

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

Re: Property Law Bill 2023- Strata Community Association (Qld) (“SCA(Qld)”)

Dear Committee,

About SCA (Qld)

SCA (Qld) is the peak industry association supporting Queensland’s strata sector, with more than 1,200 individual and corporate members who help oversee, advise, and manage assets worth tens of billions of dollars.

As the peak body for the strata industry, SCA (Qld) is in the unique position to understand the sector holistically. SCA (Qld) understand the strata sector from a broad array of viewpoints owing to our diverse membership. SCA (Qld) represents body corporate managers, community titles schemes with committee members acting as nominees, lot owners as individuals, and service providers to the strata industry including specialist insurers, painting suppliers, energy suppliers, solicitors, accountants, water and plumbing providers, banks, elevator maintenance professionals, cleaning providers, surveyors, valuers, glaziers, IT providers and pool servicing and maintenance providers.

At the time of writing, there were over 520,000 lots in more than 50,000 community title schemes across Queensland. SCA (Qld) members manage approximately 70% of these lots.

The Bill

As a stakeholder in the property sector, SCA (Qld) is pleased to submit feedback regarding the Property Law Bill 2023 (the “Bill”). SCA (Qld)’s main focus with respect of this bill is to support the modernisation of the sector, particularly the conveyancing process whilst also ensuring that the new seller disclosure regime for body corporate lots is fit for purpose and equitable.

Seller Disclosure

At present, SCA (Qld) is a participant in a root and branch review of the state’s body corporate law through the Community Titles Legislation Working Group (“CTLWG”) which is tasked with making recommendations to the Government about broad reform to the sector. SCA (Qld) made submissions to this body regarding seller disclosure throughout this process.

SCA (Qld) believes efficient consumer protection is best achieved through summary disclosure that is accessible and easily read by a lay person. SCA (Qld) reiterates our belief that excessive disclosure confuses rather than informs; can frequently lead to disputes, and that summary disclosure is the best way of transferring critical information.

SCA (Qld) is pleased with this element of the Bill as drafted, we believe an appropriate “happy medium” has been found in terms of the volume of disclosure required.

The information to be disclosed as specified by the Body Corporate and Community Management and Other Legislation Amendment Regulation 2023 (the “Regulation”) strikes, we believe an appropriate balance between efficient consumer protection and avoiding “over disclosure” which materially reduces consumer outcomes. As we have said throughout this process an appropriate balance is to ensure that key information is presented to prospective purchasers whilst not

overwhelming them, which has deleterious outcomes according to research¹²³ we have examined as an organisation.

Liability and Remedies

SCA (Qld) is pleased with the drafting of the Bill and the specific protections it grants to body corporate managers from liability. Subdivision: 3 Termination by buyer, specifically sections 104, 105 and 106 of the Bill ensure that body corporate managers are protected from liability. Privity of contract is an important legal principle and one we are pleased to see protected in this Bill.

Body corporate managers who are members of SCA (Qld) are required to have professional indemnity insurance and we believe this would be appropriate coverage in any case, regardless, we are pleased that our members are explicitly protected.

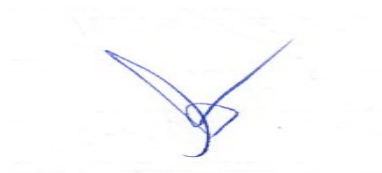
Office of the Commissioner

SCA (Qld) notes that the proposed certificate mandated by the Regulation contains no references to the Office of the Commissioner for Body Corporate and Community Management. We believe a brief summary of the duties and functions of the Commissioner's Office may be helpful to potential buyers. Even a simple acknowledgement of its' existence including dispute resolution and education services would be of benefit to consumers in the body corporate sector.

Conclusion

SCA (Qld) largely supports the Bill and accompanying Regulation as drafted in respect of their support of the community title sector and welcomes the passage of positive reform.

Kind Regards,



Laura Bos (General Manager SCA (Qld))

¹ Shmuel, B., 2007. Behavioral Science and Consumer Standard Form Contracts. Louisiana Law Review, 68(1).

² Australian Securities and Investment Commission, 2019. Disclosure: Why it shouldn't be the default. Australian Securities and Investment Commission.

³ P Lunn, M Bohacek, J Somerville, AN Choidealbha & F McGowan, PRICE Lab: An investigation of consumers' capabilities with complex products, report, Economic & Social Research Institute, May 2016.