Speech By

Hon. Jarrod Bleijie

MEMBER FOR KAWANA

BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER LEGISLATION AMENDMENT BILL

Hon. JP BLEIJIE (Kawana—LNP) (Attorney-General and Minister for Justice) (3.20 pm), in reply: I start by thanking all honourable members who have contributed to the debate on the Body Corporate and Community Management and Other Legislation Amendment Bill 2012. I particularly want to acknowledge my colleagues from the Gold Coast who have held firm on their determination to help and assist in finding solutions to lot entitlement issues that are fair for all Queensland unit owners and have not yielded to the threats, the misinformation and the bullying tactics employed by some opponents to the bill both inside and outside this House.

To recap, the bill has four key policy objectives. First, it brings an end to the lot entitlement reversion process introduced by the former government in 2011. Secondly, it provides bodies corporate affected by the former government's 2011 amendment with an opportunity and process for applying the lot entitlements that had last been determined as appropriate by an independent specialist adjudicator, tribunal or court. Thirdly, it clarifies jurisdictional issues for particular types of lot entitlement disputes. Finally, it reduces red tape by repealing unnecessary disclosure requirements that are complicating the sale of units in Queensland.

As members on both sides of the House recognise, issues associated with body corporate lot entitlements are complex and difficult to resolve. Members are also well aware of the competing views within the community titles sector about how lot entitlements should be set and whether they should be able to be changed. Understandably, these views are driven by individual unit owners' and investors' own values and perspectives about what is fair and what is a fair way to share body corporate expenses. It is not simply possible at this time under current law to reconcile these views to the complete satisfaction of all stakeholders.

However, what is disappointing is that through certain contributions to this debate those opposite, the members of the Katter's Australian Party, have clearly demonstrated their lack of understanding of body corporate legislation and the purpose of the bill. They have been taken in hook, line and sinker by self-interested people who aim to defeat this bill through misinformation and mistruths. What we saw during this debate was those opposite latching on to the argument that this bill would mean that the owner of a small unit would end up paying identical body corporate contributions as the owner of a much larger penthouse unit.

We have seen their lack of understanding and sophistication on this issue through their attempts to portray a very complex policy issue through a caricature of wealthy penthouse owners sipping champagne and exploiting pensioners in smaller units. They have ignored the hardworking Queenslanders and their families who were unfairly disadvantaged by the former government's approach to lot entitlements and who certainly do not fit the clichés trotted out by the opponents opposite.

I want to take the opportunity, if I may, to address some of the misconceptions and scare tactics propounded by opponents of this bill. The Body Corporate and Community Management Act

has never required contribution schedule lot entitlements to be equal in all circumstances. The Body Corporate and Community Management Act does not and has never required all contribution schedule lot entitlements to be identical. Similarly, this bill does not require contribution schedule lot entitlements to always be equal. Since 1997, what the act has indicated is a principle that lot entitlements should be equal except—and I want to emphasise this point—to the extent that it is just and equitable in the circumstances for the lot entitlements not to be equal. There has never been a blanket rule that contribution schedule lot entitlements must always be identical. What the equality principle means, however, is that any differences in contribution schedule lot entitlements must be able to be justified on the basis that a particular lot has a larger or disproportionate impact on costs incurred by the body corporate compared to other lots included in the scheme.

In his speech, the Manager of Opposition Business questioned how it could be fair that a smaller unit has to pay the same body corporate contributions as a penthouse owner where that smaller unit has 'less windows to clean, less walls to paint, less areas that might need repairs' and 'is a lesser burden' to the body corporate as a whole compared to a penthouse unit that causes 'a much larger drain on the resources of the body corporate'. The short answer to the Manager of Opposition Business is that it would not be fair for the contribution schedule lot entitlements to be equal in those circumstances.

But the critical point he has missed is that the legislation has never required the lot entitlements to be equal where a unit owner has a larger cost impact on the body corporate compared to other units. It has always been the case that the Body Corporate and Community Management Act has allowed contribution schedule lot entitlements to be different to reflect the different ways lots impose costs on the body corporate. What has changed since 1997 is the ability of lot owners who felt their contribution schedule lot entitlements were unfair or did not properly reflect the principles of the act to seek an independent review and adjustment of the lot entitlements.

I want to take a moment if I can to discuss those changes because they demonstrate why Queenslanders cannot take the opposition seriously when it comes to finding a meaningful, lasting solution to lot entitlement issues, although I might say that the member for Condamine has been even more vocal on this than the seven opposite in the Labor Party. When it commenced in 1997—

Ms Palaszczuk interjected.

