Speech By

Hon. Jann Stuckey

MEMBER FOR CURRUMBIN

BODY CORPORATE AND COMMUNITY MANAGEMENT AND OTHER LEGISLATION AMENDMENT BILL

Hon. JA STUCKEY (Currumbin—LNP) (Minister for Tourism, Major Events, Small Business and the Commonwealth Games) (3.00 pm): I rise to join the debate on the Body Corporate and Community Management and Other Legislation Amendment Bill 2012, which was introduced by the Attorney-General and Minister for Justice, the honourable member for Kawana, on 14 September 2012. This bill was subsequently referred to the Legal Affairs and Community Safety Committee to report to the House by 22 November last year. It amends the Body Corporate and Community Management Act 1997 to achieve three key things. Firstly, it removes the requirement for bodies corporate to undertake a process to adjust contribution schedule lot entitlements to reflect the original entitlements prior to any and all relevant orders of a court, tribunal or specialist adjudicator if a lot owner submits a motion requesting a change. Secondly, it removes unnecessary disclosure requirements imposed on sellers of lots in community title schemes. Thirdly, it provides jurisdictional clarity and consistency for disputes about contribution schedule lot entitlement adjustments.

In 2011, as the shadow minister for fair trading, I led the opposition's debate against the legislation introduced by Labor's minister, Peter Lawlor. I heartily congratulate the Attorney-General for bringing these amendments before the House and thereby demonstrating the Newman government's commitment to restoring equity and fairness to contribution schedule lot entitlements. The bill before us today, which effectively reverses the 2011 amendments, is the first step in the process towards a fairer body corporate system for all Queenslanders. The Attorney has indicated that he plans to undertake a broad review of body corporate legislation and I commend him for that.

In brief, Labor's 2011 reversion process provided one single lot owner with the ability to overturn an adjustment order. All that needed to occur was for one person to move a motion at a body corporate meeting and the adjustment order would be overturned; not a single vote counted, not a single other lot owner able to dispute this. I ask: where is the fairness in that? The Queensland Law Society did not think it was fair either. In its submission of 23 September 2010, it stated—

There needs to be an appropriate balance struck between fairness for lot owners holistically and the comfort for individuals brought about by certainty. In the Society's view the consultation amendment proposals do not achieve that balance.

Under the former Labor government, principles of natural justice were thrown out the window in return for perceived political gain with the single stroke of a minister's pen—a minister who was desperate to secure votes and put his own preservation ahead of good legislation. Those were actions that had become a hallmark of Labor's years of incompetent administration.

Historically, when a body corporate scheme was established the developer of that scheme would set the lot entitlements. In further reviews of contribution schedule lot entitlements, the question whether this practice as it currently stands should continue will no doubt be asked, and so it should. In 2003, Labor introduced legislation that allowed lot owners in developments who were unhappy with the lot entitlements set by the developer to apply for an adjustment order to have the lot entitlement

adjusted by a court, tribunal or specialist adjudicator. It is important to note here that under the Labor government not one member of parliament opposed the 2003 legislation, and, as the opposition at that time, we applauded it. In fact, there are members still in the House now who spoke in favour of the legislation and voted for it in 2003, such as the honourable members for Bundamba, Mackay and Woodridge. The 2003 legislation allowed for queries about lot entitlements to be handled by a specialist adjudicator. This was a detailed and sometimes lengthy process that cost the applicant thousands of dollars in legal and other fees, but Labor's 2011 amendments allowed a single lot owner, unhappy with that order, to have it overturned, just like that! Labor reversed its own legislation without even an admission it was flawed and without acknowledging that they brought it in some eight years earlier. Cowards, every single one of them. With an election in the wind and poor polling, Labor brought in bad legislation to try to buy back votes.

In 2011, I said—

> It is an insult to people who have taken the time, the effort and considerable costs to go to such lengths to apply through proper legal channels to get adjustments made. Industry stakeholders are appalled at the ease with which this bill allows all this effort to be reversed.

