



Queensland

This is a working draft provided for consultation purposes. It is subject to review and drafting changes will be made in the course of finalising the draft.

Property Law Bill 2022

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2022

A Bill

for

An Act to txt

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[s 1]

The Parliament of Queensland enacts—

Part 1 Seller disclosure for sale of lots
[To be inserted into the *Property Law Act*
2022]

Division 1 Preliminary

1 Definitions for part [LSA, sch 1]

In this part—

buyer, of a lot, means a person who enters into a contract for the sale of the lot intended to bind the person, absolutely or conditionally, to buy the lot.

call option, for the sale of a lot, means a contract under which the buyer agrees or promises to purchase the lot from the seller if requested by the seller.

disclosure requirement means the requirement under section 5.

disclosure statement, for a lot, means a statement complying with section 5.

listed corporation see the Corporations Act, section 9.

lot—

- (a) has the meaning given by the *Land Title Act 1994*; and
- (b) does not include—
 - (i) a lot under the *South Bank Corporation Act 1989*, section 97B; or
 - (ii) a proposed lot under the *Body Corporate and Community Management Act 1997*, the *Building Units and Group Titles Act 1980* or the *Land Sales Act 1984*.

option, for the sale of a lot, means—

- (a) a put option for the sale of the lot; or
- (b) a call option for the sale of the lot; or
- (c) a put and call option for the sale of the lot.

original owner, in relation to a lot included in a community titles scheme, see the *Body Corporate and Community Management Act 1997*, section 13.

put and call option, for the sale of a lot, means a contract under which—

- (a) the seller agrees or promises to sell the lot to the buyer if requested by the buyer; and
- (b) the buyer agrees or promises to purchase the lot from the seller if requested by the seller.

put option, for the sale of a lot, means a contract under which the seller agrees or promises to sell the lot to the buyer if requested by the buyer.

related see section 2.

seller, of a lot, means a person who enters into a contract for the sale of the lot intended to bind the person, absolutely or conditionally, to sell the lot.

statutory body—

- (a) has the meaning given by the *Financial Accountability Act 2009*; and
- (b) includes—
 - (i) an entity of the Commonwealth or another State that is equivalent to a statutory body under the *Financial Accountability Act 2009*; and
 - (ii) an entity prescribed by regulation to be a statutory body; and
- (c) does not include an entity prescribed by regulation not to be a statutory body.

[s 2]

zoning, of a lot, means the zoning of the lot under a planning scheme under the *Planning Act 2016*.

2 When buyer and seller are *related*

- (1) The buyer and the seller of a lot are ***related*** if—
 - (a) for a seller who is an individual—
 - (i) the buyer is a member of the seller’s family; or
 - (ii) the buyer is in a partnership under the *Partnership Act 1891* with the seller; or
 - (iii) the buyer is a corporation of which the seller is a director or member; or
 - (b) for a seller who is a corporation—
 - (i) the buyer is a related body corporate; or
 - (ii) the buyer is a director or member of the corporation or of a related body corporate.
- (2) For subsection (1)(a)(i), the buyer is a member of the seller’s family if the buyer is—
 - (a) the seller’s spouse; or
 - (b) any of the following relatives of the seller or the seller’s spouse—
 - (i) a parent or grandparent;
 - (ii) a brother, sister, nephew or niece;
 - (iii) a child or grandchild; or
 - (c) the spouse of a person mentioned in paragraph (b)(ii) or (iii).
- (3) A reference in subsection (2)(b) to a relative of the seller or the seller’s spouse includes—
 - (a) for a seller who is an Aboriginal person or whose spouse who is an Aboriginal person—a person who, under Aboriginal tradition, is regarded as a relative mentioned in subsection (2)(b); and

- (b) for a seller who is a Torres Strait Islander or whose spouse who is a Torres Strait Islander—a person who, under Island custom, is regarded as a relative mentioned in subsection (2)(b).

- (4) In this section —

related body corporate see the Corporations Act, section 9.

3 References to things done by or in relation to buyer or seller [BCCMA, s 205D]

- (1) This section applies in relation to a provision of this part that refers to—
 - (a) a thing required or permitted to be done by or in relation to a buyer or seller of a lot; or
 - (b) a thing having been done by or in relation to a buyer or seller of a lot.
- (2) The thing may be done, or the thing may have been done, by or in relation to the buyer or seller either—
 - (a) personally; or
 - (b) through an agent who is authorised to act for the buyer or seller in relation to the thing.