Mr BLEIJIE: I did this morning. Johnny-come-lately went on ABC Radio this morning because the 22 staff in the most overresourced opposition office would have looked at the agenda today and said, 'Oh, goodness gracious, the body corporate bill is being finished today. Get on the radio, Bill. Get on the radio, member for Rockhampton.' This debate has been going for weeks. So I can understand why Johnny-come-lately comes on the radio the day the bill gets debated—a contribution he made this morning on the radio which I listened to intently.

Mr Stevens interjected.

Mr BLEIJIE: The only one, possibly. When it commenced in 1997, the act established the principle that lot entitlements should be equal except to the extent that it is just and equitable in the circumstances for the lot entitlements not to be equal. The act also provided an opportunity, as I said, for unit owners who felt their lot entitlements were unfair to apply to the District Court for a lot entitlement adjustment order. While they complain about these principles now, let us not forget that in 2003 and 2007 former Labor governments amended the Body Corporate and Community Management Act to strengthen the application of the equality principle and to make it easier for lot owners to apply for adjustments of their body corporate lot entitlements. So they are running around and going on ABC Radio this morning but they are forgetting the fact—I do not think any of them mentioned this in their speech—that in 2003 and in 2007 they encouraged people to get adjustment orders. They encouraged it through legislation. They created it. I can understand why, if they have such an issue with it now, they are a little more silent than the member for Condamine, because they were the ones who encouraged it in the first place.

Mr Byrne: You've had two years to fix it and you've done nothing.

Mr BLEIJIE: I take the interjection of the member for Rockhampton. It is easy for the member for Rockhampton to come in here now and say, 'You're in government. You should fix it.' How long has the member for Rockhampton been a member of the Labor Party? He may have just joined when he got elected but he knows, like all honourable members know, that the Labor Party had been in power in Queensland for some many years. They were in government in 2003 and in 2007 when they actively encouraged, through legislation, the adjustment orders, for people to get relief through

adjustment orders. So they can complain about it now but they forget the past. They just want to move on. They want to forget about everything they have done in the last 20 years. We will not forget!

But this was followed by a drastic change of heart by the former government in 2011 when it decided to wrench away the benefits of adjustment orders from those unit owners who in good faith had spent their time and money obtaining an adjustment under the very arrangements endorsed by the former government just a few short years earlier.

As I said, if this law regarding adjustment orders was so abhorrent, why did they not change it in 2003 and 2007? Why did they come in here in 2003 and 2007 and change the body corporate legislation and not look at this issue that they now oppose so greatly? The former government's attempt to resolve these concerns was inconsistent in 2011 with its previous policy positions. It was also heavy handed and lacked proper respect for lawful decisions made by specialist adjudicators, tribunals and courts. This bill is a sincere attempt by this government to restore integrity and respect to independent, lawful decisions about lot entitlement adjustments that were made by Queensland's judicial and quasi-judicial decision makers.

The Manager of Opposition Business and the member for Rockhampton also contended there was no warning before the election that the government proposed to make these changes to the body corporate act with respect to body corporate lot entitlements. On this point, let me say that the LNP in 2011 vigorously opposed—in fact, I think I used the word 'abhorrent' to describe the legislation at the time—the former government's 2011 amendments both inside and outside this parliament. The Manager of Opposition Business cannot say that they had no warning or they did not know what our position was, because we had a long debate in 2011 when the Lawlor amendments came through, and we opposed it at the time just as we oppose it now. I can understand that it is a bit different for the opposition, because we do not flip-flop on these sorts of issues. We took a decision at the time and we have not faltered from that position. The laws that we are introducing now are really fixing up the Labor Party mess that was created in 2011. We made no secret, as I said, that we found the 2011 amendments introduced by the former government to be an unfair and inappropriate affront to independent judicial and quasi-judicial decision making. No-one should be surprised that we intended to clean up the mess left by the former government on this issue.

I want to address the question raised by a number of members about why it is necessary to progress this bill when I foreshadowed a broader review of lot entitlement issues and body corporate and property law in the near future. This is a reasonable question and one that has a very simple answer. Queenslanders who spent their time and money seeking lot entitlement adjustment orders under laws previously endorsed by Labor governments had the benefits of those orders unfairly ripped away when the former government changed its mind and backflipped on body corporate policy. All of those Queenslanders deserve a timely remedy to the damage they experienced at the hands of the former government. This government believes that those decisions of specialist adjudicators, tribunals and courts that were so flippantly disregarded by the former government should be reinstated as soon as possible, if the body corporates desire. The 2011 former government's amendments were so bereft of fairness and equity that they needed to be addressed as a matter of priority, and the damage done to unit owners by those amendments should be addressed as soon as possible.

