LEGAL AFFAIRS AND SAFETY COMMITTEE

Members present:
Mr PS Russo MP—Chair
Mrs LJ Gerber MP (Until 1.04 pm)
Ms SL Bolton MP (virtual)
Ms JM Bush MP
Mr JH Langbroek MP (from 1.04 pm)
Mrs MF McMahon MP
Mr JM Krause MP

Staff present:
Mrs K O'Sullivan—Committee Secretary
Mr B Smith—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER LEGISLATION AMENDMENT BILL 2023

TRANSCRIPT OF PROCEEDINGS

Thursday, 7 September 2023

Brisbane

THURSDAY, 7 SEPTEMBER 2023

The committee met at 10.02 am.

CHAIR: Good morning. I declare open the public hearing for the committee's inquiry into the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. My name is Peter Russo, the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share. With me here today are: Laura Gerber, member for Currumbin and deputy chair; Jonty Bush, member for Cooper; Jon Krause, member for Scenic Rim; Melissa McMahon, member for Macalister, who is substituting for Jason Hunt, member for Caloundra; and Sandy Bolton, member for Noosa, will be joining us shortly via videoconference.

The hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee. These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask people either to turn mobile phones off or to silent mode.

DEVINE, Ms Wendy, Principal Policy Solicitor, Queensland Law Society

RAVEN, Mr Matthew, Chair, Property and Development Law Committee, Queensland Law Society

CHAIR: I welcome the representatives from the Queensland Law Society. Thank you for being here. I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Ms Devine: Thank you very much, Chair. Thank you for inviting the Queensland Law Society to appear at the public hearing today on the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which this meeting is taking place, Meanjin—Brisbane. I recognise the country north and south of the Brisbane River as the home of both the Turrbal and Yagara nations and pay deep respects to all elders past, present and future.

The Queensland Law Society is the peak professional body for the state's legal practitioners, over 14,000 of whom we educate, represent and support. I am joined today by Matthew Raven, Chair of our Property and Development Law Committee. Our committee comprises experienced property law practitioners who bring a wealth of practical expertise to our submissions. On 6 September QLS delivered a supplementary submission on the bill providing more detailed comments in relation to the issues raised in our initial submission. We acknowledge that the committee may not have had time to consider the additional comments and we appreciate the opportunity this morning to speak to our submissions in further detail. Our submissions identify concerns with four broad areas of the bill: the amendments about the early release of buyer deposits; the sunset clause amendments; the body corporate reforms to support the termination of community title schemes; and the body corporate administrative reforms.

Firstly, QLS considers that the amendments proposed regarding the early release of deposits from trust accounts are inadequate. The changes will not address the ambiguity in the existing legislation, and this means that buyers will continue to be at risk of losing their deposits. The intention of the existing legislation is to require that deposits for off-the-plan contracts be held in a solicitor's or real estate agent's trust account until settlement occurs or the contract is otherwise terminated. This prevents developers from using deposits as a means of funding the development with the resultant risk of buyers losing their deposits if the developer became insolvent. However, there is anecdotal evidence

both from our members' experience and from media reports which we have referenced in our submissions that there are instances where deposits are being paid to developers prior to settlement occurring. Some parties are relying on the ambiguity in the existing legislation to argue that, provided the buyer and seller expressly agree in their contract, the deposit holder may be directed to release the deposit to the seller. The bill does not address this actual uncertainty. The bill simply adds a statutory note to the section stating that the parties cannot contract out of the provision. This is an unacceptable outcome in our view when there are clear examples of the provision being abused and a simple legislative change could clarify the obligations of those holding deposits. We have outlined a potential solution in our submission.

Secondly, QLS considers the sunset clause amendments misunderstand the essential nature of sunset clauses. These changes potentially broaden the circumstances in which sellers can rely on a sunset clause to terminate the contract, including circumstances such as when the seller is in financial difficulty. The bill changes the existing allocation of risk between the buyer and the seller. Ordinarily, the seller takes the risk of construction cost escalations and the buyer takes the risk of reductions in the value between the contract date and the settlement date. The bill appears to modify the seller's usual position so that a seller can now request the Supreme Court's approval to terminate a contract under a sunset clause because the seller's business is not viable. We are concerned that that this will encourage the practice of developers demanding additional payments in order to proceed with contracts under the threat of making an application to the Supreme Court for termination under the sunset clause. We also do not support the staged approach to the sunset date reforms. QLS believes these reforms should apply to all of the planned contracts, both land and community title scheme lots. This is the case in New South Wales. In our members' experience, the reliance on a sunset clause by developers is equally prevalent in apartment sales. We see no logical justification in not applying these reforms to all of the planned sales.

Thirdly, although the Queensland Law Society broadly supports the body corporate reforms, there are significant concerns regarding the proposed processes for the termination of community title schemes. We recommend changes to the statutory test for determining whether there are economic reasons for a termination of the scheme. QLS supports the test proposed by the Queensland University of Technology in its options paper recommendations which form the basis of this bill. QUT's test proposed that the regime should apply where it was uneconomic to maintain the scheme building. In our view, this requires an economic cost-benefit analysis of the reasonableness of continuing to maintain the building rather than replace it. In other words, would a reasonable person who owned the building in exercising sound financial judgement consider it more appropriate to demolish the building and rebuild it rather than incur the expenditure of maintaining it? We believe the current drafting will result in termination actions being open to challenge and may in turn deter both bodies corporate and potential developers from utilising the process.

We are also concerned there are fundamental flaws in the provisions facilitating the termination of the scheme. The bill appears to assume that the termination process will be body corporate-led rather than developer-led. We have also identified some drafting issues in the mechanism for implementing a termination plan and the appointment of a facilitator. We believe the bill should contain a clear statement to the effect that, if passed, the termination plan is binding on the body corporate, owners, lessees and contractors. This will provide greater clarity to the process and help people such as owners, lessees and body corporate managers understand the consequence of passing the termination plan.

The bill should also clearly provide that the termination resolution binds a subsequent owner of a lot. The current drafting also seems to allow a body corporate to register the termination of a scheme as soon as a termination resolution is passed. We believe the legislation should also require a series of additional steps before the body corporate is collapsed, otherwise it will become a legal minefield because the body corporate ceases to exist and all of the lot owners will become joint owners of the whole of the land, and the assets and the liabilities of the body corporate will vest in the owners. That will make the process for continuing the termination much more complex when the body corporate no longer exists. If all of that occurs before a buyer is found for the scheme, it means that the body corporate is no longer in existence to make decisions and drive the process. We recommend adopting the New South Wales approach which sensibly provides the scheme termination takes effect when all of the lots have been sold unless otherwise determined by the court.

Finally, we take this opportunity to highlight concerns about the unintended consequences as a result of amending section 59(3) of the Body Corporate and Community Management Act. The proposed amendments seem to have misconceived the reference to 'seal' in the existing section, and we have outlined the reasons for that in our submission. Thank you and we welcome any questions from the committee.

CHAIR: Thank you. I would like to welcome the member for Noosa, Sandy Bolton, to the hearing. Laura, do you have a question?

Mrs GERBER: Thank you, Chair; thank you, QLS. My questions centre around the 75 per cent rule and the termination aspect of the bill. Firstly, I just wanted to confirm that when looking at clause 81A—'What are economic reasons for termination'—the terms 'commercial purpose' and 'economically viable' used at in subsection (a) are not defined in the bill; is that correct?

Mr Raven: Yes, it is.

Mrs GERBER: My question is around 'commercial purpose'. If there are nine lots by the beach that are considerably old and seven are used for Airbnb and two are used by the owners—so are being lived in—that technically might be able to fall within 'commercial purpose', or is there is an argument to be made there? Would the ambiguity of not defining 'commercial purpose' create an issue around that?

Mr Raven: The intention is that that deals with industrial, offices and things like that and not investment apartments obviously, but it is not defined. Even going back a step, we do not actually understand what the difference is between the two tests in A and B. Even if you are looking at an industrial complex, it does not seem to apply if one of them is vacant, which does not make any rational sense.

Just going back a step in terms of what is economically viable, I will give you a very simple example, because it is all very technical legal language. Let's say I own a 20-year-old car; it is probably worth $2,000. Last year it broke down 10 times and cost me $5,000 to fix it. At the end of the year I look back at my bank accounts and think about whether I should buy a new car. If my question to myself is, 'Is it economically viable?,' which is the wording used here, 'for me to keep this car?,' the answer is yes, it is, because I can afford to keep paying $5,000 a year and put up with the inconvenience. What I really should be asking myself is, 'Is my car at the end of its economic life?' If I make a rational economic decision, would I go and buy a new car for $50,000 knowing it has a 12-month warranty and I will have very little expenditure over the next 10 years maintaining it?

It is the wrong test, because what this is asking the body corporate to look at is whether it can afford to keep maintaining the building. Unlike people who have salaries and companies that have businesses to run and receive revenue, a body corporate just works out what its expenses are and levies the owners. This test is: can the owners physically afford to pay these exorbitant levies? That is the wrong test. It needs to be an economic-based analysis of whether the building is at the end of its economic life cycle, which is a lower threshold than just whether everyone can afford to keep paying this exorbitant amount.

Mrs GERBER: Does that take into account the total value of a lot owner's home in terms of location and amenities? That test would not take into account any of that in terms of economic value.

Mr Raven: Correct.

Mrs GERBER: The bill provides that a pretermination report must be done in the first instance, before we get to the stage of a termination report and the body corporate voting on it. In terms of a pretermination report, the bill specifies that there are three people who have to do it: a structural engineer, an appropriately qualified person and a surveyor. That is in new section 81C(e)(i) of the bill. If a disgruntled lot owner wanted to dispute the pretermination report, does the bill provide for any process in relation to that? Who would pay for an alternate pretermination report? Would the body corporate pay for that? Would it be incumbent on the lot owner to do that? What is the dispute process around a pretermination report?

Mr Raven: I am trying to remember how that works. Someone has decided they want to do this. I am guessing it is usually going to be the committee rather than the particular owners, but it could be a group of owners I suppose. You prepare a report which is intended to give a broad snapshot of the value of the place and its condition so you can look at what the test is. You then give that to all the owners to consider and then you have these two motions that get passed. One is, 'Does the building satisfy this economic reasons test?' and the second one is, 'Should we proceed to prepare a termination plan?'

Mrs GERBER: If there is a lot owner who fundamentally disagrees with the pretermination report, does the bill provide for any—

Mr Raven: You vote against the motion to proceed with the proposal. Because there are two different motions, it depends which part of the pretermination report you fundamentally disagree with. If there is a report saying this building is going to cost millions of dollars to maintain over the next five years and it is falling down and you do not think that is right, then you vote against the economic reasons.

Mrs GERBER: But if there is just one person voting against it, they are not going to get up. So how do they—

Mr Raven: Sure, then you have lost. You would object to that motion rather than the report.

Mrs GERBER: There is no mechanism to object to the pretermination report? In terms of the lot owner going off and getting an alternate one—

Mr Raven: You would go off and get your own view on whatever you disagreed with to present to the adjudicator as part of the specialist adjudication. That is your ability to challenge that part of the pretermination report.

Mrs GERBER: Would the body corporate pay for that, or is it incumbent on the lot owner to pay for that?

Mr Raven: You do not necessarily have to do that. I cannot remember there being anything in there about the body corporate paying for anything at this stage. The idea of specialist adjudication is that it is a low-cost jurisdiction. It depends what exactly you are querying in there. You might have to go and get your own reports. It might be something bleeding obvious. It might say, 'This needs to be fixed,' but you know it was replaced yesterday. It depends on what issues you have as to what levels you might need to go to in order to convince the specialist adjudication.

Mrs GERBER: Ultimately, the bill does not provide for any of that. Once we get to the notion of a termination report and we have an aggrieved party to that, the first process of the dispute resolution is to get a specialist adjudicator in relation to proposed new section 81G. 'Specialist adjudicator' is not defined in the bill; is that correct?

Mr Raven: That term would be defined in the act already.

Mrs GERBER: Where would I find that?

Mr Raven: In the act.

CHAIR: It is in the act already.

Mrs GERBER: It is in the BCCM Act?

Mr Raven: That is not a new process.

Mrs GERBER: That is already in place?

Mr Raven: Yes.

Mrs GERBER: Who pays for the specialist adjudicator? Is it the body corporate?

Mr Raven: It might be $100 or something.

Mrs GERBER: Who pays for it?

Mr Raven: The person who is making the application.

Mrs GERBER: So the aggrieved party has to pay for it?

Mr Raven: Yes.

Mrs GERBER: In relation to the kinds of agreements—

Mr Raven: Do not quote me on that; it might be $200. It is a low amount.

Mrs GERBER: I will put it to DJAG as well. Are you able to give the committee some guidance around the kinds of agreements that can be reached out of a specialist adjudicator dispute resolution?

Mr Raven: At that stage, from memory, the only powers the adjudicator has would be to basically deem that economic reasons resolution to be passed or not passed. That is the decision that the specialist adjudicator is deciding: whether that definition we were talking about before has been satisfied or not; that is the question. It is a threshold question; otherwise, this whole section does not apply.

Mrs GERBER: Is that binding on all parties?

Mr Raven: You can appeal on questions of law from a specialist adjudicator.

Mrs GERBER: I now move on to the District Court proceedings. You have an aggrieved party, they have gone to the specialist adjudicator, it is a yes or no answer from the specialist adjudicator and the answer comes back in favour of the 75 per cent rule. Their next recourse is to go to the District Court; is that correct? Who pays for those proceedings?

Mr Raven: You forewarned me you were going to ask me that. I think new section 81Q answers the question. Generally it is the body corporate. Basically, I think that is saying that if the body corporate is the one that has proposed the scheme and it is passed then the costs of anyone who is objecting to it are paid for by the body corporate. If it fails and anyone wants to challenge that refusal by the body corporate then they pay their own costs. I think that is how it works.

Mrs GERBER: So in the case of an aggrieved party taking it to the District Court, the body corporate will have to fund that?

Mr Raven: If the termination plan was approved and you are an owner objecting to that, the body corporate pays reasonable costs of the proceedings.

Mrs GERBER: Great, but any appeals from the decision of the District Court in relation to that originating application would be then paid for by the applicant seeking the appeal process?

Ms Devine: I suggest we take that one on notice.

Mr Raven: I do not remember seeing that addressed anywhere.

Ms Devine: I do not believe that is addressed in the bill. There are processes that usually flow from litigation and the cost process that will flow from that. Unless it is dealt with elsewhere, we would not want to hypothesise.

Mrs GERBER: I am happy for you to take that one on notice. In relation to the 75 per cent rule and the unit holders, does the bill give an indication of how that is divisible if it does not divide equally? Say you have nine units and you apply the 75 per cent rule, it does not divide equally between nine? Is it rounded up or down? How is it calculated?

Ms Devine: It is 75 per cent.

Mr Raven: It has to be 75 per cent or more.

Mrs GERBER: So that would mean two? If you have a complex of nine, that would mean you would need seven and two?

Ms Devine: I will not test your maths but if that is where the maths lands, yes.

Mrs GERBER: It is greater than 75 per cent?

Ms Devine: Greater than 75 per cent.

Mr Raven: It is basically rounded up, to answer your question.

Ms BOLTON: My apologies for some technical issues. I may have missed in your opening statement the answer to my question, which is around the sunset clause. From my understanding, within these amendments the developers must now take the purchaser to the Supreme Court to use the sunset clause; is that correct?

Ms Devine: Unless the buyer otherwise consents to the exercise of the termination under the sunset clause.

Ms BOLTON: If they do not, do they pay their own fees in the Supreme Court?

Ms Devine: The seller? Is that the question?

Ms BOLTON: The purchaser. In a lot of examples we have been given—say someone purchases a block of land and three years later the sunset clause is being used; they are given the option to purchase at a higher price than the contract price. In that situation, they are not only left in a situation where they cannot go to that higher amount but, if they were to contest it, they probably could not afford to fight it in the Supreme Court.

Mr Raven: The seller is required to pay the buyer's costs unless the court determines the buyer unreasonably withheld consent to the request to be released.

Ms BOLTON: When you gave an example of a model in New South Wales—I came in just on that last part—was that in reference to sunset clauses?

Ms Devine: No, that was in reference to the termination of community titles schemes, the process that they follow for collapsing the scheme and at what point the scheme has collapsed and all owners become joint owners of the scheme.

Ms BOLTON: From your experience, have there been any other examples of ways to remedy the sunset clause situation in other jurisdictions?

Mr Raven: What is proposed here is quite similar to the wording in New South Wales. The issue we object to is the added requirement that the Supreme Court consider the financial liability of the transaction from the developer's perspective, which seems incredibly unfair and very unusual to put in consumer protection legislation. I will give you an example. If I am a buyer, obviously I am taking on the risk that the value of the property at the time of settlement will be sufficient for me to fund the sale. If the market is falling and I have agreed to pay $200,000 but when I get to settlement the market value of the land is only $160,000, obviously the bank is going to lend me less than I thought I was going to get. I do not have a right to get out of the contract when that happens; I have to settle, find the extra money or the seller can terminate my deposit.

Conversely, at the moment, if the cost of materials goes up and, therefore, the cost to the developer increases, the developer should complete, and that is a risk they take. What is being introduced here is an obligation on the Supreme Court to consider letting the seller out of the contract because their cost to provide has gone up, and that seems inequitable. We are protecting developers, not buyers, in consumer protection legislation, which escapes logic I think.

Ms BOLTON: And is not utilised elsewhere?

Mr Raven: Those particular provisions have been added into what is in the New South Wales clause. I do not think there is any equivalent in Victoria.

CHAIR: Dealing with the sunset clauses in the current legislation, it is to cover house and land developments; it is not to cover units? Is my understanding correct to say that the New South Wales legislation covers—

Ms Devine: Both. Our position is that we do not understand the reason for making that distinction. The staged approach that has been suggested here does not make sense to us. We feel that in regard to this legislation, if you are going to amend the provisions around sunset clauses, it should apply to both of those circumstances.

Mr Raven: We actually see in practice that they are misused more in apartment sales than in land sales. The lead time is longer to build apartments and chances are that the value of the property will go up for an apartment over land is greater. If it is still a problem, it has waned a bit in the last year or so, but the problem originally being addressed here is that, as the member said, by the time you get to settlement, the apartment is worth more than what has been paid for, so it is better for the seller to get out of the contract and sell it at a higher price.

CHAIR: My understanding of the way some commercial people deal with this is they buy more than one unit off the plan and then off-load some to support the increase in price. Is that a common understanding, or is that a myth on my part?

Mr Raven: I would not say it is common, but it is not uncommon, if I could put it that way.

CHAIR: Yes, I am with you.

Mr Raven: It is a way of speculating, is it not?

CHAIR: It is.

Mr Raven: You are paying this now. 'Gee, the market has been going up 10 per cent, so I will off-load it the day before settlement and someone else will sell it and I will make X.'

Ms BUSH: Wendy and Matthew, I want to thank you for coming along and for your continued support of our committee process, as always. Wendy, you said something which sounded like there was an addendum or something coming to your submission that maybe we do not have; is that correct?

Ms Devine: We have prepared a supplementary submission. We have addressed the issues that we flag today in a bit more detail. We were only able to deliver that just after 5 o'clock last night. We do apologise for the short time frame, but hopefully there is additional information in there that helps to expand on the reasons that we are concerned about these aspects of the bill.

Ms BUSH: Thank you. I will wait until we get that and will have another look at that. My concerns probably also go to some of the areas that the members for Toohey and Noosa have picked up. Certainly in our electorate, we have had some awful examples of what would appear to be sunset clauses being used in a way to continue to almost extort additional funds out of people who have thought they have purchased their forever home and can see that failing. Obviously the department's advice is that they feel confident that the way in which the proposed bill is drafted offers appropriate consumer protections and still supports the property sector. It is clear that you have a different view, without putting a finer point on it; you have already laboured the point, I guess. What is the recommendation? What could be done to bolster consumer protections in this bill to achieve what we want which is people are able to continue with their properties?

Ms Devine: Our recommendation is that you drop a couple of those parts out of proposed section 19F in the bill—that is sitting on page 73 and 74 of the bill—particularly the issue that we have raised around taking into account the financial position of the seller. We have recommended a couple of subsections there that be deleted from that clause. The balance of the clause sets out a range of factors that the Supreme Court must consider, not may—so they must consider these factors. There are a couple in there that we think are inconsistent with the fundamental approach to sunset clauses as they have always been understood, and they shift the balance.

Mr Raven: To try to explain that a little because it is quite a complex concept: I am a developer. I need to do a contract. It should say 'within a certain period'. We are talking about land. There is an 18-month period by which the Land Sales Act requires me to achieve completion. If it says, 'This contract is conditional on me getting finance, me getting X number of pre-sales, me being satisfied', that is fine, that is how you contract, but you should not have 18 months to make that decision. What is the point of making the decision after 17 months and 29 days that, 'Oh, I am not going to continue with this contract. Gee, sorry I have been holding your deposit all that time'? There should be some point in time at which the developer says, 'I am going ahead with this development,' or not, and that should be much earlier than 18 months. Wendy is giving you the simple answer that we propose, but there is scope to have something more like that—you can have a reasonable time up-front—and that is potentially going to differ for apartments to other things.

Ms BUSH: I hear you on that. We have had that issue discussed locally. Matthew, is that contained in your further submission to us?

Mr Raven: No, it was getting into too much detail. Unfortunately, it was suggested to leave in those words, but that is definitely another alternative—to give rights. I guess it is a little more complicated because you might get to the end of the stage where—I cannot remember this ever happening—but there are some things that are beyond the developer's control that happen at the end, such as these plans need to be sealed and lodged in the titles office and council has approved things. I guess it is conceivable that you could encounter difficulties at that stage which are insurmountable, although it is hard to understand why.

