

STRATA TITLES ACT 1973—REGULATION

(Enabling the commencement of a revised scheme for staged strata development by providing details concerning strata development contracts and other particulars, and for the purpose of law revision)

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 Act 1973, has been pleased to make the Regulation set forth hereunder.

GEORGE SOURIS, M.P.,
Minister for Land and Water Conservation.

Commencement

1. This Regulation commences on 1 January 1995.

Amendments

2. The Strata Titles Act Regulations 1974 are amended:
 - (a) by omitting from Regulation 7 the matter “8 (1) (a) (i)” and by inserting instead the matter “8 (1) (a)”;
 - (b) by omitting from Regulation 11 (2) the matter “8 (5) (a)” and by inserting instead the matter “6 (3) (a)”;
 - (c) by omitting from Regulation 28 (1) the matter “sections 8 (1) (f) or” and by inserting instead the matter “section”;
 - (d) by omitting Part 12 (Development Statements) and by inserting instead the following Part:

PART 12—STRATA DEVELOPMENT CONTRACTS **Strata development contracts—information to be included**

73. (1) A strata development contract must include the following information:

following information:

- (a) the warning set out in form 29;
- (b) particulars of title of the land comprising the parcel which is to be developed;
- (c) particulars of title of any other land proposed to be added to the parcel at a later time and a statement setting out whether it is intended that the land (or part of it) will become common property, a further development lot, or an addition to an existing development lot;
- (d) whether or not the developer may be compelled to carry out the proposal to add any such other land to the parcel;
- (e) the covenants set out in Schedule IBA to the Act.

(2) A strata development contract must include a description of each stage of the development (if any) 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”) describing separately:

- (a) the types of buildings proposed, the proposed uses of the lots in the buildings, the proposed building style, and the height and density of the buildings; and
- (b) any common property amenities that will be provided; and
- (c) the number of lots to be created in this stage; and
- (d) details of access and construction zones and accompanying rights over common property and development lots during this stage of development; and
- (e) the manner in which it is proposed to landscape the parcel at this stage; and
- (f) building materials and finishes to be used; and
- (g) details of any vertical staging, and of the insurance cover that applies to any such development; and
- (h) whether the developer’s liability for expenses relating to the use or maintenance of the common property is to be determined by unit entitlement or differently and details of how the liability is to be determined, if it is to be determined differently; and
- (i) details of any by-laws, management agreements, covenants, easements or dedications which will be created or entered into at this stage.

(3) A strata development contract must include a description of each stage of the development (if any) 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”) describing separately:

- (a) the types of buildings proposed, proposed uses of the lots in the buildings, the proposed building style, and the height and density of the buildings; and
- (b) the maximum number of lots to be created in this stage; and
- (c) details of any vertical staging, and of the insurance cover that applies to any such development; and
- (d) whether the developer’s liability for expenses relating to the use or maintenance of the common property is to be determined by unit entitlement or differently and details of how the liability is to be determined, if it is to be determined differently; and
- (e) details of any by-laws, management agreements, covenants, easements or dedications which will be created or entered into at this stage.

Execution by developer on behalf of body corporate

74. If a dealing, plan or other instrument is executed by a developer on behalf of a body corporate pursuant to section 28N (3) for the purpose of giving effect to a decision about a development concern:

- (a) the execution must be in or to the effect of form 30; and
- (b) a statutory declaration in or to the effect of form 31 must be lodged with the dealing, plan or other instrument.

Notices relating to development concerns

75. A motion that relates to a development concern must be identified by the matter “**(This motion relates to a development concern—see sections 28N, 28O and 28P of the Strata Titles Act 1973)**” appearing after the proposed wording of the motion in the following notices and requisitions:

- (a) a notice served on the secretary of the council requiring inclusion in the agenda of the next general meeting of the body corporate of such a motion;
- (b) a notice served on the secretary or, in the absence of the secretary, another member of the council requiring the convening of an extraordinary general meeting to consider such a motion;
- (c) a requisition served on the secretary or, in the absence of the secretary, another member of the council requiring a meeting of the council to be convened to consider such a motion;
- (d) notice of a meeting of the body corporate or of the council of the body corporate at which such a motion is to be considered.

