

## **B.9 Proposed Governance & Titling Strategy**

# MEMO

Date: February 2023  
Regarding: Summary of Titling Advice Provided by Solicitor & Body Corporate Consultants

## SRAIP – PROPOSED GOVERNANCE / TITLING STRATEGY

We note this advice is preliminary and hence at this stage based on advice from the project solicitor and body corporate consultant, it is envisaged that the SRAIP will be governed by a mix between a:

- Body Corporate Arrangement
- Community Management Scheme (CMS)
- Building Management Scheme (BMS)

It is recommended that a detailed CMS is provided prior to plan sealing of Phase 2 Stage 1 of the SRAIP development wherein the body corporate and common property will be created.

The SRAIP governance will consider all of the following when creating the relevant BMS and CMS:

- Water supply
- Power
- Water and sewerage reticulation
- Waste
- Maintenance of common property

### Titling Considerations - Shared SRAIP & Frazerview Quarry Access

The proposed Frazerview Quarry to the rear of the SRAIP project land includes Lot 2 on RP20974 and was approved by way of Court Order 3471 of 2020 on 1 October 2021. Proposed access to the quarry is directly off the Cunningham Highway, via Lot 2RP20974 (the SRAIP subject site) and is proposed to be utilised by all quarry traffic including both light and heavy vehicles. This access will also be used by the SRAIP as the shared single point of access off the Cunningham Highway.

As the access was approved as part of the Frazerview Quarry development application, the design requirements for the proposed (internal) road of the SRAIP has considered the Court Order conditions for the Quarry with respect to road design and this has subsequently been accommodated in the SRAIP road and intersection design and associated subdivision plans. The quarry approval also included a boundary realignment that would incorporate the private access road into the land owned by the quarry proponents, with an access easement granted in favour of the Kalfresh land.

Given the unknowns associated with sequencing of the private access road (whether the SRAIP or Quarry development proceeds first) the SRAIP Phase 1 subdivision proposal plans include provision for the creation of the lots (Lot 70 and Lot 60) that would ultimately be part of the quarry land and the associated access easements so that the SRAIP may proceed prior to the quarry and can be established independent of the quarry development (whilst still accommodating the access included in the quarry approval).

The easement that is required over private access road (Lot 70) will address:

- Construction obligations and timing;

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- Maintenance obligations;
- Cost sharing;
- Insurance;
- Development Rights;
- Consents to all Applications;
- Ownership of Service Infrastructure within the easement

Ultimately the ownership of Lot 70 by the quarry proponent will mean that the community title scheme lands are separated by a parcel of land not included in the scheme. It will also mean that key services connections to and from Lot 17 to the balance of the SRAIP Industrial Precinct would need to pass through Lot 70. To provide a physical connection between the scheme land on either side of the private access road, a volumetric lot is proposed underneath part of Lot 70 (proposed Lot 80). This volumetric lot will ultimately accommodate key services connections from Lot 17 to the balance of the SRAIP lots and common property. The inclusion of a volumetric lot also an essential element within the subdivision to facilitate establishment of a BMS.

## Proposed SRAIP Subdivision Stages

### Phase 1 - Management Subdivision

The management subdivision is the first phase of the subdivision on the site and creates the correct property boundaries for the SRAIP subdivision that occurs in Phase 2. This subdivision excises the rural lot (Lot 50) which is not part of the SRAIP, and Lot 60 which is part of the land to be acquired by Frazerview Quarry for access. Lots 30 and 40 are the SRAIP lands that will be subdivided in Phase 2. Lot 70 is the future private access road which is ultimately expected to transfer into the ownership of the Frazerview Quarry – its creation in this subdivision facilitates establishment of various required access easements and services easements over Lot 70 prior to its transfer of ownership. Lot 80 is the volumetric lot that will remain within the scheme land (under part of Lot 70) to facilitate service connections and creation of the community title scheme for the SRAIP in conjunction with the Phase 2 subdivision.

