

Body Corporate and Community Management and Other Legislation Amendment Bill 2023

Submission No: 83
Submitted by: [REDACTED]
Publication: Making the submission public but withholding your name
Attachments: See attachment
Submitter Comments:

We have owned an older beachfront unit in a small block of 5 (6 entitlements) at Bilina for 30 years. There are 2 units on the beachfront half which have uninterrupted sea views and 3 units on the roadside half (added later) which have no views. Developers have been circling for some time.

We do not want to sell as the position is irreplaceable – ground floor, beach views, flagged swimming area out the front – the list is endless. However, the other owners do – they are there for the financial gain. Currently their units are rented permanently (i.e. not holiday lets) for reasonable rental. One owner says she can't afford the land tax and rates anymore but wants to benefit from selling the property as a whole rather than selling her own property. Our children grew up with beach holidays there and now their babies are about to enjoy the same. We have just retired with more time to spend there and it looks as if that will be taken away for greed.

The building, though older (60's) is in reasonable condition and the body corporate keeps on top of maintenance. We have made improvements to our unit though others have just maintained a minimum level for their rental purposes.

We have a number of concerns with the proposed legislation in relation to the 75% termination vote as it stands, for properties such as ours.

1. The capacity for those who don't wish to sell to replace what they have. Will there be provision for those who vote 'no' to be compensated for costs incurred to replace what they are forced to sell – CGT on the sale, stamp duty on the purchase of a replacement property and associated selling/buying costs? For those who have held properties for many years the CGT is considerable whereas for those who have bought in recently with an eye for profit it is far less. How is this justifiable from a fairness perspective?
2. Consideration of position on the block for the fair allocation of sale proceeds i.e. in our case, if the block were divided in two (front and back), as is the case next door (2 separate titles), the front half land valuation is double the back. Therefore the division should be 2/3 front units and 1/3 back units rather than an even split on lot entitlement. The minimum compensation amount tied to the amount payable if compulsorily acquired under the Land Acquisition Act is grossly inadequate in this situation. How will position/amenity be compensated?
3. The ability for those looking for big profits, to let their apartments to fall into a state of disrepair to then get reports to prove the building is too expensive to maintain, thereby starting the process to termination of the scheme. How is this fair to owner occupiers?
4. The assertion that this will help the housing crisis in any way. These units are rented to people at affordable rates. All new build units along this beachfront are \$3M plus and marketed as 'luxury' apartments, way out of the reach of those who have lived in the demolished buildings. How can this possibly help the current housing crisis?
5. Current owners/residents have nowhere comparable to go and will be disadvantaged, financially and amenity-wise. How is this justifiable to those who have invested in a lifestyle?

I understand the need to do something where body corporates are struggling with old decrepit towers and are being prevented from selling by 1 owner. However one size doesn't fit all. The proposed legislation might help those body corporates as well as being adequate for the run-of-the-mill suburban '6/8/24 pack' but not for other situations. There is a real issue of equity, fairness and justice – morally, socially and economically - at stake.