




Speech By
Hon. Leanne Linard

MEMBER FOR NUDGE

Record of Proceedings, 8 November 2022

**BUILDING UNITS AND GROUP TITLES AND OTHER LEGISLATION
AMENDMENT BILL**

 **Hon. LM LINARD** (Nudgee—ALP) (Minister for Children and Youth Justice and Minister for Multicultural Affairs) (3.24 pm): I rise to make a brief contribution in support of the Building Units and Group Titles and Other Legislation Amendment Bill. This bill was precipitated in part by what happened last year, as we know, at the Couran Cove Island Resort, a multilayered development established under both the Mixed Use Development Act and the Building Units and Group Titles Act. For more than a month in 2021 residents were forced to go without gas due to a dispute between residents and the body corporate. These matters were compounded by complex commercial arrangements, allegations of large amounts of unpaid debts and body corporate governance issues amongst other matters. Earlier this year I met with a resident who owns property there. The resident said that individual owners were in a state of despair and that this was a true David and Goliath story. They felt the decisions that had been made within the complex were influenced by conflicts of interest held by business backed owners and they welcomed this legislation as a game changer.

While the problems around the resort highlight deficiencies within the building units and group titles and mixed use development acts, there are broader concerns about their operations which need to be resolved. Issues include conflicts of interest influencing body corporate decision-making, frequent or costly disputes and court proceedings, and corporate interests owing large debts to subsidiary or lower level bodies corporate preventing subsidiaries from participating in governance decisions made by the overarching body corporate due to debtor voting rules. This bill addresses the identified deficiencies of both acts through a package of amendments based on existing provisions of the Body Corporate and Community Management Act, which governs the majority of Queensland's body corporate based developments.

One of the key changes is clearly stating the obligations and duties of bodies corporate and requiring them to act reasonably when carrying out their functions. This is in line with rules that have been in place in the Body Corporate and Community Management Act since its commencement in 1997. The requirement to act will also apply to executive committees in making decisions on behalf of Building Units and Group Titles Act bodies corporate.

This bill will also work to prevent issues around the provisions of utilities like those that happened last year at Couran Cove. Amendments to the Mixed Use Development Act will ensure that where a community or precinct body corporate has undertaken to provide essential utility services, whether directly or through another party, it will be obliged to take all reasonable steps to ensure continuity of that utility service. It is only reasonable that that should be the case.

The new dispute resolution measures outlined in this bill will give referees greater flexibility in dealing with matters. Referees appointed to resolve disputes will be required to act informally, not use technical legal jargon and observe natural justice principles, and they will not be bound by rules of evidence. Bodies corporate under the Building Units and Group Titles Act will also be able to make applications to a referee for disputes with parties who are not proprietors without a special resolution

authorising the application. This was not previously the case. While this change sounds technical, it will reduce the amount of time and money spent by bodies corporate wanting to resolve disputes. This will also improve outcomes for residents.

Taken together, changes to dispute resolution processes will facilitate access to a more flexible and informal process and work to help proprietors protect their rights. As part of a review of property law in Queensland, the Queensland University of Technology considered the issue of harmonising both the Building Units and Group Titles Act and the Body Corporate and Community Management Act. The Queensland University of Technology recommended an increased level of consistency between the two acts with consequential considerations for the specified acts. The implementation of reforms based on those recommendations would be a significant legislative undertaking, requiring a substantial period of further analysis, consultation and development.

Stakeholders who were consulted about this bill were clear on a need to harmonise the three acts. They also highlighted several issues not addressed by the bill, which was in urgent need of reform. This reform has been welcomed by residents of the Couran Cove Island Resort who, following the introduction of the Building Units and Group Titles and Other Legislation Amendment Bill, indicated, as I said earlier, that it was a win for their community. In an article dated 22 June this year, Couran Cove resident Bernie Woods said that the bill is going to close up some loopholes and allow people to have a say. For this and all the reasons I have outlined, I commend the bill to the House.