



Queensland

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

Explanatory Notes for SL 2011 No. 305

made under the

Body Corporate and Community Management Act 1997

General outline

Short title

Body Corporate and Community Management (Specified Two-lot Schemes Module) Regulation 2011.

Authorising law

Section 322 of the *Body Corporate and Community Management Act 1997*

Policy objectives and reasons for them

The primary objective of the *Body Corporate and Community Management Act 1997* (BCCM Act) is to provide flexible and contemporary communally based arrangements for the use of freehold land. For the achievement of this objective, the Act provides for the establishment, operation and management of community titles schemes.

Specific legislation exists for community titles schemes because of the collective ownership of certain property and assets inherent in such schemes. The body corporate (comprising the owners of all lots included in

the scheme) is responsible for the management and administration of the collectively owned property and assets. This requires the creation of a comprehensive form of internal governance.

Community titles schemes include a wide variety of property development projects (for example, residential units, hotels, business parks and commercial offices) and have diverse management and administrative needs. To accommodate these different management needs, the BCCM Act relies on management processes and procedures being provided through a set of regulation modules designed for the different types of schemes. There are currently four regulation modules established under the BCCM Act (the Standard, Accommodation, Commercial and Small Schemes Modules). Bodies corporate may adopt a regulation module that suits their needs provided the characteristics of the scheme meet the eligibility criteria set out in the particular regulation module.

The existing four regulation modules established under the BCCM Act (the Standard, Accommodation, Commercial and Small Schemes Modules) together provide a flexible set of rules for the management of the different types of schemes to support the achievement of the Act's primary objective.

During 2006-2007, a comprehensive review of the four regulation modules under the BCCM Act revealed that many schemes containing only two lots (popularly known as duplexes) operate outside the existing regulatory framework for community titles schemes because lot owners consider the legislative requirements excessive and impractical for their type of scheme. In particular, the review identified provisions relating to decision making, financial management and enforcing by-law contraventions, were too formal or impracticable for people residing in schemes containing only two lots which are not part of a layered arrangement and do not have a letting agent for the scheme ('residential two-lot schemes').

Therefore, the objective of the regulation is to provide more appropriate management arrangements designed to meet the particular needs of residential two-lot schemes. Specifically, the objective is to provide residential two-lot schemes with simplified management arrangements in the areas of decision-making, financial management and by-law enforcement.

Achievement of Objective

Simplified management arrangements for residential two-lot schemes will be achieved in the areas of decision-making, financial management and by-law enforcement by enabling:

- a decision of the body corporate to be made by written agreement between the owners of the lots in the scheme;
- a lot owner to authorise a person to act for the owner in body corporate matters;
- the body corporate to fund body corporate expenses in a way agreed between owners;
- a lot owner to pay and recover another lot owner's unpaid contribution (and other specified amounts) for an agreed body corporate expense; and
- an owner of a lot in a scheme to enforce by-law contraventions.

The simplified management arrangements for residential two-lot schemes will be implemented principally through the regulation. Once approved by the body corporate, a residential two-lot scheme will be able to adopt the new regulation for the scheme by lodging a request with the Registrar of Titles to record a new community management statement that identifies this regulation as the regulation module applying to the scheme.

Amendments have been made to the BCCM Act to facilitate the regulation and to provide for the new, more practicable by-law enforcement processes for residential two-lot schemes for which the regulation applies.

Consistency with policy objectives of authorising law

The regulation, as part of the existing set of regulation modules under the BCCM Act, will contribute to the provision of flexible management processes and procedures for community titles schemes, consistent with the primary object of the Act to provide flexible and contemporary communal arrangements for the use of freehold land.

The provisions of the regulation derive directly from various provisions of the BCCM Act that specify the matters the regulation modules may provide for.

Inconsistency with policy objectives of other legislation

There is no inconsistency with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of implementing the regulation is that owners of lots in residential two-lot schemes will be provided with the opportunity to adopt a regulation that accommodates their particular needs in the management and operation of their schemes.

The simplified management arrangements provided in the regulation reduce regulatory and administrative burden for bodies corporate of residential two-lot schemes. This will make the day-to-day management of residential two-lot schemes for which the new regulation applies less onerous and less complex.

