



Queensland

# Property Law Regulation 2024

## Subordinate Legislation 2024 No. 211

made under the

*Property Law Act 2023*

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**1 Short title**

This regulation may be cited as the *Property Law Regulation 2024*.

**2 Commencement**

This regulation commences on 1 August 2025.

**3 Definitions**

The dictionary in schedule 2 defines particular words used in this regulation.

**4 Prescribed subordinate legislation—Act, s 71**

For section 71 of the Act, the *Housing Regulation 2015*, section 6 is prescribed.

**5 Prescribed certificates for disclosure statement for sale of lot—Act, s 99**

- (1) For section 99(1)(b) of the Act, the following documents are prescribed for the sale of a lot—
  - (a) a title search for the lot showing interests registered under the *Land Title Act 1994* for the lot;
  - (b) a copy of the plan of survey registered under the *Land Title Act 1994* for the lot;
  - (c) if the seller is required to give the buyer a notice under the *Queensland Building and Construction Commission Act 1991*, section 47 before the buyer signs the contract for the sale of the lot—a copy of the notice;
  - (d) if the seller has been given a notice mentioned in the *Building Act 1975*, section 246AG, 247 or 248 or the *Planning Act 2016*, section 167 or 168 and the notice remains in effect immediately before the buyer signs the contract for the sale of the lot—a copy of the notice;

- (e) if the seller has been given a notice or order by a competent authority requiring work to be done or money to be spent in relation to the lot and the notice or order remains in effect immediately before the buyer signs the contract for the sale of the lot—a copy of the notice or order;
- (f) if the seller is required to give the buyer a notice under the *Environmental Protection Act 1994*, section 347(2), 369C(2) or 408(2) in relation to the sale of the lot—a copy of the notice;
- (g) a copy of any document given to the seller in relation to information mentioned in section 8(1)(h), (i) or (k);
- (h) if there is a relevant pool for the lot—
  - (i) a pool compliance certificate for the pool; or
  - (ii) a notice under the *Building Act 1975*, section 246ATM that there is no pool safety certificate in effect for the pool;
- (i) if the lot is included in a community titles scheme—
  - (i) a copy of the most recent community management statement for the scheme as recorded under the *Land Title Act 1994*, section 115L or another Act; and
  - (ii) either—
    - (A) a copy of a body corporate certificate for the lot; or
    - (B) if section 6 applies—an explanatory statement for the lot;
- (j) if the lot is included in a BUGTA scheme, either—
  - (i) a copy of a body corporate certificate for the lot; or
  - (ii) if section 7 applies—an explanatory statement for the lot.

(2) In this section—

***body corporate certificate*** means—

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- (a) for a lot included in a community titles scheme—a body corporate certificate under the *Body Corporate and Community Management Act 1997*, section 205(4); or
  - (b) for a lot included in a BUGTA scheme—a body corporate certificate under the *Building Units and Group Titles Act 1980*, section 40AA(1).

**community management statement** means a community management statement under the *Body Corporate and Community Management Act 1997*, section 12.

**competent authority** includes the Commonwealth, a State, a local government, and a court or tribunal.

**pool compliance certificate**, for a pool, means any of the following relating to the pool—

- (a) a pool safety certificate under the *Building Act 1975*, section 231C(a);
- (b) a building certificate mentioned in the *Building Act 1975*, section 246AN(2);
- (c) a notice of exemption under the *Building Act 1975*, section 245C.

