

24.08.2022

NEWS

Proposed new seller disclosure regime in Queensland

The Queensland government has recently announced a new proposal to implement a statutory seller disclosure regime in Queensland.

Currently, all property sales in Queensland are based on the premise of 'buyer beware' – other than certain disclosure obligations under the contract, there is no requirement for a seller to disclose all relevant information to a proposed buyer.

Lawyer Matt Dolan discusses what this change would mean for sellers of property in Queensland.

STATUTORY SELLER DISCLOSURE REGIME

Caveat emptor, or buyer beware, is the current premise on which all sales of property in Queensland are based. This principle is well known throughout Queensland, and although there are some contractual seller disclosure obligations, it reflects the historical position of placing the risk on the buyer to discover all faults and defects with a property.

The Commercial and Property Law Research Centre at the Queensland University of Technology has been reviewing property laws in Queensland and has now recommended the enactment of a statutory seller disclosure regime.

The proposed regime would make it mandatory for sellers of property in Queensland to disclose relevant information to a proposed buyer in a single document along with any prescribed certificates, such as a body corporate information certificate. This is a significant change from the current premise of buyer beware.

WHAT DOES THIS MEAN FOR SELLERS?

Firstly, existing and new seller warranties would be contained in a proposed new seller disclosure statement and there would be no ability to contract out of these warranties. The disclosure statement would include, among other items, warranties from the seller such as the below:

1. There have been no notices received regarding transport infrastructure proposals that affect the property.
2. There are no current easements or covenants in place that affect the property.
3. There are no neighbourhood disputes currently affecting the property.

Secondly, depending on the type of property, there would be a new requirement to provide a buyer with certain documents, including the following—

- current title search
- registered survey plan
- body corporate certificate
- community management statement for the community titles scheme (if applicable)
- pool compliance certificate
- tree order under the Neighbourhood Disputes Act
- unlicensed building work under the Queensland Building and Construction Commission Act
- rates notice
- water services notice
- notice or order regarding a transport infrastructure proposal.

The requirement for the seller to provide these documents and warranties significantly changes the disclosure landscape in Queensland. It is anticipated the changes will add further time pressures for sellers when preparing contracts and added costs in relation to obtaining documentation and specific searches.

MOVING FORWARD

While the Queensland Government is currently only seeking views on the proposed new regime, the property laws in Queensland have been extensively reviewed for some time now and these changes would be more in line with seller disclosure obligations in other states.

We will continue to provide updates on the proposal and implementation of any new regulations as and when the Queensland Government makes new announcements.

The deadline for submitting feedback to the Queensland Government is 31 August 2022. If you would like to discuss the proposed regime in further detail or propose submitting feedback to the Queensland Government, please contact [Matt Dolan](#) or a member of our [Real Estate team](#).

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