

Property Law Bill 2023

Submission No: 15
Submitted by: The Main Beach Association Inc.
Publication: Making the submission and your name public
See attached:

Submission on Property Law Act Bill and Reform to Body Corporate and Community Management Act

The Main Beach Association represents an area of the Gold Coast with a population of approximately 3500 residents, the majority of whom live in high rise buildings.

The area is undergoing massive regeneration, with many of the ageing, rundown buildings already being replaced by high rises.

Our interest in making this submission is twofold:

1. **Short-term letting** leading to a material densification of the use of common property and damage to common property in a way that is unlikely to have occurred had this use not been (*apparently unlawfully*) conducted on the land. (His Honour Judge William Everson in a recent case regarding a residential strata property in South Brisbane.) For this reason we support the very strong case made by the **Unit Owners Association of Queensland** that the Property Law Act 2023 should require the seller disclosure document to contain a simple English statement of the lawful use of the land and the strata building drawn from the development approval (DA) granted by local government under the Planning Act. Furthermore, the body corporate certificate should identify the lawful use of the strata lot and the potential non-lawful uses that could adversely affect a buyer's interests.
2. **Reform of the BCCM Act**, resulting in the lowering of the threshold of owners agreeing to sell from 100% to 75%, albeit with built in safeguards for dissenting owners. (We are aware of the 75% threshold introduced in Part 10 of the NSW Strata Schemes Development Act 2015 and assume that many aspects of that Act will be adopted in the proposed Queensland legislation.)

Although we welcome the Attorney General's commitment that there will be protections for dissenting owners, we are aware of how these provisions will be manipulated by unscrupulous body corporates and developers. For example, in cases that we know of, where a building is in perfectly sound condition, the body corporate is threatening dissenting owners that they will no longer carry out maintenance in order to ensure that the building does become rundown.

Other concerns include the following:

- What will it mean for a strata scheme to become unviable? Who will decide?

- What will be the definition of terms such as 'ageing' and 'rundown'? There are many buildings in Main Beach that are close to 40 years old and, because they were well built and have been diligently maintained by their body corporate, are still in excellent condition.
- What will prevent a compromised body corporate from deliberately neglecting essential maintenance?
- How will dissenting owners be able to fund an application to the District Court?
- In the case of dissenting owners forced to sell, who will compensate them for their removal expenses, stamp duty and so on?

Finally, we know of cases where developers are bullying unwilling sellers by telling them that the 75% threshold is already the law.

The development industry claims that this reform will increase housing availability. In the medium term the opposite is true. Given the lack of rental availability, displaced owners will have nowhere to live—and most will be unable to afford buy back into the area where they have been living.

For example, body corporate levies are very low for the 'three-storey walk ups' as they have no lifts, no live-in manager and often no swimming pool.

Even if offered a unit in the high rise that will replace their low-rise building, the forced-out seller will not be able to afford the very high fees and council rates levied on lot owners in a high rise building.

We realise that there will be an opportunity at a later date to make a more detailed submission on the draft BCCM Bill and also to appear at one of the promised public hearings. We very much hope that one of these hearings will be held on the Gold Coast where many in the community are worried about the unintended consequences of the proposed changes.

Our Association is not arguing against the forced redevelopment of buildings that are genuinely rundown: rather, we are concerned that the proposed changes will be misused by conflicted body corporates and unscrupulous developers to the detriment of owners who love where they live and are devastated at the thought of being forced to move.