

NEW SOUTH WALES
DRAFT GOVERNMENT BILL

Community Land Development Bill 2019

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NEW SOUTH WALES
DRAFT GOVERNMENT BILL

Community Land Development Bill 2019

No. , 2019

A Bill for

An Act to facilitate the subdivision and development of land with shared property; and for other purposes.

The Legislature of New South Wales enacts—

Part 1 Preliminary

1 Name of Act

This Act is the *Community Land Development Act 2019*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Object of Act

The object of this Act is to facilitate the subdivision of land into parcels for separate development or disposition—

- (a) with a common or shared property interest in associated land, and
- (b) with or without further subdivision (including a subdivision under the *Strata Schemes Development Act 2015*) in conjunction with the development of another parcel or parcels.

4 Definitions

(1) In this Act—

acquisition plan has the same meaning as in section 68.

administration sheet in relation to a plan, means the separate document, in the approved form, required to be lodged with the plan under section 195A of the *Conveyancing Act 1919*.

approved form means a form approved by the Registrar-General.

association means a community association, precinct association or neighbourhood association.

association property—

- (a) for a community scheme means the community property in the scheme, or
- (b) for a precinct scheme means the precinct property in the scheme, or
- (c) for a neighbourhood scheme means the neighbourhood property in the scheme.

association property plan—

- (a) for a community scheme means a community property plan, or
- (b) for a precinct scheme means a precinct property plan, or
- (c) for a neighbourhood scheme means a neighbourhood property plan.

common property, in relation to a strata scheme or a proposed strata scheme, has the same meaning as in the *Strata Schemes Development Act 2015*.

community association—see section 7(3).

community development lot means a lot in a community plan that is not any of the following—

- (a) community property,
- (b) a public reserve or drainage reserve,
- (c) subject to a subsidiary scheme,
- (d) severed from the community scheme.

community management statement—see Schedule 2.

community parcel means land the subject of a community scheme.

community plan has the same meaning as in section 7(1).

community plan of consolidation—see section 15(1).

community plan of subdivision—see section 12(1).

community property means the lot shown in a community plan as community property.

community property plan means the sheets of a community plan that show the community property in the community scheme.

community scheme—see section 6(1).

current plan means a registered plan that is a current plan within the meaning of the *Conveyancing Act 1919* but is not a plan that, under the *Strata Schemes Development Act 2015*, is a strata plan, a strata plan of subdivision or a strata plan of consolidation.

detail plan—

- (a) for a community plan means a plan showing details of each of the community development lots in the community scheme, or
- (b) for a precinct plan means a plan showing details of each of the precinct development lots in the precinct scheme, or
- (c) for a neighbourhood plan means a plan showing details of each of the neighbourhood lots in the neighbourhood scheme, whether or not any sheet includes land dedicated as a public road or a lot for dedication as a public reserve or drainage reserve.

developer in relation to a scheme means—

- (a) the original owner in respect of the scheme, or
- (b) if there is a development contract in force, the registered owner of a development lot who is permitted or compelled to carry out development under the contract.

development has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

development contract—see section 28.

development lot means a community development lot or precinct development lot that has not been severed from the applicable scheme.

drainage reserve means land that is set aside as a drainage reserve under section 49 of the *Local Government Act 1993*.

folio means a folio of the Register.

former development lot means a precinct parcel, neighbourhood parcel or strata parcel that, before it became subject to the precinct scheme, neighbourhood scheme or strata scheme, was a development lot.

function includes a power, authority or duty, and **exercise** a function includes perform a duty.

initial period has the same meaning as in the *Community Land Management Act 2019*.

land means land held under the *Real Property Act 1900* in fee simple, no part of which is land in a qualified or limited folio and which comprises 1 or more contiguous lots in a current plan.

location plan means a sheet of a scheme plan that—

- (a) delineates the location of the parcel in relation to natural and artificial features such as rivers, harbours, the ocean, roads and railways, and
- (b) includes a diagrammatic representation of the parcel and the lots in the plan, without dimensions, and

(c) shows the distance of the parcel from the nearest intersection of public roads.

lodgment rules means the lodgment rules made under the *Real Property Act 1900*.

management statement means a community management statement, a precinct management statement or a neighbourhood management statement.

neighbourhood association—see section 9(4).

neighbourhood lot means a lot in a neighbourhood plan that is not any of the following—

(a) neighbourhood property,

(b) a public reserve,

(c) a drainage reserve.

neighbourhood management statement—see Schedule 2.

neighbourhood parcel means land the subject of a neighbourhood scheme.

neighbourhood plan has the same meaning as in section 9(1).

neighbourhood plan of consolidation—see section 15(1).

neighbourhood plan of subdivision—see section 12(1).

neighbourhood property means the lot shown in a neighbourhood plan as neighbourhood property.

neighbourhood property plan means the sheets of a neighbourhood plan that show the neighbourhood property in the neighbourhood scheme.

neighbourhood scheme—see section 6(3).

occupier of a lot means a person in lawful occupation of the lot.

open access way means an open access way set apart under Part 5.

original owner of land means the person who held the fee simple in the land when a scheme plan subdividing the land was registered.

owner of a development lot or a neighbourhood lot means—

(a) a person for the time being recorded in the Register as being entitled to a fee simple in the lot, or

(b) a person who has an interest in the lot that entitles the person to vote at a meeting of an association and who has given the association an association interest notice in accordance with the *Community Land Management Act 2019*.

planning approval means—

(a) a development consent within the meaning of the *Environmental Planning and Assessment Act 1979*, or

(b) an approval under Division 5.2 of that Act.

planning authority, for a planning approval, means the entity or person authorised under the *Environmental Planning and Assessment Act 1979* to grant the approval.

precinct association—see section 8(3).

precinct development lot means a lot in a precinct plan that is not any of the following—

(a) precinct property,

(b) a public reserve or a drainage reserve,

(c) subject to a subsidiary scheme,

(d) severed from the precinct scheme.

precinct management statement—see Schedule 2.

precinct parcel means land the subject of a precinct scheme.

precinct plan has the same meaning as in section 8(1).

precinct plan of consolidation—see section 15(1).

precinct plan of subdivision—see section 12(1).

precinct property means the lot shown in a precinct plan as precinct property.

precinct property plan means the sheets of a precinct plan that show the precinct property in the precinct scheme.

precinct scheme—see section 6(2).

private access way means a private access way set apart under Part 5.

public authority includes—

- (a) the council of a local government area, and
- (b) a corporation prescribed by the regulations as a public authority.

public place and **public reserve** have the same meanings as in the *Local Government Act 1993*.

public road has the same meaning as in the *Roads Act 1993*.

qualified valuer means a person who—

- (a) has membership of the Australian Valuers Institute (other than associate or student membership), or
- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
- (d) is of a class prescribed by the regulations.

Register means the Register kept under the *Real Property Act 1900*.

registered means registered by the Registrar-General.

registration, for a plan under this Act, other than a strata plan, means registration in accordance with Division 3 of Part 23 of the *Conveyancing Act 1919*.

restricted property means—

- (a) association property of which the use is restricted by a management statement, or
- (b) common property in a strata scheme the use of which is restricted by the by-laws of the strata scheme.

schedule of unit entitlement, for a strata scheme, means a schedule of unit entitlement under the *Strata Schemes Development Act 2015*.

scheme means a community scheme, precinct scheme, neighbourhood scheme or strata scheme.

scheme parcel means a community parcel, precinct parcel or neighbourhood parcel.

scheme plan means a community plan, precinct plan or neighbourhood plan.

scheme plan of consolidation—see section 15(1).

scheme plan of subdivision—see section 12(1).

sign includes seal and, for a corporation other than an association or strata corporation, includes sign as a person authorised by the corporation.

special resolution has the same meaning as in the *Community Land Management Act 2019*.

staged scheme means a scheme for which a development contract is in force.

statutory easement—see section 24.

statutory interest means a charge or other proprietary interest that—

- (a) is created by this or any other Act or a Commonwealth Act, and
- (b) affects land in a community plan, a precinct plan, a neighbourhood plan or a strata plan, and
- (c) is enforceable against an owner, an association or a strata corporation, whether or not it has been recorded in the Register.

strata corporation means an owners corporation within the meaning of the *Strata Schemes Management Act 2015*.

strata lot means a lot within the meaning of the *Strata Schemes Development Act 2015* that is part of a community scheme.

strata parcel means land the subject of a strata scheme.

strata plan has the same meaning as in the *Strata Schemes Development Act 2015*.

strata scheme means—

- (a) a strata scheme under the *Strata Schemes Development Act 2015* that includes common property and is part of a community scheme, and
- (b) the proposals in any related development contract, and
- (c) the rights conferred, and the obligations imposed, by or under the *Strata Schemes Development Act 2015*, this Act and the *Community Land Management Act 2019* in relation to the scheme.

subsidiary body of a community scheme or precinct scheme means an association or strata corporation constituted under a subsidiary scheme to the community scheme or precinct scheme.

subsidiary parcel—

- (a) for a community scheme means a precinct parcel, neighbourhood parcel or strata parcel that is the subject of a subsidiary scheme, or
- (b) for a precinct scheme means a neighbourhood parcel or strata parcel that is the subject of a subsidiary scheme.

subsidiary scheme—

- (a) for a community scheme means a precinct scheme, neighbourhood scheme or strata scheme that is part of the community scheme, or
- (b) for a precinct scheme means a neighbourhood scheme or strata scheme that is part of the precinct scheme.

Tribunal means the Civil and Administrative Tribunal.

unanimous resolution means a resolution passed at a properly convened general meeting where no vote is cast against the resolution.

Note. The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) This Act is to be interpreted as part of the *Real Property Act 1900* but, if there is an inconsistency between them, this Act prevails.
- (3) For the purposes of this Act, land is contiguous even if it is divided by, or separated from other land by, a natural feature, a railway, a public road, a public reserve or a drainage reserve.
- (4) A reference in this Act to a planning approval, development contract, community management statement, precinct management statement or neighbourhood management statement includes a reference to the consent, contract or statement as from time to time modified or amended in accordance with this or any other Act.
- (5) Notes included in this Act do not form part of this Act.

Part 2 Establishment of schemes and other dealings

Division 1 Preliminary

5 Overview of Part

This Part provides for the subdivision of land into community schemes, precinct schemes and neighbourhood schemes and for subsequent changes to those schemes.

6 Community schemes, precinct schemes and neighbourhood schemes

- (1) In this Act, *community scheme* means—
 - (a) the subdivision of land by a community plan, and
 - (b) if land in the community plan is subdivided by a precinct plan—the subdivision of the land by the precinct plan, and
 - (c) the subdivision of land in the community plan or precinct plan by a neighbourhood plan or a strata plan, and
 - (d) the proposals in any related development contract, and
 - (e) the rights conferred, and the obligations imposed, by or under this Act, the *Community Land Management Act 2019* and the *Strata Schemes Development Act 2015* in relation to the community association, its community property, the subsidiary schemes and persons having interests in, or occupying, development lots and lots in the subsidiary schemes.
- (2) In this Act, *precinct scheme* means—
 - (a) the subdivision of land by a precinct plan, and
 - (b) the subdivision of land in the precinct plan by a neighbourhood plan or a strata plan, and
 - (c) the proposals in any related development contract, and
 - (d) the rights conferred, and the obligations imposed, by or under this Act, the *Community Land Management Act 2019* and the *Strata Schemes Development Act 2015* in relation to the precinct association, its precinct property, the subsidiary schemes and persons having interests in, or occupying, development lots and lots in the subsidiary schemes.
- (3) In this Act, *neighbourhood scheme* means—
 - (a) the subdivision of land by a neighbourhood plan, and
 - (b) the proposals in any related development contract, and
 - (c) the rights conferred, and the obligations imposed, by or under this Act and the *Community Land Management Act 2019* in relation to the neighbourhood association, its neighbourhood property and the owners and other persons having interests in, or occupying, the neighbourhood lots.

Division 2 Establishment of schemes

7 Establishment of community scheme

- (1) A community scheme is established by the registration of a plan (a *community plan*) for the subdivision of land—
 - (a) that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, and

- (b) into 2 or more community development lots and 1 other lot that is community property, whether or not the plan includes land that, on registration of the plan, would be dedicated as a public road, a public reserve or a drainage reserve.
- (2) The registration of a community plan operates to constitute a corporation with the corporate name “Community Association D.P. No _____”, the number to be inserted being that of the plan registered as the community plan.
- (3) In this Act, *community association* means a corporation constituted by the registration of a community plan.

8 Establishment of precinct scheme

- (1) A precinct scheme is established by the registration of a plan (a *precinct plan*) for the subdivision of land—
 - (a) that is a community development lot, and
 - (b) into 2 or more precinct development lots and 1 other lot that is precinct property, whether or not the plan includes land that, on registration of the plan, would be dedicated as a public road, a public reserve or a drainage reserve.
- (2) The registration of a precinct plan operates to constitute a corporation with the corporate name “Precinct Association D.P. No _____”, the number to be inserted being that of the plan registered as the precinct plan.
- (3) In this Act, *precinct association* means a corporation constituted by the registration of a precinct plan.

9 Establishment of neighbourhood scheme

- (1) A neighbourhood scheme that is part of a community scheme or precinct scheme is established by the registration of a plan (a *neighbourhood plan*) for the subdivision of land—
 - (a) that is a development lot, and
 - (b) into 2 or more neighbourhood lots and 1 other lot that is neighbourhood property, whether or not the plan includes land that, on registration of the plan, would be dedicated as a public road, a public reserve or a drainage reserve.
- (2) A neighbourhood scheme that is not part of a community scheme or precinct scheme is established by the registration of a plan (a *neighbourhood plan*) for the subdivision of land—
 - (a) that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, and
 - (b) into 2 or more neighbourhood lots and 1 other lot that is neighbourhood property, whether or not the plan includes land that, on registration of the plan, would be dedicated as a public road, a public reserve or a drainage reserve.
- (3) The registration of a neighbourhood plan operates to constitute a corporation with the corporate name “Neighbourhood Association D.P. No _____”, the number to be inserted being that of the plan registered as the neighbourhood plan.
- (4) In this Act, *neighbourhood association* means a corporation constituted by the registration of a neighbourhood plan.

