCM form 32](#)) to ensure that they give the required notice.

How decisions are recorded

Any decisions made at committee or general meetings must be included in the meeting minutes and sent to all owners within 21 days of the decision. A record of decisions made by a VOCM must also be sent to all owners within 21 days of the decision being made.

Any deemed approvals must be confirmed:

- at the next committee meeting – if it was a committee approval (not a reserved issue), or
- at the next general meeting – if it was a general meeting approval (a reserved issue)

and included in the minutes of those meetings and sent to all owners within 21 days.





Approval for tenants

There are **two layers of approval** if you are a tenant (occupier) seeking to keep an animal in CTS:

1. approval from your body corporate if your body corporate's by-laws require it, **and**
2. landlord approval.

It is important to remember that these two approval processes are **separate**.

Landlord approval

The relationship between a tenant and landlord is governed by the [Residential Tenancies and Rooming Accommodation Act 2008](#). If your landlord refuses your request and you believe the decision is without grounds, you can contact the [Residential Tenancies Authority](#) for further guidance about your options.

While an occupier can seek approval from their landlord and the body corporate at the same time, a landlord may have grounds to refuse an occupier's request if keeping the animal would breach a body corporate by-law. To avoid the landlord's disapproval on this basis it may be best practice to seek body corporate approval first.

Disputes about animals

Sometimes there are disagreements about animals in CTS. You may not be granted approval, or you may not agree with the conditions the body corporate imposes on your animal. Other owners may believe your animal is causing a nuisance or you are breaching the by-laws because you are not complying with the conditions that are part of your approval.

Nuisance

The legislation prohibits occupiers from using or permitting the use of their lot in a way that causes a nuisance or interferes unreasonably with the use or enjoyment of another lot or common property.

The committee may withdraw approval for your animal if there is evidence your animal is causing a nuisance to other owners or occupiers in the scheme.

Adjudicators have ordered the removal of animals where the person keeping the animal has not controlled their animal's behaviour, and that behaviour was found to be causing a nuisance.

Self-resolution

When a dispute arises in a body corporate, the first step required by the unhappy party is called [self-resolution](#). Before the BCCM office can become involved in any dispute, you must be able to provide evidence of your attempt at self-resolution.

Self-resolution includes any reasonable steps taken to resolve a dispute. This may include proposing a motion or making a written request for your animal. If your animal request is rejected, any further written attempts to the body corporate to resolve the issue may also be considered as self-resolution.

Self-resolution attempts may be different depending on the wording of your body corporate's by-laws.

You can read more about self-resolution in [Practice Direction 1](#) and [Practice Direction 23](#).

Dispute applications

If your attempts to resolve any dispute you have about your animal fail, you can consider [lodging a dispute](#) application with the BCCM office.

The first step in the dispute resolution process is usually conciliation.





Effective communication

How smoothly animal requests are dealt with hinges upon effective communication within the scheme.

Bodies corporate should ensure that they inform the person making the animal request:

- that their request has been received

and

- what will happen to the request.

Failure to communicate this information in a timely manner could lead to unnecessary conflict and misunderstandings.

Consider the following case example:

Mary, a tenant in a community titles scheme, submits a written request to the body corporate seeking approval for her new puppy.

Mary has heard nothing from the body corporate. As it has been 21 days since Mary made the request, she assumes that it is 'deemed approved' by the committee. Mary proceeds to bring her puppy onto the scheme.

Mary later discovers that the body corporate made pet approvals a reserved issue which must be decided at a general meeting. Although the body corporate called an EGM to consider Mary's request within the relevant period, as an occupier, Mary did not receive the general meeting notice.

Due to poor communication, Mary acted on what she believed to be a deemed approval and brought her puppy onto the scheme before the EGM was held to consider her request. Mary may have to find alternative accommodation for her puppy until the matter is decided.