It will not be mandatory for existing residential two-lot schemes to adopt the new regulation to apply to their schemes. However, if an existing residential two-lot scheme chooses to change to the new regulation, the body corporate must arrange for a new community management statement that identifies the new regulation as the regulation applying to the scheme to be recorded in place of the scheme's existing statement with the Registrar of Titles. The *Land Title Regulation 2005*, prescribes the fee for lodging a new community management statement for an existing scheme.

There will be no additional cost to Government arising from the implementation of this regulation.

Consistency with fundamental legislative principles

Some provisions in the regulation raise fundamental legislative principles. However, it is considered the regulation reasonably balances regard to fundamental legislative principles with community benefits accruing from the underlying policy intent.

Sufficient regard to the rights and liberties of individuals

Section 4(2)(a) of the *Legislative Standard Act 1992* requires legislation to have sufficient regard to the rights and liberties of individuals.

Engagements of body corporate managers and service contractors

The regulation prescribes matters about a body corporate's engagement of a person as a body corporate manager or service contractor that may restrict the capacity of parties to contract freely and establish and enforce their contractual entitlements through traditional legal means. These provisions and their rationale are set out below.

Form of engagement

The regulation prescribes that an engagement is void unless it is in the form required by the module. This restriction is a consumer protection measure that seeks to ensure full disclosure to the body corporate about, for example, the term of the engagement, the basis of payment for services and the role to be performed. This information is necessary so the body corporate can make an informed decision about whether to engage a person.

Term of engagement

The regulation provides the term of an engagement of a body corporate manager or service contractor must not be longer than one year. This limit was put in place to prevent such agreements from being everlasting agreements over which the body corporate had no control.

Termination of engagement

The regulation provides the grounds and process by which the body corporate may terminate a person's engagement as a body corporate manager or service contractor.

A body corporate can terminate an engagement under the BCCM Act, by agreement or under the engagement.

The body corporate may also terminate a person's engagement as a body corporate manager or service contractor if the person:

- is convicted of an indictable offence involving fraud or dishonesty or is convicted on indictment of an assault or an offence involving an assault
- carries on a business involving supply of services to the body corporate and the carrying on of the business is contrary to law
- transfers an interest in the engagement without the body corporate's approval.

It is considered appropriate that these persons act within the law and that failing to do this is an appropriate reason to allow the termination of an engagement.

The body corporate may also terminate a person's engagement as a body corporate manager or service contractor if the person:

- engages in misconduct, or is grossly negligent, in carrying out functions required under the engagement
- fails to carry out duties under the engagement
- contravenes the relevant code of conduct
- fails to comply with disclosure requirements (body corporate managers only)
- fails to meet certain financial management or reporting requirements under the module (body corporate managers only).

If the relevant contractor does not provide the expected standard of service under their engagement and does not act according to the standards set in the relevant code of conduct, it is reasonable to allow the engagement to be terminated. The rights of a body corporate manager or contractor are protected by a requirement that the body corporate cannot exercise its power to terminate on these grounds unless the body corporate manager or contractor has been given a notice and the opportunity to undertake necessary action to remedy the behaviour that is the ground for the termination.

Lien against body corporate property

The regulation requires stated persons to return assets, documents and the seal of the body corporate on being given a notice requiring the return of the property. A person who is given the notice cannot claim a lien on the body corporate records and seal. This provision is considered necessary because the records and seal are essential for the functioning of the body corporate. The provision does not extend to other body corporate property.

Offences

The regulation creates a number of offences:

- Sections 19, 20 and 21 create offences for a body corporate manager that does not disclose certain information to the body corporate.
- Section 64 creates an offence for specified persons who do not give the body corporate for a scheme notification of particular events

regarding a lot included in the scheme within two months of the event occurring.

- Section 75 creates an offence for a person who does not comply with a written request from a body corporate to return specified property belonging to the body corporate.
- Section 76 creates an offence for a body corporate manager who has custody of a document of a body corporate and does not, when requested by the body corporate, give the body corporate the document or a reproduced version of the document in print form.

Each of these offences are consistent with corresponding offences in the existing regulations under the BCCM Act and impose the same maximum penalty of 20 penalty units. This maximum penalty is in accordance with section 322(2) of the BCCM Act which provides that a regulation under the Act must not impose a penalty of more than 20 penalty units for a contravention of a provision of the regulation.