10 Requirements for scheme plans

- (1) A scheme plan—
 - (a) must comply with Schedule 1, and

- (b) must include a location plan, a detail plan and an association property plan, and
 - (c) must be accompanied by—
 - (i) a management statement, and
 - (ii) any documents prescribed by the regulations, and
 - (d) may be accompanied by a development contract for the scheme that complies with Part 4.
- (2) The administration sheet for a scheme plan must include—
- (a) a schedule of unit entitlement that complies with Schedule 4, and
 - (b) the address at which documents may be served on the association constituted on registration of the plan.
- (3) On the registration of a scheme plan, the Registrar-General is to make the following recordings—
- (a) in the folio for the association property, the recordings required by subsection (4),
 - (b) in the folio for each development lot or neighbourhood lot, a recording identifying the relevant association property.
- (4) The recordings required to be made in the folio for association property are—
- (a) the name of the relevant association, and
 - (b) the latest address of which the Registrar-General has been notified for the service of notices on the association, and
 - (c) if the association is the association for a subsidiary scheme, a recording identifying the association property of the scheme of which the subsidiary scheme is a part, and
 - (d) each easement benefiting or burdening the association property or the whole of the scheme parcel, and
 - (e) each positive covenant or restriction on the use of land burdening the association property or the whole of the scheme parcel, and
 - (f) the applicable management statement and amendments of the applicable management statement, and
 - (g) any development contract registered with the scheme plan and any amendments to that development contract, and
 - (h) any other recordings that the Registrar-General thinks fit, and
 - (i) any other recordings required to be made under this or any other Act.
- (5) In this section—
- management statement*** or ***scheme*** means—
- (a) in relation to a community plan—a community management statement or a community scheme respectively, or
 - (b) in relation to a precinct plan—a precinct management statement or a precinct scheme respectively, or
 - (c) in relation to a neighbourhood plan—a neighbourhood management statement or a neighbourhood scheme respectively.

11 Establishment of subsidiary strata scheme

- (1) A community development lot or a precinct development lot may also be subdivided by the registration of a strata plan that includes common property.

- (2) On the registration of a strata plan, the Registrar-General is to make the following recordings—
- (a) in the folio for the common property—
 - (i) the recordings required to be made under sections 29, 31 and 32 of the *Strata Schemes Development Act 2015*, and
 - (ii) a recording identifying the association property of the scheme of which the strata scheme is a part, and
 - (iii) any other recordings that the Registrar-General thinks fit, and
 - (iv) any other recordings required to be made under this or any other Act,
 - (b) in the folio for each strata lot, the recordings required under the *Strata Schemes Development Act 2015*.

Division 3 Plans of subdivision and consolidation

12 Scheme plans of subdivision

- (1) In this Act—
scheme plan of subdivision means a plan that is registered as a ***community plan of subdivision, precinct plan of subdivision or neighbourhood plan of subdivision***.
- (2) A community plan of subdivision may be used to—
- (a) subdivide 1 or more community development lots into—
 - (i) 2 or more community development lots, or
 - (ii) 1 or more community development lots and community property, or
 - (b) subdivide 1 or more community development lots and some, but not all, community property into 1 or more community development lots and community property, or
 - (c) subdivide community property into 1 or more community development lots and community property, or
 - (d) add a community development lot to a community scheme.
- (3) A precinct plan of subdivision may be used to—
- (a) subdivide 1 or more precinct development lots into—
 - (i) 2 or more precinct development lots, or
 - (ii) 1 or more precinct development lots and precinct property, or
 - (b) subdivide 1 or more precinct development lots and some, but not all, precinct property into 1 or more precinct development lots and precinct property, or
 - (c) subdivide precinct property into 1 or more precinct development lots and precinct property, or
 - (d) add a precinct development lot to a precinct scheme.
- (4) A neighbourhood plan of subdivision may be used to—
- (a) subdivide 1 or more neighbourhood lots into—
 - (i) 2 or more neighbourhood lots, or
 - (ii) 1 or more neighbourhood lots and neighbourhood property, or
 - (b) subdivide 1 or more neighbourhood lots and some, but not all, neighbourhood property into 1 or more neighbourhood lots and neighbourhood property, or
 - (c) subdivide neighbourhood property into 1 or more neighbourhood lots and neighbourhood property, or
 - (d) add a neighbourhood lot to a neighbourhood scheme.

13 Requirements for plan of subdivision that subdivides or creates lot

- (1) A scheme plan of subdivision (other than a scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot)—
 - (a) must comply with Schedule 1, and
 - (b) must include an additional sheet of the detail plan showing the boundaries of all development lots or neighbourhood lots created by the subdivision, and
 - (c) must include a replacement schedule of unit entitlement for the scheme that complies with Schedule 4, and
 - (d) if the plan subdivides or creates association property—
 - (i) must include a replacement sheet for the association property plan showing the altered boundaries of the association property, and
 - (ii) must be accompanied by a certificate in the approved form that is under the seal of the association and is to the effect that—
 - (A) execution of the plan was authorised by a special resolution, and
 - (B) if the association has notice of an interest in the association property (other than a statutory interest or an interest recorded in the Register) and the plan has not been made subject to the interest—the interest has been released, and
 - (C) any land ceasing to be association property will no longer be affected by any by-law that restricts the use of association property, and
 - (iii) must not be registered unless—
 - (A) the initial period has expired, or
 - (B) the dealing has been authorised by the Tribunal, and
 - (e) if it is necessary to amend a registered development contract to give effect to the plan, must be accompanied by—
 - (i) a request for registration of the amendment to the development contract in the approved form, and
 - (ii) any documents prescribed by the regulations, and
 - (f) if a neighbourhood lot is being subdivided and it is held by the original owner, must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) the dealing has been authorised by the Tribunal.
- (2) A development lot or neighbourhood lot created by a subdivision of association property ceases to be association property.

14 Requirements for plan of subdivision that adds land to scheme parcel

A scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot—

- (a) must comply with Schedule 1, and
- (b) must include an additional sheet of the detail plan showing the boundaries of all development lots or neighbourhood lots created by the subdivision, and
- (c) must include a replacement schedule of unit entitlement for the scheme that complies with Schedule 4, and
- (d) must be accompanied by a certificate in the approved form certifying the association has approved by special resolution the addition of the land, and

- (e) if required by the Registrar-General—must be accompanied by a replacement location plan that shows the new boundaries and overall layout of the scheme parcel, and
- (f) must not be registered if the scheme parcel is a community parcel unless the land—
 - (i) is contiguous to the community parcel, and
 - (ii) is not part of a scheme parcel or strata parcel, and
- (g) must not be registered if the scheme parcel is a precinct parcel unless the land—
 - (i) is contiguous to the precinct parcel, and
 - (ii) comprises a community development lot in the relevant community scheme, and
- (h) must not be registered if the scheme parcel is a neighbourhood parcel that is part of a community scheme unless the land—
 - (i) is contiguous to the neighbourhood parcel, and
 - (ii) comprises a development lot in the community scheme or, if the neighbourhood scheme is also part of a precinct scheme, the precinct scheme, and
- (i) must not be registered if the scheme parcel is a neighbourhood parcel that is not part of a community scheme unless the land—
 - (i) is contiguous to the neighbourhood parcel, and
 - (ii) is not part of a scheme parcel or strata parcel, and
- (j) must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) there is a development contract in force and the addition of the land is in accordance with that contract, or
 - (iii) the addition of the land has been authorised by the Tribunal.

15 Plans of consolidation

- (1) In this Act—

scheme plan of consolidation means a plan that is registered as a *community plan of consolidation*, *precinct plan of consolidation* or *neighbourhood plan of consolidation*.
- (2) A community plan of consolidation may be used to consolidate 2 or more, but not all, of the community development lots in the same community plan.
- (3) A precinct plan of consolidation may be used to consolidate 2 or more, but not all, of the precinct development lots in the same precinct plan.
- (4) A neighbourhood plan of consolidation may be used to consolidate 2 or more, but not all, of the neighbourhood lots in the same neighbourhood plan.
- (5) A scheme plan of consolidation—
 - (a) must comply with Schedule 1, and
 - (b) must include an additional sheet of the detail plan showing the boundaries of the consolidated lot, and
 - (c) must include a replacement schedule of unit entitlement—
 - (i) that complies with Schedule 4, and

- (ii) that does not differ from the existing schedule except to show the unit entitlement of the consolidated lot as the sum of the lots that have been consolidated, and
- (d) must be accompanied by any documents prescribed by the regulations.

Division 4 Community and precinct development lots

16 Minor adjustments to development lots

- (1) A boundary adjustment plan may be used to make an adjustment that, in the opinion of the Registrar-General, is a minor adjustment, to—
 - (a) the boundaries between community development lots and the community property in a community plan, or
 - (b) the boundaries between precinct development lots and precinct property in a precinct plan.
- (2) A boundary adjustment plan must—
 - (a) comply with Schedule 1, and
 - (b) include an additional sheet of the detail plan showing the altered boundaries of the affected development lots, and
 - (c) include a replacement sheet for the relevant association property plan showing the altered boundaries of the association property, and
 - (d) be accompanied by any documents prescribed by the regulations.
- (3) A boundary adjustment plan when registered—
 - (a) operates, without any further assurance, to vest the land in accordance with the adjusted boundaries, and
 - (b) does not of itself give rise to any liability for stamp duty.
- (4) In this section—
boundary adjustment plan means a plan that is registered as a boundary adjustment plan.

17 Severance of a development lot

- (1) An instrument in the approved form may be used to—
 - (a) sever a community development lot from a community scheme, or
 - (b) sever a precinct development lot from a precinct scheme.
- (2) The instrument—
 - (a) must be signed by the owner of the lot and by the association, and
 - (b) must be accompanied by a replacement schedule of unit entitlement for the community plan that complies with Schedule 4 and also, if the severed lot is a precinct development lot, a replacement schedule of unit entitlement for the precinct plan, and
 - (c) must be accompanied by a certificate of the planning authority signifying its consent to the severance, and
 - (d) must be accompanied by a certificate under the seal of the community association in the case of a community development lot, or of the community association and the precinct association in the case of a precinct development lot, to the effect that it has, by special resolution, consented to the severance, and

- (e) must be accompanied by the consent of any mortgagee, chargee or covenant chargee of the lot, and
 - (f) must be accompanied by any evidence that the Registrar-General may require to show that any easements for access and services, that are necessary for the community scheme and the severed lot because of the severance of the lot, have been created.
- (3) On registration of the instrument, the Registrar-General is to make any recordings in the folio for the severed lot as the Registrar-General thinks fit in order to give effect to the severance while preserving subsisting interests recorded in the folio.
- (4) A severed lot ceases to be a development lot but continues to be a lot in a current plan for the purposes of section 23F of the *Conveyancing Act 1919*.

Division 5 Other dealings affecting association property

18 Conversion of lots to association property

- (1) An instrument in the approved form may be used to—
- (a) convert a community development lot to community property, or
 - (b) convert a precinct development lot to precinct property, or
 - (c) convert a neighbourhood lot to neighbourhood property.
- (2) The instrument—
- (a) must be signed by the owner of the lot and by the association, and
 - (b) must be accompanied by a replacement sheet of the association property plan showing the altered boundaries of the association property, and
 - (c) must be accompanied by a replacement schedule of unit entitlement for the affected scheme that complies with Schedule 4, and
 - (d) must be accompanied by a certificate of the planning authority signifying its consent to the conversion, and
 - (e) must be accompanied by a certificate under the seal of the relevant association to the effect that it has, by special resolution, consented to the conversion and to the new schedule of unit entitlement, and
 - (f) must not be registered unless the folio for the lot is freed from any mortgage, charge, covenant charge, lease or caveat, and
 - (g) if the instrument is converting a neighbourhood lot held by the original owner, must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) the conversion has been authorised by the Tribunal.
- (3) On registration of the instrument, the Registrar-General is to cancel the folio for the lot.

19 Acquisition of additional association property by transfer

- (1) An association for a scheme may add to its association property by registering under the *Real Property Act 1900* a transfer to it of land that is not part of, but is contiguous to, the scheme parcel.
- (2) However, if the scheme is a subsidiary scheme, the transferred land must comprise a development lot within a scheme of which the subsidiary scheme is a part.
- (3) The transfer—
- (a) must be accompanied by the certificate of title for the land transferred, and

- (b) must be accompanied by the certificate of title for the association property, and
 - (c) must be accompanied by a certificate under the seal of the association to which the land is to be transferred to the effect that acceptance of the transfer was authorised by a special resolution, and
 - (d) must be accompanied by a replacement sheet of the association property plan showing the altered boundaries of the association property, and
 - (e) must be accompanied by an additional sheet of the detail plan showing the detailed survey information of the additional land, and
 - (f) if required by the Registrar-General—must be accompanied by a replacement location plan that shows the new boundaries and overall layout of the scheme parcel, and
 - (g) must not be registered unless the folio for the lot is freed from any mortgage, charge, covenant charge, lease or caveat, and
 - (h) must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) there is a development contract in force and the transfer is in accordance with that contract, or
 - (iii) the transfer has been authorised by the Tribunal.
- (4) In this section—
detailed survey information in relation to a plan, means the survey information that is required, by regulations made under the *Surveying and Spatial Information Act 2002*, to be included in the plan.

