

COURAN COVE RESORT ECO LODGES [REDACTED]
ECO LODGES BODY CORPORATE COMMITTEE
The Secretary for Couran Cove ECO Lodges [REDACTED]
C/O [REDACTED]
C/P [REDACTED]

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

Submission to the Inquiry into the Building Units and Group Titles and Other Legislation Amendment Bill 2022.

The purpose of this Submission is to make a case for disallowing members of a Community Body Corporate (CBC) to vote at general meetings of the CBC if the member or their associates owe debts on any lots within the development.

This change is consistent with current BUGTA legislation (see below) which disallows voting at general meetings of a body corporate if a proprietor of a Lot owes a debt to the Body corporate. As the CBC represents the whole development, any debt owing on any lot within the development should not only preclude voting at CBC general meetings by the debtor member but also prevent their election to the CBC executive committee as per MUDA Clause s185 (7A) below.

BUGT ACT Current as of May 2022

The current wording in Part 2, Schedule 2, Part 2 Clause (6)(d) of BUGTA

“(6) Notwithstanding any other provision of this Act, at a general meeting of the body corporate a person shall not be entitled to vote in respect of—

(a) any motion other than a motion which to be effective must be passed by unanimous resolution or resolution without dissent; or

(b) the election of the chairperson, secretary or treasurer of the body corporate or the other members of the committee;

unless—

(c) all contributions levied and due and payable at least 30 days before the meeting in respect of the lot in respect of which the person is entitled to vote; and

(d) any other moneys recoverable under this Act by the body corporate from the person or the proprietor of the lot at the date of the notice given under section 1(4); have been duly paid before the commencement of the meeting”

MUD ACT 1993 Part 9 s185 Clause 7A; Current at June 2021

“(7A) A person is eligible for election as chairperson, secretary or treasurer, or as another member of the executive committee, only if the person—

(a) is an individual who is—

(i) a member of the body corporate; or

(ii) a nominee of a corporation that is a member of the body corporate; and

(b) does not owe a relevant body corporate debt in relation to a lot or lots owned by the person”

Applying the intent of this legislation to the CBC is crucially important for maintaining the integrity of the Community Body Corporate whose remit under the MUD ACT is to act in the best interests of the whole community. The CBC has maintenance and utility services contracts with the Resort operator to provide services for the whole development. The CBC on-charges the cost of these services to Community proprietors according to the number of entitlements per Lot which are fixed according to the Couran Cove Mixed Use Development Scheme. Proprietors pay for these services through their body corporate levies which are issued by precinct bodies corporate to their members. The CBC levies each precinct body corporate and its direct members for the cost of services which is then paid to the Operator.

The Couran Cove Mixed Use Development is comprised of 6 LOTS each of which has one representative on the Community Body Corporate. Four subdivided LOTS or precincts, namely [REDACTED]

[REDACTED] are each represented on the CBC by a nominee of their respective precinct body corporate. Two un-subdivided community development lots comprised of a vacant Lot of land [REDACTED] at the entrance to the Harbour and the Reception building ([REDACTED]) are owned by corporate entities, one of whom is the Resort operator and service provider. LOTS [REDACTED] and [REDACTED] are direct members of the CBC and represent only 70 entitlements out of a total of 3,238 entitlements in the Couran Cove development. None-the-less, current MUDA and BUGTA legislation allows the proprietors of these two LOTS to vote at CBC general meetings if they do not owe levies or moneys directly payable on these two LOTS to the CBC. This is despite the fact that these same corporate entities or their associates owe substantial debts (***in excess of 14 million dollars***) to the precinct bodies corporate and therefore indirectly owe the CBC for services provided. These debts have rendered three precinct bodies corporate unfinancial with respect to the CBC and therefore unable to vote at general meetings of the CBC. This has allowed corporate entities to control the CBC and the Resort operator to vote on service budgets at the CBC AGM which the Resort Operator has itself formulated. Furthermore, conflicts of interest do not have to be declared at an AGM or EGM of the CBC even though it is clear that the Resort Operator is conflicted when voting on issues that may benefit the Operator.

This is a ludicrous situation and NOT consistent with current BUGTA legislation governing precinct bodies corporate where a proprietor is unable to vote at a precinct BC AGM or EGM if the proprietor owes any debt to that precinct body corporate.

The same principal should apply to members of the CBC whereby any debts owed on a lot or lots within the whole development by a member or their associated entities should render the member ineligible to vote at an AGM or EGM of the Community Body Corporate.

The CBC at Couran Cove is only comprised of 6 members who all sit on the CBC executive committee and should make decisions in the best interests of all owners. Therefore, individuals who sit on the CBC must be of the highest integrity and above reproach when it comes to payment of levies and adherence to by-laws within the Couran Cove development.

Existing BUGTA and MUDA legislation allows corporate entities to weaponise their debt to precinct bodies corporate by denying their representation at the CBC. The CBC has now issued special levies to all precinct bodies corporate in

an attempt to recoup debt owed by the corporate entities that control the CBC. The ultimate aim of these corporate entities is to silence and disenfranchise private owners who pay their body corporate levies.

As a matter of fairness to private owners at Couran Cove this situation must be addressed by amendments to BUGTA and MUDA legislation that clearly prohibit proprietors or their associates who owe debts on any Lot or Lots within the development from being elected to the CBC and from voting at CBC general meetings.

This could be achieved by changing the wording in **Part 9, s185 Clause 7A (a) & (b) of the MUD ACT** to

“(7A) A person is eligible for election as chairperson, secretary or treasurer, or as another member of the executive committee of the community body corporate, only if the person—

(a) is an individual who is—

(i) a member of the body corporate; or

(ii) a nominee of a corporation that is a member of the body corporate; and

(b) does not owe any body corporate debts in relation to a lot or lots owned by the person or their associates within the development”

(7B) A person is eligible for election as chairperson, secretary or treasurer, or as another member of the executive committee of a subsidiary body corporate, only if the person—

(a) is an individual who is—

(i) a member of the body corporate; or

(ii) a nominee of a corporation that is a member of the body corporate; and

(b) does not owe a relevant body corporate debt in relation to a lot or lots owned by the person or their associates in the subsidiary body corporate.”

A member who is an electable person at the time of the CBC AGM but then becomes unfinancial with respect to any lot within the development during their tenure on the CBC committee should be prevented from voting at CBC general meetings. This could be achieved by adding an additional clause (7) that deals specifically with voting at general meetings of the CBC. Clause (6) would pertain to voting at subsidiary bodies corporate only.

in Schedule 2, Part 2 Clause (6)(d) of BUGTA

(7) Notwithstanding any other provision of this Act, at a general meeting of the community body corporate a person shall not be entitled to vote in respect of—

(a) any motion other than a motion which to be effective must be passed by unanimous resolution or resolution without dissent; or

(b) the election of the chairperson, secretary or treasurer of the body corporate or the other members of the committee;

unless—

(c) all contributions levied and due and payable at least 30 days before the meeting in respect of the lot in respect of which the person is entitled to vote; and

(d) any other moneys recoverable under this Act by bodies corporate within the development from the person or their associates at the date of the notice given under section 3(1);

have been duly paid before the commencement of the meeting.”

Thank you for considering this submission.

Yours faithfully,

David Bowden
Chairman,
The Eco Body Corporate Committee
Couran Cove Resort.