

Impact Analysis Statement

Summary IAS

Details

Lead department	Department of Justice
Name of the proposal	<p>Amendments to the regulation modules under the <i>Body Corporate and Community Management Act 1997</i> (BCCM Act):</p> <ul style="list-style-type: none"> • <i>Body Corporate and Community Management (Accommodation Module) Regulation 2020</i> (Accommodation Module); • <i>Body Corporate and Community Management (Commercial Module) Regulation 2020</i> (Commercial Module); • <i>Body Corporate and Community Management (Small Schemes Module) Regulation 2020</i> (Small Schemes Module); • <i>Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011</i> (Specified Two-lot Schemes Module); and • <i>Body Corporate and Community Management (Standard Module) Regulation 2020</i> (Standard Module). <p>Amendments to the <i>Body Corporate and Community Management (Body Corporate Certificates) and Other Legislation Amendment Regulation 2024</i>.</p> <p>Amendments to the <i>Building Units and Group Titles Regulation 2008</i> (BUGT Regulation).</p>
Submission type	Summary IAS
Title of related legislative or regulatory instrument	<i>Body Corporate and Community Management (Body Corporate Certificate Fees) and Other Legislation Amendment Regulation 2025</i>
Date of issue	June 2025

What is the nature, size and scope of the problem? What are the objectives of government action?

The *Body Corporate and Community Management (Body Corporate Certificate Fees) and Other Legislation Amendment Regulation 2025* (the Amendment Regulation) will prescribe fees relating to a request for a body corporate certificate under the BCCM Act and the *Building Units and Group Titles Act 1980* (BUGT Act) and remove the fees relating to existing certificates under the BCCM Act and BUGT Act.

The body corporate certificate forms part of the seller disclosure scheme for the sale of existing lots in Queensland to be introduced by the *Property Law Act 2023* (Property Law Act). The seller disclosure scheme will simplify and consolidate the disclosure process for sales of existing lots and empower prospective buyers to make informed decisions to purchase.

The seller disclosure scheme will require that the seller of a lot must give a buyer a disclosure statement for the lot as well as each prescribed certificate applicable to the lot, before a contract for the sale of the lot is signed by the buyer. A 'body corporate certificate' will be a prescribed certificate for the sale of an existing lot included in a community titles schemes under the BCCM Act and the sale of an existing lot included in a plan under the BUGT Act (a BUGTA scheme).

The body corporate certificate will contain general information about owning a lot in a community titles scheme or BUGTA scheme, including financial obligations, and will also include specific information about the lot and scheme that are relevant to the buyer's purchasing decision.

As part of establishing the supporting framework for the seller disclosure reforms, the Property Law Act will amend the BCCM Act and BUGT Act to replace various existing disclosure statements and information certificates under those Acts with the new body corporate certificate.

The BCCM Act and the BUGT Act, as amended by the Property Law Act, will provide that 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.

A request made under the BCCM Act must be accompanied by the fee prescribed by the regulation module applying to the community titles scheme and a request made under the BUGT Act must be accompanied by the fee prescribed by regulation.

In most cases, the interested person will be the owner of a lot included in the scheme that is selling their lot, and who is obtaining the certificate to meet their disclosure obligations under the seller disclosure scheme. However, other interested persons who may request a certificate include the buyer of a lot, the mortgagee of a lot, another person who establishes a proper interest in the information being sought, and the agent of a person who may request a certificate.

The objective of government action in prescribing the fees relating to the body corporate certificate is to allow the body corporate to be compensated for preparing the body corporate certificate while also capping the amount a body corporate can charge an interested person for a body corporate certificate, so that the amounts charged to interested persons are reasonable and appropriate.

While the BCCM Act and BUGT Act will require the request for a body corporate certificate to be accompanied by the prescribed fee to ensure bodies corporate can obtain a fee for providing the certificate, the Acts will not specifically prevent a body corporate from providing a body corporate certificate without payment of the prescribed fee or for an amount that is less than the prescribed fee.

What options were considered?

Four options were considered. Three options were based on feedback received from members of the Property Law Working Group about what fee would be appropriate for the body corporate certificate. The option of no regulation was also considered.

