

Body Corporate and Community Management (Body Corporate Certificates) and Other Legislation Amendment Regulation 2024

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Body Corporate and Community Management (Body Corporate Certificates) and Other Legislation Amendment Regulation 2024* (Amendment Regulation) made under the *Body Corporate and Community Management Act 1997* (BCCM Act) and the *Building Units and Group Titles Act 1980* (BUGT Act).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Amendment Regulation supports the implementation of the seller disclosure scheme for the sale of freehold land introduced in the *Property Law Act 2023* (Property Law Act).

Under the seller disclosure scheme, before a contract for the sale of a lot is signed by the buyer, the seller must give the buyer a disclosure statement for the lot and each document prescribed by a regulation (each a prescribed certificate) applicable to the lot. The *Property Law Regulation 2024* prescribes that a body corporate certificate is a prescribed certificate for the sale of an existing lot included in a community titles scheme under the BCCM Act and for an existing lot included in a plan under the BUGT Act.

The Property Law Act amends the BCCM Act and BUGT Act to provide arrangements for the new body corporate certificate. The BCCM Act and BUGT Act, as amended by the Property Law Act, provide an interested person may ask the body corporate for a body corporate certificate and the body corporate must give the person a body corporate certificate for the lot in the approved form within five business days after receiving a request made in accordance with the legislation.

Section 205AAA of the BCCM Act, as inserted by the Property Law Act, provides that the approved form for a body corporate certificate for a lot included in a community titles scheme must include provision for information about the matters prescribed by the regulation module applying to the scheme and may include other matters.

Section 40AA of the BUGT Act, as inserted by the Property Law Act, provides that the approved form for a body corporate certificate must include provision for information about matters relating to a lot that are prescribed by regulation and may include other matters.

Accordingly, the policy objectives of the Amendment Regulation are to:

- prescribe the matters that must be included in the approved form for a body corporate certificate for a lot included in a community titles scheme;
- prescribe the matters that must be included in the approved form for a body corporate certificate for a lot in a plan under the BUGT Act; and
- make consequential amendments to:
 - remove redundant fees prescribed in the BCCM regulation modules and BUGT Regulation for information certificates that are omitted from the BCCM Act and BUGT Act by the Property Law Act; and
 - omit a provision of the *Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011* relating to previous seller disclosure requirements for existing lots in community titles schemes which are made redundant by the Property Law Act.

The prescribed matters for the approved forms for body corporate certificates under the BCCM Act and the BUGT Act have been developed broadly in line with the recommendations and underpinning guiding principles for the seller disclosure scheme as set out in the *Final Report: Seller Disclosure in Queensland* prepared by the Commercial and Property Law Research Centre at the Queensland University of Technology.

These guiding principles for the seller disclosure scheme are:

- information to be provided by the seller to the buyer pre-contract should be within the seller's knowledge or readily available by search at reasonable cost to the seller;
- information should be of value to a buyer in making their decision to purchase – primarily, this will be information impacting on title to the property or ongoing financial liability of ownership;
- information should be in an accessible form, easily understood and capable of being relied upon by the buyer; and
- a single legal framework should be established providing consistency in the content and timing of disclosure and remedies available for a failure to comply.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

The Amendment Regulation does not engage any human rights protected under the HR Act.

Conclusion

I consider that the Amendment Regulation is compatible with the *Human Rights Act 2019* because it does not raise a human rights issue.

YVETTE D'ATH MP

Attorney-General and Minister for Justice
Minister for the Prevention of Domestic and Family Violence

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