

EXPLANATORY MEMORANDUM

Community Titles Amendment (Consistency of Charging) Bill 2018

OVERVIEW OF THE BILL

The purpose of this Bill is to amend the *Community Titles Act 2018* so that it has arrangements consistent with the *Strata Titles Act 1985* in relation to the charging of fees. The *Community Titles Bill 2018* is yet to be considered by Parliament, and it is requested that the *Community Titles Amendment (Consistency of Charging) Bill 2018* be declared cognate with the *Community Titles Bill 2018*, because these two Bills have clauses which cross-reference to each other and make sense in context.

CLAUSE NOTES

Part 1 — Preliminary

Clause 1

Short title

This clause provides that the short title of the Act is the *Community Titles Amendment (Consistency of Charging) Act 2018*.

Clause 2

Commencement

This clause makes provision for the commencement of the Act. Sections 1 and 2 come into operation on the day the Act receives Royal Assent. The rest of the Act comes into operation when the *Community Titles Act 2018* section 187 comes into operation.

Clause 3

Act amended

This clause provides that this Act amends the *Community Titles Act 2018*.

Clause 4

Section 187 amended

This clause inserts a new subsection (1A) after section 187(1) of the *Community Titles Act 2018* to provide that to the extent that regulations to which subsection (1) applies prescribe a fee that includes an amount that is a tax, the regulations may impose the tax. This will make the *Community Titles Act 2018* consistent with the charging arrangements under the *Strata Titles Act 1985*.

The *Community Titles Bill 2018* establishes at clause 187 that certain prescribed fees may exceed cost recovery.

Clause 188 of the *Community Titles Bill 2018* provides that section 187 will expire at the end of 31 December 2019. Clause 188 further provides that the Governor, on recommendation of the Minister may, by proclamation made before section 187 expires, postpone the expiry until the end of a date specified in the proclamation, and in that case section 187 expires at the end of that date.

Clause 188 further provides for the steps to be followed before the expiry of section 187 can be postponed. These steps provide important context to the *Community Titles Amendment (Consistency of Charging) Bill 2018*, and include that, for these costing arrangements to continue requires that:

- a 5 yearly review of the fees is conducted under the *Land Information Authority Act 2006* and laid before Parliament

- the Minister for Lands is satisfied, based on the review report, that the costing arrangements should continue, and makes a recommendation on that basis to the Governor
- based on the advice of the Minister, the Governor postpones the expiry of the costing provisions – the postponement not to exceed 5 years in length.

The review and timing safeguards set out in clauses 187 and 188 of the *Community Titles Bill 2018* mirror those that are in place for the 4 other fee-charging Acts administered by the Western Australian Land Information Authority (Landgate). These are the *Strata Titles Act 1985*, *Transfer of Land Act 1893*, *Registration of Deeds Act 1856* and the *Valuation of Land Act 1978*.