Option 1 – No regulation – Do not prescribe a fee for a body corporate certificate.

Option 1 is to not prescribe a fee for obtaining a body corporate certificate.

Option 2 –

Prescribe a fee for the body corporate certificate under the BCCM Act of 67.70 fee units¹.

Prescribe a fee for the body corporate certificate under the BUGT Act of 76.75 fee units.

Option 2 is based on stakeholder feedback that the fees for the body corporate certificate should be similar to the fees for existing information certificates.

Under Option 2, the fees relating to the new body corporate certificate under the BCCM Act would be the same as the fees relating to an existing body corporate information certificate under section 205 of the BCCM Act, which is 67.70 fee units plus a priority fee of 25.45 fee units if the certificate is required within 24 hours.

The fees relating to the new body corporate certificate under the BUGT Act would be the same as the fees relating to a certificate under section 40(1)(c) of the BUGT Act, which is 76.75 fee units (or 104.10 fee units if the applicant asks to be given the certificate, and is given the certificate, within 24 hours after it is requested, which equates to a fee of 76.75 fee units for the existing certificate and a priority fee of 27.35 fee units).

¹ The legislative provisions for establishing the fee unit model are included in sections 48B and 48C of the *Acts Interpretation Act 1954 (AIA)* and the *Acts Interpretation (Fee Unit) Regulation 2022*, s (2). A fee unit is a unit of the value prescribed under section 48B for the AIA. The current value of a Fee Unit is 1.060.



Also, if an interested person has obtained a body corporate certificate for the same lot within the previous 3 months, the prescribed fee would be reduced by 15% for obtaining the subsequent certificate. While a body corporate would still need to check the information contained in the subsequent certificate, there would typically be less work arising due to a reduced need to enter data into a subsequent certificate.

Option 3 –

Prescribe a fee for the body corporate certificate under the BCCM Act of 76.75 fee units.

Prescribe a fee for the body corporate certificate under the BUGT Act of 76.75 fee units.

Option 3 is based on stakeholder feedback that the fees for the body corporate certificate should be similar to the fees for existing certificates, combined with stakeholder feedback that the fee under the BCCM Act and BUGT Act should be the same.

Under Option 3, the fees relating to the new body corporate certificate under the BUGT Act and the new body corporate certificate under the BCCM Act would be the same as the fees relating to an existing certificate under section 40 of the BUGT Act, which is 76.75 fee units or 104.10 fee units if the applicant asks to be given the certificate, and is given the certificate, within 24 hours after it is requested (which equates to a fee of 76.75 fee units for the existing certificate and a priority fee of 27.35 fee units).

Also, if the applicant has already obtained a certificate for the same lot within the previous 3 months, the prescribed fee would be reduced by 15% for obtaining the subsequent certificate.

The fees relating to the existing certificate under the BUGT Act was adopted for this option (rather than the fees relating to the existing certificate under the BCCM Act) because it is marginally higher and would better recognise the small increase in information to be included in the body corporate certificate as compared to existing certificates. The additional information to be included in the body corporate certificate as compared to existing certificates is discussed below.

Option 4 – Prescribe a fee for the body corporate certificate of \$220 for basic schemes and \$300 for schemes in a layered arrangement of community titles schemes or complex schemes.

Option 4 is based on stakeholder feedback that fees for the body corporate certificate of \$220-\$300 would accommodate the increased complexity and time needed to produce the body corporate certificate and the increased administrative and operational efforts required (as compared to existing certificates).

Under Option 4, the fee for the body corporate certificate would be \$220 (which equates to 207.55 fee units) for basic schemes, and \$300 (which equates to 283.02 fee units) for schemes in a layered arrangement of community titles schemes or BUGT Act schemes (as these schemes all involve one or more bodies corporate sitting within the umbrella of another body corporate). This is a significant increase from the fees for existing certificates.

As with the other options proposing that a fee be prescribed, if the applicant has already obtained a certificate for the same lot within the previous 3 months the prescribed fee would be reduced by 15% for obtaining the subsequent certificate.

What are the impacts?

The amendments were assessed as having some (but not significant) impacts.

It is likely that interested persons will only seek to obtain a body corporate certificate infrequently (for example, when they are selling a property), meaning that the fees relating to the certificate will not be frequently paid by an individual interested person.