Example—

A disclosure statement may be given by a seller personally or by an agent authorised to act for the seller.

4 Prevention of contracting out

- (1) A person cannot waive, or limit the exercise of, rights under this part or contract out of the provisions of this part.
- (2) This section is subject to section 7(1)(g) and (2)(b).

[s 5]

Division 2 Disclosure requirement

5 Disclosure requirement [LSA, ss 10, 11]

- (1) Before a contract is entered into by a seller with a buyer for the sale to the buyer of a lot, the seller must give the buyer—
 - (a) a disclosure statement for the lot; and
 - (b) each prescribed certificate for the lot.
- (2) The disclosure statement must be—
 - (a) in the approved form; and
 - (b) substantially completed with the information required by the form at the time the statement is given to the buyer; and
 - (c) signed by the seller.
- (3) A disclosure statement does not contravene subsection (2)(b) only because, when it is given to the buyer, it contains inaccuracies.
- (4) For a contract under which there are 2 or more sellers of a lot, a reference in subsection (1) to the seller giving a disclosure statement or prescribed certificate is a reference to any of the sellers giving a statement or certificate.
- (5) For a contract under which there are 2 or more buyers of a lot—
 - (a) a reference in subsection (1) to giving a disclosure statement or prescribed certificate to the buyer is a reference to giving a statement or certificate to any of the buyers; and
 - (b) a reference in subsection (1) to the time the buyer entered into the contract is a reference to the time the first buyer entered into the contract.
- (6) The documents prescribed by regulation under subsection (7), definition *prescribed certificate*, may include a document that is required to be given to the buyer under another Act.

(7) In this section—

prescribed certificate, for a lot, means a document relating to the lot prescribed by regulation.

Examples of documents that may be prescribed—

- a document relating to the lot issued under a particular Act
- a document in which the seller certifies that a stated thing has been done under a particular Act in relation to the lot
- a document containing information about the lot taken from a register kept under a particular Act

6 Application of disclosure requirement if option granted

(1) The disclosure requirement, as modified by this section, applies if a person grants an option to another person—

- (a) to purchase a lot; or
- (b) to sell a lot.

(2) For subsection (1)—

- (a) the disclosure requirement applies in relation to the option as if a reference to a contract for the sale of a lot being entered into were a reference to an option to purchase or sell the lot being granted; and
- (b) any right of termination under division 3 relating to the disclosure requirement applies in relation to—
 - (i) the option; and
 - (ii) a contract entered into by the seller and buyer for the sale to the buyer of the proposed lot arising from the option.

(3) If the buyer is not a party to the contract for the sale of the lot arising from the option, the seller must comply with the disclosure requirement before entering into the contract for the sale.

(4) In this section—

buyer means the person who is granted an option to purchase, or grants an option to sell, the lot.

[s 7]

seller means the person who grants an option to purchase, or is granted an option to sell, the lot.

7 Exceptions to disclosure requirement

- (1) The disclosure requirement does not apply in relation to a contract for the sale of a lot if—
 - (a) the buyer and the seller are related; or
 - (b) the buyer is—
 - (i) the State, the Commonwealth or another State; or
 - (ii) a local government or a local government (however described) of another State; or
 - (iii) a statutory body; or
 - (iv) a listed corporation; or
 - (v) a subsidiary of a listed corporation; or
 - (c) the seller is—
 - (i) the Brisbane City Council exercising a power under the *City of Brisbane Act 2010* to sell land for overdue rates or charges; or
 - (ii) another local government exercising a power under the *Local Government Act 2009* to sell land for overdue rates or charges; or
 - (d) the seller and the buyer are co-owners of the lot and the contract provides for the acquisition by 1 or more co-owners of the whole or part of the interest of another co-owner; or
 - (e) the seller and the buyer are owners of adjoining land and the contract provides for the adjustment of a common boundary; or
 - (f) the contract gives effect to—
 - (i) a court order; or
 - (ii) an enforcement warrant under the *Supreme Court of Queensland Act 1991*; or

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- (iii) a financial agreement or a part VIII B financial agreement under the *Family Law Act 1975* (Cth); or
 - (g) the sale price under the contract is more than \$5m excluding GST and the buyer has given notice to the seller waiving compliance with the disclosure requirement; or
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CONSULTATION NOTE—

Re paragraph (g): QUT recommended the \$5 million threshold because most residential sales would fall below this amount and most sales above this amount would be likely to involve lawyers or other advisors, or be subject to a due diligence provision.

