Speech by

Jarrod Bleijie

MEMBER FOR KAWANA

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BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER LEGISLATION AMENDMENT BILL

Mr BLEIJIE (Kawana—LNP) (9.06 pm): Tonight I rise to contribute to the debate on the Body Corporate and Community Management and Other Legislation Amendment Bill 2010. From the outset I endorse the comments made by the shadow minister, the member for Currumbin, in her opposition to this bill before the House. I also congratulate the shadow minister on a well-researched contribution to the debate tonight. It covered all the necessary issues that should be covered in this debate.

As we know and as we have heard in this debate tonight, the bill before the House amends the Body Corporate and Community Management Act 1997. That legislation was introduced into this House by the member for Warrego as a member of the Borbidge government. The bill also makes minor changes to the Queensland Civil and Administrative Tribunal Regulation 2009 and the Queensland Civil and Administrative Tribunal Rules 2009. Queensland has some 39,000 community titles schemes covering 364,000 lots. Of course, when we are dealing with community titles schemes we are not necessarily dealing with large unit complexes; we can be dealing with duplexes which are involved in community titles schemes.

Mr Deputy Speaker, may I seek your indulgence for two seconds to welcome to the public gallery tonight the future Premier of Queensland, Can-do Campbell Newman.

Mr Fraser: Normally you're welcoming Wyatt Roy.

Mr BLEIJIE: I look forward to the day that the future Premier of Queensland, who has joined us in the public gallery this evening, sits in the chair occupied, as I speak, by the disgraceful Treasurer. I look forward to that day.

Mr Lucas: Keep up the arrogance.

Mr BLEIJIE: Yes, the Attorney-General and Deputy Premier should look disappointed, because that day is coming.

As I said, when we are dealing with community titles schemes we are not talking in all events about high-rise buildings and multimillion dollar penthouses. I note that the member for Coomera and other members representing electorates on the Gold Coast have talked about community titles schemes in their electorates. We can certainly see the difference between the community titles schemes in the electorate of Currumbin and the electorate of Kawana. Most of the community titles schemes in my electorate are ground-level community titles schemes, over-50s villas not contained in retirement villages but of one or two levels, and simple duplexes under the small scheme modules.

The bill before the House will amend the previous amendments brought about and moved by the Beattie government in 2003 which the opposition supported. It was good enough at the time. Why now, some years later, are we changing the goal posts again? I can say as a former practitioner in the legal profession—

Mr Hoolihan: And you don't even know the law.

Mr BLEIJIE: The interjection from the member for Keppel is not even worth responding to. The member for Keppel talks about the diatribe from members in this House. All I can say is that the member for Keppel speaks from the most experience.

Mr HOOLIHAN: I rise to a point of order. I find the words offensive and ask that they be withdrawn.

Mr DEPUTY SPEAKER (Mr Powell): Order! Member for Kawana, the member for Keppel finds the words offensive. Please withdraw.

Mr BLEIJIE: I withdraw the offensive words.

Mr HOOLIHAN: I rise to a point of order. 'The offensive words' is a qualification on the withdrawal.

Mr DEPUTY SPEAKER: Member for Kawana, you will withdraw unqualified.

Mr BLEIJIE: I absolutely withdraw any statements the member found offensive.

Mr DEPUTY SPEAKER: Member for Kawana.

Mr BLEIJIE: I unqualifiedly and unreservedly withdraw. The Beattie government moved these amendments in 2003 and, as I said, it was good enough at the time. Time and time again this government comes into this place with amendments formulated as a result of advice from practitioners and a form of consultation because it has introduced legislation in a rush and a panic and it works out that it got it wrong and needs to change it. The government is completely changing its position from where it stood in 2003. It is an absolute backflip. But if you ask me if I am surprised I will say 'absolutely not', because this is not the first time, it is not the second time and it is not the third time. It has happened over the course of this long-term toxic Labor government over the last 12 years in Queensland.

This bill that we are debating tonight will proffer a new entitlements scheme. In my previous occupation I had a number of dealings with body corporate matters and community titles schemes. The Attorney-General last week started the debate on the Neighbourhood Disputes Resolution Bill. We did come to some form of agreement, to an extent, on that matter. Even the member for Keppel and I agreed in that debate at the time. It does not happen often, but it did in that debate.

For most practitioners in this House, the second most common form of complaint and dispute that always seemed to arise was with community titles schemes. This is because people are living so close to one another, whether in a ground floor unit in a community titles scheme or in a high-rise development. I acted for a constituent who bought a couple of units in a community titles scheme. They went from quite a nice house on the canal into a community titles scheme. I could tell by their personality, as you sometimes can, that they were potentially not suited to community living in close proximity to neighbours, having had the freedom that they had had for most of their years. These particular people only lasted about eight weeks. The lady was an author and wrote a book about why not to buy in community titles schemes. They bought another house on the canal and lived their married life there. Community titles schemes do not suit everyone, but it is a form of accommodation that we need and some people do enjoy it.

When dealing with community titles, I used to draft community management statements in terms of lot entitlements. We were also dealing with the schedule lot entitlements and exclusive use areas. One issue is community property. The responsibility for the common property rests with the body corporate. It is an area of law that clients need particular explanation of as to their rights, liabilities and responsibilities. Since my election to this parliament a number of residents in the Kawana electorate have raised concerns that changes undertaken by the Bligh Labor government will affect the costs associated with living in a community titles scheme which are, of course, apportioned by the lot owner's allocated lot entitlement. These costs in the past have related to heavy water restrictions on common property of body corporate facilities, including the forced implementation of vigorous water reform processes that bodies corporate had to endure in the last two years, and to the extent of costing bodies corporate a lot of money in these schemes, some of which can least afford it. There have also been changes to pool-fencing requirements.

