



Queensland  
**Law Society**®

# **Seller disclosure in Queensland**

Background information

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# 1. Seller disclosure framework to commence 1 August 2025

The *Property Law Act 2023* will commence on 1 August 2025, including the new mandatory seller disclosure framework.

The *Property Law Regulation 2024*, the amendments to the various regulation Modules under the *Body Corporate and Community Management Act 1997*, *Building Units and Group Titles Regulation* and the approved forms were released in September 2024.

A new version of the REIQ contract will also be prepared and released prior to 1 August 2025.

## 2. Legislative Framework

Seller disclosure obligations are set out in Part 7 Division 4 of the *Property Law Act 2023*.

The obligations in the Act should be read in conjunction with the:

- *Property Law Regulation 2024*
- applicable Body Corporate and Community Management Regulation Modules;
- the *Building Units and Group Titles Regulation 2008*;
- Approved forms of seller disclosure statement and body corporate certificates.

The overarching reform objectives of the seller disclosure framework are to:

- clarify the disclosure obligations of sellers;
- introduce a transparent and effective form of disclosure;
- provide information of value to the decision of a buyer to purchase; and
- balance the information cost between buyer and seller.

The principles underlying the seller disclosure framework are discussed in detail in the Final Report: Seller Disclosure in Queensland, Centre for Commercial and Property Law, QUT, 2017 (page 16) (**Seller Disclosure Report**).

The Explanatory Notes to the *Property Law Act 2023* confirm the seller disclosure scheme implemented by the Bill is drafted broadly in accordance with the recommendations in the Seller Disclosure Report.

## 3. Application of seller disclosure obligations

The seller disclosure obligations in the *Property Law Act 2023* will apply where a seller of a 'lot' proposes to enter into a 'contract for the sale of a lot' on or after 1 August 2025. Certain exceptions in s 100 may apply.

The provisions do not have retrospective effect and will not apply to contracts entered into prior to 1 August 2025 or to a contract formed on exercise of an option (with either the grantee or a nominee) where the option was entered into before 1 August 2025 (refer to *Property Law Act 2023*, s 251).

## 4. What is the obligation imposed on a seller?

### 4.1. Disclosure documents

Under *Property Law Act 2023*, s 99, a seller under a contract for the sale of a lot is required to give:

- (i) a **seller disclosure statement**; and
- (ii) **prescribed certificates**

to a buyer prior to the buyer signing a contract.

These are referred to collectively as the **disclosure documents** in section 99 of the *Property Law Act 2023*.

## 4.2. Exceptions

There are a range of exceptions to the disclosure obligation listed in s 100 which may apply to the seller, buyer or transaction.

Some of the **exceptions** in s 100 are:

- a. a contract between related parties, as defined in s 96, where all buyers of the lot waive the requirement for a seller disclosure statement, by notice in writing to the seller, prior to contract. All sellers and buyers must be related to fall within this exception;
- b. contracts where the State or a government body is the buyer;
- c. sales or transfers between co-owners or for boundary realignments;
- d. contracts formed on the exercise of an option where the buyer and seller are the same as the parties to the contract; and
- e. sales of property where the price is more than \$10 million (GST inclusive) and the buyer waives compliance with s 99 in writing prior to signing the contract.

Practitioners should note the requirement for a waiver from the buyer before the exceptions in (a) and (e) apply.

There are various other exceptions in s 100 which practitioners will need to be familiar with.

## 4.3. What is a contract for sale of a lot?

The terms “*lot*” and “*contract*” for the sale of a lot are both defined terms in s 95 of the *Property Law Act 2023*. The effect of these definitions is that the obligation in s 99 to give disclosure documents prior to the buyer signing a contract will apply to:

- a contract for the transfer of title to a lot registered under the *Land Title Act 1994* for valuable consideration; and
- The grant of an option of any type (put, call or put and call) for the sale or purchase of a lot.

A contract for the sale of a lot will **not** include:

- a contract for the sale or transfer of a leasehold lot or lease;
- an agreement for the exchange of property;
- a transfer of land from one party to another without consideration (a gift);
- an agreement to sell or purchase a proposed lot; or
- Transfer or sale of a water allocation; or
- sale of a unit in a building with company title.

## 5. When should the disclosure documents be given?

A seller disclosure statement and each prescribed certificate must be given by the seller to the buyer before the buyer, or if multiple buyers the first buyer, signs the contract for the sale of a lot.

### 5.1. Auctions

If the lot is sold by auction, *Property Law Act 2023*, s 101 deems the buyer to have signed the contract at the time of the fall of the hammer. To comply with the requirement in s 99(1) a seller should give a copy of the disclosure documents to all registered bidders prior to the commencement of the auction. Specific provision is made for giving disclosure documents to a buyer who is not registered prior to commencement of the auction in *Property Law Act 2023*, s 103.

