




Speech By
Melissa McMahon

MEMBER FOR MACALISTER

Record of Proceedings, 14 November 2023

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

 **Mrs McMAHON** (Macalister—ALP) (3.04 pm): I rise to make my contribution in relation to the Body Corporate and Community Management and Other Legislation Amendment Bill. At the outset I want to thank the Legal Affairs and Safety Committee for welcoming me for the cameo role that I played during the inquiry into the bill, substituting for the member for Caloundra during the public hearing. I want to declare at the outset that I have never owned a property that was subject to body corporate management and it did take a bit of reading to get my head around the issues in the bill. I have, however, been a regular renter in strata title communities, as I am today.

There are the headline objectives in this bill which are relatively easy to follow and generally welcomed by all stakeholders. There is the issue of pet ownership within complexes managed under bodies corporate. I understand from speaking to residents living in them that the rules are often extremely difficult to navigate for someone to own a pet. Blanket no-pet policies are often in place, with many hurdles placed on the approval process. Whether you are looking to buy a property or rent a property—and keeping in mind that townhouse and unit living is, for many, becoming the extent of their buying power—to be able to live under one of the many current no-pet policies may mean parting with a beloved pet. Owners who do have pets find that approval is limited to a single pet detailed by breed and name, meaning that if their beloved dog dies and they want to replace them the body corporate may not approve. For renters, this entire process is even harder.

Considering that nearly 70 per cent of Australian households own pets and given the resources tied up in adjudicating applications to approve pets by bodies corporate when it has been established that blanket by-laws restricting pets are invalid, this amendment seeks to provide further clarification on what by-laws can be set by management. It will prohibit by-laws that ban occupiers—and that includes owners and renters—from having animals on their lots and prohibit by-laws that restrict the number, type and size of animals that an occupier may have on their lot. Occupiers will still have to make an application and seek written approval; however, bodies corporate must consider each application on its merit. As such, this amendment does not change laws around pet ownership but supports occupiers in clarifying their rights against by-laws that are inherently invalid. I know many residents who will welcome this clarity and whose quality of life and enjoyment will be enhanced with their right to own a pet in their own home now a much easier proposition.

The other issue which commonly raises its head, particularly in those dense residential properties—often the hallmark of strata title properties—is that of second-hand smoke. Again, I have never owned a strata title property but I have rented many, as I currently do, and in many of these places there is a limited opportunity to have outdoor space or even a balcony to enjoy the fresh air. That simple enjoyment can often be disrupted by how others choose to use their space. While there are several laws in Queensland which determine where people can smoke, these are generally limited to

public or common spaces. However, while a balcony or courtyard does represent someone's private space, its close proximity to everyone else's means that those activities will inherently drift into other places and spaces and that impacts others' quality of life and health.

Previously it has been difficult for rulings by both bodies corporate and tribunals to be made on activities such as smoking in private occupier spaces that impacted on the activities and health of other occupants. Much like the clarifications around pet ownership, these amendments provide clarity for bodies corporate to make decisions about smoking restrictions based on the configurations and density of the individual properties. These amendments have been generally well received because of the impact that decisions by bodies corporate have on the day-to-day lives of many Queenslanders, but the bigger part of this bill is in the process and decisions around the termination of community titles schemes. One of the key actions following the Queensland Housing Summit was the creation of a mechanism whereby a community titles scheme can be terminated for economic reasons.

The rationale behind this was to create the conditions for renewal and development of housing stock. Currently, older community titles schemes from developments in the seventies and eighties are facing increasing maintenance and repair costs which are being passed on to occupiers, owners and, subsequently, tenants. However, the conditions for a community titles scheme to be terminated and the properties to be sold requires unanimous support from all owners. This has meant that it would only take one resident to thwart an entire process, locking all owners into potentially spiralling body corporate fees to maintain outdated and dilapidated properties. Owners also wishing to sell out of the title are then finding it difficult to achieve good sale values when body corporate fees are excessive for older properties.

The current bill proposes that the threshold for commencing the termination process where an economic reasons resolution has been passed will be 75 per cent. Stakeholders varied on their opinions as to the appropriate percentage of assent, but the overall move to lower the threshold was welcomed. The government understands that there is a tension between the rights of property owners to have confidence in their long-term residency or investment and the rights of majority owners who feel shackled to unviable properties or investments. I believe the bill has regard to this balance with a transparent process to commence, vote on and dispute the termination of a community titles scheme.

I understand the committee made a number of recommendations after hearing issues raised by stakeholders and I commend the instances where these processes will be evaluated to determine whether the processes are valid, whether they are workable and whether there are any unintended consequences. I know many found the process to be drawn out and that the process to terminate a community titles scheme under these arrangements to be lengthy, but when one is making decisions that affect the ownership of someone else's property these processes should be detailed and with consideration.

The committee did hear from stakeholders who were themselves considered the 'hold-outs' under the current system and I reflect on instances where big money and big profits are the key considerations, where bodies corporate are dominated by developers as owners seeking to force the hand of other owners into selling, where community property is run down deliberately and body corporate rates hiked up to force older, more vulnerable owners out, where the sale of a property on the open market is affected by poor maintenance and upkeep and where the owner has little choice but to bend to the will of the majority to agree to termination of the scheme. What I heard in this instance was not necessarily commentary on the proposed amendments under this bill, rather the need for the Office of the Commissioner for Body Corporate and Community Management—admittedly an office I did not know existed before I participated in this committee—to have greater advocacy powers and reach on behalf of tenants who are finding themselves pressured and disadvantaged by their body corporate's management team. This is not the experience of many, thankfully, but for anyone to live with the stress of being forced out of their home by the manoeuvring of those with money and influence is certainly a nightmare situation for those who find themselves in it. I commend this as one of the key actions from the Housing Summit, noting that that was over a year ago.

In terms of the timing of this bill, I do not think it is rushed. There was significant consultation post the Housing Summit in relation to this and the report went into great detail to outline the number of stakeholders that were involved and had already had input into this bill. Therefore, I commend the bill to the House.