

Commissioner Foreword



Happy New Year! As we enter 2024, our office is pleased to announce our latest initiative—the BUGTA Buzz newsletter. Our team is happy to present a further resource, designed to keep those who live, invest, or work in developments governed by the *Building Units and Group Titles Act 1980* across Queensland informed. I encourage you to stay connected and let us know what you would like to see in future editions.

I was saddened to hear about those communities grappling with the aftermath of the recent severe weather events across Queensland. For assistance and guidance on storm damage, please refer to our [storm damage webpage](#). A reminder that our office provides an information call back service (1800 060 119 – free call) and an online [written enquiry](#) service. We are ready to support and help navigate your body corporate questions during these challenging times.

Our office was pleased to end 2023 noting an improvement to dispute resolution timeframes. A trend we expect to continue in the new year thanks to the dedication of BCCM staff and because of applicants providing the necessary information. Timely resolution of disputes is our offices highest priority, to ensure that you can enjoy community living.

To keep delivering the much-needed services we offer, adjustments to our dispute application fees are necessary. An amendment to the *Body Corporate and Community Management Regulation 2008* and the *Building Units and Group Titles Regulation 2008* was passed by Executive Council on 7 December. These amendments, commencing on 29 January 2024 will see a 20% increase to application fees. These increases are in line with the requirement by Queensland Treasury to offset the additional funding our office received for the *Building Units and Group Titles Act 1980* (BUGTA) reforms. This funding has allowed for increased staffing to manage BUGTA enquiries and speed up the dispute resolution process.



Looking ahead, it is important to remember that, starting 1 September 2024, minimum housing standards will apply to all tenancies, not just newly signed leases. I know this seems a long way away but with how fast this year has flown by, it may be a good time to start thinking about how these changes may affect you. You can find out more information on minimum housing standards in this short video.

Keep an eye out over the coming months as our office rolls out further informative webpages and BUGTA dedicated training resources. Together let's make 2024 a year of growth and success! Wishing you all a wonderful new year.

Jane Wilson
Commissioner for Body Corporate and Community Management





Hot topics in the December 2022 amendments

A raft of amendments to improve the operation of the [Building Units and Group Titles Act 1980](#) (BUGT Act) and the [Mixed Use Development Act 1993](#) (MUD Act) commenced on 1 December 2022.

These reforms largely focus on bringing the BUGT Act and the MUD Act more into line with the advanced framework of governance that exists under the [Body Corporate and Community Management Act 1997](#) (BCCM Act) and its regulation modules.

One of the key amendments supports the provision of an information and education service and is the reason our office can now distribute this newsletter to the community.

We have chosen to kick off the first edition of our newsletter with an article highlighting some hot topics based on our interactions with clients.

Reasonable body corporate decisions

In our years of experience with the BCCM Act, the requirement for bodies corporate to make reasonable decisions has been one of the most relied upon provisions.

Both the BUGT Act and the MUD Act now require a body corporate to act reasonably in anything it does, including making, or not making, a decision. This applies to:

- subsidiary bodies corporate under the BUGT Act; and
- higher-level bodies corporate under the MUD Act (namely, community bodies corporate and precinct bodies corporate).

As body corporate decision-makers, committees under the BUGT Act and executive committees under the MUD Act must also act reasonably when making decisions.

Before these amendments, if an owner in a development wished to dispute a body corporate decision and the dispute was not specifically covered under the legislation, they may have been left with no legal remedy to address the issue.


The inclusion of these provisions widens the scope for dispute resolution by enabling an owner to dispute a body corporate decision they believe to be unreasonable.

Given the relatively general nature of reasonableness, this provision serves as something of a “catch all” for *legitimate* disputes against a body corporate decision that may not otherwise be disputable.

Disruption of utility services under the MUD Act

Cutting off essential utility services such as electricity, gas, or water, could have serious consequences for residents – especially those who are more vulnerable.

Consequently, to protect the interests of owners and reduce the risk of residents being left in unliveable conditions, higher-level bodies corporate under the MUD Act must now take all reasonable steps to ensure the continuity of an essential utility service they have undertaken to provide (including to subsidiary bodies corporate under the BUGT Act).