20 Acquisition of additional association property by lease

- (1) An association for a scheme may add to its association property by registering under the *Real Property Act 1900* a lease to it of land that is not part of, but is contiguous to, the scheme parcel.
- (2) The lease—
 - (a) must be accompanied by the certificate of title for the land leased (except where a leasehold interest is acquired by transfer of lease or sublease), and
 - (b) must be accompanied by the certificate of title for the association property, and
 - (c) must be accompanied by a certificate under the seal of the association to which the land is to be transferred to the effect that acceptance of the lease was authorised by a special resolution, and
 - (d) if the lease is to a neighbourhood association, must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) there is a development contract in force and the lease is in accordance with that contract, or
 - (iii) the lease has been authorised by the Tribunal.
- (3) An association may surrender or vary a lease accepted by it under this section if—
 - (a) it so decides by a special resolution, and
 - (b) the lessor consents.
- (4) In this section—
lease includes—
 - (a) a sublease, and
 - (b) a leasehold estate or interest acquired by transfer.

21 Lease of certain association property

- (1) An association may grant a lease of some, but not all, of its association property by registering the lease under the *Real Property Act 1900*.
- (2) The lease—
 - (a) must be accompanied by a certificate in the approved form that is under the seal of the association and is to the effect—
 - (i) that execution of the instrument was authorised by a special resolution, and
 - (ii) if the association has notice of an interest in the land (other than a statutory interest or an interest recorded in the Register) and the instrument has not been made subject to the interest—that the interest has been released, and
 - (iii) that any by-law restricting the use of the association property no longer affects the interest passing under the lease, and
 - (b) must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) the grant of the lease has been authorised by the Tribunal.
- (3) An association may by special resolution accept a surrender of, or exercise a right of re-entry under, a lease granted by it under this section.
- (4) In this section—

grant a lease includes grant a sublease or transfer a lease, but only if the sublease or transfer is not in contravention of the lease.

22 Transfer of association property

- (1) An association may dispose of some, but not all, of its association property by registering under the *Real Property Act 1900* a transfer of land that is part of its association property, but only if the land—
 - (a) is not held by it on lease, and
 - (b) is shown as a lot in a plan lodged for registration as a current plan.
- (2) The transfer—
 - (a) must be accompanied by a replacement sheet of the association property plan showing the altered boundaries of the association property, and
 - (b) must be accompanied by a certificate in the approved form that is under the seal of the association and is to the effect—
 - (i) that execution of the instrument was authorised by a special resolution, and
 - (ii) if the association has notice of an interest in the land (other than a statutory interest or an interest recorded in the Register) and the instrument has not been made subject to the interest—that the interest has been released, and
 - (iii) that any by-law restricting the use of the association property no longer affects the interest passing under the transfer, and
 - (c) must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) the transfer has been authorised by the Tribunal.
- (3) Land transferred under this section ceases to be association property.

Division 6 Easements and restrictions

23 Creation, release and variation of relevant interests

- (1) An association may—
 - (a) grant a relevant interest over association property or the whole of the scheme parcel, or
 - (b) accept the benefit of a relevant interest that benefits association property or the whole of the scheme parcel.
- (2) The dealing—
 - (a) if it is to grant a relevant interest, must be accompanied by a certificate in the approved form that is under the seal of the association and is to the effect—
 - (i) that the dealing was authorised by a special resolution, and
 - (ii) if the association has notice of an interest in the land (other than a statutory interest or an interest recorded in the Register) and the dealing has not been made subject to the interest—that the interest has been released, and
 - (iii) that any by-law restricting the use of the association property no longer affects the relevant interest passing under the dealing, and
 - (b) if it is to accept the benefit of a relevant interest, must be accompanied by a certificate in the approved form that is under the seal of the association and is to the effect that the dealing was authorised by a special resolution, and
 - (c) if the association is a neighbourhood association, must not be registered unless—
 - (i) the initial period has expired, or
 - (ii) the dealing has been authorised by the Tribunal.
- (3) In this section—

relevant interest means an easement, restriction on the use of land or positive covenant.

24 Statutory easements

- (1) For the purposes of this Act, a **statutory easement** is an easement conferring rights—
 - (a) to provide a service line within a scheme and a service by means of the service line, and
 - (b) to maintain and repair the service line, and
 - (c) to enter the following land within the scheme and do all such things as may be reasonably necessary to exercise the rights referred to in paragraphs (a) and (b)—
 - (i) land that includes (or is to include) the service line,
 - (ii) land contiguous to any such land.
- (2) A statutory easement is created within a scheme when a prescribed diagram showing the position of the service line is registered as part of the management statement for the scheme.
- (3) For the installation of a service line that is completed after the creation of the statutory easement, the relevant association (or if the installation is completed during the initial period, the developer) must—
 - (a) notify the Registrar-General in the approved form of that completion, and

- (b) if the service line is installed in a different position from that shown in the registered prescribed diagram—lodge for registration a new prescribed diagram that shows the actual position of the service line and that has been signed by the owners of each of the lots to be burdened by the statutory easement that would be created on registration of the new prescribed diagram.
- (4) On registration of the new prescribed diagram—
 - (a) the earlier prescribed diagram is cancelled in so far as it is inconsistent with the new prescribed diagram, and
 - (b) the new prescribed diagram has effect on registration as if it had been registered immediately before installation of the service line.
- (5) On the creation within a scheme of a statutory easement for a service line—
 - (a) the easement is appurtenant to each lot in the scheme to which a service is provided by means of the service line, and
 - (b) land within the scheme in which the service line is located is subject to the easement to the extent that the lot is affected by the service line.
- (6) A service provider has the benefit of a statutory easement created in a scheme in relation to a service line if—
 - (a) the service provider provides a service within a scheme by means of the service line, and
 - (b) the service is provided in accordance with an agreement or, if the service provider is the association for the scheme, in accordance with a management statement.
- (7) If a service line is installed as part of a scheme after registration of the management statement, the developer must, within 1 month after installation of the service line, give a copy of the prescribed diagram relating to the service line to the association constituted under the scheme.
- (8) An association, owner of land or service provider, having the benefit of a statutory easement is subject to the following covenants—
 - (a) that the rights under the easement will not be exercised in a manner that would unreasonably interfere with the use and enjoyment by any other owner of land burdened by the easement and, in particular, that in exercising the rights, any interference with the use and enjoyment of community, precinct or neighbourhood property by owners or occupiers of lots will be kept to a minimum,
 - (b) that any damage to, or interference with, the parts of the scheme affected by exercise of the rights conferred by the easement will, at the expense of the person exercising the rights, be made good—
 - (i) for land within the scheme that would include, or includes, the service line—by restoring the land to a basic standard not including the repair or restoration of unusual or expensive landscaping or other works erected over the land, and
 - (ii) for land within the scheme that is contiguous to the land referred to in subparagraph (i)—by restoring the land to its former state,
 - (c) that the person exercising the rights will leave the land on which they are exercised in a clean and tidy condition on completion of the installation, maintenance or repair of any service the subject of the easement.
- (9) The Registrar-General may make in the Register any recordings that the Registrar-General thinks fit in respect of any action taken under this section.

- (10) This section does not affect any rights or obligations relating to service lines that are conferred or imposed by another Act.
- (11) In this section—
- lot** means—
 - (a) a development lot, a neighbourhood lot or a strata lot, or
 - (b) community property, precinct property or neighbourhood property.
 - prescribed diagram** means a diagram that is in the approved form and complies with any requirements prescribed by the regulations or the lodgment rules.
 - service** includes—
 - (a) the supply of water, gas, electricity, artificially heated or cooled air or heating oil, and
 - (b) the provision of recycled water, sewerage and drainage, and
 - (c) telecommunications services.
 - service line** means a pipe, wire, cable, duct, channel or pole by means of which a service is to be provided.

Part 3 Association property

25 Vesting of association property

- (1) On registration of the plan or dealing by which it is created, association property—
 - (a) vests in the relevant association, and
 - (b) is freed and discharged from any mortgage, charge, covenant charge, writ or caveat affecting the land, and
 - (c) is freed and discharged from any lease affecting the land, other than a lease that is necessary for the purpose of providing a service to the scheme.
- (2) Land vests under this section for the estate or interest evidenced by the folio for the land.

26 Shares in association property

- (1) An association for a scheme holds association property in the scheme as agent for the following as tenants in common—
 - (a) the owners of the development lots or neighbourhood lots that are part of the scheme (and not part of a subsidiary scheme),
 - (b) any subsidiary body for a subsidiary scheme that is part of the scheme (and not part of another subsidiary scheme).
- (2) The shares in the association property are proportional—
 - (a) for owners of development lots or neighbourhood lots, to the unit entitlement of the lots, and
 - (b) for a subsidiary body, to the unit entitlement of the former development lot.

27 Dealings with association property

- (1) Association property may be dealt with only in accordance with this Act and the *Community Land Management Act 2019*.
- (2) Association property held by an association as agent—
 - (a) for the owner of a development lot or neighbourhood lot may be dealt with in conjunction with the lot, or
 - (b) for a subsidiary body may be dealt with in conjunction with the subsidiary parcel.
- (3) A reference in a dealing, caveat or priority notice to a lot is taken to include a reference to association property held by an association as agent in relation to the lot.
- (4) Subsection (3) has effect without a recording being made in the folio for the association property.

Part 4 Development contracts

28 Definitions

In this Act—

development concern—see section 38.

development contract means instruments, plans and drawings that are registered with a scheme plan and describe the manner in which it is proposed to develop the land in the scheme plan to which they relate.

29 Form and content of development contracts

- (1) A development contract and any amendment of such a contract must be in the approved form and be signed by or on behalf of the developer.
- (2) A development contract must include a concept plan and must describe the following—
 - (a) the parcel of land to which the contract relates,
 - (b) the land (if any) proposed to be added to that parcel at a later time,
 - (c) that part (if any) of the proposed development that the developer is permitted by the contract to carry out and may be compelled to carry out (identified in the contract as “**warranted development**—proposed development subject to a warranty”),
 - (d) that part (if any) of the proposed development that the developer is permitted by the contract to carry out but cannot, merely because it is described in the contract, be compelled to carry out (identified in the contract as “**authorised proposals**—proposed development *not* subject to a warranty”).
- (3) A development contract must include—
 - (a) a description of the amenities proposed to be provided, and
 - (b) details of access and construction zones, working hours and any related rights over association property, and
 - (c) an undertaking by the developer not to cause unreasonable inconvenience to owners of lots in the scheme and to repair without delay any damage caused to association property or common property by development activities, and
 - (d) any other matter that is prescribed by the regulations.
- (4) A development contract must include such other documents, particulars and information as may be required by the regulations.
- (5) A development contract cannot provide for the subdivision of association property without the consent, by special resolution, of the relevant association.
- (6) This section does not limit the matters that may be included in a development contract.

30 Planning approval for development contracts

- (1) In this section—

relevant application means an application for planning approval for development in accordance with a proposed scheme plan that is accompanied by a proposed development contract.
- (2) A planning authority must not grant planning approval to a relevant application unless the proposed development contract complies with this Part.

- (3) The granting of planning approval may be, but need not be, subject to a condition requiring the community parcel, precinct parcel or neighbourhood parcel to be developed in accordance with the development contract.
- (4) Any such condition has effect—
 - (a) for a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*—as a condition of the development consent authorised by, and imposed under, section 4.17 of that Act, or
 - (b) for an approval under Division 5.2 of that Act—as a condition of the approval.
- (5) A planning authority that grants planning approval for a relevant application—
 - (a) must certify on the development contract—
 - (i) that planning approval has been granted to the development proposed by the instruments, plans and drawings that comprise the development contract, and
 - (ii) that the instruments, plans and drawings are not inconsistent with the planning approval, and
 - (b) must provide the applicant with a copy of the development contract bearing the certificate.

31 Variation of liability for association property expenses

- (1) A development contract may apportion the liability for expenses relating to the use or maintenance of association property for a scheme differently from the way that liability would otherwise be apportioned by the schedule of unit entitlement applicable to lots under the scheme.
- (2) An apportionment under this section has effect despite the current schedule of unit entitlement, but does not apply to any liability that relates to the use or maintenance of the association property after the development contract is concluded.

32 Binding effect of development contract

- (1) If a development contract is registered with a scheme plan it has effect as if it included an agreement under seal with covenants to the effect of the following—
 - (a) the developer covenants with the other parties in relation to the scheme jointly and with each of them severally—
 - (i) that the developer must carry out the development (if any) described and identified as “**warranted development**—proposed development subject to a warranty” in the development contract, and
 - (ii) that the developer must carry out the development in accordance with the covenants set out and implied in the contract and in accordance with any relevant planning approval,
 - (b) the other parties in relation to a scheme covenant jointly, and each of them covenants severally, with the developer that the developer will be permitted to carry out, in accordance with the development contract and any relevant planning approval—
 - (i) the warranted development (if any), and
 - (ii) any other development described and identified as “**authorised proposals**—proposed development *not* subject to a warranty” in the contract.
- (2) Any attempt to exclude, modify or restrict the operation of the covenants is void.
- (3) The covenants do not affect any right or remedy a person has otherwise than under the covenants.

- (4) A covenant does not merge in a transfer.
- (5) Part 4 of the *Community Land Management Act 1989* (which relates to disputes) does not apply to matters arising under the covenants.
- (6) In this section—
 - lot owner**, for a scheme, means a person (other than a developer) who is the owner of a development lot, neighbourhood lot or strata lot within the scheme.
 - other parties**, in relation to a scheme, means—
 - (a) the association and any subsidiary bodies, and
 - (b) the lot owners.