However, stakeholders noted that the value of property has increased since the QUT Final Report was released on 2017 and suggested that a different threshold apply. Stakeholder views on the appropriate threshold for this exception are sought.

- (h) all of the following apply in relation to the contract—
 - (i) the contract is formed because of the exercise of an option;
 - (ii) all of the parties to the contract were parties to the option;
 - (iii) the seller complied with the disclosure requirement in relation to the option; or
 - (i) the sale is under the *Acquisition of Land Act 1967*, section 41; or
 - (j) all of the following apply in relation to the contract—
 - (i) the seller is the State;
 - (ii) at the time the buyer enters into the contract for the sale of the lot, the buyer has been a tenant of the lot for at least the previous 3 years;
 - (iii) before the buyer enters into the contract for the sale of the lot, the State gives notice to the buyer that
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[s 8]

the buyer is not entitled to a disclosure statement under this part and should make its own enquiries about matters affecting the property.

- (2) However, the exception in subsection (1)(a) does not apply in relation to a contract if—
 - (a) the seller of the lot is an individual; and
 - (b) the buyer has not expressly waived the right to the disclosure statement.
- (3) For a contract under which there are 2 or more sellers of a lot, a reference in subsection (1) to the seller is a reference to all of the sellers.
- (4) For a contract under which there are 2 or more buyers of a lot, a reference in subsection (1) to the buyer is a reference to all of the buyers.

Example—

A seller is selling a lot to a parent and a step-parent of the seller. The buyer that is the seller's parent has expressly waived the right to the disclosure statement as mentioned in subsection (2)(b).

The exception to the disclosure requirement under subsection (1)(a) does not apply in relation to the contract because the seller and only one of the buyers (the seller's parent), not both, are related.

- (5) To remove any doubt, it is declared that the disclosure requirement does not apply in relation to a contract that is entered into only to give effect to a will by transferring the lot to a personal representative or beneficiary under the will.

8 Approved form for disclosure statement

- (1) The approved form for a disclosure statement must include a requirement for the seller to provide information about the following—
 - (a) the zoning of the lot under the local planning scheme;
 - (b) details of any unregistered or statutory encumbrance over the lot that will not be released at settlement;

-
- (c) details of any current notice, order or transport infrastructure proposal that has been issued to the seller by a Commonwealth, State or local government entity and that may affect the title to or use of the lot after settlement;
 - (d) any other matter prescribed by regulation.
- (2) The approved form must also contain, in appropriate places on the form, the warnings and other statements prescribed by regulation.
 - (3) The approved form may include provision about whether the seller has complied with a requirement under another Act relating to the lot.

Example—

The form may require the seller to indicate whether, if applicable, the seller has complied with the *Queensland Building and Construction Commission Act 1991*, section 47.

- (4) The section does not limit the matters that may be included in the approved form.

9 How statements may be given

- (1) A seller may give a disclosure statement or prescribed certificate to a buyer—
 - (a) in physical form; or
 - (b) by electronic communication under the *Electronic Transactions (Queensland) Act 2001*, section 11; or
 - (c) if a buyer consents—by other electronic means.

Example of other electronic means—

giving the buyer a link to a website on which the statement or certificate is published or can be accessed

- (2) A disclosure statement signed by the buyer of a lot acknowledging receipt of the statement prior to entering into the contract is evidence that the buyer received the statement and any prescribed certificates prior to entering into the contract.

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- (3) In a proceeding, if the buyer of a lot alleges the seller did not give the buyer a disclosure statement or prescribed certificate for the lot, the onus is on the seller to prove the seller gave the statement or certificate to the buyer.

