

17 April 2020

Our ref: LP MD WD

The Hon. Anastacia Palaszczuk MP
Premier of Queensland
Department of the Premier and Cabinet
1 William Street
Brisbane QLD 4000

By email: [REDACTED]

The Hon. Michael de Brenni
Minister for Housing and Public Works,
Minister for Digital Technology, and Minister for Sport
Parliament House
1 William Street
Brisbane QLD 4000

By email: [REDACTED]

Dear Premier and Minister

COVID-19 Protections for residential tenants and owners

As you are aware, the Queensland Law Society (QLS) is the peak professional body for the State's legal practitioners. We represent and promote over 13,000 legal professionals and assist the public by advising government on improvements to laws affecting Queenslanders.

QLS remains ready and available to work with the Queensland Government to support our members and the community at this difficult time.

QLS acknowledges that the COVID-19 pandemic is necessitating government agencies assess the pandemic's impact's and develop policy responses in very quick timeframes.

QLS supports the need for urgent legislative reform to assist tenants and landlords as a result of the growing impact of the COVID-19 pandemic. The reform must however balance the needs of tenants and landlords.

Queensland's leasing reform framework was announced on Thursday 9 April 2020 by media release and the publication of "The Residential Rental Hub" website. QLS did not unfortunately have the opportunity to consider the residential tenancies framework and to contribute to the Department of Housing and Public Works formulation of the framework prior to its release. Having now considered the framework, QLS has the following concerns:

COVID-19 Protections for residential tenants and owners

- It significantly alters existing contractual rights under residential tenancies agreements;
- It could interfere with property settlements when contracts for sale of tenanted properties had been executed on the basis of providing vacant possession to the buyer, based on anticipated lease expiry dates, and vacant possession may no longer be able to be provided; and
- It may prevent contracts for sale occurring, if prospective buyers cannot access a property for the purposes of a private inspection while tenanted, as is presently possible under the current legislation.

Significant changes to the rights and liberties of individuals of the nature proposed by the framework need to balance relief for tenants affected by COVID-19 and equitable treatment for property owners. This is particularly so in light of the available assistance packages from the Commonwealth and State Governments.

QLS strongly recommends scrutiny and oversight of any Parliamentary process to ensure this balance is struck and that proposed restrictions on rights and liberties are justifiable. We consider any legislative response would benefit from such oversight by way of either:

- a) amending primary legislation with the release of a draft for appropriate consultation, or
- b) emergency legislation with a head of power to introduce reforms by way of statutory instrument.

In relation to the significant reforms proposed, QLS makes the following observations all of which we have discussed with the Department of Justice and Attorney-General and with whom we are continuing to engage with in identifying pandemic caused issues and potential solutions to those issues:

- The purpose of the reforms are to respond to a temporary health crisis. It is therefore critical that the emergency reforms and powers are transparent and carefully and clearly limited. As articulated by the Department of Justice and Attorney-General this importantly includes ensuring there are clear sunset dates for the reforms and clear triggers for the end of the emergency powers, including a process for earlier termination if the anticipated progress of the pandemic changes.
- Any reforms lasting longer than the pandemic period's impact should be considered in accordance with the long established Parliamentary processes, including referral to a parliamentary committee for inquiry and public consultation in the usual course.
- Reforms intended to respond to the anticipated economic downturn following the pandemic, must be carefully and comprehensively considered by Parliament, stakeholders and the wider public. The likely extent of the economic impact will only become clearer with the passage of time. It is vital such reforms are not rushed and ill considered.


QLS welcomes the further media release "*Government continues to listen on temporary COVID-19 Tenancy measures*" (16 April 2020) from Minister de Brenni, indicating there will be

COVID-19 Protections for residential tenants and owners

consultation on the forthcoming "*The Guidelines for Residential Tenancies Impacted by COVID-19*" with stakeholders representing tenants, property managers and owners to resolve any concerns before Parliament considers the package. QLS looks forward to being involved in that consultation process to ensure the issues identified above and any other questions can be appropriately addressed.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on (07) 3842 5930.

Yours faithfully



Luke Murphy
President

c.c. The Hon. Yvette D'Ath MP
Attorney-General and Minister for Justice
Leader of the House
GPO Box 149
BRISBANE QLD 4001

By email: 