As I have previously discussed, the government will now turn to broader issues of lot entitlements and body corporate law and property law. I will soon be announcing how that further review will be undertaken. While I am looking forward to undertaking this process, I am under no misapprehension about the complexity of the issues or the impacts of policy settings for lot entitlements on the lives of many unit owners.

I will briefly comment on the amendments contained in the bill to remove unnecessary disclosure requirements associated with the sale of lots in community title schemes. For too long Queensland has been subjected to ever-growing red tape and regulation that simply serves to complicate and add costs to real estate transactions without providing any real benefit to consumers. The House is well aware that this government is committed to growing Queensland's four-pillar economy including by reducing regulation and red tape by 20 per cent. The amendments contained in the bill demonstrate the government's continuing commitment to weeding out unnecessary rules and regulations that have been needlessly burdening Queensland businesses and increasing costs for Queensland consumers.

In 2011 at the time of the introduction of the bill the Labor Party not only introduced the 2011 amendments that completely backflipped on all of their policy positions prior to that—having the opportunity to change laws but not doing so—they also thought, 'Because we believe in regulation and red tape so much, let's hit the unit sale process in Queensland a little more.' Not only did they

attack the judicial decisions that had been made previously; they also said, 'When you sell a unit in Queensland not only do you have to provide all of the other regulation but also a copy of the community management statement and we're legislating it.' I do not know whether those members opposite have actually looked at body corporate or community management statements, but some can be very thin and some can be quite lengthy. The Labor Party added that burden onto a real estate agent or a seller or a seller's lawyer when somebody sells a property in Queensland. Despite the fact that we live in a buyer beware market—the buyer can do due diligence in contracts, the buyer can have conditions in the contract for those sorts of body corporate searches and is entitled to search the records of the body corporate—the former government came along in 2011 riding its regulations horse and said, 'We're going to hit Queenslanders with more red tape and regulation. We're going to legislate that you have to provide a copy of the community management statement.' Despite things going swimmingly and there being no particular issue, just for the sake of introducing legislation to increase red tape on Queenslanders that is what they did.

I want to address some of the comments made in the debate in the last sitting and today. The member for Mulgrave and Manager of Opposition Business talked about there being no election commitment and voters being unaware. I completely reject that, because we had a clear policy intention at the time that the 2011 amendments went through. So I reject that in its entirety. He also talked about no consultation listed in the explanatory notes. Body corporate laws have been debated and debated until the cows come home, and there was plenty of discussion when the first bills went through only a couple of years ago in 2011. We are now in 2013 righting the wrong one year after this government came to office. In the committee process there were some 274 submissions received by the committee.

Mrs Stuckey: All on the public record.

Mr BLEIJIE: All on the public record. I take that interjection. I cannot say that illustrates anything but a fair and transparent process in which people could have input to discuss these types of laws. The member for Mulgrave also talked about outlining the process for the 2011 amendments. We are not kidding ourselves. We understand why the 2011 amendments were put in. It was summed up perfectly by the member for Southport when he said they were put in in 2011 to help save the seat of the former member for Southport, Peter Lawlor, at the election. And it didn't. Despite the fact that the 2011—

Mr Byrne interjected.

Mr BLEIJIE: I know full well why the amendments were made in 2011, member for Rockhampton. The amendments were made in 2011 to save Peter Lawlor's electoral seat. That is why. There need be no more issue, discussion or debate on that point. It was a political tool used by the Labor Party. If the member for Rockhampton believes in what the opposition staff are feeding him, if he really believes what he is spitting out of his mouth, he would have been advocating years ago for changes to the adjustment orders process in Queensland. When was it done? It was done in late 2011 just before the state election. Peter Lawlor came riding through Southport on his horse and said, 'We are introducing all these laws to assist the pensioners of Queensland.' If that was not an electoral stunt, then I do not know what is.

The member for Ipswich talked about a reversion process to where it is now equal. Remember I said that there are about 40,000 schemes in Queensland. This will impact on only about 130 schemes if they so wish to reverse the reversion, which is essentially what we are doing. There are people who have gone to a court, a tribunal or QCAT who have had adjustment orders made prior to 2011 where an independent arbiter has said, 'These are what the entitlements should be.' There were winners and losers but it went through an independent process. Then in 2011 they were whisked away and people reverted back to when the development started. What we are doing is essentially saying that, if people paid money to go to an independent court or tribunal, if they so wish they can go through a process now by which it will revert to what the court or tribunal said at the time. I think that is fair.

