



Strata Community Association (Qld)
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Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane Qld 4000

Via Email

Dear Secretary,

We thank you for the invitation to respond to the consideration to extend the COVID-19 related legislation which made modifications to body corporate meetings and other aspects of the community titles scheme regulations and legislation. We

Strata Community Association (Qld) was privately consulted on the *Justice Legislation (COVID-19 Emergency Response – Community Titles Schemes and Other Matters) (“COVID-19 Regulation”) Regulation 2020* in September 2020. The COVID-19 reforms were introduced as a specific response to the challenges bodies corporate faced during the pandemic. The COVID regulations are, essentially, a set of very practical, common sense reforms that had positive intentions. Importantly they give bodies corporate the flexibility they need to manage their affairs to best suit their circumstances and that of all other owners and occupiers in the building.

SCA (Qld) is not aware of any objections or concerns from committees and owners on these Regulations. During the pandemic, our anecdotal feedback is that participation from owners in meetings and the general business of the body corporate has increased. This is due to the fact they now have a range of flexible options for attendance and participation. The professionals in the body corporate industry embrace more active lot owners that partake in the administration of their schemes.

SCA (Qld) believes that the release of the Body Corporate and Community Management Regulations (“BCCM Regulation”) which commenced 1 March 2021 have been helpful in resolving some of the uncertainties that were brought about with the COVID-19 emergency. Most of the body corporate sector has adapted to the change in holding meetings and making decisions in a remote manner even if not necessary at this stage. Making these matters permanent in the new regulations is a pleasing step and one we believe will have a positive impact longer term in allowing more owners to be involved in scheme management.

Strata Community Association (Qld) is the strata industry’s leading body whose members administer more than 310,000, that’s 70% of all strata titled properties in Queensland and up to 90% of all managed properties. SCA (Qld) has a strong interest in bettering the lives of 1.2m Queenslanders who live in, own or work in strata communities.

SCA (Qld) notes that only limited parts of the previous powers around the COVID-19 Regulation are to be extended and believe a return to normalcy is afoot in our industry. We encourage the following considerations for the committee.

1. Amenities

The powers given to committees to close access to schemes under the COVID-19 Regulation is of the utmost importance. Without this, committees are powerless to instigate measures to stop the spread within a scheme like that which occurred in Melbourne public housing towers for example. We



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therefore believe it is utterly critical in the context of the ongoing pandemic that this measure continues. Common property can be enjoyed in line with the by-laws of a scheme by any lot owner within a scheme at any given time. Without passing a by-law to restrict use of same (which in practice is quite difficult in the timeframe usually required) a committee is powerless to action closing facilities in a scheme without the powers given to them by the Public Health Directions in this case. When the Directions allow opening but restrict it to compliance with certain procedures for facilities such as supervision and contact tracing, the issue is generally that most strata amenities are open to residents by way of a key card and there is no staff on site. Compliance can neither be achieved under the BCCMA nor the COVID-Directions. We ask that this COVID-Regulation be at the forefront of policymakers' minds when considering extensions.

2. Financial Relief

The COVID-19 regulations address financial relief measures. Waiving penalty interest has always been an area of discretion for body corporate committees to approve and as confirmed in previous adjudication orders, the body corporate is required to act reasonably. Due to this fact, there is no need in our opinion to continue this part of the COVID-19 Regulation for the benefit of consumers.

The intent of these measures was to give relief to those affected by COVID-19, however, in substance many lot owners who are unaffected by COVID-19 have been getting the benefit of the waiver of penalty interest when they have no valid reason. Bodies corporate are obliged by legislation to avoid deficit and this unfettered permission for lot owners to not pay penalty interest makes this obligation more difficult to comply with. This makes the job of volunteer committees harder again. Similarly, by giving discretion around this matter back to committees, lot owners genuinely affected by COVID-19 can apply for the waiver of penalty interest. We again note the obligation of bodies corporate to act reasonably in this regard, and therefore cannot see those suffering legitimate COVID-19 induced hardship being refused. Retaining this inflexible regulation ultimately may threaten the financial viability of certain schemes.

However, it is our understanding that the consideration is whether to extend all of the COVID-19 Regulation rather than just components of it, therefore we note that we support a continuation of the Regulation so as to support those lot owners that require the financial relief measures. SCA (Qld) sees itself as a consumer advocate and we believe broadly that schemes should be able to manage their affairs with as much autonomy as is practicable. Therefore, the measures that provide additional flexibility to schemes are supported by us to be extended. These include provisions around borrowing, deferral of debt recovery and increasing flexibility with respect of sinking fund budgets.

3. Bodies Corporate Compliance with Public Health Directions

As an addendum, we feel obliged to emphasize to Queensland Health the nature of bodies corporate. Bodies corporate are not businesses or organizations where a single body or individual has exclusive control. They are democratically run owner collectives which can often take substantial time to make a decision and they are bound by procedural matters under the BCCMA. To this end, where it is necessary to protect public health for quick decision making to occur- committees need to be given legislative powers outside the norm.

We also note that under current health directives shared pools within apartment complexes are technically obliged to check patrons into shared facilities like pools and gyms. As indicated above, typically, bodies corporate are not in a position to monitor the check in for these facilities. We seek more clarity or a specific health directive in future as our professional members endeavour to advise schemes they manage on compliance. However it is difficult to provide guidance when there is no differentiation between a strata pool, gym or other facility which is private to the building occupants and a public pool, gym or facility which is commercially set up.

Additionally, we seek clarity around short-term accommodation schemes and their responsibilities around these regulations when compared to standard bodies corporate where residents are permanent.



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Short-term let buildings where there may be changes in occupants more often than not have a caretaker on site who could be contracted to undertake supervision. We therefore suggest considering distinguishing between the types of apartment complexes in future. The substantially different regulations governing these different kinds of schemes mean that separate and clear direction is required for each of them.

Thank you for the opportunity to comment on the possible extension of the COVID-19 regulation affecting strata and community title schemes. For any further questions, please don't hesitate to contact me us at advocacy@strata.community.

Sincerely

A handwritten signature in black ink, appearing to read 'Kristi Kinast', written over a circular stamp or seal.

Kristi Kinast
President SCA (Qld)