### 5.2. Options

For options, the seller (owner of the land) is required to give the buyer under the option the disclosure documents prior to the buyer signing the option. If the disclosure documents are given to the grantee under the option prior to signing the option and the parties to the contract formed upon exercise of the option are the same, no further disclosure documents are required to be given at the time of exercise. If a third party is nominated to exercise the option or as the buyer under a contract, the seller of the lot will need to give disclosure documents to the nominee prior to the exercise of the option (refer *Property Law Act 2023*, s 100(j)).

## 6. How to give disclosure documents

A seller disclosure statement or prescribed certificate may be given to a buyer in any of the following ways permitted by *Property Law Act 2023*, s 101:

1. by personal delivery to the buyer or leaving it at their place of residence or business or in the case of a corporation the registered office or place of business;
2. by post to the buyer's place of residence or business or in the case of a corporation, the registered office or place of business;
3. by handing to or posting to the buyer a physical document stating that the disclosure documents can be viewed by using an electronic link (in the document) and the buyer may ask the seller for a copy of the disclosure documents (applies where the documents cannot be printed from the link). If the buyer asks for the disclosure documents, they must be provided prior to the buyer signing the contract to comply with the Act.
4. if the buyer consents, by email that:
  - a. attaches the disclosure documents;
  - b. has disclosure documents in the body of the email;
  - c. includes an electronic link that allows the buyer to view and obtain a copy of the disclosure documents.

Prescribed certificates may be given with the seller disclosure statement but are not required to be attached to the disclosure statement. Section 101(4)(b) makes it clear that prescribed certificates may be given with the disclosure statement or separately, provided they are given by the seller before the buyer signs the contract.

## 7. Form of Seller Disclosure Statement

A seller disclosure statement is required to:

- a. be in the approved form;
- b. contain the prescribed information and warnings;
- c. contain information that is true at the time it is given; and
- d. be signed by the seller, or their authorised agent: *Property Law Act 2023*, s 99(2).

### 7.1. Form 2

The **approved form** is Form 2 under the *Property Law Act 2023* available at

<https://www.publications.qld.gov.au/dataset/property-law-act-2023-forms/resource/7a1be178-d2d5-4744-9147-9699c04ee8d8>

The **prescribed information** is detailed in the *Property Law Regulation 2024*, s 8.

The **prescribed warnings** are set out in *Property Law Regulation 2024*, Schedule 1. The approved form contains all of the prescribed warnings.

According to s 99(2)(d) the seller disclosure form is required to be signed by the seller. Although there is no specific reference to signing by an authorised agent in s 99, *Property Law Act 2023*, s 97 provides that anything required or permitted to be done by a seller may be done personally or by an authorised agent (refer to *Property Law Act 2023*, s 97). There is no requirement for the authority to be in writing but recording the authority is prudent.

### 7.2. Prescribed Certificates

Prescribed certificates may be given with the seller disclosure statement or separately, provided the seller gives the certificates to the buyer before the buyer signs the contract: *Property Law Act 2023*, s 101(4)(b).

All prescribed certificates are listed in *Property Law Regulation 2024 (Regulation)*, s 5 which may be amended from time to time. The current prescribed certificates are:

- 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*, s 47 before the buyer signs the contract for the sale of the lot—a copy of the notice;
- d. if the seller has been given a notice mentioned in the *Building Act 1975*, section 246AG, 247 or 248 or the *Planning Act 2016*, section 167 or 168 and the notice remains in effect immediately 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 immediately before the buyer signs the contract for the sale of the lot—a copy of the notice or order;
- f. if the seller is required to give the buyer a notice under the *Environmental Protection Act 1994*, section 347(2), 369C(2) or 408(2) in relation to the sale of the lot—a copy of the notice;
- g. a copy of any document given to the seller in relation to information mentioned in section 8(1)(h), (i) or (k) of the Regulation, being:
  - An application or order in relation to a tree under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011* (section 8(1)(h));
  - Any document given to the seller in relation to the location of transport infrastructure on the land or altering the dimensions of the lot (section 8(1)(i) and **transport infrastructure** defined in section 8(2));
  - A notice of intention to resume the lot (section 8(1)(k));
- h. 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;
- i. if the lot is included in a community titles scheme—
  - a copy of the most recent community management statement for the scheme as recorded under the *Land Title Act 1994*, section 115L or another Act; and
  - either—
    - a copy of a body corporate certificate for the lot; or
    - if the body corporate cannot provide a certificate an explanatory statement outlining why a certificate is not available (see section 6 of the Regulation);
- j. if the lot is included in a BUGTA parcel, either—
  - a copy of a body corporate certificate for the lot; or
  - if the body corporate cannot provide a certificate an explanatory statement outlining why a certificate is not available (see section 7 of the Regulation).

