Body Corporate and Community Management and Other Legislation Amendment Bill 2023

Response to stakeholder submissions provided to Legal Affairs and Safety Committee in relation to body corporate and community management amendments

On 6 September 2023, the Department of Justice and Attorney-General (DJAG) provided the Legal Affairs and Safety Committee with a response to submissions made by 11 stakeholders scheduled to appear at the Committee's public hearing of 7 September 2023.

The response below responds to the remaining stakeholder submissions relating to the body corporate and community management amendments, as well as a supplementary submission provided by the Queensland Law Society, as outlined in the table on the following page.

DJAG notes the following document does not reproduce the response provided to the Committee on 6 September 2023.

Approach to matters raised in submissions

The response does not endeavour to respond in detail to every question raised in the submissions. The approach taken attempts to identify key themes and concerns as they relate to the amendments contained in the Bill.

Issues raised in submissions that are outside the scope of the Bill

In several instances, stakeholders have raised questions, issues and concerns outside the scope of the Bill. A detailed departmental response has not been provided in relation to the substance of those matters.

However, it is to be noted that the Government has established a Community Titles Legislation Working Group (CTLWG) to provide advice on key community titles-related issues. The CTLWG includes representatives of peak stakeholder bodies and is chaired by the Deputy-Director General, Liquor, Gaming and Fair Trading, DJAG. The topics being considered by the CTLWG for future advice to Government (and not covered by this Bill) include debt recovery, dispute resolution, regulation of body corporate managers, management rights, residential amenity and bullying and harassment. As a future stage of work, the CTLWG will also consider options for further harmonising the *Building Units and Group Titles Act 1980* (BUGT Act) (and related legislation) and the *Body Corporate and Community Management Act 1997* (BCCM Act).

Submissions addressed

001 Name Withheld (NW)	017 Gary Timuss (Timuss)	035 Ross and Beverley Robinson (Robinson)	057 Planning Institute Australia (PIA)	080 Lucinda Doughty (Doughty)
002 Name Withheld (NW)	018 Owen Thorley (Thorley)	036 Local Government Association of Queensland (LGAQ)	058 Name Withheld (NW)	081 Name Withheld (NW)
003 Michael Werts (Werts)	019 Richard and Julia Szabo (Szabo)	037 Name Withheld (NW)	059 Toni Leigh (Leigh)	082 Name Withheld (NW)
004 Name Withheld (NW)	020 Graeme and Barbara Hughes (Hughes)	038 Norman Locke (Locke)	060 Housing Industry Association (HIA)	083 Name Withheld (NW)
005 Ed Borton (Borton)	021 Name Withheld (NW)	039 Strata Assist QLD (SAQ)	061 Name Withheld (NW)	084 Jan McDonald (McDonald)
006 George Galea (Galea)	022 HWL Ebsworth (HWLE)	040 Aria Property Group (APG)	063 Martyn Tiller (Tiller)	086 Australian Property Management Alliance (APMA)
007 Name Withheld (NW)	023 Peter Conway (Conway)	042 Name Withheld (NW)	064 Bardi Hudson (Hudson)	087 Property Owners Association of Queensland (POAQ)
008 Mike Myerson (Myerson)	025 Body Corporate Law Queensland (BCLQ)	043 Lung Foundation Australia (LFA)	065 Jon Campbell (Campbell)	088 Name Withheld (NW)
009 Name Withheld (NW)	026 Committee of Mariner Court Body Corporate (CMCBC)	045 Town Planning Alliance (TPA)	066 Amanda Sippelf (Sippelf)	090 Queensland Law Society (QLS supplementary submission)
010 John Daly (Daly)	027 David and Lia Hutley (Hutley)	048 Townsville Lot Owners Group (TLOG)	070 Robyn Aydon (Aydon)	091 Name Withheld (NW)
011 Name Withheld (NW)	028 Name Withheld (NW)	049 KBW Community Management (KWB)	071 Garth McNeil (McNeil)	092 Jon Low (Low)
012 Name Withheld (NW)	029 Name Withheld (NW)	050 Frank Fischl (Fischl)	072 Name Withheld (NW)	
013 Australian Resident Accommodation Managers' Association (ARAMA)	030 John Yesberg (Yesberg)	051 Fred Douglas (Douglas)	074 Community Alliance Association (CAA)	
014 Name Withheld (NW)	031 Royalie Walters (Walters)	053 Name Withheld (NW)	075 Robert Cartledge (Cartledge)	
015 Name Withheld (NW)	032 Name Withheld (NW)	054 Name Withheld (NW)	076 Name Withheld (NW)	
016 Name Withheld (NW)	034 Sandra St Ledger (St Ledger)	056 Name Withheld (NW)	079 Holmes Strata Reports (HSR)	

Key Issue	Bill Clause	Submission	Departmental response
Termination of community titles schemes			
Scheme termination - General	7	Submissions 2 (NW), 6 (Galea), 9 (NW), 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 20 (Hughes), 21 (NW), 22 (HWLE), 23 (Conway), 27 (Hutley), 35 (Robinson), 42 (NW), 54 (NW), 70 (Aydon), 74 (CAA), 81 (NW), 83 (NW), 87 (POAQ), 88 (NW) do not support termination reforms. Submission 13 (ARAMA), 17 (Timuss), 40(APG), 45 (TPA), 57 (PIA), 90 (QLS supplementary submission) support termination reforms but with proposed changes or qualifications. Submission 16 (NW), 26 (CMCBC) support termination reforms.	Noted
Scheme termination – new process too complex / difficult to comply with / easily frustrated by dispute	7	Submission 22 (HWLE), 40 (APG), 45 (TPA) consider termination process is overly complicated, takes too long to finalise, costs too much to comply with. Also, and despite the stated intention to allow termination if 75% of owners vote in favour, parties will be able to block the process and cause significant delays, with bodies corporate responsible for the costs. Submission 45 (TPA) considers the reform does not align with timeframes for local government development	Submission 22 (HWLE), 40 (APG) - The new process for terminating schemes must necessarily balance a capacity to terminate without unanimous agreement against the need to protect lot owners from unjustified forced sale of their lots. This necessitates a substantial degree of prescriptive rigour as well as sufficient access to justice via dispute resolution rights. There is no viable alternative process that allows for simple, non-unanimous termination of schemes without also posing extreme risk of direct harms to lot owners and tenants. The intent of the process is not to allow non-unanimous termination per se, but to allow termination if 75% of owners vote in favour – *where it has been decided that there are*

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		incentives and may result in redevelopment missing out on these incentives, leaving old schemes in disrepair with little incentive to redevelop. Submission 90 (QLS supplementary submission) broadly supports the approach but believes a number of drafting issues create considerable uncertainty, will lead to litigation on technical issues rather than merits of termination, and may not have the desired effect in terms of termination/ redevelopment. In regard to the implementation of termination plans, the submission express concerns about the effects of changes in lot ownership and proposes the Bill should contain a clear statement that the termination plan is binding on the body corporate, owners, lessees and contractors. Information about a termination resolution having been passed should be made available by the Registrar of Titles to prospective purchasers of a lot (information to be publicly available). Submission also notes concern that there may be potential for owners to terminate their scheme before the	*defined economic reasons supporting termination*. It is critical that such decisions, as well as the subsequent arrangements that are made for sale and compensation for lot owners and other relevant parties, are appropriately reviewable. Submission 45 (TPA) - Regarding development and planning incentives, these are not within scope of the BCCM Act, but the Housing Summit and other Government commitments establish the Government's intent to prioritise renewal and redevelopment. Developers are seeking, as a priority, to access existing sites for redevelopment. The economic reasons termination process allows non-unanimous agreement of bodies corporate to achieve that, where warranted (in contrast with current requirements that effectively require unanimous agreement or separate purchase of all lots), while also including necessary protections for lot owners. Also, unlike other jurisdictions, there is no mandatory judicial or quasi-judicial oversight required. While there is a risk of dispute delaying termination, that is a risk that can be mitigated by the approach taken by purchasers/developers to consultation/engagement with lot owners on key matters such as compensation arrangements. Submission 90 (QLS supplementary submission) – In regard to termination plans binding parties, and effects of ownership changes, the Department notes that, in general, when a body corporate makes a resolution, it continues to be a valid resolution unless the body corporate overturns the resolution or it is overturned through a judicial or quasi-judicial process. It is not considered necessary to include a provision about binding owners – it appears to the Department that they, as members of

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		scheme is sold to a purchaser – leaving them as tenants in common of consolidated scheme land (and the associated risks and complexity of such an arrangement).	the body corporate, will be subject to the resolution unless and until it is overturned. Regarding disclosure issues, searches of body corporate records as part of normal conveyancing processes are expected to make it clear to a potential buyer that the scheme is going through a termination process. The Department agrees with QLS that terminating the scheme before the scheme is sold would make practical management of the land and lot owners' complex and could raise a range of practical difficulties. It would not seem to be in any party's interests to do that. Importantly, the new process for terminating uneconomic schemes is intended to be informed by the termination plan which sets out the process for selling the scheme to a single buyer. The design of the provisions attempts to provide bodies corporate with flexibility to deal with a situation where there is a proposed buyer (i.e. a developer has approached the body corporate with an offer) or where the body corporate wishes to undertake a public auction/tender process. A termination resolution is a decision to implement the termination plan – the Department considers that, in most cases, the mechanical termination by lodgement of the required documents with the Land Registry is a concluding step after arrangements for the sale to a single buyer have been completed. Responses to additional drafting concerns are included in following sections.
Scheme termination – favours developers / overdevelopment	7	Submission 9 (NW), 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 20 (Hughes), 21	Submission 9 (NW), 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 20 (Hughes), 21 (NW), 23 (Conway), 34 (St Ledger), 42 (NW), 54

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/ not addressing housing needs		(NW), 23 (Conway), 34 (St Ledger), 42 (NW), 54 (NW), 64 (Hudson), 74 (CAA), 81 (NW), 83 (NW), 87 (POAQ), 88 (NW) – termination process heavily influenced by/favours developers, will contribute to over-development, local infrastructure may not be sufficient, may not address housing needs. Submission 64 (Hudson) - with no requirement for redevelopment intent to be evidenced, how will public benefit be assured (in terms of increased housing). Termination will result in thousands in need of immediate housing, and it is not clear that necessary construction activity can be sustained given rising costs and labour shortages. Submission 70 (Aydon) expresses concern that the reforms serve developer priorities and will not improve housing supply in Main Beach and other beachside suburbs (that are already overdeveloped). Redevelopment activity will diminish housing supply for a period during construction.	(NW), 64 (Hudson), 70 (Aydon), 74 (CAA), 81 (NW), 83 (NW), 87 (POAQ), 88 (NW) - Developers are afforded no specific rights under the Bill, in contrast with other jurisdictions where bodies corporate may be statutorily obligated to undertake specific actions when approached by developers with termination proposals. The termination reforms were informed by stakeholders with a wide range of perspectives. While the strong preference of development aligned stakeholders is that non-unanimous termination be allowed without any requirement for limiting it to where economic reasons are established – the approach taken to require economic reasons appropriately weighs lot owner protections relative to developer interests. Measures intended to ensure the termination procedure prioritises owners' (and tenants') interests and protections include: limiting non-unanimous termination to where economic reasons have been established, providing dispute rights and body corporate responsibility for dispute costs, placing onus of establishing appropriateness of termination on proponents of termination, and generous minimum compensation requirements taking into account 'uplift' factors in the sale of the scheme. Regarding development and planning concerns, issues around development appropriateness are not within the scope of the BCCM Act. However, the Housing Summit and other Government commitments establish the Government's intent to prioritise renewal and redevelopment. It is acknowledged that sites will not be usable during redevelopment, and that localised temporary reduction in