As specified in the MUD Act, some examples of reasonable steps a body corporate could take includes carrying out – or having a service contractor carry out – repairs to an amenity or service.

Committee eligibility criteria

The committee plays an integral role as a body corporate decision-maker. Accordingly, changes have been made to committee eligibility under the BUGT and MUD Acts.

Currently, a person (or an associate of a person) is no longer electable to the committee under the BUGT Act or an executive committee under the MUD Act if:

- they owe a body corporate debt to the body corporate or an associated body corporate
- under the MUD Act – they are a body corporate manager, service contractor or letting agent
- under the BUGT Act – they are a body corporate manager or a party to:
 - a service agreement or letting arrangement
 - another agreement or arrangement with the body corporate or an associated body corporate under which services or amenities are provided to owners (for example, a utility service).

Preventing persons who owe a body corporate debt from serving on the committee highlights the importance of owners meeting their financial obligations to the body corporate.

Given the potentially detrimental effect that non-payment of body corporate debts can have on the administration of a body corporate, it is appropriate that the body corporate's elected representatives set an example for owners in this regard.

This restriction also preserves the integrity of committee decision-making – especially in the context of possible debt recovery decisions.

Barring body corporate managers, service contractors and letting agents from being voting committee members similarly safeguards committee decision-making, as committees may need to make decisions which could affect a relevant engagement or authorisation.

Instead, a person who is a party to both a letting arrangement *and* a service arrangement with the body corporate (called 'caretaking service contractors' under the MUD Act) and body corporate managers are automatically deemed to be *non-voting* committee members.

Creating non-voting committee members strikes an appropriate balance between protecting committee decision-making and keeping these individuals informed about committee decisions and actions – enabling them to properly perform their duties.

Committee voting restrictions: debtor members and conflict of interest

In the same vein as the tightened eligibility criteria discussed above, increased restrictions on committee voting have been implemented to promote transparency, fairer decision-making and to protect owners from potentially harmful conflicts of interest.

Debtor members

Prior to the amendments, owing a body corporate debt did not affect a committee member's ability to



vote at the committee level – only their *general meeting* voting rights were affected.

It is now the case that if a voting member (who is an owner) owes a body corporate debt to the body corporate at the time of a committee meeting – or an executive committee meeting under the MUD Act – they are classified as a ‘debtor member’.

A debtor member cannot:

- vote in their own right; or
- have another person vote on their behalf; or
- vote in the place of another committee member.

As with the reform preventing those who owe a body corporate debt from being elected to the committee, this change further incentivises owners to keep up with their financial obligations to the body corporate.

Conflict of interest under the BUGT Act

Under the BUGT Act, a committee member is now required to disclose any direct or indirect interest in an issue being considered by the committee if it could conflict with the appropriate performance of the member’s duties.

If a voting committee member discloses an interest in an issue, they cannot vote on any motions connected with the issue.

Also, if a person who is appointed to act in a committee member’s place is required to disclose their *own* interest in an issue to be considered, they cannot vote on the issue in the committee’s member’s place.

On the other hand, a person who is appointed to act in a committee member’s place must not exercise a vote if they are aware that the committee member who appointed them would be required to make a disclosure (in which case, the appointed person must disclose the *member’s* interest).

An equivalent conflict of interest provision was already in effect under the MUD Act and other specified Acts prior to the December 2022 amendments.

While we are unable to explore all the amendments and their benefits in a single article, we hope that the first edition of our newsletter has shed some light on a few of the key reforms introduced back in December 2022 to modernise the BUGT Act and the MUD Act and enhance protections for owners in these developments.

Please stay tuned for future editions of our newsletter in which we will dive deeper into topical issues under the BUGT Act, MUD Act and other specified Acts – specifically, the [Integrated Resort Development Act 1987](#) and the [Sanctuary Cove Resort Act 1985](#).



Upcoming webinar

WHEN: Tuesday 19 March 2024, 2pm - 4pm

WHERE: Teams online webinar

WHAT WILL IT COVER: Overview of the BUGTA amendments including:

- Committee eligibility, benefits, meetings and voting
- Levies and body corporate debts
- Reasonable decisions
- New definitions
- Dispute resolution

Invitations will be sent to subscribers soon.



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Body Corporate and Community Management

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