

May 2017

QUT Review – BCCM
C/ Office Regulatory Policy
Department of Justice and Attorney-General
GPO BOX 3111
BRISBANE QLD 4001

VIA EMAIL: QUTreview-BCCM@justice.qld.gov.au

Dear Attorney

RESPONSE TO ISSUES PAPER – PROCEDURAL ISSUES UNDER THE BODY CORPORATE AND COMMUNITY MANAGEMENT ACT 1997

We refer to the above Options Paper.

Strata Community Australia (Qld) Limited (“SCA (Qld)”), the Australian Resident Accommodation Managers’ Association Queensland (“ARAMA Qld”) and the Owners Corporation Network Queensland (“OCN Qld”) thank the Attorney-General for inviting responses to the Options Paper.

INTRODUCTION

SCA (Qld), ARAMA and OCN Qld are the leading non-profit organisations in the strata and community title sector in Queensland. Collectively we represent more than 378,000 unit owners living or investing in strata units, around 90 body corporate management firms who manage more than 280,000 lots and approximately 3,000 management rights buildings.

SCA (Qld), ARAMA and OCN Qld formed the Stakeholder Umbrella Group to collaboratively represent common interests. The Group’s focus is advocate for law reform that removes costs for owners, protects their investments, increases productivity of professionals in the sector, and reduces red tape. In 2015 the Group jointly submitted its response to the initial Options Paper “Body Corporate Governance”. In this, the group aligned in 27 out of 29 questions.

On this occasion, the Stakeholder Umbrella Group has consulted one another again and almost unanimously support the *Options Paper Recommendations: Body corporate governance issues: By-laws, debt recovery and scheme termination*.

In addition to each organisation’s own submission we further submit this combined response. In summary, the Stakeholder Umbrella Group remains set on their individual positions where it concerns some of the implications of scheme termination on Management Rights but was able to agree on most other points.

SCA (Qld), ARAMA and OCN Qld retain their views expressed in their individual submissions, but with regard to overall sector improvement came to the conclusions stated below.

RESPONSE TO THE ISSUES PAPER:

1. Towing for breach of parking by-laws

All parties agreed with the Option's Paper's recommendations and clarify that for practical reasons, it is the decision by the committee, not the whole "body corporate".

2. Delegating decision to tow

The group agree and acknowledges the difficulty in engaging someone who is onsite. Powers need to be defined properly and remuneration needs to be an option for delegation.

3. Lot owner's right to tow

After consideration of the arguments, all parties of the Stakeholder Group align with SCA (Qld)'s position and agree that exclusive use areas should also be included.

4. Liability for improper towing

The Group agrees with the Options Paper's recommendations.

5. Pets

The Group supports SCA (Qld)'s suggestion to implement a special resolution as in practice a resolution without dissent may be ineffective.

6. Smoking

We support the ARAMA submission that smoking is a public health issue and it would help all communities if community areas are made non-smoking. However, we acknowledge that there may be private property ownership implications and as such special resolution as suggested by SCA (Qld) is the preferred methodology.

7. Overcrowding

The Stakeholder Groups agrees with the recommendations but understand the committee as an authorised party to engage the relevant authority.

8. Standard by-law

The Group agrees with SCA (Qld)'s submission that an internal dispute resolution process shall not be provided as a standard by-law but that otherwise the recommendations are supported.

9. Default application of standard by-laws

The Group agrees with the Options Paper's recommendations.

10. By-laws to form greater part of pre-purchase disclosure

To ensure better understanding of strata community living, the Group supports the provision of the whole CMS, notwithstanding SCA's valid concern about costs.

11. Fines for breach of by-laws

All stakeholders support the ability to introduce fines for by-law breaches with up to 90 days notice from when the offence occurred.

On questions 12 – 21 the Stakeholder Group agrees with all the proposals in the Options Paper.

SCA (Qld) and OCN agree on the proposals of the Options Paper in regards to questions 22 – 27 and ARAMA maintain their position as stated in their individual submission.

28. Determining 'just and equitable'

The Group agrees with the Options Paper's recommendations.

29. Terminating layers of layered schemes

All stakeholders are supportive in investigating the feasibility of terminating layered arrangements and at the same time investigate the issue of BFP and SFP in one building as SCA suggested.

The Stakeholder Umbrella Group endeavours to assist in making good law better and aims to support legislative change that reduces costs to owners. In this spirit the Group commits to continue working collaboratively with one another and the Queensland Government and/or its agencies to achieve consensus in the interests of good governance in strata and community title schemes in Queensland.

FURTHER INFORMATION

SCA (Qld), ARAMA and OCN appreciate the opportunity to provide this joint submission and are available to discuss this joint submission and the proposed reforms with an appropriate Government representative. In this regard, the Government may contact:

The Stakeholder Umbrella Group:

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We, the undersigned, submit this unity statement in support of our respective submissions.

Sincerely



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Trevor Rawnsley
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Garry Maynard
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