




Speech By
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MEMBER FOR JORDAN

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

 **Mrs MULLEN** (Jordan—ALP) (11.32 am): I rise to support the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. A few years ago I was pleased to have the Commissioner for Body Corporate and Community Management to my electorate of Jordan for an information forum. In the presentation provided, the commissioner spoke about the three Ps of body corporate: pets, parking and parties. Whilst these are, and continue to be, common complaints received by the office of the commissioner, we recognise that body corporate and community management is so much more complex than this. In a time of unprecedented housing demand we need to ensure that every possible lever available to government is at our disposal. However, the work being undertaken through this bill is not a reactive response to the times but something which has been reviewed, considered and consulted on over a number of years.

Through the Queensland University of Technology's review of property law there was a recommendation to reform Queensland's body corporate and community titles scheme laws. As we know, the type of buildings captured through the community titles scheme includes duplexes, townhouses and apartment buildings as well as shopping centres. As the Attorney-General confirmed to the parliamentary committee, as of June 2023 there were 528,190 lots in 52,089 schemes across Queensland. It is a very important housing sector and a necessary one. The recent draft South East Queensland Regional Plan update showed that the south-east is booming, with almost six million people expected to call this region home by 2046. It is also recognised that our population is not just getting bigger; it is changing, with household sizes, demographics and lifestyle trends shifting.

Electorates like the one I represent have mainly relied on new greenfield developments to provide housing. In fact, the Greater Flagstone Priority Development Area, which the Jordan electorate encompasses, is expected to provide 51,500 dwellings to house a population of up to 138,000 people over a period of 30 to 40 years. This will need to be a mix of traditional detached housing but also more duplexes, townhomes and apartment buildings. In Greater Springfield we still have some traditional greenfield growth, but over the next decade we will need to look at greater density, particularly within the town centre and near key nodes such as public transport, education facilities and health and hospital services. That is why it is vitally important that we have modern, workable body corporate laws that will meet housing demands now and into the future.

One of the key issues recognised at the 2022 Housing Summit was the need to reform the act to allow for the termination of uneconomic community titles schemes to facilitate renewal and redevelopment. Currently, a community titles scheme can only be terminated by a resolution without dissent of the body corporate supported by an agreement between all registered proprietors and lessees under registrable or short leases about recommendation issues or an order of the District Court. Getting agreement on any matter through a body corporate can be quite tricky, so seeking to terminate

a scheme can be particularly challenging; however, there are countless examples of run-down units, townhouses or complexes with unsustainable, ongoing maintenance costs where owners want to terminate but cannot because a single owner is blocking that termination.

A person's home is obviously such an important element of their life, their economic circumstances and their overall sense of security, so it is important that as a government we recognise that. There are certainly competing interests in relation to this. There will be some who will be aggrieved by a decision to terminate a scheme, but there will also be a number of lot owners faced with the prospect of having to pay very high body corporate contributions so that bodies corporate can undertake extensive or costly repairs, maintenance or rectification works to a property to ensure it is structurally sound. Continuing to spend money on a property may just become economically unfeasible for many.

The bill provides a new process to facilitate the collective sale and termination of community titles schemes with the support of 75 per cent or more of lot owners where the body corporate has decided there are defined economic reasons for termination. In her speech the member for Currumbin said—

Let us not forget that the Housing Summit is the same summit that this 75 per cent rule has come out of.

That is actually not correct. Whilst the proposal was raised as an important measure in the Housing Summit last year, it had its origins in the QUT property law review and has been discussed and consulted on with stakeholders for a number of years. Under the new process contained in the bill, the economic reasons for termination are either that it is no longer economically viable or that within five years it will no longer be economically viable to repair or maintain the scheme or, for a scheme of a purely commercial nature, it is not economically viable for the scheme to continue.

I was also interested in the comments of the member for Scenic Rim, who in his speech tried to insinuate that these laws are all about being very friendly with the development lobby. The development lobby actually advocated for there to be no reasons provided for termination—open slather. The balance here is around the key factor of economic reasons. Despite the requests of those stakeholders, the termination provisions are not intended to be broadened to all community titles schemes or to have the economic reasons test removed. This is an important safeguard, as the committee noted it is about unlocking development opportunities for ageing community titles schemes, not undermining the property rights of community titles scheme lot owners.

The new process will include safeguards to protect owners in the minority who do not support termination. If the body corporate approves a termination plan a dissenting owner will be able to make an application to the District Court, which would consider a set of just and equitable factors in deciding whether the termination should proceed. The bill aims to provide this balanced approach to the termination of community titles schemes, recognising the need to facilitate renewal and redevelopment but also respecting the property rights of individual owners. The parliamentary committee observed some considerable angst from unit owner groups around the proposed amendments, and I support the recommendation of the committee that a proactive education campaign be undertaken with guidance and resources on how the reforms will work, particularly around the dispute resolution process.

Another area that raises emotions is certainly around the keeping or bringing of animals into homes under community titles schemes. Australia is a pet loving country and it is an issue that is very important to many who dwell in townhouses or apartment blocks. Whilst there have been a number of tribunal and court decisions that have established it is unreasonable for by-laws to prohibit pets or restrict the size, type or quantity of pets, there continues to be some confusion around this matter. The bill does clarify rights and obligations regarding pets by amending the act to: prohibit by-laws that ban occupiers from having pets on a lot or the common property; and prohibit by-laws that restrict the number, type or size of animals that an occupier may have on a lot or the common property. A person, however, must still apply to the body corporate in order to lawfully keep or bring a pet onto their premises. I appreciate there has also been some movement on the keeping of pets within the Residential Tenancies and Rooming Accommodation Act 2008 and would support the committee's recommendation that further work needs to be undertaken on the interaction between those two acts and the time frames for requests to keep pets from a lot owner or a tenant.

Finally, I would like to make a comment on the issue of sunset clauses in off-the-plan contracts for sale—or 'Mark's law' as those opposite would like us to believe. He is the Erin Brockovich of sunset clauses. The bill will ensure that property developers can only invoke a sunset clause to terminate off-the-plan contracts for land to specific situations—with the buyer's consent, through a Supreme Court order or through a regulation. The goal of these amendments is to provide greater protection for buyers whilst also deterring sellers from terminating an off-the-plan contract without making a genuine attempt to finalise the contract. We recognise that there are currently significant cost pressures on property developers, especially in terms of labour and materials, leading to increased costs for the construction of buildings, but this cannot be used as a reason to gouge unsuspecting buyers who have in good faith signed off-the-plan contracts.

According to the parliamentary report, the UDIA have submitted that 94 per cent of developers have not used a sunset clause to terminate a contract over the past three years. This is good news and shows that most developers are doing the right thing by their buyers, many of whom are purchasing their very first homes. As a result, these amendments should have minimal impact on the development industry. The government is also cognisant of the current development industry pressures being faced, which is why the sunset clause reforms will be reviewed in a couple of years to see whether further reforms are necessary, including for community titles and similar off-the-plan lots.

Whilst I do not have a lot of bodies corporate within my electorate at this time, I know that with the changes in housing styles that we are seeing—including people rightsizing by purchasing townhouses, duplexes and apartments—we need to ensure that our body corporate and community management laws are robust in addressing the changing nature of housing in our state, as well as the contemporary rights and obligations of buyers, sellers and the body corporate and strata title industries. I commend the bill to the House.