In addition, section 67 creates an offence for an original owner of a scheme who does not give the specified documents and materials to the body corporate for the scheme within two months after the original owner stops being the owner of one or both of the lots included in the scheme. This offence imposes a maximum penalty of 150 penalty units, which is considered an appropriate penalty because the specified documents and materials held by the original owner are essential to the functioning of a body corporate. Section 322(3)(c) of the BCCM Act, provides the authority for this penalty amount. This is the same maximum penalty amount imposed in the corresponding provision in the existing regulations regarding the handing over of documents and materials by the original owner to the body corporate.

Section 67 also creates a second offence for original owners. If after an original owner of a scheme stops being the owner of one or both of the lots in the scheme and comes into possession of specified documents, the original owner must hand over the documents to the body corporate at the earliest practicable opportunity. If the original owner does not comply with this provision, a maximum of 20 penalty units may be imposed. The offence and maximum penalty included in this provision is consistent with the corresponding provision in the existing regulations under the BCCM Act.

Sufficient regard to the institution of Parliament

Section 4(2)(b) of the *Legislative Standard Act 1992* requires legislation to have sufficient regard to the institution of Parliament.

The regulation will operate within the structure of the existing legislative framework provided by the BCCM Act; that is, certain matters are dealt with in the regulation modules rather than in the Act.

In its consideration of the Body Corporate and Community Management and Other Legislation Amendment Bill 2010 the Scrutiny of Legislation Committee noted that in its consideration of the Body Corporate and Community Management Bill 1997, the then Scrutiny of Legislation Committee had reported concern about matters affecting individual rights and obligations being dealt with in the regulation modules under the BCCM Act, rather than in the Act itself.

In particular, the then committee was concerned by clauses of the Body Corporate and Community Management Bill 1997 which provide that the relevant regulation module may:

- prescribe certain details about the engagement of a person as a body corporate manager or service contractor, or the authorisation of a person as a letting agent
- make specified provision for financial management arrangements applying to a scheme
- provide for making improvements to the common property of the scheme
- make provision about, for example, the conditions in an exclusive use by-law and the obligations imposed
- require the body corporate to put in place insurance for the scheme.

The primary object of the BCCM Act is to provide flexible and contemporary communally based arrangements for the use of freehold land. To achieve flexibility in the legislative framework to accommodate the management needs of diverse types of schemes, the BCCM Act provides management processes and procedures through a set of regulation modules designed for the different types of schemes. Including management provisions tailored to different types of schemes in the BCCM Act would be unlikely to achieve the same level of flexibility and simplicity as the current regulatory framework.

It is considered that the division of matters between the Act and the regulation is appropriate given the intent of the legislation to provide flexible management arrangements for community titles schemes and given the successful operation of this legislative framework to date.

Consultation

In 2006-2007, the former Department of Tourism, Fair Trading and Wine Industry Development consulted with key stakeholder groups during a review of the existing regulation modules which identified the need for simplified management arrangements for residential two-lot schemes.

In February 2008, the Department of Justice and Attorney-General released a regulatory impact statement (RIS) detailing the proposal for a new, simplified regulatory framework for residential two-lot schemes for public comment.

In August 2010, peak bodies and key stakeholders were consulted on amendments to the BCCM Act to facilitate the new regulation and establish the new by-law enforcement processes for residential two-lot schemes for which the new regulation applies. The stakeholders consulted were the Australian Resident Accommodation Managers' Association Queensland Incorporated, Community Titles Institute of Queensland (now the Strata Community Australia (Qld)), Queensland Law Society, Unit Owners' Association of Queensland and the Property Council of Australia (Queensland Division).

In September 2011, the Department of Justice and Attorney-General released the draft regulation for public comment.

Overall, submissions to the RIS, draft Bill and consultation draft of the new regulation were supportive of the new regulatory framework for residential two-lot schemes. Suggestions and comments from stakeholders have been incorporated where appropriate.

Notes on Provisions

Chapter 1 Preliminary

Clause 1 provides the short title of the regulation.

Clause 2 provides for the commencement of the regulation.

Clause 3 provides that the regulation is a regulation module for the Act. For the regulation to apply to a scheme the scheme must be a specified two-lot scheme. The meaning of specified two-lot scheme is provided under section 111C of the Act.

Clause 4 provides that the dictionary in the schedule defines particular words used in the regulation.