## 6 **When seller not required to give body corporate certificate for lot included in community titles scheme**

- (1) For section 5(1)(i)(ii)(B), an explanatory statement for a lot included in a community titles scheme is prescribed for section 99(1)(b) of the Act if the seller can not obtain a copy of the body corporate certificate for the lot because—
  - (a) the body corporate for the scheme has advised the seller in writing that the body corporate does not have records that could be used to prepare a body corporate certificate, including, for example, because the records are missing, destroyed or in disarray; or
  - (b) all of the following apply—
    - (i) any of the following regulation modules apply to the scheme—

- (A) the *Body Corporate and Community Management (Accommodation Module) Regulation 2020*;
  - (B) the *Body Corporate and Community Management (Commercial Module) Regulation 2020*;
  - (C) the *Body Corporate and Community Management (Small Schemes Module) Regulation 2020*;
  - (D) the *Body Corporate and Community Management (Standard Module) Regulation 2020*;
- (ii) the original owner control period for the scheme has ended;
  - (iii) the first annual general meeting of the body corporate for the scheme has been held;
  - (iv) no committee for the body corporate for the scheme has been chosen;
  - (v) for a scheme other than a commercial module scheme—no body corporate manager has been engaged under chapter 3, part 5 of the regulation module applying to the scheme to carry out the functions of the committee for the body corporate for the scheme.

(2) In this section—

***commercial module scheme*** means a community titles scheme to which the *Body Corporate and Community Management (Commercial Module) Regulation 2020* applies.

***original owner control period*** see the *Body Corporate and Community Management Act 1997*, schedule 6,

***regulation module*** see the *Body Corporate and Community Management Act 1997*, section 21.

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**7 When seller not required to give body corporate certificate for lot included in BUGTA scheme**

For section 5(1)(j)(ii), an explanatory statement for a lot included in a BUGTA scheme is prescribed for section 99(1)(b) of the Act if the seller can not obtain a copy of the body corporate certificate for the lot because—

- (a) the body corporate for the BUGTA scheme has advised the seller in writing that the body corporate does not have records that could be used to prepare a body corporate certificate, including, for example, because the records are missing, destroyed or in disarray; or
- (b) both of the following apply—
  - (i) no committee for the body corporate for the BUGTA scheme has been elected or appointed;
  - (ii) no body corporate manager of the body corporate for the BUGTA scheme has been appointed.

**8 Prescribed information for disclosure statement for sale of lot—Act, s 99(2)(b)**

- (1) For section 99(2)(b) of the Act, the following information is prescribed for the sale of a lot—
  - (a) the name of the seller of the lot;
  - (b) the address of the lot;
  - (c) the lot-on-plan description of the lot;
  - (d) whether the lot is included in—
    - (i) a community titles scheme; or
    - (ii) a BUGTA scheme;
  - (e) the details of each unregistered encumbrance on the lot;
  - (f) the zoning of the lot;
  - (g) the following information relating to contamination and environmental protection—

- (i) whether the property is recorded on the environmental management register under the *Environmental Protection Act 1994*;
  - (ii) whether the property is recorded on the contaminated land register under the *Environmental Protection Act 1994*;
  - (iii) whether the seller is required to give the buyer a notice under the *Environmental Protection Act 1994*, section 408;
  - (iv) whether the lot is subject to an environmental enforcement order to which the *Environmental Protection Act 1994*, section 369C applies;
  - (v) whether the lot is subject to a prescribed transitional environmental program to which the *Environmental Protection Act 1994*, section 347 applies;
- (h) whether the lot is affected by—
- (i) an application in relation to a tree on the lot made under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*; or
  - (ii) an order in relation to a tree on the lot made under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*;
- (i) whether the lot is affected by a notice issued by a Commonwealth, State or local government entity and given to the seller about a transport infrastructure proposal to—
- (i) locate transport infrastructure on the lot; or
  - (ii) alter the dimensions of the lot;
- (j) whether the lot is affected by the *Queensland Heritage Act 1992* or is included in the World Heritage List under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth);
- (k) whether the lot is affected by a notice of intention to resume the lot or any part of the lot issued by any entity;



