2 September 2023

Legal Affairs and Safety Committee
Committee Secretary
Parliament House
George Street
Brisbane

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Dear Secretary and Committee

Submission on the Body Corporate and Community Management and Other Legislation Amendment Bill 2023

The Main Beach Association represents a Gold Coast suburb with a population of approximately 3,500, the majority of them living in high rise towers, many of which are 35+ years old.

Historically there have also been many low rise unit buildings, but most of those are in the process of being replaced by high rise towers.

Since the introduction of the 2016 City Plan, the Association has been heavily engaged in planning issues, both with the City of Gold Coast and the local community. We have also had a close involvement with the Spit Master Plan, working closely with both the Gold Coast Waterways Authority and the State Government.
On several occasions we have held public meetings that have been attended by 400+ residents.

We are also active members of the Community Alliance.
We are considered by both Government and the media to be a moderate group, known for making high quality submissions.

Background
In recent years the Association has carried out two detailed surveys of Main Beach, classifying each site according its probability of redevelopment within a 20 year period: extremely likely; moderately likely; unlikely. In 2021 we produced a map that clearly showed each site and its classification. Following the then Attorney General's announcement of the move to the so-called 75% rule, we refined the classifications to reflect the foreshadowed 'reform'.

We identified two categories of buildings that are 35+ years old: those that have been well maintained and will be economically viable for many more years; those in a dilapidated condition that would be considered ripe for redevelopment.

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What we discovered was that the great majority of older buildings were, thanks to conscientious body corporates, in excellent condition. However they are also located on the prime sites highly prized by property developers. Almost all, whether 3-storey walkups or high rises, have been aggressively pursued by property developers for many years, so far to no avail, given a significant number of 'hold-outs'.

Impact of the '75% rule' on the housing crisis

The MBA believes that the Government, heavily influenced by the development lobby, is using the current housing shortage to justify some very ill thought out 'reforms' in its BCCM Amendments Bill. These will do nothing to improve the supply of housing in Main Beach and other the beachside suburbs—suburbs that are already suffering from a massive amount of overdevelopment, thanks to the deficiencies of the 2016 City Plan.

In fact, instead of increasing housing availability, the '75%' rule will have the opposite effect in Main Beach. There is at least a five year period between a developer's acquisition of a site and the completion of construction— assuming that a code-assessable DA is approved relatively quickly which is often not the case, particularly with developments that fail to comply with the the City Plan.

So the increased densification that will inevitably occur should this Bill become law, will **diminish** the housing supply for a number of years. In addition, many of those buying into one-unit -per-floor high rise towers in Main Beach have no intention becoming full -time residents. Many are from southern States and New Zealand and are acquiring luxury high rise units to use only during the winter months. The construction of such buildings is not increasing the housing supply but in fact driving out less wealthy long-term residents, be they owners or tenants.

The perception of unfairness

The Bill is grossly unfair in that it favours the interests of property developers and others with a vested interest over those of the community at large. This is not surprising given that it was a direct outcome of the 2022 Housing Summit which overwhelmingly represented property developers. There has been little or no engagement with those most likely to be adversely affected by the Bill.

Evidence of developer influence can be seen in the unseemly rush to get these so-called reforms legislated. Two aspects of the process of bringing this Bill to Parliament are particularly unfair:

- No Public Hearings are to be held in the two areas with the greatest number of community titles schemes—the Gold and Sunshine Coasts. An appearance via Zoom is no substitute for an in-person involvement in a Hearing.
- The period of time between the introduction of the Bill into Parliament is absurdly short.

Had we not informed our members, they would have had no knowledge of the Bill and its accompanying documents. And the few who have been able to read the Bill have had very little time to digest its implications.

Loopholes in the Bill

In order to galvanise our members into making submissions in the very short time available we provided them with the following summary:

'the Bill allows for the termination of a community titles scheme with the support of lot owners where the body corporate committee has agreed that there are economic reasons for termination which meet defined thresholds. The economic reason for termination is that it is not economically viable—or **will not be within 5 years**—to carry out repairs or maintenance to the parts of the property that the body corporate is responsible for.