Chapter 2 Lot owner agreements

Clause 5 provides for the requirements for a lot owner agreement. The clause also provides that if there are two or more co-owners of a lot in a specified two-lot scheme and one or more co-owners enters into a lot owner agreement with the owner of the other lot in the scheme that complies with subsection (1) of the section, all of the co-owners of the lot are taken to have entered into the lot owner agreement as the owner of the lot.

Clause 6 provides the requirements for a request, made by an owner of a lot in a specified two-lot scheme to the owner of the other lot in the scheme, to enter into a lot owner agreement. The clause also provides that if there are two or more co-owners of a lot in a specified two-lot scheme and one or more co-owners makes a request to enter into a lot owner agreement with the owner of the other lot in the scheme that complies with subsection (1) of the section, all the co-owners of the lot are taken to have made the request to enter into a lot owner agreement as the owner of the lot.

Chapter 3 Representatives of owners of lots

Clause 7 provides for who is a representative of an owner of a lot included in a specified two-lot scheme. The Clause also provides the requirements that must be met for a person to be taken to be a representative. A person cannot be a representative of an owner of a lot in a specified two-lot scheme if the person is the body corporate manager or a service contractor for the scheme. In addition, the clause provides an owner of a lot may amend or revoke, in the way prescribed in the section, the authorisation of a person acting as the owner's representative.

Clause 8 applies to a corporation which is an owner of a lot, or a representative of an owner of a lot, included in a specified two-lot scheme. This clause provides for the requirements for nominating a representative of a corporation.

Clause 9 provides a representative of an owner of a lot under Chapter 3 has the functions and powers of the owner (and may do anything the owner may do, or is required to do) in relation to carrying out functions given to the body corporate under the Act or the community management statement. However, a representative's functions and powers are restricted to the matters for which the representative has authority to act under the instrument by which the person is authorised to act as representative.

Chapter 4 Body corporate managers and service contractors - Act, section 122

Part 1 Preliminary

Clause 10 sets out the purpose of chapter 4.

Part 2 Authority and requirements for engagements

Clause 11 sets out the body corporate's authority to engage, or amend the engagement of, a person as a body corporate manager or service contractor.

Clause 12 provides the engagement of a person as a body corporate manager or service contractor is void if the engagement does not comply with the requirements stated in the section.

Clause 13 provides for the term of an engagement of a person as a body corporate manager or service contractor.

Clause 14 provides that a lot owner agreement made by the body corporate approving the engagement of a person as a body corporate manager or service contractor is of no effect if the term of engagement does not start within 1 year after the date of the lot owner agreement.

Part 3 Termination of engagements

Clause 15 provides for the purpose of part 4.

Clause 16 provides that the body corporate may terminate a person's engagement as a body corporate manager or service contractor under the Act, under the terms of the engagement, or by agreement between the parties to terminate the contract, if the termination is approved by the body corporate by a lot owner agreement.

Clause 17 provides that the body corporate may terminate a person's engagement as a body corporate manager or service contractor on certain grounds, for example, if the person is convicted of an indictable offence involving fraud or dishonesty. The clause also provides that before terminating the engagement of a body corporate manager or service contractor, the body corporate must approve the termination by a lot owner agreement.

Clause 18 provides that the body corporate may terminate a person's engagement as a body corporate manager or service contractor on certain grounds, for example, if the person fails to carry out duties under the engagement. The clause provides that the body corporate may also terminate a person's engagement as a body corporate manager if the person contravenes the code of conduct for body corporate managers and caretaking service contractors. The clause states requirements for the body corporate acting under the section.

Part 4 Disclosure requirements

Clause 19 provides for disclosure by a body corporate manager of their relationship with a person with whom the body corporate is considering entering into, or proposes to enter into, a contract.

Clause 20 provides for disclosure by a body corporate manager of their relationship with a person who supplies goods or services under a contract to which the body corporate is a party.

Clause 21 provides for disclosure by a body corporate manager of a commission, payment or other benefit the manager is entitled to receive under a contract the body corporate is considering entering into, or proposes to enter into.

Chapter 5 Financial management - Act, section 150

Part 1 Purpose of chapter

Clause 22 sets out the purpose of chapter 5.

Part 2 Agreed body corporate expense

Clause 23 defines an agreed body corporate expense.