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			housing or accommodation stock will occur. This is balanced against future requirements for premises to address housing and other needs. Government has determined through the Housing Summit that renewal and redevelopment is a priority. While it is outside DJAG's responsibilities, it is also noted that the nature of developments and use of particular locations may change over time as a result of market conditions or State or Local Government planning frameworks.
Scheme termination – compensation / forced relocation / gentrification	7	Submission 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 27 (Hutley), 34 (St Ledger), 35 (Robinson), 42 (NW), 54 (NW), 70 (Aydon), 74 (CAA), 81 (NW), 83 (NW), 87 (POAQ), 88 (NW) broadly: concerned lot owners and/or tenants forced to move due to termination will be most impacted and potentially not be able to afford to relocate in the same area due to higher prices / levies / rents in existing newer schemes or those to be created by redevelopment, as well as concerns that new lots will be predominantly bought by residents of other states. Submissions note concerns about loss of social networks, chosen supports and local amenities. Even where compensation may be reasonable, appropriate replacement properties may be too expensive.	Submission 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 27 (Hutley), 34 (St Ledger), 35 (Robinson), 42 (NW), 54 (NW), 70 (Aydon), 74 (CAA), 81 (NW), 83 (NW), 87 (POAQ),88 (NW) – The requirement to establish economic reasons means non-unanimous termination is limited in scope (to non-economic schemes). The purpose of this limitation is to ensure it can only be applied where owners in those schemes are or will soon be faced with high repair/maintenance costs associated with ownership, or for a commercial scheme that it is not economically viable for the scheme to continue. It is not intended that it apply to schemes suitable for owners to live in/use in the longer term. Regarding additional costs of relocation, the Bill's minimum compensation requirements, in relying on the Acquisition of Land Act means the basis for compensation under the Bill reflects both market value and compensation for disturbance as well as 'highest and best use' of land acquired. A wide range of 'disturbance' factors associated with forced sale must be taken into consideration. The scope for compensation is intended to be broad without attempting to

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		Submission 70 (Aydon), 83 (NW) - express concerns that the Bill does not mention compensation for costs of those forced to move (e.g stamp duty, bank charges, removalists). Submission 13 (ARAMA) considers compensating long-term residents and service providers if objecting to termination and forced to move – including locating a comparable dwelling. Submission 26 (CMCBC) in contrast believes owners refusing to sell lots in older schemes in need of substantial works (particularly in the Main Beach area, from which a number of submissions in opposition to reforms have come) are contributing to a shortage of sites and denying others opportunity to own apartments. Submission 27 (Hutley) proposes developers acquiring a site must offer lots in the new site to owners of the site purchased, or sellers should receive compensation equivalent to the value of the new apartments. Submission 83 (NW) concerned application of Acquisition of Land Act principles will not ensure	exhaustively list relevant impacts (which could result in unintended exclusion of potential impacts). It is important to note that the District Court must consider a broad range of factors in dealing with any disputes and determining whether compensation is appropriate (and potentially ordering variation of the termination plan where it is not) including social and economic impacts of terminating scheme on lot owners and tenants. Submission 13 (ARAMA)– Requirements for the purchaser to locate a comparable dwelling for any objecting owner would likely make the new termination process unworkable for any but the smallest schemes. Submission 26 (CMBCB) – noted. The economic reasons termination procedure is intended to facilitate termination of schemes where economic reasons exist – in turn allowing redevelopment of sites presumably with a net increase in the number of lots available. Submission 27 (Hutley) – replacement through lots in the new development would come at a substantial delay, and a subsequent change in market circumstances would risk lot owners being undercompensated. However, owners in the existing scheme are not prevented under the new termination process from making arrangements with the developer for purchase of new lots subsequent to termination. The application of the Acquisition of Land Act means that minimum compensation requirements will take into account the ‘highest and best use’ of the land, so compensation will take into account the uplift in value of the site through consolidation

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		position/amenity issue relevant to lots will be captured.	and redevelopment. However in regard to extending that to equivalency with the precise market value of apartments yet to be built on the site, that could leave owners exposed to, for example, under-estimations of the value of the future units. Submission 83 (NW) – Actual proceeds of sale must be apportioned in accordance with the relative market value of a lot. The minimum compensation requirements based on the Acquisition of Land Act determine the minimum compensation payable. Even then, compensation under the Acquisition of Land Act is based on a combination of market value and disturbance factors.
Scheme termination - compensation for management rights businesses	7	Submission 13 (ARAMA) management rights holder should be compensated on the basis of a 10 year contract evaluation regardless of remaining term – schemes may decide to "wind down the clock" to reduce compensation costs.	Submission 13 (ARAMA) - deeming a particular contract length for determining compensation would artificially inflate the compensation value of a management rights business – which, if it was operating in a scheme for which there are economic reasons to terminate, may be of limited intrinsic value. It is the body corporate's prerogative to extend, or not, a management rights contract (not including extension rights included in the contract that were agreed to by the body corporate). "Winding down the clock" might also be viewed as simply allowing fulfillment and completion of the contract under its agreed terms. It would seem reasonable for a body corporate to not put in place or extend long contracts where condition of the scheme is such that termination is a realistic consideration.
Scheme termination – lack of consultation or evidence	7	Submission 10 (Daly), 12 (NW), 64 (Hudson), 74 (CAA) concerned about lack of public consultation/ propose further consultation required.	Submission 10 (Daly), 12 (NW), 64 (Hudson), 70 (Aydon), 74 (CAA) - The termination reforms are largely based on QUT's property law review recommendations – extensive public

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		Submission 70(Aydon), 74(CAA), 81(NW) express concerns that there are no public hearings on the Gold or Sunshine Coast, and the limited period for making submissions to the committee process. The submissions express the view that concerns of unit owners have not been taken into account. Submissions states that experts agree there are already adequate provisions for dealing with schemes that are genuinely not economically viable.	consultation on relevant issues and recommendations papers was conducted. Targeted consultation on the draft Bill was conducted with members and key invitees of the CTLWG (representing a broad range of community titles sector perspectives). The broader need for reform was further informed by the Queensland Housing Summit, which included a range of professional, industry, and community groups and members of the public. Submission 70 (Aydon), 74 (CAA), 81 (NW) - In regard to concerns about committee hearings and timeframes, it is noted that these are matters for the Legal Affairs and Safety Committee. Regarding expert agreement about the suitability of existing means to deal with schemes that are no longer viable, it appears that there is no expert consensus on the matter – as evidenced by consultation and discussions relating to QUT's property law review, the conclusions of the Housing Summit, and submissions to this current inquiry.
Scheme termination – District Court dispute jurisdiction	7	Submission 10 (Daly), 12 (NW), 42 (NW), 54 (NW), 70 (Aydon), 74 (CAA) express concern that dissenting owners will not have financial resources to pay for legal costs and challenges will not succeed in any case (and in some cases – are concerned that developers will provide funds to committees seeking to terminate).	Submission 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 23 (Conway), 42 (NW), 54 (NW), 70 (Aydon), 74 (CAA) – Bodies corporate will be responsible for reasonable costs incurred in District Court proceedings for disputes under the new economic reasons termination process. If, as seems to be part of the concerns, there is a committee seeking to progress termination despite opposition from a majority of owners, lot owners can seek advice and take actions as a group.

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		Submission 11 (NW) individuals with special circumstances should not have the potential threat of having Courts decide their fate. Submission 14 (NW), 23 (Conway) no need for change as the existing District Court process is suitable where 100% agreement cannot be reached. Cost, complexity, stress and relationship ramifications of legal proceedings (notwithstanding body corporate responsibility for some of those) will deter most people from disputing termination. Even successful objection could lead to resentment and impact future scheme harmony. Submission 12 (NW) – a lower jurisdiction should be chosen to reduce potential expense. Submission 90 (QLS supplementary submission) – facilitator is only empowered to apply for order that "each lot in the scheme be sold under the termination plan" – not clear a facilitator could apply for a statutory trustee. Further (under section 81Q), it seems inequitable that where a facilitator applies for such an order, for example	There is an existing District Court jurisdiction for termination by court order (which is not limited to where there are economic reasons to terminate). This is being retained by the Bill but does not specify the body corporate's responsibility for reasonable costs of proceedings – making owners potentially responsible for their own, or all costs. It will however be updated to include just and equitable factors the Court must consider. The Court's jurisdiction to hear disputes about the new termination process will benefit from inclusion of these just and equitable factors, as well as placing the onus of establishing that it is just and equitable to terminate on the body corporate and making the body corporate responsible for reasonable costs incurred by parties to the proceedings. This is an improvement on the uncertainty and potential costs to objecting owners under the Court's current jurisdiction. While involvement in court proceedings might be a deterrent to an owner opposing termination, the measures included (e.g. body corporate responsibility for reasonable costs) seek to minimise barriers and ensure access to justice. Where conditions are such that economic reasons to terminate exist, and a majority of owners wish to terminate but there are holdouts, the costs and condition of the scheme and tensions around failure to terminate are likely to be currently impacting on scheme relationships. It is not clear there will be any increase in such negative impacts under the new process compared to the status quo. It is considered more likely that in any circumstances where there is dispute about collective sale/termination – regardless of the requirements for those processes – there are likely to be tensions within the scheme.

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		where an owner has refused to comply, that the body corporate is required to pay the cost of proceedings and establish that it is just and equitable to terminate. Also consider that time limits under section 81N(2) should only apply to applications to challenge resolutions, not to vary a plan or compel compliance.	Submission 12 (NW) – In regard to having a lower jurisdiction deal with disputes about termination, it should be noted that the District Court has existing jurisdiction for such matters under the current process. It is not considered that there is a suitable lesser jurisdiction to deal with such significant matters as the forced sales of lots and large monetary considerations including compensation. Submission 90 (QLS supplementary submission) - It appears that the interaction of sections 81N and 81R means the court could appoint a trustee on application by facilitator for the sale of lots. In regard to concerns about the body corporate requirement to pay for proceedings to force sale of lots, the provisions are intended to protect potentially vulnerable or minority owners. With regard to time limits, the Department notes QLS comments, but is concerned that unclear timeframes would cause uncertainty. It is noted that the court can allow another period in appropriate cases (section 81(2)(b)).
Scheme termination – establishing economic reasons	7	Submission 6 (Galea) expresses concerns about body corporate funding of reports necessary to establish economic reasons for termination, including whether owners can independently rely on body corporate funds to obtain reports, and whether there will be a limit on expenditure on such reports by the body corporate. Submission queries whether individual	Submission 6 (Galea) – Obtaining pre-termination reports is a decision for which the body corporate is responsible. While individual owners will not be able to use body corporate funds to obtain pre-termination reports, the amendments do not prevent owners obtaining their own advice/reports. To ensure independence of pre-termination reports, conflict of interest restrictions apply. With regard to limits on spending – routine requirements for authorising expenditure apply to body corporate funds spent on

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		owners will be able to use BC funds to obtain reports? Submission 10 (Daly), 12 (NW), 14 (NW), 40 (APG), 42 (NW), 70 (Aydon), 74 (CAA), 83 (NW) express concern that economic reasons for termination will be artificially or accidentally created by unscrupulous committees or bodies corporate undermaintaining buildings. Submission 11 (NW) expresses concern that the new termination procedure reduces considerations about an owner's home to economics alone. The submission queries whether there is a requirement to estimate future life of scheme based on particular repairs (presumably that may avoid need to terminate). Submission 11 (NW), 14 (NW), 70 (Aydon), 74 (CAA) state that developers or bodies corporate will 'expert shop' for favourable pre-termination report information, or independent experts providing information for reports will be biased toward redevelopment. There are no penalty provisions for 'expert shopping'. Submission 14 (NW), 70 (Aydon) suggest that to avoid creation of	pre-termination reports. As with any action/decision of the body corporate, dispute resolution applications can be made to the Commissioner for Body Corporate and Community Management, where expenditure may be unreasonable. The body corporate will not be required to fund reports obtained by individual owners – this would have the potential to financially overwhelm the body corporate or be used inappropriately to frustrate a termination process. However, a specialist adjudicator has broad investigative powers and may request information or reports be given/produced as part of a dispute about an economic reasons decision. Submission 10 (Daly), 11 (NW), 12 (NW), 14 (NW), 64 (Hudson), 70 (Aydon), 74 (CAA), 83 (NW) - A body corporate, or a committee may approve preparation of a pre-termination report, depending on any spending limit applying to the committee, and whether it is a restricted issue for the committee. These are factors under the control of, and changeable by the body corporate, comprised of lot owners, that the committee serves. Regarding independence of advice – obtaining the advice will ultimately be a decision of the body corporate. The Bill includes conflict of interest measures. A relevant professional's remuneration will not be contingent on the termination proceeding – it is not clear why they would be inherently biased toward producing information establishing economic reasons to terminate or why their professional standards would be intrinsically questionable. Regarding penalties for committees – these would be out of scope, and unjustified. Penalties for (self-managed) bodies

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		circumstances where there are economic reasons to terminate, penalty provisions should be included for failing to budget properly, accompanied by a requirement for periodic independent audits regarding maintenance obligations and the sinking fund. Submission 40 (APG), 45 (TPA), 57 (PIA) – state that there should not be a requirement to establish economic reasons before allowing non-unanimous termination, on the basis that New South Wales did not include such a restriction and reforms there have been non-contentious. Submission 40 (APG) - suggests that unless the ambiguous economic reasons test is removed, the intended purpose of unlocking well located, well serviced sites for redevelopment, boosting housing supply, will not be achieved. Submission 45 (TPA) - expresses concern that technicalities around requirements limiting non-unanimous termination to 'uneconomical schemes' are impractical, contradicting the intent of addressing the housing crisis and inhibit fast delivery of higher density development.	corporate would be paid by the very lot owners seeking relevant requirements be complied with. Bodies corporate have existing powers to restrict the actions of committees and can take actions against committee members (including removal from the committee) if necessary. With regard to applying existing legislative requirements – a historic lack of maintenance or appropriate budgeting in some schemes is an unfortunate reality. If that has continued while no action has been taken to address it by owners within the scheme (through the dispute resolution process which allows a lot owner to apply for an order of an adjudicator requiring the body corporate to comply with its responsibilities) and has given rise to clear economic reasons to terminate, then, unfortunately, the reasons for the lack of maintenance do not alter the fact that it is no longer economic to repair or maintain. Submission 11 (NW) – Non-unanimous termination will not be possible unless it is no longer (or in 5 years will not be) economically viable to repair/maintain the scheme. It is not a general allowance for termination for economic gain. A pre-termination report would include estimates of necessary repairs – this is key to determining whether economic reasons exist. Submission 11 (NW), 14 (NW), 70 (Aydon) - In regard to concerns about developers selecting consultants favourable toward developers, developers will not be responsible for preparing pre-termination reports – arranging reports is a responsibility, and at the discretion of, the body corporate.