Insurance for vertical staged development

76. (1) For the purposes of clause 8 of Schedule 1BA, a policy of indemnity must indemnify the developer against at least the following:

- (a) claim, up to a value at least equivalent to the cover provided by the body corporate's damage policy maintained pursuant to section 83, for accidental damage to buildings and works for the time being forming part of the parcel (including buildings erected and works carried out under the strata development contract), arising out of or resulting from the carrying out of the permitted development, subject only to such deductibles, exclusions and other terms and conditions as are reasonable and appropriate for contract works insurance;
- (b) claim, up to a value of at least \$10,000,000, for damages because of deaths or personal injuries, for which the developer is liable as an occupier of the parcel, subject only to such deductibles, exclusions and other terms and conditions as are reasonable and appropriate for public liability insurance.

(2) This clause does not affect any obligation of a developer to effect and maintain insurance required by or under any other law, such as the Workers Compensation Act 1987.

Fees payable to Registrar-General

77. The following fees are payable to the Registrar-General:

		\$
1.	On lodgement for registration of a strata development contract	100.00
2.	On lodgment for registration of an amendment to a strata development contract	50.00
3.	For supplying a copy, available from the Departmental Copy Services, of a strata development contract or part of a strata development contract	3.80
4.	For supplying a copy of a strata development contract or part of a strata development contract in response to a requisition requiring dispatch of information by post, facsimile or other means approved by the Registrar-General	17.00
	And, in addition, for supplying documents by facsimile transmission, for each sheet in excess of 2 sheets:	
	(a) within the Sydney telephone area covered by the 02 code	1.00
	(b) outside the Sydney telephone area but within New South Wales	1.20
	(c) outside New South Wales	2.00
	(d) for each requisition if more than 20 pages but not more than 100 pages of strata development contract or contracts are to be copied .	17.00
(e)	by omitting from Schedule 1 forms 3, 5, 29, 30 and 31 and by inserting instead, respectively, the following forms:	

Form 3

(Reg. 28(1))

Strata Titles Act 1973

SURVEYOR'S CERTIFICATE

I,
 of

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

- (1) each applicable requirement of Schedule 1A to the Strata Titles Act 1973 has been met;
- (2)
 - *(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.
- (3) the survey information recorded in any accompanying location plan is accurate.

Signature:

Date:

*Delete if inapplicable

†State whether dealing or plan, and quote registered number

Form 5

(Reg. 29(a))

Strata Titles Act 1973

COUNCIL'S CERTIFICATE

..... (Name of Council)

having satisfied itself that the requirements of the Strata Titles Act 1973 have been complied with, approves of the proposed:

*strata plan; or

*strata plan of subdivision,

illustrated in the annexure to this certificate.

*The strata plan/strata plan of subdivision is part of a development scheme. The council is satisfied that the plan is consistent with the conditions of any development consent and that the plan gives effect to the stage of the strata development contract to which it relates.

*The Council does not object to the encroachment of the building beyond the alignment of

*This approval is given on the condition that the use of lot(s) (being utility lot/s designed to be used primarily for storage or accommodation of boats, motor vehicles or goods and not for human occupation as a residence, office, shop or the like) is restricted to the proprietor or occupier of a lot or proposed lot (not being such a utility lot) the subject of the strata scheme concerned, as referred to in section 39 of the Strata Titles Act 1973.

Date

Subdivision No.

General Manager/authorised person

*Complete, or delete if inapplicable

Form 29

(Reg. 73)

Strata Titles Act 1973

STRATA DEVELOPMENT CONTRACT—Strata Plan No.....

WARNING

This contract contains details of a strata scheme which is proposed to be developed in (insert number) stages on the land described in it.

The developer is only bound to complete so much of the proposed development as is identified as “warranted development” in this contract. However, the developer cannot be prevented from completing the balance of the proposed development identified as “authorised proposals” in this contract.