10 Auctions

- (1) This section applies if a lot is sold by auction.
- (2) For section 5(1), the buyer is taken to enter into a contract for the sale of the lot at the completion of the auction.
- (3) Without limiting section 9, a disclosure statement or prescribed certificate for the lot is taken to have been given to the buyer if—
 - (a) each advertisement published for the auction contains a link to a website on which the statement or certificate is published or can be accessed; and
 - (b) the buyer or the buyer’s agent attends the auction in person and the statement or certificate is displayed, at the place where the auction is conducted, from at least 30 minutes before the auction starts until at least the completion of the auction; and
 - (c) the statement or certificate is given to each registered bidder for the auction.
- (4) In this section—

completion, of an auction for a lot, means the time the auctioneer announces the completion of the sale of the lot by the fall of the hammer or in another customary way.

Division 3 Rights of termination

11 Termination right—failure to comply with disclosure requirement [LSA, ss 13, 14]

- (1) This section applies if the seller of a lot fails to comply with the disclosure requirement.

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- (2) This section also applies if—
- (a) a disclosure statement or prescribed certificate was inaccurate at the time it was given to the buyer; and
 - (b) the inaccuracy concerns a matter affecting the lot; and
 - (c) at the time the buyer entered into the contract, the buyer was not aware of the correct state of affairs concerning the matter; and
 - (d) if the buyer had been aware of the correct state of affairs concerning the matter, the buyer would not have entered into the contract.
- (3) The buyer may terminate the contract for the sale of the lot by notice given to the seller.
- (4) The notice may be given at any time before settlement of the contract for the sale of the lot.
- (5) However, subsection (3) does not apply if—
- (a) the seller's non-compliance with the disclosure requirement, or the inaccuracy in the disclosure statement or prescribed certificate, comprises a contravention by the seller of another Act; and
 - (b) the other Act provides a remedy to the buyer for the non-compliance or inaccuracy.

Examples of a remedy provided to the buyer under another Act—

- the contract of sale is of no effect
 - the buyer may terminate the contract of sale
 - the seller is taken to have given the buyer a contractual warranty about a particular matter
- (6) To remove any doubt, it is declared that, for subsection (5)(b), the other Act is not taken to provide a remedy to the buyer only because the seller's contravention of the other Act is an offence.
- (7) In this section—
- inaccuracy*** does not include a matter prescribed by regulation not to be an inaccuracy.

[s 12]

12 Termination right—inconsistency with contribution schedule principle [BCCM s 209A]

- (1) This section applies in relation to a contract for the sale of a lot included in a community titles scheme if—
 - (a) the seller is the original owner for the scheme; and
 - (b) the buyer reasonably believes—
 - (i) the contribution schedule lot entitlements for the lots included in the scheme are inconsistent with the contribution schedule principle on which they were decided; and
 - (ii) the buyer would be materially prejudiced if compelled to complete the contract.
- (2) Subject to subsection (3), the buyer may terminate the contract before it settles by giving a signed, dated notice of termination to the seller.
- (3) The termination must happen not later than 30 days, or a longer period agreed between the buyer and seller, after the buyer receives the buyer’s copy of the contract.
- (4) The notice of termination must state that the contract is terminated under this section.
- (5) In this section—

contribution schedule lot entitlement, in relation to a lot included in a community titles scheme, see the *Body Corporate and Community Management Act 1997*, section 46.

contribution schedule principle, in relation to a lot included in a community titles scheme, see the *Body Corporate and Community Management Act 1997*, schedule 6.

13 Seller must repay amounts to buyer [LSA, s 20]

- (1) This section applies if a buyer terminates a contract for the sale of a lot under section 11 or 12.
- (2) The seller must, within 14 days after the termination, repay to the buyer—

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- (i) whichever of the following applies in relation to the lot—
 - (i) for a lot other than a lot mentioned in subparagraph (ii) or (iii)—the most recent rates notice issued by a local government;
 - (ii) if the lot is a rates exempt lot—a statement by the seller that the lot is a rates exempt lot;
 - (iii) if the lot is not a rates exempt lot but no separate assessment of rates is issued by a local government for the lot—a statement to that effect;
 - (j) whichever of the following applies in relation to the lot—
 - (i) for a lot other than a lot mentioned in subparagraph (ii)—the most recent water services notice issued for the lot;
 - (ii) for a lot for which no separate water services notice is issued—a statement that no separate water services notice is issued for the lot.
- (2) In this section—

notice of no pool safety certificate, relating to a lot, means a notice required to be given to a prospective purchaser of the lot under the *Building Act 1975*, 246ATM.

pool compliance certificate, relating to a lot, means any of the following documents that relates to a relevant pool—

- (a) a pool safety certificate under the *Building Act 1975*;
- (b) a building certificate under the *Building Act 1975*, section 246AN that may be used instead of a pool safety certificate;
- (c) a notice of an exemption under the *Building Act 1975*, 245C.

rates exempt lot means a lot that, at the time the disclosure requirement applies to the seller of the lot, is exempted from rates under the *Local Government Act 2009*, section 93 or the *City of Brisbane Act 2010*, section 95.

