

# **COMMUNITY LAND DEVELOPMENT ACT 1989 No. 201**

NEW SOUTH WALES



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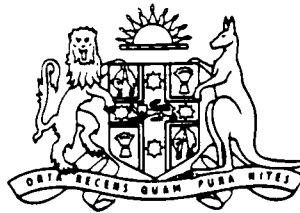
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# COMMUNITY LAND DEVELOPMENT ACT 1989 No. 201

NEW SOUTH WALES



Act No. 201, 1989

An Act to facilitate the subdivision and development of land with shared property; and for other purposes. [Assented to 21 December 1989]

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See also Community Land Management Act 1989; Strata Titles (Community Land) Amendment Act 1989; Miscellaneous Acts (Community Land) Amendment Act 1989.



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The Legislature of New South Wales enacts:

**PART 1 - PRELIMINARY**

**Short title**

1. This Act may be cited as the Community Land Development Act 1989.

**Commencement**

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

**Definitions**

3. (1) In this Act:

"**acquisition plan**" means a deposited 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 section 34;

"**approved form**" means the form approved by the Registrar-General for the purposes of each provision of this Act in which the expression appears;

"**association**" means a community association, a precinct association or a neighbourhood association;

"**association property**" means:

- (a) in relation to a community scheme - the community property in the scheme; or
- (b) in relation to a precinct scheme - the precinct property in the scheme; or
- (c) in relation to a neighbourhood scheme - the neighbourhood property in the scheme;

"**boundary adjustment plan**" means a plan that, as provided by sections 6 and 10, shows minor adjustments to the boundaries of development lots and association property;

**"Commissioner"** means the Community Schemes Commissioner holding office under the Community Land Management Act 1989;

**"common property"** means the common property in a strata scheme as defined in the Strata Titles Act 1973;

**"community association"** means the corporation that:

- (a) is constituted by section 25 on the registration of a community plan; and
- (b) is established as a community association by section 5 of the Community Land Management Act 1989;

**"community development lot"** means a lot in a community plan that is not community property, a public reserve or a drainage reserve and is not land that has become subject to a subsidiary scheme or a lot that has been severed from the community scheme;

**"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;

**"community parcel"** means land the subject of a community scheme;

**"community plan"** means a plan for the subdivision of land 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;

**"community plan of consolidation"** means a plan for the consolidation of 2 or more, but not all, of the community development lots in a community plan;

**"community plan of subdivision"** means a plan (other than an acquisition plan) for the subdivision of a community development lot into 2 or more community development lots and no other lot or lots;

**"community property"** means the lot shown in a community plan as community property;

**"community property plan"** means a sheet or sheets of a community plan illustrating the community property in the community scheme;

**"community scheme"** means:

- (a) the manner of subdivision of land by a community plan; and

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- (b) if land in the community plan is subdivided by a precinct plan - the manner of subdivision of the land by the precinct plan; and
- (c) the manner of subdivision of land in the community plan, or of land in such a 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 1989 and the Strata Titles Act 1973 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;

**"Community Schemes Board"** means a Community Schemes Board under the Community Land Management Act 1989;

**"company nominee"**, in relation to a corporation, means the person named in a notice under section 47 of the Community Land Management Act 1989 as the nominee authorised to exercise the voting rights of the corporation;

**"consent authority"**, in relation to the giving of an approval, consent or certificate, means the council under the Local Government Act 1919 having as a function the giving of the approval, consent or certificate;

**"current plan"** means a registered plan that is a current plan under section 327AA of the Local Government Act 1919 but is not a plan that, under the Strata Titles Act 1973, is a strata plan, a strata plan of subdivision or a strata plan of consolidation;

**"deposited plan"** means a plan of division of land that is prepared for the purposes of this Act, is not required to be registered under the Strata Titles Act 1973 and is registered after being lodged at the office of the Registrar-General in accordance with Division 3 of Part 23 of the Conveyancing Act 1919;

**"detail plan"** means:

- (a) in relation to a community plan - a sheet or sheets of the plan showing details of each of the community development lots in the community scheme; or

- (b) in relation to a precinct plan - a sheet or sheets of the plan showing details of each of the precinct development lots in the precinct scheme; or
- (c) in relation to a neighbourhood plan - a sheet or sheets of the 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"** means:

- (a) in relation to a community scheme - the person who, for the time being, is the registered proprietor of a community development lot in the community plan; or
- (b) in relation to a precinct scheme - the person who, for the time being, is the registered proprietor of a precinct development lot in the precinct plan; or
- (c) in relation to a neighbourhood scheme - the original proprietor of the neighbourhood parcel;

**"development"**, in relation to land, means:

- (a) the erection of a building on the land; or
- (b) the carrying out of a work in, on, under or over the land; or
- (c) the use of the land or of a building or work on the land; or
- (d) the subdivision of the land,

not excluded by regulations under the Environmental Planning and Assessment Act 1979 from the definition of "development" in that Act;

**"development application"** means an application under Division 1 of Part 4 of the Environmental Planning and Assessment Act 1979 for consent to carry out development;

**"development consent"** means consent under Division 1 of Part 4 of the Environmental Planning and Assessment Act 1979 to carry out development;

**"development contract"** means instruments, plans and drawings that are registered with a community plan, precinct plan or neighbourhood plan and describe the manner in which it is proposed to develop the land in the community plan, precinct plan or neighbourhood plan to which they relate;

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**"development lot"** means a community development lot or a precinct development lot that has not been severed under section 15 from the applicable scheme;

**"drainage reserve"** means:

- (a) a drainage reserve referred to in section 340B of the Local Government Act 1919; or
- (b) land held for drainage purposes as referred to in section 340E of that Act;

**"folio"** means 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;

**"initial period"** means, in relation to:

- (a) a strata scheme - the initial period defined in the Strata Titles Act 1973; or
- (b) a neighbourhood scheme - the period that commences when the neighbourhood association is constituted and ends when the sum of the unit entitlements of lots in the neighbourhood scheme of which the original proprietor is not the proprietor is at least one-third of the total unit entitlement under the neighbourhood scheme; or
- (c) a precinct scheme - the period that commences when the precinct association is constituted and ends when the sum of the unit entitlements of former development lots in the scheme that are the subject of neighbourhood or strata schemes for which the initial period has expired is at least one-third of the total unit entitlement under the precinct scheme; or
- (d) a community scheme - the period that commences when the community association is constituted and ends when the sum of the unit entitlements of former development lots in the scheme that are the subject of neighbourhood or strata schemes for which the initial period has expired is at least one-third of the total unit entitlement under the community scheme;

**"initial schedule"**, in relation to unit entitlements, means the schedule of unit entitlements that is required to be lodged:

- (a) under section 5 with a community plan; or

- (b) under section 9 with a precinct plan; or
- (c) under section 13 or 18 with a neighbourhood plan;

**"land"** means contiguous 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:

- (a) is a lot or portion, or 2 or more lots or portions, in a current plan; or
- (b) is land referred to in section 327AA (4) of the Local Government Act 1919; or
- (c) is land referred to in both paragraph (a) and paragraph (b);

**"location diagram"** means a diagram that is a sheet of a community plan, precinct plan or neighbourhood plan and illustrates:

- (a) the location of the community parcel, precinct parcel or neighbourhood parcel in relation to natural and artificial features such as rivers, harbours, the ocean, roads and railways; and
- (b) a diagrammatic representation of the parcel and the lots in the plan, without dimensions; and
- (c) the distance of the parcel from the nearest intersection of public roads;

**"management statement"** means a community management statement, a precinct management statement or a neighbourhood management statement;

**"mortgage"** means a charge (other than a statutory interest or covenant charge) on land for securing the payment of money or money's worth;

**"neighbourhood association"** means the corporation that:

- (a) is constituted by section 25 on the registration of a neighbourhood plan; and
- (b) is established as a neighbourhood association by section 7 of the Community Land Management Act 1989;

**"neighbourhood lot"** means land that is a lot in a neighbourhood plan but is not neighbourhood property, a public reserve or a drainage reserve;

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**"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;

**"neighbourhood parcel"** means land the subject of a neighbourhood scheme;

**"neighbourhood plan"** means a plan (other than a community plan, a precinct plan or a strata plan) for the subdivision of land into 2 or more lots for separate occupation or disposition 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;

**"neighbourhood plan of consolidation"** means a plan for the consolidation of 2 or more, but not all, of the neighbourhood lots in the same neighbourhood plan;

**"neighbourhood plan of subdivision"** means a plan that is not a strata plan or an acquisition plan and is:

- (a) for the subdivision of 1 or more neighbourhood lots (whether or not the neighbourhood scheme is part of a community scheme) into 2 or more different neighbourhood lots; or
- (b) for the subdivision of 1 or more neighbourhood lots (whether or not the neighbourhood scheme is part of a community scheme) into 1 or more different neighbourhood lots and related neighbourhood property; or
- (c) for the subdivision of 1 or more neighbourhood lots and neighbourhood property in a neighbourhood scheme that is not part of a community scheme into 1 or more different neighbourhood lots and related neighbourhood property; or
- (d) for the subdivision of neighbourhood property in a neighbourhood scheme that is not part of a community scheme into 1 or more neighbourhood lots and related neighbourhood property;

**"neighbourhood property"** means the lot shown in a neighbourhood plan as neighbourhood property;

**"neighbourhood property plan"** means a sheet or sheets of a neighbourhood plan illustrating the neighbourhood property in the neighbourhood scheme;

**"neighbourhood scheme"** means:

- (a) the manner of 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 1989 in relation to the neighbourhood association, its neighbourhood property and the proprietors and other persons having interests in, or occupying, the neighbourhood lots;

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

**"open access way"** means an open access way set apart under Part 5;

**"original proprietor"**, in relation to land, means the registered proprietor in fee simple of the land at the time of registration of a community plan, precinct plan or neighbourhood plan subdividing the land;

**"precinct association"** means the corporation:

- (a) constituted by section 25 on the registration of a precinct plan; and
- (b) established as a precinct association by section 6 of the Community Land Management Act 1989;

**"precinct development lot"** means a lot in a precinct plan that is not precinct property, a public reserve or a drainage reserve and is not land that has become subject to a subsidiary scheme or a lot that has been severed from the precinct 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;

**"precinct parcel"** means land the subject of a precinct scheme;

**"precinct plan"** means a plan for the subdivision of the land in a community development lot into 2 or more precinct development lots and 1 other lot that is precinct property, whether or not the



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plan includes land that, on registration of the plan, would be dedicated as a public road, a public reserve or a drainage reserve;

**"precinct plan of consolidation"** means a plan for the consolidation of 2 or more, but not all, of the precinct development lots in the same precinct plan;

**"precinct plan of subdivision"** means a plan (other than an acquisition plan) for the subdivision of a precinct development lot into 2 or more precinct development lots and no other lot or lots;

**"precinct property"** means the lot shown in a precinct plan as precinct property;

**"precinct property plan"** means a sheet or sheets of a precinct plan illustrating the precinct property in the precinct scheme;

**"precinct scheme"** means:

- (a) the manner of subdivision of land by a precinct plan; and
- (b) the manner of 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 1989 and the Strata Titles Act 1973 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;

**"private access way"** means a private access way set apart under Part 5;

**"proprietor"**, in relation to a development lot or a neighbourhood lot, means:

- (a) a person for the time being recorded in the Register as entitled to an estate in fee simple in the lot; or
- (b) a person who has in the lot an interest referred to in section 47 of the Community Land Management Act 1989 of which notice has been given under that section to an association;