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		Submission 45 (TPA) - states that the test for economic reasons is ambiguous as there are no clear definitions of 'economic reason' – it is open to interpretation. The economic reasons test will encourage schemes to fall into disrepair, creating perverse and unintended outcomes. Submission 64 (Hudson) expresses concern that the conflict of interest restrictions on preparation of the pre-termination report are inadequate / non-existent. Submission 90 (QLS supplementary submission) proposes that economic reasons should require an economic cost benefit analysis of reasonableness of continuing to maintain a building rather than replace it – "would a reasonable person who owned the building, in exercising sound financial judgement, consider it more appropriate to demolish the building and rebuild rather than incur expenditure to maintain it". Further, it is not clear whether paragraphs 81A(a) and (b) are intended to be cumulative, or alternative.	Imposing new compliance requirements (audits) in order to address non-compliance with existing requirements (maintenance / budgets) would unlikely be effective relative to the cost of such a measure and is contrary to the self-management principles of the BCCM Act. Submission 40 (APG), 45 (TPA), 57 (PIA) regarding comparisons with the New South Wales process – it is understood that the New South Wales process has only been completed on a very small number of occasions since 2016. While development of the Queensland reforms have had regard to the New South Wales approach, it is not clear that it is an approach that should be simply emulated because it exists. It should be noted that adopting the New South Wales model would also require mandatory judicial consideration prior to giving effect to a termination plan, although submissions supporting the New South Wales model do not highlight that distinction between the approaches. The intended purpose is consistent with unlocking well located, well serviced sites for redevelopment, boosting housing supply *– but limited to where current schemes are not (or in 5 years will be not) economically viable.* Exposing lot owners arbitrarily to the threat of forced sale by private entities merely because their lot is part of a community titles scheme, and the site for their scheme has been rezoned to allow higher density development, is not an intent of the reforms. Forced sale of privately owned lots solely to realise the redevelopment or profit potential of sites, even in the context of broader housing considerations, is not intended (as reflected by the Government's decision to include an economic reason requirement).

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			Submission 45 (TPA) - In regard to concerns about potential ambiguity of the economic reasons test, the economic reasons test will need to be applicable to a wide variety of schemes used for different purposes. An overly prescriptive definition of 'economically viable' may lead to unintended consequences in application. The term 'economically viable' is a generally well understood concept. In regard to schemes being encouraged to fall into disrepair, bodies corporate have clear responsibilities to maintain schemes, and lot owners have access to dispute resolution functions to enforce those. If a historic lack of maintenance or appropriate budgeting in schemes continues while no action has been taken to address it by owners within the scheme and that has given rise to clear economic reasons to terminate, then unfortunately the reasons for the lack of maintenance do not alter the fact that it is no longer economic to repair or maintain. Submission 90 (QLS supplementary submission) – The two limbs of 'economic reasons for termination' are intended to stand-alone and deal with different situations. There is no 'and' between the provisions and it is not intended to be necessary to satisfy both potential reasons. In fact, pre-termination reports contemplate different types of expert reports, depending on which of the economic reasons is being relied upon. One of the reasons relates to repair and maintenance and similar issues. The other is intended to cater for a situation where all lots are used for an economic purpose and something changes to make the scheme uneconomically viable. A potential example could be a row of retail shops

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			where something happens, like a traffic by-pass or closure of some separate but critical attraction, which results in the shops having very few customers. It is intended that the concept of 'economically unviable' not simply be a test of what owners could theoretically pay for repairs, maintenance etc. It is intended to allow for bodies corporate to weigh up what is an economically justifiable way forward for the scheme. Having a more prescriptive test could be too restrictive and may not necessarily increase clarity and certainty (for example, by incorporating concepts of what a 'reasonable' person might do). In addition, it would not seem necessary or appropriate for lot owners to need to put themselves in the shoes of a prospective developer – with regard to QLS proposal that the test should be "would a reasonable person who owned the building, in exercising sound financial judgement, consider it more appropriate to demolish the building and rebuild rather than incur expenditure to maintain it".
Scheme termination – Bullying and Harassment	7	Submission 14 (NW) – expresses concern that safeguards of establishing economic reasons based on expert evidence, the right to dispute through courts, and 75% agreement threshold are not sufficient. Potential for pressure on 'holdout' owners to sell, and direct approaches to lot owners may occur, breaching privacy.	Submission 14 (NW), 70 (Aydon) – It is not clear why providing means to terminate a scheme despite some level of dissent will necessarily create more pressures to sell than current requirements for unanimous agreement. Presumably 'holdouts' in schemes seeking termination would already be exposed to such pressures. Under the Bill, if their support is not essential for termination where economic reasons exist, then such harms may be reduced. While the potential for sharp practices is a significant concern, there are existing civil and criminal remedies relevant to harassment and other relevant behaviours, as well as dispute

Key Issue	Bill Clause	Submission	Departmental response
		Submission 70 (Aydon) – expressed concerns about bullying and harassment.	resolution options under the BCCM Act. It is not clear that provisions dealing with bullying and harassment that specifically apply to termination matters are required. The CTLWG has been considering the broader issues of bullying and harassment in community titles scheme, and any initiatives (legislative or otherwise) resulting from that process would be expected to also benefit scheme stakeholders involved in termination processes.
Scheme termination – Appropriate agreement threshold	7	Submission 11 (NW), 12 (NW), 13 (ARAMA), 54 (NW) – state that the threshold for economic reasons termination should be higher (including above 90%, and potentially also including an “all but one agree to sell” rule for schemes with fewer than 10 units) given the significance of scheme termination regarding homes, families, broader interests and needs. Submission 17 (Timuss) – considers that in addition to 75% agreement, there should be an additional requirement of no more than 10% against. Submission 54(NW) – claims there would be numerous cases of forced sale of units in New South Wales and negative impacts on owners and community there due to the 75% threshold for sale (suggesting Queensland should not allow non-	Submission 11 (NW), 12 (NW), 13 (ARAMA), 54 (NW) – A threshold of 90% would put the process out of reach of any scheme with 9 or fewer lots, which is the majority of schemes. A 75% threshold allows it to apply to the majority of schemes (4 lots and higher), while still requiring at least three times as many owners to support termination than to oppose it. Submission 17 (Timuss) – Where economic reasons are established, the intention is to allow termination, if at least 75% of owners agree. Consideration of whether remaining owners vote against or abstain from voting is not relevant to establishing the required level of support. Submission 54 (NW) – There have been very few terminations under the New South Wales ‘strata renewal’ process since it commenced in 2016 (details of at least 2 are known). It is not apparent that reforms there have led to an increase in forced sales above that which would result from time to time under the existing processes to achieve termination by application for order of the New South Wales Supreme Court.

Key Issue	Bill Clause	Submission	Departmental response
		unanimous termination to avoid such impacts).	
Scheme termination – other drafting issues	7	Submission 90 (QLS supplementary submission) – section 80(1) and 81I – application of Division 4, and application of Division 5: concerned that the relevant division/provision deals with a number of steps not referenced in their application subsections. QLS is concerned that minimum compensation arrangements do not take into account arrears of statutory charges (rates and land tax).	Submission 90 (QLS supplementary submission) – concerns noted – The intention is, consistent with drafting advice, that Division 4 provides for the circumstances and types of community titles schemes that may be terminated following the process contained in Division 4, which relates to economic reasons terminations. It is correct that section 80 foreshadows two key elements of the new process contained in Division 4, those being: the preparation of a termination plan and the passage of an economic reasons resolution. However, section 80 is not intended to be restrictive in the sense of making the Division inoperable. Similarly, section 81I does foreshadow that the subdivision 5 is relevant when a body corporate passes a termination resolution, but it is not intended to make redundant the provisions in the subdivision dealing with any preceding steps to making that resolution. In regard to liability for rates and taxes, the Department appreciates the views of QLS on this issue, but considers that given the broad function of a termination plan – i.e. setting out the arrangements for the sale of the scheme to a single owner – that this issue could potentially be dealt with through arrangements in the termination plan or otherwise as part of the arrangements for the sale of the relevant lots to the buyer.

Key Issue	Bill Clause	Submission	Departmental response
Body corporate towing of motor vehicles			
Towing motor vehicles - Support	9	Submission 1 (NW) considers that towing is required in community titles schemes (as well as future dated contravention notices). Submission 3 (Werts) supports the amendments in relation to towing motor vehicles. Submission 71 (McNeil) supports the amendments in relation to towing motor vehicles. Submission 71 (McNeil) also suggests: • the body corporate be required to maintain a register of all owner/occupier vehicles so that the body corporate can easily determine if owner/occupier vehicles are parked illegally in visitor car parks. • an owner/occupier should receive a one-time only warning notice to state a vehicle is illegally parked and to remove it or face towing. • clarifying that the prohibition on delegation of body corporate powers (section 97 of the BCCM Act) and that a by-law must not impose a monetary liability on an occupier of a lot (section 180 of the BCCM Act) don't impact on right to tow.	DJAG notes comments in support for amendments in relation to towing of motor vehicles by bodies corporate. DJAG notes the meaning of future dated contravention notices referred to in submission 1 (NW) is not clear. Submission 71 proposes that the body corporate's power to tow vehicles be included in body corporate by-laws; suggests clarifying that section 180 of the BCCM Act (Limitations for by-laws) does not impact on a body corporate's right to tow and makes other suggestions regarding issues to address in the BCCM Act. However, DJAG notes the approach in the Bill is to provide that a body corporate may tow a vehicle under powers outside the BCCM Act. Other approaches to allowing a body corporate to tow vehicles, including an explicit power in the BCCM Act, would potentially risk reducing the existing general ability of a body corporate to tow motor vehicles. Submission 71's comments about bodies corporate keeping a registered of all owner/occupier vehicles is noted. DJAG considers the keeping of a register of vehicles should be left to a body corporate to determine rather than prescriptively applied to all schemes, given parking is not an issue in all schemes. In regard to submission 71's comments that a body corporate should not be liable for the costs of towing, it is noted that, under the Bill, the body corporate is still required to make reasonable decisions under section 94 of the BCCM Act, and

Key Issue	Bill Clause	Submission	Departmental response
		• providing for a body corporate by-law stating that if an owner or occupier breaches parking by-laws, then the body corporate have the right to tow the vehicle. • requirements for signage to make clear to owners the risk of being towed. • the body corporate should not be liable for costs of towing. • that bodies corporate should be made aware of the requirements in relation to towing under the Tow Truck Act. Submission 87 (POAQ) states bodies corporate should be allowed to tow a vehicle that is parking illegally.	the body corporate may still be liable if the decision to tow is found later to be unreasonable or unlawful. In response to the comments by submission 71 in relation to education of bodies corporate about the requirements in the *Tow Truck Act 1973*, DJAG proposes to seek the advice and guidance of the Department of Transport and Main Roads to prepare information resources that are targeted to improving understanding about the rights of a body corporate to tow vehicles.
Towing motor vehicles – QUT report	N/A	Submission 30 (Yesberg) states that it would be helpful if the Explanatory Notes for the Bill explained how the adopted approach differs from the recommendation in the QUT report.	The Property Law Review report *Options Paper Recommendations Body corporate governance issues: By-laws, debt recovery and scheme termination* provides recommendations relating to the towing of motor vehicles and can be found here: https://www.justice.qld.gov.au/community-engagement/community-consultation/past/review-of-property-law-in-queensland. Broadly, the approach adopted differs from the Property Law Review recommendation, in that it does not specifically amend the BCCM Act to provide an ability for bodies corporate to tow vehicles after making an authorising by-law and erecting signage, as it was considered this approach may potentially risk reducing the general ability of a body corporate to tow