[s 16]

relevant pool, for a lot, means—

- (a) a pool on the lot; or
- (b) for a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997* or a plan under the *Building Units and Group Titles Act 1980*—a pool on the common property.

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

16 Warnings and other statements to be included in approved form for disclosure statement—Act, s 8

For section 8(2) of the Act, the warnings and other statements set out in the schedule are prescribed.

17 Matter that is not inaccuracy in disclosure statement—Act, s 11

For section 11(7) of the Act, a failure to comply with section 15(1)(i) or (j) is not an inaccuracy.

Part 4 Amendment of Body Corporate and Community Management Act 1997

18 Act amended

This part amends the *Body Corporate and Community Management Act 1997*.

19 Amendment of s 205 (Information to be given to interested persons)

- (1) Section 205(4)—
omit, insert—

-
- (4) An interested person may ask the body corporate for a certificate under this section (a **body corporate certificate**) giving financial and other information about a lot included in the scheme.
- (4A) The request must be in writing and accompanied by the fee prescribed by the regulation module applying to the scheme.
- (4B) Within 5 business days after receiving the request, the body corporate must give the person a body corporate certificate in the approved form for the lot.
- Maximum penalty—20 penalty units.
- (2) Section 205(5), ‘certificate under subsection (4)’—
omit, insert—
body corporate certificate
- (3) Section 205(6)—
omit, insert—
- (6) In this section—
interested person, for a lot included in a scheme, means—
- (a) an owner of the lot; or
 - (b) a mortgagee of the lot; or
 - (c) a buyer under a contract for the sale of the lot; or
 - (d) a person to whom an owner of the lot has given a disclosure statement; or
 - (e) another person who satisfies the body corporate of a proper interest in the information sought by the person under this section.

[s 20]

CONSULTATION NOTE—

The current definition *interested person* in s 205(6) specifically includes an agent of the owner, mortgagee etc. It is the intention that a person entitled to inspect body corporate records, obtain a certificate etc. can deal with the body corporate personally or through an agent. Whether any specific reference to an agent should be included will be settled consistently with the approach taken for the seller disclosure provisions of the Property Law Act. See the consultation note in those provisions concerning the inclusion of a provision equating to the BCCM Act s 205D.

20 Insertion of new s 205AAA

After section 205—

insert—

205AAA Approved form for body corporate certificate

- (1) The approved form for a body corporate certificate for a lot included in a scheme, other than a specified two-lot scheme, must include provision for information about the following matters relating to the lot—
 - (a) details of the lot, including—
 - (i) whether the lot is a standard format lot, building format lot or volumetric format lot; and
 - (ii) the lot number and plan number;
 - (b) details of the scheme, including—
 - (i) the name of the scheme; and
 - (ii) the regulation module applying to the scheme; and
 - (iii) the name and contact details of each person who is responsible for keeping body corporate records; and

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- (iv) the name and contact details of any body corporate manager for the scheme;
 - (c) annual contributions fixed by the body corporate as payable by the owner of the lot;
 - (d) special contributions fixed by the body corporate as payable by the owner of the lot;
 - (e) discounts that apply to the payment of contributions;
 - (f) penalties that apply to the payment of contributions;
 - (g) other amounts associated with ownership of the lot that are payable to the body corporate;
 - (h) the interest schedule lot entitlement for the lot;
 - (i) the contribution schedule lot entitlement for the lot;
 - (j) any of the following amounts owed to the body corporate by the owner of the lot—
 - (i) a contribution or an instalment of a contribution;
 - (ii) a penalty for not paying a contribution or an instalment of a contribution by the date for payment;
 - (iii) another amount associated with ownership of the lot;
 - (k) the body corporate's sinking fund;
 - (l) the insurance held by the body corporate;
 - (m) any engagement by the body corporate of a person as the body corporate manager or a service contractor;