33 Amendment of development contract with approval of association

- (1) A development contract may be amended by the developer but any such amendment is ineffective unless—
 - (a) this section has been complied with in relation to the amendment, and
 - (b) the amendment is registered.
- (2) A proposed amendment to a development contract may not be made unless it is approved—
 - (a) by the planning authority, and
 - (b) by the relevant association by—
 - (i) unanimous resolution—if the proposed amendment involves a change in the basic architectural or landscaping design of the development, or in its essence or theme, or
 - (ii) resolution—if the proposed amendment only gives effect to a change in the law or a change in the requirements of the planning authority, or
 - (iii) special resolution—in any other case.
- (3) For the purposes of this section, an approval given under section 35 by the Land and Environment Court to an amendment of a development contract has the same effect as an approval of the amendment duly given under this section by an association.
- (4) A planning authority that approves an amendment of a development contract must provide the applicant for the approval with a copy of the instruments, plans and drawings that describe and illustrate the amendment and a certificate to the effect—
 - (a) that the copy describes and illustrates the approved amendment, and
 - (b) that the development contract, if amended as approved by the authority, would not be inconsistent with the related planning approval.

34 Notice of particular decision, and appeal

- (1) If a planning authority does not approve an amendment of a development contract, the planning authority must give the applicant for the approval a notice stating—
 - (a) the grounds for the refusal, and
 - (b) that the applicant may appeal to the Land and Environment Court against the refusal, and
 - (c) the period within which the appeal may be made.
- (2) The applicant may appeal to the Land and Environment Court against the refusal within 12 months after receiving the notice.
- (3) However, the Land and Environment Court may, if it considers it appropriate in the circumstances, extend the period for making the appeal.

- (4) A decision of the Land and Environment Court on appeal is taken to be the final decision of the planning authority and is to be given effect as if it were the decision of the planning authority.

35 Amendment of development contract with approval of Court

- (1) A developer may apply to the Land and Environment Court for an order approving an amendment of a development contract if the approval by the relevant association is not given under section 33 because—
- (a) a motion for giving the approval has been defeated, or
 - (b) the notice relating to such a motion has been given but a meeting to consider the motion has not been held within a reasonable time after the giving of the notice.
- (2) A copy of the application must be served on—
- (a) the planning authority, and
 - (b) the association and its subsidiary bodies (if any), and
 - (c) each person other than the developer who is the owner of a development lot or a neighbourhood lot in the scheme or any subsidiary scheme, and
 - (d) each mortgagee and covenant chargee of a development lot or a neighbourhood lot in the scheme or any subsidiary scheme.
- (3) The Land and Environment Court may—
- (a) approve the amendment, or
 - (b) approve a different amendment, or
 - (c) refuse to approve the amendment.

36 Registration of amendment of development contract

- (1) An amendment made in accordance with this Part to a development contract may be registered by means of such recordings in the Register as the Registrar-General thinks fit.
- (2) The Registrar-General may refuse an application for registration of such an amendment unless—
- (a) it is in the approved form, and
 - (b) it bears the approval of the planning authority, and
 - (c) it bears a certificate by the association to the effect that the amendment was approved by the association as required by section 33.

37 Breach of development contract

- (1) This section applies to proceedings brought in the Land and Environment Court.
- (2) If proceedings are brought by an association, or a member of an association under section 9.45 of the *Environmental Planning and Assessment Act 1979* for a breach of a condition of a planning approval constituted by a breach of a development contract, the Court may make an award of damages under section 20(2)(d) of the *Land and Environment Court Act 1979*—
- (a) instead of making a restraining order under section 9.46 of the *Environmental Planning and Assessment Act 1979*, or
 - (b) instead of, or in addition to, making an order under that section other than a restraining order.

- (3) If proceedings are brought under section 20(2)(d) of the *Land and Environment Court Act 1979* for a breach of the agreement implied by section 32 in relation to a development contract—
 - (a) the Court may make an order under section 9.46 of the *Environmental Planning and Assessment Act 1979* instead of, or in addition to, making an award of damages, or
 - (b) the Court may order specific performance of the development contract instead of making an award of damages.

38 Development concerns

- (1) The following are development concerns for the purposes of this Part—
 - (a) adding to association property in accordance with a development contract,
 - (b) adding land to a scheme in accordance with a development contract,
 - (c) carrying out any other development that is permitted to be carried out because it is included in a development contract.
- (2) The following are not development concerns for the purposes of this Part—
 - (a) subdivision of association property that has been created by a registered plan,
 - (b) the grant of a lease over association property,
 - (c) amendment of a development contract, regardless of whether the subject-matter involved is, or relates to, a development concern.

39 Right to complete permitted development

- (1) The developer who is permitted to carry out development included in a development contract that is a development concern, is the *relevant developer* for the development concern.
- (2) The vote of the relevant developer is sufficient to pass or defeat a motion included in the notice for a meeting of the association if the passing or defeat of the motion would have the effect of making a decision about a development concern.
- (3) If there is more than one relevant developer then the vote of each of those developers is required for the purposes of subsection (2).
- (4) It is not necessary for a decision about a development concern to be supported by a special or unanimous resolution of an association, despite any other provision of this Act.
- (5) A dealing, plan or other instrument may be executed either by an association or by the relevant developer on behalf of an association for the purpose of giving effect to a decision about a development concern.
- (6) The regulations or the lodgment rules may impose requirements for the execution of dealings, plans and other instruments by associations and developers and may require verification by statutory declaration of the circumstances in which they were executed.

40 Meetings of association relating to development concerns

- (1) A motion, the passing or defeat of which at a meeting of an association or of the executive committee of an association would have the effect of making a decision about a development concern, must be—
 - (a) identified as relating to a development concern in the notice for the meeting, and
 - (b) moved separately from any other kind of motion.

- (2) A general meeting of an association under Schedule 1 to the *Community Land Management Act 2019* may be convened by the developer or must be convened if a qualified request is made under section 21 of that Act.
- (3) In convening any such general meeting, the developer or the persons or bodies making the qualified request may give notice of the meeting on behalf of the executive committee of the association.
- (4) The presence of the developer (or, if the developer is a corporation, of the company nominee of the corporation) constitutes a sufficient quorum for any meeting of the association or executive committee of the association of which notice has been duly given, but only while business relating to a development concern is being dealt with.
- (5) For the purpose only of allowing development permitted by a development contract to be carried out, a developer (or, if the developer is a corporation, the company nominee of the corporation) may exercise such of the other functions of an association bound by the contract or of any other person having functions under the scheme concerned as may be prescribed by the regulations.
- (6) This section has effect despite any other provision of this Act.
- (7) In this section—
company nominee, in relation to a corporation, means a company nominee within the meaning of the *Community Land Management Act 2019* who is authorised to exercise the voting rights of the corporation.

41 Conclusion of development contract

- (1) For the purposes of this Act, a development contract is concluded when any of the following occurs—
 - (a) any planning approval required for carrying out the contract is revoked,
 - (b) the time predicted by the contract for conclusion of the contract arrives,
 - (c) a notice in the approved form, that complies with subsection (3) and stating that the scheme to which the contract relates is completed, is registered by the Registrar-General,
 - (d) the scheme to which the contract relates is terminated under Part 8.
- (2) A development contract must predict a time, being no later than the tenth anniversary of the day on which the contract was registered, as the time for the conclusion of the contract.
- (3) A notice complies with this subsection only if—
 - (a) it has been signed by the developer concerned, and
 - (b) it is lodged with a certificate, given in the approved form by the association for the scheme concerned, certifying that the association has agreed, by unanimous resolution, that the development contract has concluded.
- (4) The Registrar-General must, if satisfied that a development contract has concluded, make an appropriate record of the conclusion of the contract in the folio for the association and the association property (if any) of the scheme concerned and remove the contract from the Register.

Part 5 Access to schemes

42 Setting apart access way in association property

- (1) All or part of association property may be set apart as a means of open access connecting part of the scheme parcel—
 - (a) to a public place, or
 - (b) if the association property is part of a subsidiary scheme, to a public place by way of an open access way in the community scheme of which the subsidiary scheme forms part.
- (2) All or part of association property (other than land that is an open access way) may be set apart as a means of private access connecting part of the scheme parcel—
 - (a) to an open access way within the scheme parcel or a public place, or
 - (b) if the association property is part of a subsidiary scheme, to an open access way within the scheme parcel or a public place by way of an open access way in the community scheme of which the subsidiary scheme forms part.
- (3) The setting apart under this section is effected if the management statement for the scheme includes a plan in the approved form that—
 - (a) defines the land to be set apart as an access way, and
 - (b) specifies whether that land is an open access way or a private access way, and
 - (c) includes any information that is prescribed by the regulations or the lodgment rules.

Note. See section 116 of the *Community Land Management Act 2019* for further provisions relating open and private access ways.

43 Special resolution required for closure of open access way

An open access way within a community parcel may not be closed unless the closure is authorised by a special resolution of each of the associations whose members are entitled to use the access way.

44 Access ways remain as association property

- (1) Land does not cease to be association property because it is set apart as an open access way or a private access way and the setting apart does not affect the obligation of an association to maintain it as association property.
- (2) This section has effect to the exclusion of anything in the *Roads Act 1993* that operates to vest land in a council as a public road.

45 Effect of access ways in relation to certain rights

- (1) Section 45A of the *Real Property Act 1900* does not apply to a conveyance of land abutting on an open access way or a private access way.
- (2) The owner of a lot in a scheme has no rights in relation to association property set apart under the scheme as an open access way or a private access way other than—
 - (a) rights conferred by this Act and the *Community Land Management Act 2019* on such an owner in relation to association property, and
 - (b) rights conferred by the management statement for the scheme.

Part 6 Resumptions

46 Definitions

In this Part—

notice of resumption means a notice, notification or other instrument on publication of which land is resumed.

resume means compulsorily acquire under the authority of an Act or a Commonwealth Act.

resuming authority means an authority in which land is proposed to be, or is, vested by way of resumption.

47 Application of Part

- (1) This Part has effect even if it is inconsistent with another Act and, if there is such an inconsistency, this Part prevails.
- (2) Despite section 8 of the *Land Acquisition (Just Terms Compensation) Act 1991*, a resumption of land to which both this Part and that Act apply must comply with this Part and that Act. This Part prevails to the extent of any inconsistency.
- (3) A resumption of land to which this Part applies and to which Part 12 of the *Roads Act 1993* applies must comply with this Part and that Part. This Part prevails to the extent of any inconsistency.
- (4) In this Part—
 - (a) a reference to a resumption does not include a reference to a resumption that merely results in land being burdened by an easement, and
 - (b) a reference to a notice of resumption is a reference to the notice required to be published in the Gazette to effect a resumption under an Act.
- (5) This Part applies only to resumptions of land within—
 - (a) a community scheme, or
 - (b) a precinct scheme, or
 - (c) a neighbourhood scheme, or
 - (d) a strata scheme that is part of a community scheme.

48 Notice of resumption

- (1) A notice of resumption must state whether or not the land resumed is excluded from any related scheme.
- (2) If action is taken in the Supreme Court to restructure a related scheme as a consequence of a resumption (whether because of a requirement of this Part or otherwise), the notice of resumption must include the Supreme Court case number for the action.
- (3) Land is excluded from a scheme if a notice of resumption so provides.
- (4) Exclusion of a neighbourhood lot or strata lot from a community scheme or precinct scheme excludes the lot from the neighbourhood scheme or strata scheme.
- (5) Exclusion of a lot from a neighbourhood scheme or strata scheme excludes the lot from any community scheme or precinct scheme of which the neighbourhood scheme or strata scheme is part.
- (6) Exclusion of a precinct development lot from a precinct scheme excludes it from the community scheme of which the precinct scheme is part.

49 Cases in which parcel must be resumed

- (1) The whole of the community property in a community scheme, or all the development lots in a community scheme, may be resumed only by resuming the community parcel.
- (2) The whole of the precinct property in a precinct scheme, or all the development lots in a precinct scheme, may be resumed only by resuming the precinct parcel.
- (3) The whole of the neighbourhood property, or all the neighbourhood lots, in a neighbourhood scheme may be resumed only by resuming the neighbourhood parcel.
- (4) The whole of the common property, or all the strata lots, in a strata scheme may be resumed only by resuming the strata parcel.
- (5) In subsection (1)—
development lots includes former development lots.

50 Resumption of parcel

- (1) Before publication of a notice of resumption of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, the resuming authority must, if the land is to be excluded from the related scheme—
 - (a) apply to the Supreme Court for an order under Part 8 terminating the scheme, and
 - (b) lodge with the Registrar-General a plan of the parcel for registration as a current plan, and
 - (c) lodge with the plan a statement to the effect that the plan has been lodged in order to resume the land and exclude the parcel from the related scheme.
- (2) On publication of the notice of resumption or registration of a resumption application under section 31A of the *Real Property Act 1900* the Registrar-General is to—
 - (a) make in the folios for the lots and the association property or common property such recordings, and
 - (b) make on the related scheme plan or strata plan such notations, relating to the resumption as the Registrar-General thinks fit.
- (3) As soon as practicable after the Supreme Court orders termination of a scheme, the resuming authority must lodge a sealed copy of the order for registration by the Registrar-General.
- (4) On registration of the order, the scheme to which it relates is terminated and the Registrar-General is to—
 - (a) make in the folios for the lots and the association property or common property such recordings, and
 - (b) make on the related scheme plan or strata plan such notations, relating to the termination of the scheme as the Registrar-General thinks fit.