The body corporate may incur monetary costs, as well as time costs, in preparing the certificate. The cost to the body corporate of preparing a body corporate certificate may vary according to whether the certificate is prepared by the body corporate committee members (volunteers) or whether the body corporate engages a third party to prepare the certificate (such as a body corporate manager or strata search agent). If the fees relating to the body corporate certificate do not cover the cost to the body corporate of preparing the

certificate, then the body corporate would need to fund the difference through contributions levied on the owners of all lots included in the scheme.

The fees relating to the body corporate certificate seek to achieve a balance between the body corporate recouping costs associated with preparation of the body corporate certificate, while also ensuring the amounts charged to an interested person are reasonable and appropriate.

The fees relating to the body corporate certificate are not considered to have a direct impact on body corporate managers or other third parties who may prepare body corporate certificates for a body corporate. The fees are payable to the body corporate and not a body corporate manager or other third party. The reimbursement of a body corporate manager for preparing a certificate is a matter for the manager and the body corporate to negotiate through their contract of engagement.

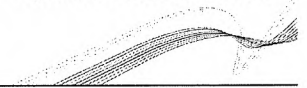
Given fees are currently paid to the body corporate for existing certificates, the approach adopted to consider a reasonable and appropriate fee for the body corporate certificate was to compare whether additional costs would be associated with preparing the new body corporate certificate as compared to the existing certificates.

The new body corporate certificate will include the information already contained in the existing certificates. The following additional information will also be required to be included or given with the body corporate certificate:

- whether the scheme is part of a layered arrangement of community titles schemes (BCCM Act body corporate certificate only);
- whether a building management statement applies to the community titles scheme (BCCM Act body corporate certificate only);
- whether the body corporate holds alternative insurance approved under an alternative insurance order (BCCM Act body corporate certificate only);
- the specific Act for the scheme (BUGT Act body corporate certificate only);
- whether there is a letting agent and/or caretaking service contractor for the scheme (including name);
- whether the body corporate has a current sinking fund forecast;
- whether there is an arrangement to supply electricity to occupiers in the community titles scheme through an embedded network;
- whether there is a body corporate manager for the scheme (and, if yes, their contact details);
- who is responsible for keeping body corporate records (and provide contact details);
- details of the body corporate's policies of insurance;
- the most recent statement of accounts prepared by the body corporate;
- the balance of the body corporate's sinking fund;
- lot entitlements for the lot;
- summary of amounts due but not paid by the current owner (additional for BCCM Act certificate only);
- secretary for the scheme (additional for BUGT Act certificate only);
- the plan of subdivision applying to the lot (additional for BUGT Act certificate only);
- body corporate assets (additional for BUGT Act certificate only);
- improvements that the owner of the lot is responsible for maintaining (additional for BUGT Act certificate only);
- the body corporate's by-laws and exclusive use areas (BUGT Act certificate, and BCCM Act certificate if they are not otherwise listed in the community management statement for the scheme).

The information to be included in the body corporate certificate under the BCCM Act and the BUGT Act will be very similar, with only very minor variations due to the differing management arrangements under the Acts.

The additional information to be included is not considered to be a significant impost on the body corporate as compared to existing certificates. While the list of additional information appears lengthy, the additional information should be readily accessible from the body corporate records or the relevant community management statement (for schemes under the BCCM Act) or plan (for BUGTA schemes). Much of the information in the certificates requires only a tick box to be completed, and most of the information relates



to the characteristics and status of the scheme and can be reused for certificates provided for other lots (at the same point in time).

While there may be some initial cost to the body corporate of identifying some of the additional information about the scheme to be included in the body corporate certificate, this information can then be re-used for future certificates.

Accordingly, the fees relating to existing certificates (Option 2), or a small increase in those fees to reflect the small additional impost that may be involved in preparing the new body corporate certificate (Option 3), would appropriately compensate the body corporate for the costs of preparing the certificate and would be a reasonable fee to charge the interested person obtaining the certificate.

