

# 1Part 32 – Building Management Statements

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# <sup>1</sup>Part 32 – Building Management Statements

## General Law

[32-0000]

A building management statement (BMS) is an instrument/document by which the registered owners of lots or lessees under the *Land Act 1994* in a development agree to reciprocal provisions that benefit and burden their lots (s. 54A(2)(b) of the *Land Title Act 1994* and s. 294B(2)(b) of the Land Act).

A BMS is analogous to reciprocal easements with management covenants.

A BMS must provide for the supply of utility services, access, support and shelter and insurance arrangements. They may also contain provisions for a range of administrative matters as set out in s. 54C(2) of the Land Title Act and s. 294D(2) of the Land Act.

A BMS affecting freehold and non freehold land may be dealt with under s. 54J of the Land Title Act and s. 294J of the Land Act.

A BMS under the Land Act only applies to transport land as defined in Schedule 6 of the Land Act (s. 294A of the Land Act).

For a BMS to be registered it must:

- identify the lots to which it applies (s. 54A(2)(a) of the Land Title Act or s. 294B(2)(a) of the Land Act) (the term lot is taken to include common property s. 41C of the Land Title Act);

**and** have for freehold land:

- at least one of the lots entirely or partly **contained**, in one or more buildings; or
- at least one of the lots entirely or partly **containing**, one or more buildings (s. 54A(3) of the Land Title Act);

**and** have for transport land under the Land Act:

- each lot entirely or partly **contained**, in one or more buildings; or
- each lot entirely or partly **containing**, one or more buildings (s. 294B(3) of the Land Act);

**and** must comprise:

- at least two volumetric format lots; or
- one or more volumetric format lots **and** one or more standard format lots (s. 54B(2) of the Land Title Act or s. 294C(2) of the Land Act); (s. 54B(3) of the Land Title Act provides that in s. 54B a reference to standard format lot or volumetric format lot is taken to include a reference to common property, providing the common property is created on registration of a building format plan or volumetric format plan);

**and,**

- the lots must form a single continuous area of land (s. 54AA of the Land Title Act or s. 294BA of the Land Act).

A BMS may be registered even if all of the lots to which it applies are registered in the name of a single owner or lessee under the Land Act.

On registration, a reference to the BMS is recorded on the title for every lot involved. Examination undertaken by the Registrar will generally involve addressing compliance with the mandatory requirements only.

A BMS can be amended by registering an amendment, however, every owner of the lots or lessee under the Land Act to which it applies must sign the amendment. The lots to which it applies cannot be changed by amendment see part 13, esp ¶[13-2150].

A BMS is not automatically extinguished if one person becomes the registered owner or lessee under the Land Act of all the lots to which it applies. Extinguishment of a BMS only occurs on registration of an extinguishment signed by the registered owners or lessees under the Land Act of all lots involved see part 34, esp ¶[34-2000].

## Practice

### Requirements of Building Management Statement

[32-2000]

A BMS that is to be registered against the title to the lots involved must be prepared in a Form 32 – Building Management Statement.

For further information see ¶[32-0000].

A BMS must contain provisions that benefit and burden the lots to which it applies and the lots must be wholly or partly contained in, or wholly or partly contain a building. The BMS must be signed by the registered owner or the lessee under the *Land Act 1994* of every lot. If the lots form part of a community titles scheme the body corporate of the scheme is taken to be the registered owner and may sign the statement (s. 54I(b) of the *Land Title Act 1994*).

Every BMS **must** contain provisions for the supply of services, access, support and shelter and insurance arrangements.

They **may** also contain provisions about:

- the establishment and operation of a management group;
- the imposition of levies and how levied amounts are to be kept and spent;
- property maintenance;
- architectural and landscaping standards;
- the resolution of disputes;
- rules for services and facilities common to lots;
- administrative arrangements;
- extinguishment;
- proposed future development.

Dispute resolution provisions, if included, may include referral for arbitration other than to a court, however, they may not preclude final determination by a court of competent jurisdiction.

Optional provisions may be set out in an attached schedule or in a registered standard terms document.

Rights of access, support and shelter or any other right that is included in a BMS that would appear to be in the nature of an easement, operate and are effective without the registration of any further instrument/document.

### **Amendment of Building Management Statement**

[32-2040]

A BMS may be amended by registering an amendment that is prepared in a Form 13 – Amendment (see ¶[13-2150]).

### **Extinguishment of Building Management Statement**

[32-2050]

A BMS may be extinguished or partially extinguished by registering an extinguishment in Form 34 – Extinguishment of Building Management Statement (see part 34).


## **Forms**

### **General Guide to Completion of Forms**

[32-4000]

For general requirements for completion of forms see part 59 – Forms.

Dealing Number



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**Lodger** (Name, address, E-mail & phone number)  
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**Lodger Code**  
490

**1. Registered Owners/State Lessees**

HIGHRISE DEVELOPMENT PTY LTD ACN 124 123 457

**2. Lot on Plan Description of affected land**

**Title Reference**

LOT 143 ON SP900567  
 LOT 144 ON SP900567

50002571  
 50002572

**3. Execution**

The Registered Owners/State Lessees of the lots referred to in item 2 reciprocally grant and agree to the terms and conditions of the Building Management Statement contained in: ~~the attached schedule; \*the attached schedule and document no. ....; \*document no. 700587641.~~

\* delete if not applicable

**Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994**

.....signature (seal)  
 or Full name  
 of company  
 to be shown  
 .....full name  
 .....qualification 20/11/2007  
**Execution Date**

*W Smith*, Director  
 WILLIAM THOMAS SMITH

*P Jones*, Secretary  
 PAUL JOHN JONES

**Registered Owner's/  
 State Lessee's Signature**

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

.....signature  
 .....full name  
 .....qualification

**Witnessing Officer**

(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

/ /  
**Execution Date**

**Registered Owner's/  
 State Lessee's Signature**

## Guide to Completion of Form 32

### Item 1 [32-4010]

Insert the full name(s) of the registered owner(s) or lessee(s) under the *Land Act 1994* and refer to the lots in Item 2 by parcel number.

### Item 2 [32-4020]

Insert the ‘Lot on Plan’ descriptions of all lots comprised in the BMS with a parcel reference to identify each with one or more of the registered owners or lessees under the *Land Act 1994* in Item 1.

### Item 3 [32-4030]

The registered owner(s) or lessee(s) under the *Land Act 1994* must complete and execute as required.

### Duty [32-4040]

A duty notation is not required on a Form 32 – Building Management Statement.

¶[32-6000] deleted

## Case Law [32-7000]

Nil.

## Fees [32-8000]

Fees payable to the Titles Registry are subject to an annual review. Refer to the Titles Fee Calculator available online or see the current:

- <sup>2</sup>Land Title Regulation; and
- <sup>3</sup>Land Regulation.

## Cross References and Further Reading [32-9000]

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 34 – Extinguishment of Building Management Statement

### Notes in text [32-9050]

Note <sup>1</sup> – This part does not apply to water allocations.

Note <sup>2</sup> – This numbered section, paragraph or statement does not apply to State land.

Note <sup>3</sup> – This numbered section, paragraph or statement does not apply to freehold land.