51 Resumption of land not part of association or common property

- (1) This section applies to all notices of resumption other than a notice that is limited to part of the association property or common property in a scheme.
- (2) Before publication of a notice of resumption, the resuming authority must apply to the Supreme Court for an order dealing with the consequences of the proposed resumption.
- (3) If the land is to be excluded from the scheme, the application for the order must include an application for directions as to—

- (a) adjustment of unit entitlement, and
 - (b) amendment of any applicable development contract and of the management statement or the by-laws under a strata scheme, and
 - (c) if the resumption is to include part only of a lot—the manner of dealing with the residue of the lot.
- (4) As soon as practicable after the Supreme Court makes the order, the resuming authority must lodge a sealed copy of the order for registration by the Registrar-General accompanied by a schedule of unit entitlement that is sealed by the Supreme Court and is a schedule of unit entitlement—
- (a) if the resumption would affect a community scheme—for the community scheme and each subsidiary scheme, or
 - (b) if the resumption would affect a neighbourhood scheme that is not part of a community scheme—for the neighbourhood scheme.
- (5) The order of the Supreme Court takes effect on registration.
- (6) The Registrar-General is to give effect to so much of the order of the Supreme Court as relates to the schedule of unit entitlement—
- (a) by cancelling the existing schedules of unit entitlement, and
 - (b) by substituting for the cancelled schedules those lodged under subsection (4), and
 - (c) for a strata scheme—by recording the effect of the order in the folio for the common property under the scheme.

52 Resumption of entire lot—application under Real Property Act 1900

- (1) On registering a resumption application under section 31A of the *Real Property Act 1900*, the Registrar-General may, if the resumption causes a development lot, neighbourhood lot or strata lot to be excluded from a scheme, make any of the following relating to the exclusion as the Registrar-General thinks fit—
- (a) recordings in the folio for the association property or common property,
 - (b) recordings in the folio for the resumed land,
 - (c) notations on the scheme plan.
- (2) A development lot or neighbourhood lot that is excluded from a scheme ceases to be such a lot but continues, for the purposes of section 23F of the *Conveyancing Act 1919*, as a lot in a current plan.
- (3) If the lot excluded is a lot in a strata plan, the resuming authority must lodge with the Registrar-General a plan for registration as a current plan identifying the lot excluded.

53 Resumption of part of lot without exclusion from scheme

- (1) This section applies to land that—
- (a) is not association property or common property, and
 - (b) is part only of a lot, and
 - (c) is to be resumed without being excluded from the related scheme.
- (2) Before publication of a notice of resumption of the land to which this section applies, the resuming authority—
- (a) must apply to the Supreme Court for an order amending any applicable development contract, and the management statement, by-laws and schedule of unit entitlement, as a consequence of the proposed resumption, and

- (b) lodge with the Registrar-General a plan referred to in section 54(2)(a) or (3).
- (3) The Supreme Court may, on the application of the resuming authority, order—
 - (a) that the residue of the lot be a lot in the scheme, or
 - (b) with the consent of the owner of the residue of the lot—that the residue of the lot vest in the relevant association or strata corporation as association property or common property.
- (4) On making an order applied for under subsection (3), the Supreme Court—
 - (a) may, by the order, adjust unit entitlement, and
 - (b) may make any other order it thinks fit with respect to the residue.
- (5) As soon as practicable after the Supreme Court makes the order, the resuming authority must lodge a sealed copy of the order for registration by the Registrar-General.
- (6) The order of the Supreme Court takes effect on registration.
- (7) An order under subsection (3)(b) vests the land freed from any mortgage, charge, covenant charge, writ or caveat that affected it before the vesting.

54 Plan of part of lot not excluded on resumption

- (1) This section applies to land the subject of a resumption referred to in section 53.
- (2) If resumed land to which this section applies is not part of a strata scheme, the resuming authority must lodge with the Registrar-General—
 - (a) as a scheme plan of subdivision, an additional sheet of the relevant detail plan showing the altered boundaries of the lots affected, and
 - (b) if the residue vests in the association as association property—a replacement sheet for the association property plan showing the altered boundaries of the association property.
- (3) If resumed land to which this section applies is part of a strata scheme, the resuming authority must lodge with the Registrar-General a plan showing the land as one or more lots in a strata plan of subdivision.
- (4) On an additional sheet lodged under this section—
 - (a) the land resumed, and the residue of the lot after the resumption, must each be shown as a lot, and
 - (b) the residue of the lot must retain the number of the lot affected by the resumption, and
 - (c) lots comprising resumed land must be numbered in sequence after the highest numbered lot in the related scheme.
- (5) An additional sheet or replacement sheet, or a plan, lodged for the purposes of this section must bear a statement to the effect that it was lodged because of the resumption.
- (6) The sheet or plan takes effect on registration.

55 Resumption of part of lot with exclusion from scheme

- (1) This section applies to land that—
 - (a) is not association property or common property, and
 - (b) is part only of a lot, and
 - (c) is to be resumed and excluded from the related scheme.

- (2) Before publication of a notice of resumption of land to which this section applies, the resuming authority must apply to the Supreme Court for an order amending any applicable development contract, and the management statement, by-laws and schedule of unit entitlement, as a consequence of the proposed resumption.
- (3) The Supreme Court may, on the application of the resuming authority, order—
 - (a) that the residue of the lot be a lot in the scheme, or
 - (b) with the consent of the owner of the residue of the lot—that the residue of the lot vest in the relevant association or strata corporation as association property or common property.
- (4) On making an order applied for under subsection (3), the Supreme Court—
 - (a) may, by the order, adjust unit entitlement, and
 - (b) may make any other order it thinks fit with respect to the residue.
- (5) As soon as practicable after the Supreme Court makes the order, the resuming authority must lodge a sealed copy of the order for registration by the Registrar-General.
- (6) An order of the Supreme Court takes effect on registration.
- (7) An order under subsection (3)(b) vests the land freed from any mortgage, charge, covenant charge, writ or caveat that affected it before the vesting.

56 Plan to be lodged for resumption of part of lot to be excluded

- (1) This section applies to land the subject of a resumption referred to in section 55.
- (2) Before publication of a notice of resumption to which this section applies, the resuming authority must lodge with the Registrar-General, for registration as a current plan, a plan of the land that bears a statement to the effect that—
 - (a) the plan has been lodged in order to effect a resumption of the land in the plan, and
 - (b) the land is to be excluded from the related scheme.
- (3) There must be lodged for registration with the current plan—
 - (a) except for land in a strata scheme—an additional sheet of the detail plan for the relevant scheme plan showing the altered boundaries of the lots affected, or
 - (b) for land in a strata scheme—a strata plan of subdivision showing as a lot the residue of the resumed lot unless the residue is to be vested in the strata corporation as common property.
- (4) An additional sheet must bear a statement to the effect that it has been lodged because of an intended resumption of the land.
- (5) An additional sheet does not take effect before publication of the notice of resumption.
- (6) If the residue after resumption is to be vested as association property, there must be lodged for registration with the order of the Supreme Court under section 55 a replacement sheet for the relevant community property plan, precinct property plan or neighbourhood property plan showing the altered boundaries of the association property.

57 Resumption of part of association or common property

- (1) Before publication of a notice of resumption of part of the association property in a scheme, the resuming authority must lodge with the Registrar-General—
 - (a) a plan of the land for registration as a current plan, and

- (b) a replacement sheet for the community property plan, precinct property plan or neighbourhood property plan showing the altered boundaries of the association property.
- (2) The replacement sheet does not take effect before publication of the notice.
- (3) Before publication of a notice of resumption of part of the common property in a strata scheme, the resuming authority must lodge with the Registrar-General a plan of the land to be resumed for registration as a current plan.
- (4) The plan lodged under subsection (1) or (3) must bear a statement by the resuming authority to the effect that—
 - (a) the plan has been lodged in order to effect a resumption of the land in the plan, and
 - (b) the land is to be excluded from the related scheme.
- (5) A notice of resumption referred to in this section must—
 - (a) describe the land to be resumed as a lot in a current plan, and
 - (b) state that the land resumed is excluded from the related scheme.

58 Resumption application affecting some association or common property

The Registrar-General may refuse to register a resumption application under section 31A of the *Real Property Act 1900* that relates to part only of the association property or common property in a scheme unless there is lodged with it—

- (a) a certificate by the resuming authority stating that the land resumed was not restricted property, or
- (b) a request by the relevant association or strata corporation for registration of an amendment of the management statement or by-laws under which, on registration, the land resumed would cease to be restricted property, or
- (c) evidence that an application has been made to the Supreme Court for amendment of the management statement or by-laws in their application to the association property or common property.

59 Interest in association or common property

- (1) If a notice of resumption of land that is not association property or common property states that the land resumed is excluded from a related scheme, the resuming authority does not by the resumption acquire any interest in association property or common property within the scheme.
- (2) If resumed land is excluded from a scheme, any interest in restricted property that attached to the land is extinguished.

60 Notice of application to the Supreme Court

- (1) The persons entitled to be served with notice of an application under this Part to the Supreme Court in relation to a scheme are—
 - (a) except to the extent, if any, that the Supreme Court otherwise directs—each registered owner, and each registered mortgagee, chargee and covenant chargee of a lot within the scheme, and
 - (b) if the scheme is a community scheme—the community association and the subsidiary bodies within the scheme, and
 - (c) if the scheme is a neighbourhood scheme that is not part of a community scheme—the neighbourhood association, and

- (d) if the land resumed is part of a lot or common property and is to be excluded from the related scheme—the local council, and
 - (e) the Registrar-General, and
 - (f) such other persons as the Supreme Court may direct.
- (2) A person entitled to be served with notice of an application is entitled to be heard on the application whether or not served with the notice.
- (3) If an application to the Supreme Court is made under this Part, the Court is to—
 - (a) disregard any failure by the resuming authority to comply strictly with the requirements of this Part and of any regulations made for the purposes of this Part, and
 - (b) consider whether any amendment is required to a schedule of unit entitlement, development contract or management statement, and
 - (c) consider whether any contribution should be made by the resuming authority for the period following publication of the notice of resumption, and
 - (d) make such orders as appear to the Court to be just and equitable in the circumstances.
- (4) If it appears to the Supreme Court that the effect of a resumption of land in a community parcel, precinct parcel or strata parcel would be such that continuation of the scheme would be impracticable, the Court may—
 - (a) order that the whole parcel be resumed or the scheme terminated, and
 - (b) make such other orders as appear to the Court to be just and equitable in the circumstances.
- (5) Nothing in this Part authorises the Supreme Court to modify or nullify the effect of a notice of resumption in relation to the land resumed.

61 Application may be treated as application to vary or terminate scheme

- (1) If the Supreme Court so directs, an application to the Court under this Part is to be heard and determined as if it were an application to vary or terminate the scheme.
- (2) The direction may be given by the Supreme Court on application or of its own motion.

62 Costs

The costs of an application under this Part to the Supreme Court are payable by the resuming authority unless the Court otherwise directs.

63 Compensation on resumption of part of lot

In assessing compensation on a resumption of part of a lot, the effect of the resumption on the residue of the lot must be taken into account.

64 Compensation on resumption of association or common property

- (1) Compensation for a resumption of association property or common property may be claimed only by, and awarded and paid only to, the association or strata corporation in which it was vested.
- (2) Subsection (1) has effect as if the beneficial interests of the members in the property were vested in the association or strata corporation but any compensation paid is held by the association or strata corporation in trust for the members according to their beneficial interests immediately before the resumption.

65 Resumption by authority not bound by Act

- (1) If land is resumed by an authority not bound by this Act and otherwise than in compliance with its provisions, application may be made under this Act for the affected scheme to be varied or terminated.
- (2) The application may be made by the association or strata corporation, or any other person, affected by the resumption.

66 Exclusion of resumed land from scheme

- (1) If a part of association property or common property is resumed—
 - (a) the land ceases to be association property or common property, and
 - (b) this Act and the *Community Land Management Act 2019* cease to apply to it.
- (2) If resumed land was not association property or common property and the notice of resumption states that it is excluded from any related scheme—
 - (a) the land ceases to be within the scheme, and
 - (b) this Act and the *Community Land Management Act 2019* cease to apply to it.

67 Continuation of resumed land within scheme

- (1) Resumed land remains within any related scheme, and this Act and the *Community Land Management Act 2019* continue to apply to it, if the land is—
 - (a) the whole of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, or
 - (b) land within such a parcel that is not association property or common property, and the notice of resumption states that the land is not excluded from the related scheme.
- (2) Even though an acquisition of land referred to in subsection (1) is recorded in the Register as a resumption, this Act and the *Community Land Management Act 2019* apply to it as if it had been vested in the resuming authority by a registered transfer.