Clause 24 provides that the owner of each lot is liable to pay a contribution to an agreed body corporate expense. The clause also provides that the contributions payable by the owner of each lot must be proportionate to the contribution schedule lot entitlement of the lot, with the exception of contributions payable for insurance and any other matter for which, under the Act or this regulation, the liability attaching to each lot is calculated other than on the basis of the lot's contribution schedule lot entitlement.

Clause 25 provides for when a contribution to an agreed body corporate expense becomes payable by an owner of a lot.

Clause 26 provides that if the body corporate or an owner of a lot included in a specified two-lot scheme receives written notice, for example a tax invoice, for an agreed body corporate expense, the owner of a lot may give the owner of the other lot in the scheme a written notice (a contribution notice). The clause also provides the requirements for a contribution notice, the way it may be served on the owner of a lot and, if an owner of a lot gives a contribution notice, when it must be given.

Part 3 Payment and recovery of contributions

Clause 27 provides for the payment and recovery of unpaid contributions and other associated amounts. The clause applies if an owner of a lot in a specified two-lot scheme (the defaulting owner) does not pay a contribution for an agreed body corporate expense by a date for payment (which is a date fixed in a way mentioned in section 25(1) or stated in a contribution notice given under section 26(2)) and the owner of the other lot included in the scheme (the contributing owner) pays the contributing owner's contribution by the date for payment.

The clause provides that the contributing owner may pay, on behalf of the defaulting owner, the defaulting owner's contribution or any other penalty for not paying the contribution by the date for payment and recover amounts specified in subsection (2)(b) as a debt from the defaulting owner.

The clause also provides that if the contributing owner does not pay the defaulting owner's contribution or any penalty under subsection (2)(a) of the section, the body corporate may recover amounts specified in subsection (3) of the section. The contributing owner may start proceedings on behalf of the body corporate to recover an amount specified in subsection (3).

Part 4 Borrowing

Clause 28 provides powers in relation to borrowing by a body corporate.

Part 5 Accounts

Clause 29 provides the body corporate may decide by a lot owner agreement to keep amounts received by the body corporate in one or more accounts with a financial institution.

Chapter 6 Property management

Part 1 Purpose of chapter

Clause 30 sets out the purpose of chapter 6.

Part 2 Common property

Clause 31 states the body corporate's responsibility for the maintenance of common property and other elements that are not common property but exist for the benefit of lots in the scheme.

Clause 32 provides that the body corporate must maintain a mailbox or make suitable alternative arrangement for the receipt of mail.

Clause 33 sets out the way and the extent that the body corporate is authorised to sell or otherwise dispose of common property and to grant or amend a lease or licence over common property.

Clause 34 sets out the way and the extent that the body corporate is authorised to grant, accept the grant of, and surrender, and accept the surrender of, easements relating to common property.

Clause 35 provides for the making of improvements to the common property by the body corporate.

Clause 36 provides for the making of improvements to the common property by an owner of a lot.

Part 3 Body corporate assets

Clause 37 provides that the body corporate must maintain body corporate assets in good condition.

Clause 38 states the way and the extent that the body corporate may acquire, and enter into agreements about the use of, real and personal property.

Clause 39 sets out the way in which the body corporate may deal with (including dispose of) body corporate assets.

Part 4 Agreement with another body corporate

Clause 40 provides that the body corporate may, if authorised by a lot owner agreement, enter into an agreement with the body corporate of another community titles scheme for the shared use and enjoyment of facilities forming part of the common property of either scheme or body corporate assets for either scheme.

Part 5 Services for and obligations of owners and occupiers of lots

Clause 41 sets out the way and the extent that the body corporate may supply, or engage another person to supply, utility and other services for the benefit of owners and occupiers of lots.

Part 6 Condition of lots

Clause 42 imposes obligations about the condition in which lots included in the scheme must be maintained.

Part 7 Power to take action to remedy defective building work

Clause 43 provides the body corporate may bring a proceeding under the Queensland *Building Services Authority Act 1991* or another law to have remedied defective building work carried out for the owner of a lot included in the scheme.

Part 8 Exclusive use by-laws - Act, section 173

Clause 44 provides that if the owner of a lot to whom rights are given under an exclusive-use by-law agrees in writing, the by-law may impose conditions. The clause also provides obligations imposed on the owner of a lot to which an exclusive by-law attaches in relation to the maintenance of and operating costs for the part of the common property to which the exclusive use by-law applies.

