




Speech By
Hon. Jarrod Bleijie

MEMBER FOR KAWANA

Record of Proceedings, 9 September 2014

LAND SALES AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

 **Hon. JP BLEIJIE** (Kawana—LNP) (Attorney-General and Minister for Justice) (12.27 pm): I move—

That the bill be now read a second time.

I thank the Legal Affairs and Community Safety Committee for its detailed consideration of the Land Sales and Other Legislation Amendment Bill 2014 as well as all of the stakeholders who made submissions to assist the committee in its inquiry. I note the committee tabled its report on 29 August 2014 and recommended that the bill be passed.

I would also like to take the opportunity to thank the expert reference committee that has overseen and guided the review of the Land Sales Act 1984. This government greatly appreciates the generosity of all members of the expert reference committee in sharing their time, experience and expertise in the development of this very important bill.

The Land Sales and Other Legislation Amendment Bill is yet another example of this government's commitment to growing Queensland's economy by focus on the four pillars of tourism, agriculture, resources and construction. This government recognises the importance of Queensland's property and construction sectors and is therefore determined to ensure that Queensland is equipped with a modern property law framework which balances consumer protection and business growth. We have also promised to reduce regulation of red tape by 20 per cent. We want Queensland to be the best place in Australia to do business. Growth in investment creates jobs and opportunities for all Queenslanders. This bill is an example of how we are reforming and revitalising the property sector and property legislation and follows on from the very important reforms to the Property Agents and Motor Dealers Act split bills that were passed by the parliament earlier this year.

The Queensland University of Technology is also conducting a broad-ranging review of all property legislation in Queensland to get rid of duplication and complication, which only serves to confuse the consumers and tarnish our reputation as a good place to do business. The reforms we have undertaken are part of our strong plan for a brighter future in Queensland as we set about supercharging the economy.

The Land Sales Act 1984 is not necessarily well known outside of the property sector but it is very important legislation. In summary, the Land Sales Act regulates off-the-plan sales of land in Queensland as well as off-the-plan sales of lots proposed to be included in community titles schemes such as apartments and home units. The Land Sales Act has a number of policy objectives, but its broad aim is to facilitate property development in Queensland while providing appropriate protections for consumers in that process. This government believes that these objectives are entirely compatible and continue to be highly relevant in modern Queensland. The bill currently before the House enhances these objectives by removing unnecessary red tape and regulation to promote growth and development in our property sector while at the same time ensuring effective and appropriate consumer protections for people buying land or apartments off the plan.

An innovative, vibrant and growing property development industry provides jobs, homes and investment opportunities for Queenslanders. It also supports Queensland's tourism industry by providing a range of accommodation options for our domestic and international visitors. In turn, a fair and effective consumer protection framework enhances confidence for buyers and investors who are considering buying off the plan.

This bill is designed to provide Queensland with modern, streamlined legislation regulating off-the-plan sales of property for the benefit of both buyers and sellers. I know that many members of parliament, particularly honourable colleagues from the Gold Coast such as the Leader of the House, have a particular interest in off-the-plan development. The Gold Coast, the Sunshine Coast and areas of North Queensland have seen off-the-plan community titles sector growth, particularly over the past 20 to 30 years—nowhere more so than on the Gold Coast.

Passing this bill will eliminate redundant bureaucratic and regulatory requirements that add costs and complications for business and consumers and provide no real benefits for consumers, in line with this government's commitment to cut red tape for Queenslanders. Over the years this type of legislation—as well as the Property Agents and Motor Dealers Act, the Property Law Act and the Land Title Act of the honourable Minister for Natural Resources and Mines—has been so regulated by former Labor governments that it has strangled business opportunity and growth in this state. It has confused consumers. The Labor governments believed that they needed to hold the consumer's hand and business's hand through the process. The only answer they had to any of this was more regulation and more red tape. That is not the answer because that stifles growth, stifles opportunity and stifles job opportunities for Queenslanders. The bill we are passing today will reduce regulation and red tape but also include valuable protections for consumers and clarify and improve precontractual disclosure negotiation requirements.

Before hearing from members on this important debate, I would like to recap some of the specific highlights of the bill. First, the bill makes a significant structural change to how land sales regulations are dealt with in the Queensland statute book. Currently there is significant legislative overlap in how legislation deals with off-the-plan sales, particularly in the context of the sale of community title lots. For instance, both the Land Sales Act and the Body Corporate and Community Management Act 1997 contain separate disclosure obligations that apply to a person selling an apartment or unit that is proposed to be included in a community titles scheme.

The bill proposes a simpler structure to make the law more accessible for Queenslanders by making it easier for people to find the law relating to off-the-plan sales. Essentially, the bill provides for requirements in the Land Sales Act that apply to the sale of community title lots to be relocated to the relevant community titles legislation—that is, the Body Corporate and Community Management Act, the Building Units and Group Titles Act 1980 or the South Bank Corporation Act 1989. It is not rocket science; it is common sense. It should have happened years ago but the Labor Party did not believe in regulation and red-tape reduction; it believed in more red tape and regulation for consumers. These changes will mean that the Land Sales Act itself will only deal with the sale of proposed land that is not proposed to form part of a development regulated under one of Queensland's community titles laws.