The member for Surfers Paradise, another Gold Coast member, also said when in opposition that we were committed to rectifying this problem created by the Labor Party in 2011. Of course, what was fundamentally flawed in the 2011 amendments was the overriding of the court or specialist adjudicator's orders. He also talked about the misinformation and the campaigns being run out there by certain—

Mrs Stuckey: Threats.

Mr BLEIJIE: I take the interjection of the member for Currumbin—by certain threats being made by people out there—

Mrs Stuckey: At me, too.

Mr BLEIJIE:—and against the member for Currumbin. We do not take threats lightly in this government and we certainly do not do policy on the run because of threats.

Can I address this issue that has been going around in the press about Q1? There are a couple of people in the Q1 building with whom I have met along with the member for Currumbin and the member for Burleigh. We listened to their concerns.

Mrs Stuckey: Like the member for Rockhampton.

Mr BLEIJIE: I take the interjection. Incidentally, I was slightly delayed for my meeting—and I gave them a lot of time for the meeting. As I was walking out of Q1, who was walking in but none other than the member for Rockhampton.

Mrs Stuckey interjected.

Mr BLEIJIE: He had his cowboy hat on. The member for Rockhampton can consult—that is fine—just as I consulted. I went to Q1 and I met with a few people there. When this debate started a couple of weeks ago, I received an email at 6.09 pm on Thursday, 7 March. The subject was—and I will table a copy of this email—'BCCM bill'. If members recall, that was the night we started debating this bill. The email states—

Hello Jarrod.

This is an email from Phillip Long. I will quote and then I will table the letter. It states—

I understand the BCCM bill may be debated tonight.

I also read newspaper articles which may have been initiated by George Friend, that have false and sensational information.

I am the treasurer of Q1, but in my own capacity wanted to present some of real facts to you about Q1.

Between levels 3-41 where the so-called "battlers" and "pensioners" are supposed to live (where your proposed change would increase their levies) I calculate there are 267 owned by investors from the total of 357 units. (Approximately 75 per cent) Levels 42-74 show a similar result.

Of these 267 rented units, it appears 35 investors are overseas owners, and 160 are interstate owners who would not vote in Queensland. (being such a large complex the ownership base is in constant change, so these figures are not 100 per cent guaranteed but would be pretty close)

It is expected that the levies for those investors would be tax deductible.

Of the remaining 90, these are mixed between holiday homes, some private rentals and some owner occupied.

It has been suggested that if the reversion occurred at Q1 then the 'pensioner' in the lower units would pay the same as the penthouse owner. This is not correct. When the equality principle was applied in 2010 by QCAT using a quantity surveyor report, the schedule of entitlements ranged from 18 for the lower units to 25 for the penthouse.

In dollar terms, for our current 4 month levy period, if it reverted to the 2010 'equality' schedule it would mean that an average lower unit (lot 302) would pay $2,741, and the penthouse (7401) would pay $3,757. Hardly the same.

(If the pro rata insurance levy (based on the interest entitlement schedule) were added to these admin and sinking levies, then these figures change to $2,845 for lot 302 and $6,323 for the penthouse).

Thanks for reading this.

Yours sincerely

Philip Long.

I table a copy of that email I received.

Tabled paper: Email from Philip Long, Q1 Apartment Building Body Corporate Treasurer, to the Attorney-General and Minister for Justice, Hon. Jarrod Bleijie [2288].

So Mr George Friend, who I understand is a Q1 investor, has been running around giving misinformation to the press, saying that a pensioner in a middle or lower level would pay the same as a penthouse owner. That email that I have just read into *Hansard* is from the treasurer of Q1. So the treasurer of the body corporate committee of Q1 was so concerned about the misinformation going around about Q1 that he emailed me during the last sitting to set the record straight. That is why I say there has been misinformation here when the member for Condamine is riding around doing press conferences with Bob Katter Senior on the Gold Coast—

Mrs Stuckey: Galloping!

Mr BLEIJIE: He has been galloping into the Gold Coast with Bob Katter Senior and spreading all this misinformation about pensioners paying the same as the penthouse owner. Clearly, that is not the case, as detailed by the email received directly from the treasurer of the Q1 apartment building which I just tabled.

The member for Broadwater, who is sitting in the chair at the moment, is a great local member for her electorate of Broadwater. Her home is actually in a community titles scheme itself. She was also a member of the Legal Affairs and Community Safety Committee and has indicated that this is a difficult policy area, and I agree with that. It is always difficult to try to get the balance right. She stated that the member for Warrego created the original legislation in 1997 and that residents of bodies corporate have different points of view and different wants and needs, and all could agree with that. I thank the member for Broadwater. I do thank all the members of the Gold Coast. The member for Broadwater said that she has about 250 bodies corporate in her electorate. She has also indicated that she will not be threatened by minority voices spreading mistruths, either.