## 7.3. Prescribed information

The prescribed information for the seller disclosure statement is listed in the Regulation, s 8. The approved form includes this information or provision for the information, if relevant, to be provided to the buyer in the form. The information currently prescribed is:

1. the name of the seller of the lot, the address of the lot, the lot-on-plan description of the lot;
2. whether the lot is included in—
  - a. a community titles scheme; or
  - b. a BUGTA parcel;
3. the details of each unregistered encumbrance on the lot.
  - a. **Unregistered encumbrance** is defined to mean (i) unregistered leases, residential tenancy; (ii) an access agreement, opt-out agreement, deferral 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; and (iv) a statutory encumbrance.

- b. **Statutory encumbrance** is defined to mean a statutory charge arising from the non-payment of money to the Commonwealth, State or local government; a statutory right to keep infrastructure on the land; or a statutory right to access the land to repair or maintain infrastructure on the land.
  - c. **details** required to be disclosed are defined in section 8(2) of the Regulation in relation to each unregistered encumbrance;
- 4. the zoning of the lot. Zoning is defined in s 8(2) to provide further details of the requirement;
- 5. whether the property is recorded on the environmental management or contaminated land register under the *Environmental Protection Act 1994*;
- 6. whether the lot is subject to an environmental enforcement order to which the *Environmental Protection Act 1994*, section 369C applies;
- 7. whether the lot is subject to a prescribed transitional environmental program to which the *Environmental Protection Act 1994*, section 347 applies;
- 8. whether the lot is affected by—
  - a. an application or order in relation to a tree on the lot made under the *Neighbourhood Disputes (Dividing Fences and Trees) Act 2011*; or
  - b. a notice issued by a Commonwealth, State or local government entity and given to the seller about a transport infrastructure proposal to (i) locate transport infrastructure on the lot; or (ii) alter the dimensions of the lot;
  - c. the *Queensland Heritage Act 1992* or is included in the World Heritage List under the *Environment Protection and Biodiversity Conservation Act 1999* (Cwlth);
  - d. a notice of intention to resume the lot or any part of the lot issued by any entity;
- 9. whether there is a relevant pool for the lot;
- 10. if rates are payable for the lot—the total amount payable for all rates and charges (without any discount) for the lot as stated in the most recent rate notice;
- 11. if rates are not payable for the lot—a statement that the lot is a **rates exempt lot**, or 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 (see section 8(2) for definition **rates exempt lot**);
- 12. if a water services notice is issued for the lot—the amount payable as charges for water services under the most recent notice;
- 13. 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;
- 14. if the lot was subject to a residential tenancy agreement under the *Residential Tenancies and Rooming Accommodation Act 2008* during the 12 months before the contract of sale was signed by the buyer—the day of the last rent increase, if any, for the residential premises;
- 15. if the lot was subject to a rooming accommodation agreement under the *Residential Tenancies and Rooming Accommodation Act 2008* during the 12 months before the contract of sale was signed by the buyer—the day of the last rent increase, if any, for each of the residents' rooms.

## 8. Disclosure documents for community titles scheme and BUGTA lots

If the contract is for the sale of a lot in a community titles scheme or a BUGTA parcel the seller is required to give the buyer prior to signing:

- a. a duly completed seller disclosure statement in Form 2;
- b. all prescribed certificates (as outlined above); and
- c. A body corporate certificate (in the approved form); and
- d. If a lot in a community titles scheme: the current recorded community management statement.

## 8.1. Community titles scheme lot

A body corporate certificate for a lot in a community titles scheme is required to be prepared by the body corporate in Form 33 or Form 34 under the *Body Corporate and Community Management Act 1997*. The content of the body corporate certificate is prescribed by the relevant Regulation Module applying to the scheme.

The following body corporate certificates are [available here](#):

- BCCM Form 33 – Body corporate certificate
- BCCM Form 34 – Body corporate certificate – Two-lot schemes

If the body corporate advises in writing that it does not have the records to enable the body corporate to prepare the body corporate certificate or there is no committee for the body corporate, the seller can instead provide the buyer with an explanatory statement with the reasons why the certificate is not available. Refer to the Regulation, s 6.

## 8.2. BUGTA parcel lot

Similar to a community title scheme, a body corporate certificate is required to be prepared by the body corporate in Form 18 under the *Building Units and Group Titles Act 1980*. The content of the body corporate certificate is prescribed by the *Building Units and Group Titles Regulation 2008*. The body corporate certificate should include a copy of the current bylaws held by the body corporate.