Phase / Stage	Cancelling	Creating
Phase 1 – Management Subdivision <ul style="list-style-type: none"><li>• 4 lots into 6 lot subdivision</li><li>• Creation of access easements</li><li>• Retaining Lot 1 on RP216694</li><li>• Retaining Lot 2 SP192221</li></ul>	<ul style="list-style-type: none"><li>• Lot 2 on RP44024</li><li>• Lot 3 on SP192221</li><li>• Lot 2 on RP20974</li><li>• Lot 4 on SP192221</li></ul>	<ul style="list-style-type: none"><li>• Lot 30: SRAIP lot – subject to future subdivision</li><li>• Lot 40: SRAIP lot – subject to future subdivision</li><li>• Lot 50: Balance Rural lot excluded from SRAIP, no further development</li><li>• Lot 60: Lot to be acquired by Frazerview Quarry owners</li><li>• Lot 70: future private road – either acquisition by Frazerview Quarry or Common Property</li><li>• Lot 80: Volumetric lot located under part of Lot 70 – retained within SRAIP lands as common property.</li><li>• Easement A: Access - Burdening Lot 70 in favour of Lots 30, 40, 50 &amp; 60</li><li>• Easement B: Access – Burdening Lot 60 in favour of Lot 50</li></ul>

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## Phase 2 – Stages 1-4 (SRAIP Industrial & Rural Subdivision)

Lots will be created in stages. Stage 1 will contain the proposed common property to be created with the body and the private roads and infrastructure including the 40 m wide central road; the landscape buffer along the highway; and the services corridor connection from the central road to the highway between lots 9 and 10. Lots 4-11,17,18,19 and 20 and whatever lot or lots are to contain the balance land (being the lots to be created in each of Stages 2, 3 and 4) will also be created in Stage 1; (“Balance Lots”)

Balance Lots to remain outside the Scheme but CMS permits any part of them to come into the scheme as Original Owner elects at any time. It is intended that lots 1, 2,12,13,14,15 and 16 will be created from the Balance Lots and brought into the Scheme when those lots are created in future stages.

Community Management Statement (CMS) to have detailed Schedule B to permit staging and detail developer rights. CMS will also annex preferred/ necessary codes as to Services/ Buildings/ architecture/ Landscaping and any other operational issues as required by the conditions of approval.

Phase / Stage	Cancelling	Creating
Phase 2 – Stage 1 Subdivision <ul style="list-style-type: none"> <li>4 into 15 lot subdivision (13 lots plus two balance lot and common property)</li> <li>Creation of access easements</li> <li>Creation of Common Property</li> </ul>	<ul style="list-style-type: none"> <li>Lot 30</li> <li>Lot 40</li> <li>Burdening Lot 70 with additional easements</li> <li>Lot 1 RP216694</li> <li>Lot 2 SP192221</li> </ul>	<ul style="list-style-type: none"> <li>Lot 3</li> <li>Lot 4</li> <li>Lot 5</li> <li>Lot 6</li> <li>Lot 7</li> <li>Lot 8</li> <li>Lot 9</li> <li>Lot 10</li> <li>Lot 11</li> <li>Lot 17</li> <li>Lot 18</li> <li>Lot 19</li> <li>Lot 20</li> <li>Balance Lot (Lot 90 – balance of Lot 30)</li> <li>Balance Lot (Lot 91 – balance of Lot 40)</li> <li>Common Property (internal road, landscape buffer, detention basin, drainage swale, existing Lot 80).</li> <li>Easement C: Access – Burdening Lot 70 in favour of Lots 3-5, 17, Common Property and balance lots 90 and 91</li> <li>Easement D: Access – Burdening Lot 70 in favour of Lots 5-11 and balance lot 90</li> <li>Easement E: Access -Burdening Lot 11 in favour of Lots 18 and 19</li> <li>Easement F: Access – Burdening Lot 18 in favour of Lots 11 and 19</li> <li>Easement G: Access – Burdening Lot 18 in favour of Lot 19</li> </ul>
Phase 2 – Stage 2 Subdivision <ul style="list-style-type: none"> <li>1 into 2 lot subdivision</li> </ul>	<ul style="list-style-type: none"> <li>Balance Lot (Lot 91)</li> </ul>	<ul style="list-style-type: none"> <li>Lot 1</li> <li>Lot 2</li> </ul>
Phase 2 – Stage 3 Subdivision <ul style="list-style-type: none"> <li>1 into 3 lot subdivision (2 lots plus one balance lot)</li> </ul>	<ul style="list-style-type: none"> <li>Part of balance Lot (Lot 90)</li> </ul>	<ul style="list-style-type: none"> <li>Lot 12</li> <li>Lot 13</li> </ul>
Phase 2 – Stage 4 Subdivision <ul style="list-style-type: none"> <li>1 into 3 lot subdivision</li> </ul>	<ul style="list-style-type: none"> <li>Remaining part of balance Lot (Lot 92)</li> </ul>	<ul style="list-style-type: none"> <li>Lot 14</li> <li>Lot 15</li> <li>Lot 16</li> </ul>