**"public authority"** includes the council of a city, municipality or shire;

**"public reserve"** has the same meaning as it has in the Local Government Act 1919;

**"public road"** has the same meaning as it has in the Local Government Act 1919;

**"Register"** means the Register kept under the Real Property Act 1900;

**"registered"** means registered by the Registrar-General;

**"registered valuer"** means a practising real estate valuer registered under the Valuers Registration Act 1975;

**"restricted property"** means:

- (a) association property of which the use is restricted by a management statement; or
- (b) common property of which the use is restricted by by-laws in force under the strata scheme of which it forms part;

**"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;

**"revised schedule"**, in relation to unit entitlements, means a revised schedule of unit entitlements registered under section 30;

**"schedule of unit entitlements"**, in the case of a strata scheme, means a schedule of unit entitlement under the Strata Titles Act 1973;

**"scheme"** means a community scheme, a precinct scheme, a neighbourhood scheme or a strata scheme;

**"sign"** includes seal and, in the case of a corporation other than an association or strata corporation, includes sign as a person authorised by the corporation;

**"special resolution"** means a resolution passed as a special resolution:

- (a) by a community association in accordance with clause 12 of Schedule 5, or clause 15 of Schedule 6, to the Community Land Management Act 1989; or
- (b) by a precinct association in accordance with clause 26 of Schedule 5, or clause 35 of Schedule 6, to the Community Land Management Act 1989; or
- (c) by a neighbourhood association in accordance with clause 40 of Schedule 5, or clause 55 of Schedule 6, to the Community Land Management Act 1989; or
- (d) by a strata corporation in accordance with the Strata Titles Act 1973;

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**"staged scheme"** means a community scheme or precinct scheme developed in stages;

**"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 a proprietor, an association or a strata corporation,

whether or not it has been recorded in the Register;

**"strata corporation"** means a body corporate constituted by section 54 of the Strata Titles Act 1973 for a strata scheme;

**"strata lot"** means a lot within the meaning of the Strata Titles Act 1973 that is part of a community scheme;

**"strata parcel"** means land the subject of a strata scheme;

**"strata plan"** means a strata plan under the Strata Titles Act 1973 that includes common property;

**"strata scheme"** means:

- (a) a strata scheme under the Strata Titles Act 1973 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 Titles Act 1973, this Act and the Community Land Management Act 1989 in relation to the scheme;

**"subsidiary body"** means:

- (a) in relation to a community scheme - the precinct association, neighbourhood association or strata corporation constituted under a precinct scheme, neighbourhood scheme or strata scheme that is part of the community scheme; or
- (b) in relation to a precinct scheme - the neighbourhood association or strata corporation constituted under a neighbourhood scheme or strata scheme that is part of the precinct scheme;

**"subsidiary parcel"** means:

- (a) in relation to a community scheme - the precinct parcel, neighbourhood parcel or strata parcel that is the subject of a precinct scheme, neighbourhood scheme or strata scheme that is part of the community scheme; or
- (b) in relation to a precinct scheme - the neighbourhood parcel or strata parcel that is the subject of a neighbourhood scheme or strata scheme that is part of the precinct scheme;

**"subsidiary scheme"** means:

- (a) in relation to a community scheme - a precinct scheme, neighbourhood scheme or strata scheme that is part of the community scheme; or
- (b) in relation to a precinct scheme - a neighbourhood scheme or strata scheme that is part of the precinct scheme;

**"unanimous resolution"** means a resolution passed at a duly convened general meeting of an association without a vote being cast against it.

(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 development consent, 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 Act.

#### **Object and application of Act**

4. (1) Subject to subsection (2), the object of this Act is to facilitate the subdivision of land into parcels for separate development or disposition:

- (a) with an interest in associated land in the nature of common or shared property; and
- (b) with or without further subdivision (including a subdivision under the Strata Titles Act 1973) in conjunction with the development of another such parcel or other such parcels.

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(2) 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.

(3) This Act binds the Crown except in relation to a requirement to obtain an approval, consent or certificate from a consent authority.

## **PART 2 - COMMUNITY SCHEMES AND PRECINCT SCHEMES**

### **Community plan**

5. (1) Land that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel may be subdivided by the registration of a community plan as a deposited plan.

(2) A community plan must include, as sheets of the plan:

- (a) a location diagram; and
- (b) a detail plan; and
- (c) a community property plan; and
- (d) an initial schedule of unit entitlements.

(3) The Registrar-General may refuse to register a community plan as a deposited plan unless:

- (a) the plan complies with Schedule 1; and
- (b) the initial schedule of unit entitlements complies with Schedule 11; and
- (c) there is endorsed on the plan the address at which documents may be served on the community association constituted on registration of the plan; and
- (d) the documents referred to in subsection (4) are lodged for registration with the plan.

(4) The documents required to be lodged for registration with a community plan are:

- (a) a community management statement that complies with Schedule 3 and that, on registration, will become binding in accordance with section 13 of the Community Land Management Act 1989; and
- (b) any other prescribed documents.

(5) There may be lodged for registration with a community plan a development contract for the community scheme that complies with Schedule 2 and that, on registration, will become binding in accordance with section 15 of the Community Land Management Act 1989.

(6) The documents registered with the plan form part of the plan.

(7) On registering a community plan, the Registrar-General:

- (a) is to make in the folio for the community property the recordings required by Schedule 5; and
- (b) may make, in the folio for a community development lot, a recording relating to the community property; and
- (c) may make such other recordings and notations as the Registrar-General thinks fit.

#### **Adjustment of boundaries of a community development lot**

6. (1) An adjustment that, in the opinion of the Registrar-General, is a minor adjustment may be made to the boundaries between community development lots and the community property in a community plan by registration of a boundary adjustment plan.

(2) A boundary adjustment plan must include, as sheets of the plan:

- (a) a replacement sheet for the community property plan showing the altered boundaries of the community property; and
- (b) an additional sheet for the detail plan of the community plan showing the altered boundaries of affected community development lots.

(3) The Registrar-General may refuse to register a boundary adjustment plan unless:

- (a) the plan complies with Schedule 1; and
- (b) any other prescribed documents are lodged for registration with the plan.

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- (4) A boundary adjustment plan registered under this section:
  - (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.

**Consolidation of community development lots**

7. (1) Two or more, but not all, of the community development lots in the same community plan may be consolidated by the registration of a community plan of consolidation as a deposited plan.

(2) A community plan of consolidation must include, as sheets of the plan:

- (a) an additional sheet for the detail plan of the community plan showing the boundaries of the consolidated lot; and
- (b) a replacement sheet for the initial or revised schedule of unit entitlements for the community plan that differs from the existing schedule only by showing as the unit entitlement for the consolidated lot the sum of the unit entitlements for the lots that have been consolidated.

(3) The Registrar-General may refuse to register a community plan of consolidation unless:

- (a) the plan complies with Schedule 1; and
- (b) any replacement sheet for the initial schedule of unit entitlements complies with Schedule 11; and
- (c) any other prescribed documents are lodged with the plan.

**Subdivision of a community development lot by a community plan of subdivision**

8. (1) A community development lot may be subdivided into 2 or more community development lots and no other lot or lots by a community plan of subdivision registered as a deposited plan.

(2) A community plan of subdivision must include, as sheets of the plan:

- (a) an additional sheet for the detail plan of the community plan showing the boundaries of the development lots created by the subdivision; and
- (b) a replacement sheet for the initial or revised schedule of unit entitlements for the community plan.

(3) The Registrar-General may refuse to register a community plan of subdivision as a deposited plan unless:

- (a) the plan complies with Schedule 1; and
- (b) the replacement sheet for the initial or revised schedule of unit entitlements complies with Schedule 11 as if it were an initial schedule of unit entitlements; and
- (c) the documents referred to in subsection (4) are lodged for registration with the plan.

(4) The documents required to be lodged for registration with a community plan of subdivision are:

- (a) a certificate by the consent authority that is in the approved form and is to the effect that the plan is not inconsistent with the development consent; and
- (b) if a development contract has been registered and an amendment of the development contract is to be registered for the purposes of section 16 of the Community Land Management Act 1989 - a request for registration of the amendment that is in the approved form and is accompanied by the prescribed documents.

(5) The documents registered with the plan form part of the plan.

**Subdivision of a community development lot by a precinct plan**

9. (1) A community development lot may be subdivided by the registration of a precinct plan as a deposited plan.

(2) A precinct plan must include, as sheets of the plan:

- (a) a location diagram; and
- (b) a detail plan; and
- (c) a precinct property plan; and
- (d) an initial schedule of unit entitlements.

(3) The Registrar-General may refuse to register a precinct plan as a deposited plan unless:

- (a) the plan complies with Schedule 1; and
- (b) the initial schedule of unit entitlements complies with Schedule 11; and



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- (c) there is endorsed on the plan the address at which documents may be served on the precinct association constituted on registration of the plan; and
  - (d) the documents referred to in subsection (4) are lodged for registration with the plan.
- (4) The documents required to be lodged for registration with a precinct plan are:
- (a) a precinct management statement that complies with Schedule 3 and that, on registration, will become binding in accordance with section 13 of the Community Land Management Act 1989; and
  - (b) any other prescribed documents.
- (5) There may be lodged for registration with a precinct plan a development contract for the precinct scheme that complies with Schedule 2 and that, on registration, will be binding in accordance with section 15 of the Community Land Management Act 1989.
- (6) The documents registered with the plan form part of the plan.
- (7) On registering the precinct plan, the Registrar-General:
- (a) is to make in the folio for the precinct property the recordings required by Schedule 5; and
  - (b) may make, in the folio for a precinct development lot, a recording relating to the precinct property; and
  - (c) may make such other recordings and notations as the Registrar-General thinks fit.

**Adjustment of boundaries of a precinct development lot**

10. (1) An adjustment that, in the opinion of the Registrar-General, is a minor adjustment may be made to the boundaries between precinct development lots and precinct property in a precinct plan by registration of a boundary adjustment plan.

- (2) A boundary adjustment plan must include, as sheets of the plan:
- (a) a replacement sheet for the precinct property plan showing the altered boundaries of the precinct property; and
  - (b) an additional sheet for the detail plan of the precinct plan showing the altered boundaries of affected precinct development lots.

(3) The Registrar-General may refuse to register a boundary adjustment plan unless:

- (a) the plan complies with Schedule 1; and
- (b) any other prescribed documents are lodged for registration with the plan.

(4) A boundary adjustment plan registered under this section:

- (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.

#### **Consolidation of precinct development lots**

11. (1) Two or more, but not all, of the precinct development lots in the same precinct plan may be consolidated by the registration of a precinct plan of consolidation as a deposited plan.

(2) A precinct plan of consolidation must include, as sheets of the plan:

- (a) an additional sheet for the detail plan of the precinct plan showing the boundaries of the consolidated lot; and
- (b) a replacement sheet for the initial or revised schedule of unit entitlements for the precinct plan that differs from the existing schedule only by showing as the unit entitlement for the consolidated lot the sum of the unit entitlements for the lots that have been consolidated.

(3) The Registrar-General may refuse to register a precinct plan of consolidation unless:

- (a) the plan complies with Schedule 1; and
- (b) any replacement sheet for the initial schedule of unit entitlements complies with Schedule 11; and
- (c) any other prescribed documents are lodged with the plan.

#### **Subdivision of a precinct development lot by a precinct plan of subdivision**

12. (1) A precinct development lot may be subdivided into 2 or more precinct development lots and no other lot or lots by a precinct plan of subdivision registered as a deposited plan.