Ms BUSH: To the member for Toohey's point around extending the bill to also capture apartments, you do not foresee any unintended consequences if that were to occur?

Ms Devine: We would support that extension; that the sunset clause amendments be extended to apartment contracts as well. The principles we see are the same, and we do not believe that having that distinction drawn between the two is really the best way to go. New South Wales has applied these reforms to both land sales and to apartment sales, and you end up with a two-tiered approach to land sales which does not, to us, make sense.

Mr Raven: I think the rationale of whomever decided to exclude those was to defer it because the introductory speech says that it will be reconsidered in two years. I think the push is obviously the escalating costs at the moment, particularly affecting that sector and that that would be affected. I would argue that is based on a flawed argument because there is no right at the moment to get out of the contract because the price has gone up and the price of materials has gone up. There are a number of cases in New South Wales where developers try to rely on sunset clauses, and they have intentionally not performed the building work or gone slowly, and then tried to rely on the sunset date. The courts say, 'No, you cannot rely on your own breach of the contract to get out of the contract under a sunset clause.' That is the law at the moment, but this reform, unfortunately, seems to be changing that.

Mrs McMAHON: I want to follow up on that. Most of my specific questions have been answered. More broadly talking about the balance of risks in this sunset clause scenario between the developer's risk and the buyer's risk, you have indicated that these amendments might shift it in the advantage of the developer—that is, the risk that someone takes in being a developer are going to be almost put back into the buyer's responsibility. Can you explain from a broader legal context the consumer rights versus the developer rights, noting that we have submissions from various different groups that we are considering today and where that balance within law should be sitting? That is probably a broader vibe question.

Mr Raven: I will try to answer that very briefly. If you were trying to counterbalance giving a developer the opportunity to get out of a contract because prices went up, the counterbalance would be, say, if the buyer is sick or loses their job or has a change of circumstance or the property market collapses, then they can apply to the Supreme Court and get out of the contract. If you did that, that would be fair, but no-one would ever build anything again because you need a level of pre-sales before the bank will fund your construction. That does not work in practice, but that would be fair. The fair thing is, as the example I gave before, there is a certain amount of time up-front to decide if you are going ahead, you make the decision and then you are contractually bound to complete, subject to if it rains for five months in a row and you are going to be late and things like that. Very simplistically, there is a point in time near the start of the contract, not right at the end, where you commit to the contract, just like the buyer does.

CHAIR: I understand there may have been one question taken on notice.

Ms Devine: Yes, in relation to costs.

CHAIR: Would it be possible to have the answer to that to the secretariat by close of business on Thursday, 14 September?

Ms Devine: I believe so.

CHAIR: If there are any issues, communicate with the secretariat and I sure they will be understanding of the challenges that confront everyone. If there is anything further that you want to add out of some of the questions today, please feel free to supply that to the secretariat by that same date.

Ms Devine: Thank you very much, Chair. We appreciate that.

Mr Raven: Can I make a very quick final comment?

CHAIR: Yes, of course.

Mr Raven: Obviously the cost is a concern to some of your constituents, and this process has gone on for a long time in discussing how the termination of schemes might work. I do not think it is possible to design a cost-free way to do this. It is very complicated. It is dealing with conflicting rights and interests. At some stage people need a right to go to court and unfortunately that costs money. It is complex. The idea we are trying to achieve is to make it a lot cheaper than it is at the moment which I think would be in the millions of dollars for the one or two where it has been done.

CHAIR: Thank you.

DERRICK, Mr Matthew, Member, Property Law Committee, Urban Development Institute of Australia Queensland

ZALTRON, Mr Martin, Manager, Policy, Urban Development Institute of Australia Queensland

CHAIR: I now welcome representatives from the Urban Development Institute of Australia Queensland. Thank you for your attendance here today. I invite you to make an opening statement of up to five minutes. After that, the committee will have some questions for you.

Mr Zaltron: I will make the opening statement and then my colleague, Matthew, one of the best brains in property, can take the tag. Thank you very much. A comprehensive housing affordability and rental availability disaster is well underway in Queensland presently. It has no signs of easing at present. In the face of the worst rental crisis Queensland has seen in living memory, more Queenslanders than ever are unable to secure shelter. Rough sleeping camps have emerged in locations where they have previously been unseen. Prospective renters are paying well over asking prices simply to secure a house. Families are sleeping in tents. Kids are waking up in the car, ready for another school day.

In the face of such extreme circumstances, it is necessary for all parties to work together to address the fundamental cause of the crisis—that is, insufficient housing supply. With this in mind, it is important to ask one simple question about any legislation or anything coming forward. That question is simply: will the change help or hinder the supply of urgently needed homes in Queensland? The sunset clause element of the bill, as we see it, will hinder new supply and for that reason we cannot support it.

The institute is the peak body for the development industry in Queensland, established over 50 years ago. It comprises 12 local branches up and down Queensland. It includes developers, town planners, engineers, architects, valuers, surveyors, builders and a wide range of trades and professionals. It also has a research foundation conducting both quantitative and qualitative research. This means that the institute advice is both based on evidence and speaks with a regional and metropolitan view. The industry provides 97 per cent of all new housing in Queensland, which is about 35,000 dwellings and about 25,000 land lots, overshadowing the quantum of new homes to be delivered by government and the community sector. The industry employs 235,000 people and added about $50 billion to the state economy in 2020-21. However, at the same time, it is challenged with high rates of insolvency and a vulnerability to international supply and trades shortages. Those factors are wreaking havoc on new supply currently. Further shocks in terms of legal or other matters would have an immediate negative consequence.

In terms of the sunset clauses—and I have a few comments on the scheme termination elements also—we strongly recommend against the sunset clause changes adding to the uncertainty presently in the marketplace. It would have a retrospective effect as presented, so those who are already in agreements would be subject to and not able to address those. We also say that the sunset clause arrangements have been working well. It was very rare, before the COVID incidence, that sunset clauses were exercised in the way that has been a concern. We have always said that there is some more education needed to be done, making sure people have a lawyer when they sign a property contract so they know what they are getting into.

Buyers are reasonably well protected by the Australian Consumer Law. Critically, there are many elements out of the developer's control in delivering a land lot—anything from those approvals to titling, to tenure, to the building completion, to the financing—and those things need to be accounted for. With the uncertainty that could be additionally created over the current uncertainty, the financiers will be less willing to lend their money to a developer as an open-ended obligation that has to proceed no matter what, whether it blows up their company in effect.

The institute has long supported scheme termination, but what comes through in the bill is not enough to deliver on the commitment to achieve termination to any significant degree. The opportunity is there to unlock housing supply and to replace aged buildings with modern accommodation that is up to standard. The opportunity is there to increase in-fill housing and meet the government's objectives in terms of consolidation et cetera from ShapingSEQ. There is an opportunity to back in the investment in infrastructure—such as the Metro, the Gold Coast Light Rail and Cross River Rail—with additional housing and allow more people to live near quality services. What we are saying is that the wider scheme termination arrangements in New South Wales have been beneficial and practical. We would suggest that, as was discussed earlier in the deliberations about the scheme termination coming forward, it should apply to any building over 30 years old without being so prescribed, as in this bill, to just economic reasons.

A fundamental housing supply problem is present in Queensland. We need more housing. The sunset elements of the bill will likely reduce that new housing supply by adding uncertainty. However, there is an opportunity with the scheme termination arrangements to make an improvement.

CHAIR: Matthew, do you have anything to add before we go to questions?

Mr Derrick: I would probably just add some context, particularly around the sunset date proposals. There are two things. The Land Sales Act, as you know, is an old piece of legislation now and has quite a storied history in its own right. It is probably antiquated in terms of being fit for purpose when you look at the type of land subdivision projects currently undertaken as opposed to what was being done in the late 1980s, 1990s and even early 2000s. We are in an environment with a lot more complexity around all forms of development but certainly land development. There is a lot more rigour in the regulation. There is a lot more concentration on environmental matters and factors that naturally affect land development—probably a little bit more in some cases than in higher density development—yet we have a relatively short sunset date prescribed in that legislation, at 18 months, and that has been the case for some time. I think what we have seen is a change in complexity and time required to undertake these sorts of projects without any consideration of how that jams parties up against a sunset, or can do so, for matters beyond both the seller's and the buyer's control. I would say there is one issue around there, which is perhaps making this sunset date contest, if you want to call it that—or contest of rights at the sunset date—an issue that really should not be arising.

I would endorse what Martin said about the fact that historically we have not really had great instances of disputes around sunset date provisions in Queensland. My colleague Matt Raven was here talking about the fact that under the common law you cannot simply sit on your hands and do nothing and then seek to rely on those clauses. The idea that the developer will just land-bank, test the market, see where it falls and then make a decision that 'I'll pull back and not do anything' actually does not work. There have been cases, predominantly in New South Wales actually, around developers being prevented from terminating contracts for that very reason. We just have not really seen a lot of litigation in Queensland around that particular issue. Even in the GFC where sunset dates became an issue, it really did not proceed to that sort of contest.

I would say that there is an issue there that would play into the balancing of rights that this bill is seeking to achieve. I think the institute and its members are all for fairness and weighing those rights appropriately. I do not think the provisions in this bill, the way they are drafted, necessarily achieve that, and I am sure you will hear a lot about balance from different people and sources between rights, but there is the cost element at the end. I think with the way the bill is drawn at the minute there is a slight unfairness in requiring consent of a buyer to terminate but then not requiring the buyer to actually give that consent or a consequence of it not doing so, which distorts the position. Also, as I said before, the time frames for these dates could be reviewed and looked at. You can look at the history then of recent times. This issue has arisen in the last three or four years predominantly because of the distortions from COVID and COVID influences unfortunately combining with a significant period of wet weather when we are talking about land development interruptions around that. We have had a heightening of these causes that prolong projects.

However, no developer sets out to do an uneconomic project. If there is a view or a reflection that developers are maybe going to market with an intention to see where their project will land and to use the mechanisms in the legislation to their advantage unfairly, I would say that is misconceived because no developer can invest in buying land, getting approvals and spending that money, with a financier sitting over their shoulder and interest rates accruing, and going on with that sort of scheme in mind. It is just not what motivates developers in the market. They want to be in and out as quickly as possible, supply as many homes as they can and keep their revenue and their businesses humming along and, at the same time, provide the housing that Queensland needs.

My concluding summation comment would simply be that we understand the need for fairness in contracts—the institute, that is—and we think the provisions are, as Martin said, working reasonably well. Some issues that have arisen in the last five years are more the product of extraordinary circumstances. If there is going to be a measure around this issue, it needs to remain fairly weighted in terms of the circumstances in which the developer can be required to obtain the buyer's consent and what happens if the buyer does not give that consent. That, in turn, raises issues around whether buyers are capable of understanding some of the issues they are presented with in the notices that the bill projects will be given. I think it is more focusing on the balancing of rights.

On the scheme termination provisions, as Martin says, we think there is an opportunity to broaden the grounds from simply economic grounds that relate to the state and condition of a building and its long-term maintenance to maybe looking at whether economic viability extends to a redevelopment opportunity and what is feasible for the redevelopment of that site, particularly in

markets where councils are now saying, 'We're not going out anymore; we're going up and we're going to concentrate housing around existing infrastructure because it makes economic sense to do so.' Our perception on the scheme termination provisions is that they are a good measure but too narrowly focused at the minute.

Mr KRAUSE: Good morning and thank you for your submissions. I want to ask about the scheme termination provisions. In your submission you support expanding the termination provisions to any titles scheme in which 'economics point to its desirability for redevelopment'. How do you explain or define 'economically desirable for redevelopment'?

Mr Zaltron: It is fundamentally that there is a need. The development industry will seek out those opportunities to actually provide housing that is economically viable to do so. We have the case of ancient sixpacks in poor condition in key locations around SEQ that, if the industry could get hold of them reasonably, they would redevelop into something substantially newer, in keeping with what the planning guidelines require, and provide that additional housing.

Mr Derrick: I think at the moment, for the current grounds for economics, you have a test of—we will just call it condition and dilapidation or standing, and that is what the bill is promoting, to go to your point, Jon. You can derive some sort of objective assessment of that by going to a QS or an engineer or a qualified person to assess that. When it comes to redevelopment, I think you turn to what is the highest and best use of that site at a given point in time, having regard to what the planning scheme would allow to be developed at that time.

You will need objectively assessable criteria, absolutely. I do not think we can simply say 'it looks developable'. If it can be benchmarked to this site which was previously a medium density site that under the planning regime could have accommodated six or 12 units, but because of the change to where council is driving planning outcomes, because of the location of this site—it might be a perfectly serviceable 1980s block of six flats, but if it is now able to be developed as a 25-storey building of mixed use and a variety of housing accommodation—close to a railway station, bus route or a combination of those things plus other amenities, that is where you could say this now meets the criteria where it is capable of being redeveloped for a higher use and it is economically feasible to do so. That would simply be a starting point for the same sort of processes that the bill projects to be looked at.

Someone would have to come forward and consider a proposition. That will not happen without an interested party driving it. On rare occasions a group of unit owners will find the commonality to get together and seek their own advice and do something collectively, but 99.9 per cent of the time this will be led by a third party coming along and recognising that opportunity. Provided you can satisfy that planning yield requirement as a starting point, you then step into a very similar process that the bill projects in terms of an initial resolution of members to consider the opportunity. Then you move forward. There would need to be some different criteria and different processes, but fundamentally you would need to have a starting point around that sort of criteria.

Mr KRAUSE: Your submission seems to indicate that, in relation to termination, the bill will only apply to a small number of CTSs; is that right? How did you come to that view? Do you think that, in terms of scheme termination, the bill is putting forward a restrictive regime?

Mr Derrick: I think the opportunity is unrealised. Our point is that at the moment you do not see many of these sorts of opportunities realised. It takes an enormous amount of lead time and work for any developer, for example, to achieve consensus within even relatively small unit groups to move forward with a development proposal. If we only focus on the economic condition of the property you are imposing another layer that is going to be a deterrent to realisation of the wider objective of having that housing stock replaced, added to and enhanced. That is the point we are trying to make. By keeping to the very narrow ground of 'is it feasible to maintain for a further number of years or is its condition right now such that it needs to be replaced or redeveloped', you are placing a sieve on the opportunity, so to speak. Whereas if there is an opportunity to consider both of those circumstances and potential benefit in redeveloping in the short term, even if the building is serviceable at present, you will open the door to a lot more interest in this area and then you would see a lot more exploration across a wider range of sites as well. I think that was our point.

Mr KRAUSE: I have one more question with regard to scheme termination. Page 16 of your submission states—

> There are other issues with the scope of definition of economic reasons and the potential for that uncertainty to be the subject of disputes ...

Can you elaborate on that? What type of uncertainty was being thought of in that part of the submission?

Mr Derrick: I might take that on notice. I will just say that the concept of economic reasons opens the door to ask whether we are only talking about existing financial maintenance and the cost of continuing to operate the building. Is that the only scope for economic reasons, or are we talking more about potential value? The trigger ultimately for these opportunities might be that a building is old, and owners recognise that in the long term they are spending money that is not feasible. Underlying that is always the question of what can be gained by the owners in redeveloping the site, because that land will have a market value that has increased if there is in fact a viable development opportunity. Do economic reasons extend to the consideration of the prospective value of the land in the market at that time?

As I speak, I do not recall exactly what that point was. We say that it should be a valid economic reason or consideration that the owners may benefit significantly by an uplift in the land value of the scheme land should they be able to realise a development opportunity. They are currently being precluded from looking at that as an economic basis for considering whether to move on the project even if the other criteria are satisfied. Even if the building does have a limited life cycle, even if it is prospectively going to become more costly to operate and maintain, you could have a circumstance where it might not cross a threshold to get past some of the criteria the bill promotes, yet in the marketplace that land has a much higher value and those owners may stand to benefit in a significant manner if it was allowed to be terminated and then passed on to a third party to redevelop and so on. I think it is a consideration of the concept of what the economic reasons are, and is it too limited because it is tied purely to building standards, operating costs and functionality.

Ms BOLTON: Just going back to sunset clauses, you spoke about the extraordinary circumstances we have encountered since COVID—and I gave the QLS one example—where people nearly became homeless as a result of the sunset clauses being utilised. Do you see an alternative to what is contained in the bill?

Mr Derrick: If we put aside for a minute the objection to the concept of introducing a court sanctioned process and assume a measure such as this is introduced, it really comes down to making sure that the provisions are practical and can operate in a way that does not distort or disadvantage either party. The buyers have always had the benefit of this protection in a falling market circumstance. Oddly, as it turns out, COVID and the various conditions resulting from COVID actually led to an increase in market values because of a lack of product and increased demand. We were also in a low-interest rate environment at the time. In terms of a solution, our focus is on recognising that the mechanism needs to be better balanced. There are two things. I think the sunset date for land needs to be a lot longer than it currently is. I do not think we would find ourselves in these positions if, instead of an 18-month drop-dead date, we had something that was more compatible with the apartment sunset type period, whether it is three years or 3½ years. I do think it is time to try and align those pieces of legislation for consistency generally.

In terms of the decision to terminate itself, currently the bill says you must obtain the consent of the buyer. You give notice to ask for consent, but if the buyer does not do anything in response there is no sanction on the buyer—and I am not talking about penalty; I am just saying there is no consequence for the buyer contractually—for not responding at all in a fairly lengthy period of time. There needs to be some acceptance of the right to terminate where the buyer is given an opportunity to assess the basis of reasons and does nothing in response. Some of the criteria that are pointed to that courts can consider are unfairly, I would say, weighted towards an outcome of denying consent, particularly that the impact of matters affecting the development has to be such as to affect the entire business of the seller as opposed to the viability or feasibility of that particular project. As I said before, developers do not go into projects to run one uneconomically and then offset that with profitable projects from other places. Each project is an exercise in risk management, so I think getting those factors right. An alternative would be to be more specific. At the moment, the relevant events are tied to plan registration and title creation. We think that is where these sunset date provisions should start and finish. What we are concerned about is that, through regulatory actions as opposed to further legislative review, the categories of events may be expanded.

Currently, developers will often include clauses in contracts around pre-commitments, economic conditions, force majeure type clauses—so wet weather, strikes, all of those sorts of delay events. Those events need to be legitimised as contractual events. They currently are under common law. Our concern is that this regulation may expand to capture those types of basic contractual freedoms and rights to specify those sorts of clauses. I know that I am being around about in my answer to your question, but we have a concern that if this expands into those areas it could be quite detrimental because people will not fund projects with that ambiguity. At the moment, those sorts of provisions are in fact the clauses that are being used in these circumstances. I have had specific client experience

with this on two projects in the last two years. The methods used for termination of contracts were not tied to sunset dates: they were tied to clauses in the contract that dealt with the economic impact of certain events beyond the control of the parties. Those types of clauses are already regulated by the Australian Consumer Law. They cannot be too broad. They cannot be open-ended or they will be void and the contract will ultimately be illusory. That is the law at the moment.

In terms of what can be done better, the sunset date provisions themselves are okay as long as the sunset period is reasonable for the type of development that is now being undertaken. There has been a misconception about the types of clauses that are being relied upon in contracts to terminate. They are not generally sunset date clauses; they are clauses dealing specifically with events that occur beyond the control of the parties that affect the development. What could be done better? There is not a lot needed to be done to improve the situation. It is simply that we do not need to further restrict the types of clauses that are actually used and already regulated. Having regard to the type of regulatory environments we are now in, we need to have an appropriate sunset period that allows for these land developments. Things differ a bit for apartments. I heard the comment earlier about whether this regime should be extended. We should have consistency, but we do not want a whole range of different tiers of regulation applying because that is bad for the industry as well. I am sorry for that around about answer, but that is it.

CHAIR: I am conscious of the time. Before we finish up, there was one question taken on notice—I am paraphrasing—regarding issues within the scope of the definition of 'economic reasons' that may provide uncertainty.

Mr Derrick: I sifted that through my head while I was answering. We came to the point that at the moment we think those definitions may prevent consideration of increased market value and benefit to the owners as valid economic reasons.

CHAIR: Does that satisfy you?

Mr KRAUSE: Yes.

CHAIR: There is no question on notice. Thank you for your submission and coming along today; it has been very informative.

BOS, Ms Laura, General Manager, Strata Community Association Queensland

CANNON, Ms Jessica, Advocacy Director, Strata Community Association Queensland

MARLOW, Mr Kristian, Policy and Media Officer, Strata Community Association Queensland

CHAIR: Welcome. Thank you for being here. I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Ms Bos: My name is Laura Bos and I am proudly the general manager of the Strata Community Association of Queensland. SCAQ is the peak industry body supporting Queensland's professional strata sector with more than 1,200 individual and corporate members who manage approximately 400,000 of the more than 500,000 strata scheme lots across the state. As the peak body for the strata industry, SCAQ is in the unique position to understand the sector from all angles. We work with strata communities to manage assets worth some $220 billion and in doing so contribute some $1.25 billion in economic activity to Queensland annually.

At the time of drafting, the Body Corporate and Community Management Act of Queensland was world-leading legislation. More than 25 years on, there has been some tinkering but it remains largely unchanged. Societal change and the growth in density development over this period necessitates significant and wide-reaching reform. The changes this bill will bring are modest but necessary to bring the act into the 21st century.

