



Queensland Property Law 2019 in review

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JANUARY 2020

2019 saw a variety of changes in the property law sector and it is certain 2020 will bring further change. Here is a brief snapshot of those changes.

Land Title Act

Paper certificates of title

These are redundant so have no legal effect. This change came into effect on 1 October 2019. Paper titles, even if they exist, do not need to be lodged at the Titles Office. They do not need to be destroyed and may have historical or sentimental value to the owner. The electronic title held by the Titles Office will continue to be the source of truth for ownership and registered interests.

Building and Construction

Combustible cladding

As a big safety concern, Queensland Government established 'Safer

Buildings' to help identify Queensland buildings that may have combustible cladding. Some owners are required to register their buildings and complete the combustible cladding checklist. If you are interested to know the types and classes of buildings affected, this information can be found at saferbuildings.qld.gov.au.

The amending regulation was passed on 1 October 2018 and the implementation process is being rolled out in three phases.

Part 3 requires affected building owners to:

- a. engage a fire engineer and register their details on the combustible cladding checklist; and



- b. complete a building fire safety risk assessment, as well as a fire engineer statement and further complete the combustible cladding checklist.

The deadline is 3 May 2021.

Owners include bodies corporate of community titles schemes, who have a responsibility to maintain common property. Committees should be aware of the obligations imposed on them and ensure their body corporate complies.

We released an earlier e-alert on this topic, which can be found [here](#).

Residential

Residential tenancy reforms

The Minister for Housing and Public Works, Mick de Brenni, announced stage 1 of proposed rental reforms in November 2019. The most significant amendment seeks to remove an owner's right to evict their tenant at the end of a fixed term agreement, meaning a tenant can stay indefinitely, regardless of the initially agreed term, unless the owner can establish a reason prescribed at law. This proposal raises more questions than answers and cuts across contractual principles and the reason parties enter into a fixed term agreement.

Additional changes proposed include:

- Introducing minimum housing standards requiring the property to meet prescribed standards and be in a particular state of repair;
- Introducing a tenant's right to modify the property without consent, or consent to be deemed if the owner fails to respond in 7 days;
- Removing an owner's right to refuse pets.

Whilst it seems that owners may wear the brunt of these proposed changes if they proceed, tenants are also expected to experience negative outcomes such as a reduction in housing availability due to owners taking properties off the rental market, and rent increasing by approximately 5%.

Property Law Reviews

The Queensland Government proposed reforms to body corporate and community management laws. The process has been underway for some time and most importantly for owners and bodies corporate there are extensive changes proposed for each regulation module

Similarly, there has been stakeholder and community consultation of property law in Queensland following an extensive review by the Commercial and Property Law Research Centre of the Queensland University of Technology.

Community consultation for both have closed and we await a further announcement from the government on what's next.

Land Act

The *Land Act 1994* (Qld) was amended via the *Natural Resources and Other Legislation Amendment Act 2019* (Qld) to incorporate mechanisms for sublease disputes. As covered in our earlier [e-alert](#), this amendment provides for a significantly better and more formalised dispute resolution process, which did not exist previously.

Planning Act

Following the decision in *Albion Mill*,¹ the *Planning Act 2016* (Qld) includes a



new chapter 7 part 4A regarding service of documents, allowing a relevant document under this Act to be served by telling the receiver it can be viewed on a stated website or other electronic medium, or if the receiver has provided an electronic address for service, then the relevant document may be given by telling the receiver it can be viewed by opening a hyperlink.

Other changes to this Act introduced by the *Economic Development and Other Legislation Amendment Act 2019* (Qld) are intended to:

- clarify the operation of the framework for valid infrastructure charges notices under the Sustainable Planning Act (repealed);
- remove the requirement of submitter appellants to notify all other submitters who object to a proposed development; and
- clarify policy intent and transitional arrangements from the repealed Sustainable Planning Act to the *Planning Act 2016* (Qld).

Revenue

Land tax increases

The key land tax changes for the financial year 2019–20, as set out in the *Revenue and Other Legislation Amendment Act 2019* (Qld), are:

- Australian and foreign companies/trusts with an aggregated landholding of \$5 million or more, land tax has increased by 0.25%. These entities will now be paying 2.25 cents for each dollar over \$5 million of taxable land in Queensland.

- Entities with an aggregated landholding of \$10 million or more will be paying 2.75 cents for each dollar above \$10 million of taxable land in Queensland.
- The absentee owner land tax surcharge is 2% of each dollar of taxable Queensland land above \$349,999. This applies to all types of land unless that land is exempt. This previously only applied to persons who did not ordinarily reside in Australia. Now it applies to landowners that are 'foreign companies' or trustees of 'foreign trusts'.
- If an entity is a foreign company and a trustee of a foreign trust with an aggregated landholding in excess of \$5 million, those entities will look to pay the general 0.25% increase plus the 2% absentee owner surcharge, which is quite significant.

Australian citizens and permanent residents will not be classed as absentee owners in FY 2019–20.



Current OSR transfer duty rates

Dutiable Value	Duty Rate
Not more than \$5,000	Nil
More than \$5,000 up to \$75,000	\$1.50 for each \$100, or part of \$100, over \$5,000
\$75,000 to \$540,000	\$1,050 plus \$3.50 for each \$100, or part of \$100, over \$75,000
\$540,000 to \$1,000,000	\$17,325 plus \$4.50 for each \$100, or part of \$100, over \$540,000
More than \$1,000,000	\$38,025 plus \$5.75 for each \$100, or part of \$100, over \$1,000,000

Note first home duty concessions and first home owners' grants are available to eligible persons.

Current DNR registration fees

Registrable Instrument	Fee
Lease or Sublease	\$192 + \$36 if a sketch plan is included
Amendment of Lease or Sublease	\$192
Surrender of Lease or Sublease	\$192
Caveat	\$192 + \$36 per person to be notified
Release or registration of Mortgage	\$192
Transfer	Calculated on the purchase price and number of lots. Minimum fee \$192
Easement or surrender of Easement	\$192
Survey Plan	Calculated on number of new lots, public use lots and easements. 1 new lot only \$484

Should you wish to discuss any matters arising out of this article, please contact:

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¹ *Albion Mill FCP Pty Ltd v FKP Commercial Developments Pty Ltd [2018] QCA 229.*