Introduction

The premise of the proposed changes is largely based on the false assumption that the BCCM Act is somehow the "gold standard" and the MUDA and BUGTA need to be harmonised with it. The BCCM Act isn't the "gold standard". The BCCM Act is at best slightly better than the MUDA. The BCCM Act has no protection for unit owners who have to deal with increasingly predatory people involved body corporate management such as those with letting, administration and caretaking rights and body corporate managers who thrive in an unregulated environment, with no licencing requirements to do a job that involves control of huge building and vast sums of owners money in a completely unregulated environment.

Most of the changes won't do any harm. The focus on education is useful. Those changes we have commented on below are creating more problems than they are fixing. In essence, the lack of substantive action to address 'the elephant in the room' is disappointing.

Subsidiary body corporate representation and voting

The requirement for a nominee to be a member of the committee is a problem if there is no committee for that body corporate. Our scheme has 3 of the total of 6 bodies corporate with only 4 owners and one has only 2 – having a committee of 3 is impossible in one case and very difficult for the schemes with 4 owners. One of the schemes has a representative who offered to be the nominee and contacted the other owners with this proposal. Often owners have no interest in even responding. Some other schemes do not even contact the other owners and for many years, 4 of the 6 bodies corporate were unpresented in the [redacted] Scheme and voting did not even follow the voting entitlements outlined in the voting plan.

There is a need for a more flexible way for a nominee to be put forward if there is no committee. Usually the problem is solved by someone just putting their hand up.

Committee membership is not highly sought after in most bodies corporate. The real problem is actually getting a committee as volunteers are thin on the ground. Care needs to be taken with any change to the legislation that makes membership of committee more difficult. The exception to this is body corporate manager and those with management, letting or caretaking rights who should **NEVER** have been allowed to be voting members of committee because of the inherent conflicts of interest their presence on the body corporate committee creates.

Information disclosure

The need to give all owners 7 days' notice of a committee meeting at which they cannot vote, is a waste of time as it is in the BCCM Act. When combined with the need to allow 7 days to elapse before action can be taken on a resolution, it effectively creates a significant delay which means things just take longer to get done. Roofs will continue leaking and dangerous situations may go unresolved. Many owners who are sent a notice of a committee meeting complain of "death by email" and many are confused as to why they are

sent the notice and that their votes can't be counted. This has happened since the changes in the BCCM Act last year. It is not helpful and just wastes time for no benefit, except to body corporate managers who can charge owners to send out the extra notifications. Putting this in the MUDA and the BUGTA isn't helpful.

Giving owners the minutes of a committee within 21 days and giving 7 days to act to stop a resolution has some merit, although potentially the time to act on a resolution could be a least 5 weeks. The managers can use this extra requirement to further delay action on things they don't want the body corporate to act on, sometimes with urgent time frames, such as getting legal advice about their actions.

As well, these additional requirements to give all owners 7 days' notice of a committee meeting and then to send copies of the minutes to all owners COSTS owners more to decide. Body corporate managers will benefit as they generate a considerable amount of income from sending owners emails which is a part of the business model of body corporate managers. The BC managers charge up to $400 per hour for administrative work and to take half an hour send an email to 40 owners will cost $200. We doubt that the people who made the decision to "double up" on the disclosure requirements, pay the costs for forcing owners to send out the notice of the committee meeting and the minutes. Little thought has been given to the costs of this additional disclosure when compared to its benefit.

It seems that fixing an alleged problem with committees not disclosing the minutes of meeting to other owners has created more problems.

Failure to act to licence and regulate management rights

These changes to the legislation do **nothing** to licence and regulate those people with management rights. These people and body corporate managers often control huge buildings with hundreds of units and vast sums of money. Yet anyone can walk off the street and do the job without any checks. All this is left to owners who are ordinary people who suddenly have to deal with complex legal issues.

The people who own the management rights most often on-sell them to people to also on-sell them without scrutiny or the owners' knowledge. Sometimes the owners do not actually know who is the "manager" and the person doing the job may be a criminal as the original checks were only done on the person who actually has the management rights contract. The "managers" are often required to live on the site but they don't and to stop them doing this is extremely difficult and legal action often has to be taken many times to stop the serial breaches.

