

Australian Capital Territory

Unit Titles (Management) Sale Certificate Determination 2024

Disallowable instrument DI2024-219

made under the

Unit Titles (Management) Act 2011, s 119 (Unit title certificates)

EXPLANATORY STATEMENT

The *Housing and Consumer Affairs Legislation Amendment Act 2024* has amended provisions relating to unit title certificates issued under the *Unit Titles (Management) Act 2011* (the **Act**). The amendments introduce a new type of certificate, a ‘*unit title rental certificate*’ which will contain information that a unit owner who wishes to rent out their unit must disclose to their tenant when entering a residential tenancy agreement. Matters relating to unit title rental certificates will be dealt with under a separate determination which will commence in line with enabling provisions under the *Residential Tenancies Act 1997* (**RTA**) (which was also amended by the HCA Act, however, those amendments will commence at a later stage).

Given the introduction of a new type of unit title certificate, the existing ‘unit title certificates’ have been renamed to ‘*unit title sale certificate*’ and ‘*unit title sale update certificate*.’ The new names, unit title rental certificate, unit title sale certificate and unit title sale update certificate, now reflect the purpose of the certificates, which will be required under section 12 (3) (k) of the *Residential Tenancies Act 1997* (once the relevant amendments commence) and are required under section 9 of the *Civil Law (Sale of Residential Property) Act 2003* (the **CLSRP Act**) when a unit is being rented or sold respectively.

The new *Unit Titles (Management) Sale Certificate Determination 2024* prescribes the information that must be provided in a unit title sale certificate and a unit title sale update certificate issued under section 119 (1) (a) and (b) of the Act respectively.

In addition to changing the name of the unit title certificate, this Determination introduces two additional disclosure requirements. These relate to regulated swimming pools located on the common property of a units plan and any embedded networks located within the units plan. These are discussed further below.

Information about regulated swimming pools on common property

The *Building (Swimming Pool Safety) Legislation Amendment Act 2023* introduced a new requirement for a property owner to disclose information to a prospective buyer about any regulated swimming pool, including ones located on the common property of a units plan. It did this by amending the list of documents a property seller is

required to disclose to a property buyer under the CLSRP Act to include certain documents related to a regulated swimming pool (whether on the premises or on associated common property). To support the provision of this information from the owners corporation to the unit owner, this Determination adds the required information in relation to regulated swimming pools under section 9 (1) (k) of the CLSRP Act to the list of documents required as part of the unit title sale certificate and unit title sale update certificate.

Information about embedded networks within the units plan

This Determination also adds an additional disclosure requirement in relation to embedded networks. An embedded network is a private utility network that may operate within a units plan. Embedded networks may include networks for utilities such as electricity, fossil-fuel gas, internet etc. These utility networks are managed by private companies who on-sell the utility to the unit owners within the embedded network. Where there is an embedded network within a units plan, unit owners may be restricted in their ability to choose their utility service provider.

To make prospective buyers aware of any embedded network within the units plan, this Determination requires the owners corporation to disclose whether any of the utility services within the units plan are covered by an embedded network. If there is an embedded network in the units plan, the Determination requires the owners corporation to disclose which utility is part of an embedded network and the name of the embedded network provider.

All other documents required for a unit title sales certificate and a unit title sales update certificate remain the same as those required for a unit title certificate and a unit title update certificate under the previous determination (the *Unit Titles (Management) Certificate Determination 2023 DI2023-3*).

Section 119 (6) of the Act provides that the Minister's determination is a disallowable instrument.

This instrument does not engage any human rights.