Options 1 and 4 would not be an appropriate allocation of costs between the interested person and the body corporate. Under Option 1, given the construction of the legislation, not prescribing a fee for the body corporate certificate under Option 1 may create uncertainty as to whether bodies corporate can charge a fee to an interested person for a body corporate certificate, or uncertainty as to the quantum of fee they might seek to charge, and could lead to increased disputes. Under Option 4, the interested person could pay more for the body corporate certificate than it costs the body corporate to prepare the certificate.

Who was consulted?

In 2024, a Property Law Working Group (PLWG) was formed, comprised of key property, legal, and community titles sector stakeholders to support implementation of Property Law Act. The PLWG was consulted on an appropriate fee for the body corporate certificate.

Most stakeholders who responded to the consultation concluded that the costs for a body corporate associated with preparing the new body corporate certificate will be broadly comparable to preparing the existing certificates under the BCCM Act and BUGT Act and supported the prescribed fees relating to the body corporate certificate being similar to the fees relating to the existing certificates. Several stakeholders considered systems used by body corporate managers would be modified to enhance processes and largely automate the preparation of the body corporate certificate, thereby minimising additional time involved in preparing the certificate. Some stakeholders noted there may be additional time involved in preparing the certificate using manual processes as compared to automated processes.

One stakeholder considered that significantly greater time and complexity would be involved in preparing a body corporate certificate and supported a fee for the body corporate certificate that is significantly higher than the fees for existing certificates - \$220 for basic schemes, and \$300 for schemes in a layered arrangement of community titles schemes or for a BUGTA scheme (as these schemes all involved one or more bodies corporate sitting within the umbrella of another body corporate). However, as noted above, it is considered that the additional costs to a body corporate in preparing a certificate will not be significant. A different fee is not considered justified for layered schemes or BUGTA schemes as the information to be included in a body corporate certificate under the BCCM Act and the BUGT Act will be very similar and no different information is required to be included in a body corporate certificate prepared for a layered arrangement of community titles scheme as compared to a basic scheme.

One stakeholder supported aligning the fee for the body corporate certificate prescribed under the BCCM Act and BUGT Act. Another stakeholder did not support aligning the fees under the Acts on the basis that they considered there were significant differences between the certificates prepared under the Acts which should be reflected in the fees (see previous paragraph).

Limited stakeholder feedback was received on whether a reduced fee should apply, with one stakeholder supporting a reduced fee and another stakeholder not supporting the reduced fee.

What is the recommended option and why?

The objective of Government action is to allow the body corporate to recoup costs associated with preparing the body corporate certificate, while also effectively 'capping' the amount a body corporate can charge an interested person for a body corporate certificate, so that the amounts charged to interested persons are reasonable and appropriate.

Based on the analysis above, Options 2 and 3 would result in a balance between the body corporate recouping costs associated with preparation of the body corporate certificate, while ensuring a reasonable amount payable by the interested person. Option 3 is the recommended option because it provides for consistency in the fees for the body corporate certificate under both the BCCM Act and BUGT Act for the preparation of similar certificates.

Options 1 and 4 were not supported.

Given the construction of the legislation, under Option 1, failing to prescribe a fee may create uncertainty as to whether bodies corporate can charge a fee to an interested person for a body corporate certificate, or uncertainty as to the quantum of fee they might seek to charge. This would not achieve the object of capping the amounts that a body corporate can charged an interested person and could lead to increased disputes.

Option 4 was not considered to be a reasonable fee because it does not accurately reflect the costs to a body corporate of preparing the certificate.

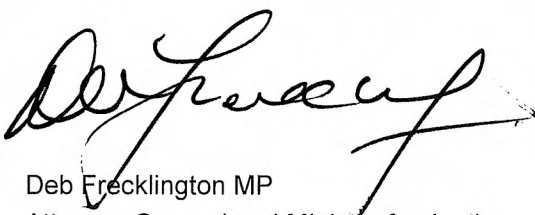
Impact assessment

	First full year	First 10 years
Direct costs – <i>Compliance costs*</i>	N/A	N/A
Direct costs – <i>Government costs</i>	N/A	N/A

Signed


Kate Connors
Acting Director-General
Department of Justice

Date: 4/6/25



Deb Frecklington MP
Attorney-General and Minister for Justice
and Minister for Integrity

Date: 5/6/25