Speech By

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PROPERTY LAW BILL

Dr MacMAHON (South Brisbane—Grn) (5.20 pm): I rise to speak to the Property Law Bill 2023. The Greens will be supporting this bill, but there are some huge missed opportunities here to address major issues affecting Queenslanders which the government has somewhat acknowledged and considered but then decided not to act on. I will be moving amendments to ensure the actual disclosure of a property owner's knowledge of past natural disasters to prospective buyers and prospective tenants and amendments to ensure the disclosure of building management statements extends to buyers of existing properties, not just off-the-plan properties.

As climate change intensifies, our homes are more under threat than ever before from extreme weather events like floods, fires and storms. In my electorate of South Brisbane, thousands of locals live in apartments and houses that flooded during the February 2022 floods. Residents spent days trapped in apartments without power or in emergency accommodation, weeks cleaning out mud and damaged furniture, and months repairing flooded homes and infrastructure. Many residents struggled to recover financially and emotionally. Many of these residents moved into the area after the 2011 floods. For the vast majority of these new residents, when they bought or rented their home no-one told them that the property had flooded in 2011. Perhaps worse still, just months after the 2022 floods homes in my electorate that local volunteers and I had spent hours hauling muddy furniture out of and cleaning out were listed for sale or for rent without a single mention of the devastation that had occurred just months earlier.

I wrote to the housing minister at the time alerting the minister that, with vacancy rates extremely low in Brisbane, with the price of rent rapidly increasing and with our concerns that prospective tenants may not have the time to review flood maps nor have the choice to wait for other safer properties, the lack of information puts people, their lives, pets and possessions at risk. Tenants and buyers deserve up-front information regarding the properties they are moving into. The minister's reply at the time was to encourage people to look at the flood information that is available. Flood maps and hydrology reports are useful tools but, frankly, they cannot provide the same kind of firsthand knowledge that a property owner has when they are selling or leasing a property. To give just one example, 8 Flower Street in Woolloongabba is currently being advertised for rent by Ray White. The property flooded in 1974, 2011 and 2022. The BCC flood maps show the property in an area of high likelihood of flooding, yet nowhere on any of the rental ads does it mention that the property has been subject to flooding; nor do they have a link to the BCC flood maps.

It is crucial that we do everything we can to prepare Queenslanders for climate fuelled disasters. A small but important step towards this is mandating the disclosure of any past natural disasters that have impacted a property to purchasers or prospective tenants. It is disappointing that the government has come so close to this but then backed away. That is why we will be moving amendments today that would mean sellers and lessors, or their agents, would have to disclose any knowledge they have of past natural disaster impacts on a property.

Clearly, Queensland needs a robust disaster risk assessment and disclosure scheme. As serious bushfire and cyclone events become more frequent and intense, Queensland needs standardised disaster reporting and risk information across council areas. In the absence of this, this should not stop us from moving ahead to make sure that information is disclosed to buyers and to tenants. The Greens' amendments are simple: if you own a property and you know it has been flooded or affected by bushfire, you need to be transparent and tell prospective buyers or tenants about the impacts and repairs that have taken place.

The amendments also touch on another important missed opportunity in this bill: expanding disclosure requirements for building management schemes to existing lots, not just off-the-plan properties. Building management statements, BMSs, are an obscure feature of Queensland's body corporate legislation that sit outside and above the rest of the legislation regime, allowing developers to retain control of body corporate schemes for up to 25 years without the knowledge or consent of residents, who are often kept in the dark. There is a number of apartment blocks in South Brisbane under BMSs, and my office and I have been doing our best to help residents navigate a system that gives developers ongoing power and residents very little.

Under a building management statement, developers are able to lock in pricey services to individual units, insurance contracts, rights of access, property maintenance fees, dispute resolution processes, intrusive rules for common facilities, future changes to the building and a range of other matters. BMSs can almost wholly supersede traditional body corporate arrangements and can render the body corporate and its legislated protections for residents largely redundant. BMSs also fall outside the remit of the Commissioner of Body Corporate and Community Management. BMSs are, on the whole, undemocratic. They lock owners and residents out of decision-making about their homes and are being used to circumvent and undermine the integrity of Queensland's body corporate and community titles regime. This is a serious policy failure that is hurting many Queenslanders right now.

I am pleased that the bill finally creates requirements for sellers to disclose proposed BMSs for off-the-plan lots, but it misses an opportunity to extend these disclosure requirements to existing lots. That is why we are moving an important but simple amendment to this bill that will require the disclosure of existing BMSs to prospective buyers of existing lots. The government already understands the necessity to disclose BMSs for off-the-plan purchases. I urge all members to correct the oversight and extend this protection to purchasers of existing properties that are subject to BMSs.

It is worth noting that this disclosure is required because of just how problematic BMSs are. There are no requirements for fairness before a BMS can be registered. Many developers can include any kind of oppressive terms they want in a BMS. Developers can and have used BMSs for their own financial benefit at the expense of residents. A disclosure requirement for off-the-plan lots as this bill requires is a good step but does not go far enough. It fails to protect buyers of existing lots and it does nothing to address the actual problem with BMSs.

We need a whole range of changes to the way that BMSs work: requirements for BMSs to allocate costs fairly; to bring BMSs into body corporate and community management regimes; to allow disputes within BMSs to be resolved through the same processes as body corporate disputes; to create a mechanism for challenging BMSs; to allow the commissioner to adjudicate disputes as well as amend and extinguish BMSs in a just and equitable manner; and to reduce the amount of time that BMSs can be in place. Twenty-five years is ludicrous. Of course, this would require taking on the property developers and we know what both sides of this place think about that.

Again, these are simple amendments requiring property owners to disclose BMSs as well as their knowledge of past natural disaster impacts. It is fairly straightforward and it is really the bare minimum that we could be doing to protect tenants and prospective homebuyers. It is the bare minimum we should expect of property owners, developers and real estate agents to honestly disclose those matters that will impact future owners and tenants down the track. I encourage all members to support our straightforward amendments.