

1990 - No. 171

STRATA TITLES (LEASEHOLD) ACT 1986 - REGULATION
(Relating to encroachments)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Strata Titles (Leasehold) Act 1986, has been pleased to make the Regulation set forth hereunder.

I. R. CAUSLEY
Minister for Natural Resources.

Commencement

1. This Regulation commences on 30 March 1990.

Amendments

2. The Strata Titles (Leasehold) Regulation 1989 is amended:
 - (a) by omitting from clause 6 the words "section 7 (1) (a) (i) or section 10 (2) (a) (i)" and by inserting instead the words "section 7 (1) (a) (i), 10 (2) (a) (i) or 11 (2) (a)";
 - (b) by omitting clause 6 (k) and by inserting instead the following paragraph:
 - (k) where any encroachment exists - such information as the Registrar-General may require to indicate the relationship of the encroachment to the parcel boundary.

- (c) by inserting at the end of clause 7 the following subclause:
 - (2) The Registrar-General may permit specified survey information of an encroachment, sufficient to illustrate the definition of the perimeter of a parcel, to be shown on a location plan or on the first sheet of a building alteration plan.
- (d) by omitting clause 10 and by inserting instead the following clause:

Floor plans : boundary relationships (1974 Reg. 11)

10. (1) No reference is to be made in a floor plan to the relationship of boundaries of lots to boundaries of the parcel.

(2) Despite subclause (1), for the purposes of sections 7 (10) (a), 10 (6) (a), 11 (6) (a) and 17 (4) (a), so much of an encroachment as is intended for use with a proposed lot is to be indicated in a floor plan in such manner as the Registrar-General may require.

(3) This clause does not apply where the land in the parcel is a stratum parcel.

- (e) by omitting Forms 4, 5 and 6 from Schedule 1 and by inserting instead the following forms:

Form 4 (1974 Regs., F.3)

(C1. 28 (1))

Strata Titles (Leasehold) Act 1986

SURVEYOR'S CERTIFICATE

I,
of
a surveyor registered under the Surveyors Act 1929 hereby certify that:

- (1) any wall, the inner surface or any part of which corresponds substantially with any line shown on the accompanying floor plan as a boundary of a proposed lot, exists;

- (2) any floor or ceiling, the upper or under surface or any part of which forms a boundary of a proposed lot, shown in the accompanying floor plan, exists;
- (3) any wall, floor, ceiling or structural cubic space, by reference to which any boundary of a proposed lot shown in the accompanying floor plan is defined, exists;
- (4) any building containing proposed lots erected on the land shown on the accompanying location plan and each proposed lot shown on the accompanying floor plan are wholly within the perimeter of the parcel *except to the extent that:
 - *(a) the building encroaches on a public place;
 - *(b) the building encroaches on land other than a public place, in respect of which encroachment an appropriate easement
 - * has been created by registered †
 - * is to be created under section 88B of the Conveyancing Act 1919.
- *(5) the survey information recorded in the accompanying location plan is accurate.

Signature:

Date:

* Delete if inapplicable.

† State whether dealing or plan, and quote registered number.

Form 5

(C1. 28 (2))

Strata Titles (Leasehold) Act 1986

SURVEYOR'S CERTIFICATE

I,
of

a surveyor registered under the Surveyors Act 1929 hereby certify that:

- (1) any wall, the inner surface or any part of which corresponds substantially with any line shown on the accompanying floor plan as a boundary of a proposed lot, exists;
- (2) any floor or ceiling, the upper or under surface or any part of which forms a boundary of a proposed lot, shown in the accompanying floor plan, exists;
- (3) any wall, floor, ceiling or structural cubic space, by reference to which any boundary of a proposed lot shown in the accompanying floor plan is defined, exists;
- (4) part only of a building is included in the proposed stratum parcel;
- (5) the proposed stratum parcel and that building are wholly within the perimeter of the site of the building *except to the extent that:
 - *(a) the building encroaches on a public place;
 - *(b) eaves and guttering of the building encroach on land other than a public place, in respect of which eaves and guttering an appropriate easement has been created by registered †
- (6) each part of that building and so much of the site as are included in the proposed lots and common property are wholly within the proposed stratum parcel *except to the extent that:
 - *(a) the building encroaches on a public place;
 - *(b) the building encroaches on land other than a public place, in respect of which encroachment an appropriate easement
 - * has been created by registered †
 - * is to be created under section 88B of the Conveyancing Act 1919.

*(7) the survey information recorded in the accompanying location plan is accurate.

Signature:

Date:

* Delete if inapplicable.

† State whether dealing or plan, and quote registered number.

Form 6 (1974 Regs., F.4)

(C1. 28 (3))

Strata Titles (Leasehold) Act 1986

SURVEYOR'S CERTIFICATE

I,
of
a surveyor registered under the Surveyors Act 1929 hereby certify that:

*(1) a *wall *floor *ceiling or *structural cubic space, by *a surface of which *part of which *reference to which, a boundary of lot in Strata Plan No. was defined, has been demolished and that lot is now defined in the manner illustrated in the accompanying plan.

*(2) a *wall *floor "ceiling has been constructed in a manner whereby a boundary of lot in Strata Plan No. now coincides with

*the inner surface * (if not inner surface, specify part) of that wall

*the upper surface * (if not upper surface, specify part) of that floor

*the under surface * (if not under surface, specify part) of that ceiling

in the manner illustrated in the accompanying plan, and that the *floor *wall *ceiling so referred to is wholly within the perimeter of the parcel:

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- *(a) except to the extent that it encroaches on a public place, the nature and extent of which encroachment is shown in the accompanying plan;
- *(b) except to the extent that the building encroaches on land other than a public place, the nature and extent of which encroachment is shown on the accompanying plan, and in respect of which encroachment an appropriate easement has been created by †

Signature:

Date:

* Delete if inapplicable.

† State whether dealing or plan, and quote registered number.

EXPLANATORY NOTE

The object of this Regulation is to amend the Strata Titles (Leasehold) Regulation 1989, in consequence of the passage of the Strata Titles (Leasehold) (Registration of Plans) Amendment Act 1989:

- (a) to require the disclosure of certain information concerning encroachments on location and survey plans; and
 - (b) to require certification by a surveyor of the existence, or proposed creation, of an appropriate easement in respect of any such encroachment other than an encroachment on land that is a public place.
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