

Impact Analysis Statement template

A Summary Impact Analysis Statement (IAS) must be completed for all regulatory proposals. A Full IAS (see Box 1) must also be completed and attached for proposals that have significant impacts. Once completed, the IAS must be published.

Summary IAS

Details

Lead department	Department of Justice and Attorney-General
Name of the proposal	Amendments to the <i>Body Corporate and Community Management Regulation 2008</i> and <i>Building Units and Group Titles Regulation 2008</i>
Submission type	Summary IAS – fee increase
Title of related legislative or regulatory instrument	Body Corporate and Community Management and Other Legislation Amendment Regulation 2023
Date of issue	December 2023

For all other proposals

What is the nature, size and scope of the problem? What are the objectives of government action?
<p>Background</p> <p>The proposal relates to the dispute resolution and information and education services provided by the Office of the Commissioner for Body Corporate and Community Management (BCCM Office) for those living, working and investing in community titles schemes established under the <i>Body Corporate and Community Management Act 1997</i> (BCCM Act) and developments under the <i>Building Units and Group Titles Act 1980</i> (BUGT Act).</p> <p>The BCCM Act provides for the establishment, operation and management of most community titles schemes in Queensland, and the majority of community titles type schemes are governed by this legislation. Under the BCCM Act, the BCCM Office provides information and education services to those living, working and investing in community titles schemes and a dispute resolution service comprising of conciliation and, if necessary, adjudication for parties to certain disputes in these schemes.</p> <p>The BCCM Act's predecessor, the BUGT Act, continues to apply to certain developments established under specialised planning laws (the 'specified Acts'). The BUGT Act provides a framework for governance of these developments, and for certain disputes to be determined by a 'referee' appointed under the BUGT Act. BCCM Act adjudicators located in the BCCM Office are administratively appointed as referees for disputes under the BUGT Act. Since 1 December 2022, the BCCM Office also provides an information and education service for these developments.</p> <p>The community living sector that utilises the services of the BCCM Office is consistently increasing in size. As at October 2023, there were 52,296 community titles schemes in Queensland containing 530,987 lots (units), up from 48,619 schemes containing 482,021 lots approximately five years prior (September 2018 data). The sector is expected to continue to grow with predicted population growth and Government policy support for an increase in high density living.</p>



Amendments to the BUGT Act that commenced on 1 December 2022 have resulted in the BCCM Office extending its education and information service for those living, working and investing in developments established under specified Acts.

The nature of body corporate disputes is also becoming more complex, not only due to the increasing size and complexity of schemes themselves, but also as a result of legislative changes that, among other impacts, expand protections for owners. For example, the amendments to the BUGT Act that commenced on 1 December 2023 included an overarching obligation for bodies corporate, including a body corporate committee, to act "reasonably" when exercising powers or discharging duties and functions under the BUGT Act.

It is expected that a BUGT Act "reasonableness" requirement will feature heavily in BUGT Act dispute resolution applications, thereby increasing both the number and complexity of BUGT Act dispute resolution applications. It should be noted that this reform was introduced with the intention of providing an avenue for owners in relevant schemes to seek to remedy issues by way of dispute resolution that did not previously exist. The new information service available in relation to developments under the specified Acts is also expected to provide a referral pathway for disputes which the service has been unable to resolve through information and education. These factors are expected to increase the volume of BUGT Act applications.

The delivery of services by the BCCM Office attracts significant costs, which are subsidised by the Queensland Government. Dispute resolution applications fees are not set on a full cost recovery basis as the dispute resolution services provided by the BCCM Office are designed to be inexpensive and informal in nature.

The above-mentioned factors, including the recent reforms to the BUGT Act, have led to increased costs associated with operating the BCCM Office's information and education services and dispute resolution services. It is appropriate to increase dispute resolution fees to provide a small offset to these costs.

What options were considered?

Option 1: Full cost recovery fees for dispute resolution applications

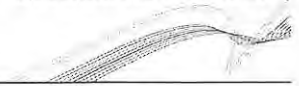
As the BCCM Office is intended to be an inexpensive and informal avenue for the resolution of bodies corporate disputes, imposing full cost recovery costs for dispute resolution applications was not considered appropriate.