Key Issue	Bill Clause	Submission	Departmental response
			motor vehicles. Instead, the Bill seeks to clarify the existing powers of bodies corporate to tow outside the BCCM Act, while removing the requirement to comply with by-law contravention enforcement processes under the BCCM Act before towing a vehicle owned or operated by an owner or occupier of a lot in a scheme that is parked in contravention of a by-law.
Towing motor vehicles – towing of vehicles of third parties	9	Submission 75 (Cartledge) states the Bill only addresses towing in relation to vehicles owned by owners and occupiers of lots in a community titles scheme, and does not directly address towing of vehicle of third parties (such as visitors).	DJAG notes new section 163A(1) clarifies that nothing in the BCCM Act prevents a body corporate for a community titles scheme from towing a motor vehicle from the common property for the scheme under another Act or otherwise according to law (including under common law). The ability for motor vehicles to be towed that exists under legal powers outside the BCCM Act is not limited to the body corporate towing a motor vehicle that is owned or operated by an owner or occupier. However, if the motor vehicle *is* owned or operated by an owner or occupier of a lot included in the scheme and is parked in contravention of a body corporate by-law, currently the by-law enforcement process must be followed to enforce the by-law. Therefore, new section 163A(2) removes this specific impediment to bodies corporate towing a motor vehicle owned or operated by an owner or occupier of a lot in a timely manner. It will provide that if a motor vehicle owned or operated by the owner or occupier of a lot included in the scheme and parked in contravention of a by-law for the scheme is towed by the body corporate, the body corporate is not required to comply with the by-law enforcement process.

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			It is not necessary to provide that the body corporate does not need to use by-law enforcement process in relation to visitors, because by-laws do not apply to visitors, only to owners and occupiers. DJAG proposes to seek the advice and guidance of the Department of Transport and Main Roads to prepare information resources that are targeted at improving the understanding about the rights of a body corporate to tow vehicles. Such resources could be distributed through Government channels such as webpages and newsletters as well as in partnership with relevant community titles sector stakeholders.
Towing motor vehicles – Standard by-laws	N/A	Submission 2 (NW) suggests it would assist body corporate committees if the procedure for towing was written into the standard by-laws.	The 'standard by-laws' that are provided in Schedule 4 of the BCCM Act only apply if the community management statement does not include by-laws for the scheme. These standard by-laws already include a by-law relating to the parking of vehicles. The Bill will clarify the existing power of bodies corporate to tow outside of the BCCM Act and remove the requirement for bodies corporate to enforce a contravention of body corporate by-laws via the by-law enforcement process if a motor vehicle is owned or operated by an owner or occupier of a lot. It is not entirely clear what the submitter is suggesting in relation to 'the procedure for towing'. However, the approach in the Bill is for a body corporate to utilise powers to tow that are outside the BCCM Act rather than to provide specific powers in the BCCM Act for towing, so as not to inadvertently limit a body corporate's ability to tow.

Key Issue	Bill Clause	Submission	Departmental response
			DJAG proposes to seek the advice and guidance of the Department of Transport and Main Roads to prepare information resources that are targeted at improving understanding about the rights of a body corporate to tow vehicles.
Role of caretaking service contractors in enforcement of by-laws	9, 11	Submission 13 (ARAMA) considers any person or service provider should not be forced to police by-laws about animals or towing. The submission also suggests that if a caretaking service provider chooses to assist with the enforcement of these by-laws, then a varied agreement should be enacted between the contractor and the body corporate with additional financial compensation to be provided.	DJAG notes ARAMA's comments that owners and occupiers in community titles schemes are often confused about the role of a caretaking service contractors in enforcing by-laws. Under the BCCM Act, a body corporate is responsible for administering the common property and body corporate assets for the benefit of the owners of the lots included in the scheme and enforcing the community management statement (including enforcing any by-laws for the scheme). It is the responsibility of the body corporate to enforce any by-laws for the scheme and to authorise towing of vehicles. The BCCM Act and the Bill do not provide for a body corporate to delegate its powers.
Second-hand smoke in community titles schemes			
Smoking amendments – support	10 & 11	Submission 2 (NW) agrees with changes to the legislation in relation to smoking in an accommodation complex. Submission 30 (Yesberg) supports the smoking amendments. Submission 84 (McDonald) shared the submitter's personal experiences of the negative impacts of second-hand	DJAG notes the submissions expressing support for the amendments relating to smoking.

Key Issue	Bill Clause	Submission	Departmental response
		smoke, suggesting support for the smoking amendments. Submissions 3 (Werts), 12 (NW), 15 (NW), 16 (NW), 38 (Locke), 43 (LFA), 63 (Tiller), 65 (Campbell), and 91 (NW) support the amendments in the Bill to enable bodies corporate to make by-laws to restrict or prohibit smoking or inhaling of all or some smoking products on all or part of the common property or body corporate assets and on all or part of an outdoor area of a lot or exclusive use area. Submission 43 (LFA) also provides information on the health impacts of second-hand smoke.	
Smoking – by-law provisions – opposition to controlling activities on private property.	11	Submission 4 (NW) opposes the amendment to enable the making of a by-law to prohibit smoking as it is an unreasonable interference with the smoking lot owner's enjoyment of their own lot. The submission is concerned about the ability to 'prohibit' smoking when the act itself may not be causing a nuisance or any form of second-hand smoke. The submitter argues that allowing by-laws to impose a complete prohibition takes away significant individual rights	DJAG notes the concerns raised in submission 4. The reforms allow bodies corporate to make a by-law prohibiting or restricting the use of smoking products on all or part of common property and body corporate assets and all or part of outdoor areas of lots and exclusive use areas (but not the inside area of a lot). Regarding the comments by submission 4 about the reforms potentially prohibiting smoking when it would not be causing a nuisance or second-hand smoke, the reforms in the Bill enable a tailored response by each body corporate that considers the wishes of owners in each scheme and the physical environment of each scheme.

Key Issue	Bill Clause	Submission	Departmental response
		and “will only affect marginalised groups”.	Not all bodies corporate will implement a smoking by-law. Even schemes that implement a smoking by-law might do so in different ways that therefore have different impacts – for example, by only prohibiting smoking on common property and not balconies; or by prohibiting smoking everywhere except a designated outdoor smoking area. While a by-law prohibiting smoking on outdoor areas of a lot may limit a smoker’s enjoyment of their own lot, the limitation seeks to achieve the important objective of reducing harm caused by second-hand smoke.
Smoking – Opposition – Suggestion for alternative ways to restrict smoke drift	10	Submission 4 (NW) argues that not all lots are in close proximity and contends that there are alternative options to the reforms proposed - for example, restricting smoking from 3 metres of an open door or window.	DJAG notes that, while not universally the case, lots in a community titles scheme generally tend to be in closer proximity than lots that do not form part of a community titles scheme. The Bill provisions will be sufficiently flexible to allow bodies corporate to make by-laws appropriate to the particular type of community titles scheme they live in and the proximity of lots to one another.
Smoking – Nuisance amendments – Opposition	10	Submission 4 (NW) disagrees that all smoking on an outdoor area of a lot amounts to a nuisance. The submitter states that the “law of nuisance is established.” The submitter believes that “excessive smoking” should be included in the definition of nuisance to provide “a balance of power that can be interpreted by the judiciary”.	DJAG notes the concerns stated in submission 4 (NW). DJAG considers the amendments are consistent with the policy objective of reducing the exposure of occupiers of lots and the common property to second-hand smoke from the use of smoking products on another lot or the common property.

Key Issue	Bill Clause	Submission	Departmental response
Smoking – Nuisance amendments – Any smoking is a nuisance	10	Submission 75 (Cartledge) argues that including ‘‘regularly uses’’ and ‘‘regularly exposed to’’ implies there is a safe level of exposure, whereas Australian Government advice is that there is no safe level of passive smoking. The submitter suggests that the use of the word “regularly” will invite challenges and disputes and it would be better to omit “regularly” entirely from section 167(2).	While the concerns regarding the parameters of the proposed nuisance provisions are noted, a requirement of ‘regular use’ of a smoking product and ‘regular exposure’ to smoke or emission from such is intended to provide an appropriate balance between potential limitations on a lot owner’s use of their own property and reducing the harm caused by second-hand smoke. It is also noted the amendments need to appropriately interface with the existing section 167 of the BCCM Act, which refers to nuisance, hazard or unreasonable interference.
Smoking – Government ban on smoking	10 & 11	Submission 13 (ARAMA) contends that the Queensland Government should impose a blanket ban on smoking in community titles schemes similar to its approach in commercial premises. The submitter considers it should not leave the issue to body corporate discretion. Submission 31 (Walters) appears to believe that the Bill introduces a ban on smoking on balconies, which the submitter supports.	The approach adopted by the Bill to allow a body corporate to make by-laws about smoking is consistent with the overarching principle of the BCCM Act to enable self-management and governance based on shared decision-making among lot owners in the community titles scheme. The changes to the nuisance provisions of the BCCM Act will protect against lot owners being regularly or frequently exposed to smoke emanating from another lot or the common property. It is considered that a total ban on smoking in schemes may be an overreach when it comes to indoor areas of a lot. Smoking on one’s own lot is a lawful activity within one’s own home. Any broader changes to provide a blanket ban on smoking need to be considered from a broader public health perspective rather than through changes to community titles legislation.
Smoking – adopting a default position of ‘no smoking’ in	11	Submission 2 (NW) believes that the legislation should be changed to	It is unclear whether Submission 2 (NW) is seeking a new provision to (a) completely ban smoking in the areas stated

Key Issue	Bill Clause	Submission	Departmental response
community titles scheme unless relaxed by a by-law.		banning smoking on all common property and any exposed area such as a balcony or open area of the complex that may be below a unit. The submitter believes that an owner or resident should have to apply to the committee to smoke on their balcony. The submitters suggests the committee would approach the neighbouring unit to see if they have any objections to approving the application. Submission 8 (Myerson) considers that the default should be that there is no smoking anywhere in any CTS, including private areas such as balconies, unless the by-laws state otherwise. Submission 18 (Thorley) similarly proposes that the provisions prohibit smoking on balconies and common property "by default". It suggests that a resolution without dissent should be required be to permit smoking in these areas.	and require an application to be made to permit smoking, or (b) allow bodies corporate to make a by-law imposing a ban of this nature and requiring an application to be made to permit smoking. The amendments in the Bill support the BCCM Act principle of self-management and governance based on shared decision-making among lot owners in the scheme. The changes proposed by the new section 169A will give bodies corporate flexibility to design by-laws restricting or prohibiting smoking on all or part of the common property or body corporate assets and on all or part of an outdoor area of a lot (such as balconies) to suit their own requirements and to accommodate the wishes of the majority of residents. A body corporate's by-law could potentially include establishing a process for dispensation from a prohibition on smoking on common property or on an outdoor area of a lot on a case-by-case basis.
Smoking – smoke drift emanating from interior of a lot.	10	Submission 61 (NW) questions whether the proposed smoking reforms will capture second-hand smoke emanating from a neighbour's apartment into the common property lift foyer on their floor which then flows into their apartment.	DJAG notes that, under the amendments to section 167 of the BCCM Act, if the occupier of a lot is regularly exposed to such second-hand smoke drifting into their apartment from another lot, this would constitute a nuisance, hazard or an interference with enjoyment of their lot.

