1. In Queensland, the power of a mortgagee to sell a property where a mortgagor is in default is set out in the *Land Title Act 1994* and the *Property Law Act 1974*. Section 85 of the Property Law Act requires a mortgagee to take reasonable care to ensure that the property is sold at the market value. While the title of a purchaser is protected, a person affected by breach of this duty has a civil remedy in damages against the mortgagee.
2. In the current financial climate, changes in housing lending practices over recent years and the increased range of lenders may lead to the possibility of institutions engaging in ‘fire sales’, where a property is sold quickly to cover an outstanding liability leaving the homeowner with little equity.
3. It is proposed that measures be introduced to provide further protection for mortgagors when mortgagees exercise powers of sale.
4. Cabinet noted the current safeguards for, and developments affecting, mortgagors when mortgagees exercise powers of sale.
5. Cabinet approved extending the obligations in relation to mortgagees exercising powers of sale to mortgagees selling pursuant to powers of attorney created under a mortgage and through receivers appointed under the mortgage.
6. Cabinet approved the inclusion of prescribed steps to be undertaken by a mortgagee to ensure care is taken to sell mortgaged property at market value.
7. Cabinet approved that a new penalty be created for breaching the provision outlined above.
8. Cabinet approved the introduction into the Legislative Assembly of amendments to the *Property Law Act 1974* to give effect to the decisions outlined above.
9. Attachments
* [Property Law (Mortgager Protection) Amendment Bill 2008](Attachments/PropLMortPrAB08.pdf)
* [Explanatory Notes](Attachments/PropLMortPrAB08Exp.pdf)