SCAQ supports the bill as drafted for the most part and is pleased with clarity around by-laws for our members, as well as a very fair, thorough, sensible and balanced approach to scheme termination. It is critically important that this is not the final reform bill passed by the parliament in this term. There still exists major deficiencies in the act that need to be addressed as soon as practicable. These include the inequitable framework around management rights, the lack of availability for a body corporate to appropriately deal with short-term letting and the need to regulate body corporate managers appropriately to underpin consumer confidence in the outsourcing of management of such significant assets. There is also a need to modernise the debt recovery process to ensure bodies corporate are not hamstrung by recalcitrant owners and further provisions to manage behavioural problems in the sector that are concerned around bullying and intimidation. These are all matters that we urge the government to continue to review.

Despite there still being some significant work to be done, we are pleased to see action from the government on the issues addressed in this bill. We know that strata living will play a significant role in the future of housing in this state and there needs to be appropriate reforms to ensure that people have confidence in strata and community title living and that the legislation that underpins it reflects modern life.

SCAQ supports significantly increasing the volume of strata housing being built across the state, acknowledging the difficulties being faced by people, particularly first home buyers and long-term renters who are in the private market. It is important that we continue to provide affordable and sustainable housing, and strata will play a large role in this. We urge all members of parliament across the political spectrum to embrace strata and ensure that reform occurs within this term of parliament.

Mrs GERBER: Thank you for your appearance, your oral submission and your written submission. I want to see if you can help the committee understand a couple of the steps in relation to the termination of schemes and disputing the economic reasons. If there is an owner who wants to dispute a pretermination report, my understanding is that they could dispute that in essentially two ways. They could vote against it at the body corporate meeting, but if they are the sole person they could be outnumbered. The other option is to obtain their own pretermination report. Would the body corporate pay for that or is that incumbent on the owner to pay for it?

Mr Marlow: The bill allows people, at cost to the body corporate, to go to what is called specialist adjudication. Specialist adjudication is something that is used fairly rarely, but it basically means you are able to go to an eminent expert in the field. It is a very informal kind of quasi-judicial process and you are allowed to speak to that person. If you are that sole owner, which I am sure is a concern in your community on the southern Gold Coast, they will have at no cost to them the ability to go to someone who is independent and appropriately qualified and examine the pretermination report and dispute that.

Mrs GERBER: But in relation to getting an alternative pretermination report, there is no mechanism in the bill for that?

Mr Marlow: Not that we understand, no.

Mrs GERBER: The specialist adjudicator is defined in the BCCM Act, and the outcome that a specialist adjudicator can have to the argument is essentially yes or no; is that correct?

Mr Marlow: Yes.

Mrs GERBER: So there is no other ability for other contractual arrangements to be made. Is the outcome then binding on all the parties out of the specialist adjudicator?

Mr Marlow: The outcome would be binding. What I would mention, to go to what I think is your underlying concern, is about the independence of or the strength of that pretermination report. The bill has built-in conflict-of-interest provisions so that all these consultants who are involved in that have to be appropriately independent to ensure there is no gaming of the system. It is a very fair and transparent process.

Mrs GERBER: But if a lot owner disagreed with a fundamental principle within the pretermination report, there is no mechanism for them to be able to get an alternative one? They have to essentially use this specialist adjudicator, which just says yes or no to the pretermination report, and then their next step is the District Court?

Ms Cannon: That is our reading of the bill, but it is not something that we have actually turned our mind to in terms of whether there would be a mechanism to put forward an alternative pretermination report. We are happy to take that point on notice, if the committee would like us to do so. There is an existing mechanism in the Body Corporate and Community Management Act for there to be same-group motions, so you are dealing with the same subject matter, the same decision, but perhaps two different alternative contractors or two different reports. That mechanism already exists in the current legislation but it is not something that the proposed bill, at least on our reading, has turned its mind to—considering two different options. It is not something we can talk to specifically today. We are happy to take it on notice and put something forward if the committee would like us to.

Mrs GERBER: That would be really useful. Thank you. I have two more questions. In relation to your response in your written submission that there is no personal cost in requesting a specialist adjudication, who pays for the specialist adjudicator?

Mr Marlow: The body corporate.

Mrs GERBER: In relation to your submission that QCAT should be considered as an optional jurisdiction, can you explain how QCAT would have the jurisdiction to be able to consider these matters when QCAT has a dispute resolution limit in terms of the financial amount? How do you propose QCAT would be able to consider these matters? That is the reason it is in the District Court and Supreme Court—because of the value.

Ms Cannon: It would probably require further reform at QCAT level on that front, I would anticipate.

Mr Marlow: Our concern was that basically specialist adjudicators are few and far between. That was just a mechanism we put forward to the committee to perhaps speed up the process. QCAT adjudicates on a lot of body corporate matters at the moment. It was more about giving people options potentially and ensuring the process did not become unnecessarily protracted.

Mrs GERBER: But the specialist adjudicator would be adjudicating on the economic viability of a pretermination report and presumably that would be worth more than $25,000, which is QCAT's current economic limitation. How do you propose QCAT would be able to consider it?

Mr Marlow: QCAT deals with a lot of body corporate decisions so we just looked at it as something that potentially could be written into the act to help speed up the process.

Ms BOLTON: I do not think in your submission you mentioned sunset clauses. It was brought up by QLS that units, apartments et cetera should be included in the amendments regarding sunset clauses. Do you have a comment on that?

Mr Marlow: With regard to sunset clauses, we did not really consider that when preparing our submission. Our submission stated that basically we support the bill as drafted but for the specific changes that we have proposed, which were really just some minor tweaks that our membership raised with us.

Ms BOLTON: The issue of pets has been quite a topic. Do you believe the amendments in the bill will address the concerns of both residents and managers?

Ms Cannon: Yes, we do. Essentially, we see the proposed bill putting into place what adjudicators' decisions have done for quite a few years now. We think it is very balanced. It is pretty common in the industry now for most committees and most owners to know that there are limitations

in terms of what a body corporate can impose in terms of conditions, and ultimately those conditions need to be reflective of any local council rules and regulations as well. We are supportive of the proposed amendments in terms of pets.

Ms BOLTON: Thank you.

Ms BUSH: I have a couple of questions on some niche areas. You have made some recommendations in relation to towing. Can you expand on that?

Mr Marlow: One of our concerns generally speaking was the requirement to potentially self-resolve, particularly where the cause of the parking issue may be unknown, and what that means. For example, if I live in a unit and I regularly have a friend over who spends the night, their car would not be known to the body corporate and that person might not be known to the committee chair or the body corporate manager so it would be difficult in that instance to self-resolve. We just put forward that bodies corporate with a permissible by-law may be able to ask an adjudicator immediately for an order to tow where the car's owner is unknown but it is clearly a problem—that is, a particular registration number that is constantly there but no-one is quite sure who the owner is.

Ms Cannon: To expand on what Kristian has said, especially in larger schemes or layered arrangements, the biggest difficulty is identifying the vehicle owner. What the body corporate often faces in those problems is how they can go through the current dispute resolution process through the commissioner's office when they cannot identify a person or persons who own that vehicle. The proposed bill seems to try to streamline the process in some respects, but ultimately the difficulty is still going to be there in terms of identifying who owns that vehicle.

Ms BUSH: I understand, thank you. You also suggested that an amendment be made in relation to smoking to expand that to be 'regularly or frequently'.

Ms Cannon: Yes, correct. Really what we are proposing is to deal with what we often see in these types of disputes—that is, the subjectivity that can come into the application of these rules. While we are very supportive of the reform—again, it mirrors where case law currently sits—it is about how can we provide further scope, further particularisation, around what this actually means so there is a balance, so we do not have abnormal sensitivities being disputed and we can define in terms of what level we need to be able to progress it to a dispute resolution application.

Ms BUSH: You believe, based on your experience and consultation, that expanding it to capture 'frequently' would help reduce the subjectivity of that a little?

Ms Cannon: We think so. From our membership, a lot of what they field is: how do we support this? If we are going to take a dispute to the commissioner's office, for instance, how do we support the claim that we are bringing forward? A lot of the 'regularly or frequently' is trying to provide our membership with some scope to then go and educate their portfolios—their owners and their occupiers—about what does this actually mean? We thought the use of 'regularly or frequently' is a way that can further define a smoking nuisance or hazard.

Ms BUSH: You have mentioned an interesting aspect around having persons with power of attorney being able to stand in for a decision-maker—I cannot find which page it is on. Is that something that has come up for you and your members in that space?

Ms Cannon: Very often. It is quite common in schemes to have owners represented by alternative third parties. It is something that we thought the proposed bill is somewhat silent on. We welcome the committee and the drafters to ultimately turn their minds to whether there needs to be—

Ms BUSH: Some clarification there.

Ms Cannon: Correct.

Ms BUSH: You would also like some clarification or some kind of explanatory guidance on how to manage conflict of interest matters. Is that another area?

Ms Cannon: Conflicts of interest are, again, quite a topical issue in strata. It is something that our membership often fields a question on: what is a conflict of interest—actual, perceived, potential conflicts? How do you develop an interest? The current body corporate legislation already turns its mind somewhat to this point. Again, we have some case law that gives some guidance as well which is great. Based on what Kristian was saying before, in order to bring that independence and that impartiality to these reports to give the minority potentially some comfort, if there is any way to build some scope around what a conflict of interest is in the explanatory notes, we think that would go a long way to ease some concerns around how that conflict of interest provision could be applied in practice.

Ms BUSH: Such as a list of non-exhaustive examples.

Ms Cannon: I take your point. It would be a very difficult task. I think any sector would face that.

Ms BUSH: There would be some common ones.

Ms Cannon: Exactly, yes. Some scope, some practical examples—like the legislation already does—I think would go a long way to give some comfort there.

Mrs McMAHON: Your submission refers to the amendments around animals and clarity about keeping animals. Your submission also refers to adding flora to the list. Is plant ownership an issue for owners?

Ms Cannon: Yes, it is.

Mrs McMAHON: Can you elaborate on what the current issue is and why we need to extend it to include plants?

Ms Cannon: Yes. There are a lot of schemes coming up around the place—ecovillages and the like—that are really turning their minds to being green and being environmentally friendly. Again, we are trying to focus on not just dealing with the now but dealing with the future of strata schemes as well. There are a lot of schemes in Noosa, for instance, that are really taking to the green initiative. Our thinking there was to try to future proof the future to make sure that we are giving some protection to both fauna and flora.

Ms BOLTON: You mentioned the body of work still to be done. A lot of that is to be done by the working group that was formed. Is there any estimated time frame that the balance of the work will be completed?

Mr Marlow: We sincerely hope that it is within this term of parliament. We understand that there is about 12 months to an election. We would like to see this signed, sealed and delivered prior to that. We believe that the government committed to it prior to the last election. We believe that the government wants to honour its election commitments. We sincerely hope they do. We look forward to working across the aisle to ensure that as much of this as possible is passed in a nonpartisan fashion so that the community at large and, more importantly, Queensland residents and strata owners and occupiers can feel comfortable that their laws reflect the society that they live in.

CHAIR: If there are no more questions, thank you for your attendance. Thank you for your evidence. I understand that there may be one question on notice about the ability to obtain a second pretermination report?

Ms Cannon: Would we phrase it as a 'second' or an 'alternative' pretermination report?

Mrs GERBER: I do not think it matters.

Ms Cannon: One or the other? That is fine. I am happy to take that on notice.

CHAIR: Would it be possible to have the answer to the question on notice by close of business on Thursday, 14 September so that it can be included in our final submissions?

Ms Cannon: That is not a problem.

CHAIR: Thank you for your attendance.

HADDLEY, Ms Jessica, President, Strata Search Agents Association Qld Inc.

CHAIR: I welcome Ms Jessica Haddley, President of the Strata Search Agents Association. Good morning and thank you for being here. I invite you to make an opening statement.

Ms Haddley: Thank you to the committee for inviting me to appear as a witness today. As you said, Chair, I am the President of the Strata Search Agents Association of Queensland, which is an incorporated body of professional search agents. I am the principal of my own strata search agents company as well as being a solicitor in my previous career. You may recall I appeared on behalf of the association at the previous committee hearing which considered the proposed statutory seller disclosure regime in Queensland. Our organisation welcomes the government's commitment to reform in this area and we provide comment on certain aspects of the bill.

I will say at the outset given our fairly esoteric field of specialisation that our association proposes to confine its comment on the bill to the provisions amending section 205 of the Body Corporate and Community Management Act, which deals with information to be given to interested persons, including in relation to layered arrangements. It is through this section 205 mechanism that owners, buyers and their agents—be they solicitors or search agents—are granted access to search the body corporate records. For sellers, this is generally to conduct implied warranty searches or to undertake seller disclosure pursuant to section 206 of the act, which is soon to be repealed. For buyers, searches are generally carried out for pre-purchase due diligence purposes.

We note that the definition of 'interested person' in a layered arrangement, which is contained within schedule 6 '(Dictionary)' of the bill, defines an 'interested person' in a layered arrangement as 'the body corporate for another scheme that is included in the layered arrangement', as well as 'the owner or occupier of a lot included in another scheme that is included in the layered arrangement'. For consistency throughout the act, we suggest an 'interested person' should include an 'agent' of those persons as this will allow those parties to engage lawyers and search agents to inspect body corporate records. Section 205 already includes agents within the definition of an 'interested person', so this should be fairly uncontentious.

Our association supports the intent of clauses 24 and 25 of the bill that seek to clarify and streamline body corporate administrative and procedural requirements by confirming that certain electronic records are classified as body corporate records. We strongly support the facilitation of electronic access to body corporate records and, in particular, remote access. Clause 24 of the bill allows a body corporate to reach an agreement with an interested person on the method of inspection but, failing agreement being able to be reached, it allows the body corporate to nominate a reasonable time and place for inspection of records to occur.

Firstly, given the benefit of electronic inspections, particularly remote searching, we suggest that, where scheme documents are held electronically and the body corporate has the technical capacity to provide remote or electronic access to those records, the body corporate really should permit inspection to be carried out in this way. We therefore suggest that a note be included in the legislation to this effect.

Secondly, given that some community title schemes are managed in cities other than those in which the scheme is physically located, in cases where remote inspection agreement cannot be reached or facilitated we suggest a note be included in the legislation which states that the physical place of inspection should generally be in the same city or town where the scheme is located or where the interested person is based.

The next topic I wanted to talk about is basically one of the greatest bugbears of the search agent industry and our members—that is, what can be perceived as rorting by some body corporate management companies of the per page printing fee they are entitled to charge for providing copies of body corporate records. As noted in our submission, most searches that we carry out are in fact done electronically. Either they are done at a computer terminal at a body corporate manager's place of business or they are done remotely via a portal. Naturally, if paper records are provided, there is an understanding that a printing fee should be charged for that. That is currently 70 cents per page.

Some managers are in the practise of charging this 70 cents per page fee for the provision of electronic records. Others actually block the saving of electronic copies of documents in searches and they then require agents or interested persons to print the electronic document so that they then have to pay the search fee. Typically agents will then rescan the document electronically and save a copy and then destroy the original paper copy they have been paid to print. In some instances this can be hundreds of dollars of printing just in a single search where the documents are held electronically. It is

avoidable in many cases and is certainly not in the spirit of the original intent of the legislation, we would suggest. Therefore, we suggest this loophole be closed and a note included in the legislation which specifies that, where bodies corporate provide electronic access to records, an interested person may take electronic copies at no additional cost.

Finally, as the bill is amending section 205 of the Body Corporate and Community Management Act, the Strata Search Agents Association of Queensland seeks the committee's support for including a very simple subsection which states, and I summarise here—it is actually in the content of our submission—the owner of a lot included in the scheme may elect to prepare its own body corporate certificate, including via an agent, but where it does so it cannot rely on the certificate against the body corporate. This simple amendment that we are seeking addresses all of the concerns that we have previously raised and which the REIQ raised in its verbal submission in support of us concerning the statutory seller disclosure scheme back in April. We note that DJAG has actually expressed its support for persons other than the body corporate preparing such certificates but only via engagement by the body corporate. It stopped short of allowing sellers to make their own election.

We point out that this very minor amendment that we are seeking poses no risk to bodies corporate or body corporate management companies as a buyer's sole remedy for a defective certificate is termination of the contract of sale. We appreciate that this specific subsection is not directly addressed by this bill but submit that section 205 really needs to be considered in its entirety in its redrafting to ensure its efficacy. It is not in the interests of the public to place the sole responsibility for providing this important disclosure service in the hands of an industry which is essentially unregulated and then to provide the consumer of that service with no recourse against the provider of the service.

That concludes our submission on the bill. Thank you, committee, for your time and consideration of the matters our association has raised.

Mrs GERBER: Thank you, Jessica, for your very comprehensive oral submission and your written submission. There are some other aspects of the bill, and I just wanted to confirm that your association or the membership that you represent do not have a view on that. In relation to both sunset clauses and terminations of strata title schemes under the 75 per cent rule, you are silent on those, and that is intentional?

Ms Haddley: That is intentional. We decided that there were organisations and bodies better placed to provide comment on that. That is not within our specialisation.

Mrs GERBER: Thank you. In relation to one of your recommendations, you have recommended that bodies corporate present all records of the body corporate. I was not sure what you meant by that. Is that not already done?

Ms Haddley: No, not always in practice. It should be. It depends on the method in which records are presented for inspection. If we are granted electronic access, which is always preferable, usually we will be able to search the greater portion of the records. Many times, whether or not we can search a record is dependent on whether the body corporate manager has actually saved the document in the portal that we are searching. If it is sitting in their inbox, it is not searchable by us, and that is the situation that we come across day in and day out. If there has been an AGM, we do not know about the AGM because the minutes have not been saved, and it is only if we see a reference to it in a correspondence way back that we know to ask, 'Where are these AGM minutes?' We are saying that all of the records need to be searchable, and that is for the protection of the consumer at the end of the day.

The next issue is that, where documents are held in paper format, there can be boxes and boxes of records. We understand that it is not always feasible to have us sorting through all of these archive boxes, and usually they will just give us a few relevant folders, but the position should be that if we ask for access to certain records we should not be denied that because the records are held, for instance, offsite or in archive.

Mrs GERBER: Currently you are denied that?

Ms Haddley: We are on occasion. It is not something that I personally come across much myself. We predominantly perform seller disclosure, so I want access to recent minutes, community management statements and the like, but purchaser inspectors who are preparing more comprehensive searches do come across this very frequently, I am told.

Ms BOLTON: Jessica, my question is not related to your written submission or your oral submission, which has been very comprehensive—I get all of that—but it is related. When you are doing the search in your particular role, an issue that has been brought up previously is in regard to the lawful use of property and the planning scheme, and it has been raised previously in other inquiries

as problematic, including around the short-term letting issue. In any way, do you find that how these are recorded is problematic, as has been relayed, and makes it very difficult for local governments to monitor and ensure compliance?

Ms Haddley: Are you talking in terms of the keeping of records in relation to that?

Ms BOLTON: Yes.

Ms Haddley: Unfortunately, I cannot provide personal comment around those sorts of issues because it is not something that I do in my professional capacity. I do not search for these documents. I could take that question on notice and liaise with the association to see if any of my members come across that issue. It is not something that I personally deal with, so I cannot answer that, unfortunately.

Ms BUSH: Thank you, Jessica, for appearing today and for your written submission. You have made the recommendation that bodies corporate are required to keep their records in good and proper order. I am looking for a definition from you or what that might look like and—we could probably speculate—the reason behind that recommendation?

Ms Haddley: I search different body corporate offices day in and day out. Some of the venues that we visit keep records impeccably and we are very easily able to access up-to-date documents. Unfortunately, with others I go in with the expectation that nothing I am looking for is going to be available and that I need to then go on a fishing expedition to ask, 'Have any general meetings been held in the last two years? There are no records on file. Do you have a copy of the current community management statement? I know that there was one that we sent away to the solicitors a year or two ago for lodgement.'

Essentially, all of the documents that they are required to keep under the relevant regulation modules—there is a list of documents—need to be available to the search agent when searching. I think this comes back to an issue—and I have mentioned this in our submission—that, with body corporate management companies, the industry itself is unregulated. There are no formal qualifications or educational requirements to be a body corporate manager. There is no licensing and there is no oversight of the industry. We are giving this industry a very important disclosure function which is really putting the interests of the consumer in the hands of this industry, but in many cases, I would submit on behalf of our association, they are at least not keeping proper records, so if they are not keeping proper records and documents are in disarray or just not present, what else are they not doing properly?

Mrs McMAHON: In relation to your recommendations about the inclusion of the certificate of inspection of body corporate records, your submission indicates that that was one of your initial suggestions and that in this particular hearing you would like to re-litigate the case for the inclusion of that certificate. Could you outline to the committee the dangers of not having something like a certificate of inspection of body corporate? Where is the risk in not having that included in these amendments?

Ms Haddley: It is a bit of a strange situation because it was actually included in amendments to the Property Law Bill. Amendments in the Property Law Bill were proposed to section 205 of the Body Corporate and Community Management Act and now we have this recent bill also amending the same section. This is why I have chosen to talk about it today, because we are really talking about the same provision.

Currently, this disclosure function is undertaken by sellers. Sellers have been doing this for decades and they do it very well. If you try to look up any litigation around improper body corporate disclosure by sellers, it is almost impossible to find in Queensland. The reason is that sellers do not want their contracts to fall over, so they take every precaution to make sure adequate disclosure is performed, even disclosing more than they have to. Many of my clients are real estate agents and they encourage their clients to provide greater disclosure—for instance, copies of sinking fund forecasts or copies of minutes. These are documents they do not have to provide, but they want to give the buyer security and to have faith that the property they are buying is a safe purchase. This is the current situation. The intended change will mean that the only body that will be preparing this body corporate disclosure function will be the body corporate managers, in nine times out of 10. As I said, it is an unregulated industry. They do not really have an interest in ensuring disclosure is fulsome.

