



Speech by

CARRYN SULLIVAN

MEMBER FOR PUMICESTONE

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**BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER LEGISLATION AMENDMENT
BILL**

Mrs CARRYN SULLIVAN (Pumicestone—ALP) (4.57 p.m.): I rise to support this bill. I am pleased that the minister and his staff have tackled some of the important issues which have been raised by people, including a number of my constituents. I believe there will be a lot of unit and apartment owners who will be happy that concerns raised through a lengthy process are finally being addressed.

Home unit owners will in general benefit from the reforms to the body corporate law. The changes aim at providing greater protection from poorly performing or unscrupulous resident managers and letting agents through the introduction of a code of conduct for body corporate managers, resident carers and letting agents. Queenslanders are choosing more and more to live in units and apartments or to buy them as investment properties, and owners want security in knowing this state has an effective legislative framework to ensure the successful operation of community titles schemes and bodies corporate.

The Body Corporate and Community Management Act came into effect in 1997. This established a more flexible legislation than previously. However, an extensive review was undertaken because of its complexity. Consultation followed the release of a draft bill in March 2002, and owners and investors have asked me to pursue several concerns they have. Some have certainly been covered, and I thank the minister and his staff for the time they spent with my constituents. However, there are still some issues with one particular part of the bill, and that is the dispute resolution process. It is not until someone becomes directly affected by one of these unscrupulous body corporate managers that they realise there were a number of holes in the previous legislation that a certain few could and would always take advantage of.

Bodies corporate mostly work for the good of the owners. However, a lot of owners do not live on site.

Ms Keech: No, some buy them purely for investment.

Mrs CARRYN SULLIVAN: The member is right. Therefore they are distant from decisions that are made for their benefit or otherwise.

I will read part of a letter from a concerned owner who lives on site and has had reason to contact the adjudicator to resolve a dispute between herself and her body corporate manager. It states—

The disappointing aspect of these amendments is that they fail to require the Department responsible for processing any application to require of the applicant or those making a response to an application, to provide such information in the form of a Statutory Declaration, to ensure that details being given are in fact true, or require a face mediation between the parties prior to a ruling being made.

My constituent believes that it should not be optional to sign a statutory declaration. It is unfortunate that people will and do lie when caught out. I am sure my constituent is not the only one to whom this has happened. She believes that people would be more likely to tell the whole truth if a statutory declaration were compulsory. My constituent adds—

Any ruling made purely on applications or letters received and without any investigation as to the truth of the content of those letters or applications is hardly a fair system of justice, especially when all of the parties know full well that no

investigation will take place and that their evidence by way of written comments does not have to be in the form of a Statutory Declaration.

People who dupe others are often smart at it. When an error is made by an adjudicator because for whatever reason he is influenced by perhaps a more articulate written response of one party, then the other party is put at a severe disadvantage because the only way to prove the case is to go to the District Court, which is unlikely to happen mainly due to the high cost, and the other party would be well aware of this in advance.

Perhaps the remoteness of the adjudicator is something that needs to be looked at. Certainly face-to-face meetings in the situation I have just described would have resolved the issues more quickly, rather than correspondence going backwards and forwards with often lengthy periods in between.

An elderly couple—the gentleman is in his late 80s—who own and reside in a unit at Spinnaker Sound have confessed that the process of adjudication is cumbersome, frustrating and intimidating.

Ms Keech: Especially when you are elderly.

Mrs CARRYN SULLIVAN: That is right, and in this case they are very elderly. They are concerned that the adjudicator can dismiss applications on the grounds that they appear to be frivolous, vexatious, misconceived or without substance. They are concerned that the adjudicator can dismiss an application without investigating the detail of the application, and they are also worried that he or she may order costs against the applicant to compensate the person against whom the application was made for loss resulting from the application. They see this as unfair and unjust.

Whilst the investigative powers of adjudicators have been extended to include the right to call parties beyond the applicants—that is, someone else the adjudicator considers may be able to help resolve issues raised in the application—if the adjudicator does not have statutory declarations to refer to or does not seek any mediation, then the question the elderly couple ask is: how can an application be considered in a fair way?

My constituents believe that the answer to these concerns lies in the adjudicator relying on not just letters which may come across his or her desk but also compulsory statutory declarations and face-to-face mediation. That way the control is shared between all parties and not just, as would happen sometimes, based on the opinion of the adjudicator.

With over 250,000 unit and apartment owners throughout Queensland, it is imperative that the proper mechanisms are in place to protect people's rights and ensure the legislation adopted is effective and fair for all.