Although at first glance this might seem reasonable, there is far too much scope for an unscrupulous body corporate committee to manipulate the situation in favour their own benefit rather than respect the interests of the majority of lot owners.

For example, many body corporates neglect essential maintenance through apathy, ignorance and a desire to keep owners happy in the short term with unrealistically low levies. With the lure of a large payout from a developer, the temptation to deliberately run down a building will be irresistible to many body corporate committees.

The Bill specifies that a body corporate committee that wishes to sell to a developer, thereby terminating their Scheme, will have to have a Pre-termination Report prepared by suitably qualified people, including a structural engineer. Although the Bill refers to conflicts of interest by those preparing the Report, there are no penalties proposed for a body corporate committee that goes 'expert shopping'. There is considerable potential for corruption.

Lack of protection for unwilling sellers

In its Explanatory Notes, the Government claims that the Bill contains protections for those unwilling to sell—insultingly referred to by developers as 'hold outs'. For example, lot owners wishing to prevent the termination of their Scheme will be able go to the District Court to seek an order that the termination of their Scheme not be implemented.

In reality, owners facing the threat of being forced out of their home will rarely have the financial resources to pay for expensive legal costs.

One of the reasons owners on modest incomes will be forced out of Main Beach is that even if offered a unit in a replacement high rise, they will never be able to afford the body corporate levies required to pay for all the services considered essential in a luxury high rise. These include lifts, swimming pools, live -in managers and so on. Currently the levies in a 3-storey walk up are in the range of $3000—a far cry from the $12,000 to $20,000 per year paid by owners of a mid-level floor in a luxury high rise.

It is a fallacy that those forced out will be the proverbial little old ladies. In fact, many of those under threat of being forced out of their homes are young families, many of them keen surfers who will never be able to live within easy reach of a beach again.

Unfair costs for unwilling sellers

- As members of a strata scheme, unwilling sellers will be contributing to the costs of terminating the scheme, which will be considerable: commissioning expert reports, legal expenses and so on.

- Nowhere in the Bill is there any mention of compensation for the costs for those forced to move. Anyone who has moved house in recent times knows that selling and buying property involves considerable expense—including the various Government charges, stamp duty and the like, bank charges and removal expenses. These amount to many thousands of dollars.

Conclusion

There are many other problematic issues with this Bill which the shortage of time for preparing this submission has prevented the MBA from addressing. We are confident that others, including Unit Owners Association Queensland, will have done so.

Although the UOAQ were included in the working group on the BCCM, we can see no evidence in the Bill that their concerns have been taken into account. Their organisation, which represents the interests of unit owners, were certainly not included in the Housing summit from which the proposed 75% rule emanates. They should have been.

We stress the following points:

- Experts agree that there are already adequate provisions in the law to deal with aged strata that are genuinely no longer economically viable.

- This Bill has the potential to become a lawyer's picnic, given the issues that have been overlooked, whether by accident of design.

- This Bill if enacted will lead to bullying and the inevitable mental health issues that will affect those being pressured to sell. The Bill is a loaded gun being pointed at unit owners who will lose not only their home, face large relocation expenses and will never again be able to afford to live in Main Beach.

- Given that the existing law relating to adequate sinking funds is being flouted by many building managers and body corporate committees, the time for the **existing legislation to be enforced** is well overdue.

- Any improvements to the housing shortage that this Bill purports to address are far outweighed by the certain adverse consequences—either for individual owners or for those living in adjacent buildings to the sites being targeted by aggregators working in the interests of developers.

- The increased densification caused by manipulation of the 75% rule will NOT improve the housing supply in Main Beach. Rather it will exacerbate the worst excesses of the overdevelopment already being experienced in the area.

Thank you for considering our submission. We hope that our lived experience will be taken seriously and provide a counterbalance to the misleading claims of the development lobby on improving the supply of affordable housing.

Yours sincerely

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