There has been a clause inserted into the Property Law Bill which states that in the case of defective disclosure body corporates and body corporate managers cannot be held responsible. The only remedy available to the buyer is termination of the contract. Our association acts for search agents who search on behalf of both buyers and sellers, so we see it from both sides; however, from the seller's perspective, they have no control over this disclosure. It has been performed potentially by someone who has no interest in ensuring it is done properly, with no qualifications or licensing, and

then if it is defective a buyer can then terminate the contract and the seller has no recourse. Their only recourse is to sue the body corporate—which is, in essence, suing itself—which will cause the seller's levies to go up.

What we are saying is that it just does not make sense to have this function centralised within the body corporate management industry. Sure, they can perform that function if that is something the seller is happy for them to do, but the seller really needs to have some agency here, and if they want to ensure adequate disclosure is carried out they can do it themselves or engage a lawyer or a search agent to perform that disclosure so that their contracts do not fall over.

CHAIR: Thank you, Jessica. I understand there is one question on notice from Sandy regarding the unlawful use. Is that enough information for you?

Ms Haddley: I might need to liaise with the committee secretary to get further detail around that question, if you do not mind, so that I can provide an adequate response.

CHAIR: No, not at all. They will be happy to assist. Is it possible to have that to the secretariat by close of business on Thursday, 14 September so we can include it in our deliberations?

Ms Haddley: That will be fine. Thank you, Chair. Thank you, committee.

CAIRE, Ms Jessica, Deputy Executive Director, Property Council of Australia

CONLON, Ms Kristan, Chair, McCullough Robertson Lawyers

CHAIR: I now welcome representatives from the Property Council of Australia. Good morning and thank you for being here. I invite you make an opening statement of up to five minutes.

Ms Caire: Thank you. My name is Jess Caire, Queensland Deputy Executive Director of the Property Council of Australia. Joining me today is Kristan Conlon, Chair of Partners at McCullough Robertson Lawyers, property lawyer and long-term Property Council member. Thank you for the opportunity to provide feedback on behalf of the property industry in relation to the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. The Property Council is the leading advocate for the Australian property industry, and here in Queensland the Property Council has 400 members representing a cross-section of the property sector and spread across all asset classes. Our members are critical in assisting the facilitation of the delivery of much needed supply to market and work collaboratively with all levels of government. There are two elements of this draft bill we wish to draw your attention to: the termination of schemes and sunset clauses.

With regard to the termination of schemes, we welcome the reduction of unanimous thresholds to 75 per cent. Implemented correctly, it will go a long way to achieving the housing targets articulated in the draft South East Queensland Regional Plan, whilst delivering homes in close proximity to existing infrastructure and amenity. We do wish to caution that to achieve the intent of the policy the reduction should not be linked to the economic viability of a scheme. Further, it is of paramount importance that enacting the termination is not cost or time prohibitive to the lot owners. In relation to the sunset clause amendments, we are eager to ensure this does not extend from land only to off-the-plan sales of apartments. There are great concerns about the retrospectivity application which is proposed within the bill.

The federal government's Housing Accord points to delivering one million well-appointed homes. Many of the schemes that will benefit from the reduced thresholds to terminate are ageing buildings located in high-density areas, well positioned to public transport and other key infrastructure. The redevelopment of these ageing and in some cases unsafe buildings is vital to achieving the 900,000 dwellings that the recently released draft South East Queensland Regional Plan projects we will need by 2046.

These are lofty targets but ones that we cannot fall short of. The Property Council has long advocated for the reduction of unanimous thresholds and applauds the government's leadership in reviewing this as part of the October Housing Summit. To achieve the desired intent of the policy—that is, to facilitate the redevelopment of ageing stock and allow lot owners to unlock capital—it would seem appropriate to align with the New South Wales reform and not link the reduction of thresholds to economic viability. This reform, which has preceded Queensland's, has not resulted in poor community perception or any detrimental outcomes to our knowledge.

In the event that the link between termination and economic viability remains, it is critical that the legislation has a process that is simple to follow and ensures the time frames required to enact a termination, along with the costs attached to the process, are not prohibitive in nature. As it currently stands, the legislation creates a protracted and expensive process. We have heard countless stories of elderly owners stuck in dilapidated buildings that in some cases pose health hazards, but due to the nature of current termination rights they are unable to sell without the support of the entire scheme. They cannot sell their investment for market value and they remain captive, unable to unlock their capital and access alternative housing. Further adding to owners' woes is the financial uncertainty and pressures of significant maintenance as expenses escalate as the building deteriorates. Ensuring these owners can readily and simply access the appropriate measures to swiftly enact a termination of the scheme would do much to alleviate the housing supply challenges we currently face.

This bill also contains a review of sunset clauses in relation to land contracts for off-the-plan sales. It is widely acknowledged by the private and public sectors that the last two years have delivered extraordinary challenges, and as the industry continues to grapple with these challenges there have been a handful of situations where some developments have not been able to proceed. Whilst the Property Council stands firm that the education of purchasers entering into off-the-plan sales is of paramount importance given the complexity of such transactions, we caution against introducing legislation that responds to momentary challenges. We caution against retrospectively applying changes to well-known legislation. We wish to be on record as stating that this implementation should not extend past greenfield land transactions, as any expansion to apartment buildings requires detailed consultation given the unique nature of financing and development requirements of apartment projects.

Broadly speaking, we urge against any constrictions on much needed housing supply. We are happy to answer any questions, and if we are unable to provide an immediate response we will commit to taking the question on notice and providing you with an answer.

Mrs GERBER: Thanks very much for coming along today and for your written and oral submissions. I want to get a clearer understanding of the termination provisions in the bill. Is it the Property Council's view that social factors should not be taken into consideration in relation to the economic value mechanism that is currently in the bill?

Ms Caire: Can you expand on what you mean by social factors?

Mrs GERBER: I am talking about, for instance, the property being close to amenities, the property being close to a beach, the property having access to all of the social factors that go with why a person wants to live where they live. Is that my understanding of your submission?

Ms Caire: Our position is that the reduction in the threshold should apply to strata termination where redevelopment is appropriate or what the super majority has elected for that development and not necessarily linking it to the economic viability of the strata scheme—that is, can it afford to maintain the building for the foreseeable future or five years, which is what the legislation has outlined. Does that answer your question?

Mrs GERBER: Sort of. Currently the bill proposes that the termination of a community title scheme may happen if the scheme is used for a commercial purpose—there are two linked—and one is in relation to the economic viability of the body corporate scheme. Are you proposing that economic viability not take into account those social factors that I just talked about, or are you proposing a whole different definition in the bill?

Ms Caire: My apologies, I am confused by your question. Can you rephrase it for me? I am just rereading our sentence here with regard to social effects. These strata schemes are quite often well-appointed, high amenity and close to infrastructure. Our position is that it is the best outcome for the scheme to be redeveloped as the super majority elects.

Mrs GERBER: Currently the bill uses the term 'economically viable'.

Ms Caire: Yes.

Mrs GERBER: What is your understanding of that?

Ms Caire: That you must be able to pay for maintenance long-term on the building and be able to repair and look after the building in order for it to sustain a component.

Mrs GERBER: 'Economically viable' is not defined in the bill, so where are you pulling that from?

Ms Caire: My understanding is that they must be able to maintain and keep good repair of the building in the immediate future and five years thereafter. That is what is outlined in the bill.

Mrs GERBER: Can you point me to that, please?

Ms Caire: My apologies, I am just looking—

Mrs GERBER: The reason I am asking that is because it is my understanding from reading the bill that in subclauses 81A(a) and (b) the terms that are used are 'commercial purpose'' and 'economically viable', and neither of those terms are defined in the bill. You have a different view of that; is that correct?

Ms Caire: With regard to clause 81A, 'What are the economic reasons for termination ... if all of the lots included in this scheme are used for a commercial purpose', we question the relevance of 'commercial purpose' in our submission. Subclause 81A(b) states that on the day a pretermination report is given to lot owners it will not be financially or economically—you can see the word 'financially' has been struck from the first draft and changed to 'economically'—viable for the body corporate to carry out repairs to the building. It is our understanding that the sinking fund does not have enough money in it to sustain the maintenance and repairs of the body corporate.

Mrs GERBER: I will pass to someone else.

Ms BOLTON: In your oral submission you said that you do not recommend extending sunset clause amendments to units. Can you just quickly explain why not?

Ms Caire: The contract components with regard to off-the-plan land sales are distinctly different to that of off-the-plan apartments. It is not like for like given the nature and difference of the developments.

Ms BOLTON: In your written submission you highlighted media reports where sunset clauses have been used to terminate contracts. Do you have any recommendations on how to prevent more sellers using sunset clauses to unfairly terminate contracts? We have had examples of that in our own communities, especially over the last four years.

Ms Caire: No, I do not have any suggestions on how we can amend that, I am sorry.

Ms BOLTON: You did give an example. Is there anything you wish to say about that example?

Ms Caire: I think consumer awareness and understanding the complex nature of off-the-plan contracts is of paramount importance. It is critically important that when people buy into an off-the-plan contract they should seek appropriate legal advice with regard to the rights and obligations of both seller and buyer. Both land and apartment contracts are very complex.

Ms Conlon: Also there can be conditions in off-the-plan contracts, and if a buyer appropriately understands what the rights of the seller are in that regard they will be informed and know that there are certain risks associated with entering into that, which is why legal advice is so important in that regard. For instance, you could even not have DA at the time you go for an off-the-plan at the time you embark on sales—that is not something I would recommend, but it does happen—in which case there is a higher chance that a development might not proceed.

Ms BOLTON: Do you agree that the Supreme Court is a good mechanism to determine whether it is being utilised inappropriately, especially when we have seen such increases in land prices where somebody has a contract for a certain period, but three years on the price of that land suddenly has doubled so the sunset clause is being used. I am still trying to get an understanding of whether you are literally supportive of the amendments regarding sunset clauses.

Ms Caire: We caution against the extension of them to off-the-plan apartment buildings and the retrospectivity that is proposed. If it is to stay for greenfield only, as per our submission, then with the caution that we do not want to extend it further to apartment buildings and we caution against the retrospective nature that would be applied because that would be grossly unfair to sellers.

Ms BUSH: I have one question in relation to retirement villages. You have spoken a little bit about that and how they should be carved out of this bill. Can you expand on your reasons for that?

Ms Caire: Retirement villages are conceptually different in nature to a community titles scheme and they already have their own statutory overlay with regard to consumer protections. They function in an incredibly different manner. The Retirement Villages Act allows for carve out and closure of a retirement village scheme, so we see them as completely different assets to that of the community corporations and stratas that are being captured within this bill.

Ms BUSH: Allowing those clauses to remain in this bill, would there be harm done with the intersection, in your view, to the RV Act, or do you see them as compatible recommendations?

Ms Caire: Our preference is that retirement villages are completely carved out of this, and that is explicitly indicated within the bill. That would be our preference.

Mrs GERBER: One of the recommendations you have made is that the 75 per cent termination resolution be expanded to other property schemes. Can you explain to us what schemes you are talking about?

Ms Caire: With regard to that, which is what I was trying to articulate not particularly well earlier—it is a little bit nerve-wracking sitting here, I would like to add—the Property Council has long advocated for the reduction of these schemes because the 75 per cent acknowledges that the super majority wishes to terminate the scheme. We acknowledge the finality and permanency of terminating a strata scheme. We understand why the economic link has been put in there. As I pointed out, a lot of these schemes are ageing buildings that cost a lot to maintain and the best outcome is to sell and have it redeveloped for higher and better use. We would like to see that extended to the point where it is not reliant on it just being economically not viable. For example, if the 75 per cent agreed that the best outcome for the super majority was to redevelop the scheme, then that is what we would like. We would like to see it relaxed and adopt that New South Wales model where they have not put that link or that test from the economic viability point of view.

Mrs GERBER: Probably saying 'expand it to other property schemes' is not quite right. You are saying that the test should be removed—

Ms Caire: Yes.

Mrs GERBER:—and that if a super majority want to force—

Ms Caire: Across strata schemes, yes. Apologies for that confusion.

CHAIR: If there are no further questions from the committee, I would like to take the opportunity to thank you for being here and providing information to the committee. There were no questions taken on notice. Thank you.

Ms Caire: Thank you for allowing us to be here today.

Proceedings suspended from 12.15 pm to 1.04 pm.

BEAVON, Ms Katrina, General Counsel, Real Estate Institute of Queensland

MERCORELLA, Ms Antonia, Chief Executive Officer, Real Estate Institute of Queensland

CHAIR: I would like to welcome John-Paul Langbroek MP, member for Surfers Paradise, who is substituting for Laura Gerber, member for Currumbin. I now welcome Ms Antonia Mercorella and Ms Katrina Beavon. Thank you for being here. I invite you to make an opening statement of up to five minutes.

Ms Mercorella: Thank you for the opportunity to provide our views and input in relation to the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. The Real Estate Institute of Queensland, or the REIQ as we are more commonly known, is the state's peak body for the real estate industry, representing the real estate profession for more than 100 years. As the body representing real estate professionals, the REIQ provides training, advocacy, advice and support for Queensland's real estate community. We are also committed to providing education and support to the broader Queensland community on real estate related matters.

The REIQ supports the real estate profession in a number of ways: providing property management support and agency advice support services to ensure compliance and best practice standards are maintained; offering access to a leading cloud-based real estate forms platform that facilitates virtually every residential real estate transaction in Queensland including both property sales and tenancy agreements; hosting events and forums to enable real estate professionals to maintain their knowledge of practice issues and emerging issues; providing advocacy support; and, of course, providing regular training and communication to ensure real estate professionals remain compliant and up to date.

REIQ's membership and customer representation includes over 50,000 property professionals. This encompasses principal licensees, salespeople, property managers, auctioneers, business brokers, buyers' agents, residential complex managers and, of course, commercial and industrial agents. We also extend our support and our expertise beyond the membership to the broader real estate community. We also believe that everyone should be able to make educated and informed decisions when it comes to buying, selling or renting property and/or business in Queensland. We work closely with a number of stakeholders and groups, and we are committed to the protection and advancement of various stakeholder interests.

The REIQ has been involved in the property law review since its inception. We have been an active member of the Community Titles Legislation Working Group. We are, therefore, intimately familiar with most aspects of the amendment bill. We note that there are currently some 50,000 community title schemes in Queensland today. However, we foresee that there will be an increasing number of these due to our population growth. We believe that it is important that housing models adapt and that laws are modernised to ensure that community title schemes are appropriately designed to reflect modern day views and community expectations.

The legislative framework that we are discussing today needs to balance the rights of all stakeholders in community titles schemes. We note that the amendment bill is due to commence on a date that is to be proclaimed. As we have noted in our submission, we believe that it is very important that there is at least a 12-month lead-in time to allow for relevant stakeholders to be properly educated. It is also worthy to note that there are several other legislative reforms that are in progress as we speak which will have a very material impact on the real estate sector. These include the introduction of a statutory seller disclosure regime and, of course, stage 2 rental law reforms. Our concern is that, if we do not have a sufficient lead-in time for implementation of the new legislation, this could mean that the sector and relevant stakeholders do not understand the new legislation and that would undermine its impact.

It is important that government understands that, when changes of this nature are made, appropriate support needs to be dedicated to educating those stakeholders who will be responsible for playing a leading role. In that respect, the REIQ sees that it will play a critical role in educating the real estate sector. In conclusion, we are generally supportive of the amendment bill, subject to the views that we have expressed in our written submission.

Mr KRAUSE: Thank you, Antonia, for your submission. One of the questions I had was how long do you think the lead-in period should be, but you have answered that—at least 12 months. Is that your ideal time or would even longer be better? Do you think it would be too long if it went further than that?

Ms Mercorella: That is an excellent question. It is always difficult to know what an appropriate lead-in time is. If I reflect on, for example, the lead-in time for smoke alarm related legislation, there were different tiers depending on the circumstances, but potentially up to five years arguably is too long because people become complacent and leave it to the last minute. I think a minimum of 12 months is appropriate. Normally I would say 12 months would be sufficient. Our only concern is that, as I say, there is an enormous amount going on that arguably impacts the same group of people. Twelve months would be the minimum. Slightly longer would be preferable, but I am conscious that this is getting very long in the tooth. This process commenced in 2014. I understand that this has been a long time coming.

Mr KRAUSE: I understand that the REIQ is not supporting the sunset provisions. Could you explain why?

Ms Mercorella: I said earlier on that we are quite familiar with most aspects of the amendment bill. This is perhaps the exception to that statement. It is something that has not been perhaps part of the working group discussions from the outset. It is an area that is really outside the field of our expertise.

Our main concern in respect of sunset clauses and what is being proposed is that, as we understand it based on conversations we have had with other stakeholders who have deeper expertise in this area, it does not sufficiently contemplate the complexities that are associated with a developer gaining whether it be approval or even through to completion and that it could have a significant impact on the number of developments that developers are prepared to contemplate because of the way that it operates in terms of not giving them the right to rely on the sunset clause in the normal way that they would be able to today.

Mr KRAUSE: Are you referring to the UDIA's submission and what they have said about that issue?

Ms Mercorella: Yes, predominantly given that they are the stakeholder with the deeper expertise, and also to some extent the PCA, the Property Council. I would say that we are aware—particularly last year we did hear some concerning cases about some buyers who were facing contracts being terminated at the eleventh hour. We do understand that this proposed legislative intervention is perhaps to address that issue, and that is understandable. I would say, though, that that was probably a fairly extraordinary period in our history. I do not know the scale of the problem. Certainly I can understand how devastating that would have been for the purchasers involved, but whether this particular legislative reform is proportionate and appropriate is perhaps the question that we would pose.

Mr KRAUSE: Rather than it being a sledgehammer to crack a nut, as seems to be what you are suggesting it might be.

Ms Mercorella: I think so and again, as we have said, it is an area that we do not pretend to have deep expertise in, but certainly we have been involved in the Housing Summit and the round tables. All of the community is acutely aware of the need we have for more housing, and I think any legislative proposals need to be balanced against that also. At this time we need there to be confidence in building new housing supply and there is a concern that this would likely have a detrimental impact on that.

Mr KRAUSE: Understood. Going back to the termination provisions, your submission questions the minimum compensation calculations and, I understand, proposes another method. Can you tell us more about that, please?

Ms Mercorella: The termination provisions, of course, we can probably all agree, are fairly contentious and quite bold, frankly. There was a proposal, if I remember correctly, about a decade ago and I think it felt too extreme. Time has marched on and we recognise that there are some schemes where waiting to obtain a unanimous decision is probably impractical if not impossible. We support the termination provisions in the context that they are presented in the amendment bill.

If you are one of those lot owners with a dissenting view or, indeed, even one of the lot owners who has actually agreed then our position is that it is really important that you are able to be compensated adequately and appropriately. To that end, if I focus on a dissenting view, at minimum you should be entitled to obtain for your lot the same amount as if you were selling it on the market, with a marketing campaign behind it, the way you would in an arm's length transaction. At minimum you would want to be put back in that position where it also contemplates improvements that you have made within the lot to ensure we do not have a situation where,, effectively you are being told you must

sell, potentially against your will. At minimum I think it is incredibly important that those lot owners are adequately compensated and, of course, other stakeholders. For example, management rights operators should also be adequately compensated.

Mr LANGBROEK: My question is about the smoking disputes issue. I know that you have a view. I preface that by referring to the case in Artique, which is a unit complex in my own electorate, where someone was adjudicated against for smoking. That became quite problematic for this particular person, who was subsequently summonsed to the Magistrates Court and then that case was thrown out. I am interested in the REIQ's views about the smoking provisions. I think you have asked for examples to be put in legislation. Obviously that is an issue that came up at QCAT, where the first adjudicator to rule on health provisions came up with the ruling that they did, which has led to this legislation.

Ms Mercorella: Again, I think it is a great example of how community expectations and standards evolve and the law needs to evolve with that process. Like all of the topics that are being discussed, they are challenging topics. When it comes to smoking, our position is that it is now very well established that passive smoking creates risks for people. It is passive smoking so has risks for people around the smoke. The Artique decision at the time was extremely controversial. There is a view that that particular decision perhaps went too far in terms of breaching the rights of an individual to behave or to conduct themselves in a certain way within their own four walls.

I think what the amendment bill proposes is actually quite reasonable. It does not go, in my view, as far as the Artique decision went. It really is limited to not allowing you to smoke in an area outside of your lot, so a balcony area or a patio area. That is probably appropriate. On our reading, it still allows you to smoke within your property. It also does not talk the way Artique did about how even when smoking indoors that particular respondent needed to find a way to ensure there was no smoke drift.

We are generally happy with the provisions as they are drafted in the amendment bill. Our only concern is the degree of subjectivity that is still contained within the amendment bill in relation to its reference to the regularity of the thing. I think the words are 'regular use' and 'regularly exposed to'. You can imagine that one individual might believe that one cigarette a day meets that threshold requirement versus Katrina, who might say it is 20 cigarettes a day. Whilst I appreciate that normally you would not want that degree of specificity in an act, I think in the context where these are people who need to see each other on a daily basis it would be helpful to include some specific examples. To that end, it might be useful to consult with a range of stakeholders—for example, the Cancer Council or other bodies that perhaps have a view on such matters and can refer to the relevant data, for example.

Mr LANGBROEK: Parking is a significant issue in my electorate. Along with Southport, I think I have more bodies corporate than all of the other electorates in Queensland combined. Parking in common areas is something that you have referred to in your submission. I am interested in the extra requirements that the REIQ suggested, because it is a significant issue around Surfers Paradise.

Ms Mercorella: It is a really significant issue. Again, my understanding is that the working group spent an enormous amount of time on this issue. I have heard it argued, 'Why did towing make it into the amendment bill when it is not that important?' We would argue that it is actually very important and is the source of many disputes. We are supportive of what the amendment bill is seeking to do.