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- (2) A precinct plan of subdivision must include, as sheets of the plan:
  - (a) an additional sheet for the detail plan of the precinct plan showing the boundaries of the development lots created by the subdivision; and
  - (b) a replacement sheet for the initial or revised schedule of unit entitlements for the precinct plan.
- (3) The Registrar-General may refuse to register a precinct plan of subdivision as a deposited plan unless:
  - (a) the plan complies with Schedule 1; and
  - (b) the replacement sheet for the initial or revised schedule of unit entitlements complies with Schedule 11 as if it were an initial schedule of unit entitlements; and
  - (c) the documents referred to in subsection (4) are lodged with the plan.
- (4) The documents required to be lodged with a precinct plan of subdivision are:
  - (a) a certificate by the consent authority that is in the approved form and is to the effect that the plan is not inconsistent with the development consent; and
  - (b) if a development contract has been registered and an amendment of the development contract is to be registered for the purposes of section 16 of the Community Land Management Act 1989 - a request for registration of the amendment that is in the approved form and is accompanied by the prescribed documents.
- (5) The documents registered with the plan form part of the plan.

**Subdivision of a development lot by a neighbourhood plan or strata plan**

- 13. (1) A development lot may be subdivided:
  - (a) by a neighbourhood plan registered as a deposited plan; or
  - (b) by a registered strata plan that includes common property.
- (2) A neighbourhood plan must include, as sheets of the plan:
  - (a) a location diagram; and

- (b) a detail plan; and
- (c) a neighbourhood property plan; and
- (d) an initial schedule of unit entitlements.

(3) The Registrar-General may refuse to register a neighbourhood plan subdividing a development lot unless:

- (a) the plan complies with Schedule 1; and
- (b) the initial schedule of unit entitlements complies with Schedule 11; and
- (c) there is endorsed on the plan the address at which documents may be served on the association constituted on registration of the plan; and
- (d) the documents referred to in subsection (4) are lodged for registration with the plan.

(4) The documents required to be lodged for registration with a neighbourhood plan are:

- (a) a neighbourhood management statement that complies with Schedule 4 and that, on registration, will become binding in accordance with section 13 of the Community Land Management Act 1989; and
- (b) a development contract that complies with Schedule 2 and that will become binding in accordance with section 15 of the Community Land Management Act 1989; and
- (c) any other prescribed documents.

(5) On registering a neighbourhood plan or strata plan subdividing a development lot, the Registrar-General:

- (a) is to make in the folio for the neighbourhood property or common property in the plan the recordings required by Schedule 5; and
- (b) may make in the folio for a neighbourhood lot or strata lot in the subdivision a recording relating to the community property and, if the development lot was a precinct development lot, the precinct property; and
- (c) may make such other recordings and notations as the Registrar-General thinks fit.

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- (6) The documents registered with a plan form part of the plan.

**Conversion of a development lot to community property or precinct property**

14. (1) A community development lot may be converted to community property, or a precinct development lot may be converted to precinct property, by the registration of an instrument in the approved form.

(2) The Registrar-General may refuse to register such an instrument unless Schedule 6 is complied with.

(3) On registration of the instrument, the Registrar-General is to cancel the folio for the development lot.

**Severance of a development lot**

15. (1) A community development lot may be severed from a community scheme, or a precinct development lot may be severed from a precinct scheme, by the registration of an instrument in the approved form.

(2) The Registrar-General may refuse to register a severance of a development lot unless Schedule 8 is complied with.

(3) On registration of the instrument severing a development lot, the Registrar-General is to:

- (a) make such 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; and
- (b) make such notations on the related community plan or precinct plan with respect to the severance as the Registrar-General thinks fit.

(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 327AA of the Local Government Act 1919.

**Taking on lease of additional association property**

16. (1) A community association or precinct association 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 community parcel or precinct parcel.

(2) The Registrar-General may refuse to register a lease under this section unless Schedule 9 is complied with.

(3) A community association or precinct association may surrender a lease accepted by it under this section if:

- (a) it so decides by a unanimous resolution; and
- (b) the lessor consents.

(4) In relation to a lease under this section, such recordings may be made in the Register as the Registrar-General thinks fit.

(5) In this section:

"land" means land under the Real Property Act 1900 other than:

- (a) the land in a qualified or limited folio; and
- (b) a perpetual lease from the Crown; and
- (c) a leasehold interest evidenced by a lease not registered under that Act.

#### **Lease of certain association property**

17. (1) A community association or precinct association may grant a lease of some, but not all, of its association property that is not held by it on lease.

(2) An association may, by unanimous resolution, accept a surrender of, or exercise a right of re-entry under, a lease granted by it under this section.

(3) The Registrar-General may refuse to register a lease under this section unless:

- (a) the instrument is made subject to any interest (other than an interest of a subsidiary body or of the proprietors of development lots or neighbourhood lots) that is recorded in the Register as affecting the land and has not been released; and
- (b) Schedule 10 is complied with.

(4) A certificate lodged under clause 2 of Schedule 10 is, in favour of:

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- (a) the Registrar-General; and
- (b) a person taking under a lease to which it refers, conclusive evidence of the facts certified.

**PART 3 - NEIGHBOURHOOD SCHEMES**

**Neighbourhood scheme other than subsidiary scheme**

18. (1) In order to establish a neighbourhood scheme that is not part of a community scheme or precinct scheme, land that is not part of a community parcel, precinct parcel or strata parcel may be subdivided by the registration of a neighbourhood plan as a deposited plan.

(2) A neighbourhood plan must include, as sheets of the plan:

- (a) a location diagram; and
- (b) a detail plan; and
- (c) a neighbourhood property plan; and
- (d) an initial schedule of unit entitlements.

(3) The Registrar-General may refuse to register a neighbourhood plan as a deposited plan unless:

- (a) the plan complies with Schedule 1; and
- (b) the initial schedule of unit entitlements complies with Schedule 11; and
- (c) there is endorsed on the plan the address at which documents may be served on the association constituted on registration of the plan; and
- (d) the documents referred to in subsection (4) are lodged for registration with the plan.

(4) The documents required to be lodged for registration with a neighbourhood plan are:

- (a) a neighbourhood management statement that complies with Schedule 4 and that, on registration, will become binding in accordance with section 13 of the Community Land Management Act 1989; and
- (b) a development contract that complies with Schedule 2 and that will become binding in accordance with section 15 of the Community Land Management Act 1989.

- (5) On registering the neighbourhood plan, the Registrar-General:
  - (a) is to make in the folio for the neighbourhood property the recordings required by Schedule 5; and
  - (b) may make in the folio for a neighbourhood lot a recording relating to the neighbourhood property; and
  - (c) may make such other recordings and notations as the Registrar-General thinks fit.
- (6) The documents registered with the plan form part of the plan.

**Consolidation of neighbourhood lots**

19. (1) Two or more, but not all, of the neighbourhood lots in a neighbourhood plan may, whether or not the neighbourhood scheme is part of a community scheme, be consolidated by the registration of a neighbourhood plan of consolidation as a deposited plan.

(2) A neighbourhood plan of consolidation must include as sheets of the plan:

- (a) an additional sheet for the detail plan of the neighbourhood plan showing the boundaries of the consolidated lot; and
- (b) a replacement sheet for the initial or revised schedule of unit entitlements for the neighbourhood plan in the approved form that differs from the existing schedule only by showing as the unit entitlement for the consolidated lot the sum of the unit entitlements for the lots that have been consolidated.

(3) The Registrar-General may refuse to register a neighbourhood plan of consolidation unless:

- (a) the plan complies with Schedule 1; and
- (b) any replacement sheet for the initial schedule of unit entitlements complies with Schedule 11; and
- (c) any other prescribed documents are lodged for registration with the plan.

**Conversion of a neighbourhood lot to neighbourhood property**

20. (1) A neighbourhood lot may, whether or not the neighbourhood scheme is part of a community scheme, be converted to neighbourhood property by the registration of an instrument in the approved form.



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(2) The Registrar-General may refuse to register such an instrument unless Schedule 7 is complied with.

(3) On registration of the instrument, the Registrar-General is to cancel the folio for the neighbourhood lot.

**Dedication of neighbourhood property**

21. (1) The neighbourhood association for a neighbourhood scheme that is not part of a community scheme may, by registration under the Conveyancing Act 1919 of a plan referred to in section 327 of the Local Government Act 1919, dedicate some, but not all, of its neighbourhood property:

- (a) to open or widen a public road; or
- (b) to create a public reserve; or
- (c) to create a drainage reserve.

(2) The Registrar-General may refuse to register a plan dedicating neighbourhood property unless Schedule 10 is complied with.

(3) On registration of a plan dedicating neighbourhood property, the land in the plan ceases to be neighbourhood property.

**Subdivision of neighbourhood lots and related neighbourhood property**

22. (1) Neighbourhood lots or neighbourhood property, or neighbourhood lots and some, but not all, of the related neighbourhood property, may be subdivided by the registration of a neighbourhood plan of subdivision as a deposited plan.

(2) A neighbourhood plan of subdivision must include, as sheets of the plan:

- (a) if the plan subdivides or creates neighbourhood property - a replacement sheet for the neighbourhood property plan showing the altered boundaries of the neighbourhood property; and
- (b) if the plan subdivides or creates neighbourhood lots - an additional sheet of the detail plan of the neighbourhood plan showing the boundaries of the neighbourhood lots created by the subdivision; and
- (c) a replacement sheet for the initial or revised schedule of unit entitlements for the neighbourhood plan.

(3) The Registrar-General may refuse to register a neighbourhood plan of subdivision unless:

- (a) the plan complies with Schedule 1; and
- (b) Schedule 10 is complied with if the plan subdivides or creates neighbourhood property; and
- (c) the replacement sheet for the initial or revised schedule of unit entitlements complies with Schedule 11 as if it were an initial schedule of unit entitlements; and
- (d) if a neighbourhood lot being subdivided is held by the original proprietor - the initial period has expired or the Supreme Court has authorised the subdivision; and
- (e) if the plan subdivides or creates neighbourhood property - there is lodged with the plan a certificate in the approved form that is given under the seal of the neighbourhood association and is to the effect that the proposed subdivision has been approved by unanimous resolution of the association; and
- (f) if an amendment of the development contract for the neighbourhood scheme is to be registered for the purposes of section 16 of the Community Land Management Act 1989 - there is lodged for registration with the plan a request for registration of the amendment that is in the approved form and is accompanied by the prescribed documents.

(4) A neighbourhood lot created by a subdivision of neighbourhood property ceases to be neighbourhood property.

(5) Neighbourhood lots, and neighbourhood property, may be subdivided only:

- (a) in accordance with subsection (1); or
- (b) by an acquisition plan.

#### **Acquisition of additional neighbourhood property**

**23. (1)** A neighbourhood association may add to its neighbourhood 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 neighbourhood parcel.

(2) The neighbourhood association for a neighbourhood scheme that is not part of a community scheme may add to its neighbourhood property by registering under the Real Property Act 1900 a transfer to

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it of land held in fee simple that is not part of, but is contiguous to, the neighbourhood parcel.

(3) The Registrar-General may refuse to register a lease or transfer under this section unless Schedule 9 is complied with.

(4) A neighbourhood association may surrender a lease accepted by it under this section if:

- (a) it so decides by unanimous resolution; and
- (b) the lessor consents.

(5) The Registrar-General may make in relation to a lease, surrender of lease or transfer under this section such recordings in the Register as the Registrar-General thinks fit.

(6) In this section:

"land" means land under the Real Property Act 1900 other than:

- (a) the land in a qualified or limited folio; or
- (b) a perpetual lease from the Crown; or
- (c) a leasehold interest evidenced by a lease not registered under that Act.

**Lease or transfer by neighbourhood association**

24. (1) A neighbourhood association may grant a lease of some, but not all, of its neighbourhood property that is not held by it on lease.

(2) If a neighbourhood scheme is not part of a community scheme, the neighbourhood association may execute a transfer of land that:

- (a) is part of its neighbourhood property that is not held by it on lease and is shown as a lot in a deposited plan lodged for registration as a current plan; or
- (b) is a neighbourhood lot that is not held by it on lease and was created by a subdivision of its neighbourhood property under section 22.

(3) Subsection (2) does not authorise a neighbourhood association to dispose of all of its neighbourhood property.

