

David CRISAFULLI MP

Member for **Broadwater**



20 March 2019

**State Development, Natural Resources and Agricultural
Industry Development Committee**

Attn: Dr Jacqui Dewar, Committee Secretary

sdnraidc@parliament.qld.gov.au

Dear Dr Dewar

**RE: LATE SUBMISSION TO NATURAL RESOURCES AND OTHER LEGISLATION
AMENDMENT BILL 2019**

I write regarding a proposed amendment to the *Integrated Resort Development Act 1987* (IRDA) (see attached PDF) provided to me by the Principal Body Corporate Committee of the Hope Island Resort.

Whilst this specific Act isn't mentioned in this Amendment Bill, the Body Corporate has asked it be considered due to the wide ranging nature of it and the urgency of their request.

Very few resort communities in Queensland are regulated by the IRDA. Hope Island Resort in the Broadwater electorate is one of these communities.

The proposed amendment would make a mortgagee in possession of the land liable for levies. This brings the IRDA into line with other bodies corporate right of recovery found in the *Body Corporate and Community Management Act 1997* and the *Building Units and Group Titles Act 1980*.

At present IRDA is silent on the matter of liability of mortgagees in possession which makes it very difficult for a body corporate to successfully recover levies.

I respectfully request this be considered as a late submission to the Natural Resources and Other Legislation Amendment Bill 2019 and can be contacted at any time if required.

Yours sincerely

David Crisafulli MP
Member for Broadwater



AMENDMENT OF INTEGRATED RESORT DEVELOPMENT ACT 1987

1 Amendment of section 101

Immediately after the words-

"proprietor", in relation to land, means the person for the time being registered, or entitled to be registered, under the *Land Title Act 1994* as the owner of the land

Insert-

and includes a mortgage in possession of the land;

2 Amendment of section 109 (3)

Section 109 (3), between 'land' and 'is liable'–

Insert–

(including a mortgagee in possession)

3 Insertion of new section 118(9)

Insert-

If any land within the site is subject to a registered mortgage, and the mortgagee enters into possession of the land, within 7 days of taking possession the registered mortgagee must give to the primary thoroughfare body corporate notice of the name, business address and address for service of the registered mortgagee.

4 Insertion of new section 118(10)

Insert-

If a mortgagee in possession of land within the site decides not to enforce the mortgage, the mortgagee must immediately give written notice of the decision to the primary thoroughfare body corporate. On giving the written notice, the mortgagee ceases to be a mortgagee in possession of the land and is not a proprietor of the land under this Act.

5 Amendment of section 138

Immediately after the words-

"proprietor", in relation to an initial lot or a secondary lot, means the person for the time being registered, or entitled to be registered, under the *Land Title Act 1994* as the owner of the land

Insert-

and includes a mortgage in possession of the lot;

6 Amendment of section 145 (3)

Section 145 (3), between 'a proprietor' to 'of an initial lot or a secondary lot'-

Insert-

(including a mortgagee in possession)

7 Insertion of new section 153(9)

Insert-

If any initial lot or secondary lot is subject to a registered mortgage, and the mortgagee enters into possession of the lot, within 7 days of taking possession the registered mortgagee must give to the principal body corporate notice of the name, business address and address for service of the registered mortgagee.

8 Insertion of new section 153(10)

Insert-

If a mortgagee in possession of an initial lot or secondary lot decides not to enforce the mortgage, the mortgagee must immediately give written notice of the decision to the principal body corporate. On giving the written notice, the mortgagee ceases to be a mortgagee in possession of the land and is not a proprietor of initial lot or secondary lot under this Act.

9 Insertion of new section 194

Insert-

If a mortgagee has been in possession of land within the site at the time of commencement of this section, then the amendments to sections 109(3) and 145(3) will not apply to impose retrospective liability with respect to contributions that were unpaid at the time of commencement.

EXPLANATORY NOTES

This amendment will make a mortgagee in possession of land governed by the *Integrated Resort Development Act 1987* (IRDA) liable for levies raised by a primary thoroughfare or principal body corporate. This brings these communities in line with the same right of recovery bodies corporate governed by the *Body Corporate and Community Management Act 1997* (Qld) (BCCMA) and the *Building Units and Group Titles Act 1980* (BUGTA) have against mortgagees in possession.