[s 20]

- (n) any authorisation by the body corporate of a person to conduct a letting agent business for the scheme;
 - (o) whether a building management statement under the *Land Title Act 1994* applies to the lot; and
 - (p) improvements on common property for which a person will become responsible if the person becomes the owner of the lot;
 - (q) each body corporate asset that is required to be recorded on a register the body corporate keeps;
 - (r) any other matter prescribed by regulation.
- (2) The approved form for a body corporate certificate for a lot included in a specified two-lot scheme must include provision for information about the following matters relating to the lot—
- (a) details of the lot, including—
 - (i) the lot address; and
 - (ii) whether the lot is a standard format lot, building format lot or volumetric format lot; and
 - (iii) the lot number and plan number;
 - (b) details of the scheme, including—
 - (i) the name of the scheme; and
 - (ii) the regulation module applying to the scheme; and
 - (iii) the name and contact details of each person who is responsible for keeping body corporate records; and
 - (iv) the name and contact details of any body corporate manager for the scheme;

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- (c) the interest schedule lot entitlement for the lot;
 - (d) the contribution schedule lot entitlement for the lot;
 - (e) the body corporate's sinking fund, if any;
 - (f) the insurance held by the body corporate;
 - (g) any engagement by the body corporate of a person as the body corporate manager or a service contractor;
 - (h) whether a building management statement under the *Land Title Act 1994* applies to the lot; and
 - (i) improvements on common property for which a person will become responsible if the person becomes the owner of the lot;
 - (j) a matter mentioned in subsection (1)(a) to (p) that is relevant to a specified two-lot scheme;
 - (k) contributions, or other amounts associated with ownership of the lot, owing by the lot's owner for which a person will become liable if the person becomes the owner of the lot;
 - (l) lot owner agreements that will be binding on a person if the person becomes the owner of the lot;
 - (m) accounts kept with a financial institution by the body corporate;
 - (n) each body corporate asset with a value of more than the amount prescribed by regulation;
 - (o) any other matter prescribed by regulation.
- (3) The section does not limit the matters that may be included in the approved form.

[s 21]

21 Amendment of s 205A (Definitions for ch 5)

Section 205A, definition *disclosure statement*—
omit, insert—

disclosure statement means a statement
complying with section 213(2) to (4).

22 Amendment of s 205C (References to disclosure statement)

Section 205C(3), definition *prescribed documents*, ‘and (f)’
omit, insert—

, (f) and (fa)

23 Amendment of s 205D (References to things done by or in relation to buyer or seller)

(1) Section 205D(1), ‘part 1 or 2’—
omit, insert—

part 2

(2) Section 205D(1)(a) and (b), ‘lot or’—
omit.

24 Omission of ch 5, pt 1 (Existing lots)

Chapter 5, part 1—
omit.

25 Amendment of s 213 (Information to be given by seller to buyer)

Section 213(2)—
insert—

(fa) must be accompanied by a copy of any
building management statement, proposed

to be registered under the *Land Title Act 1994*, that would apply to the scheme land;
and

26 Insertion of new s 214A

After section 214—

insert—

214A Variation of proposed building management statement by further statement

This division applies as if a reference in section 214 to a disclosure statement included a reference to any copy of a building management statement given to the buyer under section 213(2)(fa).

27 Insertion of new ch 8, pt 15

Chapter 8—

insert—

Part 15 Transitional provisions for Property Law Act 2022

447 Contracts entered into before the commencement

- (1) This section applies to the sale of a lot under a contract entered into before the commencement.
- (2) Chapter 5, as in force immediately before the commencement, continues to apply in relation to the sale despite the amendment of chapter 5 by the *Property Law Act 2022*.

[s 28]

28 Amendment of sch 6 (Dictionary)

(1) Schedule 6, definition *body corporate information certificate*—

omit.

(2) Schedule 6—

insert—

body corporate certificate see section 205(4).

Part 5 Amendment of Building Units and Group Titles Act 1980

29 Act amended

This part amends the *Building Units and Group Titles Act 1980*.

30 Amendment of s 40 (Supply of information, certificates and copies by body corporate)

(1) Section 40, heading, ‘, certificates’—

omit.

(2) Section 40(1)(c)—

omit.

(3) Section 40(4)—

omit.

