



THE LAW SOCIETY  
OF NEW SOUTH WALES

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17 December 2012

The Hon. Don Page MP  
Minister for Local Government  
Level 33, Governor Macquarie Tower  
1 Farrer Place  
SYDNEY NSW 2000

Email: [office@page.minister.nsw.gov.au](mailto:office@page.minister.nsw.gov.au)

Dear Minister,

**Swimming Pools Amendment Bill 2012**

Thank you for your response dated 24 October 2012 to the concerns raised by the Law Society's Property Law Committee (Committee) in relation to the *Swimming Pools Amendment Bill 2012*.

The Committee notes that the *Swimming Pools Amendment Act 2012* (Amendment Act) received assent on 29 October 2012.

The Committee also notes that the *Swimming Pools Amendment (Transitional) Regulation 2012* commenced on 23 November 2012, which deals with the concern that no swimming pool certification regime would have been in place until the new certification regime commenced on 29 April 2013.

The Committee's main concerns now relate to the consequential amendments by the Amendment Act to the *Conveyancing (Sale of Land) Regulation 2010* and the *Residential Tenancies Regulation 2010* which commence on 29 April 2014.

The Committee notes the comments of Mr Shoebridge reported in Hansard to the effect that he understood that when a sale occurs certification would be required only when a swimming pool is located on the strata lot being sold, not where a swimming pool is located on common property in a strata scheme. Presumably by extension no certification would be required when the pool is located on association property in a community title scheme. The Committee would welcome clarification as to whether or not this is the case.

If the intention is that the owners of strata or community title lots in schemes where a swimming pool is situated on common property will not be subject to the disclosure requirements on sale or leasing as provided in Schedule 2 of the Amendment Act

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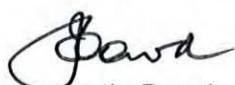
then in the Committee's view that should be made explicit. The Committee suggests consideration be given to a further clarifying amendment as set out in the attachment to this letter.

If the intention is that lot owners will be subject to the disclosure requirements on sale or leasing as provided in Schedule 2 of the Amendment Act, the Committee has a number of concerns regarding the practical implications of these amendments, some of which were mentioned in my letter of 18 October 2012. For example, must an owners corporation provide a copy of the relevant compliance certificate to a lot owner wishing to sell his or her lot and if so on what terms? When must a copy be supplied?

As the operation of these amendments will have considerable practical implication for many of our members' clients, the Committee would be pleased to be involved in further consultation regarding the intended operation of these amendments.

If you have any questions in respect of this letter, members of your Department should please contact Gabrielle Lea, Policy Lawyer, Property Law Committee by telephone on (02) 9926 0375 or by email to [gabrielle.lea@lawsociety.com.au](mailto:gabrielle.lea@lawsociety.com.au) .

Yours sincerely,



Justin Dowd  
**President**

## SUGGESTED CLARIFYING AMENDMENTS:

### Conveyancing (Sale of Land) Regulation 2010

Subschedule 2.2 of the Amendment Act, titled Conveyancing (Sale of Land) Regulation 2010, to be amended by inserting the following words in new clause 16 after the words "If the contract relates to land":

"which is not land that comprises or includes a lot in a strata scheme within the meaning of *the Strata Schemes Management Act 1996*) or a lot under a community plan, precinct or neighbourhood plan (within the meaning of the *Community Land Management Act 1989* and".

This reflects the approach taken in Schedule 1 of the *Conveyancing (Sale of Land) Regulation 2010* which specifies certain prescribed documents as only applying to strata or community scheme premises.

### Residential Tenancies Regulation 2010

The Committee suggests that Subschedule 2.3 of the Amendment Act, titled Residential Tenancies Regulation 2010, be amended to make it explicit at the beginning of new clause 40A that the clause does not apply where the residential premises are a lot in a strata, community, precinct or neighbourhood scheme.