

## **Residential Tenancies and Rooming Accommodation and Other Legislation Amendment Bill 2024**

**Submission No:** 100  
**Submitted by:** Strata Community Australia (Qld)  
**Publication:**  
**Attachments:**  
**Submitter Comments:**

10 April 2024

Committee Secretary  
Housing, Big Build and Manufacturing Committee  
Parliament House  
George Street  
Brisbane Qld 4000  
[hbbmc@parliament.qld.gov.au](mailto:hbbmc@parliament.qld.gov.au)

Dear Secretary,

### Introduction

SCAQ is the peak association supporting Queensland's strata sector, with more than 1,300 individual and corporate members who help oversee, advise and manage assets worth some \$280 billion on behalf of homeowners and investor owners. As the peak body for the strata industry, SCAQ is in the unique position to understand the sector from all angles.

SCAQ is in an enviable position to understand the sector from a broad array of viewpoints owing to its diverse membership. SCAQ represents strata managers and service providers, meaning we can advocate from a "whole of industry" perspective.

There are over 53,000 community titles schemes and over 540,000 individual lots in Queensland. Lot owners are part of the body corporate, and a committee is responsible for the day-to-day management of the scheme, such as maintaining common property. Under body corporate legislation, a tenant is known as an 'occupier' and occupiers have significant rights and responsibilities in relation to the body corporate.

For example, occupiers:

- Must comply with by-laws (these are distinct from any obligations imposed by the lease);
- Are entitled to use common property, common property with exclusive use granted over it and in some circumstances be responsible for maintenance over same;
- May be entitled to a copy of the roll and other body corporate records; and
- Occupiers with a lease of more than six-months are required to have their details and property managers details entered on the body corporate roll.

### The Bill

The Bill is extensive and covers a wide array of issues relating to residential tenancies. Of specific interest for SCAQ are:

- help to stabilise the private rental market by applying the annual limit for rent increases to the rental property not the tenancy, and

- banning all forms of rent bidding appropriately balance the rights of parties in the rental relationship to improve the rental experience for Queensland renters and property owners and clarify the expectations of all parties in the rental sector; and
- address technical and procedural issues associated with the ending of a residential tenancy agreement or rooming accommodation agreement as part of an economic reasons termination process which is to be introduced into the Body Corporate and Community Management Act 1997 (BCCM Act) by the Body Corporate and Community Management and Other Legislation Amendment Act 2023

At the outset we would also like to note the fact that the Bill legislates a compulsory professional development regime for property agents, whose role continues to expand in complexity as property design becomes more sophisticated.

SCAQ has been long-term advocates for appropriate regulation and compulsory professional development for Strata Managers for the same reason- particularly as community living increases and becomes the norm.

### **Rent Stabilisation**

SCAQ is concerned with the lack of flexibility regarding these policies. SCAQ acknowledges that a larger portion of the State's population is renting and the need to offer increased protection to this growing cohort. Strata is a method of accommodation that also tends to have a higher portion of renters too (some 55% of strata properties are owned by investors).

Despite our support for enhancing the rights of renters, we have significant concerns about the unintended consequences of this provision.

The salient facts around these issues are:

- A body corporate cannot turn a profit;
- A body corporate is obliged to maintain the common property to an appropriate standard especially with the minimum housing standards requirements coming into play in October 2024;
- Bodies corporate are unable to set aside a “rainy day fund” or similar;
- Levies must reflect the budgeted needs and required repairs of a body corporate;
- The mechanism for cost recovery is litigious, litigation is obviously a large expense and theoretically unexpected by a body corporate.

In addition to these legislative considerations, the rate of inflation of construction materials has exceeded by a large margin the rate of inflation of generally, which is also historically high. This means that any inability to pass on costs (particularly when demand allows for it) limits the flexibility investor owners may need to ensure payment of levies.