31 Insertion of new s 40AA

After section 40—

insert—

40AA Body corporate certificate

(1) An interested person may ask a body corporate

incorporated by the registration of a plan for a certificate under this section (a ***body corporate certificate***) giving financial and other information about a lot the subject of the plan.

- (2) The request must be in writing and accompanied by the fee prescribed by regulation.
- (3) Within 5 business days after receiving the request, the body corporate must give the person a body corporate certificate in the approved form for the lot.

Maximum penalty—20 penalty units.

- (4) A person who obtains a body corporate certificate may rely on the certificate against the body corporate as conclusive evidence of matters stated in the certificate, other than to the extent to which the certificate contains an error that is reasonably apparent.
- (5) The approved form for a body corporate certificate must include provision for information about the following matters relating to a lot—
 - (a) details of the lot, including—
 - (i) whether the lot is shown on a building units plan or a group titles plan; and
 - (ii) the lot number and plan number;
 - (b) details of the plan, including—
 - (i) the name of the building or parcel endorsed on the plan; and
 - (ii) the number of the plan;
 - (c) the name and contact details of the secretary of the body corporate;
 - (d) the name and contact details of any body corporate manager for the body corporate;

[s 31]

- (e) amounts associated with ownership of the lot that are payable to the body corporate, including amounts payable under a by-law under section 30(7);
 - (f) contributions determined by the body corporate under section 38A(1), (2), (3) and (5);
 - (g) an amount determined under section 38A(4);
 - (h) any unpaid amount of—
 - (i) an amount payable under a by-law under section 30(7); or
 - (ii) an amount recoverable under section 33(3) or (4); or
 - (iii) a contribution levied under section 38B; or
 - (iv) a contribution levied under section 124(2); or
 - (v) another amount associated with ownership of the lot that is payable to the body corporate;
 - (i) the lot entitlement of every lot the subject of the plan;
 - (j) the aggregate lot entitlement for the plan;
 - (k) any prescribed arrangement entered into in respect of the plan;
 - (l) the by-laws in force for the plan;
 - (m) the body corporate's sinking fund;
 - (n) the insurance held by the body corporate;
 - (o) any other matter prescribed by regulation.
- (6) The section does not limit the matters that may be included in the approved form.

(7) In this section—

interested person, for a lot the subject of a plan, means—

- (a) a proprietor of the lot; or
- (b) a mortgagee of the lot; or
- (c) a buyer under a contract for the sale of the lot; or
- (d) a person to whom a proprietor of the lot has given a disclosure statement; or
- (e) another person who satisfies the body corporate of a proper interest in the information provided in a body corporate certificate for the lot.

32 Amendment of pt 4, div 3, hdg

Part 4, division 3, heading, ‘lots and’—

omit.

33 Amendment of s 48E (References to disclosure statement)

Section 48E, ‘lot or’—

omit.

34 Amendment of s 48F (References to things done by or in relation to original proprietor or purchaser)

Section 48F(1), ‘lot or’—

omit.

35 Amendment of s 49 (Duties of original proprietor)

(1) Section 49(1), (2)(a), (4) and (6), ‘lot or’—

[s 36]

omit.

(2) Section 49(2)(b) and (c)—

omit, insert—

- (b) be accompanied by a disclosure plan, complying with section 49A, for the proposed lot; and
- (ba) state the date by which the original proprietor must settle the contract for the sale of the proposed lot as provided under section 49B; and
- (c) set out or be accompanied by particulars of the proposed lot entitlement of every proposed lot and the proposed aggregate lot entitlement; and

(3) Section 49(2)(d), ‘plan or’—

omit.

(4) Section 49(2)(e), ‘the by-laws in force in respect of the plan or’—

omit.

(5) Section 49(9), ‘any lot or’—

omit.

36 Insertion of new pt 7, div 5

Part 7—

insert—

**Division 5 Transitional provisions for
Property Law Act 2023**

**144 Contracts entered into before the
commencement**

(1) This section applies to the sale of a lot under a

contract entered into before the commencement.

- (2) Part 4, division 3, as in force immediately before the commencement, continues to apply in relation to the sale despite the amendment of that division by the *Property Law Act 2023*.

Part 6

Amendment of Body Corporate and Community Management (Accommodation Module) Regulation 2020

37 Regulation amended

This part amends the *Body Corporate and Community Management (Accommodation Module) Regulation 2020*.