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- (l) whether there is a relevant pool for the lot;
  - (m) the following information relating to rates for the lot—
    - (i) if rates are payable for the lot—the total amount payable for all rates and charges (without any discount) for the lot as stated in the most recent rate notice;
    - (ii) if rates are not payable for the lot—
      - (A) a statement that the lot is a rates exempt lot; or
      - (B) a statement that the lot is not a rates exempt lot but no separate assessment of rates is issued by a local government for the lot;
  - (n) the following information relating to water services for the lot—
    - (i) if a water services notice is issued for the lot—the amount payable as charges for water services under the most recent notice;
    - (ii) if no separate water services notice is issued for the lot—an estimate of the amount payable for water services for the most recent stated period;
  - (o) if the lot was subject to a residential tenancy agreement under the *Residential Tenancies and Rooming Accommodation Act 2008* during the 12 months before the contract of sale was signed by the buyer—the day of the last rent increase, if any, for the residential premises;
  - (p) if the lot was subject to a rooming accommodation agreement under the *Residential Tenancies and Rooming Accommodation Act 2008* during the 12 months before the contract of sale was signed by the buyer—the day of the last rent increase, if any, for each of the residents' rooms.
- (2) In this section—
- details**, of an unregistered encumbrance, means—
- (a) for an unregistered lease—

- (i) the start and end day of the term of the lease; and
- (ii) the amount of rent and bond payable under the lease; and
- (iii) whether the lease has an option to renew; or
- (b) for an unregistered encumbrance created by an agreement in writing (other than an unregistered lease)—
  - (i) a copy of the agreement; and
  - (ii) the plans, if any, showing the encumbrance; or
- (c) for an unregistered encumbrance created by an oral agreement (other than an unregistered lease)—
  - (i) the names of the parties to the agreement; and
  - (ii) the term of the agreement; and
  - (iii) the amounts, if any, payable by the owner of the land in relation to the encumbrance; or
- (d) for a statutory encumbrance—
  - (i) a description of the encumbrance; and
  - (ii) if the encumbrance relates to infrastructure and the seller has a plan showing the location of the infrastructure—a copy of the plan.

***planning scheme*** see the *Planning Act 2016*, schedule 2.

***rate notice*** see the *City of Brisbane Regulation 2012*, section 96(2) or the *Local Government Regulation 2012*, section 104(2).

***rates exempt lot*** means a lot exempted from rates under the *City of Brisbane Act 2010*, section 95(3) or the *Local Government Act 2009*, section 93(3).

***statutory charge*** means a charge under an Act of the Commonwealth or a State.

***statutory encumbrance*** means—

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- (a) a statutory charge over land arising from the non-payment of money to the Commonwealth, a State or a local government; or
  - (b) a statutory right to keep infrastructure on the lot; or
  - (c) a statutory right to access land to repair or maintain infrastructure on the lot.

*Examples for paragraph (c)—*

- an easement for a local government facility, including, for example, sewerage pipes, under the *Local Government Act 2009*, section 144
- a power to enter land for a telecommunications facility under the *Telecommunications Act 1997* (Cwlth), schedule 3

**statutory right** means a right under an Act of the Commonwealth or a State.

**transport infrastructure** see the *Transport Infrastructure Act 1994*, schedule 6.

**transport infrastructure proposal** means a plan or option relating to transport infrastructure that has been given effect by resolution or adopted under an official process.

**unregistered encumbrance**, on a lot—

- (a) means any of the following to which the lot will remain subject after settlement—
  - (i) an unregistered lease, including, for example—
    - (A) a short lease as mentioned in the *Land Title Act 1994*, section 185(1)(b); and
    - (B) a residential tenancy agreement under the *Residential Tenancies and Rooming Accommodation Act 2008*;
  - (ii) an access agreement, opt-out agreement, deferral agreement or conduct and compensation agreement under the *Mineral and Energy Resources (Common Provisions) Act 2014*;
  - (iii) an unregistered charge, mortgage, easement or profit a prendre known, or reasonably expected to be known, to the seller;

- (iv) a statutory encumbrance; and
- (b) does not include an encumbrance registered on the title of the lot under the *Land Title Act 1994*.

