



Speech By  
**Michael Crandon**


**MEMBER FOR COOMERA**

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Record of Proceedings, 9 September 2014

**MATTER OF PUBLIC INTEREST**

**Stirling, Mr M and Ms K**

 **Mr CRANDON** (Coomera—LNP) (11.13 am): There has been much discussion in the media recently regarding the negligence of lenders and brokers when arranging finance through a facility known as a low-doc loan. These are loans that are provided with very little proof of the borrower's capacity to repay. Having said that, some borrowers can afford the loan unless the unexpected happens. That unexpected happening is often negligence by the lender and others to ensure that, in the case of a home under construction, the builder has proper approvals in place.

No situation better typifies the very real dangers and devastating consequences of failings by mortgage brokers, banks, valuers, builders and local authorities to follow their own internal governance procedures, to follow relevant statutes and regulations in complying with common law duties of care to their customers, than the case in my electorate involving Mark and Katrina Stirling. Through no fault of their own, this family has gone from being a happy middle-class family to being brought to their knees. They have suffered extreme economic loss and emotional distress, deep depression and family break-up. They have been pushed well beyond the ordinary limits of individual and family endurance.

Let me assure you: these people did their homework. They selected a HIA award-winning builder to build their dream home. The Stirlings did not know about the noncompliance issues until they tried to sell their property and they did not know about the structural defects until much later. The matter is currently in court, with the Stirlings being locked in lengthy and costly legal battles with the likes of Westpac, the Commonwealth Bank, the Gold Coast City Council and Equity Access Australia, the lender's broker.

The details of these matters cannot be fully discussed due to the ongoing nature of the court proceedings. The allegations, though, contained in the proceedings include that the Stirlings were victims of an unscrupulous builder who left them with a home which was structurally defective and incapable of being certified as fit for occupation. Despite this, the builder has received full payment under the building contract by the Stirlings' bank, which did not undertake its own checks and balances. These checks and balances would have disclosed the building and planning defects and prevented the builder from receiving the funds, which the Stirlings are now required to repay with interest.

The construction loan was arranged via a broker, who gave the Stirlings advice and was responsible for obtaining all of the necessary material to meet the funder's requirements for the loan. Amazingly, the loan was subsequently refinanced, with the refinancing bank failing to undertake all of the necessary due diligence as is required under its internal procedures. Instead, it relied on the initial funder's approval of finance as being conclusive proof of the property being satisfactory. The result was that the Stirlings took on further debt to complete the dwelling which they are now required to pay with interest. The Gold Coast City Council appears to have permitted the construction of the dwelling to continue despite flaws in construction methods, making the house unfit for occupation.

The Stirlings have been living with this saga for going on six years. They have been through at least five different solicitors. They have spent hundreds of thousands of dollars in legal and engineering advice and they are now at the end of their tether. They have lost well over a million dollars on a home they cannot safely live in and cannot sell. All of this because of the failings of the big banks to do their job, the failings of a broker to do his or her job and the failings of a local council to do its job. They are financially destitute and have had their credit rating destroyed. All of the circumstances have been created by others outside of the control of Mark and Katrina Stirling.

As stated earlier, this matter is before the courts. I table documents in relation to this very sad and unacceptable case of wrongdoing which has destroyed a family in my electorate—documents which I am assured are not relevant to the court proceedings. These documents indicate that applications for further work—a swimming pool and a fence—were lodged. Why did that not raise issues around lack of original approvals with the Gold Coast City Council?

*Tabled paper.* Bundle of documents relating to building defects on Mark and Katrina Stirling's house [\[5875\]](#).

This is an unforgivable fact. But what is more unforgivable is that the bottom line is that the lender had a responsibility, by their own guidelines, to ensure approvals were in place—right back to the beginning, before any loans were given and certainly before the builder was paid one dollar for the construction.