Again, education is extremely important in respect of this issue. It is making sure, for example, that there is very adequate signage and highly visible signage and that there is sufficient education that includes lot owners as well as tenants because, of course, the occupiers of the lot change over time. One of the other complexities is that we live in a very multicultural society so it needs to ensure that is well understood. Something that is common sense to me may not be common sense to someone else who perhaps has English as a second language or who has come from another country and may not be familiar with Queensland laws. It is an appropriate provision that is necessary but, again, education will be of paramount importance to prevent some of those disputes and, I dare say, potentially physical altercations as well.

Ms BOLTON: Going on to pets, which, in your recommendations, for another reason was to be included.

Ms Mercorella: Yes.

Ms BOLTON: This is in regard to respective lots and whether they are unsuitable for keeping an animal et cetera. Of course, pets come in all different sizes and have different needs. One size does not fit all. How would you envisage that? One pet may not require to be in a fenced area because they always live inside as they are a house dog. Can you explain that a little more?

Ms Mercorella: In relation to pets, we think it is very important that there is a consistency with the Residential Tenancies and Rooming Accommodation Act. As part of stage 1 rental law reforms, there are now prescribed grounds that an owner can rely on to withhold consent to a pet request. There are probably two reasons for us asking for this. The first is that it creates that consistency to reflect the grounds that are available under the Residential Tenancies and Rooming Accommodation Act.

To go your point, that is exactly why I think it is so important that a provision of this nature is there, because pets, of course, come in all sizes and shapes and I think the wording that we have proposed is broad enough and is sufficiently flexible to allow for that. It may be that a very small cat does not require a particularly large space or it may not require a fence but, of course, if it is a 20-kilo dog, for argument's sake, or perhaps even a different type animal then it may simply be inappropriate to allow that animal to be housed within the lot in a way that is humane for the animal or simply appropriate in the context of the scheme and in the context of the type of animal and its size.

Ms BOLTON: Going back to sunset clauses, you said that it was not a working group discussion.

Ms Mercorella: Yes.

Ms BOLTON: How is it determined what would be relevant to discuss given that sunset clauses are quite a big issue? Who determined what was to be discussed and handled?

Ms Mercorella: I must confess, I was not personally involved in that particular working group; one of our colleagues was. My understanding is that there were terms of reference and that there was an array of topics that had been agreed to. Again, I think most of those topics go all the way back to the commencement of the property law review, which included both the seller disclosure regime and changes to the Property Law Act as well as modernising body corporate legislation. I think the QUT group played a very instrumental role in determining the appropriate issues. I do not believe the working group decided the topics. I believe that was predetermined at the time that the working group commenced. I am looking at my colleague to see if I might be wrong.

Ms Beavon: Yes, that is correct. The committee that ran the working group provided us with information and the topics that we were to provide our views on. We were generally provided with a paper with questions relating to that particular matter and that is how it was determined. Largely, a lot of the items that have been discussed within the bill were discussed at the working group and essentially this is the outcome of all those discussions.

Ms BOLTON: Except for those that seem to have been missed out, like the sunset clauses?

Ms Beavon: Correct.

Ms Mercorella: To be fair about the sunset clause—again, I am conscious that I was not physically sitting in the room with the working group—my understanding is that that was not part of the original set of issues. With some of the stories that started to emerge last year, the attorney-general of the day was concerned about that. I recall that the attorney asked our views about that and that she had an appetite for adding this issue because the amendment bill was in progress. However, I do not believe that it was discussed at length at the working group.

Ms Beavon: As a disclaimer, it might be the session that we did not attend, so I want to be frank about that.

Ms BUSH: Some of the questions I had have been asked and answered. I want to ask you whether you had a chance to read or hear the submission from the Property Council. I guess they did not agree with the bill linking the reduction of the threshold of approval to terminate to the financial economic viability of a scheme. I am interested in your views on that.

Ms Mercorella: It is a difficult question and a difficult topic. Our position is that, in terms of the way the amendment bill is presently drafted, where there are only certain grounds enabling you to terminate with only a 75 per cent majority, we think that is probably appropriate. If one were to expand that to say that it should be available for any reason at all—so simply that 75 per cent of the lot owners got together and said, 'We feel like selling'—I think the REIQ's position is that that feels perhaps too broad and that there are not sufficient protections around that. If you think about a person who owns a lot in a scheme being told, 'Irrespective of your position, we are going to sell; we have a 75 per cent majority,' our position is that the grounds upon which you can do that as set out in the amendment bill are at this stage appropriate. Our position on that may evolve and may change over time, but I think today our position is that that limitation is, in our view, quite appropriate.

Ms BUSH: Thank you. This question is a little bit out of scope but it is in your submission, so I will ask it: can you speak very briefly to the amendments we are making around minimum standards in rentals and some of the complexities that throws up for strata schemes?

Ms Mercorella: Yes, thank you. In many respects our position in relation to minimum housing standards is consistent with our position on pets. Our concern is that there are two different pieces of legislation but they overlap, and adequate consideration has not been given to that where the lot is occupied by a tenant rather than a lot owner. Minimum housing standards commenced on 1 September this year. As you would have seen in our submission, they relate to a range of different things: the property needs to be structurally sound and weatherproof, plumbing needs to be working appropriately, locks on windows need to be functioning et cetera. All of that I think is quite acceptable and reasonable. Our concern is: in a lot in a CT scheme there are some potential repairs or maintenance issues that involve common property and therefore may involve or require the input of the body corporate. The challenge becomes that under the Residential Tenancies and Rooming Accommodation Act there is no qualification for a lot in a CT scheme. The property owner is simply required to comply with minimum housing standards. If they do not, that gives rise to termination rights, to compensation rights and potentially to a QCAT repair order attaching to the property.

If it is a minimum housing standard that is an emergency repair, that also means that the tenant actually has the statutory right to go ahead and make the necessary repair, improvement or adjustment to meet the minimum housing standards. Of course, that can be problematic in the context of a CT scheme. Some of the examples we have given are things like: if there is a plumbing issue—therefore there is an argument that the minimum housing standards are not met—but potentially the repair of that plumbing issue might involve access to the common property or may even impact on the common property, that has not been considered. If you think about an apartment building, you will often have a fire-rated front door. If a lock was not working and you were to decide, 'Right, that is something I am allowed to do as a tenant' and you go and just drill into that door and pop a lock on it—it seems a fairly innocent act, of course—it would compromise the integrity of that door and also potentially breach body corporate requirements around that particular type of door and who is allowed to touch it. These are all the sorts of issues where there is potentially a clash. It leads to the property owner potentially breaching the Residential Tenancies and Rooming Accommodation Act in a way that they are unable to rectify it because it is beyond their control.

Ms BUSH: Those obligations are attached to the owner, not attached to the body corporate necessarily?

Ms Mercorella: Correct.

Ms BUSH: Has that been tested yet?

Ms Mercorella: It has not yet been tested because, of course, minimum housing standards have only just started. What is starting to rear its head a little bit—I would not say it has been properly tested as yet but I suspect it is coming—is the pets issue, where the same argument applies. An owner under the residential tenancies legislation is required to respond to a request for pets within no more than 14 days and if an answer is not given within those 14 days it is deemed to be a yes. Under the legislation we are talking about today, it can take six to eight weeks to get a decision. There is an inconsistency there and, again, it puts the property owner in a position where they are breaching residential tenancies laws even though they are probably required to get body corporate approval.

CHAIR: That brings this session to a close. Thank you for your attendance and for your written submissions.

FOX, Mr Richard, Body Corporate Manager, The Hills Residences, Everton Hills (via videoconference)

CHAIR: Thank you for being here. I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Mr Fox: I am here to speak to you about the parking issues at my residence in the hope that it gives you some context to the impact of the proposed changes. Three of the major issues our complex deals with on a weekly basis are: one, residents parking in vehicle spaces regularly—often for long durations—causing visitors to park elsewhere on common roadways, outside other residents' garages or parking spaces and in bin collection areas; two, residents, visitors and commercial vehicles parking on gardens and grassed common areas, creating maintenance issues due to damage caused and, on top of that, restricting access throughout the complex; three, residents, visitors and commercial vehicles blocking access to our fire hydrants; and, four, the cumulative effect of visitor spaces being taken up by residents—for example, 'Hey, unit 32 is parking there. Why can't I?'

The overarching effect here is that when people park where they please access to lots becomes blocked or restricted and a risk to residents increases. To be clear, points 1 and 4 are weekly occurrences where I live. They are cumulative in that when a certain few park incorrectly the next person to come along will usually do the same thing, exacerbating the issue. Speaking from personal experience, I have had my own garage blocked numerous times because of vehicles parking wherever they please. I have two small kids who are not particularly helpful with groceries or school bags, but, being an able-bodied person and somewhat active, I suppose, I can walk the 150 metres to my home with kids in tow. It is not really much more of an inconvenience to me, but in my complex we have elderly and differently abled residents. For example, my next-door neighbour is an ex-police officer who suffers from a debilitating medical condition causing constant and severe back pain. Up until recently he was also receiving chemotherapy. I do not have to tell you that it is definitely more than just an inconvenience for him when he cannot get to his garage. If there is a situation where emergency services are required, it becomes an even greater risk to our residents. If I cannot fit my small four-door sedan through, how can a fire truck or an ambulance get to a lot at the back of the property?

The current laws in Queensland are such that strata property managers and bodies corporate have no recourse to correct unfair parking practices on common property. In essence, I can whinge and we can complain all we can like, but we are a toothless tiger when it comes to enforcement. I ask that the state government responsibly empower strata managers and bodies corporate to tow and/or fine vehicle owners after reasonable unbiased mediation fails. Thank you for hearing my concerns. I am happy to take any questions you have.

Mr KRAUSE: Thank you, Richard, for your submission. I take it from what you are saying that you think the bill before us at the moment simply does not fix the problems you are talking about; is that correct? It does not go far enough?

Mr Fox: I think it is more just highlighting that this issue needs to be looked at. Not being a lawyer, I would not know how far it needs to go. I am just sort of giving you some context.

Mr KRAUSE: Is it fair to say that you would like bodies corporate to have an express power to be able to tow vehicles away and give costs for that to the people who are responsible for it?

Mr Fox: Yes, but I am also mindful of the other side. I consider myself a reasonable person, so I would not just go ahead and tow vehicles simply because they are in my way. I think the legislation needs to be aware that there are bodes corporate and bodies out there that are going to take it too far, so perhaps restricting it from the other side is warranted.

Mr KRAUSE: The issues you raise around access for emergency services vehicles and for people who are older and have different ability to move are very valid. I can see from your submission that you are putting forward quite valid points to try to address those concerns. In your experience, you seem to be saying that it is just not possible at the moment for bodies corporate to effectively manage that?

Mr Fox: That is correct.

Mr KRAUSE: I think your submission is quite self-explanatory.

Mr LANGBROEK: How many residences are at The Hills Residences?

Mr Fox: Ninety-one.

Mr LANGBROEK: Are they duplex type houses serviced by common roads with visitor car-parking spaces amongst them?

Mr Fox: That is correct, yes. It is a townhouse complex and there is a single loop road that goes around.

Mr LANGBROEK: My question is about fines, because I cannot imagine it would create a lot of goodwill amongst people if the chair of the body corporate is going, 'Here you go. Here's a fine.' I am interested in how you thought you might bring that in.

Mr Fox: I would say a fine in partnership with a breach notice. The way that we do things at the moment is that if there is a vehicle parked in a spot that is causing issues, we leave something on the windshield. If that does not work, which it often does not, we often have to go into breaching the owner of the vehicle which is quite often either a renter or a resident owner. I would think any sort of fine would come after that, whether that be an increase in the quarterly fees or something else. I suppose what I am trying to say is that at the moment we cannot go further than we already have. We cannot tow a vehicle or we cannot offer a fine, so there is no incentive for the behaviour to be corrected. Whether or not we do have fines or whether or not we say flat out, 'We are going to tow you if you park your car there again,' I think that needs to be specified within the legislation, not only to protect the property and the body corporate but also the residents themselves.

Mr LANGBROEK: I take that point. The REIQ just made their submission in which they thought that education is an important part of it because a lot of people who come into bodies corporate, especially renters who are on short-term leases, may not always know the rules. That is the point of this legislation: it is obviously going to be doing something about it. It is an issue in Surfers Paradise as I have mentioned already—in shopping centres—and people often, without the real knowledge, say, 'I think I can tow it,' not knowing they cannot, especially in a residential complex. Thank you for that.

Ms BOLTON: Richard, from my understanding of the amendments in the bill, it literally does assist bodies corporate in removing the impediment to bodies corporates to be able to tow a motor vehicle, but from what you are saying, that is not the case; it is not providing that?

Mr Fox: Again, I am not a lawyer, so I cannot exactly tell you. All I can express is my opinion. I could not answer that, to be perfectly honest.

Ms BOLTON: If that is the intent in the bill, you are supportive of that?

Mr Fox: Absolutely, yes.

Ms BOLTON: On the amendments regarding pets, have you had a chance to look at those to see whether you are supportive of them or not?

Mr Fox: No, I have not looked at them, sorry.

Ms BOLTON: The smoking in common areas and also on balconies, how would that impact your particular body corporate and residential amenity?

Mr Fox: We have had some residents complain that people in their back courtyard smoke quite a bit, especially if there is a party or a gathering. Again, that is something I would support if there were restrictions in place.

Ms BOLTON: Thank you so much.

Ms BUSH: Thank you, Richard, for coming along today. I think your written submission and your oral submission today is really comprehensive and I get a sense of where you are coming from. In your submission, you mention that you are aware that this could be considered to be a minor issue, but I think you have done a great job of outlining the frustration and potentially the danger that some of these behaviours have, so I want to thank you for doing that. Section 9 of the bill in front of us is going a long way to achieving what you want, which is allowing bodies corporate to tow vehicles from common property of the scheme, if it is parked in contravention of a by-law, so I think that will go some way to assisting you, and I think that is what you are saying also.

If this bill is to progress and to form part of the act, as a chairperson of a body corporate, how do you find out? Who informs you? Is it on you to be proactively finding these changes to legislation and making your other board members aware of obligations and rights and responsibilities? That is obviously being fed to you through a peak body. How do you become aware of these changes? From the education perspective, which we have all acknowledged is important, how do we educate all of the bodies corporate?

Mr Fox: I understand your point. I get a lot of my information through our strata manager. I, however, think it would be very helpful if there were a direct means of accessing committee members and the chairpersons directly. I think that would be of great benefit. At the moment I receive second-hand information, and if there is an issue that is brought to my attention, I literally have to go out and start trying to read legislation and ask for advice to try to get where we stand. If there is another way of bringing education direct to bodies corporate, that would be fantastic.

Ms BUSH: Certainly I am a bit blind in terms of this sector, but if there was a portal or something that you could reach out and check your obligations, would that help?

Mr Fox: Absolutely.

CHAIR: In relation to the committee of your body corporate, how often do they meet to make, say, decisions about the by-laws and refer to the common nuisance matter that you raise in relation to illegal parking, pets and smoking?

Mr Fox: The changes to by-laws come about after an AGM or at an AGM meeting. We can, however, call meetings whenever we like with, I think, seven or 14 days notice, and send it out to all residents.

CHAIR: Do you currently have by-laws in relation to parking at your premises?

Mr Fox: We do, yes.

CHAIR: Would those by-laws be able to be enforced?

Mr Fox: Not currently, no. If the legislation comes in, the hope and desire is that, yes, we can enforce them.

CHAIR: There being no further questions, thank you, Richard. Thank you for your input. It is very valuable to the committee in their deliberations in relation to the proposed legislation.

Mr LANGBROEK: Can I say one thing, Chair?

CHAIR: Of course.

Mr LANGBROEK: Richard, in your submission you implied that you did not think state MPs may be interested in your views given that these things are not necessarily as significant as other things happening in the world. But, as you have heard, a number of us are either members of a body corporate or have units in them, and these are issues that I certainly get notified about for tenants in my case that I have to pass on. We are just like you; we are members of the public who are going through the same sorts of things that you are, and we want to reassure you that we are as concerned as you about some of these things and can hopefully improve the legislation to make it less frustrating.

Mr Fox: I appreciate that, thank you.

CHAIR: Thank you, Richard.

MURRAY, Mr Mike, President, Unit Owners Association of Queensland

STEVENS, Mr Wayne, Vice-President, Unit Owners Association of Queensland

CHAIR: I now welcome representatives from the Unit Owners Association. Good afternoon. Thank you for being here and thank you for your patience. I invite you to make an opening statement.

Mr Murray: Thank you, Mr Chairman. My name is Mike Murray. I am the President of the Unit Owners Association of Queensland. Since 1978, the more than one million Queenslanders whom the UOAQ represent have been underwriting this $500 billion sector of our economy. I can give you the calculations as to how that figure was determined, but we will move on—time is precious. The BCCM Act is our act. It is for our communities. Developers and tourism operators have aggressively and secretly been gouging billions from us annually. That is shameful. It is simply unconscionable and against the Human Rights Act and against section 51 of the Australian Constitution to threaten any person that they will be unceremoniously evicted from their home if three neighbours consider it appropriate—75 per cent. Indeed, where are the social considerations in all of this?

The government is proposing a law to allow the law to be broken. I will say that again: the government is proposing a law to allow the law to be broken. That is absurd. Terminations of schemes was addressed by QUT 10 years ago, and then it disclosed that only five schemes in New South Wales and just one in Queensland were necessary to be taken to court to address termination. There is no need for this change other than providing an opportunity for developers to bully and intimidate the vulnerable and often elderly.

The currently required resolution without dissent can be readily challenged and overturned by a simple adjudication process should we stick with the current resolution without dissent, that is if the decision can be shown to be unreasonable. For example, in 2019, I was involved with the CTS that overturned a 14 per cent dissenting vote, again via section 94 of the act. If it isn't broke, don't fix it—we have all heard that before. The termination provisions are little more than a hostile power grab by commercially vested developers to bullishly take over our private property—our homes.

With reference to seller disclosure and unlawful use, the law is being broken and all levels of government are currently scrambling to find a way to get around it. Only yesterday we were in meetings with Brisbane City Council on that particular topic. Governments clearly have greater problems than terminations. Claims of premature dilapidation, ageing, end of economic life and an avalanche of terminations are rubbish. There are 300-year-old residential buildings in London and Paris and others 150 years old in Sydney. Why the rush to demolish Queensland buildings, the oldest of which may be less than 50 years old? Are there more compelling reasons this purported dilapidation occurs? Could failed management and maintenance contracts be contributing?

Management rights are sold by developers to maximise profit. The schemes get whoever can pay the developer the most money. This does not guarantee any expertise, experience or qualification. Consequently, schemes are not properly maintained but operate under bland and ineffective contracts established by the developer. An example: the Broadbeach Phoenician pay in excess of $700,000 per annum for professionals, but instead the caretaker responsible concentrates on profiteering from unlawful short-term letting. This simply contributes further to the accelerated wear and tear. These buildings are not built for that purpose. How can this serious problem be addressed?

Owners have tried to hold managers to account for decades and are forced to QCAT, spending upwards of $500,000 in the process. They invariably fail. QCAT is not prepared to terminate a manager's contract, however flawed or neglected it may be. UOAQ has, for years, been advising its members not to go to QCAT in seeking dispute resolution with managers. It is horrendously expensive and they will lose. QCAT does not work. Limiting caretaking contracts to three years is the only solution. Schemes cannot access the right people as caretaking contractors, and under existing legislative arrangements, never will. The strata industry needs a full and proper inquiry to provide guidance to a properly informed law review. The current act was envisaged for six- to eight-pack schemes. Today we have small schemes of 20 to 30 lots, and average schemes 50 to 100 lots, some 1,000-plus lots.

The government is unaware of what is going on in strata and seems to pander to the developer lobbyists in the mistaken belief that that might solve the problems. Prior to engaging in the law review, at a meeting with Shannon Fentiman in 2021 the UOAQ representatives expressed a lack of confidence in the Office of Regulatory Policy and the proposed review process following two decades of neglect. The Attorney requested that we participate and we have done for 2½ years in good faith, as requested. We have little confidence that the ORP has listened to owners—that is, and I will repeat, a million Queenslanders controlling a $500 billion sector of the economy, all of whom vote.

On 21 March this year, the UOAQ lodged a complaint with the Ethical Standards Unit of the department of justice against the ORP within that department on the conduct of the current strata law review process. It beggars belief that this termination of schemes legislation can be considered, processed and rammed through with such haste. In whose interest? It was discussed two years ago for the first time in those meetings. I am going off script here, but it would be very interesting to see how all of a sudden this came out of the Housing Summit—which of course we were never invited to, yet we own a lot of the property collectively.

By not adequately addressing management rights and misuse of strata premises, it will simply extenuate the widely reported problems and dysfunction, including the housing crisis. Extending developer warranty obligations and making development company directors personally responsible would greatly improve quality outcomes. Providing developers with greater authority over dissenting owners will do nothing to secure the quality, values and longevity of the developer's product to avoid the developer suggesting premature deterioration. That concludes our introductory remarks. I am happy to take questions on our presentation, our submission or other submissions earlier in the day because I thought there were some very good presentations.

CHAIR: Wayne, do you wish to make an opening statement or should we go straight to questions?

Mr Stevens: I will leave it with Mike. I have hearing problems and this room does not help.

CHAIR: Well, just speak up at any time if you wish to make a statement as we are proceeding.

Mr KRAUSE: How concerned are you that the changes to scheme terminations will lead to people becoming homeless, either temporarily or permanently, as a result of their scheme being terminated?

