

31 August 2018

Our ref: WD-PD

QUT Review - BCCM
C/- Office of Regulatory Policy
Department of Justice and Attorney-General
GPO Box 3111
Brisbane QLD 4001

By email: QUTreviewBCCM@justice.qld.gov.au

Dear Review Team

QUT's Final Report on the *Building Units and Group Titles Act 1980*

Thank you for the opportunity to provide comments on the final report on the *Building Units and Group Titles Act 1980* (BUGTA) (Final Report) prepared by Queensland University of Technology (QUT). Queensland Law Society appreciates being consulted on this important issue. Thank you also for the short extension of time to deliver this submission.

The Queensland Law Society (QLS) is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals, increase community understanding of the law and assists the public by advising government on improvements to laws affecting Queenslanders.

This response has been compiled with the assistance of the Property & Development Law Committee who have substantial expertise in this area.

QLS would also like to acknowledge that its earlier submission of 27 September 2017 has been considered by the authors in preparing the Final Report.

Key issues

1. Subject to the comments below, QLS broadly supports the overarching recommendations of the Final Report that the BUGTA and the specified Acts identified in the report should be amended to more closely approximate the BCCM Act, in relation to dispute resolution processes and residential body corporate procedural matters.
2. QLS particularly supports Recommendation 4 that the by-laws for each subsidiary body corporate constituted under section 27 of BUGTA for the specified Acts should be consolidated into a single document, to be kept up-to-date by the body corporate and made available for inspection by lots owners and prospective purchasers.

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3. QLS also recommends that this concept be taken further to require that the following consolidated information for the bodies corporate under the specified Acts be required to be registered at the Titles Office:
 - a. Entitlements for each lot/precinct;
 - b. Primary and secondary thoroughfare by-laws;
 - c. Development control by-laws;
 - d. Consolidated copy of the approved scheme.

Consolidated information to be registered at Titles Office

QLS particularly supports Recommendation 4 in the Final Report that the by-laws for each subsidiary body corporate constituted under section 27 of BUGTA for the specified Acts should be consolidated into a single document, to be kept up-to-date by the body corporate and made available for inspection by lots owners and prospective purchasers.

As noted in our earlier submission of 27 September 2017, QLS requests that consideration be given, for the purposes of BUGTA, to adopting the concept of a community management statement as a single document recorded in the land registry which includes the description of all lots, lot entitlements, the current by-laws and exclusive use allocations.

The effect of this approach is not to change the framework for the individual bodies corporate but to collate the information relevant to each body corporate in a single registered document, which would simplify the conveyancing process.

This would be a practical and transparent measure which will help prospective purchasers of lots understand the nature and obligations associated with their proposed purchase.

It would also generally assist bodies corporate, owners and practitioners in day to day management, dispute resolution processes and the conveyancing process which reduces red tape and costs of management.

Registration at the Titles Office is a more modern and convenient way to source this information for bodies corporate, owners and conveyancing practitioners.

Recommendation that additional information also be registered at Titles Office

In addition to the proposed equivalent of a "community management statement" discussed above, QLS also recommends that this concept be taken further to require that the following consolidated information for the bodies corporate under the specified Acts be required to be registered at the Titles Office:

- Entitlements for each lot/precinct;
- Primary and secondary thoroughfare by-laws;
- Development control by-laws; and
- Consolidated copy of the approved scheme.

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For example, at present, under section 7 of the *Integrated Resort Development Act 1987*, notification of the approved scheme (and any modifications) must be published in the Queensland Government Gazette. The chief executive must keep a copy of the approved scheme (and approved modifications) available for inspection at the office of the chief executive. A copy must also be sent to the registrar of titles but there is no specific requirement that it be registered and the registrar is not required to make the information available to be searched. Recent enquiries of the Department of State Development, Manufacturing, Infrastructure and Planning also indicate that the information is not readily available for inspection.

Alternatively, a request could be made of the body corporate manager, however, this option relies on accurate record keeping on the part of the manager.

Registration of all approved iterations of the scheme, and a consolidated current version of the scheme, would improve transparency for the benefit of owners, body corporate managers and prospective purchasers.

At present, this information is not readily available and it is not commercially appropriate for affected parties to have to undertake such an extensive search process which may or may not retrieve accurate information.

It is acknowledged that this recommendation will affect a number of agencies other than the Department of Justice & Attorney-General, including:

- the Department of State Development, Manufacturing, Infrastructure and Planning which has the administrative responsibility for:
 - *Integrated Resort Development Act 1987*;
 - *Mixed Use Development Act 1993*;
 - *Sanctuary Cove Resort Act 1985*; and
- the Department of Natural Resources, Mines and Energy, which has the administrative responsibility for:
 - *Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980*; and
 - *Registration of Plans (Stage 2) (H.S.P. (Nominees) Pty. Limited) Enabling Act 1984*.

For this reason, we are also providing a copy of this submission to the responsible Ministers for these Departments.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Principal Policy Solicitor, Wendy Devine by phone on (07) 3842 5896 or by email to w.devine@qls.com.au.

Yours faithfully



Ken Taylor
President

QUT's Final Report on the *Building Units and Group Titles Act 1980*

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