Option 2: 20% increase to fees for dispute resolution applications

Table 1

Dispute Resolution Application	Current Application Fee Unit	Current Dollar Amount	Proposed Application Fee Unit	Proposed Dollar Amount
BCCM Act Conciliation Application	86.75	\$91.95	104.10	\$110.35
BCCM Act Adjudication application	86.75	\$91.95	104.10	\$110.35
BCCM Act Interim Adjudication application	182.30	\$193.20	218.76	\$231.90
BUGT Act Referee Application	86.75	\$91.95	104.10	\$110.35
BUGT Act Interim Referee Application	182.30	\$193.20	218.76	\$231.90

Option 3: Status quo



Under this option, there would be no increase to the dispute resolution application fees payable under the BCCM Act and BUGT Act.

What are the impacts?

Option 1: Full cost recovery fees for dispute resolution applications

As the BCCM Office is intended to be an inexpensive and informal avenue for the resolution of bodies corporate disputes, imposing full cost recovery costs for dispute resolution applications was not considered appropriate as it may act as a deterrent to people using the dispute resolution service, particularly people with limited financial resources.

Option 2: 20% increase to fees for dispute resolution applications

The proposed 20% fee increase is outlined above in Table 1. The changes will result in conciliation, adjudication and referee application fees increasing \$18.40 from \$91.95 to \$110.35, and adjudication and referee application fees that include an interim order request increasing \$38.70 from \$193.20 to \$231.90. Option 2 will result in a higher rate of cost recovery for dispute resolution application fees. The 20% increase is a modest increase to fees. Even after the 20% increase, the fees for dispute resolution service provided by the BCCM Office will remain a relatively inexpensive option compared to court or tribunal action.

Given the modest amount of the increase to the fees, it is considered the increase is not likely to result in significant impacts or to significantly deter accessibility to the dispute resolution process for applicants. Individuals can apply for a waiver of their dispute resolution application fees in instances of financial hardship.

Option 3: Status quo

There would be no changes under this option.

Who was consulted?

Queensland Treasury and the Department of the Premier and Cabinet were consulted about the amendment regulation and did not raise any issues.

The Community Titles Legislation Working Group (Working Group), established by the Government to provide advice to the Department of Justice and Attorney-General on important community titles sector issues, was consulted about dispute resolution generally. The Chair of the Working Group also invited submissions from other relevant stakeholders.

During consultation on dispute resolution, some members of the Working Group and other stakeholders raised concerns about the timeliness of dispute resolution by the BCCM Office, with some stakeholders suggesting increased funding for the BCCM Office dispute resolution services, including via increases in dispute resolution fees.

What is the recommended option and why?

Safe and harmonious community living in community titles schemes and developments require effective information and education services, to assist residents and interested parties to resolve their disputes themselves. Where resolution of disputes through information and education is not possible, effective (timely) and accessible dispute resolution services are important to ensure community safety and harmony.

Option 2 is the recommended option because it will support the effective delivery of information and education services and dispute resolution services. Option 1 is not recommended because it would reduce accessibility of the dispute resolution service.

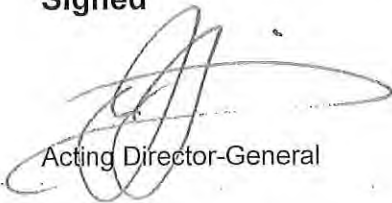
Impact assessment

All proposals – complete:

	First full year	First 3 years
Direct costs – <i>Compliance costs</i>	Not applicable	Not applicable
Direct costs – <i>Government costs</i>	Not applicable	Not applicable

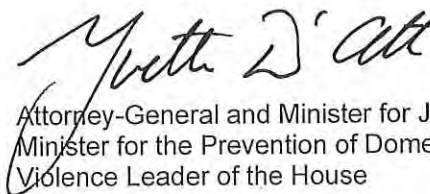
The fee increases will result in conciliation, adjudication and referee application fees increasing \$18.40 from \$91.95 to \$110.35, and adjudication and referee application fees that include an interim order request to increase \$38.70 from \$193.20 to \$231.90. The impact of the fee increase will be limited to applicants for dispute resolution. There were 1,489 dispute resolution applications in 2022/23.

Signed



Acting Director-General

Date: 22/11/2023



Attorney-General and Minister for Justice
Minister for the Prevention of Domestic and Family
Violence
Leader of the House

Date: 24/11/2023