(4) A neighbourhood association may, by unanimous resolution, accept a surrender of, or exercise a right of re-entry under, a lease granted by it under this section.

(5) The Registrar-General may refuse to register a lease or transfer under this section unless:

- (a) the instrument is made subject to any interest (other than an interest of the neighbourhood association or the proprietors of the neighbourhood lots) that is recorded in the Register as affecting the land and has not been released; and
- (b) Schedule 10 is complied with.

(6) A certificate lodged under clause 2 of Schedule 10 is, in favour of:

- (a) the Registrar-General; and
  - (b) a person taking under a lease to which it refers,
- conclusive evidence of the facts certified.

(7) Land transferred under subsection (2) (a) ceases to be neighbourhood property.

#### **PART 4 - COMMUNITY SCHEMES, PRECINCT SCHEMES AND NEIGHBOURHOOD SCHEMES**

##### **Incorporation of associations**

**25.** (1) 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 deposited plan registered as the community plan.

(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 deposited plan registered as the precinct plan.

(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 deposited plan registered as the neighbourhood plan.

(4) The membership and functions of the corporations are as stated in the Community Land Management Act 1989.

##### **Development contract**

**26.** (1) If an application for development consent to development in accordance with a proposed community scheme or precinct scheme

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is accompanied by a proposed development contract, the consent authority may not grant the development consent unless the proposed development contract complies with Schedule 2 and is approved by the consent authority in the approved form.

(2) The consent authority may not grant consent to the development proposed by a neighbourhood plan unless it also gives approval in the approved form to a proposed development contract for the neighbourhood scheme that complies with Schedule 2 and is lodged with the application for consent.

(3) The granting of a development consent referred to in subsection (1) or (2) is subject to a condition requiring the community parcel, precinct parcel or neighbourhood parcel to be developed in accordance with the development contract.

(4) A condition under subsection (3) has effect as a condition authorised by, and imposed under, section 91 of the Environmental Planning and Assessment Act 1979.

(5) If development consent approving a development contract is granted, the consent authority must certify on the development contract:

- (a) that consent has been granted to the development proposed by the instruments, plans and drawings that comprise the development contract; and
- (b) that the instruments, plans and drawings are not inconsistent with the development consent,

and must provide the applicant for consent with a copy of the development contract bearing the certificate.

**Registration of amendment of development contract**

27. (1) An amendment made under the Community Land Management Act 1989 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 is accompanied by the prescribed fee; and

- (b) it bears the approval of the consent authority; and
- (c) if approval of the amendment by an association is required under section 16 of the Community Land Management Act 1989 - it bears a certificate by the association to the effect that the amendment was approved by the association as required by that section; and
- (d) if such an approval is not required - it bears a certificate by the developer to the effect that the association has been notified of the amendment.

#### **Expiration of initial period**

**28.** (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.

#### **Unit entitlements**

**29.** (1) An initial schedule of unit entitlements must comply with Schedule 11.

(2) A revised schedule of unit entitlements must be based on a table of values provided by the Valuer-General under the Valuation of Land Act 1916 for the purposes of section 30.

#### **Revised schedule of unit entitlements**

**30.** (1) 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

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- (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.

(2) If a community association is satisfied that the scheme under which it is constituted has been completed, it may lodge for registration a revised schedule of unit entitlements.

(3) After registration of the neighbourhood plan for a neighbourhood scheme that is not part of a community scheme, the neighbourhood association may lodge for registration a revised schedule of unit entitlements.

(4) If the schedule of unit entitlements in force for a community scheme, precinct scheme or neighbourhood scheme is a revised schedule lodged under section 8, 12, 15, 22 or 34, the community association or, if it is not part of a community scheme, the neighbourhood association, may lodge another revised schedule of unit entitlements for registration by the Registrar-General.

(5) A revised schedule of unit entitlements lodged under subsection (2) or (4) by a community association must be lodged as:

- (a) a replacement sheet for the existing schedule of unit entitlements for the community plan showing the unit entitlement of each community development lot, and of each former community development lot, in the scheme; and
- (b) a replacement sheet for the existing schedule of unit entitlements for each precinct plan (if any) within the community scheme showing the unit entitlement of each precinct development lot, and of each former precinct development lot, in the precinct scheme; and
- (c) a replacement sheet for the existing schedule of unit entitlements for each neighbourhood plan within the community scheme showing the unit entitlement of each neighbourhood lot in the neighbourhood scheme.

(6) A revised schedule of unit entitlements lodged under subsection (3) or (4) by the neighbourhood association for a neighbourhood scheme that is not part of a community scheme must be lodged as a replacement sheet for the existing schedule of unit entitlements for the

neighbourhood plan showing the unit entitlement of each neighbourhood lot in the scheme and the total of those unit entitlements.

(7) A revised schedule of unit entitlements lodged for registration by an association must:

- (a) be in the approved form; and
- (b) be clearly identified as a revised schedule; and
- (c) show as a whole number the unit entitlement of each development lot, former development lot or neighbourhood lot to which it relates; and
- (d) show as a whole number the total of the unit entitlements under paragraph (c); and
- (e) 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 affected lots at the same base date; and
- (f) be accompanied by a certificate that is in the approved form, is given under the seal of the association and is to the effect that the revised schedule has been approved by a special resolution of the association.

#### **Vesting of association property**

31. (1) On registration of the plan or dealing by which it is created, association property vests in the relevant association.

(2) Land vests under this section for the estate or interest evidenced by the folio for the land.

(3) On vesting, the land is freed from any mortgage, charge, covenant charge, writ or caveat that affected it immediately before it became association property.

(4) The estate or interest of an association in its association property is held by it:

- (a) if it has only 1 member - as agent for the member; or
- (b) if it has more than 1 member - as agent for all the members as tenants in common in the shares prescribed by section 32.

#### **Shares in association property**

32. (1) The share of the proprietor of a community development lot in the community property is a proportionate share the same as the



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proportion that is borne to the total unit entitlement under the community scheme by the unit entitlement for the community development lot.

(2) The share of a subsidiary body in community property is a proportionate share the same as the proportion that is borne to the total unit entitlement under the community scheme by the unit entitlement for the former community development lot that is subject to the subsidiary scheme.

(3) The share of the proprietor of a precinct development lot in the precinct property is a proportionate share the same as the proportion that is borne to the total unit entitlement under the precinct scheme by the unit entitlement for the precinct development lot.

(4) The share of a subsidiary body in precinct property is a proportionate share the same as the proportion that is borne to the total unit entitlement under the precinct scheme by the unit entitlement for the former precinct development lot that is subject to the subsidiary scheme.

(5) The share of the proprietor of a neighbourhood lot in neighbourhood property is a proportionate share the same as the proportion that is borne to the total unit entitlement under the neighbourhood scheme by the unit entitlement for the neighbourhood lot.

**Dealings with association property**

33. (1) The estate or interest of an association in association property may be dealt with only in accordance with this Act and the Community Land Management Act 1989.

(2) The estate or interest in community property held by the community association as agent for the proprietor of a community development lot may be dealt with in conjunction with the lot.

(3) The estate or interest in association property held by a community association or precinct association as agent for a subsidiary body may be dealt with in conjunction with the subsidiary parcel.

(4) The estate or interest in precinct property held by a precinct association as agent for the proprietor of a precinct development lot may be dealt with in conjunction with the precinct development lot.

(5) The estate or interest in neighbourhood property held by a neighbourhood association as agent for the proprietor of a neighbourhood lot may be dealt with in conjunction with the neighbourhood lot.

(6) A reference in a dealing or caveat:

- (a) to a lot that is a community development lot, or is a neighbourhood lot or strata lot that forms part of a community scheme - includes (without being expressly stated) a reference to the estate or interest in the community property held by the community association as agent for its members; or
- (b) to a lot that is a precinct development lot, or is a neighbourhood lot or strata lot that forms part of a precinct scheme - includes (without being expressly stated) a reference to the estate or interest in the precinct property held by the precinct association as agent for its members; or
- (c) to a lot that is a neighbourhood lot - includes (without being expressly stated) a reference to the estate or interest in the neighbourhood property held by the neighbourhood association as agent for its members.

(7) Subsection (6) has effect without a recording being made in the folio for the association property.

#### **Sale as alternative to resumption**

**34.** (1) 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.

(2) 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) applicable documents referred to in subsection (3) are lodged with the plan; and
- (c) any replacement sheet (other than a replacement sheet for a schedule of unit entitlements) or additional sheet required to be lodged with the plan complies with Schedule 1.

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(3) The documents required to be lodged for registration with an acquisition plan are:

- (a) if the plan is for, or includes, a subdivision of association property - a replacement sheet for the community property plan, precinct property plan or neighbourhood property plan showing the altered boundaries of the association property; and
- (b) if the plan is for, or includes, a subdivision of a development lot or neighbourhood lot - an additional sheet of the detail plan for the community plan, precinct plan or neighbourhood plan showing the altered boundaries of the lot; and
- (c) if the plan is for, or includes, a subdivision of a community development lot - a replacement sheet that complies with Schedule 11 as if it were an initial schedule of unit entitlements and is a replacement sheet for the initial or revised schedule of unit entitlements for the community plan; and
- (d) if the plan is for, or includes, a subdivision of a precinct development lot - replacement sheets that comply with Schedule 11 as if they were initial schedules of unit entitlements and are replacement sheets for the initial or revised schedules of unit entitlements for the precinct plan and community plan; and
- (e) if the plan is for, or includes, a subdivision of a neighbourhood lot within a community scheme - replacement sheets that comply with Schedule 11 as if they were initial schedules of unit entitlements and are replacement sheets for the initial or revised schedules of unit entitlements for the neighbourhood plan, any precinct plan and the community plan for the scheme or schemes under which the neighbourhood scheme is a subsidiary scheme; and
- (f) if the plan is for, or includes, a subdivision of a neighbourhood lot that is not within a community scheme - a replacement sheet that complies with Schedule 11 as if it were an initial schedule of unit entitlements and is a replacement sheet for the initial or revised schedule of unit entitlements for the neighbourhood plan; and
- (g) if an amendment of a development contract is to be registered for the purposes of section 16 of the Community Land Management Act 1989 - a request for registration of the amendment that is in the approved form and is accompanied by the prescribed documents.

(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 1989 cease to apply to the land.

(7) This section has effect despite any other provision of this Act.

#### **Creation and release of easements or restrictions**

**35. (1)** If authorised by a unanimous resolution, a community association may:

- (a) execute a dealing creating an easement which burdens its community property or a restriction on the use of land which burdens its community property or the whole of the community parcel; or
- (b) accept a dealing creating an easement which, or a restriction on the use of land which, benefits its community property or the whole of the community parcel; or
- (c) execute a dealing releasing an easement (other than the statutory easement under section 36) which, or a restriction on the use of land which, benefits its community property or the whole of the community parcel; or
- (d) accept a dealing releasing an easement (other than the statutory easement under section 36) which, or a restriction on

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the use of land which, burdens its community property or the whole of the community parcel.

(2) A precinct association has, in relation to its precinct property and the precinct parcel, and a neighbourhood association has, in relation to its neighbourhood property and the neighbourhood parcel, the same powers as are conferred by subsection (1) on a community association in relation to its community property and the community parcel.

(3) The Registrar-General may refuse to register a dealing under this section unless:

- (a) the dealing is made subject to any interest (other than an interest of the association or the proprietors of development lots and neighbourhood lots) that is recorded in the Register as affecting the land and has not been released; and
- (b) Schedule 10 is complied with.

(4) A certificate under clause 2 of Schedule 10 is, in favour of:

- (a) the Registrar-General; and
  - (b) a person taking under the dealing to which it refers,
- conclusive evidence of the facts certified.