Key Issue	Bill Clause	Submission	Departmental response
Smoking – by-law provisions – type of body corporate resolution required	11	Submission 65 (Campbell) would prefer the ability to make a by-law to prohibit smoking to be by a majority resolution rather than special resolution. The submitter does not support requiring a resolution without dissent for a by-law as that would frustrate schemes seeking to address smoking hazards.	DJAG notes the comments in submission 65. A smoking by-law made under section 169A may be passed by a special resolution, which is the same resolution type required for the making of other by-laws (apart from exclusive-use by-laws).
Smoking – by-law provisions – concerns for renters	11	Submission 87 (POAQ) states allowing a by-law to prohibit smoking on balconies can cause problems to possible tenants in obtaining a tenancy. It goes on to say that tenants may revert to smoking inside of the property, but this can cause problems to lessors with the damage caused by smoking indoors.	DJAG notes that amendments do not directly affect a person's ability to own or rent a property included in a community titles scheme. However, the presence of a body corporate by-law prohibiting smoking on a property's balcony and/or common property may mean a smoker does not find the property desirable to buy or lease. Matters relating to damage by tenants is dealt with under the RTRA Act.
Smoking – education campaign	10 & 11	Submission 43 (LFA) strongly supports the direction of Queensland's smoking laws. The submitter believes that because body corporates will have the discretion to determine the areas where the by-laws will apply, the amendment to permit the making of such a by-law should be well-publicised to bodies corporate.	DJAG notes there will be communication activities to promote the reforms in the Bill. It is expected this could include: • a Ministerial media statement announcing the commencement of the reforms • content on the Queensland Government website to promote awareness of the reforms • social media posts • articles in BCCM Office newsletter 'Common Ground' • articles in industry newsletters/websites, and • emails/letters to key stakeholders advising of the commencement of the reforms.

Key Issue	Bill Clause	Submission	Departmental response
Keeping or bringing of animals on a lot or on common property			
By-laws about keeping animals – Support	11	Submission 3 (Werts) supports amendments in the Bill to provide a timeframe for bodies corporate to approve animals and outline the reasons a body corporate may refuse an animal. Submissions 12 (NW) and 91 (NW) support the amendments relating to keeping of animals. Submission 57 (PIA) supports the amendments relating to pet ownership in rentals, as the amendments support improving the security of tenure for long term renters.	DJAG notes comments supporting the amendments in the Bill relating to by-laws about keeping animals.
By-laws about keeping animals – Non-Support	11	Submission 2 (NW) considers that courts have made incorrect decisions about pets and that the reforms are taking away the rights of the community and giving the rights to the individual who wants the pet. Submissions 53 (NW), 56 (NW) and 66 (Sippel) do not support owners or occupiers being allowed to bring an animal into a scheme that has a 'no pet' by-law. The submitters support the recommendation of the Property Law Review to allow a 'no pet' by-law by resolution without dissent.	DJAG notes submitters' comments. The QUT Property Law Review recommendation regarding pets in community titles schemes was considered as part of the program of work of the CTLWG. It was determined that allowing bodies corporate to make 'no pet' by-laws would be out of step with Australia's high level of pet ownership and community expectations. The approach in the Bill seeks to balance the rights of occupiers who wish to keep a pet and those who don't wish to have the disturbance that can sometimes be associated with pets.

Key Issue	Bill Clause	Submission	Departmental response
		Submission 37 (NW) suggests buildings should be able to be designated pet free by majority vote or at development stage. Submission 63 (Tiller) considers schemes should be able to have a majority vote about whether or not pets are permitted in a scheme. Submission 82 (NW) considers that where apartment blocks were historically sold with the knowledge that no dogs were permitted to permanently reside in the building and if the majority of current owners still agree with that position, then any new application to permanently keep a dog should be permitted to be rejected.	
By-laws about keeping animals – Ability to live pet free given serious allergy	11	Submission 58 (NW) believes that 'no pet' buildings should be permitted. The submitter is concerned that, while the Bill recognises there may be health and safety reasons for a committee to decline a pet application, the committee may not understand the nuances of dander transference and may permit a pet not understanding the potentially serious affects this can have on someone like the submitter with anaphylaxis. The submitter believes	The QUT Property Law Review recommendation regarding pets in community titles schemes was considered as part of the program of work of the CTLWG. It was determined that allowing bodies corporate to make 'no pet' by-laws would be out of step with Australia's high level of pet ownership and community expectations. The approach in the Bill seeks to balance the rights of occupiers who wish to keep a pet and those who don't wish to have the disturbance that can sometimes be associated with pets.

Key Issue	Bill Clause	Submission	Departmental response
		consideration must be given for some buildings to be able to be safe havens for people with allergies or otherwise wish to live pet free.	However, one of the reasons a body corporate may refuse to grant approval of keeping or bringing an animal includes where the animal would pose an unacceptable risk to the health and safety of an owner or occupier of a lot because: • the owner or occupier is unwilling or unable to keep the animal in accordance with reasonable conditions that address the risk; or • the risk could not reasonably be managed by conditions imposed on the keeping of the animal. Therefore, if an owner or occupier of a lot has a severe allergy to a particular type of animal and it is not possible to impose a condition that would manage the person's risk to the allergen, the body corporate could refuse a request to keep an animal. The body corporate would need to consider each request on its merits. If an occupier does not agree with a decision of a body corporate for a community titles scheme, dispute resolution is available under the BCCM Act.
By-laws about keeping animals – Conditions of approval	11, 43, and 44(3)	Submission 5 (Borton) comments that the submitters are frail aged pensioners and request that large, heavy dogs not be permitted in their village as they would not feel safe leaving their unit. Submission 19 (Szabo) highlights examples of dog attacks and reckless	Under the Bill, a body corporate may refuse to grant approval of a request to keep or bring an animal onto a lot or the common property if it is satisfied, on reasonable grounds, that keeping the animal would pose an unacceptable risk to the health and safety of an owner or occupier of a lot because the owner or occupier who made the request is unwilling or unable to keep the animal in accordance with reasonable conditions that address the risk; or the risk could not reasonably be

Key Issue	Bill Clause	Submission	Departmental response
		dog ownership. The submission states that specifying pet enclosures and requiring dogs to be effectively controlled in common areas would help end these disputes. Submission 28 (NW) has concerns that under the legislation there can be no restrictions on the number or size of pets that can be kept. The submitter states bodies corporate should have the power to quickly deal with issues such as barking when they arise and that it shouldn't have to be dragged through the courts. Submission 34 (St Ledger) raised concerns that a by-law cannot restrict the number of, type of or size of an animals. The submitter suggests other by-laws regarding the keeping of animals such as must not interfere with the rights of all owners/occupants to “quiet enjoyment of their lots and common property.” Submission 50 (Fischl) raises concerns that bodies corporate may still act unreasonably in relation to the new provisions, and suggests that the example of an allergy risk that could not be reasonably managed by conditions in	managed by conditions imposed on the keeping of the animal. It is considered this wording should be appropriate and not amended to refer specifically to a life-threatening allergy, as this could be too limiting. The body corporate could also consider whether the keeping of the animal would cause unreasonable interference to the enjoyment of a lot or common property by other occupiers in the scheme and it cannot be managed by conditions. Factors such as number, type and size of animal might be relevant considerations in this regard. The Bill also provides for refusal of a request to keep an animal on the basis that keeping the animal would contravene a law, including a local law. If a local government authority for the scheme has made local laws about the amount or types of animals a resident in the local government area may keep, then a body corporate could refuse the keeping of the animal if satisfied that the local law would be contravened by the keeping of the animal. The body corporate may withdraw its approval if the occupier does not comply with the conditions. If a body corporate acts unreasonably under the new provisions, the owner or occupier may lodge a dispute resolution application to the BCCM Office.

Key Issue	Bill Clause	Submission	Departmental response
		subsection 169B(6) should be reworded to say that a person with an allergy has a life-threatening allergy.	
By-laws about keeping animals – process for body corporate approval	11	Submission 34 (St Ledger) states that pet by-law changes should be considered at a general meeting separately to any other changes to the body corporate by-laws, to ensure pet by-law changes are given fair and reasonable consideration.	DJAG notes the submitter's comments. DJAG notes that a body corporate could provide for by-law changes to be voted on separately through a "group of same issue motion".
By-laws about keeping animals – definition of 'animal'	11	Submission 34 (St Ledger) comments on the definition of 'animal' and has concerns with the use of the word.	DJAG notes the submitter's concerns. The Bill does not define the word 'animal' in order to capture the full range of animals that may possibly be kept. It is noted that local councils may have restrictions on what animals may be kept in residential areas.
By-laws about keeping animals – tenants	11	Submission 86 (APMA) raises concerns about tenants keeping pets in community titles schemes and conditions not being complied with. Submission 87 (POAQ) states the amendments relating to keeping of animals are a concern because *Residential Tenancies and Rooming Accommodation Act 2008* (RTRA Act) allows tenants to keep pets.	DJAG notes the nature of the submitters' concerns are unclear. The Bill provides for the making of body corporate by-laws to require the body corporate's approval of an animal in a community titles scheme. The RTRA Act provides that a tenant in a community titles scheme must receive approval of an animal from their landlord under the RTRA Act, and that the keeping of the pet is also subject to any body corporate by-laws about animals.

Key Issue	Bill Clause	Submission	Departmental response
By-laws about keeping animals – body corporate manager required	11	Submissions 56 (NW) and 66 (Sippel) believe that the reforms will result in the body corporate needing to hire a body corporate manager to deal with issues that arise from animals as committee members are volunteers. Submission 66 (Sippel) notes the problems a neighbouring scheme has had in managing nuisance caused by an animal.	A body corporate may engage a body corporate manager to provide administrative services to the body corporate. Many schemes, especially large schemes, choose to have a body corporate manager; however, it is not required. The Act has mechanisms to manage the impacts of reasonable interference that may arise from the keeping of animals. The Bill also includes the ability to impose conditions on the approval of an animal that are reasonable and appropriate. A body corporate can also withdraw their approval at any time if the conditions are not complied with or agreed to.
By-laws about the bringing of animals – short-term tenants	11	Submission 34 (St Ledger) states by-laws must be able to prohibit all short-term tenants from bringing pets onto scheme land. The submitter notes the requirement for approval should prevent this, but thinks it should be firmly established in the legislation.	The Bill provides that a by-law may provide that an occupier must not, without the written approval of the body corporate for the scheme, or the committee for the body corporate— (a) keep or bring an animal on the lot or the common property; or (b) permit an invitee to keep or bring an animal on the lot or the common property. It is not intended to make specific provision regarding short-term tenants, as it is considered this is already accounted for in the drafting.
Timeframes for body corporate approval of pets	11	Submission 34 (St Ledger) comments on the timeframe for committee decisions regarding the keeping of animals. The submitter notes that committee meetings are held roughly every 2.5 to 3 months and a vote outside a committee meeting may cost over $2,000 depending on the size of the building. The submitter considers that the person making the application for body corporate approval to keep an animal should accept all costs.	DJAG notes the submitters concerns regarding the timeframe for committee decisions. The Bill provides if a body corporate makes a by-law stating an occupier must seek the written approval of the body corporate or the committee for the body corporate to keep or bring an animal on the lot or the common property, then the body corporate must decide whether to grant the approval within the period prescribed by the regulation module applying to the scheme.

Key Issue	Bill Clause	Submission	Departmental response
			At this time, it is proposed to amend the body corporate regulation modules to include the following prescribed timeframe: • if the decision is a decision of the committee and is not a restricted issue for the committee – the decision must be made within 28 days; • if the decision is a restricted issue for the committee or the by-law specifies the decision must be made by the body corporate at a general meeting, the committee must call a general meeting within 14 days of receiving the request and must be held within 6 weeks after the notice is given; • if the lot is within a specified two-lot scheme - the decision must be made within 28 days. It is also proposed that the pet approval motion should be taken to be not approved if the committee does not decide the motion with the 28-days, or the body corporate does not decide the motion within 8 weeks if the issue is a restricted issue for the committee. This will then enable a lot owner to lodge a dispute application against the body corporate in a timely manner. The BCCM Act typically does not provide for lot owners to be required to pay the costs of associated with bringing motions to the body corporate or committee, as this could act as a disincentive from doing so.
Disputes about the keeping of animals – Timeliness of dispute resolution	11	Submission 7 (NW) notes the submitter is in dispute with his body corporate about their refusal to allow him to keep a pet due to another resident having an allergy to dander. He raises concerns	DJAG notes the comments about the time that can be involved in resolving disputes about body corporate decisions about pets.

