

**From:** [gray.lovey](mailto:gray.lovey)  
**To:** [Legal Affairs and Community Safety Committee](#)  
**Subject:** FW: Body Corporate and Other Legislation 2012 Amendment Bill - submission  
**Date:** Saturday, 20 October 2012 10:57:13 AM

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Dear Research Director

I am currently in the market for low level one bedroom unit on the Gold Coast and as I will likely be adversely affected by the introduction of this Bill, I provide this submission to the LACSC regarding the Body Corporate and Other Legislation 2012 Amendment Bill. I was also affected in the past when the interpretation of law changed in 2005 allowing unit owners (usually Penthouse owners) to unfairly change the entitlements for their benefit.

In reviewing the reasoning for the Bill, it seems very insular in only being aimed at Labour's 2011 amendments. It doesn't seem to consider the unfair situation that existed prior to Labour's amendments or that the Bill will revert the body corporate situation back to that "crazy" situation.

Also, from my reading of the Explanatory Notes, Jarrod Bliejie's speech and Jarrod Bleijie's interviews regarding this, it appears he is more concerned with political issues and blaming Labour, rather than listening to the people and doing what is "fair".

I'm not exactly sure what powers you (the LACSC) have, but I submit to you that the Bill should not be introduced or changes need to be made to it that take into account the account the unfair situation prior to Labour's amendments.

## Details

As noted in the explanatory notes, the Bill is only concerned with Labour's amendments that give one owner the ability of overturn a court or tribunal order that change the body corporate entitlements. I'm not a lawyer so am not sure about legalities, but in a practical sense the 2011 Labour amendments do not seem unfair to a reasonable person, when the previous body corporate happenings are taken into account.

I find it strange that the Jarrod Bliejie and the Explanatory Notes make little mention of the prior happenings or unfair situation and can only assume they weren't considered. Or maybe, they were considered and haven't been mentioned because Jarrod Bleijie and Co decided they are not important.

In either case, they need to be considered as they are of the upmost relevance and importance.

Incase the LACSC is not aware, the prior unfair happenings were:

Following the Fischer v Centrepoint case, a flaw/loophole in the body corporate law arose;

This flaw allowed Penthouse and similar owners to unfairly change the body corporate entitlements of the whole building by applying to the CCT;

The CCT was obliged to follow the Fischer case precedent, so accepted the applications in virtually all cases and the body corporate entitlements were changed;

The change was very detrimental to lower level and one bedroom owners (owned by pensioners and lower wealth people) as their body corporate fees rose drastically (sometimes doubling) and the value of the their units fell; and

The change was very beneficial to the Penthouse and similar owners as it reduced their body corporate fees entitlements and increased the value of their units.

As owners knew their body corporate entitlements when they bought their units (with little scope to change them at the time), this resulted in massive unfairness, as the amounts involved were/are significant. The amounts are so significant, they can effectively go a long way to ruining lives.

If this Bill is introduced, it is my understanding the body corporate situation will go back to this "crazy" situation. The LNP can't seriously consider this is appropriate or fair.

Labour introduced their 2011 amendments to address it. If the LNP believes Labour's amendments are unfair, then change them, but still address the prior unfair situation – don't just remove Labour amendments.

It's like removing a set of traffic lights because of one accident and not considering that before the traffic lights were installed, there were hundreds of accidents at the same spot.

This Bill looks like a "knee jerk" reaction to lobby group of people who have been affected by Labour's amendments. Most of these people are the Penthouse owners who will unfairly benefit. Although, there are people who have bought during the intervening period (from the first change until Labour's amendments) who appear to be unfairly affected. However, this was a widespread and well publicized issue from Labour - they would probably have known there was strong likelihood the body corporate entitlements were going to be revert to their original position when they bought.

### **Other Matters to Consider**

This is a massive issue of the Gold Coast. I expected there will be some form of voter backlash for the LNP as result. The LNP needs to consider that there will be anywhere from 12-25 (approx) units per building detrimentally affected by this Bill and only 3-4 units that will advantage. Given the number of buildings, that's a lot of votes.

Had I known this advance, I would not have voted for the LNP at the last election and will not vote

for them at the next – and I have been a Liberal voter all my life. I have numerous friends who feel the same.

Should you wish to contact me regarding this, please email me at this email address.

Regards

Gray Tovey