




Speech By  
**Corrine McMillan**

**MEMBER FOR MANSFIELD**

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Record of Proceedings, 24 October 2023

### **PROPERTY LAW BILL**

 **Ms McMILLAN** (Mansfield—ALP) (6.24 pm): I rise to make a contribution in relation to the Property Law Bill 2023. While property law is an incredibly complex and substantial area of law, the core intent of this bill is relatively simple—to replace the Property Law Act 1974 with a new act drafted in line with modern practice and using plain English. Members may be interested to know that the Property Law Bill 1974, which on its passage became the current act, was first introduced into this place exactly 49 years ago and one day. In his first reading speech, the then attorney-general and member for Nundah, Sir William Knox, stated—

Property law in Queensland is at present stated in numerous Queensland Acts, some Acts inherited from New South Wales on separation, approximately 45 old Imperial Acts dating back to the year 1266 and many common law rules and judicial decisions.

The Property Law Bill is designed to codify and reform all of the laws relating to property rights and liabilities and to provide a permanent code of principles of property law, simplified and expressed in modern language all in the one statute.

The current act has served Queensland well in those 49 years and has been the keystone of property law legislation in this state, but what was considered simplified and modern language in 1974 is of course now quite dated which is why it is pleasing to see the focus on plain English drafting for the bill now before the House.

Property law affects everyone in this state, whether they are renters, home owners or business owners. That is why it is crucial that the written law be broadly accessible to everyone and not just those with a law degree. It must also be noted that property law has changed significantly since 1974, with countless amendments to the act made and a large body of case law shaping our understanding of the act's provisions. A new Property Law Act as proposed by this bill will allow us to do what our predecessors did in 1974 which is to update, distil and modernise the law for the present day. I understand that this bill has been in the works for nearly a decade, starting with the QUT property law review followed by years of consultation, consideration and drafting. I pass on my appreciation for the great deal of effort that has gone into this legislation both from the Public Service and from the Queensland property sector.

As is clear from other members' contributions so far, the bill covers a wide range of issues across the spectrum of property law. One area in particular that I want to highlight is the new statutory seller disclosure scheme for sales of freehold land. Buying a house is generally the largest purchase a family will ever make. It is a huge event and comes with a certain level of built-in risk and stress. For my constituents in the Mansfield electorate, which has a higher percentage of mortgaged home owners than the Queensland average, I want to ensure that we do everything we can to give them the information they need to make an informed purchase when buying their homes.

The seller disclosure scheme in the bill will apply to most sales of freehold land, including by auction. Under the scheme, the seller must give the buyer a disclosure statement in the approved form and copies of any prescribed certificates before the contract is signed by the buyer. This allows the buyer to have key information about the property to inform their decision to enter into the contract. The

information that will be required will be contained in regulation which will allow government to be responsive if changes or updates to the scheme are required. I note that a draft of the Property Law Regulation was tabled with the bill and I am pleased to see the extent of disclosure proposed by that draft regulation.

I also note the range of other positive reforms in this bill which will impact my community of Mansfield, such as removing outdated provisions relating to 'old system' land; removing provisions dealing with property settlements in de facto relationships which have been superseded by Commonwealth legislation; simplifying rules relating to court ordered sales of co-owned property; continuing provisions relating to electronically creating and signing of deeds that were made during the pandemic; amending the Limitations of Actions Act 1974 to align the action limitation period for a deed with that of a contract; clarifying and updating the existing provisions relating to leases to better balance rights between landlords and tenants, including by harmonising time frames with other legislation to provide consistency in leasing practice; improving provisions for neighbouring land, including by abolishing the nuisance-based cause of action in relation to support of land and imposing a duty of care in negligence on the owners of supporting and supported lands; and, finally, abolishing the common-law rule against perpetuities and imposing a statutory 125-year period. The Property Law Bill 2023 is a key piece of reforming legislation. I acknowledge the former attorney-general for bringing the bill to the House and I commend the bill to the House.