The proposed development might be varied but only in accordance with section 28J of the Strata Titles Act 1973.

The proposed development might not be completed.

The vote of the developer is sufficient to pass or defeat a motion at a meeting of the body corporate, or of the Council of the body corporate, if the motion is about a development concern. Development concerns are generally those things necessary to be done in order to complete the development in accordance with this contract. See sections 28N, 28O and 28P of the Strata Titles Act 1973.

During development of a further stage there may be disruption to existing occupants due to building and construction activities.

This contract should not be considered alone, but in conjunction with the results of the searches and inquiries normally made in respect of a lot in a strata scheme.

Form 30

(Reg. 74)

*Strata Titles Act 1973***ATTESTATION**

The Proprietors Strata Plan No.
 by the developer of
 Strata Scheme No pursuant to the power
 given to the developer in section 28N (3) of the Strata Titles Act 1973 to
 execute this dealing/plan/instrument for the purpose of giving effect to a
 decision about a development concern.

Form 31

(Reg. 74)

*Strata Titles Act 1973***STATUTORY DECLARATION**

I of
 do solemnly and sincerely declare that:

(1) The dealing/plan/instrument lodged with this statutory declaration
 gives effect to a decision about a development concern as defined in
 section 28O of the Strata Titles Act 1973.

(2) (If applicable) I am authorised to make this declaration on behalf of
 Ltd.,

and I make this solemn declaration conscientiously believing the same to be
 true, and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at
 the day of _____

.....
 Witness etc.

.....
 Declarant

(f) by omitting from Schedule 1 forms 32 and 33.

Transitional

3. The Strata Titles Act Regulations 1974, as in force immediately
 before the commencement of this Regulation, apply to a development
 scheme provided for, and represented by, a development statement:

- (a) that was certified under section 28A (4) of the Strata Titles Act 1973 before that commencement; or
 - (b) that, not needing to be so certified, was duly lodged for registration before that commencement.
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EXPLANATORY NOTE

The object of this Regulation is to allow implementation of the provisions of the Strata Titles (Staged Development) Amendment Act 1993 which will replace the current legislative scheme under which land in a strata parcel may be developed in stages. The Regulation repeals Part 12 of the Strata Titles Act Regulations 1974 (which prescribed matters relating to development statements) and replaces it with a new Part 12 which prescribes matters relating to strata development contracts, the equivalent instrument regulating staged development under the new scheme.

The new Part 12 prescribes the following:

- (a) certain information, and the form of the warning, required to be included in a strata development contract;
- (b) how dealings, plans and other instruments are to be executed and verified by a developer authorised to execute instruments on behalf of a body corporate in order to implement a decision about a development concern;
- (c) details to be included in a notice or requisition served by a proprietor proposing a motion relating to a development concern or in a notice about a body corporate or council meeting at which such a motion will be considered;
- (d) the fees to be paid on lodgment of a strata development contract or an amendment of such a contract or for obtaining copies of a strata development contract;
- (e) particulars of the minimum insurance coverage that a developer must obtain when carrying out a vertical staged development.

Forms 5 and 29–31 are replaced by new forms 5 and 29–31 as a consequence of the new scheme for staged strata development.

Other amendments are made for the purpose of law revision. Regulations 7, 11 and 28 are amended to update references to sections of the Strata Titles Act 1973 that were either amended by the Strata Titles (Part Strata) Amendment Act 1992 or are amended by the Strata Titles (Staged Development) Amendment Act 1993. Form 3 is replaced with a new form 3 that now refers to Schedule 1A of the 1973 Act containing survey requirements for strata plans. Forms 32 and 33 are omitted.

As a transitional measure, the Regulation provides for the Strata Titles Act Regulations 1974, as in force before the commencement of the amendments described above, to continue to apply to staged development schemes that are the subject of development statements certified by councils or lodged for registration before that commencement.

This Regulation is made under the Strata Titles Act 1973, including sections 28C (3), 28N (4) and 158 (the general regulation-making power) and Part 3 of Schedule 4 to that Act.