**Statutory easement**

**36.** (1) In this section:

"lot" means a development lot, a neighbourhood lot or a strata lot;

"prescribed diagram" means a diagram that is in the approved form and complies with any prescribed requirements;

"service" includes:

- (a) the supply of water, gas, electricity, artificially heated or cooled air or heating oil; and
- (b) the provision of sewerage and drainage; and
- (c) transmissions by telephone, radio or television;

"service line" means a pipe, wire, cable, duct or pole by means of which a service is to be provided;

"statutory easement" means 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 land within the scheme that would include, or includes, the service line and do all such things as may reasonably be necessary to exercise the rights referred to in paragraphs (a) and (b).

(2) If a service line is installed as part of a scheme before registration of the management statement relating to the scheme, the statutory easement is created within the scheme on registration of the management statement if it includes the prescribed diagram relating to the service line.

(3) If:

- (a) the management statement for a scheme is registered before a proposed service line is installed as part of the scheme; and
- (b) the management statement includes the prescribed diagram for the proposed service line,

the statutory easement is created within the scheme on installation of the service line in accordance with the diagram.

(4) If, after registration of a prescribed diagram for a proposed service line as part of the management statement for a scheme:

- (a) the service line is installed in a position different from that shown in the prescribed diagram for the service line; and
- (b) a later prescribed diagram showing the different position of the service line is lodged for registration as an amendment of the management statement; and
- (c) the later prescribed diagram is signed by the proprietors of the lots that would be burdened by the statutory easement for the service line shown in the diagram,

the later prescribed diagram may be registered as an amendment of the management statement duly made under the Community Land Management Act 1989.

(5) On registration under subsection (4) of an amendment of a management statement:

- (a) the earlier prescribed diagram is to be taken to have been cancelled in so far as it is inconsistent with the later prescribed diagram; and

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- (b) the later prescribed diagram has effect on registration as if it had been registered immediately before installation of the service line.
- (6) On the creation within a scheme of the 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.
- (7) If the developer under a scheme enters into an agreement with a public authority for the provision and installation of a service line within the scheme, the public authority has the benefit of the statutory easement on and from its creation in relation to the service line.
- (8) If a service line is installed as part of a scheme after registration of the management statement, the developer must, within a reasonable time, give a copy of the prescribed diagram relating to the service line to the association constituted under the scheme.
- (9) Land to which the statutory easement is appurtenant is subject to a covenant by the proprietor of the land 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 proprietor of land burdened by the easement.
- (10) This section does not affect any rights or obligations relating to service lines that are conferred or imposed by another Act.

**Replacement sheet or additional sheet for a plan**

37. (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 community plan, precinct plan or neighbourhood 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 community plan, precinct plan or neighbourhood plan, the Registrar-General is to file the additional sheet as an additional sheet of the community plan, precinct plan or neighbourhood plan.

(3) On registration of a plan, order of a court or other instrument that includes, or is accompanied by, a replacement sheet for the schedule of unit entitlements for a community plan, precinct plan or neighbourhood plan, the Registrar-General is to cancel the previous schedule and substitute the replacement sheet for the corresponding sheet of the community plan, precinct plan or neighbourhood plan.

(4) On taking the action referred to in subsection (1), (2) or (3), the Registrar-General may make in the Register such recordings as the Registrar-General thinks fit.

(5) 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.

(6) On registration of a replacement sheet or additional sheet for a plan, the Registrar-General must provide a copy:

- (a) if the plan is a community plan, a precinct plan or a 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.

(7) If a replacement sheet or additional sheet for a plan is a schedule of unit entitlements, the Registrar-General must, in addition to providing a copy under subsection (6), provide a copy for the Valuer-General, the Chief Commissioner of Land Tax and any other prescribed public authority.

(8) On amending a schedule of unit entitlements, the Registrar-General is to comply with subsections (6) and (7) as if the amended schedule were a replacement sheet for a plan.

(9) The Registrar-General may provide a copy of a replacement sheet or additional sheet for a plan for such other persons as the Registrar-General thinks fit.

(10) Such notations as the Registrar-General thinks fit may be made on a replaced or amended schedule of unit entitlements.



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**Simplification of schedule of unit entitlements**

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

**Registration of amendment of management statement**

39. (1) An amendment made under the Community Land Management Act 1989 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.

**Recording of certain orders**

40. (1) This section applies to an order made by a Community Schemes Board or a Court that affects:

- (a) unit entitlements; 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 entitlements 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 a Board - certified by the Commissioner; 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 5 - ACCESS TO SCHEMES**

### **Division 1 - Open access ways**

#### **Open access way in community property**

**41. (1)** Part of the land comprising the community property in a community scheme may be set apart as a means of open access connecting part of the community parcel and a public road.

**(2)** A setting apart under subsection (1) is effected if the community management statement includes a plan that:

- (a) is in the approved form; and
- (b) defines as an open access way the land to be set apart; and
- (c) includes the prescribed information.

#### **Open access way in precinct property**

**42. (1)** Part of the land comprising the precinct property in a precinct scheme may be set apart as a means of access connecting part of the precinct parcel and a public road, whether or not the connection is partly by means of an open access way set apart under section 41.

**(2)** A setting apart under subsection (1) is effected if the precinct management statement includes a plan that:

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- (a) is in the approved form; and
- (b) defines as an open access way the land to be set apart; and
- (c) includes the prescribed information.

**Open access way in neighbourhood property**

**43.** (1) Part of the land comprising the neighbourhood property in a neighbourhood scheme may be set apart as a means of access connecting part of the neighbourhood parcel and a public road, whether or not the connection is partly by means of:

- (a) an open access way set apart under section 41 or 42; or
- (b) open access ways set apart under sections 41 and 42.

(2) A setting apart under subsection (1) is effected if the neighbourhood management statement includes a plan that:

- (a) is in the approved form; and
- (b) defines as an open access way the land to be set apart; and
- (c) includes the prescribed information.

**Division 2 - Private access ways**

**Private access way in community property**

**44.** (1) Part of the land that comprises the community property in a community scheme and is not an open access way may be set apart as a means of private access connecting part of the community parcel and an open access way within the parcel or a public road.

(2) A setting apart under subsection (1) is effected if the community management statement includes a plan that:

- (a) is in the approved form; and
- (b) defines as a private access way the land to be set apart; and
- (c) includes the prescribed information.

**Private access way in precinct property**

**45.** (1) Part of the land that comprises the precinct property in a precinct scheme and is not set apart as an open access way may be set apart as a means of private access connecting part of the precinct parcel and:

- (a) an open access way that is within the community scheme (whether or not as part of the precinct parcel); or

(b) a public road.

(2) A setting apart under subsection (1) is effected if the precinct management statement includes a plan that:

- (a) is in the approved form; and
- (b) includes the prescribed information; and
- (c) defines as a private access way the land to be set apart.

**Private access way in neighbourhood property**

46. (1) Part of the land that comprises the neighbourhood property in a neighbourhood scheme and is not an open access way may be set apart as a means of private access connecting part of the neighbourhood parcel and:

- (a) an open access way that is within the neighbourhood parcel; or
- (b) if the neighbourhood scheme is part of a community scheme - an open access way within the community parcel (whether or not as part of a precinct parcel); or
- (c) a public road.

(2) A setting apart under subsection (1) is effected if the neighbourhood statement includes a plan that:

- (a) is in the approved form; and
- (b) includes the prescribed information; and
- (c) defines as a private access way the land to be set apart.

**Division 3 - General**

**Access ways remain as association property**

47. (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 Local Government Act 1919 that operates to vest land in a council as a public road.

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**Effect of access ways in relation to certain rights**

48. (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 1989 on such an owner in relation to association property; and
- (b) rights conferred by the management statement for the scheme.

**PART 6 - RESUMPTIONS**

**Application of Part**

49. (1) This Part has effect even if it is inconsistent with another Act and, if there is such an inconsistency, this Part prevails.

(2) 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.

(3) 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.

**Notice of resumption**

50. (1) A notice of resumption must state whether or not the land resumed is excluded from any related scheme and must include the plaint number for the action instituted in the Supreme Court to restructure the scheme as a consequence of the resumption.

(2) Land is excluded from a scheme if a notice of resumption so provides.

(3) 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.

(4) 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.

(5) Exclusion of a precinct development lot from a precinct scheme excludes it from the community scheme of which the precinct scheme is part.

#### **Cases in which parcel must be resumed**

51. (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 subdivided to constitute a precinct scheme, a neighbourhood scheme or a strata scheme.

#### **Resumption of parcel**

52. (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 7 terminating the scheme; and

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- (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 community plan, precinct plan, neighbourhood 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 an office 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 community plan, precinct plan, neighbourhood plan or strata plan such notations,

relating to the termination of the scheme as the Registrar-General thinks fit.

**Resumption of land not part of association property or common property**

53. (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 entitlements; 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 an office copy of the order for registration by the Registrar-General accompanied by a replacement sheet that is sealed by the Supreme Court and is a replacement sheet for the schedule of unit entitlements:

- (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 entitlements:

- (a) by cancelling the existing schedules of unit entitlements; and
- (b) by substituting for the cancelled schedules those lodged under subsection (4); and
- (c) in the case of a strata scheme - by recording the effect of the order in the folio for the common property under the scheme.

**Resumption of entire lot - application under Real Property Act 1900**

**54. (1)** If resumed land excluded from a scheme is a development lot, neighbourhood lot or strata lot, the Registrar-General may, on registering a resumption application under section 31A of the Real Property Act 1900:

- (a) make, in the folio for the association property or common property vested in the association or strata corporation constituted under the scheme, such recordings; and
- (b) make in the folio for the resumed land such recordings; and
- (c) make on the community plan, precinct plan or neighbourhood plan such notations,



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relating to the exclusion as the Registrar-General thinks fit.

(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 327AA of the Local Government 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 deposited plan for registration as a current plan identifying the lot excluded.

**Resumption of part of lot without exclusion from scheme**

**55.** (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, 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 entitlements, as a consequence of the proposed resumption; and
- (b) lodge with the Registrar-General a plan referred to in section 56 (2) (a), (3) (a) or (4).

(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 proprietor 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 entitlements; 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 an office 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.

**Plan of part of lot not excluded on resumption**

56. (1) This section applies to land that is the subject of a resumption referred to in section 55.

(2) If resumed land to which this section applies is not part of a neighbourhood scheme or a strata scheme, the resuming authority must lodge with the Registrar-General:

- (a) as a community plan of subdivision or a precinct plan of subdivision, an additional sheet of the detail plan for the community plan or precinct 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 neighbourhood scheme, the resuming authority must lodge with the Registrar-General:

- (a) as a neighbourhood plan of subdivision, an additional sheet of the detail plan for the neighbourhood plan showing the boundaries of the lots affected; or
- (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.

(4) 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.

(5) 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

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- (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.

(6) 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.

(7) An additional sheet or replacement sheet, or such a plan, takes effect on registration.

**Resumption of part of lot with exclusion from scheme**

57. (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 entitlements 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 proprietor of the residue of the lot - that it 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 entitlements; 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 an office 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.

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

**58.** (1) This section applies to land the subject of a resumption referred to in section 57.

(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 in the case of land in a strata scheme - an additional sheet of the detail plan for the relevant community plan, precinct plan or neighbourhood plan showing the altered boundaries of the lots affected; or
- (b) in the case of 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 57 a replacement sheet for the relevant community property plan, precinct property plan or neighbourhood property plan showing the altered boundaries of the association property.

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**Resumption of part of association property or common property**

**59.** (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.

**Resumption application affecting some association property or common property**

**60.** 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.

**Interest in association property or common property**

61. (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.

**Notice of application to the Supreme Court**

62. (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 proprietor, 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 consent authority; 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:

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- (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 entitlements, 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.

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

**63.** (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.

**Costs**

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

**Compensation on resumption of part of lot**

65. 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.

