



Queensland

Property Law Regulation 2023

Subordinate Legislation 2023 No. ...

made under the

Property Law Act 1974

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Tabled draft February 2023

[s 1]

1 Short title

This regulation may be cited as the *Property Law Regulation 2023*.

Note for consultation—

Please note the reference above the Contents to the Property Law Act 1974 will change when the new Bill is made.

2 Commencement

This regulation commences on [insert date].

3 Definition

In this regulation—

relevant pool, for a lot, means—

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

4 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;

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- (d) if the seller has been given a notice under the *Building Act 1975*, section 246AG, 247 or 248 or the *Planning Act 2016*, section 167 or 168 and the notice remains in effect 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 before the buyer signs the contract for the sale of the lot—a copy of the notice or order;
 - (f) a copy of any document given to the seller in relation to information mentioned in section 5(1)(i), (j) or (k);
 - (g) 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;
 - (h) if the lot is included in a community titles scheme—
 - (i) a copy of the community management statement for the scheme as recorded under the *Land Title Act 1994*, section 115L; and
 - (ii) either—
 - (A) a copy of a body corporate certificate for the lot; or
 - (B) if the seller has not been able to obtain a body corporate certificate for the lot—a statement that the body corporate certificate is not attached and the reasons why the seller has not been able to obtain the certificate; and
 - (iii) if the scheme was established for an existing 1980 Act plan, a copy of each of the following that are still in effect under the *Body Corporate and Community Management Act 1997*, section 337 or 339 but not included in the community management statement for the scheme—

- (A) by-laws;
- (B) allocations of common property, including variations or transpositions of common property;
- (i) if the lot is subject to a plan under the *Building Units and Group Titles Act 1980*, either—
 - (i) a copy of a body corporate certificate for the lot; or
 - (ii) if the seller has not been able to obtain a body corporate certificate for the lot—a statement that the body corporate certificate is not attached and the reasons why the seller has not been able to obtain the certificate.
- (2) In this section—
 - body corporate certificate*** means—
 - (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 subject to a plan under the *Building Units and Group Titles Act 1980*—a body corporate certificate under section 40AA(1) of that Act.
 - 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.
 - existing 1980 Act plan*** see the *Body Corporate and Community Management Act 1997*, section 326.
 - 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);

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- (c) a notice of exemption under the *Building Act 1975*, section 245C.

5 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—
 - (i) included in a community titles scheme; or
 - (ii) subject to a plan under the *Building Units and Group Titles Act 1980*;
 - (e) the details of each unregistered encumbrance on the lot;
 - (f) the zoning of the lot as published by a local government in a local planning scheme on its website;
 - (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 protection order under the *Environmental Protection Act 1994*, section 362;

- (v) whether the lot is subject to a transitional environmental program under the *Environmental Protection Act 1994*, section 347;
- (h) the following information relating to trees—
 - (i) whether an application in relation to a tree on the lot has been made under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*;
 - (ii) whether a tree on the lot is subject to an order under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*;
- (i) whether the lot is affected by a transport infrastructure proposal that will alter the dimensions of the lot to accommodate transport infrastructure or locate transport infrastructure on 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 Commonwealth or the State has issued a notice of intention to resume the lot or any part of the lot;
- (l) whether there is a relevant pool for the lot;
- (m) whether there is a commercial office building of more than 1,000m² on the lot;
- (n) the following information relating to rates for the lot—
 - (i) if rates are payable for the lot—the amount payable as rates for the lot;
 - (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;

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- (o) 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.

(2) In this section—

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.

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 short lease as mentioned in the *Land Title Act 1994*, section 185(1)(b);
 - (ii) an access agreement, opt-out 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 charge, restriction, or other burden affecting the title of the lot created under an Act of the Commonwealth or a State in favour of the Commonwealth, a State or a local government; and

Examples for subparagraph (iv)—

- an easement for a local government facility, including, for example, sewerage in favour of a local government 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

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

6 Warnings and other statements to be included in approved form for disclosure statement—Act, s 99

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

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

For section 104(6) of the Act, the information prescribed under section 5(1)(m) or (n) is not a material matter affecting a lot.

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

section 6

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

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) **WARNING**—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.

2 Encumbrances

If the property is part of a community titles 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.

3 Land use, planning and environment

- (1) You may not have any rights if the current use of the property is not legal under the local planning scheme. You can obtain further information about any planning and development restrictions applicable to the lot from the relevant local government.
- (2) You should enquire with the relevant local government whether the property is affected by flooding or another natural hazard or within a natural hazard overlay. Flood information for the property may be available at the FloodCheck Queensland portal or the Australian Flood Risk Information portal.

4 Buildings and structures

- (1) The seller does not warrant the structural soundness of the buildings or improvements on the property. You should engage a licensed building inspector to inspect the building and provide a report.
- (2) If the property is a commercial office building of more than 1,000m², 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 plans

- (1) If the property is part of a community titles scheme or a plan under the *Building Units and Group Titles Act 1980* and you purchase the property, you will become a member of the body corporate, and you will be required to pay levies and comply with the by-laws.
- (2) You will be subject to by-laws which regulate your use of the property and common property.

ENDNOTES

- 1 Made by the Governor in Council on [Made by Governor Date].
- 2 Notified on the Queensland legislation website on [Notification Date].
- 3 The administering agency is the Department of Justice and Attorney-General.

Tabled draft February 2023