Mr Murray: Very. If we take a scheme of sixpack or eightpack prime land in Main Beach, Mermaid Beach or wherever, people have lived there probably for decades. It is their home. If they do not have any other resources and they get unceremoniously turfed out, they have a problem as to where they are going to live during the five years it takes for the next building to go up on that site. It is going to exacerbate the housing crisis but no-one gives consideration to the people who may, with very good cause, be a dissenting vote—one in three, one in four. Where are they going? What are they going to do? They will have to move away from their prime location which they have paid for, albeit in a different time of the economy. They are probably going to have to move further away from their preferred area. We are very concerned about the vulnerable.

Mr KRAUSE: In relation to the potential for the demolition of good buildings to occur to enable redevelopment of those sites, I was going to ask you if there are any additional protections that could be put into the bill, but I think you answered that in your submission by saying that there is already a provision in section 94 of the act.

Mr Murray: Yes. I will just pick up on what you said. You said 'demolition of good buildings', did you not?

Mr KRAUSE: Yes.

Mr Murray: Is anyone proposing that? Why would you demolish a good building? What is behind all of this? That is what really frustrates unit owners. I said that this topic was discussed in the review committee meetings over two years ago. It was one of the first topics of discussion. We were still advocating that there was nothing wrong with the way it is—resolution without dissent, get a couple of dissenting votes and it can be shown, 'Well, that's unreasonable,' and you only need to go to adjudication.

The other real affront to unit owners with what is being proposed—and I do not know if you noticed this—is that the onus of proof for challenging something in the District Court is then put upon the poor old dissenting owner about to be thrown out of their home but the multimillion dollar corporate developer just gets their way: 'If you don't like it, take us to court.' This is the power imbalance and is what the Deloitte's review recognised in the sessions they conducted on bullying and harassment in strata. It is a huge power imbalance. If there is any party in this proposal that has to take something to court because it is unjust or unfair, then surely it should be the developer with the deep pockets rather than, 'Grandma, if you don't like it, see you in the District Court.' Who can afford that? It is really offensive.

Mr KRAUSE: Your submission references the strata survey showing that 60 per cent of respondents were subjected to or witnessed bullying or harassment. What was that in relation to?

Mr Murray: The UOAQ conducted a survey at the beginning of last year just to inform our deliberations on this review committee. We had just under 2,000 respondents from unit owners throughout the state. There were 40 or 50 questions in it on all different aspects of strata living—were they on the committee, were they not on the committee, what have they experienced, and so on. The survey said that 60 per cent had witnessed or been the victim of bullying and harassment either on committees or by committees—wherever. That is a massive number of the respondents, and it was a sufficient sample to be a pretty reliable statistic. The other really alarming statistic was that 34 per cent of the respondents believed they lived in toxic communities. That is really damning on this sector.

The other thing that we have never really asked is how many people have a unit. Mr Langbroek just acknowledged he has a unit somewhere, as do others, but Wayne and I and the people who represent the UOAQ all live in strata. We live it every day. We are on these panels with a representation of, let us say, six permanent seats of the stakeholders—UOAQ, representing people who own and pay for everything, laypeople. The other five seats all have typically two lawyers representing them and their associations. It is just an almighty imbalance to try to stand up for the rights of unit owners against all of the commercially vested interests in our properties that will argue so fiercely for their commercial and vested interests. You cannot blame them because they are there to make money, but they are our homes first and foremost.

Mr LANGBROEK: I have a question which is more a general one. Has the UOAQ looked at legislation in New South Wales comparable to our BCCM Act? Do you think our 25-year-old act could be replicated using principles in the New South Wales act, or does our act need a complete rewrite instead of what we are doing here?

Mr Murray: That is a good question and I thank you for it. Our position is that, although we are in a body corporate law act review process, it needs a lot more than a few little tweaks around the edges. There is a bit of a humorous anecdote amongst unit owners and our members when we talk about pets, parking and smoking, as if they are the trimmings that are still dealt with through by-laws and so on. There are some fundamental flaws in our act that have been there since commencement in 1997 which could be removed so we got some real change. Most of our act is pretty good. A lot of it which should be enforced is just ignored and kept silent on. It is only since we started to really get to the detail of the various pieces of legislation that we have found the holes all through it.

One of the real offences in our act is all of the original owner provisions that allow a developer to stay on and control everything right from the get-go until they have stitched up all of these definite contracts, sold all of the liability to the body corporate for decades into the future and sailed off into the sunset with their millions of dollars for it. If the act removed all of the original owner provisions so that they do not even get considered, and the primary objective of our act is to allow the community, the bodies corporate, to take control of managing their freehold land, that would also get rid of all of this unlawful use and holiday letting which creates so much disruption, and we would all have our homes back and not be sharing them with who knows what football team tomorrow night. There are fundamental corrections that need to be made, but they are quite easy if those key flaws that have always been there were swiftly addressed.

Mr Stevens: One thing that I would say most people do not understand is that management rights have a massive impact on strata in Queensland. Management rights only exist in Queensland. There is no jurisdiction in the world that has the management rights that we have. The truth is that it has failed, yet nobody wants to do anything about it. It is costing us a fortune. We have no control over our managers to see our maintenance properly managed in our buildings. They are too busy looking after the short-term accommodation that generates far more money. I have known JP for a long time and I told him this 20 years ago and he is well aware of it, but nobody wants to take this issue seriously. There is misuse of our buildings. Mike alluded to it in his discussion. Most of the buildings on the Gold Coast are used unlawfully and nobody does anything about it. I cannot believe we have section 164 of the Planning Act, which says a person must not contravene a development approval and it attracts a fine of $696,000 per offence, but it is not enforced.

Mr Murray: I think Wayne has hit on one of the key elements. There is a lack of enforcement. As I was saying, our act and the Planning Act are quite good and there are protections there for us. The thing is that the powers that be—the local and state governments—know exactly the issues we have raised but they sit on their hands and do not do any enforcement action. That is where we take them to what is referred to in the Planning Act as executive liability. Any council officer who has been notified—and, trust me, there are plenty now, starting from right back in 2016—of their obligations to act if they can see serious risk and fails to act to mitigate the risk, and they have the power to act, is on the hook as well for the $696,000 per offence.

I take your mind to the fire at Q1 in July. They dodged a massive bullet there: but for the grace of God, that could have been our Grenfell. There was smoke through the whole building. It had a couple of hundred holiday-makers in it, all unlawful use. About a week or so later there was another apartment fire in Surfers Paradise. Photographs in the media and news showed massive flames. An apartment on the seventh or eighth floor was ablaze. You can just make out a person stepping from one balcony to another to escape into another apartment seven or eight floors up. That got about a two-minute run on the local nightly news.

You might wonder where this is going, but I am just trying to make a point. *Sunrise* repeat their stories once every hour, and the next day they had a five- to 10-minute interview with some guy about an apartment in Sydney. Firies came and they had to put up ladders to rescue a cat from a ledge. That got national media coverage for 15 minutes the next morning. Something is awfully awry when authorities, both local and state, know exactly the issues we are bringing forward yet they sit on their hands, do nothing, start another inquiry and create a new task force to investigate short-term accommodation—'What can we do?'—knowing full well it is unlawful. Unlawful is unlawful.

I can give you an anecdote of a meeting with the planning department a few years back on this very issue. 'What do we do?' 'We are bringing it forward.' At that time the director-general of Planning was Damien Walker. He had his offsider with him. The offsider said, 'Have you considered what they are doing in New South Wales—allowing it to go on 180 days of the year instead of all the time? Wouldn't that address it?' I looked at her and said, 'Yes, it's unlawful use; we've established that. It's a little bit like saying we'll let the bank robbers get away with it every other week.' If something is unlawful, it is unlawful.

CHAIR: I do not mean to interrupt you, but I think the committee has the picture of unlawful use. I am conscious of the time. There are other members who may have questions for you.

Ms BOLTON: Mike, I go back to the fundamental corrections that need to be made which you have brought up not just now but previously. The review process you spoke about two years ago did not deliver what you are seeking, but the current working group was going to work on a lot of these. When you are sitting on that working group you might have one grassroots rep and a whole heap of lawyers. Is that a similar situation to what is happening with the working group, or do you find that you are able to work through and get some good outcomes?

Mr Murray: That is an excellent question. Yes, it is the working group that I was expressing my frustrations with. There are six permanent stakeholder representatives. Some of them have presented here today. We represent the owners. All of the other permanent stakeholders who represent the commercial interests in our strata properties are usually represented by a couple of lawyers. There appears to an imbalance in our ability to speak up. When I said two years ago, I was referring to the CTL Working Group. We started a couple of years back. That was when we first started to discuss the topic of scheme termination. It went silent for a couple of years, and then all of a sudden here it is again being pushed through. That is what concerns us as to the process within the ORP of facilitating the working group's process. We called out certain recommendations that were brought to the Attorney-General from the ORP process that were false and misleading recommendations, plain and simple. Then with embarrassment, 'Oh, did we say that?' 'Yes, you did. It's in writing.' Members of parliament should be able to rely on the advice their departments give them as being accurate and correct. In this particular case I can go to the exact statement that you might have received that is demonstrably false and misleading. The Attorney-General really needs to have some mechanism to vet the accuracy and reliability of what she is told.

Ms BOLTON: I am mindful of the time. What has been the most recent response regarding councils monitoring and enforcing the lawful or unlawful use of property?

Mr Murray: None, and they will not. You would be aware of the Spice Apartments decision in the Planning and Environment Court?

Ms BOLTON: Yes.

Mr Murray: We were speaking with council officers. They have set up a task force now. That is not due to report until June next year. That is after council elections. It is simply the process of what we call kicking the can down the road until it becomes someone else's problem. Nothing is being done. They make all sorts of excuses. How can we get around it? How can we allow it to happen? How can we allow the robbers to rob the bank half the time, if you will excuse the analogy.

Ms BUSH: Mike, you mentioned earlier that there were previous submissions or submitters that you felt were quite good. What aspects of the evidence you have heard today do you want to highlight to us?

Mr Murray: I thought the submissions of the lady who presented from the Strata Search Agents Association were quite good. I have operated as a body corporate manager at my company for quite some time. Through my business—this is probably not the right forum—I have suffered some direct reprisals as a result of my involvement with UOAQ in bringing forward things that are difficult for some of the other parties in the industry to face up to. That has sort of taken my business down. She was well across a lot of the issues to do with section 205 information. It was good to hear her say that. That is what goes on in the industry. A lot of information that a purchaser is entitled to will be suppressed. You would also notice that she raised it. The previous time my colleagues presented here related to seller disclosure. Our submission in the working group was that, on a body corporate certificate, disclosure should be made—must be made. Very simply, there are a couple of phrases. The first was: what does the DA say is the lawful use of the land? That is easy, readily available information. The second was the certificate of occupancy for this building is what? Class 2? Class 3? It is very easy—that information is there—yet there is huge resistance to making those most fundamental seller disclosures to the buyer, so much so that the misinformation that was forwarded up to the Attorney—this is the recommendation from the ORP—said the ORP does not recommend the development approval be provided to schemes. They do not recommend the development approval be provided to schemes, yet section 96 of the regulations puts that down as one of the documents the original owner, the developer, must pass over on commencement of the scheme. Here is the ORP in all of their wisdom, with all of their ability to do a thorough inquiry, we suspect deliberately trying to suppress full and frank disclosure being made per se: 'Do not give them the DA because that is exactly where it says the lawful use of this property.' Particularly when it is already there, it should be on the body corporate records.

You can see where we are coming from. We are quite disillusioned with the process we have been quite respectfully engaged in for 2½ years, coming to all of these meetings as probably the only volunteer people. I am sure the lawyers are all getting paid to attend. Then we come to the eleventh hour and it feels like all of this stuff, the QUT review, whatever they said was going to go through—'We will just do that anyhow and we go through the process to give the illusion that we have consulted with the owners of the properties and give the illusion of due process.' From our perspective, it has been far from it. I am sorry to have to give you that account, but that is exactly how we feel.

CHAIR: I am just conscious of the time, gentlemen. Thank you for your attendance again and thank you for your input in relation to our hearing.

Proceedings suspended from 2.25 pm to 2.39 pm.

KELLY, Ms Deborah, Main Beach Association (via videoconference and teleconference)

CHAIR: Good afternoon and thank you for being here. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you.

Ms Kelly: Thank you very much for the invitation. My name is Deborah Kelly and I am here representing the Main Beach Association. I also made a submission of my own, which is No. 14 in the list. I think you have a copy of that as well.

The Main Beach Association is mostly concerned with the termination provisions and that is what our submissions are focused on. Before I start speaking to our submissions, I would like to refer to a few of the other submissions that I have read through and some of the testimony I have listened to today. One thing that concerns me greatly is the focus, particularly of the property industry development groups, on the idea that there are a lot of old buildings that are beyond repair. The UDIA is actually concerned that the process that is now being considered will only apply to a very few buildings, as they describe it, as being 'CTS in extremis'. I hope they are right about that. Their answer to that though is, of course, to suggest that any building over 30 years of age should be considered in extremis regardless of its condition. Naturally enough, I oppose that. I live in a 30-year-old building and it is well maintained without any concrete cancer and lots of money in the sinking fund, and I envisage being there for many years to come. I would be surprised if that building it is not in good condition in another 30 years.

It is statements such as that that concern me and also other statements that appear peppered throughout the submissions by (inaudible) such as one by the Property Council that talks about the experience in New South Wales and claims, without any evidence, that there have been no detrimental consequences of the termination provisions in New South Wales. I urge the committee to take such statements with a grain of salt. Unless evidence is provided, you cannot rely on those statements. As they say in physics, extraordinary claims require extraordinary evidence and that is certainly an extraordinary claim. My main concern with all of these submissions is that they all proceed on the same principle, which is that the rights of minority owners are not to be considered very highly and that owners who want to remain in their homes unmolested are expendable fodder in the development machine. I would ask you to consider whether that is really the sort of society we all want to live in. I know it is not one that I want to live in.

I will talk to you now about a couple of anecdotal stories that I think bring the human element home. There is a fellow I know of in Main Beach who is an old surfer. He has a boat in the river at the back of his unit block—it is an old boat; he is not a wealthy guy. He has been offered $1 million for his apartment. He said to me, 'Deborah, what would I do with $1 million in Main Beach? They give me $1 million for'—to quote him—'a crappy old apartment that I could not have sold for $400,000 five years ago, but where would I go? Where could I have this lifestyle?' Other owners here have made the same sort of comment to me but that is not new.

By the way, I have had 25 years of living in strata. I have owned in a dozen or so buildings in that time. I have been the chairman of my own body corporate for 20 years and I have served on at least 10 other committees. I have also had 25 years experience as a lawyer working in property and development so I have a little background in these things.

I recall a client back in the late 1980s who lived in a four-pack in Mermaid Beach. The other three units were owned by three investor owners in Brisbane. They were pressing her to sell because they thought they wanted to clean up, but she was holding out. They gave her a very difficult time. They made her life hell. They did not spend money to do repairs on the building to the point where it was unsafe. We rectified that and they had to cough up, but she was put under immense pressure. She was an older lady who just wanted to live her life in the suburb she had lived in all her life. Those stories are really everywhere.

In Main Beach I hear from a lot of older residents who live in the three-storey walk-ups on big blocks of land that are being targeted right now. They are saying, 'It's all very well but where do I go? Do I go to Nerang? My doctor is here. My friends are all here. My personal interests are here. How do I start a new life at 75 or 80 in Nerang or Robina where I do not know anybody?' They are very concerned about those things. The developers say to them, 'That's okay. You can have a new unit in the new development' or whatever. But they cannot afford the levies when they go into those new developments. Some of those people pay $2,000 or $3,000 a year in levies in those small old buildings. You cannot get into any building, in this suburb anyway, without at least $12,000 a year in levies. There are lots of issues to think about there.

I would like to go to the summary points in my own submission, submission No. 14. Then I will talk very briefly about the No. 1 problem that I think the committee should be addressing. If you look at my submission you will see that the position of the association—and mine—is that there are adequate provisions in what are truly aged strata schemes. The bill does not pay sufficient regard to the needs of all of the residents and the inadequacy of compensation. It does not deal, and cannot deal, with the potential for abuse and manipulation by self-interested owners and others. It fails to acknowledge that people who buy into strata buy in with the knowledge that they are in a strata scheme and they cannot just decide to sell to a developer. If they want to exit the building, they can sell it on the market like anyone else. The bill cannot, will not and will not ever be able to alleviate the potential for division and bitterness. Others have commented on its inability to address the housing crisis. I would just endorse those comments.

The bigger issue that I think is the big sleeper in all of this that no-one is looking at is: why are buildings deteriorating, if indeed they are? I see it over and over again where buildings are not properly budgeted for, where committees and strata managers do not observe their obligations in the existing legislation to provision properly in the sinking fund and to carry out maintenance in a timely manner. Generally speaking, that is done because people on committees do not want to raise levies. They want to keep costs down. I hear them go to meetings and congratulate themselves on not putting up sinking fund levies this year, regardless of what is happening economically or in the state of the building. That is all working at the moment on an honour system. Although the legislation requires bodies corporate to properly budget and to maintain, if they do not do it there is no oversight and there are no penalties, effectively. That situation could be manipulated by the unscrupulous, who could deliberately let a building run down.

I could cite examples from buildings all over the coast in which I am an owner or was an owner. In one at Broadbeach, Pacific Keys, the committee there was under budgeting for years and there was $700,000 or $800,000 worth of work needing to be done and $50,000 in the sinking fund. This is for a 16-floor, 60-unit building. It required somebody—in this case it was me—to get in there, change the committee and get the money brought in which meant a $15,000 levy. There was a lot of spite and division as a result of that. No-one liked it, but the balustrades had failed on the building. They were hanging out off the building. The insurance had been cancelled and these people on the body corporate committee were just putting their heads in the sand.

The other building I will speak of is one at Budds Beach, where nearly $3 million of work has been scheduled and there is $700,000 in the sinking fund; therefore, a $37,000 special levy is required. It is the same story. The committees year in, year out artificially depress levies and do not follow the sinking fund forecast that they are required by law to follow and nothing is done about that. If you go to the meetings, which I do, and say to people, 'Listen, we have to raise the levies,' they shout you down. In my own building we raise the levies every year. I have been chairman there for 20 years. That is a big issue that really your committee needs to focus on, I believe. Also, it creates the scope for manipulation by unscrupulous owners, developers that get into cahoots with them with sweetheart deals with their own agenda. It is too bad if you are in the minority. I would urge you to consider those things.

CHAIR: I am sorry to interrupt you, but you are freezing at our end. Would it be easier if we spoke on the phone?

Ms Kelly: Yes, if you cannot hear me. Sorry, you are breaking up on me.

CHAIR: It has been suggested that you turn your video off but keep the sound on. We will persevere. It is just that from time to time you are freezing and we are not catching your full sentence, but keep going and we will see how we go. I am sorry to interrupt.

Ms Kelly: That is okay. I had actually come to the conclusion of my remarks, but I hope that everybody understood what I had to say about the lack of following of the existing legislation.

Mr LANGBROEK: Yes, we did get the gist of what you were saying. My question is about whether you believe, as the Unit Owners Association suggested in its submission, that there really are other priorities for the BCCM Act that are not currently being enforced and that I believe your association thinks would be more of a priority?

Ms Kelly: Yes, that is true, particularly in relation to sinking funds. The non-provisioning of sinking funds is a massive problem and no-one becomes aware of it. That young woman who spoke earlier who does the searches—I have forgotten the name of her company—was talking about the difficulty with obtaining information on buyer searches and also for seller disclosure. I find that a great problem, too. If the body corporate is not keeping the right things minuted and/or is not keeping the sinking fund forecast current—all of those sorts of things—there is no disclosure to buyers. It is not

uncommon for people to buy into buildings and find that there is a whole host of problems that they would not have foreseen. The real issue with the legislation is that there needs to be enforcement. There needs to be a regime where bodies corporate are accountable and where strata managers are accountable, too. In my experience—I have seen many of them—they do not give the committees the right advice about those obligations, and people on committees are not very knowledgeable about these things. They need professional guidance and they need to understand what has to be done to properly maintain.

Mr LANGBROEK: That is true. I have certainly noticed that as I have gone into a building—understanding what your obligations are, just paying levies and actually working out the differences between the administrative fund and the sinking fund. My next question is also about something the UOA mentioned. They are concerned that if someone wants to make an appeal it is going to have to be to the District Court; of course, that is the person who is objecting to their unit being sold. The Strata Community Association recommended that you be able to apply to QCAT to get an order preventing the dissolution of the scheme. Do you consider this to be a better alternative than the District Court one, given the costs?

Ms Kelly: To be honest, I am not so convinced that there is much difference in costs these days. You can spend a hell of a lot of money at QCAT as well. I think the real issue here is not so much the question of which venue but the inability or the unwillingness, I suppose, of dissenting owners to take that step. The pressure that would be brought to bear on dissenting owners in these situations would be immense. Most people, as you would all know, have very limited interaction with the legal system at any time in their life, and when they get caught up in court proceedings, it is absolutely overwhelming—very frightening. If this is going to go ahead, there needs to be some better mechanism, rather than leaving the onus on the people who do not want to sell, who do not want to go, to step forward.

CHAIR: Jonty or Mel?

Ms BUSH: I am okay, thank you.

Mrs McMAHON: No, thanks, Chair.

Mr LANGBROEK: Deborah, it is not so much that we are running out of questions; it is just that many of the points you have made have been made by previous submitters and it is quite conclusive in terms of the concerns about many aspects of this. Please do not feel that the concerns of the Main Beach Association are not being well represented here or inquired about.

Ms BUSH: By this point in the day, a lot of the statements you have made have been made well by other presenters as well. Thank you for doing that. Both the MBA's submission and your personal submission have certainly been very useful.

Ms Kelly: Thank you very much.

