



Speech by

## Lillian van Litsenburg

MEMBER FOR REDCLIFFE

Hansard Tuesday, 6 March 2007

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

**Ms van LITSENBURG** (Redcliffe—ALP) (5.36 pm): I rise to speak in support of the Body Corporate and Community Management and Other Legislation Amendment Bill 2006. This is important legislation because, owing to the increasing growth in the density of urban centres and the rising cost of housing, particularly in south-east Queensland, a far greater percentage of Queensland's population live in units. It is vital that those people have access to effective and affordable dispute resolution processes. This bill gives unit owners a low-cost, effective option that they have not had access to before.

This bill is a cogent response to concerns raised during a recent review of body corporate legislation. It promotes the viability of the sector as a housing and investment option without diminishing the existing rights of unit holders. One very important aspect of this bill is the expansion of the jurisdiction of the Commercial and Consumer Tribunal to resolve complex body corporate disputes, such as lot entitlements. The review acknowledged that stakeholders were particularly concerned that the only process by which to resolve disputes over the adjustment of lot entitlements is either by specialist adjudication or the District Court and the high costs and formality that those tribunals can involve. The Commercial and Consumer Tribunal already deals with a range of complex commercial and consumer matters. It is a viable and accessible means of resolving complex body corporate and community management disputes. The jurisdictional change that is proposed in this bill will alleviate stakeholder's concerns regarding the current costs of specialist adjudication and the costs of and formality of the District Court proceedings. It now puts justice within the reach of parties who previously had to pursue their dispute through specialist adjudication or the District Court. Additionally, the jurisdiction of hearing appeals of orders made by adjudicators will be vested in the Commercial and Consumer Tribunal rather than the District Court.

For some time, stakeholders have contended that the District Court is too formal and costly. Appeals will continue to be limited to those raising a question of law. Adjudicators' orders warrant a reasonable degree of certainty for those people who have the benefit of the order. Questions of law are broad enough to ensure that unsuccessful parties have reasonable access to appeal, if they consider the adjudicator has misapplied legal principles or failed to afford the party natural justice.

In most instances, the Office of the Commissioner for Body Corporate and Community Management has exclusive jurisdiction to resolve body corporate disputes. There will be exceptional circumstances where the parties to a dispute prefer to have the matter dealt with in another jurisdiction such as a court. This exclusivity has proven to be obstructive. As a result, this bill will allow parties by agreement to refer the dispute to a court, tribunal or dispute resolution process with appropriate jurisdiction rather than having the matter determined under the dispute resolution provisions of the Body Corporate and Community Management Act. However, the flexibility to refer the dispute to another jurisdiction will be subject to the agreement of the commissioner to prevent parties from 'forum shopping' for favourable decisions. These are important changes that will give body corporate members better outcomes for resolving disputes. I congratulate the minister on the detail and the extent of this bill. I commend this bill to the House.