**Compensation on resumption of association property or common property**

66. (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.

**Resumption by authority not bound by Act**

67. (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 the Community Land Management Act 1989 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.

**Exclusion of resumed land from scheme**

68. (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 1989 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 1989 cease to apply to it.



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**Continuation of resumed land within scheme**

**69.** (1) Resumed land remains within any related scheme, and this Act and the Community Land Management Act 1989 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 1989 apply to it as if it had been vested in the resuming authority by a registered transfer.

**PART 7 - VARIATION OR TERMINATION OF SCHEME**

**Variation or termination of scheme by Supreme Court**

**70.** (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 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.

(2) An order of the Supreme Court varying a development contract may provide for:

- (a) the conversion of a development lot or former development lot to community property or precinct property; or
- (b) the conversion of a neighbourhood lot to neighbourhood property; or
- (c) the severance from the scheme of a development lot or a neighbourhood lot; or
- (d) any other matter the Court considers to be appropriate, just and equitable in the circumstances.

(3) An order of the Supreme Court terminating a scheme may provide for all or any 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 entitlements in accordance with a new valuation;
- (f) the registration of a new plan or reversion to a former plan;
- (g) 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 327AA of the Local Government 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.

**Proceedings on application to Supreme Court for variation or termination of scheme**

**71. (1)** An application to the Supreme Court for an order under section 70 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) The Registrar-General must be joined as a party to an application.

(3) The Supreme Court may join as a party to an application the consent authority or any other person.

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- (4) The Supreme Court may, on application or of its own motion:
  - (a) deal with an application to vary a development contract as if it were an application to terminate the scheme; or
  - (b) deal with an application to terminate a scheme as an application to vary a development contract.

**Termination of certain neighbourhood schemes by the Registrar-General**

72. (1) In this section, a reference to a neighbourhood scheme is a reference to a neighbourhood scheme that is not:

- (a) part of a community scheme; or
- (b) the subject of an application under section 70.

(2) The Registrar-General may terminate a neighbourhood scheme on the application of the neighbourhood association and the proprietors of the neighbourhood lots in the scheme.

(3) Details of the proposed termination, and a statement of intention to make the application, must be published in:

- (a) a daily newspaper circulating generally in Sydney; and
- (b) a local newspaper circulating generally in the area in which the neighbourhood parcel is situated; and
- (c) the Gazette,

at least 14 days before the application is made.

(4) The application must be:

- (a) made under the seal of the neighbourhood association after being approved by a unanimous resolution of the association; and
- (b) signed by each proprietor of a neighbourhood lot within the scheme and by each registered mortgagee, chargee or covenant chargee of a lot within the scheme; and
- (c) bear the consent of each party as referred to in Division 3 of Part 23 of the Conveyancing Act 1919; and
- (d) bear the consent of the consent authority.

(5) There must be lodged with the application:

- (a) a deposited plan for the parcel for registration as a current plan; and

- (b) the certificates of title for all the neighbourhood lots and the neighbourhood property; and
  - (c) evidence of compliance with subsection (3); and
  - (d) such other documents and 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 section 70 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), (4) and (5).

**Consequences of termination order by the Registrar-General**

- 73.** (1) When an order terminating a neighbourhood scheme under section 72 takes effect:
- (a) the neighbourhood association is dissolved and the neighbourhood scheme is terminated; and
  - (b) the former proprietors of the neighbourhood lots are liable for the liabilities of the neighbourhood association in shares proportional to the unit entitlements of their neighbourhood lots; and
  - (c) the land in the neighbourhood parcel defined in the plan lodged with the application for the order and the assets of the neighbourhood association vest in the former proprietors as tenants in common in shares proportional to the unit entitlements of their neighbourhood lots; and
  - (d) the Registrar-General is to cancel the folios of the Register that evidenced title to the lots and neighbourhood property in the neighbourhood scheme immediately before its termination; and
  - (e) the estate or interest of the former proprietors in land vested by paragraph (c) is subject to any estate or interest subsisting on

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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) The Registrar-General may make appropriate recordings in the Register to give effect to the termination and its consequences.

(3) In this section:

"former proprietors" means the persons who were the proprietors immediately before the termination order took effect.

## **PART 8 - GENERAL**

### **Transitional provisions**

74. Schedule 12 has effect.

### **Regulations**

75. (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 entitlements.
-

## **SCHEDULE 1 - PLANS**

(Secs. 5-13, 18, 19, 22, 34)

### **Public roads etc.**

1. A community plan, precinct plan or neighbourhood plan must define any land in the plan that is to be dedicated as a public road, a public reserve or a drainage reserve.

### **Requirements for all plans**

2. (1) A plan must be prepared in the approved form and must comply with any requirements imposed by the regulations or by or under another Act.

(2) There must be lodged with:

- (a) a plan of subdivision (other than a boundary adjustment plan) - the appropriate certificate of the consent authority; or
- (b) a plan of consolidation - the appropriate certificate of the consent authority as required by section 314B of the Local Government Act 1919; or
- (c) a boundary adjustment plan - the consent of the local council given in the approved form.

(3) The lots in a plan must be defined by a plan of survey under the Survey Practice Regulations 1933.

(4) The subdivision represented by a plan must be permanently marked in accordance with the Survey Co-ordination Act 1949 in a manner that enables the lots to be readily redefined from the marks.

(5) A plan must be signed by each person who, on the basis of a recording in the Register affecting the land, is:

- (a) a registered proprietor; or
- (b) a mortgagee, chargee or covenant chargee.

(6) There must be lodged with a plan the written consent of each person who, on the basis of a recording in the Register affecting the land, is:

- (a) a lessee; or
- (b) a judgment creditor under a writ; or
- (c) a caveator.

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**SCHEDULE 1 - PLANS - *continued***

(7) The Registrar-General may wholly or partly waive compliance with subclauses (3), (4), (5) and (6).

(8) In this clause:

"plan" means:

- (a) a community plan; or
- (b) a precinct plan; or
- (c) a neighbourhood plan; or
- (d) a community, precinct or neighbourhood plan of subdivision; or
- (e) a community, precinct or neighbourhood plan of consolidation; or
- (f) a boundary adjustment plan; or
- (g) an additional sheet of a detail plan lodged with an acquisition plan; or
- (h) a replacement sheet for an association property plan lodged with an acquisition plan; or
- (i) a replacement sheet required by Schedule 6 or 7 for an association property plan; or
- (j) a replacement sheet required by Schedule 9 or 10 for an association property plan; or
- (k) any other prescribed plan.

**SCHEDULE 2 - DEVELOPMENT CONTRACTS**

(Secs. 5, 9, 13, 18, 26)

**Matters to be included**

1. Unless clause 3 applies, a development contract that relates to a neighbourhood scheme (whether or not it is part of a community scheme) must consist of instruments, plans and drawings that are prepared in the approved form and include, but need not be limited to:

**SCHEDULE 2 - DEVELOPMENT CONTRACTS - *continued***

- (a) a description of the land to be developed under the scheme; and
- (b) a description of the amenities proposed to be provided; and
- (c) a description of the basic architectural design and landscaping under the scheme and any theme on which the scheme is based; and
- (d) a simple pictorial representation of the anticipated appearance of the completed development; and
- (e) any other matter prescribed by the regulations.

**Inconvenience and damage**

2. Unless clause 3 applies, a development contract for any scheme (whether or not it is a neighbourhood scheme) must include:

- (a) details of access and construction zones, working hours and any related rights over association property; and
- (b) an undertaking by the developer not to cause unreasonable inconvenience to proprietors of lots in the scheme and to repair without delay any damage caused to association property or common property by development activities; and
- (c) such other matters as may be prescribed.

**Exclusion of clauses 1 and 2**

3. If a development contract:

- (a) does not require the provision of amenities under the scheme to which it relates; and
- (b) does not require any work to be done by the developer on the parcel to which it relates,

clauses 1 and 2 do not apply to the development contract if it includes a certificate by the developer in the approved form.

**Warning to be displayed**

4. A development contract (whether or not it relates to a neighbourhood scheme) must prominently display a warning in the prescribed form that draws attention to:

- (a) the possibility that the scheme to which it relates may be varied or may not be completed; and



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**SCHEDULE 2 - DEVELOPMENT CONTRACTS - *continued***

- (b) the necessity for prospective purchasers to examine the applicable management statement for details of their rights and obligations under the scheme.

**Signature of development contract**

5. A development contract must be signed by the developer or the authorised agent of the developer.

**Inclusion of other matters**

6. This Schedule does not limit the matters that may be included in a development contract.

**SCHEDULE 3 - COMMUNITY MANAGEMENT STATEMENT  
AND PRECINCT MANAGEMENT STATEMENT**

(Secs. 5, 9)

**Form of community management statement**

1. A community management statement must be in the approved form, must include the prescribed information, must bear the approval of the consent 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 1989, 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.

**Matters to be included**

2. 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

**SCHEDULE 3 - COMMUNITY MANAGEMENT STATEMENT  
AND PRECINCT MANAGEMENT STATEMENT**

*- continued*

- (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) matters affecting 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.

**Optional matters for management statement**

3. (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 proprietor of a lot within the scheme not to interfere with the quiet enjoyment of another lot or the community property;

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**SCHEDULE 3 - COMMUNITY MANAGEMENT STATEMENT  
AND PRECINCT MANAGEMENT STATEMENT**  
*- continued*

- (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 under section 36;
- (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.

**By-law required by public authority**

4. (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 1989.

**Excluded matters**

5. A community management statement must not include any prohibition or restriction that:

- (a) affects the keeping on a lot of a dog used as a guide by a completely or partially blind proprietor or occupier of a lot; or
- (b) affects the use of a dog as a guide on a lot, or on association property, by a completely or partially blind person; or

**SCHEDULE 3 - COMMUNITY MANAGEMENT STATEMENT  
AND PRECINCT MANAGEMENT STATEMENT**  
*- continued*

- (c) is based on race or creed, or on ethnic or socio-economic grouping; or
- (d) excludes public housing from a scheme.

**Restricted property**

6. 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.

**Signature of management statement**

7. A community management statement must be signed by the developer or an authorised agent of the developer.

**Precinct management statement**

8. (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,

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**SCHEDULE 3 - COMMUNITY MANAGEMENT STATEMENT  
AND PRECINCT MANAGEMENT STATEMENT**  
*- continued*

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.

**SCHEDULE 4 - NEIGHBOURHOOD MANAGEMENT  
STATEMENT**

(Secs. 13, 18)

**Form of neighbourhood management statement**

1. A neighbourhood management statement must be in the approved form, must include the prescribed information, must bear the approval of the consent authority and must not be inconsistent:

- (a) with the 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 1989, applies to a 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.

**Matters to be included**

2. 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:

**SCHEDULE 4 - NEIGHBOURHOOD MANAGEMENT  
STATEMENT - *continued***

- (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.

**Optional matters for management statement**

3. (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 proprietor of a lot within the scheme not to interfere with the quiet enjoyment of another lot or the neighbourhood property;

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SCHEDULE 4 - NEIGHBOURHOOD MANAGEMENT  
STATEMENT - *continued*

- (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 under section 36;
- (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.

**By-law required by public authority**

4. (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 1989.

**Excluded matters**

5. A neighbourhood management statement must not include any prohibition or restriction that:

- (a) affects the keeping on a lot of a dog used as a guide by a completely or partially blind proprietor or occupier of a lot; or
- (b) affects the use of a dog as a guide on a lot, or on neighbourhood property, by a completely or partially blind person; or

**SCHEDULE 4 - NEIGHBOURHOOD MANAGEMENT  
STATEMENT - *continued***

- (c) is based on race or creed, or on ethnic or socio-economic grouping; or
- (d) excludes public housing from a scheme.

**Restricted property**

6. 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.

