



Speech By  
**Hon. Yvette D'Ath**


**MEMBER FOR REDCLIFFE**

---

Record of Proceedings, 26 October 2023

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

**Second Reading**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence) (12.52 pm): I move—

That the bill be now read a second time.

I thank the Legal Affairs and Safety Committee for its consideration of the Body Corporate and Community Management and Other Legislation Amendment Bill 2023. The committee received 95 submissions during its inquiry. I would like to thank all those who made written submissions to the committee and those who made themselves available to present at the committee hearing. The committee tabled its report on 6 October 2023 recommending passage of the bill. I table the government's response to the committee's report.

*Tabled paper:* Legal Affairs and Safety Committee: Report No. 56, 57th Parliament—Inquiry into the Body Corporate and Community Management and Other Legislation Amendment Bill 2023, government response [1774](#).

The bill will amend the Body Corporate and Community Management Act 1997, which provides for the establishment and management of community titles schemes. It will deliver a key action of the 2022 Queensland Housing Summit by amending the BCCM Act to allow for termination of uneconomic community titles schemes to facilitate renewal and redevelopment. The bill will also deliver one of this government's 2020 election commitments to amend the BCCM Act to allow an adjudicator the power to approve alternative insurance arrangements and will make supporting amendments to complement this change. The bill also reforms and modernises the operation of the BCCM Act in relation to by-laws and other governance issues, including administrative and procedural matters.

The development of this bill has been informed by the broad ranging, independent review of Queensland's property laws by the Commercial and Property Law Research Centre at the Queensland University of Technology between 2013 and 2018. The review considered aspects of the BCCM Act and related legislation, including scheme termination, by-laws and procedural issues. The amendments in this bill have also been informed by the views of the Community Titles Legislation Working Group, which considered the QUT recommendations as well as the alternative insurance arrangements included in the bill. I thank the working group for its extensive work.

This bill also makes unrelated amendments to strengthen consumer protections for off-the-plan contracts. The bill will limit when sellers can use sunset clauses to terminate off-the-plan contracts for the sale of land under the Land Sales Act 1984 so that there must be written consent of the buyer, an order of the Supreme Court or another situation prescribed by regulation.

The bill also includes minor amendments to the BCCM Act, the Land Sales Act, the Building Units and Group Titles Act 1980 and the South Bank Corporation Act 1989 in relation to off-the-plan contracts. These minor amendments clarify and confirm the policy intent of existing provisions about when a deposit can be released from a relevant trust account to a party to an off-the-plan sales contract.

Before I discuss the committee's recommendations on the bill I would like to flag a proposed amendment to be moved during consideration in detail relating to the bill. This amendment is minor and technical in nature. Both this bill and the Property Law Bill 2023 propose the insertion of a new section 205AAA at the same point in the BCCM Act. The two provisions proposed to be included as section 205AAA serve different purposes, with one dealing with body corporate certificates and the other dealing with information access in layered arrangements of community titles schemes. I therefore propose to move this minor technical amendment during consideration in detail to renumber the new section 205AAA inserted by this bill and to provide for it to be located after the new section 205AAA inserted by the Property Law Bill and become section 205AAB.

I thank the Legal Affairs and Safety Committee for its consideration of the bill. The committee made nine recommendations. I thank the committee for its first recommendation: that the bill be passed. The committee report stated in relation to the scheme termination reforms that the majority of the committee believes that the right balance has been struck regarding 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.

As the committee has correctly identified, when it comes to the rules for terminating community titles schemes, finding the right balance is key. The views of stakeholders will inevitably vary. For instance, while some stakeholders may consider that more relaxed arrangements would accelerate the potential for this reform to deliver more properties for redevelopment, other stakeholders are deeply concerned about the potential for a unit owner to be required to sell and leave their home. Different views were also presented to the committee about the types of properties which should be within the scope of the new process. On the one hand, some consider that any building over a certain age—for example, 30 years—should be subject to a reduced decision-making threshold for termination regardless of whether there are economic reasons for terminating. Meanwhile, some stakeholders pointed out that some older buildings are very well maintained and well positioned to provide homes for owners and occupiers in the future and that the rights of minority owners to decide whether to sell and terminate the scheme should be upheld.

In this respect I acknowledge the statements of reservation from the members for Currumbin and Scenic Rim and the member for Noosa regarding the lack of formal modelling of how many Queensland bodies corporate would adopt the new termination process and the consequential impact on housing supply. While this sort of information would be beneficial, in order to undertake the type of modelling referenced in the statements of reservation, a number of fundamental and significant assumptions would need to be made which would make any predictions and forecast difficult to rely on in any meaningful way.

