




Speech By
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MEMBER FOR PUMICESTONE

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PROPERTY LAW BILL

 **Ms KING** (Pumicestone—ALP) (6.50 pm): Today I rise in support of the Property Law Bill 2023, possibly dull at times but undeniably important legislation which will modernise our nearly 50-year-old Property Law Act. The bill, as we know, arose out of a 2020 election commitment to modernise Queensland's property law framework and has been the subject of extensive consultation over a decade, particularly with stakeholders in the property industry and the legal and community titles sectors.

The provisions of this bill respond to the drastic changes in property schemes, transactions and property technologies since the current act was introduced in 1974. Casting back to 1974, the property system of the time had land still commonly measured in perches, a single woman could not get approval for a mortgage and banks would not take a married woman's income into account in calculating the capacity of a couple to repay a mortgage because it made the assumption, of course, that she would invariably have children and leave the workforce. There were few if any women in parliament. It was like something out of a contemporary LNP wonderland!

While the historic 1974 floods had occurred only the year before, climate change was of course unrecognised. Certainly, the rolling severe impacts of cascading natural disasters that property buyers must now consider when they are making what is likely to be the most important purchase of their lives were not on the agenda. The existing Property Law Act was a creature of its era and it has served Queensland well—unlike the LNP—but times have changed. The bill before the House carries forward time-honoured and well-accepted aspects of the act, but it substitutes clear, modern language and concepts to improve the comprehensibility and workability of modern property systems. Outdated provisions related to old system land registration and clauses that have been overtaken by the Commonwealth Family Law Act 1975 have been excluded to improve clarity and relevance.

Importantly—and something that has not been touched on greatly in the debate before this House—the bill also simplifies the rules for court ordered sales of co-owned property, making the process fairer and more straightforward. With, as we have heard, increasing property prices and our growing and ageing population, families and even unrelated groups of people are increasingly entering into creative co-ownership arrangements, so these changes are important and timely.

Importantly, this bill embraces technological change and the significant systems reforms that were brought about by the COVID-19 pandemic. It formalises emergency changes that were introduced to allow for electronic creation and signing of deeds during lockdown and social distancing. As yet another ex-property lawyer, I can well remember as a clerk lining up with my piles and piles of folders and trotting around town trying to get to all of my settlements in time. If there was a delay at one location then that cascaded on, and your settlements may have been delayed for a day or more. I know that in the recent purchase of my home—two years ago now—there were really substantial delays in settlement. That was not happening just in my own purchase; it happens routinely in many people's purchases. It creates untold difficulties for them with lining up their finance and with getting handover

of their property. The changes contained in this bill will take some steps towards ameliorating those issues. I know that electronic conveyancing has been well accepted in other jurisdictions and I am sure that the conveyancers of now, as opposed to the conveyancers of nearly 25 years ago, will welcome these changes heartily.

Possibly, though, the most important changes contained in this bill relate to the seller disclosure requirements. Currently sellers are required to disclose information under a complex mix of common-law, statutory and contractual obligations. Sometimes those disclosures do not occur at all, particularly in pressured or low-information settings. Buyers therefore at present receive a variety of different disclosure documents at different stages of the sale process, including before contracts are formed, before settlement and at settlement. The consequences of failing to disclose information can vary, and it can create some very complicated legal tangles for people to deal with at a vulnerable moment when they might be poised between their previous home and their next home. It is significant that the Property Law Bill 2023 introduces Queensland's first statutory seller disclosure scheme.

This standardised disclosure requirement requires provision of information to buyers that will assist them in their decision of whether to purchase a property. That empowers buyers by ensuring transparent, streamlined access to key information about the property they are purchasing. I note the Attorney-General's amendments clarifying requirements for the provision of property disclosure specifically to buyers participating in auctions. Any of us who have done that know that it is a high-pressure environment. Having provisions of this bill that respond to the different time frames within an auction environment is really important. Importantly, sellers will have the flexibility to provide necessary disclosure documents physically or electronically.

These disclosures will go a long way to reduce the inefficiencies of the current property purchase process, where so much seller disclosure is left to the discretion of vendors. Multiple potential purchasers may find themselves each in turn paying hundreds upon hundreds of dollars in searches in order to make a good and informed decision. Anyone who has ever been through a house-purchasing process recognises the frustration of taking on the burden of those property searches only to expose a flaw in the title or a flaw in the property that means they do not proceed with the purchase and then leaving the property on the market knowing that the next potential buyer will themselves again have to engage in those purchaser searches or may choose not to and be stuck with a flawed property.

It is problematic to know, as you spend that money, that there is no way to ensure the money you have invested in those searches is not replicated by the next potential purchaser. That is inefficient. The changes in this bill go some way toward improving that situation. These are the kinds of barriers that dishearten people and make home ownership harder than it needs to be. I welcome the reforms in this bill for the benefits that they offer, particularly to first home buyers and people operating in a low-information setting.

When it comes to purchasing property in Queensland, though, given our particular susceptibility to natural hazards, knowledge is absolutely power. As we have heard, we are Australia's most disaster-prone state. That means that special attention has been paid to the issue of natural hazards in the process of purchasing property, as outlined in this bill. We have heard from the members for Mount Ommanney and Stafford. Similarly, when I visited impacted communities in my electorate of Pumicestone along with Major General Jake Ellwood I heard from multiple residents who struggled to prepare for the unprecedented flood events of 2021 because, in some cases, despite having lived in their homes for years, they simply had no idea of the potential for flooding at their location. I will never forget the trauma that those families experienced, especially people who may have lost documents having had metres of muddy water go through their homes. They could not even access their insurance documents—if they had insurance—to know whether they would be covered.

I often reflect that with water peaking around midnight and the SES and emergency services unable to get through to most properties—volunteers were rescuing elderly and frail people in the dark from neck-deep water—we are simply incredibly fortunate not to have faced significant fatalities in Pumicestone. I am so grateful to the emergency services personnel, to all of those volunteers and to my community for their resilience and capacity to rebuild because, of course, many of those residents in my community are those who financially have the very least capacity to rebuild.

Even without loss of life, when those waters dropped they left heartbreak behind. Following last year's floods the Queensland Reconstruction Authority recommended that policies be developed so that Queenslanders can understand the flood risks they face. Under the framework proposed in this bill it will be a requirement that disclosure certificates include a warning statement alerting buyers to the need to do their due diligence in relation to flood and other natural hazards. While we heard from the LGAQ in particular that they would have liked additional safeguards in relation to disclosure, there are

real practical and legal difficulties in mandating disclosure of natural hazard information. I welcome the commitment of the government to continue to work towards stronger and better disclosure of natural hazards through the property process. I will conclude by commending the work of the minister, the committee and all those who contributed to the bill.