Key Issue	Bill Clause	Submission	Departmental response
		with the complexity and length of the dispute resolution process that he has experienced in attempting to obtain body corporate approval to keep a pet. Submission 50 (Fischl) states more timely dispute resolution for pet disputes is needed, given the impact on prospective purchasers and the wellbeing of those desiring a pet or who already have a pet but need to board it elsewhere, often at significant cost, and trauma to the pet, until an order is made.	The Bill aims to clarify and increase awareness about how a body corporate may regulate the keeping of animals on a lot or the common property. The Bill will require that a body corporate must not unreasonably withhold approval to keep an animal and clearly state the reasons a request to keep an animal may be refused. The reasons for refusal generally require the body corporate to have considered whether the imposition of conditions on the keeping of an animal would mitigate any negative impacts of keeping the animal. It is anticipated that the increased clarity in the legislation about the requirements relating to body corporate decision making about requests for keeping an animal will support bodies corporate and owners and occupiers to reach agreement about the keeping of animals in accordance with the law with less disputation.
Enhancements to by-law enforcement processes and access to records in layered arrangements of community titles schemes			
By-law enforcement in layered arrangements	14 & 16	Submission 3 (Werts) supports any clarification and simplification of the by-law enforcement process. Submission 87 (POAQ) asks why the amendment is being made and asks why the provision applies to occupiers.	DJAG notes comments supporting the by-law enforcement process for layered arrangements. The existing procedure provided in the BCCM Act for a body corporate to enforce its by-laws relates only to enforcement of by-laws within each layer of the layered arrangement – for example, a body corporate for a subsidiary scheme and the owners and occupiers within that subsidiary scheme. However, sometimes a contravention of a by-law by an owner or occupier of a lot in a scheme in a layered arrangement may directly and materially impact on owners or occupiers in another scheme in the layered arrangement.

Key Issue	Bill Clause	Submission	Departmental response
			The Bill will make amendments to better facilitate enforcement of by-laws against a body corporate for, or an owner or occupier of a lot in, another scheme in a layered arrangement, where appropriate to do so. By-law enforcement provisions in the BCCM Act apply to occupiers because occupiers are bound by body corporate by-laws.
Arrangements for authorisation of alternative insurance			
Alternative insurance	20 & 36	Submission 2 (NW) states that if alternative insurance is needed the body corporate manager isn't doing their job and there may not be enough companies wanting to cover community titles schemes.	DJAG notes many bodies corporate, particularly in areas such as North Queensland, are finding it challenging to obtain affordable insurance. It is understood that this can relate to issues such as high instances of natural disasters. The Australian Government is responsible for regulating the insurance industry.
Alternative insurance	20 & 36	Submission 87 (POAQ) states that the submitter finds it difficult to believe that the Commissioner can approve alternative insurance.	It is unclear what the submitter's specific concerns are. However, DJAG notes that the ability of the Commissioner for Body Corporate and Community Management to approve alternative insurance is longstanding.
Alternative insurance	20 & 36	Submission 48 (TLOG) states that the alternative insurance arrangements are allowing underinsuring of schemes to occur. The submission appears to state that compulsory insurance requirements for community titles schemes in the BCCM Act are creating consumer "affordability abuse".	DJAG notes the submission. Under the Bill, an adjudicator will be able to approve alternative insurance only if the adjudicator is satisfied that the body corporate cannot comply with the insurance requirements under the body corporate legislation, and that the alternative insurance to be approved by the adjudicator is as similar as practicable to the required insurance.

Key Issue	Bill Clause	Submission	Departmental response
			It is also noted that relaxing current body corporate insurance requirements would leave unit owners exposed to serious financial risks if they are underinsured and their buildings suffer serious damage. The Australian Government is responsible for regulating the insurance industry.
Administrative and procedural arrangements			
Information to be given to interested persons – access to records	24 & 25	Submission 79 (HSR) suggests amendments to include 'search agent' as an interested person.	While DJAG notes existing section 205 of the BCCM Act makes reference to an agent of a person, it is understood that modern drafting convention typically does not make reference specifically to agents, as the law of agency is applicable.
Information to be given to interested persons – reasonable time and place	24 & 25	Submission 79 (HSR) notes that the amendments require a body corporate to allow inspection at a reasonable time and place and suggests the legislation provide more clarity.	What is reasonable will vary based on the particular circumstances in question. Prescribing what a reasonable time and place is may unnecessarily restrict bodies corporate.
Changing financial year – Support	40	Submission 3 (Werts) fully supports bodies corporate being able to change the body corporate's financial year.	DJAG notes comments supporting the amendments.
Changing financial year – Application	40	Submission 2 (NW) suggests that a body corporate should not be allowed to change their financial year in the first year after establishment because the committee is still learning.	The Bill does not propose to place limits on the ability of a body corporate to change its financial year in the first year after establishment, as there may be valid and necessary reasons for this to occur.
Code of conduct	42	Submission 25 (BCLQ) considers proposed amendments to the code of conduct for body corporate managers	DJAG notes that the code of conduct is taken to be included in the terms of the contract providing for the person's engagement, and it is up to individual bodies corporate

Key Issue	Bill Clause	Submission	Departmental response
		and caretakers in Schedule 2 Item 2 will not have any practical effect, as: • there is little to no consideration of 'unfair influence' in body corporate law and what it actually entails, especially if it now involves caretakers who may also be lot owners; • the body corporate is the only party to the contract with the caretaker or body corporate manager, and if the body corporate's processes are corrupted by unfair influence, then the very mechanisms to terminate a contract because of unfair influence is itself corrupted by that unfair influence and no remedy can be found; • the factors that cause a person to be unfairly influenced to vote a certain way are also reasons why that person will not make a submission in relation to any dispute, meaning unfair influence often cannot be proven because that very influence prevents the person unfairly influenced from giving evidence; and • caretakers are already bound by a fiduciary duty to act in the best interests of the body corporate, but this is currently not being enforced.	regarding the actions they wish to take in relation to a breach of the code. DJAG notes "unfairly influencing" will be interpreted according to its ordinary meaning, and it is specifically linked to unfairly influencing the *outcome* of a motion or election.

Key Issue	Bill Clause	Submission	Departmental response
		The submitter states there is little hope that an additional requirement to not unfairly influence a decision will have any effect in practice without regulation or guidance that balances a person's right to vote with their duties under a code of conduct. The submitter further states that the proposed amendments to Schedule 2 Item 2, whilst welcome, are severely underdeveloped and there has been very little consideration of the practical implementation and consequences of those provisions. Submission 75 (Cartledge) notes that the term "unfairly influencing the outcome of a motion" is vague and uncertain and is not an express prohibition of such conduct. The submitter also notes that the amendments will not deal with the issue of lobbying or campaigning and where people, such as letting agents, pre-fill voting papers. The submission requests that Schedule 2 section 2 include reference to lobbying and letting agents.	
Out of scope			
Regulation of portable barbeques and LPG gas bottles.	N/A	Submission 38 (Locke) considers that portable BBQ and their associated LPG	This issue is outside the scope of the Bill.

Key Issue	Bill Clause	Submission	Departmental response
		gas bottles create a hazard in community titles schemes.	
Management rights	N/A	Submissions 2 (NW), 13 (ARAMA), 29 (NW) and 72 (NW) comment on management rights issues. Submission 63 (Tiller) raises issues around enforcement of caretaking contractor duties. Submission 34 (St Ledger) considers section 128 of the BCCM Act is ambiguous. Section 128 applies to the engagement of a person as a body corporate manager or service contractor, or the authorisation of a person as a letting agent, for a community titles scheme for which a new community management statement is recorded in place of the existing statement for the scheme, and the new statement identifies a regulation module different from the regulation module identified in the existing statement.	Management rights are a matter outside the scope of the Bill. Refer to general comments about work of the CTLWG above.
Regulation of body corporate managers	N/A	Submissions 2 (NW), 59 (Leigh), 60 (HIA) and 75 (Cartledge) comment on the regulation of body corporate managers.	Regulation of body corporate managers is a matter outside the scope of the Bill. Refer to general comments about work of the CTLWG above.

Key Issue	Bill Clause	Submission	Departmental response
Short-Term Letting	N/A	Submissions 1 (NW) and 72 (NW) raise issues about regulation of short-term letting in community titles schemes.	Short-term letting is a matter outside the scope of the Bill. Refer to general comments about work of the CTLWG above.
Body corporate debt recovery	N/A	Submission 36 (LGAQ) outlines a LGAQ proposal to amend debt recovery provisions in the body corporate legislation to remove the ability for bodies corporate to recover debts in particular circumstances.	Body corporate debt recovery is a matter outside the scope of the Bill. Refer to general comments about work of the CTLWG above.
Body Corporate Certificate reforms contained in Property Law Bill 2023	N/A	Submissions 39 (Strata Assist), 49 (KBW), 79 (HSR) and 80 (Doughty) raise issues related to the body corporate certificate reforms contained in the Property Law Bill 2023.	The Body Corporate Certificate is a matter outside the scope of the Bill. This matter is a part of the Property Law Bill 2023.
Arrangements for minor improvements by lot owners	N/A	Submission 51 (Douglas) considers that arrangements for body corporate approval around minor improvements need reform.	This matter is outside the scope of the Bill.
Body corporate sinking funds and trust accounts	N/A	Submission 75 (Cartledge) recommends that sinking funds should be held in trust accounts, and trust accounts should be subject to mandatory annual independent auditing that is more comprehensive than merely “auditing of statements of accounts”.	This matter is outside the scope of the Bill.
Compulsory training for body corporate committee members	N/A	Submission 59 (Leigh) seeks that the BCCM Office develop a training course that must be completed before a person	This matter is outside the scope of the Bill.

Key Issue	Bill Clause	Submission	Departmental response
		can nominate for committee membership.	
Body corporate record keeping	N/A	Submission 79 (HSR) considers the proposed legislation should address the issues of maintaining or enabling uniformity in body corporate record keeping, which is particularly problematic when body corporate records are handed from one body corporate manager to another and there is no ability to upload and transfer files between different databases.	This matter is outside the scope of the Bill.
Access to body corporate records - Obtaining electronic copies at no additional cost.	N/A	Submission 79 (HSR) suggests amendments to require that when bodies corporate provide access to search the records electronically, the interested person may take electronic copies of documents at no additional cost.	The prescribed fee for obtaining a copy of a body corporate record is contained in the regulation modules under the BCCM Act. Consideration of broader changes to fees for access are outside the scope of the Bill.
Access to body corporate records – Delays in process	N/A	Submission 75 (Cartledge) raises concerns about delays in accessing body corporate records because bodies corporate do not promptly advise the interested person of the required fee for inspecting or obtaining a record, and there is lack of clarity about what records are being required in requests from interested persons. The submitter suggests amendments to require a body corporate to advise a person of costs for	This matter is outside the scope of the Bill.

Key Issue	Bill Clause	Submission	Departmental response
		inspecting or obtaining records within 3 days of receiving a request.	
Additional requirements for body corporate managers and caretaking service contractors in relation to record keeping	N/A	Submission 79 (HSR) proposes amendments to the code of conduct for body corporate managers and caretaking service contractors to provide that records are required to be kept in good and proper order, such that they may be easily searched and inspected.	This matter is outside the scope of the Bill. Item 3 of the code of conduct already requires that a body corporate manager or caretaking service contractor must exercise reasonable skill, care and diligence in performing the person's functions under the person's engagement. Item 11 of the code of conduct also requires the body corporate manager, upon request by the body corporate or its committee, to demonstrate it has kept records in accordance with the BCCM Act.
Body corporate roll	N/A	Submission 76 (NW) recommends owners be entitled to ask for an electronic version of the roll with an affordable fee. The submission also suggests that owners be required to supply a personal email address to the body corporate to facilitate communication within the scheme.	This matter is outside the scope of the Bill.
Exclusive use by-laws	N/A	Submission 32 (NW) raises concerns about allocation of exclusive use to common areas in the submitter's community titles scheme, without payment or maintenance responsibilities.	This matter is outside the scope of the Bill.
Behaviour of committee members	N/A	Submission 86 (APMA) raises concerns about committee members bullying	This matter is outside the scope of the Bill. Refer to general comments about work of the CTLWG above.

Key Issue	Bill Clause	Submission	Departmental response
		other residents and caretakers; ignoring the code of conduct for committee members; and making decisions not in compliance with BCCM Act.	
Insurance requirements for standard format plans	N/A	Submission 92 (Low) believes that community titles schemes that are a standard format plan should only be required to insure the common property and infrastructure.	This matter is outside the scope of the Bill.

Body Corporate and Community Management and Other Legislation Amendment Bill 2023

Response to remaining stakeholder submissions provided to Legal Affairs and Safety Committee in written submissions in relation to ‘off the plan’ amendments

Issues raised by stakeholders for response by the Department of Justice and Attorney-General (DJAG) by 15 September 2023

On 6 September 2023, the Department of Justice and Attorney-General provided the Legal Affairs and Safety Committee with a response to submissions made by 11 stakeholders scheduled to appear at the Committee’s public hearing of 7 September 2023.

