

From: [Michael + Ann McCallum](#)
To: [Legal Affairs and Community Safety Committee](#)
Cc: [REDACTED]
Subject: BCCM and Other Legislation Amendment Bill 2012
Date: Wednesday, 10 October 2012 9:12:47 AM

My submission is in support of the Bill.

I previously wrote to the Attorney on 06/07/2012 about the 2011 amendments. A copy of that correspondence is attached. I obviously underestimated the intent of the Government to correct the unjust and unfair situations created by the 2011 Amendments. A reversion motion proposed by the owner of Lot 1, who supported the 2009 changes to the CMS, is currently on appeal to QCAT (APL 053/2012).

While QCAT has not responded to my request for an adjournment of the Appeal following the tabling of the above Bill, I presume my Appeal will not be further actioned until the current Bill is dealt with.

The Gold Coast Bulletin is apparently conducting a misinformation campaign against the proposed Bill. A copy of my email to this newspaper on 20/9/2012 following a particularly inept opinion piece is also attached.

Attachment 1.

WM (Michael) McCallum

[REDACTED]

The Honourable Jarrod Bleijie MP
Attorney-General and Minister for Justice
attorney@ministerial.qld.gov.au

My Dear Attorney

RE: 2011 Amendments to the Body Corporate and Community Management Act 1997

I am the Treasurer of a small body corporate at Mermaid Beach in the State of Queensland. The body corporate, known as a "Paloma", consists of 12 units on the beachfront in Albatross Avenue.

In 2009 an analysis was performed by Leary and Partners of the then, developer imposed, contribution entitlements. The subsequent report recommended that the variation in contributions be reduced from +50% to about +10%. Ten out of the twelve owners agreed to these changes by way of a motion put to a general meeting. One owner abstained and one opposed the changes. Because the motion was not carried without dissent an Order

was sought and granted in October 2009 to record a new community management statement in accordance with the recommendations in the Leary and Partners Report.

This Order, was apparently deemed to be an "Adjustment Order", in 2011.

The 2011 Amendments, which the LNP then opposed, allowed one owner, who had supported the changes in 2009, to commence actions to revert the contribution entitlements to those which she had agreed were neither just nor equitable. The reversion has been opposed and is currently on Appeal with QCAT.

It is difficult to understand the inaction by the LNP Government with respect to repealing or, at least staying, the operation of the 2011 Amendments until the matter can be reconsidered by Parliament.

One hundred days have now passed with no public indication of the Government's intent. Correspondence with my local Member generated only a meaningless "motherhood" response which was an insult to the intelligence of those who expected better of the Newman Government.

I have therefore joined in contributing to a process to obtain advice by counsel on the 2011 Amendments and will, reluctantly, agree to have the 2011 Amendments tested, if necessary. It is simply the case that, I and many others, cannot accept that the reversion to unjust and inequitable contribution entitlements was a legitimate exercise of legislative power.

I am informed that in private meetings Premier Newman and you as Attorney clearly signalled the Government's intentions to repeal the offending amendments. What has been said in private has not reached the public arena.

Every day this legislation remains in force further schemes are reverting to unfair developer set entitlement allocations, subjecting more and more unit owners to unfair lot entitlements and subsequent financial burdens.

I have been requested to once again attempt to get a straight answer from the Government or Premier Newman as to your Government's intentions. Specifically, do you intend to stay the implementation of all current reversion attempts and review the 2011 Amendments? This would send a clear signal that the 2011 Amendments will, at least, be properly reviewed.

As a former Senior Ministerial Officer to an Attorney, I consider this letter largely a waste of time. I have advised others in a similar position that, if you or Premier Newman, have not acted publically by now, you will not do so and the 2011 Amendments should be tested as soon as possible.

WM (Michael) McCallum
(sent by email on 06/07/2012)

Attachment 2.

To cameron@goldcoast.com.au on 20/9/2012

Re: GC Bulleting 20-9-12 @22

As usual, and on a continuing basis, you misrepresent the 1997 legislation. Contributions were to be equal unless it was just and equitable for them not to be equal.

The problem was not with orders made by specialist adjudicators based on evidence of shared costs, but that original developers contribution schedules were often not just and equitable.

The better question is why some unit owners should be forced to subsidise the contributions made to shared costs by other unit owners? Unit owners are not charities. Apart from the few adjustments made by consent the changes to contribution schedules were made on the basis of expert evidence as to the actual costs attributable to various units. Very few orders, if any, were made such that contributions were equalised.

The proposed amendments to the BCCM Act merely restores the just and equitable principle.

The "view tax" is just an example of the tendency of local governments to try and redistribute, and thus disguise, the true costs of providing services. This type of spin by the GCCC is merely designed to distract attention from serious issues such as the low productivity and waste by the GCCC. Unfortunately the perception in the community appears to be that that the Bulletin is a "lightweight" with respect the examination of such issues through investigative journalism which might require some thought and effort. Your disjointed and superficial article today is but a further example of lax journalism.

WM (Michael) McCallum
MERMAID BEACH