***water services notice*** means a notice issued by a water service provider for the provision of a water service under the *Water Supply (Safety and Reliability) Act 2008*.

***zoning***, of a lot, means—

- (a) if the lot is in a priority development area under the *Economic Development Act 2012*—the zone in which the lot is located under the development scheme for the area; or
- (b) if the lot is in a State development area to which the *State Development and Public Works Organisation Act 1971* applies—the zone in which the lot is located under the development scheme for the area; or
- (c) if the lot is on land to which the *Integrated Resort Development Act 1987* applies—the precinct in which the lot is located under the approved scheme applicable to the lot; or
- (d) if the lot is on land to which the *Mixed Use Development Act 1993* applies—the precinct in which the lot is located under the mixed use scheme applicable to the lot; or
- (e) if the lot is on the site to which the *Sanctuary Cove Resort Act 1985* applies—the zone in which the lot is located under part 2, division 2 of that Act; or
- (f) otherwise—the zone in which the lot is located under the planning scheme applicable to the lot.

## **9 Warnings and other statements to be included in approved form for disclosure statement for sale of lot—Act, s 99**

For section 99(3) of the Act, the warnings and other statements set out in schedule 1 are prescribed.

## 10 Matters that are not material matters for disclosure statement for sale of lot—Act, s 104

For section 104(6) of the Act, definition *material matter*, the information prescribed under section 8(1)(m) or (n) is not a material matter affecting a lot.

## 11 Prescribed mortgages—Act, s 116

(1) For section 116 of the Act, a mortgage is a prescribed mortgage if it is a mortgage over residential land and the mortgagor's home is on the land.

(2) For subsection (1)—

(a) it does not matter that a residence is also used for a business purpose if the residence is primarily used as the mortgagor's home; and

(b) if the power of sale is being exercised under section 114(1) of the Act in relation to a default mentioned in that section—the residence does not stop being the mortgagor's home only because the mortgagor stopped using the residence as the mortgagor's home—

(i) when the default happened; or

(ii) within 6 months before the default happened; and

(c) if the power of sale is being exercised under section 115 of the Act—the residence does not stop being the mortgagor's home only because the mortgagor stopped using the residence as the mortgagor's home—

(i) when the residential land was disclaimed under the *Bankruptcy Act 1966* (Cwlth), section 133(1) or the Corporations Act, section 568(1); or

(ii) within 6 months before the disclaimer took effect.

(3) In this section—

**home**, of a mortgagor, means a residence that is occupied by the mortgagor as the mortgagor's principal place of residence.

**residence** means a building, or part of a building, that is—

(a) fixed to land; and

[s 11]

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- (b) designed, or approved by a local government, for human habitation by a single family unit; and
- (c) used for residential purposes.

***residential land*** means land, or the part of land, on which a residence is built, and includes the curtilage attributable to the residence if the curtilage is used for residential purposes.

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# Schedule 1      **Warnings and other statements to be included in approved form for disclosure statement**

## section 9

### 1      **Information not included**

- (1) This statement does not include information about—
- flooding or other natural hazard history
  - structural soundness of the building or pest infestation
  - current or historical use of the property
  - current or past building or development approvals for the property
  - limits imposed by planning laws on the use of the land
  - services that are or may be connected to the property
  - the presence of asbestos within buildings or improvements on the property.

You are encouraged to make your own inquiries about these matters before signing a contract. You may not be able to terminate the contract if these matters are discovered after you sign.

- (2) **WARNING TO BUYER**—This statement contains important legal and other information about the property offered for sale. You should read and satisfy yourself of the information in this statement before signing a contract. You are advised to seek legal advice before signing this form. You should not assume you can terminate the contract after signing if you are not satisfied with the information in this statement.

## **2 Encumbrances**

- (1) If the property is part of a community titles scheme or a BUGTA scheme it may be subject to and have the benefit of statutory easements that are not required to be disclosed.
- (2) Registered encumbrances, if any, are recorded on the title search, and may affect your use of the property. Examples include easements, statutory covenants, leases and mortgages. You should seek legal advice about your rights and obligations before signing the contract.