The document below responds to the remaining stakeholder submissions relating to ‘off the plan’ amendments, as well as a supplementary submission provided by the Queensland Law Society:

- 002 Name Withheld (NW)
- 022 HWL Ebsworth (HWLE)
- 057 Planning Institute of Australia (PIA)
- 060 Housing Industry Association Ltd (HIA)
- 085 Ralan Purchasers Rights Alliance (RPRA)
- 087 Property Owners’ Association of Queensland (POA QLD)
- 090 Queensland Law Society– supplementary submission (QLS supplementary submission).

DJAG notes the following document does not reproduce the responses that were provided to the Committee on 6 September 2023.

Issues raised in submissions that are outside the scope of the Bill

In several instances, stakeholders have raised questions, issues and concerns outside the scope of the Bill. A detailed departmental response has not been provided in relation to the substance of those matters.

Key Issue	Clause	Submission	Departmental response
Sunset clause amendments			
Policy intent of amendments – support	50	Submission 002 (NW) suggests the sunset clause reforms are 'fine'. Submission 057 (PIA) broadly supports the sunset clause changes for 'off the plan' contracts. Submission 090 (QLS supplementary submission) agrees with introduction on limits of the use of sunset clauses by developers, however, notes some concerns.	DJAG notes the submitters' support for the changes. DJAG also notes the concerns raised in Submission 090 (QLS supplementary submission), which are addressed further below.
Policy intent of amendments – do not support	50	Submission 022 (HWLE) is not supportive of the proposed amendments. Submission 060 (HIA) does not support the proposed amendments in their current form. The submitter considers the risks carried by property developers for these types of projects is significant and despite their best efforts, matters outside their contract can affect the progress of the project.	While the broad policy positions outlined in these submissions are noted, the policy intent of the amendments is to provide limitations on the use of sunset clauses by sellers in relation to 'off the plan' contracts for land, in order to better protect consumers.
Legislative vehicle	50	Submission 002 (NW) indicates that the proposed amendments should be in regulation that governs real estate agents, not body corporate and community management.	DJAG notes the sunset clause amendments have been made to the *Land Sales Act 1984* (Land Sales Act), given the amendments are intended to apply to 'off the plan' contracts for the sale of land, and it is this legislation that regulates these contracts.

Key Issue	Clause	Submission	Departmental response
			The submitter may be referring to the title of the Bill, which is the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. The name chosen for Bills is a matter for the Office of the Queensland Parliamentary Counsel.
Concerns about underlying rationale for 'off the plan' amendments	50	Submission 060 (HIA) indicated that of primary concern is that the measures set out in the Bill are heavily based on recent, unprecedented market conditions, where a more holistic and long-term approach is desirable. The submitter suggests any proposed amendment should only be progressed once a clear market failure has been identified over a long period.	The intention of the amendments is to address the concerns that have emerged in the marketplace about the increasing use of sunset clauses by property developers to terminate 'off the plan' sale contracts. Some buyers have alleged these clauses are being used by sellers to re-list and sell the proposed lot for a much higher price than originally contracted for. Although buyers will receive their deposit back on termination of the contract, changing market conditions and rising prices may mean they have difficulty affording another property, particularly in the case of first-time or vulnerable buyers. Even if buyers seek legal advice, a power imbalance between buyers and sellers may leave buyers with little ability to negotiate changes. Many buyers also do not have the financial resources to pursue legal action against a seller in the event they believe the seller has used a contractual clause inappropriately.
Legal representation	50	Submission 087 (POA QLD) suggests that perhaps this issue should be handled by a solicitor.	The intention of the amendments is to address the concerns that have emerged in the marketplace about the increasing use of sunset clauses by property developers to terminate 'off the plan' sale contracts.

Key Issue	Clause	Submission	Departmental response
			These amendments do not prevent the relevant parties to a contract from engaging a solicitor for legal advice about the particular terms of the contract, or obtaining legal advice about any legal remedies that may be available under the contract. The Office of Fair Trading (OFT) in DJAG has been undertaking a campaign of awareness activities, including social media, web updates, and newsletter articles to alert consumers about the risks of entering into contracts for 'off the plan' sales. Buyers have been encouraged to seek legal advice about the particular terms of the contract, and any legal remedies that may be available to them in the event of termination of the contract.
Alternative to proposed legislative reforms	50	Submission 060 (HIA) questions why alternative dispute resolution forums or contemplation of an independent body considering issues of whether the property developer gave the buyer sufficient details and reason why they were unable to complete construction or obtain registration on time have not been examined.	DJAG notes a legislative approach is considered to be the most effective and appropriate way of achieving the policy objective. The intention of the amendments is to address the concerns that have emerged in the marketplace about the increasing use of sunset clauses by property developers to terminate 'off the plan' sale contracts. It is considered non-legislative approaches, such as those suggested, would not achieve the policy objective or would not be practical to implement.
Existing consumer protections are appropriate	50	Submission 060 (HIA) contends that there are already significant consumer protection measures embedded in the various legislation and regulations that apply to the residential construction industry. The submitter highlights that it	The sunset clause amendments are intended to complement the existing legislative framework. The policy intent of the amendments is to provide limitations on the use of sunset clauses by sellers in relation to 'off the plan' contracts for land, in order to better protect consumers.

Key Issue	Clause	Submission	Departmental response
		is also important to recognise and consider the current substantial protections that exist for buyers via breach of contract and under the unfair contract provisions of the Australian Consumer Law (ACL) that apply to standard form contracts, including 'off-the-plan' contracts.	Given the power imbalance that exists between buyers and sellers, there is little ability for buyers to negotiate changes to the contract - the buyer has little choice but to walk away from the contract entirely, or sign the contract with the sunset clause, and take on the risk associated with that clause. Many buyers also do not have the financial resources to pursue legal action against a seller in the event they believe the seller has used a contractual clause inappropriately. Maintaining the status quo also does not address the underlying issue that is being experienced in respect of sunset clauses – that is, the increasing use of sunset clauses, allegedly, in some cases, for the purpose of sellers relisting and selling the property at a higher price.
Scope of amendments – extension to include Community Titles Scheme and equivalent lots	50	Submission 057 (PIA) recommends the 'off the plan' changes be closely monitored, with a review in no more than 2 years from adoption, to ensure of no unintended consequences. Submission 087 (POA QLD) states that perhaps the review on this problem should be addressed now and not later. Submission 90 (QLS supplementary submission) states these reforms should apply to all 'off the plan' contracts (that is, land and community title scheme lots). The submitter states its members' experience suggests the reliance on sunset clauses by developers is equally	The sunset clause amendments in the Bill will protect buyers in respect of an 'off the plan' contract for the sale of land. This is considered to be a 'first stage' of a two staged approach. In the second stage, a further review will commence one to two years after the amendments have commenced. The review will consider whether further reforms are required to protect people buying proposed community titles and similar lots 'off the plan'. The staged approach is intended to recognise the increased pressures currently faced by property developers in respect of supply chain disruptions, increased costs for building supplies and skilled labour due to limited supply and extreme weather events. As with all legislative changes, it is open to the Government to make subsequent reforms should it be considered necessary

Key Issue	Clause	Submission	Departmental response
		(if not more) prevalent in apartment sales, and sees no logical justification in not applying these reforms to all 'off the plan' sales.	or desirable based on the outcomes associated with the changes.
Scope of amendments – application to option to purchase of proposed lot	50	Submission 060 (HIA) does not support any amendment that relates to an option to purchase a proposed lot. The submitter considers an option should not be contemplated by legislation as it is not a part of any valid, binding contract. The submitter states the definition of 'off the plan' contract should only capture traditional 'off the plan' contracts and there has been no discussion or justification for anything more than this.	The policy intent of the amendments is to provide limitations on the use of sunset clauses by sellers in relation to 'off the plan' contracts for land, in order to better protect consumers. Options were included in the definition of 'off the plan' contract in the Bill in response to stakeholder feedback. The feedback expressed that not including options could create the potential for contracts to be written in a way to circumvent the intended consumer protections of these amendments through the use of an option.
When a sunset clause notice needs to be sent by the seller	50	Submission 90 (QLS supplementary submission) queries the requirement to give a notice of intention to terminate 28 days prior to the sunset date. The submitter notes that the seller may not know, 28 days before the sunset date, whether the survey plan (for example) will register before the sunset date or not. The submitter suggests it would be preferable to permit sellers to only give the notice after the sunset date but to only permit an application to Court 28 days after the notice is given. Submission 022 (HWLE) is unsure why the sunset clause notice must be given	DJAG notes the 28 day period has been included in order to provide a reasonable period of time for the buyer to consider and respond to the notice provided by the seller, and allow for the seller to make an application to the Supreme Court once the sunset date is reached. It is also noted that reaching the sunset date represents the date from which the buyer and seller *can* exercise their contractual rights, and it would be open to the parties to continue the contract beyond the specified sunset date.

Key Issue	Clause	Submission	Departmental response
		at least 28 days before the sunset date, as the decision to propose to terminate the contract may be made at a later date. The submitter also notes there is no ability to give a further notice if the notice is not given by the date 28 days before the sunset date. The submitter queries whether the parties could subsequently agree to terminate the contract by consent without an order by the Supreme Court.	
Failure of the buyer to respond to sunset clause notice	50	Submission 022 (HWLE) highlights that the risk is now all with the developer, with them having to incur significant costs by applying to the Supreme Court if they have a non-responsive or unreasonable buyer.	The policy intent of the amendments is to provide limitations on the use of sunset clauses by sellers in relation to 'off the plan' contracts for land, in order to better protect consumers. Ordinarily it will be in the best interests of the buyer to respond to the sunset clause notice. However, there may be unusual situations where a buyer fails to respond for reasons beyond their control and possibly not related to the 'off the plan' contract. It is not intended to automatically provide for buyer consent in the event they do not respond to the notice, as it is considered this would be at odds with the broader policy intent. Separately, DJAG notes, when an application will be made by the seller to the Supreme Court for an order permitting termination, the seller must pay the costs of the buyer for the proceedings, unless the Supreme Court is satisfied that the buyer unreasonably withheld consent to the termination of the contract under the sunset clause (refer new section 19F(4)). Accordingly, there is an incentive for buyers to act reasonably in considering the sunset clause notice.

Key Issue	Clause	Submission	Departmental response
Three situations when a sunset clause can be used to terminate a contract	50	Submission 060 (HIA) states that property developers should maintain their right to rely on a sunset clause to rescind a contract, without the imposition of buyer consent or Supreme Court approval. The submitter does not support Queensland adopting the approach in other jurisdictions with regard to Supreme Court approval for terminations as this may not be the most efficient or best manner to determine matters in the first instance.	The policy intent of the amendments is to provide limitations on the use of sunset clauses by sellers in relation to 'off the plan' contracts for land. This will provide greater protection for buyers, while still providing the ability for sellers to terminate an 'off the plan' contract for the sale of land in specified situations. The intention behind the reforms is to provide proportionate consumer protections, as buyer confidence is critical to the success of the property sector. It is also intended to deter sellers from terminating an 'off the plan' contract for the sale of land without making a bona fide attempt to finalise the contract. As noted by the submitter, the changes are not unprecedented, as similar measures are already in place in New South Wales, Victoria and the Australian Capital Territory. However, there is a difference from the other jurisdictions, in that a staged approach is being adopted. As part of the first stage, the sunset clause amendments in the Bill will protect Queenslanders in respect of an 'off the plan' contract for the sale of land only. In the second stage, a further review will commence one to two years after the amendments have commenced. The review will consider whether further reforms are required to protect people buying proposed community titles and similar lots 'off the plan'. This staged approach recognises the increased pressures currently faced by property developers in respect of labour and material availability, and costs for the construction of buildings. It is also noted that the Supreme Court application is not the first step available to the seller. It is important that there is open

Key Issue	Clause	Submission	Departmental response
			and ongoing dialogue and negotiation throughout the life of an 'off the plan' contract. The seller can subsequently apply to the Supreme Court for an order to terminate via a sunset clause if it has not been possible to negotiate a satisfactory outcome with the buyer.
Matters for Supreme Court to consider – contrary to consumer protection	50	Submission 90 (QLS supplementary submission) raises concerns about proposed new section 19F(3) of the Land Sales Act (which requires the Supreme Court to consider the viability of the seller's business when deciding whether it is just and equitable to make an order to permit termination of contracts; and the effect of settling the contract on the seller). The submitter considers it appears to create a statutory modification of the seller's usual contractual provision and risk allocation. The submitter is concerned that the change will have the potential effect of allowing a seller to get out of the contract if the cost of construction has increased, and is also concerned the change will encourage the practice of developers demanding additional payment in order to proceed with contracts under the threat of making an application to Court for termination under the sunset clause.	DJAG notes the comments made are in relation to the matters the Supreme Court is to consider when determining whether the termination is just and equitable, which is a balancing test. The Supreme Court will be able to take into account a wide range of factors relevant to the parties and the transaction. These factors include: *(c) whether matters beyond the seller's reasonable control affected—* *(i) the seller's ability to settle the contract;* *or* *(ii) to the extent the seller's business is related to the performance of the off-the-plan contract—the viability of the seller's business;* This provides a limitation on the Court's consideration of the viability of the seller's business. It is also intended that the Supreme Court look broadly at whether the seller can complete the contract, rather than just looking at whether the contract can be completed by the sunset date. This is because there is scope for parties to agree that a specific contract can continue beyond the named sunset date, and situations highlighted by buyers have suggested that, in some cases, settlement is able to occur following a short delay (e.g. 2-3 months).