68 Sale as alternative to resumption

- (1) In this section—

acquisition plan means a plan that—

 - (a) is lodged for registration as a current plan, and
 - (b) shows the parts of lots and association property within a scheme that are to be purchased by a resuming authority under this section.
- (2) A resuming authority may, as an alternative to a resumption by the authority of part of the land in a community scheme, precinct scheme or neighbourhood scheme—
 - (a) register an acquisition plan, and
 - (b) purchase the land in the acquisition plan.
- (3) The Registrar-General may refuse to register an acquisition plan unless—
 - (a) the plan bears a statement to the effect that, on being transferred to the resuming authority, the land is excluded from the related scheme, and
 - (b) the plan is accompanied by the following—
 - (i) if the plan is for, or includes, a subdivision of association property—a replacement sheet of the association property plan showing the altered boundaries of the association property and that complies with Schedule 1,

- (ii) if the plan is for, or includes, a subdivision of a development lot or neighbourhood lot—an additional sheet of the relevant detail plan showing the altered boundaries of the lot and that complies with Schedule 1,
 - (iii) if the plan is for, or includes, a subdivision of a community development lot—a replacement schedule of unit entitlement for the community plan that complies with Schedule 4,
 - (iv) if the plan is for, or includes, a subdivision of a precinct development lot—replacement schedules of unit entitlement for the community plan and the precinct plan that comply with Schedule 4,
 - (v) if the plan is for, or includes, a subdivision of a neighbourhood lot within a community scheme—replacement schedules of unit entitlement for the community plan, the neighbourhood plan and (if the neighbourhood lot is within a precinct scheme) the precinct plan that comply with Schedule 4,
 - (vi) if the plan is for, or includes, a subdivision of a neighbourhood lot that is not within a community scheme—a replacement schedule of unit entitlement for the neighbourhood plan that complies with Schedule 4.
- (4) An association may sell part of its association property to a resuming authority if—
 - (a) the part to be sold is included in an acquisition plan, and
 - (b) the sale is authorised by a special resolution of the association.
- (5) The Registrar-General may refuse to register a transfer of association property included in an acquisition plan unless the transfer is accompanied by a certificate that—
 - (a) is in the approved form and is given under the seal of the association, and
 - (b) is to the effect that the sale has been approved by a special resolution of the association.
- (6) On the registration of a transfer to a resuming authority of land in an acquisition plan—
 - (a) any interest in restricted property that benefits or burdens the land is extinguished, and
 - (b) if any of the land is association property—it ceases to be association property, and
 - (c) this Act and the *Community Land Management Act 2019* cease to apply to the land.
- (7) This section has effect despite any other provision of this Act.

Part 7 Amalgamation of schemes

69 Community scheme amalgamation with subsidiary neighbourhood scheme

- (1) A neighbourhood scheme that forms part of a community scheme may be amalgamated with the community scheme in accordance with this Part.
- (2) This Part does not apply if the community scheme has one or more precinct schemes.

70 Making application for amalgamation

- (1) At least 14 days before the application for amalgamation is made, details of the proposed amalgamation, and a statement of intention to make the application, must be published in at least one newspaper circulating throughout New South Wales (whether published in print or on a publicly accessible website) or at least one publicly accessible website that, in the opinion of the Registrar-General, is appropriate to cause notice of the application to come to the attention of the public.
- (2) The application must—
 - (a) be made to the Registrar-General in the approved form, and
 - (b) be made under the seal of each of the following associations after being approved by a special resolution of each of those associations—
 - (i) the community association,
 - (ii) the neighbourhood association for the neighbourhood scheme that is to be amalgamated,
 - (iii) the association or owner's corporation for each other subsidiary scheme in the community scheme, and
 - (c) be signed by the registered owner of each development lot in the community scheme that has not become part of a subsidiary scheme, and
 - (d) bear the consent of the planning authority, and
 - (e) be accompanied by any documents prescribed by the regulations.
- (3) The Registrar-General may refuse to register an amalgamation unless—
 - (a) the application for amalgamation is signed by each registered mortgagee, chargee or covenant chargee of each development lot in the community scheme that has not become part of a subsidiary scheme, and
 - (b) the application bears the consent of each lessee of neighbourhood property in a neighbourhood scheme that is proposing to amalgamate with the community scheme, and
 - (c) the application is accompanied by the documents required by Schedule 3.

71 Consequences of registration of amalgamation of schemes

- (1) On receiving an application for amalgamation in accordance with this Part, the Registrar-General may register the amalgamation.
- (2) On registration of the amalgamation—
 - (a) each neighbourhood scheme that is the subject of the application for amalgamation is terminated, and
 - (b) the neighbourhood association for each such scheme is dissolved, and
 - (c) any money in the administrative fund of a terminated scheme is to be transferred to the administrative fund of the community scheme, and
 - (d) any money in the sinking fund of a terminated scheme is to be transferred to the sinking fund of the community scheme, and

- (e) any association property of a terminated scheme becomes community property in the community scheme, and
 - (f) any other assets and property of the association of a terminated scheme become the assets and property of the community association, and
 - (g) any liabilities of the association of a terminated scheme become the liabilities of the community association, and
 - (h) each neighbourhood lot in a terminated scheme becomes a development lot in the community scheme, and
 - (i) the change of a neighbourhood lot to a development lot does not affect any mortgage, charge, lease or other interest registered on the lot, and
 - (j) each owner of a neighbourhood lot in a terminated scheme becomes a member of the community association.
- (3) If the Registrar-General registers the amalgamation, the Registrar-General—
- (a) must record in the Register the termination of each neighbourhood scheme that amalgamated with the community scheme, and
 - (b) may make such other appropriate recordings in the Register to give effect to the amalgamation and its consequences.

72 Regulations for purposes of this Part

- (1) Regulations may be made for or with respect to the amalgamation of schemes under this Part.
- (2) Without limiting subsection (1), regulations may be made for or with respect to transitional matters arising from an amalgamation of schemes under this Part and any such regulation may, if it so provides, have effect despite any specified provision of this Act or the *Community Land Management Act 2019*.

Part 8 Variation or termination of scheme

73 Variation or termination of scheme by Supreme Court

- (1) If the Supreme Court is satisfied—
 - (a) that completion of a staged scheme has become impracticable—the Court may vary any applicable development contract or vary or terminate the scheme, or
 - (b) that continuation of a scheme (whether or not a staged scheme) has become impracticable—the Court may vary or terminate the scheme, or
 - (c) that all of the following have made an application to the Court to terminate a scheme—the Court may vary or terminate the scheme and any subsidiary scheme—
 - (i) the association for the scheme and each subsidiary body,
 - (ii) each owner of a lot within the scheme and any subsidiary scheme,
 - (iii) each registered mortgagee, chargee and covenant chargee of a lot within the scheme and any subsidiary scheme.
- (2) An order of the Supreme Court varying a development contract may provide for any one or more of the following—
 - (a) the conversion of a development lot or former development lot to community property or precinct property,
 - (b) the conversion of a neighbourhood lot to neighbourhood property,
 - (c) the severance from the scheme of a development lot or a neighbourhood lot,
 - (d) the amendment of the management statement for the scheme,
 - (e) the persons authorised to sign an instrument for the purposes of any of the matters referred to in paragraphs (a)–(d),
 - (f) any other matter the Court considers to be appropriate, just and equitable in the circumstances.
- (3) An order of the Supreme Court varying or terminating a scheme may provide for any one or more of the following—
 - (a) the adjustment, exercise and discharge of rights and liabilities under the scheme of an association and its members,
 - (b) disposal of the assets of an association or of a strata corporation that is a member of an association,
 - (c) the vesting of estates or interests in land within the staged scheme,
 - (d) the winding up of an association or of a strata corporation that is a member of an association,
 - (e) a variation of unit entitlement in accordance with a new valuation,
 - (f) the amendment of the management statement for the scheme,
 - (g) the registration of a new plan or reversion to a former plan,
 - (h) any other matter that the Court considers to be appropriate, just and equitable in the circumstances.
- (4) If the Supreme Court orders termination of a scheme, the parcel that was subdivided to constitute the scheme is, for the purposes of section 23F of the *Conveyancing Act 1919*, reinstated as a lot in a current plan.
- (5) Subsection (4) does not apply if the Supreme Court orders the lodgment for registration of a current plan for the parcel.

74 Application to Supreme Court

- (1) An application to the Supreme Court for an order under section 73(1)(a) or (b) may be made by—
 - (a) an association or strata corporation within the scheme, or
 - (b) a member of an association or strata corporation within the scheme, or
 - (c) a person with a registered estate or interest in land within the scheme, or
 - (d) a resuming authority.
- (2) If an application for an order is made to the Supreme Court under this Part—
 - (a) the Registrar-General must be joined as a party to the application, and
 - (b) the Supreme Court may join as a party to the application the local council or any other person, and
 - (c) the Supreme Court may, on application or of its own motion—
 - (i) deal with the application for an order to vary a development contract as if it were an application for an order to terminate the scheme, or
 - (ii) deal with an application for an order to terminate a scheme as an application for an order to vary a development contract.

75 Termination of scheme by Registrar-General

- (1) This section does not apply to a scheme if the scheme—
 - (a) is the subject of an application to the Supreme Court under this Part, or
 - (b) has a strata scheme as a subsidiary scheme.
- (2) The Registrar-General may terminate a scheme on the application of each owner of a lot within the scheme and any subsidiary scheme.
- (3) The application must—
 - (a) be signed by all of the following—
 - (i) each owner of a lot within the scheme and any subsidiary scheme,
 - (ii) the association for the scheme and any subsidiary scheme,
 - (iii) each registered mortgagee, chargee and covenant chargee of a lot within the scheme and any subsidiary scheme, and
 - (b) be accompanied by the written consent of each person who, on the basis of a recording in the Register affecting a lot within the scheme or a subsidiary scheme, is—
 - (i) a lessee, or
 - (ii) a judgment creditor under a writ, or
 - (iii) a caveator, and
 - (c) be accompanied by the written consent of the planning authority.
- (4) At least 14 days before the application is made, details of the proposed termination, and a statement of intention to make the application, must be published in at least one newspaper circulating throughout New South Wales (whether published in print or on a publicly accessible website) or at least one publicly accessible website that, in the opinion of the Registrar-General, is appropriate to cause notice of the application to come to the attention of the public.
- (5) There must be lodged with the application—
 - (a) a plan for the scheme parcel for registration as a current plan, and

- (b) the certificates of title for all the development lots or neighbourhood lots and the association property within the scheme or a subsidiary scheme, and
 - (c) evidence of compliance with subsection (3), and
 - (d) any other documents or evidence as the Registrar-General requires.
- (6) On receiving an application under this section, the Registrar-General may—
- (a) make an order terminating the scheme, or
 - (b) refuse to terminate the scheme.
- (7) A refusal by the Registrar-General to terminate a scheme does not preclude an application to the Supreme Court under this Part for termination of the scheme.
- (8) An order terminating a scheme takes effect on being recorded in the Register.
- (9) The Registrar-General may wholly or partly waive compliance with subsections (3)–(5).

76 Consequences of termination order by the Registrar-General

- (1) When the Registrar-General makes an order terminating a scheme and that order takes effect—
- (a) the association is dissolved and the scheme is terminated, and
 - (b) the former owners are liable for the liabilities of the association in shares proportional to the unit entitlement of their lots, and
 - (c) the land in the community parcel, precinct parcel or neighbourhood parcel defined in the plan lodged with the application for the order and the assets of the association vest in the former owners as tenants in common in shares proportional to the unit entitlement of their lots, and
 - (d) the Registrar-General is to cancel the folios of the Register that evidenced title to the lots and association property in the scheme immediately before its termination, and
 - (e) the estate or interest of the former owners in land vested by paragraph (c) is subject to any estate or interest subsisting on the folios of the Register for the land immediately before the termination, and
 - (f) the Registrar-General is to create a folio of the Register for the land in the plan lodged with the application for the order.
- (2) Subsection (1) applies to any subsidiary scheme of the terminated scheme in the same way as it applies to the terminated scheme.
- (3) The Registrar-General may make appropriate recordings in the Register to give effect to the termination and its consequences.
- (4) In this section—
- former owners* means the persons who were the owners of the development lots or neighbourhood lots in the scheme immediately before the termination order took effect.

Part 9 Lodgment and functions of Registrar-General

77 Application of Act to electronic form plans and other documents

- (1) This section applies to—
 - (a) plans lodged for the purposes of this Act, and
 - (b) other documents, except certificates of title and sealed copies of court orders, that—
 - (i) are required by or under this or any other Act to be lodged with or accompany those plans, or
 - (ii) are of a class prescribed by the regulations made under this Act as documents that may be lodged in electronic form.
- (2) A reference in this Act—
 - (a) to a plan or another document includes a reference to an electronic data file containing a plan or another document in an electronic form, and
 - (b) to the lodging of a plan or another document includes a reference to the electronic lodging of a plan or another document in an electronic form approved by the Registrar-General, and
 - (c) to a sheet of a plan or another document that is in electronic form, is a reference to a sheet on which the whole or part of the plan or other document would be reproduced if the plan or other document were converted to hard copy form without re-pagination.
- (3) If a plan is lodged electronically, all other documents that are required to be lodged with the plan must also be lodged electronically in an electronic form approved by the Registrar-General, except—
 - (a) certificates of title and sealed copies of court orders, and
 - (b) any other documents excepted from this requirement by regulations under this or any other Act or by the Registrar-General.
- (4) Any signature, seal, certificate, consent or other approval required to authenticate, or to authorise the registration or recording of, a plan proposed to be lodged in electronic form is to be endorsed on an approved form for signatures. When the plan is lodged, that form must also be lodged electronically in an electronic form approved by the Registrar-General.
- (5) This Act applies to and in respect of plans and other documents lodged in electronic form in the same way as it applies to other plans and documents, subject to any modifications prescribed by this Act or the *Conveyancing Act 1919* or the regulations under either of those Acts.

78 Recordings and notations

The Registrar-General, when registering a plan or other instrument under this Act—

- (a) is to make any recordings or notations required under this or any other Act, and
- (b) may make such other recordings and notations as the Registrar-General thinks fit.

79 Amendment to registered plans and instruments

- (1) A requirement in this Act to lodge for registration a plan or instrument may, if the Registrar-General considers it appropriate to do so, be satisfied by lodging an amendment to an existing registered plan or instrument.

- (2) In such a case the Registrar-General may give effect to the amendment by adding to, or substituting part of, the registered plan or instrument and in such a case the addition or substitution forms part of the registered plan or instrument.
- (3) Division 3 of Part 23 of the *Conveyancing Act 1919* applies to an amendment to a plan in the same way as it applies to the plan.

