



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

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11 NOV 2022

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

Dear Mr Laurie

I refer to e-Petition 3810-22 tabled in the Legislative Assembly on 12 October 2022 titled *Biding ban on all smoking on the strata title balcony areas*.

Petition 3810-22 was initially referred to the Honourable Yvette D'Ath MP, Minister for Health and Ambulance Services by the Clerk of the Parliament. Minister D'Ath forwarded the petition to me for response as the responsible Minister in accordance with Standing Order 125 (2).

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 ban smoking on balconies in community titles schemes to protect the health and wellbeing of unit owners and occupiers from second-hand smoke drift from neighbouring balconies.

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) recommended reforms to empower bodies corporate to make by-laws to prohibit smoking in specific areas of a community titles scheme.

(2)

The Queensland Government has established a Community Titles Legislation Working Group (Working Group), consisting of key community titles sector stakeholder representatives. The Working Group has been tasked with providing advice about a wide range of important issues impacting on community titles schemes, including smoking in community titles schemes. The Working Group has considered QUT's recommendations about smoking in community titles schemes, and this advice is currently under consideration.

Should the Government determine to make changes in relation to smoking by-laws, following consideration of the Working Group's advice, this will involve legislative change. Careful consideration and scrutiny of policy and legislation is important, to ensure that any changes are appropriate, balanced and meet the needs of the community. Accordingly, the processes surrounding the development and passage of a possible Bill would include an opportunity for members of the public to provide their views.

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

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Shannon Fentiman', with a stylized, cursive script.

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