Key Issue	Clause	Submission	Departmental response
		The submitter suggests the relevant subsections should be deleted from the Bill.	DJAG notes the provision does not provide additional rights to terminate; rather, it names factors the Court must consider (but does not prevent the Court from considering any other factors it considers relevant). DJAG also notes that equivalents of the matters identified by the submitter are contained in the sunset clause provisions within the *Civil Law (Sale of Residential Property) Act 2003* in the Australian Capital Territory.
Cost for property developers in making application to Supreme Court	50	Submission 022 (HWLE) argues that given the substantial cost of applying to the Supreme Court, some developers will be left with no option but to breach contracts if they are unable to proceed with a development (due to many obstacles such as issues with development approvals, construction costs, availability of labour and materials, interest rate and other financing issues, etc) but unable to terminate the contracts.	DJAG notes the Supreme Court application is not the first step available to the seller. It is important that there is open and ongoing dialogue and negotiation throughout the life of an 'off the plan'. The seller can subsequently apply to the Supreme Court for an order to terminate via a sunset clause if it has not been possible to negotiate a satisfactory outcome with the buyer. The intention behind the reforms is to provide proportionate consumer protections in respect of 'off the plan' contracts for the sale of land. While there will be costs for sellers, this must be balanced against the significance of what they are seeking to do – they are seeking to terminate the contract at a late stage in the contract's duration, leaving the buyer without a property. It is also important to note that the first stage of amendments apply in respect of 'off the plan' contracts for land only. In the second stage, a further review will commence one to two years after the amendments have commenced. The review will

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			consider whether further reforms are required to protect people buying proposed community titles and similar lots 'off the plan'. The staged approach is intended to recognise the increased pressures currently faced by property developers in respect of supply chain disruptions, increased costs for building supplies and skilled labour due to limited supply and extreme weather events.
Supreme Court approval process - barrier to property development and investment	50	Submission 022 (HWLE) highlights that the Bill is a further barrier to developers carrying out development, in what is already a highly regulated and cost prohibitive market, and does not encourage investment in development in a market where it is desperately needed.	The sunset clause amendments are intended to help support property development by still providing the ability for sellers to terminate an 'off the plan' contract for the sale of land in specified situations, at the same time as providing proportionate consumer protections. These consumer protections may support buyer confidence, which is critical to the success of the property sector. The changes are not unprecedented. Similar measures are already in place in New South Wales, Victoria and the Australian Capital Territory. However, there is a difference from the other jurisdictions, in that a staged approach is being adopted. As part of the first stage, the sunset clause amendments in the Bill will protect Queenslanders in respect of an 'off the plan' contract for the sale of land only. In the second stage, a further review will commence one to two years after the amendments have commenced. The review will

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			consider whether further reforms are required to protect people buying proposed community titles and similar lots 'off the plan'. This staged approach recognises the increased pressures currently faced by property developers in respect of labour and material availability, and costs for the construction of buildings.
Retrospectivity of amendments	51	Submission 060 (HIA) disagrees to there being any retrospective effect of the legislation as it is not fair to the market at large to change the goal posts once a contract has been signed.	DJAG notes it is considered important that the amendments have a retrospective element, to ensure that consumers are protected as soon as possible. If the amendments were to only apply to 'off the plan' contracts for the sale of land entered into after commencement, it would take a significant amount of time for the additional consumer protections to take effect. This is because of the 18-month statutory timeframe for settlement of the contract under the Land Sales Act. To ensure the amendments are effective and the greatest possible number of buyers are protected, the amendments apply to contracts that have been entered into but not settled by commencement. This limited retrospectivity is considered justified. It is anticipated there are a significant number of buyers with current 'off the plan' contracts for the sale of land, who are concerned about the potential future termination of their contracts. The Government will ensure that education is conducted so that buyers, property industry stakeholders and legal industry stakeholders are aware of the commencement of the reforms.

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Regulation making powers	50	Submission 90 (QLS supplementary submission) considers the regulation making power in proposed new subsection 19D(1)(c) and (2) of the Bill is too wide, and would have insufficient regard to the institution of Parliament.	DJAG notes the regulation-making powers are considered necessary to enable relatively speedy and flexible regulatory responses to changes or emerging issues in the Queensland property market, particularly given such markets can be unpredictable. The regulation making power in respect of proposed new subsection 19D(1)(c) and (2) (prescribing another way where termination of an 'off the plan' contract for the sale of land using a sunset clause can occur) is appropriately constrained with a requirement that the regulation can only be made if the Minister is satisfied the prescribed way will provide adequate consumer protection for a buyer.
Proposed review	50	Submission 060 (HIA) suggests that any review of 'off-the-plan' contractual arrangements should be conducted within the context of the current regulatory environment and in parallel with a broader review of the current barriers to finance for property development.	As part of the second stage, a further review will commence one to two years after the amendments have commenced. The review will consider whether further reforms are required to protect people buying proposed community titles and similar lots 'off the plan'. The staged approach is intended to recognise the increased pressures currently faced by property developers in respect of supply chain disruptions, increased costs for building supplies and skilled labour due to limited supply and extreme weather events. The review is likely to have regard to the environment and factors relevant to the property development sector.
Buyer sunset clause	50	Submission 060 (HIA) notes that sunset clauses are often inserted at the insistence of the buyer, as without such they could wait for years while a property developer tries to get a project	DJAG notes that section 14(1) of the Land Sales Act requires the seller of a proposed ('off the plan') lot to settle the contract for the sale of the lot not later than 18 months after the buyer enters into the contract for the sale of the lot. DJAG also notes that section 14(5) provides that, if the seller fails to comply with

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		started which could be delayed by planning, financial, or as been seen in recent years, a shortage of labour and materials.	this other than because of the buyer's default, the buyer may terminate the contract for the sale of the proposed lot by written notice given to the seller before the contract is settled. Accordingly, buyers of 'off the plan' land in Queensland have a statutory right to terminate a contract if settlement does not occur within 18 months.
Release of deposit amendments			
Commencement	2	Submission 087 (POA QLD) asks why these minor amendments are not available now for consideration.	DJAG notes the minor amendments being referenced are included in the Bill.
Changes are inadequate to address the issue	26, 47, 49, 56	Submission 90 (QLS supplementary submission) states there is anecdotal evidence (from media reports and from its members' experience) that there are instances where deposits are being paid to developers prior to settlement. The submitter states it believes this is due to the ambiguity in these provisions, e.g. the requirement that the deposit be held in a trust account "*until a party to the contract or instrument becomes entitled, under this part or otherwise according to law*". The submitter notes that the phrase 'otherwise according to law' is being interpreted as allowing parties to expressly agree in the contract that the deposit can be released to the seller earlier than settlement.	DJAG notes the drafting approach that was adopted, which relies on insertion of statutory notes and an example, as following detailed consideration of the issue, substantive change to the relevant provisions was not considered necessary. The statutory notes and example aim to highlight the fact that parties cannot contract out of the provisions of the relevant Acts, given the express legislative provisions that apply (for example, see section 22 of the Land Sales Act). DJAG notes that, based on drafting advice, it is understood that the phrase 'according to law' has a plain and established meaning, that is in accordance with applicable legislation and common law. DJAG also notes that concerns were raised about the full ramifications of amending or removing 'according to law'.

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		The submitter believes the changes are inadequate to the address the issue as, if the above interpretation is correct, the section itself allows a deposit holder to release the deposit if the contract provides for it, so the contractual clause would not be regarded as contracting out of the Act; and if a court is satisfied of the ordinary meaning of the provision, there is no justification for referring to the extrinsic material in the relevant Explanatory Notes.	At the very least, it was identified that removal of 'according to law' from the relevant Acts might result in unintended consequences that would likely be inconsistent with the policy intent of these amendments.
Identify existing provisions causing uncertainty, resulting in early release of deposits	26, 47, 49, 56	Submission 085 (RPRA) states that the explanatory notes should identify what the existing provisions are which may cause uncertainty that could lead to the early release of the deposits to a seller (property developer).	The amendments in question have been made to section 218C of the BCCM Act, section 18 of the Land Sales Act, section 49F of the *Building Units and Group Titles Act 1980* (BUGT Act), and section 97N of the *South Bank Corporation Act 1989* (SBC Act). As context, the relevant Acts each include a legislative framework regulating amounts held in trust accounts, generally referred to as 'deposits', for proposed lots. Essentially, all deposits for an 'off the plan' sale must be paid to a law practice or a real estate agent (or in limited circumstances, the public trustee). The policy intent of the existing legislative provisions is that a deposit should only be released, from a relevant trust account, at the time of settlement or if another contract finalisation event occurs where that party is entitled to the deposit. A stakeholder raised concern that there may be uncertainty in relation to the wording of the provisions in these Acts, and

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			noted an example of a development where the property developer accessed buyer deposits early. On consideration, it was determined that the current legislation does achieve the policy intent, and that substantive change to is not necessary. However, it was determined that statutory notes and an example could be added to the provisions, to clearly highlight the fact that parties cannot contract out of the provisions of the relevant Act.
Clear definition of 'another contract finalisation event'	26, 47, 49, 56	Submission 085 (RPRA) asks for a clear definition of "another contract finalisation event".	DJAG notes the Bill does not refer to a 'contract finalisation event', but that this term has been used to highlight the policy intent of the existing provisions and the changes made by the Bill to confirm this intent. The use of the term 'contract finalisation event' is intended to acknowledge that there may be some circumstances, other than settlement, in which a party to a contract might be entitled to a deposit – for instance, a buyer would typically be entitled to receive their deposit back if the seller terminated the contract pursuant to a specific termination clause within the contract.
Amendments to *Agents Financial Administration Act 2014*	26, 47, 49, 56	Submission 085 (RPRA) asked that amendments to the *Agents Financial Administration Act 2014* (AFA Act) be considered, if necessary.	The relevant law governing the operation of trust accounts under the *Property Occupations Act 2014* (PO Act) is the AFA Act, which aims to protect consumers from financial loss in their dealings with agents under the PO Act. The AFA Act regulates the establishment, management, and audit of agents' trust accounts. The relevant provisions within the AFA Act regarding the rules regarding trust monies are expressed in different terms to those contained within the Land Sales Act, BCCM Act, BUGT

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			Act and SBC Act. On this basis, amendments to the AFA Act were not included in the Bill. To the extent the submitter is suggesting that different amendments be made to the AFAA, this is outside the scope of the Bill.
Legal representation	26, 47, 49, 56	Submission 087 (POA QLD) states that this issue should be handled by a solicitor.	The purpose of these minor amendments is to help clarify and prevent the early release of deposits to property developers as part of 'off the plan' residential property contracts. This encompasses all 'off the plan' contracts for land and lots in community titles-style schemes. These amendments do not prevent the relevant parties to a contract from engaging a solicitor for legal advice about the particular terms of the contract.
Issues outside of scope of Bill			
Ralan Case and related issues associated with case	26, 47, 49, 56	Submission 085 (RPRA) has raised a number of issues specifically relating to the Ralan Service Pty Ltd and Ralan Capital Investment Pty Ltd (the Ralan entities). The submitter raises concerns about the conduct of the OFT in relation to the Ralan entities and notes concerns about OFT's interpretation of the PO Act and AFA Act.	The issues raised are outside the scope of the Bill. It is understood the issues regarding the Ralan entities involve allegations of breaches of the PO Act and the AFA Act. The PO Act provides an occupational licensing framework for real estate agents, real estate salespeople, real property auctioneers and resident letting agents. The relevant law governing the operation of trust accounts under the PO Act is the AFA Act. Neither of these Acts are being amended by the Bill. Although both Acts have provisions pertaining to the rules regarding trust monies, these are expressed in different terms to those contained within the Land Sales Act, BCCM Act, BUGT Act and SBC Act.