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## Infrastructure Particulars

### Body Corporate Budgets

The following are anticipated to contribute to forming the budget for the Body Corporate costs.

- Buffer zone landscape maintenance
- Maintenance or common property roadways, and/or contributions paid or received for Wagner's Rd Easement and 40m wide roadway.
- Power for any common area lighting if installed.
- Insurance of the common area assets and liability cover.
- Boundary fencing repairs.
- Signage installation and maintenance
- Administration of the Body Corporate (meetings, levies, communication, records keeping)

Water and electricity utilities are likely to act as embedded networks from a central supply point to the boundary or meter for each Lot. Easements over supply infrastructure will provide continuous access rights, beyond the life of a supply agreement with the Body Corporate.

There will need to be an agreement for the supply of the utility (sets costs, rates and payment terms) and a By-law for the management of the utility within the Body Corporate. The supply and billing arrangements between the Supplier/Generator, Body Corporate and the Lots could be done in a variety of ways.

### Water

The existing Bores are located on Lot 9. The proposed Dam is to be located on Lot 20. The proposed pipeline to feed the dam is on Lot 20. Lot 17 is to have a water & sewer treatment plant. It is proposed to have a combination of easements for all lots - access and services easements – giving access to infrastructure/ distribution network for all services and roads.

The Body Corporate may supply the water to Lots pursuant to allocations set within the CMS. A separate facility management entity sells the water to the Body Corporate by an agreement in consideration of bore maintenance, storage, filtration, infrastructure maintenance, other supply costs and profit. The Body Corporate then supplies the water at the same rate it purchased it from Kalfresh (s195 of BCCM Act)

A by-law for this Utility could note:-

- A total base allocation is recorded at a minimum of 371ML/annum.
- The base allocation is divided and allocated to each Lot as recorded in the CMS.
- A Lot may obtain water over the allocation provided, and the Body Corporate is obligated to obtain and provide the utility at a cost of supply.

### Sewerage Services and Water Treatment Services - Lot 17

The sewer treatment system and water treatment system (to be located on Lot 17) will have customers enter into customer agreements for those services.

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- There is a proposed combination of easements for all lots: - a. Benefit of access and services easements – giving access to infrastructure/ distribution network for all services and private roads;
- Benefit of specific supply easement which obliges burdened lot to make available sewer services and water treatment services to the benefitted lots subject beneficiary signing standard Customer supply agreement and complying with terms of supply agreement.

## Power Generation and Distribution – Lot 11

The digester/ power generator is to be located on proposed Lot 11 and will be owned privately (not by the body corporate), generating power available to be bought by other occupiers in the SRAIP. There will be a connection to external Grid electricity and that the infrastructure will be such that any occupier who at any time wishes to source electricity externally may do so legally and physically. Presently the intention is to sell power direct to customers within the site pursuant to a separate Electricity Supply Agreement to be entered into between the operator entity and customers.