CHAIR: You may have addressed this in your opening statement, but your submission suggests that you believe the bill is unfair. Can you elaborate on that, or do you think you have already covered it in your opening statement?

Ms Kelly: I think it is unfair in that it does not properly consider the rights of people to remain in their own homes. In terms of the community aspects, the social aspects, I recall that one of the earlier people—I think from the Property Council—did not really understand what you were talking about when you asked her what she thought about the social aspects. That is the worrying thing to me. That is getting lost in all of this. If you buy into a building and you stay in it while it ages, you should abide by your obligations to maintain it, and if you want to go then exit through the normal market processes. I just do not buy these arguments about concrete cancer and so on, either. Our building has no concrete cancer. In buildings that get spalling, if you deal with it straightaway that gets resolved. The building can have many more decades of life.

In terms of the unfairness in it, the market power is one aspect of it. I think that point was made by the Unit Owners Association, that developers have deep pockets and the individuals do not. As I said a moment ago, there is the inability of people to feel comfortable negotiating the legal system and trying to enforce their rights. At the end of all of this, an aspect that I have not heard anybody else mention is: what happens if a termination is unsuccessful and then the dissenters have to live with the 75 per cent afterwards? That is a recipe for a lot of future drama and not a good feeling of community. That is what we are talking about when we talk about unfairness.

CHAIR: I have one further question about bodies corporate in relation to a complaint expert for the pretermination reports. Are there any measures that you think could be put in place to prevent this forum shopping, for want of a better description?

Ms Kelly: Unfortunately, not really. I have looked at the submissions of Solutions IE and those other bodies. Obviously, they have a vested interest; they are in the development industry. I was in it myself, by the way, so I am not anti development. I do not see any way around that. It is very hard. I could talk to you all day about the problems we have at the moment with tendering of services and things and the vested interests in the fire services industry, the lift maintenance industry and a number of others, but that is all for another day. Unfortunately, the answer is no.

CHAIR: Thank you very much for the written submissions that you sent—your personal one and the one from your organisation. There were no questions taken on notice. Thank you and have a good day.

Ms Kelly: Thank you very much.

IRONS, Mr Chris, Director, Strata Solve (via videoconference)

CHAIR: Welcome. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you.

Mr Irons: Thank you very much for the opportunity to appear. I am coming to you from sunny Melbourne today. I have great respect for this committee process, having been through it a few times in a few different guises over the years. It is a great way to engage with the process, and I think the large number of diverse submissions on this bill is an indication of that.

My submission is under the banner of Strata Solve, the strata consultancy of which I am sole director. I am here as a unicorn in the strata sector. I am not a lawyer or a strata manager or a caretaker or affiliated with or contracted to any group. I am Queensland's former commissioner for body corporate and community management—literally the only role of its type anywhere—and there was very little in that role I did not see or hear of in strata. I will share with you very quickly one of my favourite anecdotes from that period—that is, the one time when an owner asked me how often an annual general meeting needed to be held. Think about that one for a few minutes. That puts me in a unique position to comment on the bill and strata issues more generally.

I am also a tenant in one strata scheme and I am an owner and chairperson in another. I have gone through a pet approval process and I am currently engaging with my body corporate about putting wheelie bins out or them not being put out. As sole director of Strata Solve, I work with myriad strata clients from diverse backgrounds to resolve disputes and empower their engagement with challenging strata situations. I use mediation, communications and common sense—all based on expertise and experience—to help clients resolve issues without resorting to costly, time-consuming and stressful proceedings. I think the bill goes some way towards addressing some of those very tricky situations.

I congratulate the government on seeing the process through to this stage. Having been involved with it many times over the years in different guises, I know how tough it is to get a finished product. If I were to sum up my thoughts on the bill, they would be that it is good, not so much great. More could have been done, although the good thing about it is that at least some lines have now been drawn. No-one can say that they do not know where they stand.

My view is that the biggest challenge for government arising out of the bill will be its effective implementation. My former office has had extra funding in recent years, which is great. It will need a whole lot more and in a sustained way to meet client demand, keep Queensland's strata stakeholders informed and help mitigate and reduce some of its dispute workload. Rather than commenting on all provisions, I have identified several discrete matters in the bill that I think warrant some further exploration. I would be happy to discuss any matters arising out of my submission or any other topics that the committee considers appropriate. I can always say, 'I don't know.' Thank you again for the opportunity.

Mr KRAUSE: Your submission recommends that adjudicators approve self-insurance. Could you outline how you came to that view?

Mr Irons: In my reading of the bill on several occasions now, I think it is at the very least ambiguous that an adjudicator can make a determination about self-insurance. The bill makes some pretty significant and welcome changes about the process of alternative insurance—allowing an adjudicator to make that determination. I am just not sure that the self-insurance aspect is clarified.

What I mean by that is a scenario in which a body corporate literally cannot obtain insurance on the basis of either availability or affordability. I guess I am talking about availability here. I know of some instances—and I have been asked this question numerous times—where a body corporate thinks, 'Perhaps we could self-insure.' There are various ways self-insurance can look, and I am not an insurance expert so I am not going to go into detail there. An example, though, might be where a body corporate tries to cover its liabilities that it would otherwise have under insurance policies. They might do that through additional levies or putting money aside as a contingency. I just do not think the bill in its current form is clear on whether an adjudicator can do that. I think in the absence of anything happening in the insurance sector—I know things are happening in relation to the reinsurance pool and a few other things—and for as long as schemes, particularly in North Queensland, simply will not be able to access an offer of insurance, the option of self-insurance should be there.

Mr KRAUSE: You also made some comments about the definition of smoke and smoke hazards in the strata title context and how it only applies to tobacco smoke. Have you had feedback from people about this issue? Is this something that might be best governed by local government rather than body corporate regulation?

Mr Irons: I have had that feedback in the past. I recall one query in particular with an owner in one of those schemes which was not necessarily a high-rise but a flat scheme with large courtyards. People wanted to have an open fire and were falling afoul of the body corporate in relation to that. I have heard of the issues about barbecues relatively often. I have not heard of the meat smoker one as much, but I have heard that one.

My issue here is that I guess it depends on what the government is aiming to achieve. My read of the bill is that the government was contextualising smoke as a health and safety issue, which is fair enough. I do not think anybody disagrees with that. The bill in its current form limits smoke to smoke from a tobacco product—so cigarettes, vaping—but it is only in relation to that definition. If there are nuisances or indeed hazards created by barbecues and wood-smoking products, they would still be a nuisance and a hazard potentially but the body corporate could not avail themselves of these provisions to do anything about it. It would create that kind of difference, if you like.

Is local government placed to do that? I cannot comment. I suppose so. Again, I come back to the point, which is that I assume the objective of these provisions is to eliminate hazard caused by smoke in relation to a body corporate. It would stand to reason to me that 'smoke' should have that broader definition, rather than simply smoke from a tobacco product.

Mr LANGBROEK: That smoking issue first came to a head through the Artique decision in December 2021, as I recall. I am interested in those views about smoking because to my mind there will just be more drama between owners about barbecues as well, given that it is not necessarily accepted as a health hazard. My other question is about towing, because that is a significant issue too. Could you expand on your views about being able to tow cars of visitors?

Mr Irons: I think the government has done some really good things in the bill in relation to towing. The issue that I see is that the provisions in the bill relate only to owners and occupiers. An owner is an owner—I do not think anybody has any queries about that—but an occupier is a very different kettle of fish. There is no definition of an occupier under the BCCM Act or the regulations, and it is always a case-by-case situation. Adjudicators in my former office are often called upon to make determinations about who is an occupier and what constitutes occupation, to the point where I recall one decision where the adjudicator had to go through a process of analysing the number of nights somebody stayed at the scheme—I think it was at a family member's apartment—over a period of time in order to arrive at a determination as to whether they were an occupier. That is one thing.

Then you have separate issues around invitees and guests. As the bill currently stands, invitees and guests are not referenced so you could have a situation where, when the act becomes law, these towing provisions form their role only in relation to owners and occupiers. You would be hard-pressed, for example, to say that somebody who drove and parked at the scheme and perhaps left their car there overnight was an occupier. You would be really hard-pressed to say that. However, in that time, that person who is there has potentially caused all manner of issues, using up a car space and potentially causing a nuisance. I think in the explanatory notes there is reference to obstructions for emergency vehicles, for example. Again, if we come back to the objectives: if the objective is to give the body corporate that flexibility to do something about a situation where parking is causing that degree of problem, then it stands to reason they should be able to do that much more broadly than simply an owner and an occupier.

Ms BUSH: Chris, I think we did some work together in JAG so it is wonderful to see you again, and thank you for all the work you did while you were the body corporate commissioner. I am interested in your first recommendation in your submission around the role that long-term occupiers ought to have. Can you expand on your recommendation there?

Mr Irons: This is in relation to scheme termination. As you would expect, the scheme termination provisions are all framed in terms of an owner's rights—an owner's rights to participate in a process, to get information and to dispute aspects of that termination process. The bill has been very careful in the steps that need to be followed if a minority owner is not in favour of a termination. That all makes sense.

I suppose my point is in relation to occupiers, and here I mean long-term residential tenants, although it could be long-term commercial tenants as well. If an occupier has lived in the building for a long time and then there is a move towards terminating it, that occupier does not have, under the bill in its current form, any rights to challenge and does not really have much of an opportunity to have a stake or even have a say in the process. I think that is actually a little bit unfair. If I have lived in a building for 10 years as a tenant and diligently paid my rent, diligently looked after what I am meant to look after and, more than that, participated in the life of the scheme—I know of many schemes in which occupiers are far more participating than owners—and then I find out that I am going to lose where I

have lived, it has essentially been my home and continues to be my home, but I do not have any say in that process, I think there is a little bit of unfairness there. The challenge will always be what rights a long-term occupier should have, and how we determine what a long-term occupier is. I would think it would have to be a certain number of years, having resided continuously. I do not have a figure in mind. In whatever figure we came up with, potentially it would be arbitrary, but I just feel that there needs to be a recognition that in some schemes that might be moving towards termination there are long-term occupiers who essentially have become akin to an owner and they should have some ability to participate in the process.

Ms BUSH: It is the first time I have turned my mind to it. Is that an area that other jurisdictions have explored before?

Mr Irons: The closest I can come to it is that in New South Wales the relevant strata legislation does afford some additional rights for tenants. I do not know about the termination issue, but I know that in some cases the tenant can be a member of a committee, for example, if they fulfil certain criteria. That criteria does not exist in Queensland, so I am not aware of how that works. Again, I come back to this point, which is that we are talking here about what kind of participation a long-term tenant has in a community titles scheme.

This is going ever so slightly off topic, but I think it goes towards your question, Jonty: tenants in strata schemes have a considerable number of rights and obligations. They are not well understood; they never have been well understood, going right back to my time as commissioner. I have heard of instances where committees and strata managers say, 'We do not talk to tenants.' Well, you do talk to tenants and you should talk to tenants, because they have a right and they play a part in the scheme. I think what I am talking about here really taps into that idea. Yes, it is true that tenants do not necessarily have voting rights—and I am not suggesting for a minute that that should change—but that is a fundamental issue; they will literally lose their home under a termination.

Ms BUSH: I do not know how much of the other submitters you have heard today, but there has been a theme from some submissions around just wanting the government perhaps to provide some more clarification around particular issues, whether that is around frequency of smoking or how to manage conflict-of-interest matters. I am wondering, with your experience, what role you see the body corporate commissioner being able to take in some of this work.

Mr Irons: Unfortunately, I have not been able to see any of the other submitters today, but, generally speaking, the way the legislation is framed is that the legislation provides the nuts and bolts and then it is up to adjudicators in my former office to put, if you like, interpretation around some of that. That is largely where it is going to go this time as well. It is no different here. I can see arguments which support that continuing to happen. Those adjudicators are quasi-judicial, so it stands to reason, I suppose, that that is what their role should be, except that if we can clarify some things in the bill and then when it becomes the act then that takes away the need for those adjudicators to spend that time and to spend those very limited resources when they can devote it to other things. A classic example of that in the bill—and it was in my submission as well—is in relation to animal approvals. We have this situation where we have two sets of approvals if you are a tenant. You have the residential tenancies related approval and you have a body corporate related approval, and the two are not the same. The time frames are not the same. If there could be consistency there, that would take away some of the pressures from the adjudicators and the commissioner's office and those resources could then be devoted elsewhere. Again, to finish that one, the commissioner's office will have this responsibility to implement this bill and to put the information, education and resources around it. It is such a tough job doing that, and I would be very surprised if that office is not already receiving a number of queries asking exactly those kinds of questions now.

Ms BUSH: To your point, a few other submitters have raised the issue around the sequencing and harmonisation of some of the rental reforms relating to minimum standards and pets particularly. That has been brought to our attention already today.

Mrs McMAHON: Mr Irons, the questions I wanted to ask are around some of the issues we have touched on already such as smoking, and you outlined that obviously the intent of the bill is around the tobacco and other smoking products related smoke, but there remains the issue of smoke generated from other items—barbecues. With regard to other jurisdictions—for example, all councils generally have laws around smoke and by-laws specifically—in your experience, how much of an impact do a council's by-laws have on a strata title property? For example, in my area, Logan City Council has regulations around where you can have a barbecue and how much smoke can be produced and how far it can be from a fence line. How much do the local council's laws affect the body corporate—the management of a property—to the point where the management can defer to council enforcement officers when there is something like excessive smoke?

Mr Irons: That is a great question. I am very fond of saying to people that not everything that happens in strata is a strata responsibility—it cannot be. We start from that position. That question about where the intersection of local government and strata kicks in is a really good one. It is a bit challenging in the sense that, to the example that you just cited, you could say that smoke is not a solid mass—it escapes, it goes beyond boundaries and it is not confined—so therefore it stands to reason that in this context it should be a local government issue potentially to regulate, except that here I tend to take the view that we go to the title of the legislation here in Queensland. It is body corporate and community management and we are talking about communities, and in some cases enormously sized communities. In that sense, we are asking a group of volunteer committee members to make crucial day-to-day decisions about some really significant things. If we are able to give them clarity in legislation, it takes some of that responsibility away from them. I would say in this instance that it takes the responsibility away from local council as well. That is where I would tend to lean in this situation.

I note that the bill picks up that local government issue in relation to keeping animals, for example. Relevant local laws about number of animals is a basis on which a committee can potentially refuse permission to keep an animal. That is an example of the interaction. I think the smoke issue is a slightly different one. Again, I come back to this issue of what we are aiming to achieve here. If our aim is to safeguard health and wellbeing issues around asthma, issues relating to pulmonary matters, then I would have thought the primary aim was to regulate smoke much more fulsomely.

Mrs McMAHON: To clarify, where you have a council that does have by-laws in relation to smoke—barbecues and that kind of thing—where it stipulates distances from boundaries and that type of thing, that would overrule any body corporate or community strata title by-laws? Is that something they can lean back on, much like they do in the animal space?

Mr Irons: I do not think it is quite as black and white as we would like it to be. My experience, based upon feedback and speaking to people, is that it is inconsistently applied. You could have one local council that was quite strict about something like that and was very happy to send inspectors out and very happy to issue enforcement proceedings. Then you would have another council which was not, and that might be related to resourcing, willingness or just their general disposal toward that kind of thing. I think the issue is a consistency issue for me. It would be good if there were a black-and-white correlation and link, but it is just not there at the moment.

CHAIR: There being no further questions, Chris, I thank you for your attendance and thank you for your written submission.

Mr Irons: Thank you very much. I appreciate it.

PANETTA, Mr Dakota, National Sales Executive and Product Development Manager, Solutions in Engineering (via videoconference)

CHAIR: Good afternoon. Thank you for being here. I invite you to make a five-minute opening statement, after which committee members will have questions for you.

Mr Panetta: Good afternoon, members of parliament. Thank you very much for your time and the chance to speak as well. My name is Dakota Panetta and I am the National Sales Executive and Product Development Manager for the Solutions in Engineering group of companies. In my particular role, I oversee a number of different aspects of Australia and New Zealand unit titles and strata legislation. Thank you for the opportunity to speak and also to submit on this proposed bill. Our view was to look at it in a rather unbiased fashion as we obviously work in the strata space, but we are not necessarily unit owners nor lawyers representing unit owners. I thought it was interesting that I was one of the few suppliers of the industry that got to speak today, so thank you very much.

To give you some context on what we do, more than engineering, as the name suggests, we are the largest compliance report provider and the largest maintenance planning provider in the Southern Hemisphere and possibly the world for strata and unit title development properties. We have worked with over 150,000 buildings, with the majority of those being strata title complexes. We very much are at the forefront of what owners are experiencing in terms of maintenance outgoings and day-to-day costs of working and operating within a body corporate. That is the basis of why we felt we would be able to offer some value in our submission to the members of parliament.

There are two things we were quite pleased with in regard to the intention of this proposed bill. First, one of the aims particularly around termination of schemes or the dissolution of schemes is towards a greater ability for new developments to come through, particularly with a national and obviously a state crisis in terms of housing. The other aspect we were quite pleased about is that it gave an option to a majority of owners within a particular body corporate to see the building be renewed in a sense or demolished and rebuilt rather than continue to stand but in a very dilapidated stance, as we quite often see. It will be nice to see fewer buildings end up in a dilapidated state without any ability to have it renewed and redeveloped.

There are a few points I wanted to clarify from my submission about areas that we were hoping any further amendments to this bill could clarify. As Chris mentioned before, bringing clarity to this bill prior to it becoming an act will offer a lot of value to all stakeholders involved, particularly those members who are going to have to adjudicate on any decisions going forward, whether that be the commissioner's office or any court orders that go forth.

One thing we think definitely worth clarifying is the notion of 'economic reasons'. In talking around the termination of a scheme that is being proposed in this bill, 'economic reasons' so far is really quite a loose understanding within this bill and seems to suggest five years worth of expenses to be looked at from the date that a committee or the entire body corporate considers a termination on economic reasons. Five years in a body corporate context really is not a great amount of time. If anyone lives within a body corporate, they will understand that any five years could be a very cheap five years of living there or could be very expensive depending on what maintenance is due.

Our recommendations throughout our submission were to factor in more than just five years of expenses, to look at what the body corporate actually has to contribute to maintaining the building for the next at least 10 years, which is already required in the act—the BCCMA already requires a body corporate to plan expenses for 10 years—and also to consider what the owner's outgoings are in operating their particular unit—so what the body corporate itself does not pay for and the owners need to. That is particularly poignant to standard format plans of subdivision. These are your particular body corporates where the common property is essentially just the parcel of land and each unit owner has their own title and building that sits on it. Under this proposal of the bill, it would be very hard with this wording to ever achieve an 'economic reasons' vote for a standard format plan of subdivision. That was one thing.

The other thing we suggested might be a cost prohibitive measure that this bill is suggesting is having three specialists involved just to prepare what is being termed a pretermination plan. It mentions having a structural engineer; secondly, another specialist; and, thirdly, a quantity surveyor to put together what is essentially an expenses plan for the body corporate over the next five years. Obviously it is something we do in the form of sinking fund forecasts that does not necessarily require that many specialists involved.

To give you some context as to why that is quite important, the previous amendment to this act that occurred through COVID to allow electronic voting and a few other matters had a provision in there for defect reports. The reality of—and we wrote at the time to the then attorney-general who was

Shannon Fentiman—having that provision there was that no-one in this industry was able to provide those particular defect reports because the liability of providing them was so strong and the detail required essentially meant that you had an engineer on site for days at a cost of a few thousand dollars per hour almost. It became almost a cost prohibitive process. I can tell you from experience that very few bodies corporate since that time have had that enforced and have actually gone through the process, so that particular wording ended up being pointless.

Another aspect we wanted to raise was that particular economic reasons in considering a pretermination plan did not give consideration to anything like the cladding issue that was faced recently or aspects of the building that are going to degrade over time, such as asbestos or lead paint, that might not necessarily be a current problem for the body corporate but are going to need to be addressed through the life of the body corporate. In terms of pretermination planning, those aspects need to be considered as perhaps grounds to contribute towards economic reasons.

Under a number of the sections, particularly section 81D, there were a number of different votes required to achieve a termination of a body corporate which we thought might be one too many. Trying to get a body corporate to agree on anything, as we all know, is difficult at times. If we have already achieved a majority vote to accept that there are economic reasons to terminate a body corporate or dissolve the scheme, to then have another 120 days before a general meeting to vote on the termination of the scheme just seemed a little bit laborious and bureaucratic, and that is not necessarily followed in other jurisdictions either.

Our suggestion was that, if the body corporate has already agreed to get a pre-determination plan and there is evidence in that plan that supports economic reasons, they should send that out to owners, give them 120 days notice to consider it, to contest it, to apply for a court order et cetera, and then hold a general meeting to vote on the viability of terminating it. That is a 75 per cent vote. Therefore, it does not necessarily rule out—if you held that first vote to find that there were economic reasons and that passed by just 51 per cent, it is pointless then when it goes to a special resolution and there is not going to be 75 per cent. All it has done is cost the body corporate more time and money.

The final aspect I really wanted members of parliament to understand is that the proposed bill and the wording of this suggests that this is quite a lengthy process to try to terminate a scheme by economic reasons. In our submission we supplied everyone with a suggested time line based on the wording of the bill. In reality it is likely to be a 12-month process but, at best, nine months. What that means is that for every owner in that body corporate through that period their unit is likely to be in stasis and unsellable, because the moment the body corporate starts discussing termination, prepares plans, looks for developers to buy the complex et cetera, no new buyers upon discovering those documents through disclosure statements et cetera would have any interest in making a bid. It essentially holds all the owners in stasis, and that is not even taking into account any particular owner who might lodge a dispute or apply to the courts to have any of the decisions overturned. The liquidity of a person's asset is also at stake here by the lengthy process that is being proposed. That supports our argument to reduce the number of votes necessary throughout this process. In some of the other jurisdictions it is a much faster proposed process. In New South Wales you probably have this sort of thing done between three and six months in the worst case scenario.