I now turn to the member for Condamine. If honourable members were in the House at the last sitting—

Mrs Stuckey: They didn't need to be in the House.

Mr BLEIJIE: I take the interjection that they did not need to be in the House. In fact, members will recall that that was the day that we were debating urgent legislation and the Commercial Arbitration Bill. I was frantically running around all over. I was actually in the minister's room outside, although I did not have to be in the chamber to hear the contribution of the member for Condamine to the debate. I think people studying at QUT law school would have heard the speech of the member for Condamine. I quote the opening words of the member for Condamine from his own contribution. They really set the tone for his whole contribution to the debate. Bear in mind this is his third sentence. He states—

I am very disappointed in my own judgement, and I will say that.

Government members interjected.

Madam DEPUTY SPEAKER (Miss Barton): Order! Members in the back row will cease yelling across the chamber at each other. Surprisingly, I am having difficulty hearing the Attorney-General. It is hard to believe, I know, but it is a concern that I am experiencing. The Attorney has the call.

Mr BLEIJIE: I am trying to work out whether the member for Condamine was more disappointed in telling us to support this bill or in joining the Katter's Australian Party now that it is in ruins and has sections breaking away. I saw a report on the ABC last night that the lovely wife of the member for Condamine has been given the gig of federal-state secretary of the Katter's Australian Party. I see Aidan McLindon, a good buddy of the member for Condamine and former member of this House, is going to be sacked from the Katter Australian Party.

Mr HOPPER: I rise to a point of order. This has absolutely nothing to do with this legislation.

Mr BLEIJIE: I can assist, Madam Speaker.

Mr Hopper interjected.

Madam DEPUTY SPEAKER: Order! Member for Condamine, please do not yell across the chamber.

Mr Hopper interjected.

Madam DEPUTY SPEAKER: No, member for Condamine, you do not have the call. Please do not speak back to me. The Attorney will be relevant in his remaining time.

Mr BLEIJIE: I think I can assist the member for Condamine in where I am going with this.

A government member interjected.

Mr BLEIJIE: No, no, that will never happen. I am trying to assist the member for Condamine. He said in his contribution to this debate that he was disappointed in himself, in his own judgement. I am taking a very broad interpretation of that word 'disappointment' and applying it to—

Mr HOPPER: I rise to a point of order.

Mr BLEIJIE: You said it!

Mr HOPPER: The minister is deliberately misleading the House. If you read my speech you will see the context of what I was saying.

Madam DEPUTY SPEAKER: Member for Condamine, please resume your seat. If you believe that the Attorney is misleading the House, I would direct you to write to the Speaker. My understanding is that the Attorney is quoting directly from your speech on this bill. The Attorney has the call.

Mr BLEIJIE: It was at 11.44 pm. I have *Hansard* here. If I may, I will table the extract from *Hansard*.

Tabled paper: Extract from Record of Proceedings: Speech by the member for Condamine, Mr Ray Hopper MP, on the Body Corporate and Community Management and other Legislation Amendment Bill [2289].

I have done the member for Condamine a favour and highlighted the quote. Perhaps an attendant could take that up to the member for Condamine so that he might refresh his memory of the debate on that evening when he said that he was disappointed in himself. I suspect he was talking about signing off on a committee report that recommended the bill essentially be passed and then having to go to the Gold Coast and argue against this bill, despite the fact that his signature is on a piece of paper saying that the bill should be passed, albeit with some amendments.

Mr Hopper: Have you read the recommendations?

Mr BLEIJIE: I read the recommendations. I read the first recommendation. I also have a copy of that. Maybe the member for Condamine needs his memory refreshed on his recommendation. Recommendation 2 states that the bill be passed with significant amendments.

Mr Hopper: Read them all.

Mr BLEIJIE: I just did. If the member for Condamine was so opposed to this bill then he could have recommended that it not be passed.

This is about fixing the 2011 amendments. I say to members of the public: if you want an advocate of change, if you want to participate in the debate relating to bodies corporate, I suggest you do not get the member for Condamine as your advocate, running around advocating on your behalf. We will sit down and have appropriate discussions with people as we go forward with a broader review of the body corporate laws in Queensland to try to get the balance right. But maybe people, particularly those on the Gold Coast, should engage better with their local members of parliament and not with the likes of the member for Condamine, who is disappointed in himself.

(Time expired)