The committee's second recommendation is 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 including, in particular, information on the dispute resolution processes available for lot owners in community titles schemes. The government supports this recommendation. I appreciate there is some uncertainty felt by some unit owners and other stakeholders about the prospect that other owners within their community titles scheme will pursue terminations simply because a developer makes an attractive offer to purchase the scheme. I want to assure those owners that the new process balances the capacity for non-unanimous termination with strong protection for lot owners and contains safeguards designed to ensure the process only applies where there are demonstrated economic reasons for termination. Those safeguards include a requirement to obtain expert information establishing there are economic reasons to terminate as well as the capacity to dispute decisions about the information, with the body corporate responsible for costs. The safeguards also include minimum compensation requirements that, by relying on the Acquisition of Land Act 1964, take into account market value, uplift in value due to sale of the whole site and disturbance factors associated with sale and relocation.



**Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence) (4.05 pm), continuing: Owners and other affected parties will be able to apply to the District Court for orders to stop the implementation of a termination plan or to vary its terms. The body corporate will be responsible for the reasonable costs of the proceedings. I recognise that there may be a degree of uncertainty about how the termination reforms will function. To that end, the Office of the Commissioner for Body Corporate and Community Management provides an information service under the BCCM Act.

As a part of the implementation of this bill, the commissioner's office will be updating its resources and providing updates to the sector about the reforms, including changes to arrangements for the termination of community titles schemes. The commissioner's office also proposes to engage with key stakeholder groups for the community titles sector, such as those involved with the Community Titles Legislation Working Group, to educate their membership about the reforms and to also encourage their membership to share BCCM office resources.

Recommendation 5 also relates to the provision of information. The recommendation is that the Queensland government, in collaboration with the Community Titles Legislation Working Group, consider providing additional guidance and resources to bodies corporate regarding their powers to tow vehicles that are parked in contravention of a by-law, in particular, vehicles owned or operated by visitors. The government supports recommendation 5.

Recommendation 3 is that the Queensland government review the proposed amendments to section 167 of the BCCM Act and consider whether guidance, such as statutory notes or examples, should be provided around the word 'regularly' contained within the section. The Queensland government supports this recommendation in principle. Clause 10 amends section 167 of the BCCM Act, which currently requires owners and occupiers to refrain from using their lot or the common property in a way that causes a nuisance or hazard, or unreasonably interferes with the use and enjoyment of another lot or the common property. The amendment provides that a lot occupier contravenes section 167 if they regularly use, or regularly permit an invitee to use, a smoking product on the lot or common property, and the occupier of another lot or their invitee, or a person who is lawfully on the common property, is regularly exposed to the smoke or emission from the smoking product. The policy intent behind the amendments is to capture regular or frequent exposure to smoke. 'Regular' will have its ordinary, everyday meaning.

Providing a specific definition of regular through statutory guidance, such as statutory notes or examples, may be overly proscriptive and not suit the wide range of circumstances in community titles schemes. However, there will be more general guidance and information published by the BCCM office as part of the implementation of the bill, including changes relating to smoking.

Recommendation 4 is that the Queensland government, in collaboration with the Community Titles Legislation Working Group, review the interaction between the Residential Tenancies and Rooming Accommodation Act 2008 and the Body Corporate and Community Management Act 1997 regarding time frames for requests to keep pets from a lot owner or tenant. The Queensland government does not directly support this recommendation. A landlord is required to respond to a tenant's pet request within a 14-day period under the Residential Tenancies and Rooming Accommodation Act. Community titles schemes involve joint decision-making through a body corporate or its committee. The processes for making decisions in a body corporate do not enable the 14-day time frame to be adopted for the body corporate approval of a request to keep a pet.

The interaction between the relevant acts regarding time frames for requests to keep pets from a tenant is clear. The Residential Tenancies and Rooming Accommodation Act states that an authorisation to keep a pet or animal is subject to body corporate by-laws. Therefore, even if a landlord of a property included in a community titles scheme approved the keeping of an animal under a lease, approval from the body corporate would also need to be obtained if this is a requirement under the body corporate by-laws.

In recommendation 6, the committee recommends that the Queensland government consider amending the relevant sections of the five module regulations made under the BCCM Act to clarify whether the prescribed fee for obtaining a copy of a record kept by a body corporate applies to digital copies as well as printed copies. The Queensland government supports this recommendation in principle. The government will consider the prescribed fees for obtaining electronic copies of body corporate records when next reviewing the regulation modules.

