




Speech By
Hon. Shannon Fentiman

MEMBER FOR WATERFORD

Record of Proceedings, 8 November 2022

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

Second Reading

 **Hon. SM FENTIMAN** (Waterford—ALP) (Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence) (11.34 am), continuing: In resuming debate on this bill, I again thank the Legal Affairs and Safety Committee for its consideration of the Building Units and Group Titles and Other Legislation Amendment Bill 2022. I also take the opportunity to thank the stakeholders who made submissions to assist the committee in its consideration of the bill as well as stakeholders who participated in earlier consultation undertaken by government during development of the bill. I am pleased to note that in its report about the bill which was tabled on 12 August 2022 the committee recommended that the bill be passed. I acknowledge that the member for Noosa raised some issues in a statement of reservation included with the committee's report. I will address those issues.

At the outset, I emphasise that the government appreciates the importance of Queensland's community titles sector. Community titles provide a wide range of housing and investment choices for an increasing number of Queenslanders. The government also recognises that body corporate issues can be complex and often attract a range of views and perspectives from stakeholders. The community titles sector needs to be supported by frameworks based on modern, fair and transparent standards of governance as well as effective protections for owners. This is why the government is undertaking an extensive reform program for Queensland's community titles legislation.

As promised in the lead-up to the 2020 state election, the government has established a community titles legislation working group. The group is comprised of peak stakeholder representatives to provide advice to government about how best to address many issues and challenges facing unit owners and bodies corporate. I am also pleased to note that as part of the budget the government committed an additional \$2.45 million over three years for the Office of the Commissioner for Body Corporate and Community Management, which will be used to support implementation of the reforms contained in the bill we are currently debating.

Before I speak to the specific objectives of the bill amendments, I would like to briefly acknowledge the problems and issues being experienced by some of the people who will benefit from this bill. I again refer to the unit owners and residents at Couran Cove Island Resort on South Stradbroke Island. Members may remember that I briefly mentioned some of the residents of Couran Cove at the previous sitting. I want to acknowledge a number of them who have been very active in lobbying for changes and have met with me about the challenges they face: Beck Haesler, Shelley Stumbles, Daniel Purser, Michelle Kelly, Anthony Duncan, Andrea Gannon, Allan Cleveland, Claire Cleveland, Michelle Bowden, Dave Bowden, Gabrielle McCosker, Matthew O'Connor, Michael Reichle, Karen Angel and many others. I know that some of them are here again today to hear the debate of this bill.

Couran Cove is one of the developments regulated under the legislation that this bill will amend. As some members would be aware, unit owners at Couran Cove have experienced significant problems in recent years including disruptions to privately provided essential utility services, ongoing disputes and court actions, and allegations of large amounts of debt owing to and between bodies corporate at the development. Problems at Couran Cove escalated recently to the extent that privately supplied water and electricity services to some residents were disconnected. I am deeply concerned for those residents affected by disconnections, particularly those who are elderly or who are vulnerable and have health problems. I thank staff in my department and also Minister Enoch's department for reaching out with information about emergency assistance to people affected.

I want to make it clear that the bill is not an intervention into specific issues and disputes at Couran Cove, many of which are subject to judicial or quasi-judicial processes. Similarly, I want to make it clear that I have not intervened in, or expressed a view on, any of the legal issues at Couran Cove. This bill does aim to support unit owners and residents in relevant developments, including Couran Cove, by fostering a better body corporate governance framework that provides more confidence in body corporate decision-making and more scope for unit owners to have a say in decisions that affect them. I know that many unit owners and residents at Couran Cove are appreciative of the government's efforts to improve circumstances for developments like theirs and are eager to see the bill passed.

An incident having occurred in the public gallery—

Mr DEPUTY SPEAKER (Mr Kelly): Order! Visitors in the gallery, there will be no applause.

Ms FENTIMAN: As I outlined in my introductory speech, the main objective of the bill is to improve the operation of the Building Units and Group Titles Act 1980, which I will refer to as BUGTA, and the Mixed Use Development Act 1993, which I will refer to as the MUD Act. The clear focus of the bill is making body corporate governance arrangements under these two acts fairer and more transparent for unit owners. The bill also makes minor unrelated amendments to the Fair Trading Act 1989 to enable the Office of Fair Trading to issue infringement notices for breaches of consumer protection provisions of the Australian Consumer Law relating to gift cards.

As members may recall, most community titles developments in Queensland operate under the Body Corporate and Community Management Act 1997, also known as the BCCM Act. However, prior to the commencement of the BCCM Act, several complex community titles style developments were established using a combination of specific planning legislation such as the MUD Act and BUGTA. Those developments did not transition to the BCCM Act in 1997 and continue to operate under specialised planning laws including BUGTA.

The bill contains targeted reforms aimed at addressing the most pressing deficiencies in the MUD Act and BUGTA. In many instances, reforms contained in the bill are based on existing provisions and approaches of the BCCM Act. For example, the bill contains provisions to facilitate information and education services for unit owners and bodies corporate operating under BUGTA. The bill also aims to make dispute resolution services more accessible, by providing simpler arrangements for making applications and clarifying how disputes are resolved. Most importantly, the amendments in the bill also mean that where a community body corporate has an arrangement to provide essential utilities, it must take all reasonable steps to ensure the continuity of those services—for example, by undertaking necessary repairs and maintenance as quickly as possible.

As a member of the Legal Affairs and Safety Committee, the member for Noosa raised several points in a statement of reservation that I would like to address. The member noted the growth of the community titles sector and advocated for additional funding for the Office of the Commissioner for Body Corporate and Community Management. I appreciate, and agree with, the member for Noosa's recognition of the continuing importance of information, education and dispute resolution services provided by the commissioner's office given the huge growth that we have seen in the community titles sector. As I mentioned earlier, the government has committed almost \$3.5 million in additional funds for the commissioner's office to implement the reforms contained in the bill, along with the government's rental reforms as they relate to bodies corporate.

The member for Noosa also pointed out that stakeholders have raised a range of issues that are not covered by the bill. The member is correct that stakeholders have raised a wide range of issues and concerns about not only BUGTA and the specified acts but also the BCCM Act and its regulation modules. The Community Titles Legislation Working Group established by the government is considering a significant number of those matters, including potential further reforms to harmonise BUGTA and the BCCM Act. However, the amendments in this bill have been prioritised to address serious deficiencies in BUGTA and the MUD Act. They are complex pieces of legislation and we have prioritised the most pressing concerns. Our Community Titles Legislation Working Group continues to look at all of the issues faced by community titles in Queensland. Further legislation will be progressed.

Finally, the member for Noosa was concerned that the bill did not include provisions to allow bodies corporate to recoup costs when undertaking debt recovery proceedings. Debt recovery under the BCCM Act, including issues raised by stakeholders about recovery costs, is one of the topics being considered by the Community Titles Legislation Working Group. It is important to note that this analysis and consideration is to be completed before including any new cost recovery provision in BUGTA or other acts, based on the existing BCCM Act provisions.

In summary, this bill contains important, targeted amendments to improve the operation of BUGTA and the MUD Act. These amendments will facilitate better services for unit owners and make body corporate governance fairer and more transparent. I commend the bill to the House.