




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

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

Second Reading

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (10.36 pm): I move—

That the bill be now read a second time.

I thank the Legal Affairs and Community Safety Committee for its consideration of the Body Corporate and Community Management and Other Legislation Amendment Bill 2012. I note that the committee tabled its report on 22 November 2012 and I highlight to members that I tabled a copy of the government's response to that report on 22 February 2013.

I also take the opportunity to thank the many unit owners and body corporate professionals who made written and oral submissions to assist the committee in its consideration of the bill. I have no doubt that the submissions were of enormous assistance to the committee in coming to terms with the difficult and complex matters dealt with by the bill.

One of the principal policy objectives of the bill is to deal with issues concerning contribution schedule lot entitlements in community titles schemes. In particular, the bill deals with the former government's abhorrently unjust and heavy-handed attempt to deal with concerns about lot entitlement adjustments. I made mention in my introductory speech that body corporate issues have been used as a political football for far too long. Labor's 2011 amendments are but another tale in this sorry saga.

Governments do not set lot entitlements and body corporate contributions. What they should do, though, is ensure that there is an independent system in place to arbitrate and conciliate between parties when there is a legal dispute. The 2011 amendments were an attack on orders made by an independent judicial body. We opposed them at the time and, from memory, our debate was led by a spirited and well researched contribution from the Minister for Tourism, Major Events, Small Business and the Commonwealth Games, who was our spokesperson. So we opposed them at the time and this was our position right through to the election in March 2012.

Honourable members will be aware that there are competing views within the community titles sector about how lot entitlements should be set and about whether they should be subject to change during the life of a community titles scheme. Contribution schedule lot entitlements are used to determine how much each lot owner in a community titles scheme must contribute to expenses incurred by the body corporate in administering the scheme, such as the costs of maintaining the common property in good condition.

It is not surprising that stakeholders hold strong and diverse views about the fairest way for sharing expenses between owners living and investing in a community title setting. Prior to 2011 the

Body Corporate and Community Management Act 1997 allowed lot owners who felt that their lot entitlements were unfair to apply for an order of a specialist adjudicator or the Queensland Civil and Administrative Tribunal that the lot entitlements be adjusted. Through its 2011 amendments to the act the former government shut the door on unit owners who wanted to resolve lot entitlement disputes through these processes. But that was not enough for the former government. It also decided to undermine lawful decisions already made by specialist adjudicators, tribunals and courts about lot entitlement disputes. Through its so-called reversion process the former government allowed a single lot owner in a community title scheme to compel their body corporate to disregard lot entitlement adjustment orders issued by independent adjudicators, tribunals and courts and to force the body corporate to change the scheme's lot entitlements back to those that applied prior to any and all adjustment orders.

Regardless of what members think is the fairest way for body corporate expenses to be shared between unit owners, the former government's 2011 amendments to the act were an unacceptable and unfair interference into lawful judicial and quasi-judicial decisions. The bill delivers on our commitment to deal with the former government's amendments by bringing an end to the 2011 reversion process and by providing affected bodies corporate with an opportunity and process for reinstating the contribution schedule lot entitlements that were deemed to be appropriate for the scheme by a specialist adjudicator, tribunal or court. In short, the Newman government is determined to restore integrity and respect to judicial and quasi-judicial decisions about lot entitlement disputes.

The committee has made eight recommendations about the bill. The government supports four of the recommendations, partially supports two recommendations and does not support two recommendations. First off, the committee recommended that I table the government's plan for dealing with broader lot entitlement issues in the first sitting week of 2013 followed by further legislation by 30 June 2013. The government agrees with the committee that further policy analysis is needed when it comes to contribution schedule lot entitlements. That is why in my explanatory speech I foreshadowed a number of lot entitlement issues including consideration of options for reintroducing a process for adjusting lot entitlements. I continue to be committed to that process. However, it is critical to address the more objectionable parts of the former government's 2011 amendments to the act as a matter of priority.

Following debate of this bill, the government will consider the broader review of lot entitlements, the timing of which will be decided in the context of the government's other policy and legislative priorities. The committee has recommended that the bill be passed by the Legislative Assembly with significant amendments. As members would expect, the government endorses the committee's view that the bill should be passed. The government also supports the committee's recommendation that the bill retain provisions discontinuing the 2011 reversion process established by the former government. However, the government does not support the committee's recommendation that the bill be amended to omit those clauses providing for the reinstatement of a community titles scheme's last adjustment order entitlements. A key policy objective of the bill is to provide bodies corporate affected by the former government's 2011 reversion process with an opportunity and process for reinstating the lot entitlements for the scheme that had previously been determined by a specialist adjudicator, tribunal or court. Omitting the reinstatement provisions from the bill would provide affected bodies corporate with no real remedy for the impacts of the former government's unfair and inappropriate reversion process.

In terms of the committee's other suggested changes to the bill, the government supports the proposed amendments which will improve the process contained in the bill for giving effect to lot entitlement adjustment orders. These include clearer and stricter time frames for particular steps a body corporate must undertake in reinstating the last adjustment order entitlements for the scheme. They also include amendments to ensure that adjustment orders deemed to be pre-commencement adjustment actions and suspended under the 2011 amendments are able to be given effect in accordance with the provisions of the bill. Accordingly, I will be moving amendments during consideration in detail of this bill to give effect to those suggested changes.

The government does not support the committee's recommendation that the bill be amended to facilitate the reimbursement of fees and charges paid by community titles schemes in relation to an incomplete reversion process. I understand that there are very few schemes, approximately five, that may have incurred fees and charges in relation to an incomplete reversion process. The government does not consider it is necessary to amend the bill for the purpose of refunding fees and charges relating to an incomplete reversion process. Of course, any of those affected schemes are entitled to apply for an ex gratia refund from the relevant departments in relation to fees and charges if they wish to do so and those requests will be considered on their individual merits.

The government notes and supports the committee's recommendation that the provisions of the bill clarifying jurisdictional matters for certain lot entitlements disputes be retained. The government also supports the committee's recommendation that the bill retain amendments removing cumbersome and unnecessary disclosure requirements that simply serve to complicate the sale of lots in community titles schemes. This is an important step in the government's continuing commitment to reducing the unnecessary red tape and regulation that has been allowed to burden Queensland's economy. I commend the bill to the House.