

## Body Corporate and Community Management and Other Legislation Amendment Bill 2023

**Submission No:** 50  
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**Publication:** Making the submission and your name public  
**Attachments:** See attachment  
**Submitter Comments:**

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1 September 2023

Committee Secretary  
Legal Affairs and Safety Committee  
Parliament House  
George Street  
Brisbane Qld 4000

**By email: [lasc@parliament.qld.gov.au](mailto:lasc@parliament.qld.gov.au)**

Dear Committee Secretary

**Submission re BCCM Legislative Amendments**

This submission relates solely to '169B By-laws about keeping animals' and in particular the following:

“(6) The body corporate, or the committee, may refuse to grant approval under subsection (4) only if the body corporate, or the committee, is satisfied, on reasonable grounds, of any of the following matters—

(a) keeping the animal would pose an unacceptable risk to the health and safety of an owner or occupier of a lot because—

(i) the owner or occupier is unwilling or unable to keep the animal in accordance with reasonable conditions that address the risk; or

(ii) the risk could not reasonably be managed by conditions imposed on the keeping of the animal;

*Example—*

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 of exposure to the allergen.”

My wife and I permanently reside at the above Pymble address however we own a high-rise unit at Runaway Bay which is used solely by us and our family and friends as a holiday unit. We purchased it off the plan in 1989.

We have no vested interest in an animal but have considerable empathy for those who desire a pet for companionship, therapeutic or emotional reasons.

These proposed amendments as currently worded may be appropriate for buildings where the committee is objective, not opposed to animals, has everyone's best interests at heart, is prepared to set reasonable conditions and where the residents want the best for each other and are honest about the

seriousness of their allergies and not selfish about their desire not to have any animals in the building.

Our building (more than 100 units, 28 floors and with 3 lifts) is a perfect example of where this isn't the case as exemplified in part by a prominently displayed metallic sign that was for many years, until very recently, in the foyer with the wording "*The residents of this building enjoy an animal free environment!*"! Not one animal has been approved for our building since settlement of the units took place in early 1990 whereas the high-rise buildings in the vicinity have numerous animals therein. Whilst there is no blanket ban in our recently updated by-laws, the committees by their actions over the years have in effect imposed their own blanket ban!

In relation to the above sub section (6) example, the following, or words to that effect, should ideally be substituted as it is more than likely to lead to more committee approvals and therefore lesser disputation:

"An owner or occupier of a lot has a current medically certified (from an allergist) severe (life threatening) allergy to a particular type of animal and it is not possible to impose a condition that would reasonably manage the person's risk of exposure to the allergen. It would be expected that the body corporate or committee of a multi storey building with more than one lift would be able to impose reasonable conditions to manage the risk".

The example as currently worded, without that substituted wording, is in effect a get out of gaol card, which in the view of some owners, our committee has already been unreasonably using, thereby abrogating its responsibility. It said as much at a meeting when the chairperson stated that an adjudicator can take responsibility rather the committee for the consequences of granting approval.

Also, were there to be a guide, hearing or assistance dog in the building, those who **allege** that they have a severe allergy would simply have to live with it and no doubt would, by setting reasonable conditions for themselves such as not entering a lift when the animal is already in there!

The following are extracts from the internet on 25 August 2023:

*"Can I test for pet dander allergy?"*

*A diagnosis of pet allergy is made based on your medical history and a physical examination. Your doctor might refer you to an allergy specialist for a skin-prick test or blood test for confirmation. Avoid online or over-the-counter allergy test kits or other unconventional allergy tests.*

*What Is Pet Dander?*

*Pet dander is composed of tiny, even microscopic, flecks of skin shed by cats, dogs, rodents, birds and other animals with fur and feathers.*

*How long does pet dander stay allergenic?*

### *Six months*

*Dander allergens are sticky, and dander in soft materials, such as carpets, mattresses, upholstered furniture and clothing, can persist for long periods of time. Unless special steps are taken, pet dander can remain in a home for up to six months after the pet has been removed.*

### *Does showering remove pet dander?*

*Reduce the amount of dander on your pet by bathing your cat or dog on a regular basis. One study that compared the levels of dog dander allergens before and after a brief bath found that the bath reduced the dogs' allergen levels by 85%. Ask your veterinarian to recommend a shampoo that supports healthy skin and coat.*

### *Does dander float in the air?*

*Like dust, pet dander can float in the air for long periods of time and settles on surfaces in your home where it can remain for months. Even if you don't own or live with a furry pet, it's easy to be exposed to pet dander if you visit other homes or places where pets are present".*

It will be noted from those extracts that dander is ubiquitous and highly unlikely to be able to be seen because it is microscopic – those that profess to be allergic to dander are likely, but perhaps unknowingly, covered in dander. There are several school children in our building who likely bring dander home on their clothes as well as owners or occupiers who visit shopping centres and places of worship and walk outside where dogs regularly traverse. Furthermore, a few high-rise buildings nearby have numerous pets, and a countless number of dogs walk past our building virtually every daylight hour (and often in the evening and before sunrise) of every day of the week. One such building is within 100 metres of ours with only open space in between and reportedly has more than 50 dogs. Given that dander is ubiquitous, one can't avoid getting it on one's clothes and/or skin or breathing it in unless wearing a hazmat suit and getting hosed down before entering one's building.

It is relatively easy to go to a GP (not an allergist) to which you haven't been to before, tell him/her that you are allergic to dander and get a certificate stating that to be the case – I have seen such certificates including one dated 5 years ago, yet they were relied upon to deny approval.

One such certificate stated that the allergy is serious when there is physical contact with the animal rather than from its dander. We have a neighbour on our floor at Runaway Bay who has advised us that she is allergic to dander but nevertheless works every day in a vet.

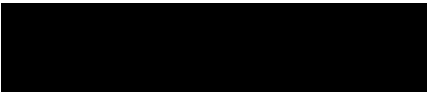
Also, it is much easier to impose conditions in relation to a cat who, unlike a dog, would very rarely be transported across the common property other than perhaps when taken to a vet, and then in a cage. Notwithstanding, our committee has declined applications for cats even though in one instance it was requested for therapeutic reasons for a child with a disability.

Whilst I appreciate that an owner or occupier can go to adjudication to challenge the reasonableness of a committee's decision, the issue is that the lengthy delay (currently more than a year) in getting an order doesn't make it feasible, let alone many owners and occupiers don't have the stomach for a fight and/or aren't capable of what is required to make an acceptable application. We are aware of an owner who sold shortly after moving in because approval was denied (a costly exercise that few can afford) and another new owner who was left with no alternative but to likely have to permanently leave their pet with someone who was minding it whilst going through the lengthy conciliation/adjudication process because otherwise it would be cruel to the pet and unfair to the minder who became attached to it, to take it away.

There is a need to resolve these issues on a very timely basis because delays impact prospective purchasers and the well being of those desiring a pet or already have a pet but need to board it elsewhere, often at significant cost, and trauma to the pet, until an order is made. Accordingly, there should be dedicated adjudicators for animal disputes, of which it is understood there are many, so that orders can be made relatively quickly.

In summary, it is my respectful submission that the wording regarding permitted refusal to grant approval needs to be stricter by tightened up the wording of the example by substituting the wording or the like as noted above.

Yours sincerely

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Frank Fischl