Clause 45 provides for the owner of a lot who has the benefit of an exclusive use by-law to make improvements to the part of the common property to which the by-law applies.

Clause 46 provides a monetary liability imposed under an exclusive use by-law may be recovered as a debt.

Part 9 Insurance - Act, section 189

Clause 47 provides definitions for the part.

Clause 48 requires the body corporate must insure, for full replacement value, the common property and body corporate assets.

Clause 49 requires, if one or both of the lots included in the scheme are created under a building format plan of subdivision or volumetric format plan of subdivision, the body corporate must insure for full replacement value each building in which is located a lot in the scheme, to the extent that the building is scheme land.

Clause 50 requires, if one or both of the lots included in the scheme are created under a standard format plan of subdivision and a building on one lot has a common wall with a building on the other lot included in the scheme, the body corporate must arrange a single policy of insurance with the same insurer to cover each building for full replacement value.

Clause 51 provides that, if a body corporate must insure one of more buildings for full replacement value under the part, the body corporate must obtain an independent valuation, at least every five years, stating the full replacement value of the building or buildings.

Clause 52 sets out the liability of the owner of each lot that is covered by reinstatement insurance required to be taken out by the body corporate to pay a contribution for the premium for reinstatement insurance.

Clause 53 requires the owner of a lot to give the owner of the other lot in the scheme, the body corporate, and the insurer with whom the body corporate has taken out a policy of reinstatement insurance details of the nature and value of specified improvements to the lot.

Clause 54 relates to the body corporate insuring on the basis that an excess is payable on the happening of an event for which the insurance gives cover.

Clause 55 provides that where the lots included in a specified two-lot scheme were created under a standard format plan of subdivision, the body corporate may establish a voluntary insurance scheme under which it puts in place insurance over stand-alone buildings for the owners of the lots on which they are located.

Clause 56 provides that the body corporate must maintain public risk insurance of the common property and relevant assets and states the required coverage of the insurance.

Clause 57 provides that if, because of the way that a lot is used, the premium for reinstatement insurance or public risk insurance required to be taken out by the body corporate is likely to increase, the owner of the lot must give the body corporate details of the use.

Clause 58 provides for the use of an amount of insurance money received by the body corporate for damage to property, other than an amount paid under a voluntary insurance scheme.

Clause 59 provides that if the body corporate receives an amount of insurance money for damage to property under a voluntary insurance scheme, the amount must be paid, subject to the prior claim of a registered

mortgagee, to the owner of the damaged property to which the payment relates.

Chapter 7 Administrative matters

Part 1 Purpose of chapter

Clause 60 sets out the purpose of chapter 7.

Part 2 Body corporate's seal - Act, section 34

Clause 61 provides for how the body corporate's seal must be kept and how the seal may be used.

Part 3 Notices - Act, section 201

Clause 62 applies if the body corporate receives a document in relation to the specified two-lot scheme. The clause provides the body corporate must, as soon as practicable after receiving a document in relation to the specified two-lot scheme, give written notice of the receipt of the document to the owner of each lot included in the scheme.

Clause 63 provides that if an owner of a lot or the representative of an owner of a lot receives a document in relation to the specified two-lot scheme, the owner or the representative must, as soon as practicable after receiving the document, give a copy of the document to the body corporate.

Clause 64 provides for the giving of notices to the body corporate on the happening of specified events affecting a lot, such as, for example, the lot is the subject of a registered mortgage and the mortgagee enters into possession of the lot. The notices given to the body corporate must also be given to the owner of the other lot included in the scheme.

Clause 65 provides in relation to the address for service for an owner of a lot or another person whose address for service is required to be given to the body corporate.

Clause 66 provides that a person may change the person's residential or business address or address for service by written notice given to the body corporate. If the person is an owner of a lot included in the scheme, the

written notice must also be given to the owner of the other lot included in the scheme. If the person is not an owner of a lot included in the scheme the written notice must also be given to the owner of each lot included in the scheme.

Part 4 Documents, materials and information

Clause 67 provides for particular documents and materials to be handed over by the original owner to the body corporate within two months from when the original owner stops being the owner of one or both of the lots included in a specified two-lot scheme.

