




Speech By  
**Brittany Lauga**

**MEMBER FOR KEPPEL**

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Record of Proceedings, 24 October 2023

### **PROPERTY LAW BILL**

 **Ms LAUGA** (Keppel—ALP) (5.03 pm): I rise to speak in support of the Property Law Bill 2023, a bill which will replace Queensland's outdated property laws. The Property Law Bill 2023 will replace the current Property Law Act 1974, which has not been comprehensively reformed since it was introduced almost 50 years ago. I am pleased that the Palaszczuk Labor government is taking action to ensure our state's property laws are modern and fit for purpose.

The bill has been developed to modernise property laws in Queensland with contemporary language that reflects current commercial practice. It is incredibly important that homebuyers know more about the property that they are buying, and this bill will support buyers with new disclosure rules to make it easier. The bill is based largely on the recommendations of the Commercial and Property Law Research Centre at the Queensland University of Technology following its broad-ranging independent review of Queensland's property law. I thank the QUT research centre led by Professor William Duncan, Professor Sharon Christensen and Associate Professor William Dixon, whose recommendations have guided the preparation of this bill.

This bill will implement a statutory seller disclosure scheme in Queensland broadly in line with the recommendations of the QUT Commercial and Property Law Research Centre's *Final report: Seller disclosure in Queensland 2017*. The new scheme will make it mandatory for a seller of freehold land to disclose relevant information to the buyer in a single document, along with any prescribed certificates, including a body corporate certificate where relevant. The scheme will also prominently alert buyers to the need to undertake their own due diligence on flood information and direct buyers to appropriate resources to access a property's flood information.

This is legislation that will most likely affect everyone at some stage of their lives when they own or deal with property. Owning and dealing with property, establishing co-ownership arrangements, signing and enforcing lease agreements and managing mortgages are major transactions that affect Queenslanders everywhere. The new seller disclosure scheme will simplify disclosure for freehold land sales and empower buyers to make well-informed decisions when purchasing property.

The new seller disclosure scheme will not, however, disclose information about the land use or any existing approvals over freehold land. The requirement of investigating lawful use of land rests with the buyer, and that is something which I stress as important for all property transactions. As a town planning consultant, I all too often came across situations where people had purchased property to use for a specific purpose but the land use was not approved. As a result, the property owner was required to go through the DA process. Sometimes the use that the property owner was seeking to use the land for was not likely to be approved by the council and, in turn, the property buyer was not able to use the land for the purpose for which they purchased the property in the first place.

Over my time as a consultant I had a range of clients who experienced this. A number of cases involved uses like motor vehicle workshops and a range of industrial uses. Clients would enter into a contract and purchase a property with an existing use. They assumed that they would be able to

continue that use after the property was purchased, only to be hit with a compliance notice from council down the track. They were informed that that actually was not a lawful use and that they were required to submit a development application. Sometimes those DAs were approved and the owner could continue that use once that approval was in place, but on a number of occasions people had purchased property and continued the existing use on the site but then were not able to secure a development approval for that particular use to continue. They had to close their business and had to sell the land. They may not have purchased the land in the first place if they had known that that approval was not in place. There is an element of 'buyer beware', but to anyone who is going to enter into a contract for a property and seeking to continue a use on that site I stress the importance of doing their due diligence—to find out whether approvals are in place before they enter into that contract.

I also suggest that in the development of the disclosure implementation process it be made clear that the disclosure form does not include information about the land use and any council approvals over that land. It is also particularly important to consider whether the use will increase in scale or intensity. That can be by way of, for example, an existing motor vehicle workshop that might not have an existing approval, but the new buyer might seek to extend the operating hours or build additional infrastructure or grow the business physically on the site. The increase in scale or intensity may actually trigger more approvals and it is critical for buyers to understand that before entering into contracts. You cannot assume that an existing use on a site is a lawful use. That is why it is incredibly important for buyers to be aware of existing approvals or the lack thereof. The development of the bill has been the subject of extensive consultation with stakeholders over several years and I want to thank them for their ongoing involvement and valuable expertise. I commend the bill to the House.