



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

1 William Street Brisbane Q 4000
GPO Box 149 Brisbane Q 4001
Telephone +61 7 3719 7400
Email attorney@ministerial.qld.gov.au

Our ref: 572306/6; 5731740; FTP-2034350

30 September 2021

Mr Neil Laurie
The Clerk of the Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Laurie

I refer to e-Petition 3498-21 tabled in the Legislative Assembly on 31 August 2021 titled *Enact legislation to protect families from toxic second-hand tobacco smoke*.

As Queensland's Minister responsible for the *Body Corporate and Community Management Act 1997* (BCCM Act), I appreciate that people residing in community titles schemes often live close to one another and that second-hand cigarette smoke can be a serious concern for many residents.

I note the petitioner's request for the Government to replicate legislative reforms adopted in New South Wales to protect unit owners and occupiers from second-hand smoke drift from other units or the common property, including model by-laws and smoking-specific nuisance provisions.

In Queensland, the *Tobacco and Other Smoking Products Act 1998* (TOSP Act) contains specific restrictions on cigarette smoking that are relevant to community titles schemes. However, the TOSP Act only prohibits smoking in common areas that are enclosed (for example indoor gyms, games rooms or shared cooking facilities).

The BCCM Act provides for the establishment and administration of community titles schemes. While the BCCM Act does not include specific provisions regulating the smoking of cigarettes, it does provide that occupiers must refrain from using their unit or the common property in a way that causes a nuisance or hazard, or unreasonably interferes with the use and enjoyment of another unit or the common property.

As part of an independent review of Queensland property laws conducted for the Queensland Government, the Commercial and Property Law Research Centre of the Queensland University of Technology (QUT) examined whether the BCCM Act provides bodies corporate with adequate and fair ways of making and enforcing by-laws to deal with issues such as smoking. Copies of QUT's consultation papers and reports for the property law review can be accessed at:

www.justice.qld.gov.au/community-engagement/community-consultation/community-consultation-activities/past-activities/review-of-property-law-in-queensland.

(2)

The Queensland Government has recently established the Community Titles Legislation Working Group (Working Group), to provide advice to the Department of Justice and Attorney-General on important issues impacting on the community titles sector, including the matters considered by the QUT review of property laws. I am advised that the Working Group began its consideration of QUT's recommendations relating to smoking in community titles schemes, including approaches to smoking adopted in New South Wales, at its most recent meeting on 22 July 2021. Members of the Working Group have been asked to provide submissions on this issue by 30 September 2021, to inform further deliberations of the Working Group.

I am looking forward to receiving the advice of the Working Group after it has completed its consideration of this issue.

The Government will be giving careful consideration to QUT's findings and recommendations about by-laws, the advice of the Working Group, as well as the views and experiences of unit owners and other stakeholders, before making any announcements or decisions about possible legislative amendments.

I thank the petitioners for bringing their concerns to the attention of the House.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Shannon Fentiman', with a stylized flourish at the end.

Shannon Fentiman MP

Attorney-General and Minister for Justice

Minister for Women and Minister for the Prevention of Domestic and Family Violence

Member for Waterford