Recommendations 7 and 8 relate to the off-the-plan amendments in the bill. Recommendation 7 concerns the amendments related to sunset clauses in off-the-plan contracts for land. The recommendation is that the government review within 24 months of the implementation of the bill the

exercise of sunset clauses. The Queensland government supports this recommendation in principle. As announced, a review will commence one to two years after the sunset clause amendments have commenced. It is anticipated the review will consider a number of matters including the effectiveness of the amendments in addressing the issues being experienced by consumers in relation to the use of sunset clauses, property market conditions following the introduction of the amendments, and whether further reforms are required to protect people buying proposed community titles and similar lots off the plan.

Recommendation 8 concerns the minor amendments related to the release of deposits under off-the-plan contracts and seeks that the government conduct a review within 24 months of the commencement of the bill to determine and address any unintended consequences that may have arisen by the proposed amendments. The Queensland government supports this recommendation in principle. These amendments are minor clarifying amendments to confirm the policy intent of existing provisions of relevant acts. These amendments will be monitored as part of the general policy responsibilities of my portfolio. If necessary, further amendments will be considered.

Recommendation 9 is that the Queensland government, in conjunction with organisations, such as REIQ, review the interaction between the BCCM Act and the minimum housing standards, as prescribed by the Residential Tenancies and Rooming Accommodation Act, in particular with respect to how these reforms impact on owners in a community titles scheme. The Queensland government does not directly support this recommendation. A community titles scheme includes individual lots as well as common property that is jointly owned by the owners of all lots in a scheme. The body corporate has a responsibility to maintain common property in good condition, including to the extent that common property is structural in nature, in a structurally sound condition. A body corporate is also responsible for maintaining other parts of a building if it is created under a building format plan. For landlords whose property is in a community titles scheme, a particular minimum housing standard may relate to part of the landlord's property or common property that the body corporate is responsible for maintaining. If the body corporate is responsible for maintaining property, owners and tenants may ask the body corporate to undertake the maintenance. If a body corporate does not meet its maintenance obligations, the owner or tenant may seek dispute resolution under the BCCM Act.

The new minimum housing standards came into effect on 1 September 2023 for new tenancies, and will come into effect on 1 September 2024 for existing tenancies. Given the extensive information campaign to support the implementation of the minimum housing standard reforms by owners of community titles schemes, the government does not support the committee's recommendation. The government will, however, closely monitor the operation of the minimum housing standards in relation to community titles schemes.

Before I finish, I would like to address a few more issues raised in the statements of reservation. The opposition members claimed there had been a pattern of little consultation by the government on these reforms. As noted, many of the amendments, such as the termination amendments, have their origins in the Property Law Review, which included substantial public consultation processes.

**Mr Hinchliffe:** Extensive.

**Mrs D'ATH:** I will take that interjection. It was substantial and extensive, yes. There has also been significant consultation with the Community Titles Legislation Working Group on the BCCM Act amendments in the bill. This working group was really important because we understand the significance of these reforms and that, although there had been extensive consultation through the Property Law Review, it was important to get the key stakeholders around the table in a working group to work through how those recommendations should be turned into law. The working group is made up of groups that represent the breadth of the sector from unit owners to body corporate managers and caretakers and legal and real estate professionals. The member for Noosa made comments about the insufficient unit owner membership on the Community Titles Legislation Working Group. However, I can advise that organisations representing unit owners make up two of the seven members of the group. Views from other stakeholders that represent unit owner interests were also invited by the chair of the group on these issues.

Additionally, in relation to the off-the-plan consumer protection amendments, these changes were informed by consultation, including surveys of both consumers and property developers. While I note the opposition's comments about the termination of community titles schemes and the concerns that unit owners have expressed about the future of their homes, the government has ensured that the bill provides that protections are in place for unit owners. As noted earlier, there will also be clear communication and education activities regarding these reforms, including the termination processes.

Termination is a key action from the Housing Summit. This government has listened to the summit's attendees on what measures should be put in place to help tackle housing issues in the state.

I note the member for Noosa's comments regarding the review time frames for recommendations 7 and 8. These particular recommendations related to the off-the-plan consumer protection amendments, rather than the termination amendments. The government remains committed to commencing a review of the off-the-plan consumer protection amendments one to two years after the amendments commence. The termination changes will, of course, be monitored by the government following their commencement.

Again, I would like to thank the Legal Affairs and Safety Committee for its consideration of the bill and acknowledge the very valuable contribution of all of those who have made submissions on the bill and assisted the committee during its deliberations. I also acknowledge the work of the working group, and I also acknowledge the significant work over five years by the QUT Property Law Review. Lastly, because this has been such a significant body of work, I want to also acknowledge the staff of the Department of Justice and Attorney-General and the work they do to bring these bills to fruition and into this parliament. We should not underestimate the amount of work involved to work through the technicalities of these sorts of amendments. I commend the bill to the House.