

# ARAMA SUBMISSION to ASIC

## MANAGEMENT RIGHTS CLASS ORDERS REVIEW

### About ARAMA

Australian Resident Accommodation Managers Association (ARAMA) is a not for profit peak industry body which represents its members that are involved in ownership of management rights or are involved professionally in the management rights industry as resident managers, professional advisors and specialist suppliers to the industry and its participants.

The concept of management rights was pioneered in Queensland by owners of residential accommodation and motels on Queensland's Gold Coast who formed an association to create a pool of holiday accommodation properties offering self-catering facilities for families and holidaymakers.

As the tourist industry grew, new modern properties were built specifically for self-catering accommodation, operated by an onsite resident manager and administered under various state and federal legislation.

This Queensland model has expanded into holiday investment throughout Australia and has been replicated internationally in other tourist centers around the world and in particular in Asia and the Pacific.

Density living complexes for permanent residences of owners and tenants have been developed in tourist centers and in major centers again with onsite managers providing a range of services on behalf of the owners and occupants.

In 1992 QRAMA was formed to provide statewide representation and in 2006 as ARAMA, it assumed a national responsibility working with smaller associations in other States. In some States, resident managers are licensed with responsibilities and requirements enshrined in legislation.

As 24/7 operators' resident managers continue to play a vital role in the successful development of the density living growth which is now so much a part of modern Australian cities and towns. Resident managers are directly responsible for the operation, care, maintenance and safety of billions of dollars of investment property.

We have been pleased to examine this review paper and our comments reflect the serious approach that ARAMA members take towards the responsible and harmonious management and administration of the properties and people under the relevant Act(s).

ARAMA are grateful for the opportunity to have input and applaud the effort to streamline and simplify the complex area of strata schemes and management rights exemptions from the Corporations Act 2001. We provide specific feedback to the proposals below.



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**Proposal B1 Class Order 02/182 Real Property Rental Schemes**

**B1Q1:** We agree with the proposal to continue the relief in CO 02/182

**B1Q2:** N/A

**B1Q3:** N/A

**B1Q4:** We presume the relief in CO 02/182 is relied upon by real estate agents conducting permanent lettings.

**B1Q5:** Including the relief in CO 02/182 clarifies the legal position for real property rental schemes.

**Proposal C1 Repeal of Class Order 02/183 Small property syndicates**

**C1:** We are not aware of reliance upon this relief.

**Proposal D Remaking ASIC Class Orders on serviced strata schemes and Management Rights schemes**

**D1:** Noted.

**Proposal D2 CO 02/185 sale of strata units \$500,000 or more**

**D2Q1:** We agree with the proposal to continue the relief in CO 02/185 and the terms of the relief.

**D2Q2:** We agree with the proposal to convert the relief from an exemption to a declaration.

**D2Q3:** N/A

**D2Q4:** No.

**D2Q5:** No.

**Proposal D3 CO 02/245 closed schemes**

**D3Q1:** No.

**D3Q2:** No.

**Proposal D4 CO 02/303 Management Rights schemes- amendment**

**D4Q1:** We agree with the proposal in D4(c) to remove the issuer's disclosure notice.

**D4Q2:** No.

**Proposal D5 CO 02/304 and 02/305 Management Rights Schemes**

**D5Q1:** We support proposal D5(a) on AFS licensing relief for general advice where the provider has a state or territory licence. Proposed purchasers of strata units

in a management rights scheme are protected by consumer protection provisions of the relevant state licensing legislation.

E.g. In New South Wales management rights operators are required to comply with rules of conduct for licensees set out in section 7 of *Property, Stock and Business Agents Regulation 2014* and in Queensland letting agents are required to comply with the letting agent code of conduct contained in Schedule 3 of the *Body Corporate and Community Management Act 1997*.

**D5Q2:** We support proposal D5(b) to allow upfront payments for standard furniture packages as this clarifies the current position.

**D5Q3:** We do not believe that the monetary limit on the amount that may be held in a furniture, fittings and equipment fund needs to be increased.

**D5Q4:** We do not have an issue with the indexing of the monetary limit on the amount that may be held in a furniture, fittings and equipment fund.

**D5Q5:** No.

**D5Q6:** Rental guarantees may be provided by an operator, particularly in the case of off the plan sales of strata units.

**D5Q7:** No.

**Proposal D6 CO 07/189 Management Rights Schemes where strata unit cannot be used as a residence**

**D6Q1:** We approve of the incorporation of the requirements of PF187 into the legislative instrument. This will save managers the time required to lodge PF187 relief as well as the application fees involved, which have been difficult to ascertain as it involves an exemption from the requirements under Part 7.6 (other than Divisions 4 and 8), and sections 992AA and 1017F of the *Corporations Act 2001*, with a fee charged under each section. In addition, managers currently incur legal costs to prepare PF 187 relief applications. The inclusion of the PF187 requirements in the new instrument simplifies the position in relation to the applicable exemption for the scheme and does away with the requirement for each manager of the scheme to obtain PF 187 relief.

**D6Q2:** We agree with proposal D6(b) to remove relief under PF 187 from the requirement to confirm transactions.

**D6Q3:** No.