As part of restructuring the legislation to improve its accessibility, the government has also taken the opportunity to include amendments in the bill to modernise the terminology used in the legislation and to ensure that the language of the legislation is more reflective of and consistent with usage in the modern marketplace. The bill also takes substantial steps to freeing the property sector from restrictions and regulatory requirements imposed by the former Labor government that are unnecessarily adding costs and complication to property development in this state.

As I mentioned in my explanatory speech, while the Land Sales Act currently allows a seller or buyer to seek an exemption from requirements of the act in relation to non-community titles developments of not more than five lots, these exemptions are subject to assessment and approval by the chief executive. Applications for exemptions are common and are very rarely refused. Rather than requiring parties to spend their time and money applying for an exemption which will almost invariably be granted, the bill provides an automatic exemption for small developments. This will reduce costs for parties to property transactions and government. The bill also eases restrictions on selling unregistered, reconfigured land by allowing such land to be sold prior to receiving the relevant permits for developing the land. This flexibility is already available to sellers of proposed lots in community titles schemes.

An overarching theme of the bill is that it provides more freedom for buyers and sellers to decide for themselves what contractual arrangements are suitable and reduces legislative interference in those matters. For instance, the bill allows deposits of up to 20 per cent of the purchase price to be payable for off-the-plan sales without invoking the instalment contract provisions

of the Property Law Act 1974. This change will help with the financing of major projects which deliver economic growth, jobs and housing opportunities for Queenslanders. Importantly, buyers are still protected as current trust account arrangements will continue to apply. It is also relevant to note that the amendments allow deposits of up to 20 per cent. This does not mean that all contracts must be subject to 20 per cent deposits. Parties are still free to negotiate the amount of deposit, provided it does not exceed the 20 per cent cap. So if a seller wants to do it, they will only attract buyers who wish to pay the 20 per cent deposit. If they do not, they do not have to enter the contract with the particular seller.

The bill also provides more flexibility for buyers and sellers of proposed lots in community titles schemes to contractually agree on the time for settlement. Further, the bill delivers real changes to help consumers make informed choices when thinking about buying property off the plan. Precontractual disclosure provisions under the current Land Sales Act are somewhat vague and, in some cases, may not adequately inform prospective buyers of key features of the property they are thinking about buying. The bill contains modernised disclosure requirements, tailored to reflect the different types of property that may be subject to off-the-plan sales, which will greatly assist buyers to understand the proposed characteristics and features of the land or apartment they are thinking about investing in. Facilitating clarity of expectations and certainty will benefit both buyers and sellers engaging in off-the-plan property transactions.

I foreshadow that I will be moving a number of amendments during consideration in detail. Some of the amendments were recommended by stakeholders in their submissions to the Legal Affairs and Community Safety Committee to improve the operation of the bill. Other amendments will address several issues arising from the roll-out of national electronic conveyancing, e-conveyancing, in Queensland.

The introduction of e-conveyancing in Queensland will bring conveyancing practice in this state into the 21st century and open the way to greater certainty and greater efficiency in the conveyancing process. The roll-out is occurring in stages. The first release, in December last year, applied only to a limited range of transactions. The next release, scheduled for next year, will extend e-conveyancing to a greater range of transactions, including transfers and caveats. In an e-conveyance, the traditional face-to-face settlement of a contract for the sale of land is replaced by an electronic exchange process for funds and transfer documents. The steps in the electronic process do not precisely mirror the paper process. This raises issues about applying the traditional concept of settlement to an electronic environment. To address this, I will be proposing amendments to the Property Law Act 1974 to expressly define 'settlement' in the context of e-conveyancing to ensure certainty as to when settlement occurs in the new digital environment.

I will also be proposing amendments to ensure that the exercise of statutory rights of termination that are expressed to end at settlement are practically workable. It is also necessary to make consequential amendments to the Land Sales Act and the three community titles laws being amended in the bill to ensure contracts for the sale of land or apartments off the plan can also be settled using e-conveyancing. I propose to move these amendments during consideration in detail.

The bill also includes amendments to the Breakwater Island Casino Agreement Act 1984 to provide for the transfer of the ownership of the Jupiters Townsville Hotel and Casino from Jupiters Ltd to CLG Properties Pty Ltd as trustee for CLG Property Trust. As I explained in my explanatory speech upon introduction of the bill, Jupiters is currently party to a casino agreement with the state of Queensland, the form of which is ratified by parliament and incorporated into schedule 2 of the agreement act. In order for the sale to proceed, the agreement act must be amended to recognise the form of the new agreement between the state and CLG as the new owners of Jupiters Townsville.

The amendments are procedural in nature, executing an existing function of the Breakwater Island Casino Agreement Act. This amending deed is part of a complex process which has seen a number of approvals sought and a significant probity investigation conducted by the Office of Liquor and Gaming Regulation into CLG and its associates. As a result of this probity investigation and a review of its findings, I recommended to the Governor in Council that CLG and a number of its associates were suitable to be associated with the ownership and management of a hotel-casino complex in Queensland.

In summing up, I reiterate that this bill delivers on this government's strong commitment to deliver practical reform by ensuring Queensland's property law framework is streamlined and promotes innovation, growth and flexibility in the marketplace. The government is committed to ensuring that Queensland's property and construction industries have a brighter future. I look forward to hearing members' views on the Land Sales and Other Legislation Amendment Bill as the debate progresses. I commend the bill to the House.