




Speech By
Brent Mickelberg

MEMBER FOR BUDERIM

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

 **Mr MICKELBERG** (Buderim—LNP) (3.35 pm): I rise to address the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. This a bill that seeks to reform and update the legislative framework around body corporate governance and administration. It is an important issue that has been left unaddressed for far too long, particularly when we consider that over 528,000 properties in Queensland sit in a community titles scheme. I should disclose at this point that I am one of those property owners and that my principal place of residence is a townhouse in a body corporate arrangement.

Honourable members interjected.

Mr MICKELBERG: Only one. The bill deals with several contentious issues, the first being changes to the provisions that facilitate the termination of an existing community titles scheme which currently can only be implemented with the 100 per cent agreement of all owners. Secondly, the bill makes changes to the powers that the body corporate committee has to make by-laws, specifically as it relates to the regulation of smoking and pet ownership within the body corporate environment, among other issues. The third significant aspect of this legislation involves measures that strengthen buyer protections under the Land Sales Act by limiting when sunset clauses can be used to terminate off-the-plan contracts for the sale of land. Like so many bills that we see the government introduce, there are provisions that we support and provisions about which the LNP has concerns.

I will start with the positive. The measures to improve buyer protections under the Land Sales Act to prohibit sunset clauses that automatically terminate an off-the-plan contract are a welcome and important measures to ensure that young families in particular, but also others buying land in new developments, are protected from the unscrupulous behaviour of some property developers. I know that all members are aware of the strong advocacy of the member for Theodore, Mark Boothman, who has on many occasions raised this issue both in the media and in the parliament after hearing of the plight of young families who had their contracts for the purchase of land cancelled under the existing laws. It is testament to his tenacity that we are here debating these provisions. We might call it the 'Boothman clause'. Young families had valid contracts to purchase land on which to build their first house only to have developers and their marketing agents cancel contracts because land prices had increased in the period between when the contract was signed and when they chose to cancel it. Contracts were cancelled and then, in many cases, the buyers had the same property offered back to them at a grossly inflated price. I am pretty confident that most of my constituents, if not all, would consider that to be unconscionable conduct, and it should not be allowed. It is good to see that that loophole is finally getting closed. It should be noted, though, that this exact same issue was prohibited by the New South Wales government in 2015. It is disappointing that it has taken so long for the state Labor government to act and that it took the member for Theodore to raise the concerns of the community.

One aspect of the bill that is more contentious is the issue of the termination of existing community titles schemes. As has been noted, the bill provides for a community titles scheme to be terminated in circumstances where there are economic reasons supporting the termination and with the agreement of 75 per cent of lot owners and the body corporate, whereas the current requirement to terminate the community titles scheme requires 100 per cent agreement. While the intent to simplify the process to terminate a community titles scheme seems reasonable, the LNP has concerns that the individual rights of property owners will be infringed because of this change. Indeed, the committee report addresses this issue and acknowledges that clause 7 of the bill will likely result in a circumstance where a lot owner who does not wish to sell their property is forced to do so because of the decision of at least 75 per cent of lot owners. One of the fundamental values of the LNP is private property rights, so any measures that infringe such a right need to be carefully considered.

The government's position that winding up existing community titles schemes will help drive new housing stock for me is not sufficient justification to override a property owner's rights. Additionally, it is clear from submissions to the bill that there are justifiable concerns about how such measures will work in practice. At a time when there is a critical shortage of housing, it would be a perverse outcome if the state government were to force elderly property owners out of their home against their will for economic reasons.

Such concerns have been raised by many members, including the member for Mermaid Beach and the member for Surfers Paradise today. It was particularly disappointing to hear some of the contributions from senior government ministers such as the member for McConnel and the member for Sandgate, who sought to ridicule the contributions of those LNP members who were raising legitimate concerns of voters in their electorates. Indeed, the concerns of LNP members in relation to this issue are reflected in a number of the submissions to the inquiry and in the committee report.

While a number of lobby groups such as the Property Council, the Law Society, the REIQ and the Strata Community Association support this provision, groups representing property owners are predominantly opposed to the provision. The Unit Owners Association Queensland stated that the proposal shows 'a lack of consideration for the interests of all participants in the Queensland strata industry'. The Main Beach Association and the Community Alliance Association both stated that the bill is 'grossly unfair' and that it 'favours the interests of property developers over the wider community'.

Concerns were raised about how these particular provisions will work in practical terms. The suggestion was made in committee submissions to increase the threshold to 90 per cent, which was dismissed by the government on the basis that such a threshold would exclude schemes with nine lots or less. Surely, in order to achieve the policy outcomes that the bill seeks to achieve, if that is the concern a clause could be included that provides for 90 per cent of lot owners agreeing, or in the event that the scheme has less than nine lots, all owners except for one agree to the termination.

In the short time remaining to me I want to address the provisions that amend the BCCM Act to allow bodies corporate to make a by-law that prohibits smoking on a community titles scheme's common property, body corporate assets or a lot's outdoor area. This is a measure that I believe is appropriate to protect the rights of residents' use of common property, body corporate assets or a lot's outdoor area from the impact of second-hand smoke, which has been clearly proven to have deleterious health impacts.

As has been identified, a number of mechanisms already exist to limit smoking in community titles schemes, but a shortfall in the existing legislation means that that restriction does not extend to outdoor areas within the property. Many residents have told me that frequently the actions of short-stay tenants who have booked through Airbnb or similar platforms cause behavioural issues within body corporate residences. This has certainly been my experience as well. It is appropriate that bodies corporate should be able to make a by-law to restrict such actions.

Finally, I want to address the issue of education for strata managers. Strata managers deal with a complex legislative environment and they frequently deal with large financial transactions. The average amount of funds that a small strata manager deals with on an annual basis is between \$2 million and \$3 million. Lot owners in those strata schemes should have confidence that strata managers have the skills and attributes to manage such complex arrangements, and Queensland's existing provisions in this regard are not sufficient, in my view.

In conclusion, the LNP supports action to relieve the current housing crisis and to ensure more Queenslanders have the security of owning their own home. However, there are important aspects of this bill that do not achieve that goal and unfairly infringe the rights of property owners. This is why we will be opposing those aspects of this bill. I call on the government to get serious about addressing the issues of poor planning and a lack of foresight and a lack of investment which have contributed significantly to the chronic shortage of residential properties across Queensland.

Regional Queensland has the highest level of housing unaffordability or mortgage stress of any locality in the country. Thirty per cent of incomes are going into either mortgage or rental payments and regional Queensland is the worst in the country. Rental vacancy rates in my part of the world on the Sunshine Coast are 0.93 per cent. They have been below one per cent for many months—years, in fact. Queenslanders deserve a government that is serious about addressing the housing crisis. Press conferences are not going to get it done. We need a genuine commitment to addressing this issue.

It is only a Crisafulli LNP government that will take real steps to build the homes that we need and provide a real pathway for all Queenslanders to own their own home. If those opposite are looking for some ideas, they could always read 'The Right Priorities for Queensland's Future'. There is a whole section dedicated to housing. If they are devoid of ideas, as they were on youth justice, they should read page 24, 'Securing our housing foundations'. We have plenty of ideas there, Minister. I encourage you to have a look.

Mr Mander: Gold standard early intervention.

Mr MICKELBERG: Yes, gold standard early intervention. Let's talk about home ownership. We should be making home ownership a priority for all Queenslanders, not discriminating against those who seek to invest and build a future for themselves, as is currently the case in Queensland.