One nonpayer of levies in a scheme of 10 lots (which is the average size of a scheme in Queensland) means that a scheme loses 10% of its budgeted revenue and is forced to pursue the owner through the courts. Like any litigation it is costly and time consuming. The practical consequence of this is that 9 owners must fund an expense which should be funded by all owners. This is unacceptable and is likely to cause significant acrimony in a scheme.

Therefore, SCAQ would submit this provision be reconsidered or, alternatively, an exception be carved out for strata schemes.

### **Appropriate Balancing Rights- Inspections**

SCAQ acknowledges again the importance of giving an appropriate suite of protections to tenants, particularly as this becomes a larger slice of property tenure in Queensland. SCAQ again has concerns, however, about this provision's unintended consequences. Often in a strata community damage or an issue with regards to a single lot may impact the entire community- the need to inspect a unit more often than is allowable under this proposal may, in context, be critical. Therefore, we again submit that carving out an exemption to this for strata may be prudent, to ensure strata schemes are well maintained and harmonious.

### **Termination Procedures**

The Bill makes specific amendments to the Body Corporate and Community Management Act to deal with the rights of tenants as they relate to the termination of a body corporate scheme- which has now implemented an additional process available to terminate a scheme under the Act. This provision will prove a critical lever in helping to alleviate the Queensland housing crisis.

For clarity SCAQ supported this additional termination ground and particularly the balanced process developed in ensuring all stakeholder's rights are heard but ultimately ensuring there is still an achievable and effective termination process available.

The Bill addresses technical issues as they relate to:

- the ending of residential tenancies at appropriate points in the termination process:
- notification requirements for ending of tenancies; and
- scope to enforce the vacating of premises by tenants where necessary as part of implementation of a termination plan and associated disputes.

SCAQ believes the clauses as drafted provide an appropriate framework to ensure the termination can proceed smoothly whilst ensuring that tenants can move on with their lives with appropriate notice.

While SCAQ hasn't had sufficient time to thoroughly consider the notice period being proposed, its initial thoughts are that Clause 90 ensures that appropriate notice is given to a tenant to allow them time to move. Even in a tight rental market, SCAQ believes that two months is sufficient to ensure tenants can plan and move forward with their lives. SCAQ also notes that most tenancy arrangements (renewals or otherwise) are usually raised and discussed with the tenants around the 2-month mark and accordingly, this provision is reflective of current industry practice.

Clause 91 empowers facilitators of a termination plan to ensure that leases are terminated appropriately, meaning a significant impediment is removed to termination. This is critical given the need to develop new housing in Queensland. This section also reads to provide some flexibility with facilitators to work with tenants, which will be critical in balancing the parties' rights.

SCAQ is concerned about the expansion of tenants' rights to protest a termination. This provision could diminish the property rights of owners and reduce the housing supply in the medium term. Whilst we acknowledge the importance of respect for tenants' rights, SCAQ believes this could result in the process being frustrated and ultimately failing.

In practice, if termination is on the cards, a new tenant is unlikely to enter a lease, and if this is to occur, it indicates they are flexible and therefore should not be able to frustrate termination in our view. An alternative option, which would need to be further workshopped, would be to give the tenant more time and notice. This will see a tenant's rights of sourcing alternative accommodation balanced against an owner's property rights to choose to support termination of the scheme. Again, SCAQ is happy to give these provisions further consideration as the above are only our initial views developed within the timeframe provided.

Broadly speaking, SCAQ believes that the termination provisions are, as drafted, largely fair and equitable, and increasing the voice of other stakeholders could result in frustrating the already detailed termination process. SCAQ believes that the further provisions are antithetical to the goal of relieving the significant housing pressures Queensland is facing.

## **Conclusion**

SCAQ is pleased to contribute to the development of legislation as it relates to property. We note the need for significant reform of the strata sector and hope to see further legislation to modify the framework as it relates to this growing class of property. SCAQ believes lawmakers need to ensure they have an adequate consideration of the nuances of communal living in making any legislation as it relates to property.

Kind regards



**Laura Bos**  
General Manager, SCAQ