If the body corporate advises in writing that it does not have the records to enable the body corporate to prepare the body corporate certificate or there is no committee elected or body corporate manager appointed, the seller can instead provide the buyer with an explanatory statement with the reasons why the certificate is not available. Refer to the Regulation, s 7.

The Form 18 is available here:

[BUGTA forms - Dataset - Publications | Queensland Government](#)

## 9. Accuracy of information in Seller Disclosure Statement or prescribed certificates

The disclosure documents provided to the buyer must be accurate at the time the information is given to the buyer: *Property Law Act 2023*, s 99(2).

There is no statutory obligation to update the information if it becomes inaccurate after the disclosure documents are given to the buyer, but a seller should be wary of:

- engaging in misleading or deceptive conduct in the period between giving the statement and signing the contract, if the seller knows the information in the disclosure documents has become inaccurate. If the seller knowingly abstains from disclosing the changed information and as a result the buyer is under a false impression at the time of signing the contract, the seller may be liable to the buyer under the *Australian Consumer Law*; and
- ensuring compliance with any disclosure obligations in the contract of sale including accurate statement of title information at the time the contract is entered into. For example, under the REIQ Contract a seller promises to deliver title free from encumbrance, other than the encumbrances disclosed. If all of the encumbrances that will remain after settlement are disclosed in the disclosure documents then no further disclosure should be required. If on the other hand an encumbrance comes into existence after disclosure but before the contract is signed, and it will not be released at settlement, disclosure of this encumbrance in the contract will be required. If the omission of the encumbrance from the contract of sale is material the buyer will have a right to terminate under the terms of the contract of sale or at common law, prior to settlement.



## 10. Termination rights - Consequences of non-compliance

### 10.1. Non-compliance with section 99 of *Property Law Act 2023*

A failure to comply with any of the requirements of s 99 of the *Property Law Act 2023* may allow a buyer to terminate the contract at any time prior to settlement under s 104 of the *Property Law Act 2023*.

Non-compliance with s 99 will occur if:

- a. no seller disclosure statement is given before the buyer signs the contract;
- b. a prescribed certificate is not given to the buyer before the buyer signs the contract;
- c. information in the seller disclosure statement or a prescribed certificate is inaccurate, at the time it is given;
- d. the seller disclosure statement is not substantially complete because relevant information is missing.

In the case of (a) and (b) the failure to give a disclosure statement or prescribed certificate will entitle the buyer to terminate the contract pursuant to s 104 at any time prior to settlement. There is no requirement for the failure to be material.

In the case of (c) and (d), a buyer will only be able to terminate the contract under s 104 if the inaccuracy or omission of information relates to a material matter affecting the lot, which the buyer was unaware of at the time of signing and if the buyer had been aware of the correct state of affairs, the buyer would not have signed the contract.

### 10.2. Non-compliance with another statute

In all cases if the failure to comply or inaccuracy is a non-compliance with another statute then the remedy under that other statute will apply instead of s 104. For example, if the seller fails to give the buyer a notice about contamination on the land under s 408 *Environmental Protection Act 1994 (EPA)*, the buyer will have a right to rescind the contract under s 408 of the EPA. The *Property Law Act 2023* will not apply to that failure.

If there are multiple failures to satisfy the requirements of *Property Law Act 2023*, s 99 and another statute, the buyer will have the option to rely on any of the failures. For example, if a seller fails to give a notice under s 408 *Environmental Protection Act 1994* and the disclosure statement does not include all unregistered encumbrances remaining after settlement, the buyer could justify terminating the contract under either the EPA or the *Property Law Act 2023*, s 104.

### 10.3. Inaccurate certificates from third parties

If a prescribed certificate obtained from a body corporate or other entity by the seller is inaccurate, the buyer's sole remedy against the seller is termination under s 104 of the *Property Law Act 2023*: *Property Law Act 2023*, s 106.

The purpose of s 106 is to prevent the buyer suing the seller for compensation arising from an inaccurate certificate provided by a third party and merely passed on by the seller. Although this provision appears to absolve the seller from liability for inaccurate information it may not prevent a claim for misleading conduct if the seller makes separate statements or representations related to the certificate that mislead the buyer.

Section 106 does not prevent a buyer from taking action against the provider of the certificate but limitations on actions for negligent misstatement and other applicable legislation need to be considered before taking action.

### 10.4. Deposit and remedies

Upon termination by the buyer, the seller is required to repay any amount paid toward the purchase of the lot within 14 days, including a deposit or part payment of the price and any interest earned: s 105(2) *Property Law Act 2023*.

Repayment of amounts paid by the buyer such as occupation rent or a contribution toward rates and maintenance is not required. Refer to *Property Law Act 2023*, s 105.