

## LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

### Report No. 16 on the

### Body Corporate and Community Management and Other Legislation Amendment Bill 2012

## QUEENSLAND GOVERNMENT RESPONSE

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### INTRODUCTION

On 14 September 2012, the Honourable Jarrod Bleijie MP, Attorney-General and Minister for Justice, introduced the Body Corporate and Community Management and Other Legislation Amendment Bill 2012 into the Legislative Assembly.

The Bill was subsequently referred to the Legal Affairs and Community Safety Committee (the Committee) for consideration and report to the Parliament by 22 November 2012.

On 22 November 2012, the Committee tabled its report (No.16) about the Bill (the report).

The Queensland Government response to the Committee's recommendations as outlined in the report is provided below.

### RESPONSE TO RECOMMENDATIONS:

The Queensland Government thanks the Committee for its detailed consideration of the Bill and its recommendations.

Recommendation 1 - That the Attorney-General and Minister for Justice:

- (a) report to the Parliament in the first sitting week of 2013 with a detailed plan for addressing the broader issues of lot entitlements in Queensland including an options paper and a proposal for public consultation; and
- (b) introduce further legislation into Parliament before 30 June 2013 to implement the Government's preferred solution to the setting and adjustment of lot entitlements.

### Queensland Government response:

The Government partially supports the Committee's recommendation relating to a further review process leading to additional amendments to provisions of the *Body Corporate and Community Management Act 1997*.

In his Explanatory Speech for the Bill, the Attorney-General and Minister for Justice foreshadowed that the Government will examine broader issues relating to body corporate lot entitlements, including options for reintroducing an appropriate mechanism for adjusting lot

entitlements. As such, the Government supports the Committee's view that further policy analysis and consideration is necessary to address concerns about lot entitlement issues.

However, the Government does not support the timeframes proposed by the Committee for reporting to the Parliament on the Government's plans for conducting the further review. While the Government acknowledges the need to address lot entitlement issues as quickly as practicable, the timing and process of the review will be determined by the Government with consideration being given to the Government's other policy and legislative priorities.

Recommendation 2 - The Bill be passed with significant amendments.

**Queensland Government response:**

The Government supports the Committee's recommendation that the Bill be passed. However, the Government only partially supports the Committee's recommendation that the Bill be significantly amended.

As discussed below in relation to Recommendation 5, the Government does not support the recommendation that the Bill be amended to remove provisions allowing for the reinstatement of last adjustment order entitlements contained in clause 13 (Recommendation 5).

However, the Government does support the Committee's alternate recommendation that the Bill be amended to ensure adjustment orders deemed to be pre-commencement orders under the 2011 amendments be given effect under the Bill to allow them to be brought within the scope of the reinstatement process (Alternate Recommendation 6).

The Government also supports the Committee's suggestion that the Bill be amended to include maximum timeframes for the reinstatement process (page 26 of the report).

Recommendation 3 - The Committee recommends that the Bill retain the relevant provisions which will discontinue the 2011 reversion process with effect from 14 September 2012.

**Queensland Government response:**

The Government supports the recommendation.

Recommendation 4 - The Committee recommends that the Bill be amended to include provisions to reimburse any Government fee or charge imposed in relation to a reversion process that is deemed to be an incomplete reversion process under the Bill.

**Queensland Government response:**

The Government does not support the recommendation.

It is not considered necessary to amend the Bill to provide for the Government to reimburse bodies corporate which have paid a Government fee or charge relating to a reversion process that is deemed to be an incomplete reversion process under the Bill. However, any requests by

a body corporate for an ex gratia payment to reimburse fees or charges paid by the body corporate in relation to an incomplete reversion process (which falls within the definition of an incomplete adjustment matter under the Bill) may be considered and determined on a case by case basis.

Recommendation 5 - The Bill be amended to remove from clause 13, the whole of '*Division 3 – Reinstatement of last adjustment order entitlements*'. That is, the removal from the Bill of the process which will reverse current 2011 reversions.

**Queensland Government response:**

The Government does not support the recommendation. Providing bodies corporate affected by a 2011 reversion process with an opportunity and process for reinstating the last adjustment order lot entitlements that applied to the scheme is one of the main policy objectives of the Bill.

Recommendation 6 - Should the Bill retain the reinstatement process, the Bill should be amended to ensure adjustment orders deemed to be pre-commencement orders under the 2011 amendments be given effect under the Bill to allow them to be brought within the scope of the reinstatement process.

**Queensland Government response:**

The Government supports the recommendation.

Recommendation 7 - The Bill retain the amendments to remove the disclosure requirements introduced by the *Body Corporate and Community Management and Other Legislation Amendment Act 2011*.

**Queensland Government response:**

The Government supports the recommendation.

Recommendation 8 - The Bill retain the amendments to provide jurisdictional consistency for the resolution of disputes about contribution schedule lot entitlement adjustments in so far as they do not relate to the proposed *Division 3 – Reinstatement of Last Adjustment Entitlements*.

**Queensland Government response:**

The Government supports the recommendation.