**Signature of management statement**

7. A neighbourhood management statement must be signed by the developer or an authorised agent of the developer.

**SCHEDULE 5 - RECORDINGS ON FOLIO FOR  
ASSOCIATION PROPERTY**

(Secs. 5, 9, 13, 18)

**Recordings relating to association property**

1. The recordings required to be made in the folio for association property are:



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SCHEDULE 5 - RECORDINGS ON FOLIO FOR  
ASSOCIATION PROPERTY - *continued*

- (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) any easements, positive covenants (including any public positive covenant or forestry covenant referred to in section 87A of the Conveyancing Act 1919) or restrictions on the use of land that affect the association property or the whole of the parcel of which it is part; and
- (d) the applicable management statement and amendments of the applicable management statement; and
- (e) such recordings relating to the existence of any staged scheme as the Registrar-General thinks fit; and
- (f) such other recordings as the Registrar-General thinks fit; and
- (g) any other recordings required to be made by or under this Act or another Act.

**Recordings relating to common property**

2. Clause 1 applies in relation to common property in the same way as it applies in relation to association property and so applies as if references in that clause:

- (a) to association property were references to common property; and
- (b) to an association were references to a strata corporation; and
- (c) to a management statement were references to the by-laws under a strata scheme.

**SCHEDULE 6 - CONVERSION OF DEVELOPMENT LOT TO  
ASSOCIATION PROPERTY**

(Sec. 14)

**Part 1 - Community schemes**

**Documents to be lodged**

1. (1) There must be lodged with the instrument converting a community development lot to community property:

- (a) a replacement sheet for the community property plan that illustrates the altered boundaries of the community property; and
- (b) a replacement sheet for the initial or revised schedule of unit entitlements for the community plan that includes the allocations made under clause 2 and their total and that, if it is a replacement sheet for the initial schedule, complies with Schedule 11; and
- (c) a certificate of the consent authority signifying its consent to the conversion; and
- (d) unless the conversion was ordered by the Supreme Court - a certificate under the seal of the community association to the effect that it has, by unanimous resolution, consented to the conversion and to the replacement sheet for the schedule of unit entitlements; and
- (e) if the conversion was ordered by the Supreme Court - an office copy of the order and a replacement sheet for the initial or revised schedule of unit entitlements that complies with the order.

(2) Unless the conversion was ordered by the Supreme Court, the conversion instrument and the accompanying replacement sheets must be signed by the proprietor of the lot and by the community association.

**Schedule of unit entitlements**

2. (1) A replacement sheet for the initial or revised schedule of unit entitlements must make a proportionate allocation of the unit entitlement of the community development lot being converted among any former community development lots, and any remaining community development lots, in the community scheme unless the conversion was ordered by the Supreme Court and the Court otherwise directs.

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**SCHEDULE 6 - CONVERSION OF DEVELOPMENT LOT  
TO ASSOCIATION PROPERTY - *continued***

(2) The proportionate allocation must be based on the relative sizes of the existing unit entitlement for each remaining community development lot and each former community development lot.

(3) The allocation for each lot must be rounded off to the nearest whole number and the replacement sheet must show the total of those unit entitlements.

**Discharge of mortgages etc.**

3. The folio for the lot must be freed from any mortgage, charge, covenant charge, lease or caveat.

**Part 2 - Precinct schemes**

**Application of Part 1 to precinct schemes**

4. Part 1 applies in relation to the conversion of a precinct development lot to precinct property as if the word "community", wherever it occurs in that Part were the word "precinct".

**SCHEDULE 7 - CONVERSION OF NEIGHBOURHOOD  
LOT TO NEIGHBOURHOOD PROPERTY**

(Sec. 20)

**Documents to be lodged**

1. (1) There must be lodged with the instrument converting a neighbourhood lot to neighbourhood property:

- (a) a replacement sheet for the neighbourhood property plan that illustrates the altered boundaries of the neighbourhood property; and
- (b) a replacement sheet for the initial or revised schedule of unit entitlements for the neighbourhood plan that includes the allocations made under clause 2 and their total and that, if it is a replacement sheet for the initial schedule, complies with Schedule 11; and

**SCHEDULE 7 - CONVERSION OF NEIGHBOURHOOD  
LOT TO NEIGHBOURHOOD PROPERTY**

*- continued*

- (c) a certificate by the consent authority signifying its consent to the conversion; and
- (d) unless the conversion was ordered by the Supreme Court - a certificate under the seal of the neighbourhood association to the effect that it has, by unanimous resolution, consented to the conversion and the replacement sheet for the schedule of unit entitlements.

(2) Unless the conversion was ordered by the Supreme Court, the conversion instrument and replacement sheets must be signed by the proprietor of the lot and by the neighbourhood association.

**Schedule of unit entitlements**

2. (1) A replacement sheet for the initial or revised schedule of unit entitlements must make a proportionate allocation among the remaining neighbourhood lots of the unit entitlement for the lot to be converted unless the conversion is ordered by the Supreme Court and the Court otherwise directs.

(2) The proportional allocation under subclause (1) must be based on the relative sizes of the existing unit entitlements for each lot.

(3) The unit entitlement of each lot must be rounded off to the nearest whole number and the replacement sheet must show the total of those unit entitlements.

**Discharge of mortgages etc.**

3. The folio for the lot must be freed from any mortgage, charge, covenant charge, lease or caveat.

**Original proprietor**

4. If the lot to be converted is held by the original proprietor:

- (a) the initial period must have expired; or
- (b) the conversion must have been authorised by the Supreme Court or, if the neighbourhood association has only 1 member, by a Board.

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**SCHEDULE 8 - SEVERANCE OF DEVELOPMENT LOT**

(Sec. 15)

**Documents to be lodged**

1. (1) There must be lodged with the instrument severing a community development lot from a community scheme, or a precinct development lot from a precinct scheme:

- (a) a replacement sheet for the initial or revised schedule of unit entitlements for the community plan or precinct plan that complies with clause 2; and
- (b) a certificate of the consent authority signifying its consent to the severance; and
- (c) unless the severance was ordered by the Supreme Court - 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 a unanimous resolution, consented to the severance; and
- (d) if the severance was ordered by the Supreme Court - an office copy of the order made by the Court; and
- (e) the consent of any mortgagee, chargee or covenant chargee of the lot.

(2) Unless the severance was ordered by the Supreme Court, the severance instrument must be signed by the proprietor of the lot and by the consenting association.

(3) If the severance was ordered by the Supreme Court, the severance instrument must be signed by the successful applicant for the order.

**Schedule of unit entitlements**

2. (1) If a community development lot is severed from a community scheme, a replacement sheet for the initial or revised schedule of unit entitlements for the community plan:

- (a) must reduce the total of the unit entitlements for the community scheme by the unit entitlement of the severed lot; and

**SCHEDULE 8 - SEVERANCE OF DEVELOPMENT**  
**LOT - *continued***

- (b) must comply with Schedule 11 as if it were an initial schedule of unit entitlements.
- (2) If a precinct development lot is severed from a precinct scheme in respect of which an initial schedule of unit entitlements is in force, a replacement sheet for the initial schedule of unit entitlements for the precinct plan and the community plan:
  - (a) must be supported by a certificate by a registered valuer given in the approved form and based on the market values of the lots at the date of the valuer's certificate lodged with the initial schedule of unit entitlements being replaced; and
  - (b) must comply with Schedule 11.
- (3) If a precinct development lot is severed from a precinct scheme in respect of which a revised schedule of unit entitlements is in force, a replacement sheet for the revised schedule of unit entitlements for the precinct plan:
  - (a) must reduce the total of the unit entitlements for the precinct scheme by the unit entitlement of the severed lot; and
  - (b) must comply with Schedule 11 as if it were an initial schedule of unit entitlements.

**Easements to be created**

- 3. There must be created any easements for access and services that, as a consequence of the severance of the lot, are necessary for the community scheme and the severed lot.

**SCHEDULE 9 - ADDITIONS TO ASSOCIATION**  
**PROPERTY BY LEASE OR TRANSFER**

(Secs. 16, 23)

**Documents to be lodged with lease or transfer**

- 1. There must be lodged with a lease adding land to association property or a transfer adding land to the neighbourhood property under a neighbourhood scheme that is not part of a community scheme:

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**SCHEDULE 9 - ADDITIONS TO ASSOCIATION  
PROPERTY BY LEASE OR TRANSFER - *continued***

- (a) the certificate of title or Crown grant for the land leased or transferred; and
- (b) the certificate of title for the association property; and
- (c) a certificate under the seal of the relevant association to the effect that acceptance of the lease or transfer was authorised by a unanimous resolution; and
- (d) if the instrument is a transfer of land held in fee simple - a replacement sheet for the neighbourhood property plan illustrating the altered boundaries of the neighbourhood property.

**SCHEDULE 10 - DEALINGS WITH ASSOCIATION PROPERTY**  
(Secs. 17, 21, 22, 24, 35)

**Application of Schedule**

1. This Schedule applies to an instrument that is:
  - (a) a lease of association property under section 17 or 24; or
  - (b) a plan dedicating neighbourhood property under section 21 to open or widen a public road or to create a public reserve or drainage reserve; or
  - (c) a neighbourhood plan of subdivision under section 22 subdividing or creating neighbourhood property in a neighbourhood scheme; or
  - (d) a transfer under section 24 of neighbourhood property in a neighbourhood scheme that is not part of a community scheme; or
  - (e) a dealing that is for the creation of easements or restrictions on the use of land as referred to in section 35 and that burdens association property; or
  - (f) a dealing that is for the release of an easement or restriction on the use of land as referred to in section 35 and that benefits association property.

**SCHEDULE 10 - DEALINGS WITH ASSOCIATION  
PROPERTY - *continued***

**Certificate to be lodged**

2. There must be lodged with an instrument to which this Schedule applies a certificate in the approved form that is under the seal of the relevant association and is to the effect:

- (a) that execution of the instrument was authorised by a unanimous resolution; and
- (b) 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
- (c) that any by-law restricting the use of the association property no longer affects the interest passing under the instrument.

**Restriction on dealing**

3. A neighbourhood association must not deal with land to which this Schedule applies, unless:

- (a) the initial period has expired; or
- (b) the dealing has been authorised by the Supreme Court or, if the neighbourhood association has only 1 member, by a Board.

**Replacement sheet**

4. (1) There must be lodged with a plan dedicating neighbourhood property under section 21 a replacement sheet for the neighbourhood property plan that illustrates the altered boundaries of the neighbourhood property.

(2) There must be lodged with a plan referred to in section 24 (2) (a) a replacement sheet for the neighbourhood property plan that illustrates the altered boundaries of the neighbourhood property.



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**SCHEDULE 11 - INITIAL UNIT ENTITLEMENTS**

(Secs. 5, 7-9, 11-13, 18, 19, 22, 29, 34, Sch. 6, Sch. 7 and Sch. 8)

**Form of initial schedule of unit entitlements**

1. An initial schedule of unit entitlements for a community scheme, precinct scheme or neighbourhood scheme must:

- (a) be in the approved form; and
- (b) be clearly identified as an initial schedule liable to be altered before, or on, completion of the scheme; and
- (c) show as a whole number the unit entitlement of each development lot, former development lot or neighbourhood lot; and
- (d) show as a whole number the total of the unit entitlements under paragraph (c).

**Basis of unit entitlements - community plan or precinct plan**

2. The initial schedule of unit entitlements lodged with a community plan or precinct plan:

- (a) must be based on the comparative market values of the lots at the date of the valuation; and
- (b) must be supported by a certificate in the approved form given by a registered valuer at a time that is not earlier than the prescribed time.

**Basis of unit entitlements - neighbourhood plan**

3. The initial schedule of unit entitlements lodged with a neighbourhood plan must be based on the developer's estimate of the relative values of the neighbourhood lots.