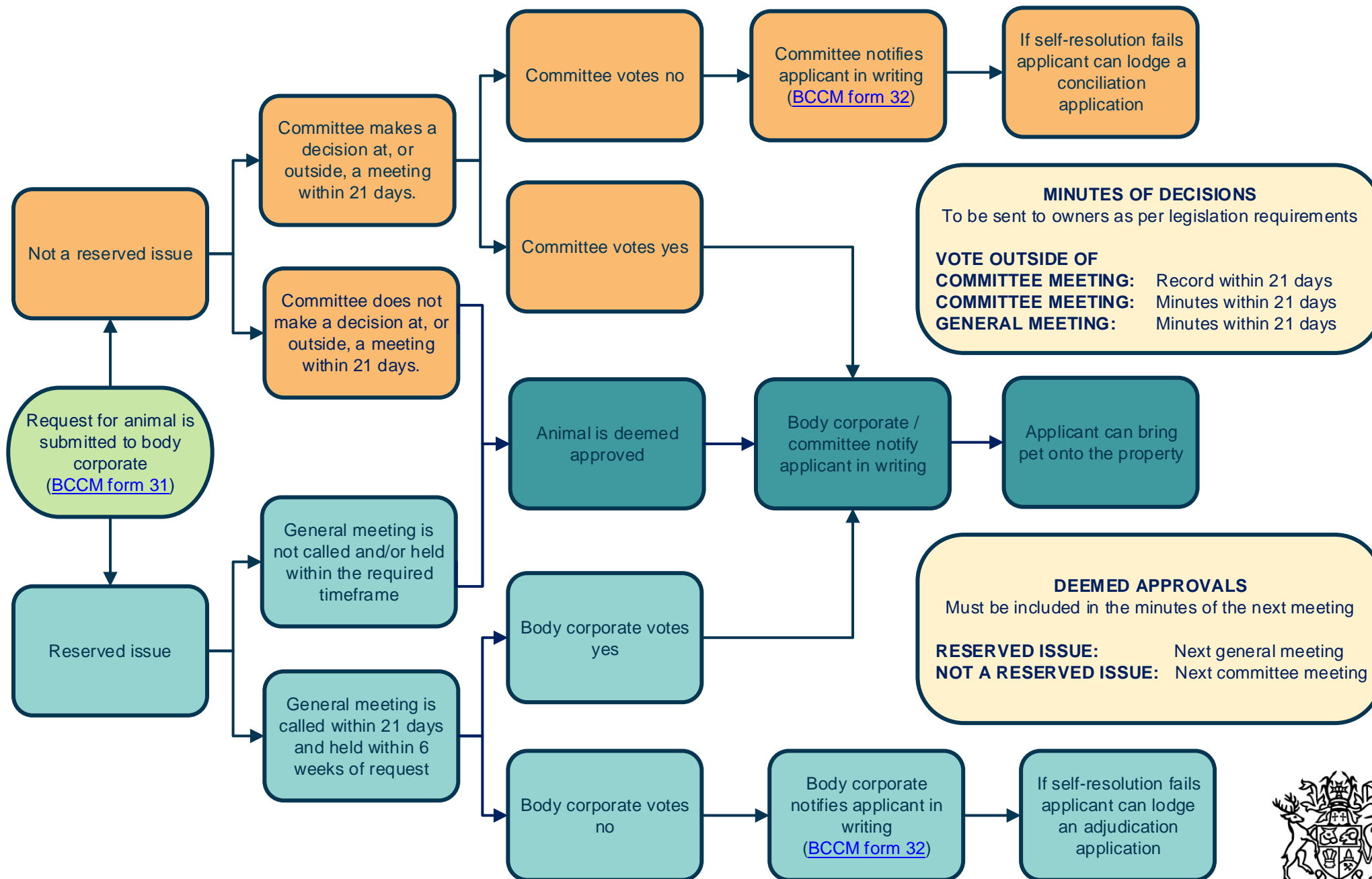
Further information

The Office of the Commissioner for Body Corporate and Community Management (BCCM office) provides information on the *Body Corporate and Community Management Act 1997* (BCCM Act). More information can be found on our website at www.qld.gov.au/bodycorporate, including information about [animal by-laws](#) and [animal disputes](#).

You can also contact our Information and Community Education Unit on 1800 060 119 or in writing at www.qld.gov.au/bodycorporatequestion.



Process for requesting and approving animals within a body corporate



MINUTES OF DECISIONS
To be sent to owners as per legislation requirements

VOTE OUTSIDE OF COMMITTEE MEETING: Record within 21 days
COMMITTEE MEETING: Minutes within 21 days
GENERAL MEETING: Minutes within 21 days

DEEMED APPROVALS
Must be included in the minutes of the next meeting

RESERVED ISSUE: Next general meeting
NOT A RESERVED ISSUE: Next committee meeting

