



LAPCSESC  
Submission 008

**ABN**  
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**FORMERLY**  
Queensland  
Resident  
Accommodation  
Managers'  
Association Inc



**QUEENSLAND  
BRANCHES**  
Gold Coast  
Brisbane  
Sunshine Coast  
Wide Bay  
Whitsundays  
Cairns  
Port Douglas

Queensland affiliate of  
**Australian  
Resident  
Accommodation  
Managers'  
Association Inc.**

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21<sup>th</sup> July 2011  
Research Director,  
Legal Affairs, Police, Corrective Services and  
Emergency Services Committee  
Parliament House  
George Street  
BRISBANE, QLD 4000

Dear Sir,

Please find attached an updated presentation of the ARAMA submission in support of the Property Agents Bill which has been referred to the Committee for consideration.

ARAMA supports the Bill but has concerns arising from the new National approach to property industry matters which are currently being considered and we have drawn these concerns to the attention of the Committee in this submission.

We have taken the opportunity to provide some further details of ARAMA's concerns which we believe are important for the Committee to consider.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Ward', written over a horizontal line. Below the line, the name 'CHRIS WARD' is printed in a bold, sans-serif font.

Chris Ward

PRESIDENT



SUBMISSION TO

QUEENSLAND PARLIAMENT

LEGAL AFFAIRS, POLICE, CORRECTIVE SERVICE AND  
EMERGENCY SERVICES COMMITTEE

FROM

ARAMA QUEENSLAND INC.

PROPERTY AGENTS BILL

21 July 2011

## **Resident Accommodation Managers**

ARAMA Queensland Inc represents the resident accommodation managers industry in Queensland through their ownership of the management rights to provide services to the owners of strata and community titled properties and to their bodies corporate.

The resident managers in Queensland are licensed under PAMDA, with managers holding either a Real Estate Agent licence or Resident Letting Agent licence.

ARAMA and its members have worked with the Government of Queensland to grow Queensland's tourist accommodation industry through the creation of a responsible management rights industry which now operates successfully in from the NSW border to Port Douglas.

Today there are more than 5,000 resident managers looking after 3600 strata and community title properties, not just in the tourist industry areas, but in the major cities of the State as part of the 21<sup>st</sup> century lifestyle density living process, now in favour by many Queenslanders.

ARAMA and its members support the initiatives by the Government to separate property agents, property auctioneers and resident letting agents into their own Act and recognise the need to break down the complexities of PAMDA into separate Acts. ARAMA made this point in its submission to SDPC in 2007.

As a key stakeholder, ARAMA and its members has been involved in the progressive development of the PAMDA legislation, working with the government and the officers of the Department of Fair Trading in developing the strata and community title legislation to remain progressive and relevant to the needs of Queenslanders.

As a result of the ongoing program of regular consultation with the Government, a major new industry has been created in Queensland, for the benefit of the tourist industry and in the modern management structures available to owners, investors, holidaymakers and tourists and short and long term tenants.

It should be noted that holiday letting of apartments in strata properties is now the largest provider of accommodation for the tourist industry on Queensland and Australia's east coast. The properties available provide a wonderful range of property types, from the beachside shack to the 5-star resort. Queensland's tourism industry has been built around that divergent choice which must be preserved to protect tourism which is such an important industry in Queensland.

## **Protection for Investors**

Of significant importance is the relationship between the secondary objects of the *Body Corporate and Community Management Act 1997* (BCCMA) and the role of resident letting agents. Many investors in Queensland's tourism accommodation industry rely upon the protection of BCCMA and the licensing regime provided for resident letting agents (RLAs) through PAMDA. In particular, Section 4 sets out the Act's Secondary Objects which include:

*(c) to encourage the tourism potential of community titles schemes without diminishing the rights and responsibilities of owners, and intending buyers, of lots in community titles schemes;*

The rights and investments of all stakeholders must be protected and BCCMA recognizes that. Much of that protection is currently delivered through PAMDA and we must rely on the Property Agents Bill to continue to deliver that same protection.

## **National Occupational Licensing**

The National Occupational Licensing System (NOLS) being developed as a COAG initiative was due to release for industry comment in the first half of July, its proposal for property agents. There is some uncertainty regarding the role of RLAs in expected NOLS proposal. Both property owners and RLAs will rely on the Property Agents Act to provide a valid and suitable regime for the licensing of RLAs agents if NOLS fails to provide same.