80 Replacement sheet or additional sheet for a plan, and replacement schedule of unit entitlement

- (1) On registration of a plan, order of a court or other instrument that includes, or is accompanied by, a replacement sheet for a community property plan, a precinct property plan or a neighbourhood property plan, the Registrar-General is to substitute the replacement sheet for the corresponding sheet of the scheme plan.
- (2) On registration of a plan, order of a court or other instrument that includes, or is accompanied by, an additional sheet of a detail plan for a scheme plan, the Registrar-General is to file the additional sheet as an additional sheet of the scheme plan.
- (3) On registration of a plan, order of a court or other instrument that includes, or is accompanied by, a schedule of unit entitlement for a scheme plan, the Registrar-General is to cancel the previous schedule and substitute the replacement as the schedule of unit entitlement for the scheme plan.
- (4) Division 3 of Part 23 of the *Conveyancing Act 1919* applies to a replacement sheet or additional sheet for a plan in the same way as it applies to the plan.
- (5) On registration of a replacement sheet or additional sheet for a plan, or a replacement schedule of unit entitlement, the Registrar-General must provide a copy—
 - (a) if the plan is a community plan or a precinct plan or neighbourhood plan within a community scheme—for the community association, and
 - (b) if the plan is a precinct plan or a neighbourhood plan within a precinct scheme—for the precinct association, and
 - (c) if the plan is a neighbourhood plan—for the neighbourhood association.
- (6) If a replacement schedule of unit entitlement is substituted under this section, the Registrar-General must, in addition to providing a copy under subsection (5), provide a copy for the Valuer-General, the Chief Commissioner of State Revenue and any other public authority prescribed by the regulations.
- (7) On amending a schedule of unit entitlement, the Registrar-General is to comply with subsections (5) and (6) as if the amended schedule were a replacement schedule of unit entitlement for a plan.
- (8) The Registrar-General may provide a copy of a replacement sheet, additional sheet or a replacement schedule of unit entitlement for such other persons as the Registrar-General thinks fit.

81 Plans for strata subdivision not registrable under this Act

A plan is not registrable under this Act if, in the opinion of the Registrar-General, it is essentially for—

- (a) the subdivision of a building into lots, or into lots and common property, where the lots are, by reference to the building, made to correspond to attached or semi-detached units within the building (whether or not a lot includes land not within the building), or

- (b) the subdivision of land into lots and common property, where the common property comprises mainly land above a lot or lots or land below a lot or lots, or
- (c) the subdivision of land into lots limited wholly or partly in height or in depth.

82 Registration of amendment of management statement

- (1) An amendment made under the *Community Land Management Act 2019* to a management statement may be registered by means of such recordings in the Register as the Registrar-General thinks fit.
- (2) The Registrar-General may refuse to register an amendment of a management statement unless it is lodged in the approved form together with the prescribed fee.

83 Notice to be given to Valuer-General

The Registrar-General is to notify the Valuer-General of the date of registration of—

- (a) an instrument severing a community development lot from a community scheme, and
- (b) an instrument severing a precinct development lot from a precinct scheme, and
- (c) the neighbourhood plan for a neighbourhood scheme that is not part of a community scheme, and
- (d) a community plan of subdivision, and
- (e) a precinct plan of subdivision, and
- (f) a neighbourhood plan of subdivision, and
- (g) an acquisition plan.

84 Recording of certain orders

- (1) This section applies to an order made by the Tribunal or a Court that affects—
 - (a) unit entitlement, or
 - (b) a management statement, or
 - (c) restricted property.
- (2) If there is lodged with the Registrar-General—
 - (a) a certified copy of an order to which this section applies, and
 - (b) a request in the approved form, and
 - (c) the prescribed fee,the Registrar-General is to make such recordings in the Register (including amendments of the schedule of unit entitlement and the management statement) as, in the opinion of the Registrar-General, are necessary to give effect to the order.
- (3) The Registrar-General may refuse to make recordings under subsection (2) unless there is lodged with the copy of the order—
 - (a) the certificate of title for the association property or common property in the affected scheme, or
 - (b) evidence acceptable to the Registrar-General of the service on the association or strata corporation involved of a notice requiring the certificate of title to be lodged with the Registrar-General.
- (4) If an association or strata corporation—
 - (a) fails for a period of 21 days to comply with a notice served under subsection (3), or

- (b) has not within that period made an application under section 111 of the *Real Property Act 1900*, or
 - (c) having made such an application—fails to proceed with it, the certificate of title for the association property or common property is, for the purposes of that Act, wrongfully retained.
- (5) In this section—
- certified**, in relation to a copy of an order, means—
- (a) if the order is an order of the Tribunal—certified by the principal registrar of that Tribunal, or
 - (b) if the order is an order of a Court—certified by the appropriate officer of the Court,
- to be a true copy.

Part 10 Miscellaneous

85 Membership and functions of associations

The membership and functions of a community association, precinct association or neighbourhood association are those specified in the *Community Land Management Act 2019*.

86 Expiration of initial period

- (1) A notification of the expiration of the initial period under a community scheme, precinct scheme or neighbourhood scheme may be lodged with the Registrar-General and recorded in the folio for the association property under the scheme.
- (2) A notification under subsection (1) must—
 - (a) be in the approved form, and
 - (b) be executed under seal by the relevant community association, precinct association or neighbourhood association.
- (3) A notification recorded under this section is, in favour of the Registrar-General, conclusive evidence of the expiration of the initial period.

87 Accompanying documents become part of plan on registration

A document that accompanies a plan because it is required or permitted to accompany the plan under this Act, becomes, on registration of the plan, part of the plan.

88 Act to bind Crown

- (1) This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.
- (2) This Act does not bind the Crown in relation to a requirement to obtain a planning approval from a planning authority.

89 Regulations

- (1) The Governor may make regulations not inconsistent with this Act for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), regulations may be made for or with respect to—
 - (a) development contracts, or
 - (b) management statements, or
 - (c) schedules of unit entitlement.

90 Repeal of Act

The *Community Land Development Act 1989* No 201 is repealed.

91 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.

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- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Plans

(Sections 10, 13–16 and 68)

1 Requirements for all plans

- (1) In this clause—
plan means the following—
 - (a) a scheme plan,
 - (b) a scheme plan of subdivision,
 - (c) a scheme plan of consolidation,
 - (d) a boundary adjustment plan under section 16,
 - (e) an additional sheet of a detail plan or a replacement sheet of an association plan required under section 18, 19, 22 or 68,
 - (f) any other prescribed plan.
- (2) A plan must be—
 - (a) a formal land survey plan within the meaning of the *Surveying and Spatial Information Act 2002*, and
 - (b) otherwise prepared in the approved form and must comply with any requirements imposed by the regulations or by or under another Act.
- (3) A plan must be accompanied by—
 - (a) an administration sheet, and
 - (b) the written consent of each person who, on the basis of a recording in the Register affecting the land, is—
 - (i) a lessee, or
 - (ii) a judgment creditor under a writ, or
 - (iii) a caveator.
- (4) The administration sheet must—
 - (a) be signed by each person who, on the basis of a recording in the Register affecting the land, is—
 - (i) a registered owner, or
 - (ii) a mortgagee, chargee or covenant chargee, and
 - (b) include a certificate, in the form prescribed under the *Surveying and Spatial Information Act 2002* that has been endorsed in accordance with the regulations under this Act, by a surveyor registered under that Act, and
 - (c) in the case of a plan of subdivision (other than a boundary adjustment plan under section 16)—include the relevant subdivision certificate issued by the planning authority, and
 - (d) in the case of a boundary adjustment plan under section 16—include the consent of the local council given in the approved form.
- (5) The Registrar-General may wholly or partly waive compliance with subclauses (2)(a), (3)(b) or (4)(a) or (b).

2 Public roads and public or drainage reserves

- (1) A scheme plan or a scheme plan of subdivision must define any land in the plan that is to be dedicated as a public road, a public reserve or a drainage reserve.

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Schedule 1 Plans

- (2) On registration of a plan under section 13 dedicating association property, the dedicated land ceases to be association property.

Schedule 2 Management statements

(Section 10)

Part 1 Preliminary

1 Definitions

In this Act—

community management statement means a statement that is registered with a community plan as a statement of the by-laws and other particulars governing participation in the community scheme.

neighbourhood management statement means a statement that is registered with a neighbourhood plan as a statement of the by-laws and other particulars governing participation in the neighbourhood scheme.

precinct management statement means a statement that is registered with a precinct plan as a statement of the by-laws and other particulars governing participation in the precinct scheme.

Part 2 Community management statements and precinct management statements

2 Form of community management statement

A community management statement must be in the approved form, must include any information prescribed by the regulations, must bear the approval of the planning authority and must not be inconsistent with—

- (a) any development contract for the community scheme, or
- (b) an Act or law that, by the operation of section 116 of the *Community Land Management Act 2019*, applies to any part of the community property that is an open access way,

but, if there is such an inconsistency, the development contract, Act or law prevails.

3 Matters to be included

A community management statement must include by-laws, plans and other particulars relating to—

- (a) the location, control, management, use and maintenance of any part of the community property that is an open access way or a private access way, and
- (b) the control, management, use and maintenance of any other part of the community property, including any special facilities provided on the community property, and
- (c) the provision of, and payment for, internal fencing on the community parcel including any obligations of the community association or the subsidiary bodies, and
- (d) the storage and collection of garbage on and from the community parcel and any related obligations of the community association or the subsidiary bodies, and
- (e) the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services, and
- (f) insurance of the community property, and
- (g) the executive committee of the community association, the office-bearers of the committee and the functions of the office-bearers, and

- (h) meetings of the executive committee, and
- (i) voting on a motion submitted to the executive committee otherwise than at a meeting of the committee, and
- (j) the keeping of records of proceedings of the executive committee.

4 Optional matters for management statement

- (1) A community management statement may include by-laws and other particulars relating to any of the following—
 - (a) the hanging of washing within the parcel,
 - (b) safety and security measures,
 - (c) details of any restricted property,
 - (d) the keeping of pets,
 - (e) the obligation of the owner of a lot within the scheme not to interfere with the quiet enjoyment of another lot or the community property,
 - (f) the control of unacceptable noise levels,
 - (g) details of any business or trading activity to be carried on by the association and the method of distributing and sharing any profit or loss,
 - (h) the control or preservation of the essence or theme of the development under the scheme,
 - (i) architectural and landscaping guidelines to be observed by lot owners,
 - (j) a diagram for the purpose of statutory easements,
 - (k) any agreements entered into for the provision of services or recreational facilities,
 - (l) a plan for the purposes of Part 5 (which relates to access ways within the scheme).
- (2) This clause does not limit the matters that may be included in a management statement.

5 By-law required by public authority

- (1) A community management statement may include a schedule specifying by-laws made at the request of public authorities.
- (2) If a by-law made at the request of a public authority so provides, the by-law may not be amended or revoked without the consent of the public authority.
- (3) Subclause (2) has effect despite any other provision of this Act and the provisions of the *Community Land Management Act 2019*.

6 Excluded matters

- (1) A community management statement must not include any prohibition or restriction that—
 - (a) affects the keeping on a lot of an animal that is used as an assistance animal by a person with a disability who is an owner or occupier of a lot, or
 - (b) affects the use on a lot, or on association property, of an assistance animal by a person with a disability, or
 - (c) is based on race or creed, or on ethnic or socio-economic grouping, or
 - (d) excludes public housing from a scheme.
- (2) In this clause—

assistance animal means an animal referred to in section 9 of the *Disability Discrimination Act 1992* of the Commonwealth.

disability has the same meaning as in the *Disability Discrimination Act 1992* of the Commonwealth.

7 Restricted property

A community management statement that restricts the use of any community property must include—

- (a) a description of the property, and
- (b) details of the persons entitled to use the property, and
- (c) the terms and conditions on which those persons may use the property, and
- (d) particulars relating to access to the property and the provision and keeping of any key necessary, and
- (e) particulars of the hours during which the property may be used, and
- (f) provisions relating to the maintenance of the property, and
- (g) matters relating to the determination, imposition and collection of levies on those entitled to use the property.

8 Signature of management statement

A community management statement must have been signed by the original owner or an authorised agent of the original owner.

9 Precinct management statement

- (1) Subject to subclauses (2) and (3), clauses 1–7 apply in relation to a precinct management statement as if the word “community” had been omitted wherever occurring and as if the word “precinct” had been inserted instead.
- (2) A precinct management statement must not be—
 - (a) inconsistent with the community management statement for the community scheme of which the precinct scheme forms part, or
 - (b) if there is a development contract for the community scheme—inconsistent with the development contract,but, if there is such an inconsistency, the community management statement, or the development contract, prevails.
- (3) A precinct management statement need not include anything already provided for by the community management statement.

Part 3 Neighbourhood management statements

10 Form of neighbourhood management statement

A neighbourhood management statement must be in the approved form, must include the information prescribed by the regulations, must bear the approval of the planning authority and must not be inconsistent—

- (a) with any development contract for the neighbourhood scheme, or
- (b) if the neighbourhood scheme is part of a community scheme—with the management statement, or any development contract, for the community scheme or any precinct scheme of which the neighbourhood scheme is part, or

- (c) with an Act or law that, by the operation of section 116 of the *Community Land Management Act 2019*, applies to any part of the neighbourhood property that is an open access way,

but, if there is such an inconsistency, the development contract, community management statement, precinct management statement, Act or law prevails.