## **3 Land use, planning and environment**

- (1) You may not have any rights if the current or proposed use of the property is not lawful under the local planning scheme. You can obtain further information about any planning and development restrictions applicable to the lot, including in relation to short-term letting, from the relevant local government.
- (2) Information about whether the property is affected by flooding or another natural hazard or within a natural hazard overlay can be obtained from the relevant local government and you should make your own enquiries. Flood information for the property may also be available at the FloodCheck Queensland portal or the Australian Flood Risk Information portal.
- (3) Information about vegetation clearing, koala habitats and other restrictions on development of the land that may apply can be obtained from the relevant State government agency.

## **4 Buildings and structures**

- (1) **WARNING TO BUYER**—The seller does not warrant the structural soundness of the buildings or improvements on the property, or that the buildings on the property have the required approval, or that there is no pest infestation affecting the property. You should engage a licensed building inspector or an appropriately qualified engineer, builder or pest inspector to inspect the property and provide a report and also



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undertake searches to determine whether buildings and improvements on the property have the required approvals.

- (2) The seller does not warrant whether asbestos is present within buildings or improvements on the property. Buildings or improvements built before 1990 may contain asbestos. Asbestos containing materials (ACM) may have been used up until the early 2000s. Asbestos or ACM may become dangerous when damaged, disturbed, or deteriorating. Information about asbestos is available at the Queensland Government Asbestos Website ([asbestos.qld.gov.au](http://asbestos.qld.gov.au)) including common locations of asbestos and other practical guidance for homeowners.
- (3) If the property is a commercial office building of more than 1,000m<sup>2</sup>, a Building Energy Efficiency Certificate is available on the Building Energy Efficiency Register.

## **5 Rates and services**

The amount of charges imposed on you may be different to the amount imposed on the seller.

## **6 Community titles schemes and BUGTA schemes**

- (1) If the property is part of a community titles scheme or a BUGTA scheme and you purchase the property, you will become a member of the body corporate for the scheme with the right to participate in significant decisions about the scheme and you will be required to pay contributions towards the body corporate's expenses in managing the scheme. You will also be required to comply with the by-laws. By-laws will regulate your use of common property and the lot.

For more information about living in a body corporate and your rights and obligations, contact the Office of the Commissioner for Body Corporate and Community Management.

- (2) If the property is part of a community titles scheme, the community management statement for the scheme contains important information about the rights and obligations of

owners of lots in the scheme including matters such as lot entitlements, by-laws and exclusive use areas.

- (3) If the property is part of a BUGTA scheme, you will be subject to by-laws approved by the body corporate and other by-laws that regulate your use of the property and common property.
- (4) Statutory warranties—If you enter into a contract, you will have implied warranties under the *Body Corporate and Community Management Act 1997* relating to matters such as latent or patent defects in common property or body corporate assets; any actual, expected or contingent financial liabilities that are not part of the normal operating costs; and any circumstances in relation to the affairs of the body corporate that will materially prejudice you as owner of the property. There will be further disclosure about warranties in the contract.

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## Schedule 2      Dictionary

### section 3

***BUGTA scheme*** means a plan under the *Building Units and Group Titles Act 1980*.

***explanatory statement***, for a lot, means a document made by the seller of the lot stating—

- (a) that a copy of the body corporate certificate for the lot is not attached; and
- (b) the reason under section 6 or 7 why the seller has not been able to obtain a copy of the body corporate certificate for the lot.

***relevant pool***, for a lot, means—

- (a) a pool on the lot; or
- (b) for a lot included in a community titles scheme or BUGTA scheme—a pool on the common property for the scheme.

ENDNOTES

- 1 Made by the Governor in Council on 19 September 2024.
- 2 Notified on the Queensland legislation website on 20 September 2024.
- 3 The administering agency is the Department of Justice and Attorney-General.

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