

# Building Units and Group Titles Amendment Regulation 2022

## Human Rights Certificate

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

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Shannon Fentiman MP, Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, provide this human rights certificate with respect to the *Building Units and Group Titles Amendment Regulation 2022* (the Amendment Regulation) made under the *Building Units and Group Titles Act 1980* (the BUGT Act).

In my opinion, the Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The BUGT Act provides for the subdivision of land into individual lots and common property. While most community titles developments are regulated by the *Body Corporate and Community Management Act 1997* (BCCM Act), the BUGT Act continues to have application for certain developments that were established under a combination of the BUGT Act and specialised planning laws (for example, the *Mixed Use Development Act 1993*).

The BUGT Act contains a range of body corporate governance provisions, as well as dispute resolution arrangements. Generally, disputes arising in bodies corporate regulated by the BUGT Act can be resolved by an order of a referee appointed under the BUGT Act.

The Amendment Regulation makes minor amendments to the *Building Units and Group Titles Regulation 2008* to provide referees with greater flexibility to waive dispute resolution related fees payable to the referee. Specifically, the Amendment Regulation enables a referee to excuse a person from paying a fee (or part of a fee) payable to the referee, if satisfied the person is suffering 'financial hardship'. Previously, a referee could only excuse a person from paying a fee (or part of a fee) payable to the referee, if satisfied the person was suffering 'extreme financial hardship'.

Enabling a referee to excuse a person from paying a fee (or part of a fee) due to 'financial hardship', rather than 'extreme financial hardship', was enacted on an initially temporary basis in response to the COVID-19 pandemic, pursuant to the *Justice Legislation (COVID-19 Emergency Response - Community Titles Schemes and Other Matters) Regulation 2020*.

The Amendment Regulation creates an ongoing ability for referees to excuse a person from paying a fee (or part of a fee) payable to the referee, if satisfied that the person is suffering 'financial hardship', rather than needing to be satisfied that the applicant's financial hardship is 'extreme'.

## Human Rights Issues

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

The Amendment Regulation supports property rights, as protected by section 24 of the *Human Rights Act 2019*.

Specifically, the Amendment Regulation assists proprietors in relevant developments to access dispute resolution services relating to their property, in cases where the proprietor is experiencing financial hardship and may be unable to pay prescribed dispute resolution fees.

No human rights have been identified as being limited by the Amendment Regulation.

## Conclusion

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

**THE HONOURABLE SHANNON FENTIMAN MP**  
ATTORNEY-GENERAL AND MINISTER FOR  
JUSTICE, MINISTER FOR WOMEN AND  
MINISTER FOR THE PREVENTION OF  
DOMESTIC AND FAMILY VIOLENCE

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