11 Matters to be included

In so far as they are not included in a community management statement or a precinct management statement for a scheme under which the neighbourhood scheme is a subsidiary scheme, a neighbourhood management statement must include by-laws, plans and other particulars relating to—

- (a) the location, control, management, use and maintenance of any part of the neighbourhood property that is an open access way or a private access way, and
- (b) the control, management, use and maintenance of any other part of the neighbourhood property, including any special facilities provided on the neighbourhood property, and
- (c) the provision of, and payment for, internal fencing on the neighbourhood parcel, and
- (d) the storage and collection of garbage on and from the neighbourhood parcel, and
- (e) the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services, and
- (f) insurance of the neighbourhood property, and
- (g) the executive committee of the neighbourhood association, the office-bearers of the committee and the functions of the office-bearers, and
- (h) meetings of the executive committee, and
- (i) voting on a motion submitted to the executive committee otherwise than at a meeting of the committee, and
- (j) the keeping of records of proceedings of the executive committee.

12 Optional matters for management statement

- (1) A neighbourhood management statement may include by-laws and other particulars relating to any of the following—
 - (a) the hanging of washing within the parcel,
 - (b) safety and security measures,
 - (c) details of any restricted property,
 - (d) the keeping of pets,
 - (e) the obligation of the owner of a lot within the scheme not to interfere with the quiet enjoyment of another lot or the neighbourhood property,
 - (f) the control of unacceptable noise levels,
 - (g) details of any business or trading activity to be carried on by the association and the method of distributing and sharing any profit or loss,
 - (h) the control or preservation of the essence or theme of the development under the scheme,
 - (i) architectural and landscaping guidelines to be observed by lot owners,
 - (j) a diagram for the purpose of statutory easements,

- (k) any agreements entered into for the provision of services or recreational facilities,
 - (l) a plan for the purposes of Part 5 (which relates to access ways within the scheme).
- (2) This clause does not limit the matters that may be included in a management statement.

13 By-law required by public authority

- (1) A neighbourhood management statement may include a schedule specifying by-laws made at the request of public authorities.
- (2) If a by-law made at the request of a public authority so provides, the by-law may not be amended or revoked without the consent of the public authority.
- (3) Subclause (2) has effect despite any other provision of this Act and the provisions of the *Community Land Management Act 2019*.

14 Excluded matters

- (1) A neighbourhood management statement must not include any prohibition or restriction that—
 - (a) affects the keeping on a lot of an animal that is used as an assistance animal by a person with a disability who is an owner or occupier of a lot, or
 - (b) affects the use on a lot, or on neighbourhood property, of an assistance animal by a person with a disability, or
 - (c) is based on race or creed, or on ethnic or socio-economic grouping, or
 - (d) excludes public housing from a scheme.
- (2) In this clause—

assistance animal means an animal referred to in section 9 of the *Disability Discrimination Act 1992* of the Commonwealth.

disability has the same meaning as in the *Disability Discrimination Act 1992* of the Commonwealth.

15 Restricted property

- A neighbourhood management statement that restricts the use of any neighbourhood property must include—
- (a) a description of the property, and
 - (b) details of the persons entitled to use the property, and
 - (c) the terms and conditions on which those persons may use the property, and
 - (d) particulars relating to access to the property and the provision and keeping of any key necessary, and
 - (e) particulars of the hours during which the property may be used, and
 - (f) provisions relating to the maintenance of the property, and
 - (g) matters relating to the determination, imposition and collection of levies on those entitled to use the property.

16 Signature of management statement

A neighbourhood management statement must have been signed by the original owner or an authorised agent of the original owner.

Schedule 3 Amalgamating neighbourhood scheme with community scheme

(Section 70)

1 Documents to be lodged with application of amalgamation of neighbourhood scheme with community scheme

An application for amalgamation under Part 7 must be accompanied by—

- (a) an additional sheet of the detail plan for the community plan, and
- (b) a replacement sheet of the community property plan, and
- (c) a replacement schedule of unit entitlement for the community plan, and
- (d) an amendment of the community management statement (if required).

2 Detail plan

The additional sheet of the detail plan must show all the amalgamated neighbourhood lots as community development lots without any changes to the boundaries or dimensions of the lots.

3 Community property plan

The replacement sheet of the community property plan must show the altered boundaries of the community property including the amalgamated neighbourhood property.

4 Schedule of unit entitlement

- (1) The replacement schedule of unit entitlement must show the unit entitlement of each of the amalgamated neighbourhood lots that are becoming community development lots in the community scheme.
- (2) The total of the unit entitlement for the new community development lots must equal the unit entitlement for the community development lots that were subdivided to create the amalgamated neighbourhood lots.
- (3) The unit entitlement of those new community development lots must bear the same proportion as existed between those lots when those lots were neighbourhood lots in the neighbourhood scheme.
- (4) Despite subclauses (2) and (3), if it is intended to revise one or more of the unit entitlement for the existing community development lots in the community scheme as well as allocate unit entitlement for the new community development lots, the schedule of unit entitlement must be accompanied by—
 - (a) a certificate of a qualified valuer given in the approved form and based on the market values of all lots (as if the lots were vacant) at the date of valuation, and
 - (b) a certificate under the seal of the community association to the effect that the new schedule of unit entitlement was authorised by a special resolution of the community association.

5 Community management statement

The amended community management statement must—

- (a) include a new prescribed diagram (within the meaning of section 24) in respect of all the statutory easements to which the community scheme will be subject on registration of the amalgamation, and
- (b) if the position of service lines has changed, or is proposed to be changed, from the position shown on the prescribed diagrams for the community scheme or

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neighbourhood scheme before amalgamation, be accompanied by the consent to the change of each owner of a lot that is or will be affected by the change on registration of the amalgamation, and

- (c) include new plans under section 42 in respect of all access ways that will exist in the community scheme on registration of the amalgamation, and
- (d) be accompanied by a certificate under the seal of the community association to the effect that the community management statement was authorised by a special resolution.

Schedule 4 Schedules of unit entitlement

(Sections 10, 13–15, 17, 18 and 70)

1 Definition

In this Schedule—

completed scheme means a scheme for which a schedule of unit entitlement has been registered in accordance with clause 9.

2 General requirements for all schedules of unit entitlement

A schedule of unit entitlement must—

- (a) be in the approved form, and
- (b) clearly state—
 - (i) in the case of a schedule for a completed scheme—that the schedule has been revised, or
 - (ii) in any other case—that the schedule is liable to be altered before, or on, completion of the scheme to which it relates, and
- (c) show all unit entitlement as whole numbers, and
- (d) specify the date of the valuation used to determine the unit entitlement.

3 Schedule accompanying scheme plan

A schedule of unit entitlement for a scheme plan must—

- (a) show the unit entitlement of each development lot or neighbourhood lot, and
- (b) show the total of the unit entitlement under paragraph (a), and
- (c) be based on the comparative market values of the lots (as if the lots were vacant) at the date of the valuation, and
- (d) be supported by a certificate in the approved form given by a qualified valuer at a time that is not earlier than the prescribed time, and
- (e) comply with the regulations and the lodgment rules.

4 Schedule accompanying scheme plan of subdivision

- (1) A schedule of unit entitlement that accompanies a scheme plan of subdivision that subdivides or creates association property or that is lodged under section 14 must—
 - (a) show the unit entitlement of each development lot, former development lot or neighbourhood lot, and
 - (b) show the total of the unit entitlement under paragraph (a), and
 - (c) be supported by a certificate by a qualified valuer given in the approved form and based on the comparative market values of the lots (as if the lots were vacant), and
 - (d) be accompanied by a certificate in the approved form given under the seal of the association certifying that the proposed schedule of unit entitlement has been approved by special resolution.
- (2) A schedule of unit entitlement that accompanies a scheme plan of subdivision (other than a plan lodged under section 14) that does not subdivide or create association property must—
 - (a) show the unit entitlement of each development lot, former development lot or neighbourhood lot, and
 - (b) show the total of the unit entitlement under paragraph (a), and

- (c) not differ from the existing schedule except by showing—
 - (i) the unit entitlement for each new lot created, and
 - (ii) the total unit entitlement of those new lots (which must be the same as the total unit entitlement for the subdivided lots), and
- (d) be supported by a certificate by a qualified valuer given in the approved form and based on the comparative market values of the lots created by the subdivision (as if the lots were vacant).

5 Schedule accompanying acquisition plan affecting scheme

A schedule of unit entitlement that accompanies an acquisition plan lodged under section 68 that affects the unit entitlement in a scheme must—

- (a) be supported by a certificate by a qualified valuer given in the approved form and based on the comparative market values of the lots (as if the lots were vacant), and
- (b) be accompanied by a certificate in the approved form given under the seal of the association certifying that the proposed schedule of unit entitlement has been approved by special resolution.

6 Schedule accompanying instrument severing development lot from scheme (clause 2 of Schedule 8)

- (1) A schedule of unit entitlement that accompanies an instrument lodged under section 17 that severs a community development lot from a community scheme must—
 - (a) reduce the total of the unit entitlement for the community scheme by the unit entitlement of the severed lot, and
 - (b) show the unit entitlement of each development lot or former development lot forming part of the community scheme (without changing those unit entitlements), and
 - (c) show the total of the unit entitlement under paragraph (b).
- (2) A schedule of unit entitlement that accompanies an instrument lodged under section 17 that severs a precinct development lot from a precinct scheme must—
 - (a) reduce the total of the unit entitlement for the precinct scheme by the unit entitlement of the severed lot, and
 - (b) show the unit entitlement of each development lot or former development lot forming part of the precinct scheme (without changing those unit entitlements), and
 - (c) show the total of the unit entitlement under paragraph (b), and
 - (d) be accompanied by a replacement schedule of unit entitlement for the community scheme of which the precinct scheme is part, that—
 - (i) reduces the affected former development lot by the proportion attributable to the severed lot, and
 - (ii) reduces the total of the unit entitlement for the community scheme by the proportion of unit entitlement attributable to the severed lot, and
 - (iii) shows the unit entitlement of each development lot or former development lot forming part of the community scheme (without changing those unit entitlements), and
 - (iv) shows the total of the unit entitlement under subparagraph (iii), and
 - (v) is accompanied by a certificate in the approved form certifying that the schedule has been approved by a special resolution of the community association.

7 Schedule accompanying instrument converting development or neighbourhood lot to association property (clause 2 of schedule 6 and clause 2 of Schedule 7)

- (1) A schedule of unit entitlement that accompanies an instrument lodged under section 18 that converts a community development lot to community property must—
 - (a) make a proportionate allocation of the unit entitlement of the lot being converted among any former community development lots, and any remaining community development lots, in the community scheme, and
 - (b) base that proportionate allocation on the relative sizes of the existing unit entitlement for each remaining community development lot and each former community development lot, and
 - (c) show the unit entitlement of each of those lots, and
 - (d) show the total of the unit entitlement under paragraph (c), and
 - (e) be accompanied by a certificate in the approved form certifying that the schedule has been approved by a special resolution of the community association.
- (2) A schedule of unit entitlement that accompanies an instrument lodged under section 18 that converts a precinct development lot to precinct property must—
 - (a) make a proportionate allocation of the unit entitlement of the lot being converted among any former precinct development lots, and any remaining precinct development lots, in the precinct scheme, and
 - (b) base that proportionate allocation on the relative sizes of the existing unit entitlement for each remaining precinct development lot and each former precinct development lot, and
 - (c) show the unit entitlement of each of those lots, and
 - (d) show the total of the unit entitlement under paragraph (c), and
 - (e) be accompanied by a certificate in the approved form certifying that the schedule has been approved by a special resolution of the precinct association.
- (3) A schedule of unit entitlement that accompanies an instrument lodged under section 18 that converts a neighbourhood lot to neighbourhood property must—
 - (a) make a proportionate allocation of the unit entitlement of the lot being converted among the remaining neighbourhood lots in the neighbourhood scheme, and
 - (b) base that proportionate allocation on the relative sizes of the existing unit entitlement for each remaining neighbourhood lot, and
 - (c) show the unit entitlement of each of those lots, and
 - (d) show the total of the unit entitlement under paragraph (c), and
 - (e) be accompanied by a certificate in the approved form certifying that the schedule has been approved by a special resolution of the neighbourhood association.

8 Schedule accompanying instrument dedicating lot as public road or reserve

- (1) A schedule of unit entitlement that accompanies an instrument or plan that dedicates the whole or part of a lot as a public road or public reserve must reduce the total of the unit entitlement for the scheme by—
 - (a) the unit entitlement of the lot, if the whole of the lot is dedicated as a public road or public reserve, or

- (b) if part of the lot is dedicated as a public road or public reserve, the unit entitlement that would have been attributable to that part if it had been created as a separate lot.
- (2) This clause does not apply if the lot does not have a unit entitlement.

9 Revised schedule lodged on completion of scheme

- (1) An association for a scheme may lodge a revised schedule of unit entitlement for registration if it is satisfied that the scheme is complete.
- (2) A schedule of unit entitlement may be lodged under this clause—
 - (a) for a precinct scheme even if the community scheme of which it is a part is not completed, or
 - (b) for a neighbourhood scheme that is part of a community scheme or precinct scheme even if the community scheme or precinct scheme is not completed.
- (3) A schedule of unit entitlement lodged under this clause—
 - (a) must show the unit entitlement of each development lot, former development lot or neighbourhood lot to which it relates, and
 - (b) must show the total of the unit entitlement under paragraph (a), and
 - (c) must be based on a table of values provided by the Valuer-General under section 76(3) of the *Valuation of Land Act 1916* showing the values of the lots at the same base date, and
 - (d) must be accompanied by a certificate in the approved form given under the seal of the association certifying that the proposed schedule of unit entitlement has been approved by special resolution.

10 Simplification of schedule of unit entitlement

In order to simplify the manner in which it is expressed, the Registrar-General may amend a schedule of unit entitlement without changing its effect.

Schedule 5 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.
- (2) Any such provision—
 - (a) may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date, and
 - (b) has effect despite anything to the contrary in this Schedule.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as—
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.
- (4) Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations.

Part 2 Provisions consequent on enactment of this Act