Clause 68 provides for the keeping of specified documents by the body corporate.

Clause 69 provides for the disposal of specified documents.

Clause 70 provides that the body corporate must, by a lot owner agreement, decide who is to keep the body corporate's records on behalf of the body corporate.

Clause 71 provides for the resignation of a person appointed under section 70 to keep the body corporate's records.

Clause 72 provides in relation to the giving of access to the body corporate's records by the body corporate.

Clause 73 provides prescribed fees for the giving of information by the body corporate from the body corporate's records under section 205 of the Act.

Clause 74 prescribes other information for section 206(2)(f) of the Act that a disclosure statement must include. This is to ensure that prospective purchasers of existing lots in specified two-lot schemes are provided with equivalent information in a disclosure statement given under section 206 of the Act as is provided to purchasers of existing lots in schemes regulated under one of the other regulations under the Act.

Chapter 8 Miscellaneous

Clause 75 provides for the return of specified body corporate property.

Clause 76 provides for the return of body corporate documents in the custody of a person engaged as a body corporate manager for a scheme.

Chapter 9 Transitional provisions

Clause 77 sets out the main purposes of chapter 9.

Clause 78 provides definitions for the chapter.

Clause 79 provides in relation to authorised actions or documents, obligations and protections under a provision in a regulation under the Act applying to the community titles scheme immediately before the regulation stops applying to the scheme and this regulation begins applying to the scheme.

Clause 80 applies to a community titles scheme which changes from being a scheme to which another regulation under the Act applied (the previous regulation) to being a specified two-lot scheme to which this regulation applies. If immediately before the day this regulation begins applying to the scheme, an owner of a lot in the scheme had, under the previous regulation, an obligation to pay a contribution (including a special contribution) or a penalty, the owner continues to be liable to pay the contribution or the penalty to the body corporate for the scheme under this regulation.

Clause 81 applies to a community titles scheme which changes from being a scheme to which another regulation under the Act applied (the previous regulation) to being a specified two-lot scheme to which this regulation applies. If immediately before the day this regulation begins applying to the scheme, an owner of a lot included in the scheme had not paid a contribution or contribution instalment to the body corporate by the date for payment under the previous regulation, the body corporate may continue to recover from the owner any contribution or contribution instalment that the owner is liable to pay under section 80. The clause also provides the body corporate may also recover, as a debt, the amount of the contribution or contribution instalment, any penalty imposed under the previous regulation for not paying the contribution instalment and any costs reasonably incurred by the body corporate in recovering the amount.

Clause 82 applies to a community titles scheme which changes from being a scheme to which another regulation under the Act applied (the previous regulation) to being a specified two-lot scheme to which this regulation applies. If immediately before the day this regulation begins applying to the scheme the body corporate for the scheme kept an administrative fund or a sinking fund under the previous regulation and there was an amount in the fund, the body corporate may only use the amount in the administrative fund and the sinking fund for the payment of agreed body corporate

expenses or the payment of a premium or other charge for insurance required to be taken out by the body corporate. The clause also provides the administrative and sinking funds continue until the funds are spent.

Clause 83 applies to a community titles scheme which changes from being a scheme to which another regulation under the Act applied (the previous regulation) to being a specified two-lot scheme to which this regulation applies. If immediately before the day this regulation begins applying to the scheme the body corporate for the scheme kept a roll, register or other documents or information (the existing records) under the previous regulation that the body corporate is not required to keep under this regulation, the body corporate must continue to keep the existing records for the period that applied under the previous regulation.

The clause provides the body corporate is not required to maintain the existing records. However, the body corporate must ensure that the existing records are clearly marked to show the records have not been maintained since the date this regulation started applying to the scheme.

Clause 84 applies to a community titles scheme which changes from being a scheme to which another regulation under the Act applied (the previous regulation) to being a specified two-lot scheme to which this regulation applies. If immediately before the day this regulation began applying to the scheme the body corporate for the scheme held a policy of insurance that was in force, to the extent to policy of insurance complied with the requirements under the previous regulation, the policy is taken to comply with chapter 6, part 9 of this regulation. However, the policy of insurance is taken to comply with chapter 6, part 9 of this regulation only until the policy is first renewed after this regulation began applying to the scheme.

Schedule - Dictionary

The schedule defines particular words used in the regulation.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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