**Replacement sheet - community or precinct plan of subdivision**

4. A replacement sheet for an initial or revised schedule of unit entitlements lodged with a community plan of subdivision or a precinct plan of subdivision:

- (a) must be identified as an initial schedule in accordance with clause 1; and

**SCHEDULE 11 - INITIAL UNIT ENTITLEMENTS - *continued***

- (b) must not differ from the existing schedule except by showing the unit entitlement of each new lot and, as the total unit entitlement for the new lots, the unit entitlement for the subdivided lot; and
- (c) must, in the case of a replacement sheet for an initial schedule of unit entitlements, be supported by a certificate by a registered valuer given in the approved form and based on the market values of the new lots at the date of the valuer's certificate lodged with the initial schedule of unit entitlements being replaced; and
- (d) must, in the case of a replacement sheet for a revised schedule of unit entitlements, be based on the subdivider's estimate of the market values of the new lots.

**Replacement sheet - neighbourhood plan of subdivision**

5. A replacement sheet for an initial or revised schedule of unit entitlements for a neighbourhood scheme that is lodged with a neighbourhood plan of subdivision or with an acquisition plan affecting a neighbourhood scheme:

- (a) must be based on the subdivider's estimate of the relative values of the new lots; and
- (b) must be identified as an initial schedule in accordance with clause 1; and
- (c) unless the plan subdivides or creates neighbourhood property - must differ from the existing schedule only by showing the unit entitlement for each new lot and, as the total unit entitlement of the new lots created by the subdivision, the unit entitlement for the subdivided lot.

**Replacement sheet - acquisition plan**

6. A sheet lodged with an acquisition plan as a replacement sheet for the initial or revised schedule of unit entitlements for a community scheme or precinct scheme:

- (a) must be identified as an initial schedule in accordance with clause 1; and

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**SCHEDULE 11 - INITIAL UNIT ENTITLEMENTS - *continued***

- (b) must, in the case of a replacement sheet for an initial schedule of unit entitlements, be supported by a certificate by a registered valuer given in the approved form and based on the market values of the new lots at the date of the valuer's certificate lodged with the initial schedule of unit entitlements being replaced; and
- (c) must, in the case of a replacement sheet for a revised schedule of unit entitlements, be based on the subdivider's estimate of the market values of the new lots and former development lots in which the new lots are located.

**SCHEDULE 12 - TRANSITIONAL PROVISIONS**

(Sec. 74)

**Part 1 - Transitional regulations**

**Regulations**

1. (1) The regulations may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the appointed day or a later date.
- (3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:
  - (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 therein; 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 therein.
- (4) If the regulations so provide, a provision referred to in subclause (1) has effect despite any other clause of this Schedule.

**SCHEDULE 12 - TRANSITIONAL PROVISIONS**

*- continued*

**Part 2 - Conversion of certain schemes**

**Conversion to neighbourhood scheme of land in deposited plan**

2. (1) In this clause:

"**shared lot**" means a lot in a deposited plan lodged for registration, or registered, before the commencement of this clause, being a lot that has a similar status in relation to the proprietors of the other lots in the deposited plan as it would have if the deposited plan were a neighbourhood plan and the shared lot were the neighbourhood property in the neighbourhood plan.

(2) Land in a deposited plan that includes a shared lot may be converted to land that is subject to a neighbourhood scheme by the registration under section 18 of a neighbourhood plan that:

- (a) shows the shared lot as neighbourhood property; and
- (b) shows each of the other lots in the deposited plan as a neighbourhood lot illustrated with the same measurements, and otherwise in the same way, as the corresponding lot is illustrated in the deposited plan; and
- (c) is accompanied by the certificates of title for the lots referred to in paragraphs (a) and (b); and
- (d) bears the consent of each proprietor of a lot in the deposited plan (including the shared lot); and
- (e) bears the consent of each registered mortgagee, chargee and covenant chargee having, and each caveator claiming, an interest in such a lot; and
- (f) is accompanied by such other information as the Registrar-General may require.

(3) The development contract that would otherwise be required by section 18 (4) need not be lodged with the plan unless application for registration of the plan is made by the developer.

**Conversion to community scheme of land in deposited plans and strata plans**

3. (1) Contiguous land of which part is in a deposited plan and part in a strata plan may, if the plans were registered, or lodged for

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SCHEDULE 12 - TRANSITIONAL PROVISIONS

- *continued*

registration, before the commencement of this clause, be converted to land in a community scheme by the registration under section 5 of a community plan that:

- (a) shows as a lot the land that is to become community property; and
- (b) shows as a development lot each strata parcel not affected by paragraph (a); and
- (c) shows as a development lot the residue of each strata parcel affected by paragraph (a); and
- (d) shows the contiguous land in the deposited plan as a development lot, or development lots, with related association property; and
- (e) is accompanied by the certificates of title for the lots and common property in the strata schemes; and
- (f) is accompanied by the certificates of title for the land referred to in paragraphs (a) and (d); and
- (g) bears the consent, given by a unanimous resolution, of the body corporate under the strata scheme; and
- (h) bears the consent of each registered mortgagee, chargee and covenant chargee having, and each caveator claiming, an interest in land that would become a strata lot or development lot within the community scheme; and
- (i) is accompanied by such other information as the Registrar-General may require.

(2) A strata plan that, before registration of the community plan, had subdivided land shown in the community plan as a development lot referred to in subclause (1) (b) is to be taken to have effected the subdivision on registration of the community plan.

(3) If the community plan includes a development lot referred to in subclause (1) (c):

- (a) the strata plan is to be taken to have effected the subdivision on registration of the community plan; and
- (b) the Registrar-General is to make a recording in the folio for the common property for the strata scheme to the effect that the

SCHEDULE 12 - TRANSITIONAL PROVISIONS

*- continued*

identity of the strata parcel has been redefined by the community plan.

(4) The conversion under this clause of any common property to community property:

- (a) vests the community property in the community association without any further assurance; and
- (b) does not of itself give rise to any liability for stamp duty.

(5) On registration of a community plan referred to in this clause, the Registrar-General may make in the folio for the common property in a strata scheme forming part of the community scheme such notations as the Registrar-General thinks fit in relation to the establishment of the community scheme.

**Conversion to a neighbourhood scheme of land in an open space strata plan**

4. (1) In this clause:

**"open space strata plan"** means a strata plan that:

- (a) was registered, or lodged for registration, before the commencement of this clause; and
- (b) includes common property; and
- (c) in the opinion of the Registrar-General, is not essentially for the subdivision of buildings into lots.

(2) The strata scheme to which the land in an open space strata plan is subject may be converted to a neighbourhood scheme by the registration under section 18 of a neighbourhood plan that:

- (a) shows the common property in the strata scheme (other than land above or below a lot) as neighbourhood property; and
- (b) if any common property comprises land above or below a lot - shows the common property either as part of the lot or as neighbourhood property; and
- (c) shows each lot and related common property referred to in paragraph (b) in the open space strata plan as a neighbourhood lot; and
- (d) is accompanied by the certificates of title for the common property and for lots referred to in paragraphs (b) and (c); and

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SCHEDULE 12 - TRANSITIONAL PROVISIONS

*- continued*

- (e) bears the consent of each proprietor of a lot in the open space strata plan; and
- (f) bears the consent of each registered mortgagee, chargee and covenant chargee having, and each caveator claiming, an interest in such a lot; and
- (g) is accompanied by a certificate of a registered surveyor to the effect that the lots and common property have been reconstituted as lots and neighbourhood property under the neighbourhood scheme; and
- (h) is accompanied by such other information as the Registrar-General may require.

(3) The development contract that would otherwise be required by section 18 (4) need not be lodged with the plan unless the application for registration of the plan is made by the developer.

(4) On the registration of a neighbourhood plan converting a strata scheme to a neighbourhood scheme under this clause, the Registrar-General is to:

- (a) cancel the folios for the lots and common property in the strata scheme; and
- (b) create new folios for neighbourhood lots and neighbourhood property in accordance with the neighbourhood plan.

(5) On the conversion of a strata scheme to a neighbourhood scheme in accordance with this clause, the strata scheme is terminated and the neighbourhood association is constituted as a continuation of, and the same legal entity as, the strata corporation under the terminated scheme.

**Conversion of contiguous strata schemes to a community scheme**

5. (1) Land in contiguous strata schemes may be converted to land that is subject to a community scheme by the registration under section 5 of a community plan that:

- (a) shows as a lot so much of the common property in the strata schemes as is to become community property under the community scheme; and

SCHEDULE 12 - TRANSITIONAL PROVISIONS

*- continued*

- (b) shows as a development lot each strata parcel not affected by paragraph (a); and
  - (c) shows as a development lot the residue of each strata parcel affected by paragraph (a); and
  - (d) is accompanied by the certificates of title for the lots and common property in the strata schemes; and
  - (e) bears the signed consent, given by a unanimous resolution of each body corporate constituted under the Strata Titles Act 1973 for the strata schemes; and
  - (f) bears the signed consent of each mortgagee, chargee and covenant chargee having and each caveator claiming, an interest in land that would become a strata lot within the community scheme; and
  - (g) is accompanied by such other information as the Registrar-General may require.
- (2) A strata plan that, before registration of the community plan, had subdivided land shown in the community plan as a development lot referred to in subclause (1) (b) is to be taken to have effected the subdivision on registration of the community plan.
- (3) If the community plan includes a development lot referred to in subclause (1) (c):
- (a) the strata plan is to be taken to have effected the subdivision on registration of the community plan; and
  - (b) the Registrar-General is to make a recording in the folio for the common property for the strata scheme to the effect that the identity of the strata parcel has been redefined by the community plan.
- (4) The conversion under this clause of common property to community property:
- (a) vests the community property in the community association without any further assurance; and
  - (b) does not of itself give rise to any liability for stamp duty.
- (5) The Registrar-General may refuse to register a community plan referred to in this section if it subdivides a lot in a strata plan.



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**SCHEDULE 12 - TRANSITIONAL PROVISIONS**

*- continued*

(6) On registration of a community plan referred to in this clause, the Registrar-General may make in the folio for common property in a strata scheme forming part of the community scheme such notations as the Registrar-General thinks fit in relation to the establishment of the community scheme.

**Existing development consents**

6. Development consent to a conversion to a community scheme or a neighbourhood scheme under this Part is not required if:

- (a) development consent for the development proposed to be converted was in force immediately before the commencement of this clause; and
- (b) the conversion would not constitute a new development.

**Release of more than one easement etc. by single instrument**

7. (1) In this clause, a reference to an applicable interest in land is a reference to an easement, restriction on the use of land or positive covenant that burdens or benefits the land.

(2) Instead of being released by the registration of separate instruments, more than one applicable interest in land proposed to be converted in accordance with this Part to land the subject of a community scheme or neighbourhood scheme may be released by the registration with the community plan or neighbourhood plan effecting the conversion of an instrument that:

- (a) is in the approved form and includes the prescribed information; and
- (b) bears the signed consent of each person who, but for this clause, would be required to join in separate instruments in order to effect the release of those interests.

**Powers of Registrar-General**

8. (1) The Registrar-General:

- (a) may waive a requirement of this Part; or
- (b) may make any recording in the Register that the Registrar-General thinks necessary in order to give effect to this Part; or

SCHEDULE 12 - TRANSITIONAL PROVISIONS

*- continued*

- (c) if the Registrar-General thinks fit to do so - refuse registration under this Part; or
  - (d) give effect to any conversion to a community scheme or neighbourhood scheme provided for by regulations made under clause 1.
- (2) The Registrar-General may accept lodgment of a plan despite section 195B (a) of the Conveyancing Act 1919.
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*[Minister's second reading speech made in -  
Legislative Assembly on 21 November 1989  
Legislative Council on 29 November 1989]*