The lack of licencing and regulation is having detrimental effects across the housing sector as more and more people own, rent and live in units as owner-occupiers.

The background for this legislation demonstrates why it is such a mess. The legislation and that for South Bank and Sanctuary Cove etc. for MUDA was written for and by developers.

State governments don't want to address this issue of management rights because the interests of developers and others will be affected. Developers donate vast amounts of money to political parties involved in local and state government and they also supply construction jobs. This seems to make developers untouchable.

The real estate agents also benefit from having an endless supply of units to sell and they are not concerned with the problems of unit ownership.

The people with management rights are initially put in place by developers and they are there for 25 years at least to look after the interests of developers who don't want to have to fix expensive defects in buildings (like flammable cladding) and use these managers to manipulate owners and committees.

The Body Corporate Commissioner's office repeatedly tells the public that the office is not a "tough cop on the beat". It needs to be given powers to allow the policing and enforcement of standards for the people with management rights. Giving this regulatory power to the Strata Community Australia people seems to be a cost-neutral option the government is considering. This would be like putting "Dracula in charge of the blood bank". This organisation represents BC mangers etc. and those who benefit from the current situation where their existence and income is funded by the owners. They are not working for the interests of UNIT OWNERS who pay their wages.

The changes to the legislation are largely just "papering over the cracks". No legislative changes are planned so that the damage these people with management rights do the owners, will continue. Their maladministration has a detrimental effect on owners financially and psychologically. Body corporate managers and those with administration rights have control of the bodies corporate bank accounts, the letting arrangements and even the sale of the units. People live in units that these people treat as their own personal empires because there is nothing to stop their damaging actions – except the prospect of extremely expensive and trying to negotiate the maze that is the path to a referee order which at best will take at least 6 months. Legal action doesn't just get taken once but multiple times because these management rights holders breach contracts and by-laws multiple times.

The body corporate managers and the people with management rights have used control of the BC bank accounts to coerce owners. The holder of the MAA at [redacted] CBC refused to pay a legal bill for a subsidiary body corporate that was acting to stop her contravening a by-law which put all the owners at risk of a $3m fine for contravening the Planning Act. [redacted], a body corporate management firm, refused to pay bills for a BC covered by the BCCM Act because the committee refused to use their preferred contractors from whom they received an undisclosed financial benefit. They also, without authorisation, outsourced the control of the BC's bank account to someone who worked for a BC management company in Sydney. The BC had no idea who had control of their Macquarie Bank account. The BC terminated their contract and now faces the risk of BCS suing them. These incidents are not isolated representative of the depth of the problem. Despite these appalling financial practices and exploitation of owners, the state government continues to ignore the need for these people to be licenced and regulated.

The manager at [redacted] CBC continues to refuse to pay bills for the subsidiary schemes and the [redacted] CBC on time, despite funds being available and correct authorisation of expenditure. Several contractors will no longer do work for the subsidiary schemes and [redacted] CBC because of this. This non-payment and reputational damage will continue as there are no plans by the state government to regulate and licence those with management and administration rights and body corporate managers. Owners are being held hostage by these people who are using this leverage to exercise power over owners for their personal benefit. This sort of coercive behaviour is by no means confined to [redacted]. It is happening everywhere and it is very difficult for owners to deal with it. A breach of contract action would cost more in legal fees than the debts. If a real estate agent did this they would no doubt lose their licence, but the owners of management rights and BC managers use this practice with impunity as part of their business model to control owners.

All state, governments in Australia, including Queensland, just continue to 'kick the can down the road". The cabinet responsibility for bodies corporate is usually just tacked onto some other portfolio and most ministers and their departments have little understanding of the complexities of owning units. It is not taken seriously. There is a false perception that most unit owners are just wealthy investors who want to take advantage of negative gearing etc. when, in fact, the people who own them live in them in increasing numbers as units are the now the only property people have any hope of buying.

