




Speech By  
**Steve Minnikin**

**MEMBER FOR CHATSWORTH**

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### **PROPERTY LAW BILL**

 **Mr MINNIKIN** (Chatsworth—LNP) (3.40 pm): I rise to make a contribution to the Property Law Bill 2023. I will disclose up-front that I am a member of the Australian Property Institute. I am a valuer, although not a practising valuer. Many years ago, when I had a little bit of hair, I did a master's degree in property economics at QUT. Some of the contributions that I will raise today come from lecturers and prominent city valuers who have reached out to me with concerns about the bill. While it has been stated up-front that the LNP will not oppose the bill, it is opportune to go through certain aspects of it—the good, the bad and the ugly, so to speak. I intend to do that with my time remaining.

It has been noted that in 2013 the then LNP government commissioned the Commercial and Property Law Research Centre at QUT to conduct an independent and broad-ranging review of Queensland's property laws. As has been said by other speakers, it might be a dry topic for most people if they are making a contribution to the bill but, at the end of the day, the Property Law Act and all the instruments it contains materially affect people's economic choices and, in fact, the price points when they make what is undoubtedly the biggest investment of most people's lives, that is, buying the little patch of paradise that they call home. QUT finished the review in 2018 and here we are in 2023, a mere five years later.

This is a pattern. No matter what we look at with the government, if anyone wants to say that they are not tied up for three terms then let us consider this: we have been waiting for five years. This is a habitual pattern, whether it be the digital driver's licence that was promised five years or this review of the Property Law Act. This is something that seems to drag on and on. That is something I could not help but make mention of.

I want to go through a few aspects of the bill, some of which have been touched on. The seller disclosure scheme was clearly the most notable section of the bill for many submitters. We urge the Attorney-General to work with stakeholders on ensuring the regulation is clear, realistic and effective to give buyers the necessary information without overwhelming them or unnecessarily burdening the seller. The REIQ made points about the infrastructure for property information varying between local government areas. That is worthy of further attention by the government so that investment can be made to ensure that all Queenslanders, regardless of where they live, have the same ability to access key information.

In relation to the background, the Property Law Bill 2023 will replace the current Property Law Act 1974, which has not been substantially amended since I was in grade 5 in 1975, when I certainly did have hair. I am not misleading the House; I had plenty back in 1975. The bill achieves the policy objectives by: repealing outdated or unnecessary provisions in the PLA; redrafting the provisions in modernised language, which is absolutely welcome; providing a legal framework that is updated to reflect changes associated with electronic dealings in property and electronic service as well as reflecting current property, titling and modern-day contemporary conveyancing practice; simplifying and

updating various provisions, for example, the rules against perpetuities, leases and covenants; furthermore, minimising the inadvertent creation of instalment contracts; and implementing a statutory seller disclosure scheme that clarifies the disclosure obligations of a seller, requires a transparent and consolidated form of disclosure and provides information of value to the decision of a buyer to purchase.

The positions in the PLA that will be altered by this bill are set out in the explanatory notes. Unless otherwise stated, these changes are consistent with the recommendations contained in the PLA report and the seller disclosure report prepared all those years ago by QUT.

I will turn to some of the issues. The majority of the bill is administrative in nature and seeks to modernise the language and provisions of the Property Law Act to better provide for current technology and practice, as I just alluded to. While there are a number of submissions on various clauses, the substantive submissions were received in relation to introducing a mandatory seller disclosure scheme, which I might come back to. First, I would like to put my old valuer's hat on and talk about an area that is still of concern to many professionals in the industry. It pertains to agreements for lease. Removing the added value of agreements to lease will have a significant impact on rates, land tax and land rent. The reasoning behind removing the agreements for lease from the Land Valuation Act is clear from a certain point of view, which is that the guidelines need to be consistent with the LVA and the only intangible improvement defined in the act is an agreement for lease.

To put this in terms of less complex property, let us envisage a hypothetical service station that is leased at a rent of \$300,000 per annum and the tenant is responsible for all outgoings. Let us then envisage three different scenarios where all the terms and conditions of the lease are absolutely identical other than the lessee and the term of the lease. In hypothetical example 1, the tenant might be with Ampol on a 20-year term; in example 2, the tenant is with Ampol on a five-year term; in example 3, the tenant is John Citizen on a 20-year term. The market value of the service station in example 1 could be in the order of \$6½ million, in example 2 it could be around \$5 million and in example 3 it could be \$4½ million.

Now let us envisage that they were not leases but agreements for lease negotiated by the vendor prior to selling the vacant land subject to the agreements for lease. Assume the land in example 3, that is, John Citizen on a 20-year term, has a market value of \$1 million. Here is the rub: there is no reason the prudent purchaser would not pay the premium of potentially \$2 million if the tenant was Ampol in each case so identical parcels of land would have vastly different values dependent on the proposed tenant and the term of the lease. Hence the consternation of a lot of property professionals, specifically valuers.

Alternatively, there is a danger that, if the proposed amendment proceeds, the value of an agreement for lease on the sale of a property will then be included in similar property that has absolutely no such benefit. This is something that could be a particular red flag going forward with this bill.

Many people spoke about one particular aspect of the bill, the seller disclosure scheme. I refer to QUT's *Final report: Seller disclosure in Queensland*, which recommended the introduction of a statutory seller disclosure regime. There were positives to this. It would clearly identify the seller disclosure obligations, create a coordinated and transparent regime and establish a certain and consistent matrix of obligations. One of the risks was that the buyer could be presented with too much information and may not understand what was put before them.

The report developed four guiding principles. Firstly, the 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 a reasonable cost to the seller. Secondly, information should be of value to a buyer in making a decision to purchase, and primarily this will be information impacting on the title to the property or ongoing financial liability of ownership. Thirdly, the information should be in an accessible form, easily understood and capable of being relied upon by the everyday buyer. Fourthly, a single legal framework should be established providing consistency in the content and timing of disclosure and remedies available for a failure to comply.

At the end of the day, the scheme provides that the buyer is entitled to terminate the contract for one of the two following reasons: (a) if the seller fails to give the disclosure statement and any applicable prescribed certificate; or (b) the statement or disclosure statement contains inaccuracies about a material matter and the buyer would not have entered into the contract if they had known of the current state of affairs. In fact, the Attorney-General tabled the draft regulation of the scheme under the Property Law Regulation 2023, which will be put to stakeholders following the passage of the bill to refine as needed.

I do realise that the wonderful world of valuation and property economics can be very dry to many people. However, I go back to a comment I made earlier in my contribution: the most significant purchase that the average Queenslander will ever make in their lifetime is the purchase of their home, that is, their real estate. The LNP will be supporting the bill, as has been outlined by the shadow minister. However, given the fact that there have been five long years to get this right, I find it incredulous that we still have some burrs and wrinkles that may prove to be problematic.