



11 July 2022

To: Department of Justice and Attorney-General  
Via email: BUGTA\_Consultation@justice.qld.gov.au

Dear Sir/Madam

I have over thirteen years of experience as a body corporate manager, including schemes registered under BUGTA and the MUD Act, which I currently manage.

I have read the proposed changes to the legislation and submit the following comments:

### **Clause 11 - S42 Constitution of Committees**

#### **1 Owing a Debt**

The BCCM legislation has two parts relating to eligibility for committee and owing a body corporate debt, which outline that they cannot owe the debt at the time the members are chosen, and also when the nomination is received by the secretary.

I am unclear if the proposed amendment to BUGTA alongside the existing provisions addresses this and has the requirement at the time of the meeting and at the time the nomination is received. This is important as otherwise in practice all nominations would have to be accepted, and the AGM material sent out including members that owed a debt. At the time of the meeting, those owing a debt would be unable to be elected, and ballots cast for those members discarded. This will cause confusion with voters and it would be beneficial for the proposed changes to run in alignment with the BCCM and have the requirement at both times:

Standard Module:

- (4) *If the owner of a lot owes a body corporate debt when the owner's nomination is received by the secretary, the owner's nomination or nominations are taken not to comply with this regulation.*

#### **2 Associates Owing a Debt**

In practical terms, how will a committee and/or their body corporate manager know whether a nominee has associates in their body corporate, and particularly associated body corporates, and how would they have access to those records at the required time to check their financial status? Should the onus be on the nominee to declare this, similar to BCCM and proposed BUGTA change of conflict of interest at a committee meeting? I would envisage that this may also be hard for a nominee to determine themselves.

I cannot see how this can be practically implemented, particularly when there are different body corporate managers on related schemes. Even with the same manager, this doesn't grant automatic right of access to records, such as the aged balance list, by one body corporate to another associated body corporate.

#### **3 Nomination Closure**

In BCCM and MUD there are provisions on cut-off dates for nominations (and in BCCM for motions), under BUGTA there is not. It would be extremely beneficial for BUGTA to be brought into alignment with MUD and BCCM, that they must be received by the end of the financial year. This gives proprietors a level playing field and would assist in reducing applications to the Referee where a nomination or motion is not included on an agenda, due to the timing of submission, and give proprietors clear guidance on when to submit nominations and motions.

**Clause 34 Amendment of S169 (Members' Nominees)**

A comment, if the member's nominee must be a proprietor of a lot in the subsidiary body corporate, there may be the situation where that body corporate cannot provide a member's nominee to the MUD scheme if their own committee consists of non-proprietors that have otherwise been properly elected.

Secondly, is this section:

(4) Section 169—	8
<i>insert—</i>	9
(8) In this section—	10
<i>member</i> , of a subsidiary body corporate that is a	11
body corporate created by the registration of a	12
building units or group titles plan, means a	13
proprietor of a lot shown on the plan.	14

able to include if a member is also a company nominee of a proprietor of a lot shown on the plan or a definition be included that a company nominee is in effect a proprietor of a lot.

**Email Communication & Attendance**

It would be very beneficial for owners as well as body corporate managers and committees for the same amendments to be made as made to the BCCMA regarding email communication and electronic attendance at meetings. Refer S61 and S256 Standard Module.

Please feel free to contact me if required.

Kind regards


