




Speech By  
**Joan Pease**

**MEMBER FOR LYTTON**

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Record of Proceedings, 24 October 2023

### **PROPERTY LAW BILL**

 **Ms PEASE** (Lytton—ALP) (5.14 pm): I rise to speak to the Property Law Bill 2023, which represents a significant step forward in modernising property legislation in Queensland. It is the culmination of diligent efforts and a comprehensive review conducted by the Commercial and Property Law Research Centre at the Queensland University of Technology. In February 2023, the bill was introduced into the assembly with the objective of replacing the outdated Property Law Act 1974. Much has changed in the 50 years since the Property Law Act was enacted, including the use of technology.

The current act, along with common-law, is foundational for property law in Queensland, with provisions including general rules affecting property, the creation and disposition of interests in land, co-ownership of property, deeds, covenants, mortgages, leases, the rule against perpetuities and unregistered or old system land. While the current act has been amended a number of times during the past 50 years, it is clear that a new piece of legislation is required. As I have already said, this modernisation process was initiated after a rigorous independent review of Queensland property law, led by the Commercial and Property Law Research Centre at QUT. The bill primarily preserves the effect of existing provisions in the Property Law Act that are well established and understood. What it does re-enact is in modern language and plain English. Many of the existing provisions in the Property Law Act remain.

The Property Law Bill 2023 will bring about significant changes to Queensland law. Significantly, the bill removes outdated provisions such as those relating to the old system, unregistered land and the provisions dealing with property settlement in de facto relationships, which have been overtaken by the Commonwealth Family Law Act 1975. The bill simplifies the rules relating to court ordered sales of co-owned property, giving a court wide discretion to make orders for the sale and division of co-owned property. Further, the bill continues the operations of provisions relating to electronically creating and signing deeds that were first enacted as a response to the COVID-19 public health emergency.

The bill amends the Limitation of Actions Act 1974 to provide that the limitation period for taking legal action in relation to a deed entered into after commencement will be six years, which is consistent with the limitation period for contracts. The bill substantially clarifies, modernises and updates the existing provisions relating to leases in a way that retains long-established legal concepts but also clarifies areas of uncertainty and seeks to better balance rights between landlords and tenants, including by harmonising existing time frames with other legislation to provide consistency in leasing practice in Queensland.

The bill will also establish a statutory seller disclosure scheme for sales for freehold land, as recommended by QUT. The seller disclosure scheme will simplify and streamline the disclosure process and empower buyers to make informed decisions about property dealings. While ensuring requirements are not overly onerous on the seller, this will enable the buyer to make an informed decision regarding the property being considered for purchase. The scheme formalises disclosures that already take place in most sales in Queensland, consolidating disclosure obligations prior to signing a contract. The

information to be disclosed under the seller disclosure scheme will be prescribed by regulation, meaning that the government will be able to readily update with emerging trends and available information. The disclosure can be made physically or electronically and via an agent, giving sellers flexibility to provide disclosure documents in a variety of ways.

In the case of auctions, the bill provides a tailored approach. Simply put, if a bidder registers before the start of the auction a seller is required to give the disclosure document before the start of the auction. That is consistent with the requirements for an ordinary private treaty sale. However, if a bidder registers after the start of the auction and was not previously given the disclosure documents, such as through a previous interaction with the seller or agent, the seller is only required to make the disclosure document available by displaying the document at the auction or displaying an electronic link to view the documents.

Like many of my colleagues who have spoken before me, I know that buying a property is an exciting time and undertaking the purchase of a home is probably one of the largest investments that any of us can be involved in. That is why, regardless of all of the other pieces of legislation that are in place, it is important that each and every one of us who wishes to purchase a property undertakes good due diligence and seeks good legal advice before proceeding with the purchase.

May I acknowledge the work of the Legal Affairs and Safety Committee for the consideration and work undertaken in the review of this bill. Of course, I note the assistance of the secretariat staff and their work on this bill. This bill will provide further protections for Queenslanders as we modernise the way we contribute to a more efficient and transparent property law system for Queensland. I am delighted to hear that those opposite will be supporting the bill. In conclusion, the Property Law Bill 2023 represents a pivotal step towards modernising Queensland property laws. It is sensible and timely. I commend the Property Law Bill 2023 to the House.