The Queensland Law Society put forward a raft of valid and serious concerns that it had with the amendments proposed by Labor. In its submission, it stated—

> Permitting one affected owner to undo the careful assessment of what is 'just and equitable' in terms of apportionment is itself visiting unfairness on lot owners.

That was the fundamental problem with those 2011 amendments. They disposed of the concept of fairness between lot owners. Those against the reversion process unanimously agreed that it eroded the concept of a fair and equitable outcome and suited the agenda of a single lot owner, without any regard to all others living in that community title scheme. I highlight how out of touch Labor was with Queenslanders with this legislation. Prior to the election, my electorate office received a stack of correspondence asking if the LNP would repeal this reversion process if elected, as it did immediately following the state election, when the LNP took government.

This bill will ensure that a single lot owner no longer has the ability to reverse an adjustment order. Reversions that may currently be taking place will be stopped. The bill will also provide a process for reversions that have taken place since the April 2011 amendments. A lot owner can submit a request to have these reversed and the contribution schedule lot entitlement will revert back to the adjustment order obtained from a specialist adjudicator, court or tribunal prior to 2011.

As I did in 2011, I again wish to acknowledge and recognise that it is impossible to achieve an outcome that will please everyone. This is, indeed, a sensitive and complex issue. I note that the Legal Affairs and Community Safety Committee received over 270 submissions on this piece of legislation, highlighting just how contentious this issue remains to so many people. Unlike what happened under Labor, all of these submissions are on public view. In 2011, Labor kept them all secret. Despite my requests, they refused to make them available, yet they had the hide to say in this place that the submissions were all from disgruntled people. The Department of Justice and Attorney-General has reported that there are around 41,000 community title schemes, which include approximately 385,000 lots. That is a large number of people with a multitude of different views, backgrounds, opinions and lifestyles that all need to be considered in any changes or the drafting of legislation regarding bodies corporate.

The argument being put forward that higher level larger units should pay heftier fees as they have more windows, require more maintenance and require lifts to travel higher just does not wash, no pun intended That argument is quashed when one considers that 10 units on one floor create many more lift usages, foyer wear and tear and so on. One could raise the issue of owner occupier versus absent owner who uses their apartment for only a few months of the year, and long-term rental versus holiday rental. Which creates the most wear and tear? Who most uses the public areas such as the swimming polls, barbecues and games rooms? Who requires more security? This is not a debate about bigger apartments versus smaller apartments. It is about equity and fairness.

In line with the Newman government's absolute commitment to cut red tape and reduce regulatory burden on individuals and businesses, unnecessary disclosure requirements will be removed. This will create a much simpler process that is less onerous on the sector. It will also give the Queensland Civil and Administrative Tribunal or a specialist adjudicator jurisdiction to hear disputes about adjustment orders sought by a unanimous agreement of all lot owners.

I want to once again congratulate the Attorney-General. I think it is timely to reflect on some of the comments made in the debate on the bill by non-government members. I wish to refer to the comments of the honourable member for Mulgrave. He said that the LNP gave no real warning and there was no clear election promise. What more did he need? The LNP's response in 2011 made it extremely clear that we would be reversing this unfair legislation. Then we have the comments of the honourable member for Rockhampton, who played the rich-versus-poor card to the hilt. He milked it for all it was worth. Not surprising, though, that is standard Labor propaganda. It is deliberately divisive, emotive and untrue.

The honourable member for Condamine showed his true colours—changing his political party and affiliation and changing his stance on a number of issues previously debated in the House. He and the honourable member for Charters Towers have both backflipped. I was bitterly disappointed with the member for Condamine when I read his contribution to the bill—full of unpleasant threats, even to those he used to call friends. He used to stand for something but now he waxes and wanes and blows with the wind.

Mr Hopper interjected.

Mrs STUCKEY: Here we go again with more threats from the honourable member.

As the Attorney-General discussed in his explanatory speech, the Newman government will look at broader issues around contribution schedule lot entitlements. I am very, very proud to commend this bill to the House.