Those who rent them out are facing more and more costs with this ownership e.g. smoke detectors, removing flammable cladding and related compliance costs, spiralling body corporate levies, eye-watering insurance costs etc. The costs will be passed onto to tenants, yet this issue of the maladministration of the management of units is not even considered when considering the housing crisis. Many owners are selling rental property because it is just too difficult. Air B and B is completely unregulated even though many owners don't want it in their buildings but again the legislative response is to "kick the can down the road" and not even attempt to regulate this activity. Those with Letting rights benefit from Air B and B yet owners have to pay the increased cost of insurance for this activity and have to put up with the damage to their units and the disruption of noisy and often destructive short term "guests".

Air B and B arrangements take vast numbers of long term rental property off the rental market. Unit owners are left on their own to deal with the Air B and B contagion. No government wants to join the dots to try to act on these managers with letting, administration and management rights. The mess is contributing to the housing crisis but unit owners are left with few resources to try to deal with the mess.

Most of the problems that we have had to deal with at [redacted] CBC have involved the "resident" manager who is a voting member of the committee. She has rarely excused herself from voting and at one point was one of only 3 nominees on the CBC committee which allowed her virtual domination of the finances and management of the [redacted] scheme. Financial and voting irregularities are well-documented in referee orders. She also ignored a by-law that put all owners at risk of a $3m fine because contravention of the by law contravened the Planning Act and her maladministration of the finances for [redacted] CBC

and the subsidiary schemes result in [redacted] BC and [redacted] BC paying tens of thousands of dollars in extra levies to the [redacted] CBC. For years, she denied owners access to [redacted] CBC records which she controls, namely the Community Plan, which clearly showed she had used the wrong number of voting entitlements to calculate levies.

Conclusion

We as owners of units in the subsidiary schemes in the [redacted] Mixed Use Development (one of 6 in the state) have spent the last 3 years and almost $20,000 so far, trying to clean up the mess the manager has made of the scheme. We have lost over $50,000 because of her incompetence and financial mismanagement related to "overpaying" herself and charging owners in the subsidiary schemes the wrong amount for levies. She is still causing problems for owners.

We know first-hand the appalling legislative framework in which we own our property.

We know that the lack of licensing and regulation of people with management rights and body corporate managers compounds the problems created by this appalling legislation, yet our input has been ignored. Bodies corporate may check that on-site managers don't have a criminal history but often the "on-site" manager with the management rights delegates their role to someone else who the manager employs and the body corporate is unable to check the criminal history of second, third or fourth party as they are employed by the manager. Owners are often not even told by the holder of the management rights that they have on-sold them. Children live in these schemes and may interact with these managers who have no criminal history check or blue card. The government seems to be ignoring the obvious risk to children posed by the lack of action on licencing and regulation of body corporate managers with management rights.

Other people have put several petitions to parliament about the need for action to fix this bod corporate manager and management rights catastrophe, yet calls for action by the owners who pay all the bills and bear all the legal responsibility, continue to be ignored in favour of those with greatest financial resources and vested interests in keeping things the way they are. The lawyers will continue to benefit from unending disputes, the REIQ will benefit from lots of units to rent and sell and the Resident Manager will still do what they have always done with impunity. Real estate agents benefit from the lively market in the sale of management rights, which are virtually a licence to print money, without scrutiny. All these vested interests have contributed to this "review" and no doubt devoted considerable financial resources to doing so. They will be happy to continue to exploit owners who have the sort of legal and financial protection a bed sheet would give someone against the cold of Antarctica.

The costs of doing nothing about this enormous problem for unit owners and the community are great. Once again, the contributors to this legislation whose advice has been privileged are not the owners who will bear the direct cost of the continued widespread maladministration that corrupts the management, letting and caretaking rights and body corporate management ecosystem.

The state government needs to do better. What is certain is that “kicking the can” down the road again won’t work and the problem for the unit owners and the wider community is only getting bigger.

Lee O’Sullivan – (Owner unit 4 [redacted] (subsidiary) body corporate)
Jan Parkinson (Treasurer [redacted] Community body corporate committee)
Ken Parkinson (Secretary [redacted] Community Body Corporate committee)
Bill and Margaret Hey – Owners - [redacted] unit 3 (subsidiary body corporate)

Perrine Wales (Chairperson – [redacted] Community Body Corporate committee)