

South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014

Explanatory notes for Subordinate Legislation 2014 No. 187

made under the

South Bank Corporation Act 1989

General Outline

Short title

This regulation may be cited as the *South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014*.

Authorising law

This regulation is made under section 116 of the *South Bank Corporation Act 1989* (the Act).

Policy objectives and the reasons for them

The *South Bank Corporation (Modified Building Units and Group Titles) Regulation 2014* (the Regulation) is a remaking of the *South Bank Corporation (Modified Building Units and Group Titles) Regulation 2003* (the original regulation) which will expire on 1 September 2014. The original regulation was due to expire on 1 September 2013 by operation of the *Statutory Instruments Act 1992* (SIA) but was exempted from such expiry by virtue of Part 7, section 56A(1)(a)(i) of the SIA.

The exemption from expiry of the original regulation was approved in the context that the government was then considering the future of the South Bank Corporation (Corporation) following amendments to the *South Bank Corporation Act 1989* (the Act) made in the *Economic Development Act 2012* (EDA). It was recognised that the exemption was necessary to ensure that the effective administration of the Act was maintained whilst the Corporation retained certain legislative obligations.

The EDA amendments to the Act reduced the role of the Corporation by transferring planning powers to the Brisbane City Council, in part. They also clarified and confirmed the ability of the Corporation to contract out its responsibilities for Parkland management. These amendments did not necessitate any changes to the original regulation (other than those

required to meet the updated drafting practices of the Office of the Queensland Parliamentary Counsel (OQPC)).

The government is still considering the future of the Corporation and the rationale for remaking the Regulation remains the same as that relied upon for previously exempting it from expiry.

Achievement of policy objectives

The Corporation is obliged to carry out its objectives and functions which include the requirement to promote, facilitate, carry out and control development, disposal and management of land and other property within the Corporation area. The remade Regulation will ensure that fulfilment of these objectives can continue until the Corporation's future is resolved.

The remade Regulation provides, inter alia, for the form, process and requirements for registration of plans and instruments under the *Modified Building Units and Group Titles Act 1980* in Schedule 4 to the Act and the *Land Title Act 1994* as well as the process for the election and administration of of Body Corporates and committees.

The remade Regulation includes drafting amendments that reflect OQPC's current drafting standards and also amends the Schedule 1 Fees, but only in terms of the references to section numbers in the Act (not the amounts of the Fees). No policy amendments have been made.

Consistency with policy objectives of authorising law

The Regulation is consistent with ensuring that the Corporation can continue as a viable commercial entity able to conduct its operations as authorised by the Act.

Inconsistency with policy objectives of other legislation

The Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The Regulation is required to be remade pursuant to Part 7, section 56A(1)(a)(i) of the SIA under which it was originally exempted from expiry.

It is inappropriate to undertake a full review and assessment of the subordinate legislation in the circumstances of the government's consideration of the Corporation's future. Similarly it is inappropriate to allow the subordinate legislation to lapse as it will make operations for Body Corporates within the corporation area, almost impossible.

If the Regulation were not remade it would attract significant criticism and potential claims from detrimentally affected parties who may suffer loss as a result of their inability to, for example, meet contractual obligations they may have in respect of developments and /or their existing leasehold building unit lot entitlements.

Failure to remake the Regulation will remove any strata title structure and rules from the various commercial, mixed use and residential strata title schemes within the Corporation area. It would cause significant cost and inconvenience to leasehold building unit lot owners.

Benefits and costs of implementation

Unless the Regulation is remade as proposed the Corporation cannot continue to carry out its functions in respect of strata title schemes and developers, commercial and residential long term lease holders will be unable to deal with their interests in land within the Corporation Area.

Also, remaking the Regulation allows specific elections to be held in relation to strata schemes and registration of plans and instruments related to the schemes.

As the status quo is maintained there is no new impact on the community.

Consistency with fundamental legislative principles

The remaking of the Regulation is consistent with fundamental legislative principles.

Consultation

The Office of Best Practice Regulation in the Queensland Competition Authority was consulted, and confirmed that the remade regulation is unlikely to have any significant regulatory impact.