The principles for deciding contribution schedule lot entitlements are set out in clause 46A of the bill as the equality or relativity principle. These principles cater for inequities in car parking and different requirements for public access or maintenance or commercial community titles schemes and the use of large volumes of water. I have been contacted by some constituents in respect of the wording of the consultation draft of the bill. The primary objections that were raised relate to proposed section 385(4)(b), which was set out in clause 19 of the draft consultation bill as—

385 Resolution on motion.

(4) At the general meeting, the body corporate—

(a) is taken to have passed a resolution without dissent to change the contribution schedule lot entitlements of the lots included in the prescribed scheme to the pre-adjustment order entitlements, subject to the changes (if any) decided under paragraph (a).

The explanatory notes state that the bill proposed to allow community titles schemes established prior to the commencement of the bill which have been subject to one or more orders to adjust contribution schedule lot entitlements the ability to revert their lot entitlements to their original settings prior to any and all adjustment orders.

While bodies corporate should be allowed to revert their lot entitlements to their original settings prior to any adjustment orders, the decision should be made by motion to be passed in the same manner as any other motion that is put before the body corporate committee. Any motion that is put before a body corporate committee should be voted on and either accepted or rejected in accordance with the body corporate standard procedure for motions. Such a motion should not be deemed to have passed without dissent, as prescribed in section 385(4)(b) of the consultation draft of the bill, unless the motion is, in fact, passed by the body corporate without any votes against it. I note that the bill before the House does not include the section proposed in the consultation draft of the bill but merely states that the motion will be decided at a general meeting. I seek the Attorney-General's comments in relation to the bill before the House and the changes between the consultation draft and this bill relating to the issues that I have raised. I would also appreciate the Attorney-General's confirmation that in the bill before the House the rules of a general meeting will take effect in determining motions on lot entitlements put before a body corporate committee.

As shadow Attorney-General, I have grave concerns about any legislative amendments that are retrospective in nature and breach fundamental legislative principles. Again, this is not the first bill that we have debated in this parliament that the Labor Party have introduced with retrospective effect. They do it all the time. I do hold initial grave concerns about any retrospectivity in any bill because it does sometimes impinge upon the rights and liberties of individuals. The explanatory notes to the bill refer to these fundamental legislative principles as defined in the Legislative Standards Act 1992. The notes state—

The proposed amendments to the BCCM Act will potentially breach the fundamental legislative principle by adversely affecting the rights and liberties of individuals retrospectively.

Lot owners in community titles schemes that were established prior to the commencement of the bill will have different rights to the lot owners in schemes established after the bill. I do, however, support any legislative amendments that will reduce the workload on the Queensland Civil and Administrative Tribunal. The underlying premise of QCAT is to streamline our justice system, and that should never change. It is also an underlying principle to provide effective and cheap justice through the justice system to Queenslanders.

The second objective of the bill before the House relates to the establishment of a management arrangement for residential community titles where there are only two lots, commonly referred to as a two-lot schemes module. This is prescriptive whereby it only applies to community titles schemes (a) that are residential, (b) that consist of two lots, (c) that are not part of a layered arrangement, and (d) where there is no letting agent for the scheme. Lot owner agreements will be required for decisions of the body corporate for a two-lot scheme. The intention of this amendment is to simplify the decision-making framework for a two-lot scheme body corporate. There is no need for a body corporate committee, no general meetings are required, there are no polls and no casting of votes and there is no need to maintain a quorum. This is a sensible change to the management of a two-lot titles scheme and reduces the administrative burden of maintaining body corporate meeting procedures on the individual lot owners.

In its submission on the bill before the House, the Queensland Law Society stated—

There needs to be an appropriate balance struck between fairness for lot owners holistically and the comfort for individuals brought about by certainty. In the Society's view the consultation amendment proposals do not achieve this balance.

Of course, that was in relation to the draft consultation bill, which was changed to what is before the House today. There are also submission contributions from a number of legal entities that do not believe the bill before the House achieves its objectives in clarifying schedule lot entitlements.

I take this opportunity to thank the shadow minister, the member for Currumbin, for the work that she has undertaken in preparation for the debate on the bill before the House tonight. She has spoken with industry stakeholders and has foreshadowed a number of much needed amendments. There is one thing about this side of parliament that differs fundamentally from the other side. I notice that the member for Pumicestone has just entered the chamber. I have been talking about consultation and how the shadow minister has consulted with industry stakeholders. As I have mentioned before, a couple of weeks ago in this place the member for Pumicestone said that the Labor Party invented the word 'consultation'.

Government members interjected.

Mr BLEIJIE: And I received that same reaction. *Hansard* records the member for Pumicestone saying that the Labor Party invented the word 'consultation'. We know that is not the truth. We know where the truth lies, which is that fundamentally if you want consultation, if you want your voice heard in this place, if you want members of parliament to stand in this place and stick up for Queensland constituents and residents—

Mr Lucas interjected.

Mr BLEIJIE: I say to the Attorney-General: you have to have a can-do team with a can-do attitude. That is what we have on this side of the House: we have a can-do team with a can-do attitude and a can-do leader.

Mr Horan: And we can consult.

Mr BLEIJIE: I take the interjection from the member for Toowoomba South. He said, 'We can consult.' The member for Currumbin, the shadow minister, can consult. All the members of the LNP can consult. That is the difference between those of us on this side of the House and the Deputy Premier and his cronies on the other side of the House. We will listen to Queenslanders; we will listen to the public. We have listened, hence the very well thought out contributions of the shadow minister and members on this side of the House, who have sought contributions from Queenslanders who are suffering under this government. I conclude my contribution by voicing my support for the amendments foreshadowed by the shadow minister, which will not seek to move the goalposts as the game has already been played, to coin a phrase.