38 Amendment of s 222 (Fee for information given to interested persons—Act, s 205 [SM, s 233])

- (1) Section 222(2), ‘section 205(4) of the Act’—
omit, insert—

section 205(4A)(b) of the Act

- (2) Section 222(2), ‘body corporate information certificate under the subsection’—

omit, insert—

body corporate certificate

Part 7 **Amendment of Body Corporate
and Community Management
(Commercial Module)
Regulation 2020**

39 **Regulation amended**

This part amends the *Body Corporate and Community Management (Commercial Module) Regulation 2020*.

40 **Amendment of s 179 (Fee for information given to
interested persons—Act, s 205 [SM, s 233])**

(1) Section 179(2), ‘section 205(4) of the Act’—

omit, insert—

section 205(4A)(b) of the Act

(2) Section 179(2), ‘body corporate information certificate under the subsection’—

omit, insert—

body corporate certificate

Part 8 **Amendment of Body Corporate
and Community Management
(Small Schemes Module)
Regulation 2020**

41 **Regulation amended**

This part amends the *Body Corporate and Community Management (Small Schemes Module) Regulation 2020*.

42 Amendment of s 148 (Fee for information given to interested persons—Act, s 205 [SM, s 233])

(1) Section 148(2), ‘section 205(4) of the Act’—

omit, insert—

section 205(4A)(b) of the Act

(2) Section 148(2), ‘body corporate information certificate under the subsection’—

omit, insert—

body corporate certificate

Part 9

**Amendment of Body Corporate
and Community Management
(Specified Two-lot Schemes
Module) Regulation 2011**

43 Regulation amended

This part amends the *Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011*.

44 Amendment of s 73 (Fee for information given to interested persons—Act, s 205 [SM, s 233])

(1) Section 73(2), ‘section 205(4) of the Act’—

omit, insert—

section 205(4A)(b) of the Act

(2) Section 73(2), ‘body corporate information certificate under the subsection’—

omit, insert—

body corporate certificate

Part 10 **Amendment of Body Corporate
and Community Management
(Standard Module) Regulation
2020**

45 **Regulation amended**

This part amends the *Body Corporate and Community Management (Standard Module) Regulation 2020*.

46 **Amendment of s 233 (Fee for information given to
interested persons—Act, s 205)**

- (1) Section 233(2), ‘section 205(4) of the Act’—

omit, insert—

section 205(4A)(b) of the Act

- (2) Section 233(2), ‘body corporate information certificate under the subsection’—

omit, insert—

body corporate certificate

Schedule 1 Warnings and statements to be included in the approved form for a disclosure statement [this schedule to be included in the *Property Law Regulation 2022*]

section 15

- 1 This statement does not include information about—
 - flooding history
 - structural soundness of the building or pest infestation
 - current or historical use of the property
 - current or past building 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

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

- 2 To the seller's knowledge there are no other unregistered or statutory easements, covenants or encumbrances affecting the property that will not be released at settlement other than those disclosed with this statement.
- 3 If the property is part of a community title scheme it may be subject to and have the benefit of statutory easements under the *Land Title Act 1994*, which are not required to be disclosed.
- 4 No warranty is given that the use of the land is legal. Further information about land use, transport, sewerage and drainage infrastructure, vegetation and flooding may be available from the local government.

- 5 The seller states that written notice is not required under the *Environmental Planning Act 1994*, section 347, 362 or 408 unless notice is given with this statement.
- 6 The seller states that there are no tree orders or applications under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* affecting the property unless notice is given with this statement.
- 7 The seller states that no building work has been carried out by an unlicensed person in the last six years unless a notice under the *Queensland Building and Construction Commission Act 1991*, section 47 is given with this statement.
- 8 No warranties are given about the structural soundness of the buildings or improvements on the property. It is recommended that a buyer engage a licensed building inspector to inspect the building and provide a report.
- 9 If the property is a commercial office building of more than 1000m² a Building Energy Efficiency Certificate is available on the Building Energy Efficiency Register.
- 10 To the seller's knowledge there are no current orders, notices or transport infrastructure proposals affecting the land issued by a State or local government or other relevant authority that may affect the title to or use of the land after settlement, except as disclosed in this statement.