There will be Electricity Infrastructure located on Lot 11 and on Common property including an Energex transformer/substation. The details of these things need to be finalised after consultation and advise from an Electricity supply consultant and potentially third-party service providers.

Electricity is:

- Likely to be subject to the Tariff limits and other requirements of the authorities and regulator.
- Metered and charged based on consumption of the utility.
- Supplied under a By-law that sets the ability for the Body Corporate to enter into agreements for the supply of the electricity.

## Meanings of Key Terms:

### Community titles scheme

*Community titles schemes allow you to privately own an area of land or part of a building, as well as share common property and facilities with other owners and occupiers.*

### Common property

*Freehold land forming part of the community titles scheme land but not forming part of a lot included in the scheme.*

### Body Corporate

A body corporate is a legal entity which is created when land is subdivided and registered under the *Land Title Act 1994* to establish a community titles scheme. All of the owners in a community titles scheme are automatically members of the body corporate when they buy their lot.

The body corporate is given powers under the legislation to carry out its necessary duties. The body corporate:

- *maintains, manages and controls the common property on behalf of owners*
- *decides the amounts to be paid by the owners to make sure the body corporate can operate*
- *makes and enforces its own rules, called by-laws, which tell owners and other people who live in the scheme what they can and cannot do*

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- *takes out insurance on behalf of owners, such as public risk insurance over the common property and building insurance*
- *manages and controls body corporate assets*
- *keeps records for the body corporate, including minutes of meetings, roll of owners details, financial accounts, registers of assets, improvements to common property by owners, engagements and authorisations.*
- *The body corporate makes decisions about these and other things at general meetings and through the committee.*

## Building Management Schemes (BMS)

In very simple terms, a BMS is a document which is used to regulate the relationship between individual bodies corporate or other lots in a development (that could be other bodies corporate or separate volumetric lots). It regulates the use of facilities that might be owned by one of those parties that will be shared with others. It also then deals with how costs will be apportioned for the maintenance and management of those areas.

In legal terms there are effectively no statutory rules to regulate what goes into them (other than some limitations on content), so the terms of each BMS are usually individually drafted.

A BMS is formally defined as follows under the 'Land Title Practice Manual':

*'A building management statement (BMS) is an instrument/document by which the registered owners of lots or lessees under the Land Act 1994 in a development agree to reciprocal provisions that benefit and burden their lots (s. 54A(2)(b) of the Land Title Act 1994 and s. 294B(2)(b) of the Land Act).'*

## Community Management Schemes (CMS)

All bodies corporate in Queensland that are regulated by the BCCM Act must have a Community Management Statement (CMS). A body corporate is a legal entity created when land is subdivided and registered under the Land Title Act to establish a Community Titles Scheme (CTS) and the associated Community Management Statement. Every owner of a lot in a Community Titles Scheme is a member of the body corporate. Owners do not have a choice as to whether or not they will be a body corporate member.

## Standard format plan

*A standard format plan of survey defines land using a horizontal plane and references to marks (such as posts) on the ground (see section 48B of the Land Title Act 1994).*

## Volumetric Format Plan

A volumetric format plan creates lots that are defined by three dimensional co-ordinate geometry and are fully defined by bounding surfaces (e.g. a cube). The lots may be above, below or partly above and partly below ground level. A volumetric format plan may divide a lot or lots and/or common property on a standard, building or volumetric format plan of subdivision

## Easement

A right, attached to land (i.e. the dominant tenement), to use other land (i.e. the servient tenement) for a specified non-exclusive purpose known to the law (e.g. right of carriageway, easement to drain water). However, the law recognises an easement in favour of a statutory authority without a dominant tenement, described as an easement in gross.