



Speech By
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MEMBER FOR CALOUNDRA

Record of Proceedings, 24 October 2023

PROPERTY LAW BILL

 **Mr HUNT** (Caloundra—ALP) (3.17 pm): I rise to make this contribution to the Property Law Bill 2023. As ever, I thank my fellow committee members: the illuminating Peter Russo, the member for Toohey; Jonty Bush, the member for Cooper; Sandy Bolton, the member for Noosa; Laura Gerber, the member for Currumbin; and Jon Krause, the member for Scenic Rim. Our hardworking and ever-accommodating secretariat made the process easier, as they always do—especially for the more technologically challenged members of the committee. In this instance, I am speaking specifically about myself.

While it is true that this bill will not set the heart racing and the debate will probably not generate a fiery and spirited oration, make no mistake: this bill is about fairness and providing protection to the financial interests of Queenslanders. I am not sure if the LNP actually do support this bill, despite the assurances of the member for Currumbin. Very recent history has shown that their principles, such as they are, are so elastic that they can support any bill and then explicitly not support it sometime later.

The committee has made four very straightforward recommendations after the bill was referred to it in February this year. The recommendations were: one, that the Property Law Bill 2023 be passed; two, that the Department of Justice and Attorney-General engage with stakeholders and review the provisions of the Property Law Act 2023 for providing disclosure statements at auctions within 12 months of commencing, giving consideration to the provision of disclosure documents to buyers registering before and during an auction; three, that the lease provisions of the Property Law Bill be amended to require a lessee to surrender the premise to the lessor in the same condition it was when the lessee first took possession; and, four, that the Department of Justice and Attorney-General review the easement and covenant provisions of the Property Law Act 2023 within 12 months of the act commencing to ensure that all non-abusive covenants found in modern easements will still bind successors in title.

The bill generally adopts the recommendations contained in the Property Law Act report to simplify, streamline and modernise Queensland's property laws to better facilitate e-conveyancing and electronic transactions and remove outdated provisions. Significant changes include the repeal of outdated or unnecessary provisions, for example those in relation to unregistered land and property matters arising from de facto relationships; the redrafting of existing property law provisions in plain English with modernised language; establishing a legal framework to recognise and facilitate e-conveyancing and electronic property transactions; simplifying and updating the common-law rule against perpetuities and rules relating to leases and covenants; and minimising the inadvertent creation of instalment contracts. Riveting stuff!

Of particular note was the introduction of a seller disclosure clause. QUT's Commercial and Property Law Research Centre examined the feasibility of a statutory seller disclosure scheme alongside its review of the Property Law Act. Currently, there is no statutory seller disclosure scheme in Queensland and property sellers disclose information as required by a mix of legislative common-law and contract-law obligations. The *Final report: seller disclosure in Queensland*, the seller disclosure

scheme report, recommended introducing a seller disclosure scheme for all sales of freehold land. The reform objectives of the scheme included clarifying the disclosure obligations of a seller, requiring a transparent and effective form of disclosure and providing information of value to the decision of a buyer to purchase, all of which should balance the information costs between the buyer and the seller. The explanatory notes continue by making the point that—

There is currently no formal statutory seller disclosure framework in Queensland. Sellers are required to disclose certain information to comply with a complex mix of common law ... and contractual obligations. This multi-layered and disparate approach imposes a significant regulatory burden on a seller (and advisers) in identifying those obligations which apply to a particular conveyance transaction. It also results in buyers receiving a variety of different disclosure documents at different stages of the sale process including before contracts are formed ...

Mercifully, the QUT seller disclosure report has identified that—

information to be provided by the seller to the buyer pre-contract should be within the seller's knowledge or readily available by search at reasonable cost to the seller;

information should be of value to a buyer in making a decision to purchase. Primarily this will be information impacting on title to the property or ongoing financial liability of ownership;

the information should be in an accessible form, easily understood and capable of being relied upon by the buyer; and

a single legal framework should be established providing consistency in the content and timing of disclosure and remedies available for a failure to comply.

Anyone who has ever purchased property in the state or indeed any state will agree that anything that streamlines the location, the language and the timeliness of obligatory reporting and legal requirements will be a godsend, and the stakeholders consulted in the report agreed. The Strata Community Association Queensland stated that an appropriate balance has been found in terms of the volume of disclosure required. The Real Estate Institute of Queensland stated that it has advocated for the introduction of a seller disclosure scheme and supports the four guiding principles of the proposed scheme. Support was also expressed by the Strata Search Agents Association Queensland, the Queensland Law Society and the Local Government Association of Queensland.

In the same way, there was significant but perhaps not universal support for consolidating the disclosure requirements for the sale of a lot in a community title scheme under the Body Corporate and Community Management Act or a lot included in a plan under the Building Units and Group Titles Act. The bill replaces the old copy of a body corporate record with a new body corporate certificate provided by the body corporate manager. DJAG stated that the introduction of a seller disclosure scheme is to transparently and effectively provide information of value to a buyer. Under the new scheme, a buyer of a lot in a community titles scheme will receive a seller disclosure statement under the new Property Law Act 2023 and a body corporate certificate from the seller. DJAG stated that currently many buyers do not obtain a body corporate information certificate or search of body corporate records and that most buyers will now likely receive more useful information when deciding to purchase.

For many of my Brisbane-based colleagues, the most significant part of the seller disclosure changes revolve around natural hazard risks. In early 2022 I watched weather events like many others with a mix of shock and genuine admiration while so many of my Brisbane-based colleagues went above and beyond in support of their communities. There was extensive property damage and now this government is working to provide extra reassurance and I am sure our government MPs in the Brisbane and Ipswich LGAs will gladly take this news back to their communities. 'Caveat emptor' is the Latin term for let the buyer beware, the idea being that the purchaser alone is responsible for checking the quality and suitability of goods before purchase. Those days are gone and it seems after last week that the LNP can support legislation on one day and then abandon its own principles the next, so for the voters of Queensland it really is a case of caveat emptor in 2024. This government at least has ensured that everyone, both buyer and seller, are operating on a more level playing field, and for that reason I commend the bill to the House.