It is only through the ongoing licensing of RLAs that the secondary object of BCCMA quoted above is delivered.

The Property Agents Bill ensures that each letting agent has an "authority to let" agreement in place with the property owner and both parties understand the responsibilities and potential benefits from that agency relationship. Funds held on behalf of the owner must be held in a trust account subject to audit and annual report to the Office of Fair Trading (OFT). If NOLS does not deliver this same protection, the industry will rely on the Queensland Government to provide this protection through this Bill.

We recognise that other states do not have tourism industries that match the diversity provided in Queensland and so NOLS decisions made elsewhere may not reflect the need to provide certainty and security for those who have invested in tourism accommodation.

## **Operation of PAMDA**

PAMDA has operated well for all stakeholders and we expect that the Property Agents Bill will operate just as effectively. Few prosecutions of RLAs have occurred and ARAMA has worked closely with OFT compliances officers in keeping members informed of their responsibilities.

Resident managers are investors in these properties and are committed not just to the prosperity of the property asset, but are intimately involved in the local and regional tourism industry and its impact on the economic development of coastal communities.

As members of ARAMA they are committed to a code of conduct and behaviour to ensure they act responsibly in providing services to owners, investors, holiday guests and tenants.

While the management rights industry is well established in Queensland and operates responsibly under PAMDA, there are serious concerns within the industry that one of the key elements for the industry's continued successful operation and high level of compliance to the legislative and regulatory requirements of both PAMDA and the BCCMA and regulations is under potential threat.

ARAMA believes that community and investor confidence in the industry which has been developed through the Queensland legislative process during the past 30 years must not be jeopardised by NOLS and we rely on the Property Agents Bill to protect the industry if NOLS fails to do so.

The regulatory requirements under PAMDA and which will be continued under the Property Agents Bill which require licensing – either a resident letting agent licence or a real estate agent licence - provide a great deal of confidence in the market place in terms of responsibilities and service delivery by all resident managers.

Hence the decision by the Queensland Government to continue to maintain this position in the new legislation is applauded by ARAMA as a responsible and sensible initiative.

## **Investment in Management Rights**

As the resident managers have developed the industry, the management rights are currently worth an average of \$1.4 million in each complex. Hence the industry is worth some \$5 billion and relies on the Queensland Government through the Property Agents Bill and companion legislation to continue the protection for all stakeholders and deliver a stability to the industry.

Our concerns are for the future.

We are aware of the protracted negotiations being conducted by the Council of Australian Governments and its National Occupation Licensing Scheme and the harmonisation program across a wide range of occupations, including the property industry.

Whilst the final NOLS Regulatory Impact Statement is scheduled for release this month, the licensing section is being prepared in states where there is not licensing required for the management rights industry and there is not a tourism industry to protect.

ARAMA is concerned that should the regulated requirements for the management rights industry be abandoned through NOLS, that the successful industry, its major contribution to the tourist industry and its general confidence in strata and community title property management will deteriorate. We must rely on Queensland legislation through the Property Agents Bill to provide this protection if NOLS fail to do so.

Under Australian Securities and Investment Commission's (ASIC) Policy Statement 140 covering serviced apartments, exemptions are provided for most management rights operators who hold an RLA licence. If this licensing class is abandoned by NOLS, the industry and the 50,000 investors who own strata property in Queensland used for tourism accommodation will lose a major part of their protection. Operators who are providing services to tourists will be required by ASIC to hold a financial advisers licence as they are involved in managing the property investments of various people. Such an outcome would be ludicrous and contrary to the requirements of tourism in Queensland. We are all too well aware of the pressures that tourism in Queensland has suffered in the last year. We all rely on the Queensland Government's Property Agents Bill to deliver an RLA licence and ensure stability for investors in tourism accommodation.

The management rights industry was created by Queensland legislation and the initiative of the legislation has seen the creation of a major industry, responsibly managing more than \$50 billion in property.

It is an example of where progressive legislation has allowed an industry to be created and grow and make a real contribution to one of the State's largest industries with a world wide reputation.

ARAMA strongly supports the Property Agents Bill.

Chris Ward

PRESIDENT