




Speech By
Ann Leahy

MEMBER FOR WARREGO

Record of Proceedings, 24 October 2023

PROPERTY LAW BILL

 **Ms LEAHY** (Warrego—LNP) (5.35 pm): I rise to contribute to the debate on the Property Law Bill. I would like to thank the members of the committee from both sides of the House and committee staff for their consideration of the legislation. I would also like to thank the 30 organisations and individuals who made submissions on the bill through the committee process. It is substantial and important legislation. The Property Law Act 1974 governs many aspects of Queensland's property law. Those members of the community who own or intend to purchase a home or land will certainly encounter the workings of the Queensland Property Law Act, and hopefully their interaction will be a positive one. Those people who wish to sell a home will also work with this piece of legislation and their appropriate legal representatives.

The Property Law Act deals with general rules affecting property, the creation and disposition of interests in land, co-ownership of property, deeds, covenants, mortgages, leases and the rule against perpetuities and unregistered or 'old system' land. The Property Law Act commenced December 1975 and has not been substantially amended since that time. The objective of this bill is to replace the 1974 act with new, modernised property legislation. The bill is broadly drafted in accordance with the recommendations of the 2018 property law review *Final report: Property Law Act 1974* prepared by the Commercial and Property Law Research Centre at the Queensland University of Technology. Generally, the bill adopts the recommendations contained in the Property Law Act report: to simplify, streamline and modernise Queensland's property laws; better facilitate e-conveyancing—which did not exist in 1975—and electronic transactions; and remove outdated provisions. QUT finished its review back in 2018. Unfortunately, since then there has been little progress or clarity from the current Labor government on the changes they will bring forward, so we are pleased to see this legislation currently in the House. As the opposition indicated earlier, we will be supporting the legislation.

The part of the bill I will focus on surrounds the seller disclosure scheme, which has drawn much interest from submitters. It is also very topical because of what we have seen in recent times with natural disasters. Speaking of natural disasters, there are currently two major bushfires in and near my electorate: one at Tara, and another which has a perimeter of over 600 kilometres in the Carnarvon National Park. I note there has been a lot of comment in this bill about flood as a natural disaster; however, there has not been as much comment relating to bushfire hazards. These are equally important to home owners and landowners because of the impacts these natural disasters have not only on land but also on homes and property.

The bill implements a statutory seller disclosure scheme for the sale of freehold land. The QUT's *Final report: Seller disclosure in Queensland* recommended that a statutory seller disclosure scheme be implemented to simplify and consolidate the disclosure process for the sale of freehold land and empower prospective buyers to make informed decisions in relation to their purchase. I am advised that the seller disclosure scheme implemented by the bill is broadly drafted in accordance with the recommendations of the seller disclosure report.

The positives of this were to clearly identify the seller disclosure obligations—therefore creating a coordinated, transparent regime to establish a certain and consistent regime and simplify the current matrix of obligations. One of the risks was that the buyer would be presented with so much information that they did not understand what was put before them. I can understand this because many first home buyers have not been exposed to the complexities of conveyancing and they rely very heavily on their solicitors for advice and for ensuring that appropriate due diligence is undertaken prior to their purchase.

The Attorney-General tabled the draft regulation for the scheme under the Property Law Regulation 2023 which will be put to stakeholders following the passage of the bill to refine as needed. At present, schedule 1, section 1 of the draft regulation specifically excludes the disclosure of flooding or other natural hazard history in the disclosure statement. The QUT *Seller Disclosure in Queensland* report found—

The Centre does not recommend the imposition of a statutory obligation on a seller to disclose flooding information at this time. I think that is the very important bit—‘at this time’. It does not say that it should be excluded in the future. It continued—

This view is influenced heavily by the difficulties associated with clearly articulating the meaning of ‘flood information’ or for the seller to state whether the property is ‘flood prone’ together with inconsistency in the information available from official sources.

I will come to that later. The LGAQ in their submission argued that this predates the Royal Commission into National Natural Disaster Arrangements in 2020 and since that time there have been several more serious natural disasters in Queensland. I hope we do not see too many more bushfire disasters in this season. Recommendation 19.1 of the royal commission provided—

State and territory governments should:

- (1) each have a process or mechanism in place to communicate natural hazard risk information to households (including prospective purchasers) in ‘hazard prone’ areas, and
- (2) work together, and with the Australian Government where appropriate, to explore the development of a national mechanism to do the same.

It also noted—

The Queensland Government questioned whether there is a need to directly communicate risk to people when they can access government websites that already host this information.

Unfortunately, the simple fact is that many people do not access that information and they do not always find it is very easy to interpret. In its current drafting, schedule 1, section 3(2) only suggests that a prospective purchaser—

... enquires with the relevant local government as to whether a property is affected by flooding or another natural hazard or within a natural hazard overlay

In response to the LGAQ submission, the department noted that the draft property law regulation—

... proposes to prescribe a warning statement that must be included in the disclosure statement advising the buyer to enquire with the relevant local government about whether the property is affected by flooding or another natural hazard or is within a natural hazard overlay. The warning statement also advises the buyer that flood information for the property may be available at the FloodCheck Queensland portal or the Australian Flood Risk Information portal.

I went to FloodCheck and I found it a bit clunky. I looked for information in my local street in Roma, which I know has had about three successive flood events. Unfortunately, the information was not accurate when it came to the historical information about the 2012 flood. I found that rather disappointing. I also found that FloodCheck clearly does not advise that there is now a levee bank which protects many of the residential streets in Roma, and I found that disappointing as well. I think the Department of Resources could do well to make FloodCheck much more user friendly and much more accurate.

I also tried to search Roma on the Australian Flood Risk Information Portal but it kept taking me to Roma Street, Brisbane, which is not much use if you want to live in Roma in the Maranoa in South-West Queensland. I put in a couple of local streets in the 4455 postcode but it did not provide any information. I find that somewhat disappointing because I know that flood studies have been done in the 4455 postcode. I question why this information is not available on this site when other information actually came up from that search in relation to places like Tara where flood studies have been done by the Western Downs Regional Council. They were quite accessible on that Australian government portal.

The Attorney-General detailed the decision to not include a full natural hazard risk statement or overlay due to practical and legal difficulties, including the difference in the level of information that various councils hold and the fees they charge. However, I think that is a bit of finger-pointing at councils. From the searches I have done, I found there is no leading example in the referenced flood checks from state or federal governments so I think there is a need for improvement from all levels of government.

It is the government's role to help Queenslanders experiencing housing stress and crisis and to drive down the cost of living. There are many people who are fighting to simply buy a home in their price range. That is why one of the LNP's priorities is to help Queenslanders to realise their dream of owning their own home, and that is where they will interact with this legislation in the future. Further, the LNP will prioritise flood mitigation projects and ensure investment in natural disaster mitigation happens to drive down the cost of insurance and the cost of living. Queenslanders certainly deserve better than this state Labor government.