




Speech By  
**Jonty Bush**

**MEMBER FOR COOPER**

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

 **Ms BUSH** (Cooper—ALP) (5.27 pm): I also rise to make a contribution to the Body Corporate and Community Management and Other Legislation Amendment Bill. The bill proposes to amend various acts to: create a framework that allows for the termination of uneconomic community titles schemes; gives adjudicators appointed by the Office of the Commissioner for Body Corporate and Community Management the power to approve alternate insurance arrangements; modernise and improve the provisions around body corporate governance and administration; and strengthen buyer protections by limiting sellers' use of sunset clauses for off-the-plan contracts for the sale of land.

This bill advances a number of objectives, including: delivering a key action of the 2022 Queensland Housing Summit by reforming the BCCM Act to allow for the termination of uneconomic community titles schemes to facilitate renewal and redevelopment; and delivering a 2020 election commitment to implement amendments to the BCCM Act to allow an adjudicator the power to approve alternative insurance arrangements and make supporting arrangements to complement this change.

The bill was considered by the Legal Affairs and Safety Committee and our committee made nine recommendations, which principally were to address areas of interest and concern for submitters. I would like to speak to some of those in my contribution. Recommendation 2 was that the Queensland government develop an education campaign with the Community Titles Legislation Working Group to provide guidance and resources to organisations and individuals to support the proposed reforms. This was really in relation to the termination of community titles schemes and this occupied a substantive part of our committee's consideration. 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 termination issues; or an order of the District Court. The bill proposes to amend the BCCM Act to establish a new process for the termination of community titles schemes in circumstances where there are economic reasons to support that termination.

In October last year, the Palaszczuk government hosted the Queensland Housing Summit, which I attended. One of the key actions from that was to reform the body corporate legislation to allow for terminating uneconomical community titles schemes to help facilitate that renewal and redevelopment. In response to this key action, the bill proposes to create a mechanism where a community titles scheme can be terminated for economic reasons, including when the scheme is not economically viable—in the case of a scheme of commercial lots—or when it is not economically viable for the body corporate to carry out the repairs and the maintenance required to keep the property in good condition. Most stakeholders broadly supported the proposed framework for the termination of community titles schemes that were not economically viable. The Property Council see it as 'a key measure in removing barriers to the redevelopment of older apartment buildings and delivering increased housing supply in locations well-served by infrastructure'.

Certainly some of the resident and property owner groups, especially those representing unit owners, were not supportive of those provisions, raising the issue of how you balance the views and wishes of one individual against the collective. The department's response to submissions noted that the intended purpose of the bill is to unlock well-located, well-serviced sites for redevelopment and boost housing supply, but to add some safeguards by limiting the bill's economic termination provisions. They stated—

Exposing lot owners arbitrarily to the threat of forced sale by private entities merely due to, for example, a rezoning to higher density of the site for their scheme, is not the intent of the reforms. That is not a risk to which owners of free-standing homes are subjected, and Government has not decided to apply that risk to owners of lots in community titles schemes.

Most committee members believed that the right balance was struck between the interests of lot owners who wish to sell and those who do not, including the need for thorough evidence to support a dissolution of a scheme and an accessible dispute resolution process. The committee is satisfied that the proposed process considers the rights and liberties of lot owners, specified lessees, contractors and others. The committee did recommend that the Queensland government develop an education campaign in collaboration with the CTL Working Group to provide guidance and resources to stakeholders to help address the unease that some stakeholders felt, including information on the dispute resolution process available for lot owners.

The bill proposes to amend the BCCM Act to prohibit by-laws that ban residents from having animals or by-laws that restrict the number, type or size of animals that a resident can have. Australia interestingly has one of the highest levels of pet ownership in the world. The explanatory notes state that there is no explicit guidance on how bodies corporate may regulate animals in a community titles scheme; however, decisions by tribunals and courts have established that it is unreasonable for by-laws to prohibit pets or to restrict the size, type or quantity of pets.

Despite these decisions and guidance material published by governments, legal firms and body corporate firms, there is evidence that some bodies corporate continue to have invalid by-laws that prohibit or restrict pet ownership. The bill seeks to clarify and increase awareness of bodies corporate owners and occupiers on their rights and obligations regarding pets. It will amend the BCCM Act to prohibit by-laws that ban residents from having animals on a lot or the common property and to prohibit by-laws that restrict the number, type or size of animals that a resident may have on a lot or the common property.

Overall, stakeholders were supportive of those provisions. I think it is safe to say that the committee were also supportive of the bill's intentions. However, we did note the feedback from the REIQ and Strata Solve about ensuring there is legislative alignment between the BCCM Act and the Residential Tenancies and Rooming Accommodation Act, which our government also recently amended to better balance the rights and interests of renters who wish to have a pet with them in their rental property. Accordingly, our committee made recommendation 4—that the Queensland government in collaboration with the CTL Working Group review the interaction between the Residential Tenancies and Rooming Accommodation Act and the Body Corporate and Community Management Act regarding time frames for requests to keep pets from a lot owner or a tenant.

Finally, the bill includes reform around the use of sunset clauses and proposes to prohibit sunset clauses from automatically terminating an off-the-plan contract for the sale of land. The bill proposes that sunset clauses can only be used to terminate a contract with the buyer's consent, through a court order or through regulation.

This is an issue that I have spoken about previously here in this House. A number of residents in my electorate who had purchased homes through one developer were concerned that sunset clauses were being used by the seller to terminate off-the-plan sale contracts. Residents had become aware that this practice had been used by the same seller in another location and that once the contracts were terminated the seller could then relist and sell the same property for a higher price—essentially removing the property from the purchaser and making it difficult to enter back into the market. Stakeholder feedback on this clause was quite mixed, with those representing industry particularly against the reform. This reform goes to correcting the power imbalance that exists between developers and purchasers, and the committee supports its inclusion in the bill.

The committee was pleased to note that the department had been conducting an awareness campaign for off-the-plan property buyers, including encouraging buyers to seek legal advice and alerting them to potential risks associated with off-the-plan land sales contracts. I know that many, if not most, property developers operate lawfully and fulfil an important need to deliver additional housing. However, there are some who have, in my view, done the wrong thing and those actions have caused great uncertainty and psychological distress to families and it brings the profession into disrepute. I am pleased to see that this reform is being progressed.

We all know that Queenslanders are facing some real housing challenges right now. This is one of the clearest priorities of our government. I am pleased that in this sitting week alone we have debated two bills that deal with housing and getting people and keeping people in their homes—first, the Property Law Bill, which we dealt with yesterday, which deals with fulsome seller disclosures so that homeowners have greater transparency around those transactions, and then today's body corporate legislation that helps to redevelop older, unviable housing so we can build the additional homes we need and the modern homes that we need for modern Queensland. This is the work of Labor governments. I would like to thank the minister for bringing this reform into the House. I commend the bill to the House.