




Speech By
Sandy Bolton

MEMBER FOR NOOSA

Record of Proceedings, 24 October 2023

PROPERTY LAW BILL

 **Ms BOLTON** (Noosa—Ind) (3.26 pm): The Property Law Bill 2023, as we have heard, replaces the older Property Law Act 1974 with a modernised piece of legislation based on recommendations in the 2018 report on the act completed by the Commercial and Property Law Research Centre at QUT. Through the inquiry by our Legal Affairs and Safety Committee it was apparent that there was very broad support for the changes which will bring this important area of law into the 21st century by repealing old and out-of-date provisions, redrafting in plain English—and we always like that—and updating provisions for the modern world, including e-conveyancing.

There were a couple of issues raised during the committee's inquiry. One related to the provisions for leases which the bill works to simplify and modernise. The standard terms for leases in the bill include a requirement for a tenant to return a property to the condition it was in at the start of the lease. In practice, as the Shopping Centre Council of Australia stated, many leases are renewed multiple times, effectively starting a new lease each time, meaning that a premises would only be required to be returned to the condition at the beginning of the latest lease rather than when it was occupied. To address this, the committee recommended the bill be amended so that when the tenant surrenders the premises it is in the same condition as when they first took possession which, disappointingly, the government has not supported.

The second significant concern was in relation to the requirements for seller disclosure. These are provided by sellers of property to potential buyers and disclose relevant facts about the property. The Unit Owners Association of Queensland raised an important issue that the seller disclosure should contain a simple statement of the lawful use of the land and the building drawn from the development approval given by local government under the Planning Act 2016. This is extremely relevant given the short-term accommodation issues being experienced, including in my own community, with buildings approved for residential use being used unlawfully for short-term stays. The department's response was not to support this, with the argument that the recording of development approvals has varied over time, hence obtaining a full development approval document is likely to be difficult, time consuming and expensive in many cases. In addition, it would be difficult to outline the lawful use of a lot in a development approval in a short and simple way that may be easily understood by buyers, particularly given the complexities of the regulation of planning and lawful usage under the various applicable planning laws. The third argument was that planning is enforced by local government and disclosing planning approvals would not provide any additional pathways for enforcement.

These three points are as succinct a summary of the failures in the planning scheme as you are likely to get, and they are outlined in my statement of reservation. They demonstrate a system that is failing to achieve its own objectives and should be acknowledged as such. What is the point of a planning scheme if it does not, and seemingly cannot, achieve the goal of ensuring buildings and lands are used for the lawful purpose for which they were approved? Queensland deserves and should expect

a planning system that works. A principle set out in the review QUT undertook for the seller disclosure scheme states—

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.

Apparently, it is not. Ultimately it needs to be provided, and I do appreciate that the Attorney-General has referred this to the Deputy Premier to look at because it is so important. The same principle applies when the Local Government Association of Queensland recommended that disclosure statements should include flood and other natural disaster information. The department responded that the level of information held by local government can differ quite considerably and that councils across Queensland charge vastly different fees to access this kind of information, which I understand. Again this highlights how problematic it is for people to access information, including on natural hazards. In this case the Attorney-General stated that the government is committed to continuing to work with stakeholders to develop a mandatory scheme using uniform information, and this is very welcomed.

These efforts need to include the issues being faced by landowners impacted by coastal hazard adaptation plans, or CHAPs, with ongoing concerns around methodologies and insurance ramifications. Given the reports from within my own community of outrageous increases in insurance premiums, the state needs to seek from the federal government a Productivity Commission inquiry or royal commission into what is actually happening, as there is something very wrong when insurers refuse residents for flood coverage when they have taken their money for many years or treble their premiums to do so, even when there has not been water through their house. These properties were purchased in good faith and they need clarity and transparency around climate change related mapping and projections and their implications, including in insurance premiums.

I thank our chair, the member for Toohey, and fellow committee members for their work, as well as our incredible secretariat for their hard work. I thank the Attorney-General and departmental staff. I thank also all of the organisations, entities and individuals who lent their expertise and experience to the committee through submissions and hearings. This inquiry was conducted in the standard two-month time frame while the committee was conducting three other inquiries. As expected, this puts significant pressure on all. For many inquiries this time frame may have been appropriate; however, for such a major undertaking as this, which included a complete rewrite of such a large act, it was not appropriate. Again this demonstrates the not-fit-for-purpose nature of the current committee system and I look forward to the determinations of the Committee of the Legislative Assembly regarding a review.