

~~their child's education. This initiative will provide practical assistance for parents to support their child's development.~~

~~These funds are made available from the Prevention and Early Intervention Incentives Pool—money put aside for a rainy day. That rainy day has come around. There is no better initiative that these moneys could support. Beenleigh State High School, Edens Landing State School, Loganlea State High School and Waterford West State School will also receive a total funding package of nearly \$192,000 for increased maintenance work.~~

~~As well as early childhood education in schools, vocational education also wins from this year's budget with \$4.1 million being injected into the redevelopment of the Metropolitan South Institute of TAFE Loganlea campus. The Loganlea TAFE is the job opportunity generator for our community, particularly for young people wanting to enter the workforce and parents who want to return to the workforce.~~

~~Less than three months after the state election the Bligh government is delivering on its commitment for better health services in the Logan area. This budget provides \$20 million of the total project cost of \$44 million for the expansion of the Logan Hospital emergency department. This expansion will ease the pressure on our emergency department with 18 new treatment bays and a dedicated children's waiting area.~~

~~The Logan and Beenleigh area will receive millions of dollars to support community services for the most vulnerable in our community. Some \$1.7 million has been granted to the Home and Community Care program for local agencies to provide services such as respite care, domiciliary nursing, transport, home care, domestic assistance and personal care to the frail aged, younger people with a disability and their carers. At the same time \$681,000 will be allocated from phase 2 of the Community Renewal program in the Gold Coast north renewal zone to help strengthen our local communities. Community services providing counselling and support for young people at risk of homelessness will be supported with funding of \$433,818.~~

~~Sitting suspended from 1.00 pm to 2.30 pm.~~

~~Debate, on motion of Mr Moorhead, adjourned.~~

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## BODY CORPORATE AND COMMUNITY MANAGEMENT AMENDMENT BILL

### First Reading

**Hon. PJ LAWLOR** (Southport—ALP) (Minister for Tourism and Fair Trading) (2.30 pm): I present a bill for an act to amend the Body Corporate and Community Management Act 1997. I present the explanatory notes, and I move—

That the bill be now read a first time.

Question put—That the bill be now read a first time.

Motion agreed to.

Bill read a first time.

*Tabled paper:* Body Corporate and Community Management Amendment Bill.

*Tabled paper:* Body Corporate and Community Management Amendment Bill, explanatory notes.

### Second Reading

**Hon. PJ LAWLOR** (Southport—ALP) (Minister for Tourism and Fair Trading) (2.30 pm): I move—  
That the bill be now read a second time.

This bill makes an amendment to the Body Corporate and Community Management Act 1997 as a result of recent decisions of the Supreme Court and the Court of Appeal. The purpose of the bill is to clarify the intention of section 212 of the act.

On 12 November 2008 the Supreme Court gave judgement in *Bossichix Pty Ltd v Martinek Holdings Pty Ltd*, finding that the applicant had validly cancelled, pursuant to section 212 of the Body Corporate and Community Management Act, the contract between the applicant and the respondent. The respondent, Martinek Holdings Pty Ltd, appealed the Supreme Court decision and on 5 June 2009 the Court of Appeal ordered the appeal dismissed. Section 212 provides that a buyer can cancel a contract for the purchase of a proposed lot in a community titles scheme if the contract does not provide that settlement must not take place earlier than 14 days after the seller gives notice to the buyer that the scheme has been established or changed.

The Supreme Court and Court of Appeal decisions found that the contract between *Bossichix Pty Ltd* and *Martinek Holdings Pty Ltd* was deficient because a key clause omits any reference to the community management statement, the recording of which is an essential element of establishing a new

community titles scheme. A community titles scheme is established by the registration under the Land Title Act 1994 of a plan of subdivision for identifying the scheme land for the scheme and, secondly, the recording by the Registrar of Titles of the first community management statement for the scheme. Typically this occurs simultaneously, although a scheme is not established until the community management statement is recorded. It is not possible to record a first community management statement in the absence of a survey plan that creates or identifies at least two lots and common property.

However, the Supreme Court and the Court of Appeal stated that the registration of a plan and the establishment of a community titles scheme are not the same thing and that the contract did not adequately convey to the buyer that more than registering a survey plan is necessary to establish the scheme. The respective decisions of the Supreme Court and the Court of Appeal revealed that the wording of section 212 of the Body Corporate and Community Management Act does not clarify the policy intent which seeks to balance the interests of consumers and developers/vendors. Consequently, these decisions have highlighted the potential for hundreds, if not thousands, of off-the-plan contracts to be at risk. This is because the provisions of the contract subject to legal action have potentially been replicated in contracts industry-wide.

It is estimated that up to 14,000 contracts on foot will be affected by the court decisions and, as off-the-plan contracts of sale provide a basis for property developers to obtain financing for many residential developments, the recent decisions could have serious implications for the property development sector and the wider Queensland economy if not remedied. Therefore, the Body Corporate and Community Management Act 1997 will be amended to provide clarification to the requirements of a contract subject to section 212 of the act.

Contracts entered into before or after 5 June 2009, excluding contracts already settled, will be deemed to contain the term 'providing that settlement must not take place earlier than 14 days after the seller gives advice to the buyer that the scheme has been established or changed', even if the contract does not do so. This provision will ensure contracts cannot be cancelled based on a mere omission of a reference to the establishment of the community titles scheme on the condition that the building plan and community management statement have been lodged with the Register of Titles and settlement does not take place earlier than 14 days after the seller notifies the buyer that this process has been completed.

This amendment will clarify the intent of the legislation and ensure that there is no diminution of consumer protection. In effect, it will return both buyer and seller to the position they believed they were in—and both accepted—at the time of the signing of the contract. I commend the bill to the House.

Debate, on motion of Mr Stevens, adjourned.

## ~~MINISTERIAL STATEMENT~~

### ~~Queensland Civil and Administrative Tribunal Bill; Further Particulars~~

~~Hon. CR DICK (Greenslopes—ALP) (Attorney General and Minister for Industrial Relations) (2.35 pm), by leave: During yesterday's consideration in detail debate on the Queensland Civil and Administrative Tribunal Bill and the Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Bill, I made two statements in response to questions asked that, out of an overabundance of caution, I wish to clarify for the parliamentary record.~~

~~In response to a question concerning the publication of deidentified decisions in child safety matters, I indicated that the government would not be changing the existing practice and that this practice was to not publish such decisions. I want to inform the House that the existing practice is to publish deidentified decisions and that there is no intention to change this existing practice under the amalgamated tribunal.~~

~~Second, in response to a question as to whether the proposed bill would impugn an individual's legal rights and access to justice I indicated that there would not be a restriction on judicial review. I want to clarify for the record that, while judicial review will be partially ousted in relation to decisions of the new tribunal, this will not restrict or confine the rights of citizens to justice in this state. The Queensland Civil and Administrative Tribunal will provide for expanded appeal rights where previously no or more limited rights may have existed. As I noted yesterday, the judicial review process is a cumbersome one when compared to a more open and streamlined appeals process and, as such, the end result—ensuring the rights of citizens to an open and equitable justice system—is achieved.~~