Those were my predominant points. Another thing maybe just to consider is the volume of dilapidated buildings that we are experiencing and that we are certainly coming across is increasing across South-East Queensland but also greater Queensland. We have a very harsh environment and concrete cancer is proving very prevalent in older buildings. Professor Gordon Holden, head of architecture at QUT, was iconically noted to say that buildings built pre-2000 only ever had a 40-year life expectancy. That is certainly proving true with the number of buildings deemed unlivable over the last few years, particularly on the Gold Coast with the President apartments, Iluka and a number of other buildings that are almost being condemned at the moment. It is certainly of consideration.

The other thing that this alludes to is, with such a lengthy process to achieve a termination, a body corporate is going to be unlikely to do any maintenance in that period because owners will not want to raise money whilst they are considering terminating and selling to a developer. Maintenance also gets put in stasis and any remediation or defects within the building are exacerbated because no-one wants to see anything done or waste any funds that might be recouped. Thank you. I am happy to answer any questions.

Mr KRAUSE: Thank you, Dakota, for your submission. It certainly came at things from a different perspective to many of the other submissions. You have made some very good observations. I wanted to ask you a question about the suggestion that the term 'economically viable' be clearly defined. I am not asking you why you think that is needed. I think you have outlined that. I wanted to know if this was

something that you would be able to help the committee with. Obviously one of the reasons, I am guessing, that it is not defined is that it is a difficult thing to define. In your professional experience, is it something that could be defined?

Mr Panetta: To start with, one of the things that could be encouraged, if not legislated, as part of this process is the need for a body corporate to have a current and active maintenance plan or sinking fund forecast that actually laid out expenses over the next five or 10 years as the act does ask them to budget for already. That would be a start in terms of saying, 'This is what our outgoings are going to be. This is how much each owner has to contribute over the next five to 10 years,' or whatever the time frame is chosen to be.

The other aspect of this that could be looked at is an equity position, which I put in the submission as an example: if an individual unit in a building is worth half a million dollars and they are going to be spending another $100,000 to keep the body corporate going over the next five years or so, that final equity position be considered in the pretermination report as grounds for economic reasons to terminate. It would then be that equity position versus what those owners might achieve each to themselves at market value to a developer purchasing the complex.

Mr KRAUSE: Dakota, the other thing I wanted to touch on was the concerns you raised in your submission about a termination being halted by one or several owners, even when there has been a 75 per cent resolution—I assume you mean by legal action. Then there is also a suggestion that when buildings over a certain age are deemed not economically viable that that decision should not be able to be challenged in court. We have heard submissions from other witnesses about the impact this could have on individual unit owners—the 75 per cent termination provision. In terms of this suggestion that that there not be legal remedies able to be pursued, how is that not unfair to owners who disagree with the termination?

Mr Panetta: That is a fantastic question and thank you for raising it. Our premise of that suggestion is that the democratic decision was already made as a 75 per cent vote, so well more than the majority of owners within the complex have decided it is in their best interests to dissolve the body corporate and everyone walks away with whatever the developer's offer is. In terms of those remaining few owners, whether that is 25 per cent or less, they for quite often sentimental reasons would rather stay in the building because they have lived there for quite a long time or are purely just contesting the decision that was made over economic reasons.

With that in mind, we often see that the consequence of not terminating can sometimes be significantly worse for all owners from a financial and a stress point of view than actually going through with terminating. Yes, you may upset one or two owners, but the reality is that they live in a body corporate that is governed quite often on majority decisions and often on even higher decisions than that—which in this case is that special resolution. If that is achieved then unfortunately they are at the will of the majority of the owners, but it is often in their best interests.

I cite an example in Sydney at the moment which is unfolding—a building in Ultimo in Sydney which is a heritage-listed site with approximately 600 unit owners. The majority of it is student accommodation. The reality of this scenario is that it is likely to bankrupt the majority of owners. They have a scenario where delayed maintenance has resulted in upwards of $40 million worth of maintenance. Some of it is being ordered by the Sydney City Council because it is affecting everyone around it. When these buildings start to become dilapidated and they start to become an issue, they actually affect the community at large. This particular building had pieces of facade falling down below.

They had an offer from a developer which was originally refused by the majority of the owners. It did not necessarily pass that threshold, but the reality is that these units were purchased at $200,000—a lot of them through super funds—and they are now experiencing levies of $50,000 a year—literally one quarter of their purchase price—because they did not sell and they must maintain the building because that has now been ordered by the council. That position is significantly worse than a few upset owners who are forced to sell at market value.

Mr LANGBROEK: Dakota, I am interested in section 81C, which I think is at page 3 of your submission where you talk about a pretermination report that tries to give you an equity position. The example you have used is if it is worth at market $500,000 but then there is a liability of $100,000 so their equity position would be $400,000. How does that allow for something that we saw during COVID when some of those units doubled in value in my electorate and I think around many parts of Australia and Queensland? How do you make allowance for what might happen in the real estate market, which no-one can predict?

Mr Panetta: That is a fantastic question. It was a question that I did think would be raised. It is a really difficult thing to try to predict. Obviously, real estate has it trends over the years but what we saw through COVID was certainly unique. I was formerly a real estate operator on the Sunshine Coast, in Noosa. Noosa was seeing almost a tripling in housing prices in the period of COVID. We have started to see that steady.

Essentially, this submission would have to consider that we cannot take into account future value over the five years of what those prices could go up by because over that same period construction costs and any remediation work also went up by between 30 to 50 per cent, to actually do any repairs and maintenance. You could only really consider, at that point in time, what the anticipated expenses are going to be. To give you an example, yes, the owners might have lost out on $100,000 extra they could have made through a sale in a boom period such as we saw, but they also might have undiscovered expenses within the building like concrete cancer and things like that, which are not necessarily going to be factored in with trying to predict this maintenance. We can only really work with what is evident at the time, that being, obviously, having a plan of what your maintenance is going to be, assessing any particular structural issues there are at that time and considering the market value at the time when the owners are going to vote on this particular decision. The bill does say it is to be considered at market value as per the compulsory acquisitions act, which is already obviously a known entity. It is a very hard one to try to consider for future value, but a great question, thank you.

CHAIR: Dakota, in relation to the time line, which is different when there is a pretermination report in the process, you said—and correct me if I am wrong—that it is six months in New South Wales whereas it would be a lot longer under the legislation that we are examining. Could you tell us how it works in New South Wales?

Mr Panetta: Again, that is just a rough estimate of the time. We have not done too many in New South Wales that we have worked with. Essentially, in New South Wales they have taken the approach that this entire concept is about renewing a parcel of land. The terminology is not 'terminating', 'dissolving' et cetera; it is about 'renewal', with that intent and with that flavour going into the legislation. This was designed in 2016 when it came about to be a rather quicker process.

To give an example, the moment that a developer or some interested party puts forward a proposal to redevelop the body corporate complex, they have 30 days to get it out to all the owners and then call a meeting for the owners to consider what was in that report and if they want to then establish a committee and the next step would be to form a renewal committee to see that through. The reality of it is that, unless there is a lot of contest throughout the process and owners take legal action against it, it is something that could be finished within three to six months.

The reality I would allude to of what we have seen in New South Wales, which is quite interesting, is that rarely is that approach needed. What has tended to happen is that, when one or two different submissions are made to the owners about a collective sale to a developer, a lot of the owners, whether they were hesitant or not, understand that that 75 per cent vote is there and if they are unlikely to have much effect over that they tend to just jump on board and look at the collective sale rather than hold it up. It has been quite interesting in New South Wales and obviously, with a huge push for the re-gentrification of areas and a greater urban density for living, it is certainly something that was widely adopted and has had quite a positive impact on a number of different councils.

CHAIR: So the wording could be important. Rather than call it 'termination', call it 'renewal'.

Mr Panetta: Absolutely. I believe in Singapore, and if not there then it is another area in South-East Asia, they actually looked to the same sort of thing. It is about the regrowth of a building. There are other jurisdictions in the world where they have a compulsory period. It is around 40 years. Once a building hits that life expectancy, the council steps in as well to collapse whoever is living there, collapse the entity and rebuild it. That includes things like offering owners an option to be in the brand new scheme as well.

This bill did not really address ways that it could be dissolved; it just suggested dissolving it. What a lot of the developers are doing is offering current unit owners an equivalent unit in the new development once it is put together, which I think is quite a nice offering. They are even going as far as accommodating them in rentals et cetera in the time period to create the new development, which I think is quite a good way of addressing a few community issues there.

Mrs McMAHON: On that point, we have had a few submissions and people appearing before the committee today on behalf of the home owners and other associations that have made reference to deliberate neglect of buildings in preparation for pushing people out. In your submission you made reference to those who want to stay for sentimental reasons. We have had submissions about the financial impacts on people who have lived somewhere for a significant period and no longer have the

financial ability to live in their community should they be moved on because they are in a minority. You outlined before some good schemes that developers may encourage people to live in, but obviously that is not a requirement. In some instances if home owners are in a minority, particularly if they are in a—I think the term I am hearing today—sixpack, then they might be the only owner occupier and everyone else is an investor waiting to push them on. We have heard of examples of bullying and harassment to move owners out of their own homes. How do you see, in this bill, a balance with the rights of a home owner? In your experience, you have seen examples with organisations, bodies corporate and developers where there has been deliberate neglect and decay of buildings in order to force the hands of residents?

Mr Panetta: That is a fantastic question. Certainly, that is something that we have seen across the jurisdictions we operate in. I am sure many of the people who have spoken before me today are aware of many cases as well. From what you have stated, that is essentially the reality as it is at the moment. A resolution without dissent is what is currently required or a buy-out of every single unit.

In your sixpack example, what is currently happening is that a developer is throwing enough money at each individual unit owner until, essentially, they walk away from the property. Of course, there are stories that include harassment and a number of bullying tactics et cetera to get rid of them out of the complex. I think that is perhaps exacerbated because at the moment one single owner can hold up that process. If this were to move to a scenario of 75 per cent and you might still have one-quarter who are not necessarily in favour of selling, it is actually less of a minority than it currently is. Currently, you have scenarios where particularly elderly residents are getting bullied et cetera by a developer to move out. A developer will buy every other lot and make life completely miserable for them.

To go to your point in terms of their financial position moving out of the complex, unfortunately, there are always going to be those scenarios where there are going to be minor cases where people are worse off. However, in our experience, by holding onto some of these assets they are truly going to be worse off in the long run. They are going to have no financial equity. We are seeing buildings where a developer essentially is going to walk along and throw $1 coins at them because the building is not worth anything and is about to be condemned. At that point the owners have no bargaining position. They have zero market value for these properties to be acquired. They just have to take the only option that the developer offers them because they have gone through such a severe lack of maintenance that the buildings are just crumbling now. Our passion, in this whole submission, was that we do not want to see buildings ending up in that position. If that means at times, unfortunately, one or two owners are going to be left a little sore and worse for wear but the majority escape such a terrible financial position then we would see that still as a win, as have many other jurisdictions that have brought in this legislation.

Mrs McMAHON: As a side note on that, take the issue of bodies corporate allowing buildings to decay into a state, regardless of whether or not there is developer interest. The body corporate management is failing to do due diligence in keeping a building to a certain standard. Where should the mechanism for holding a body corporate to account lie? Is it with government? Is it with regulations? If this is happening, and we have heard it from a couple of submitters today, where should that level of scrutiny lie in terms of holding management bodies to account? My understanding is that it is meant to be the owners themselves who are on the committees. It does not seem to make sense that they would allow their own investment to decay to a point where they cannot maintain it. Where should that mechanism lie for holding that body to account?

Mr Panetta: That is a fantastic point. This is something that I spend significant amounts of my own time on. I conduct a number of town hall affairs in different communities discussing this very issue. It is so ironic: like you said, this is an owner policed policy at the moment and the body corporate itself is supposed to govern this aspect. Its legal duty at the moment, as it stands, is to maintain that building in good and serviceable order. The irony of that is that an individual owner could currently take legal recourse against the body corporate as an entity for failing that action but they are also a member of said body corporate. It is a bit of a funny approach at the moment. This particularly comes to light when one owner is trying to sell and they cannot achieve proper market value because the body corporate has gone into disrepair and they will sue the body corporate and, indirectly, themselves.

Where it probably should lie, and perhaps this is very wishful thinking, is between a state and council level to actually be doing regular assessments of these buildings to check that they are maintained in serviceable order. To give you an indication of what New South Wales has done, they have brought about what they call the strata hub, which is where they have forced every strata building to lodge what their maintenance plan is over a 10-year period and what their serviceable funds are for each year as it comes through, along with a number of different invoices of what they have had done.

They saw the same problem throughout New South Wales where people would just let these buildings go to disarray. We all know the act says you have to maintain it, keep it safe et cetera, but it was not policed until someone got sued.

I would think, like you, that people would maintain what is often their biggest asset, but I can tell you from experience from speaking to thousands of people per year about it that they just do not, unfortunately. It is actually the reason governments first brought in sinking fund forecasts and maintenance plans et cetera as a compliance piece because whole suburbs, particularly in western Sydney and areas of Queensland, were going into states of dilapidation because people just did not put money away for future expenses.

CHAIR: In relation to where those reports are lodged, is it with local government or the state entity?

Mr Panetta: I believe it is with the state entity. It is an online portal. To be honest, how frequently that is checked by the authority of that particular area I do not know, but the process is there. What it helps with is disclosure documents for any buyers coming into the complex. It has certainly had a big win in that space.

CHAIR: You touched on new section 81C(e), which stipulates the three professions. You said something about how in New South Wales it does not require that, that there is a quicker mechanism. Can you refresh my memory on what that was, Dakota?

Mr Panetta: In other jurisdictions where the body corporate is looking to be dissolved or regenerated, essentially that 75 per cent threshold is not even necessarily for economic reasons. Quite often that is a mechanism to test if that is valid. It is generally the body corporate committee that puts together whatever the plan is going to be and then have the owners vote on it. A specialist is rarely involved other than if there is a structural issue and they need to quote on what that work is going to be. Definitely, you need to have a maintenance plan provision as well. They essentially add up what all their expenses are going to be over this period and then say, 'Guys, it's easier just to sell off now rather than we all go through the financial stress of trying to maintain it.'

Chair, what I am concerned about in this bill, like I said, is those three specialists. One specialist is one thing, but to have three different specialists involved at significant cost—and because we operate in this market we understand that—I think is going to be incredibly cost prohibitive in trying to get that pretermination report done to even take to your owners to then have a vote on. It will not pass, unfortunately.

CHAIR: That brings to a conclusion this part of the hearing. Thank you, Dakota, for your attendance, your evidence and your written submission. Have a good afternoon.

Mr Panetta: It was an absolute pleasure. Thank you all very much.

GALEA, Mr George, private capacity (via teleconference)

CHAIR: Welcome. I understand that you would like to speak to the committee about an issue in relation to our legislation. You have five minutes to make an opening statement.

Mr Galea: My name is George Galea. I am a 70-year-old self-funded retiree. I would like to thank you for allowing me to have input. It appears the chair has sought offers from developers to purchase the site. Five of the six owners accepted and I prevented the sale. I am now an outcast in the building. My fear is that the other five owners will use the 75 per cent legislation to force me to sell by putting to the cost of the body corporate the costs of lodging multiple applications to sell, thus putting me to the cost of defending those multiple applications.

I would like to remind you that it is the legislation itself which could be the tool allowing greed to make others homeless. To prevent this I would like the legislation (1) to restrict the body corporate to one application every 10 years—support: once a building is deemed sound it surely will not be a wreck within 10 years, and it would be unfair and financially crippling to put dissenting owners to the cost of defending multiple applications; (2) to restrict those wanting to sell from using body corporate funds to fund applications—support: it would be unfair to put dissenting owners to the cost of funding scurrilous applications rooted in greed; (3) to allow dissenting owners to obtain an engineering report at the expense of the body corporate—support: the present legislation for expenses calls for more than one quote, though it is only reasonable for the sale of the whole building to require more than one engineering report; (4) to not accept that one vote per lot is a reasonable gauge to assess a lot's value and to recognise that all lots do not have the same replacement value—support: it would be much more expensive, indeed impossible, to replace a top floor full-width lot having north-facing ocean views than to replace a lot not having sunlight and not having any ocean views.

Those are my points. I am very happy living where I am and I feel this legislation is going to put a cloud over my home ownership. I feel like I have lost the security of owning my own home, which is something I have worked all my life for.

CHAIR: George, how long have you lived in the complex?

Mr Galea: Twelve years. I would like to see my days out here. I am very happy. I am the happiest I have ever been.

Mr KRAUSE: George, thank you for your submission. We have heard from a couple of other submitters today who have similar concerns about the impact it would have on individual owners who do not wish to sell. The chair asked the first question I was going to ask. If this law comes into effect and the 75 per cent provisions mean your unit is sold, have you considered where you would end up or the scenario that you would be placed in?

Mr Galea: I have started looking around and I have not seen anything that I would like to move to. The places in the area where I am living now are in excess of a million—probably one to 1½ million more expensive to replace what I have. Although this is an older building, this is a building with six lots in it, some over 1,000 square metres. Only half of the land is used so it has nice gardens. Right next door there was a development done and the units in that building are going for $2,750,000. I do not have the means to earn any more money to pay almost double what my lot would be worth, so I would be forced out of the area. I have friends in the area. I have a good support network here. I am close to medical. I have had sleepless nights worrying about what would happen if it goes through. I think it is terrible legislation. There is no longer security in owning your own property.

Mr KRAUSE: It must be very stressful thinking about those sorts of things.

Mr Galea: Yes, it is. I do not know where I will end up. It is something that I worry about. I wake up thinking about it. Last night I was just going over it in my head. I wake up early in the morning and it is the first thing that comes into my head.

Mr KRAUSE: George, can I ask if there are any viability issues with the building that have been identified, or is this approach from a developer just purely from a development and money perspective?

Mr Galea: Purely from a financial gain perspective. We have had the building inspected every year as part of the body corporate management system and there have never been any issues with the building. There are no defects in the building. The roof has been replaced. Windows have been replaced where needed. In fact, the reports say the building is in very good condition, but I have been copping a lot of abuse because I do not want to sell and the others want to sell. I am in a terrible situation.

Mr KRAUSE: George, I am going to hand you back to the chair, but thank you very much for your submission.

Mr Galea: Thank you for listening.

Ms BUSH: Your circumstances sound extremely stressful, so I appreciate that while you are battling with that you have taken the time to provide a submission to our committee so we can hear firsthand what life is like for you. There are a couple of safeguards in the bill and I just want to get your view on them. One of the safeguards is that in order for this 75 per cent trigger rule to occur the building is no longer really in good order. The building has obviously fallen into a state of some form of disrepair, whether that is through nefarious reasons or people not being able to maintain the funding and upkeep of the property, but the point is that the building needs serious work. The second safeguard is that it is not financially or economically viable for people to contribute and the sinking fund is not there to support the upkeep of the property. It is not that this can be applied just simply because 75 per cent of the owners suddenly want out and want to upsell. Hearing that, do you feel that offers you some degree of protection and does that provide any reassurance to you?

Mr Galea: What I am worried about is if money changes hands and they come across some scurrilous, not-so-honest engineer who gives a false engineering report. As I said in my submission, I would like to see provisions where dissenting owners can get a second opinion, a second engineering report, and have that funded from body corporate funds. I am hoping that will not happen, but I have come across some real dodgy builders in my time on the coast, unfortunately.

Ms BUSH: Some kind of protection for yourself. I heard what you said in your recommendation where the 75 per cent, for example, cannot come together and draw from body corporate funds to secure those engineering reports. That is one protection. Another protection is that owners can challenge the validity of engineering reports to request whether they are accurate or not. I think in the current act there are about three different types of reports that are required before this mechanism can be triggered also.

Mr Galea: What was that last bit? I have a bit of an echo now.

Ms BUSH: In the bill as drafted—I am just trying to find the clause—I think there are three reports required. It is not just simply that 75 per cent of owners produce one engineer's report and it is a fait accompli. A series of reports have to be provided that demonstrate—

Mr Galea: Who pays for the series of reports? Is that an individual owner or does that come out of body corporate funds?

Ms BUSH: I am just looking at that myself, George.

CHAIR: On my reading of the legislation, it comes out of the body corporate.

Mr Galea: Is there any limit on the number of applications that can be made? My suggestion is that there should be one application every 10 years, because I imagine the costs would be quite great. Is there any limit on the number? If you make an application and it gets knocked back—

CHAIR: No, it does not appear there is a limit on the number of applications. You are right: if the body corporate is paying for it, it would go to a vote of the members. You would have to get some legal advice on that, George.

Mr Galea: Is it possible to make the submission on my behalf that there is a limit on the number of applications that can be made over a period or there should be a time frame between each one?

CHAIR: George, your oral submission to the committee becomes evidence in the committee's deliberations.

Ms BUSH: George, I think we have the department coming back to speak to us, so we can certainly put that question to the department on your behalf also.

Mr Galea: That would be great.

CHAIR: Thank you, George, for your time. Here's hoping for better days.

Mr Galea: Like I said, thanks again for giving me the opportunity to have a say.

CHAIR: It is an important part of the process, George; you're welcome. That concludes this hearing. Thank you to everyone who has participated today and to all those who helped organise the hearing. Thank you to our wonderful Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. Thank you to all the committee members and secretariat staff. I declare this public hearing closed.

The committee adjourned at 4.17 pm.