

**STRATA TITLES (COMMUNITY LAND) AMENDMENT ACT
1989 No. 203**

NEW SOUTH WALES



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**STRATA TITLES (COMMUNITY LAND) AMENDMENT ACT
1989 No. 203**

NEW SOUTH WALES



Act No. 203, 1989

An Act to amend the Strata Titles Act 1973 as a consequence of the enactment of the Community Land Development Act 1989 and the Community Land Management Act 1989; and for other purposes.
[Assented to 21 December 1989]

Strata Titles (Community Land) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Strata Titles (Community Land) Amendment Act 1989.

Commencement

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

Amendment of Strata Titles Act 1973 No. 68

3. The Strata Titles Act 1973 is amended as set out in Schedules 1 and 2.

**SCHEDULE 1 - AMENDMENTS RELATING TO THE
COMMUNITY LAND DEVELOPMENT ACT 1989
AND THE COMMUNITY LAND MANAGEMENT ACT 1989**

(Sec. 3)

(1) Section 4:

After section 3, insert:

Certain plans not registrable

4. A plan is not registrable under this Act as a strata plan if, in the opinion of the Registrar-General, it does not provide essentially for the subdivision of land into lots the principal parts of which correspond to parts of a building erected on the land, whether or not the plan also provides for the creation of development lots.

(2) Section 5 (**Definitions**):

(a) Section 5 (7) (c):

After "common property" where firstly occurring, insert "that are not part of a community scheme".

(b) Section 5 (7) (d):

After "common property", insert "that is not part of a community scheme".

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COMMUNITY LAND DEVELOPMENT ACT 1989 AND THE
COMMUNITY LAND MANAGEMENT ACT 1989 - *continued*

- (c) After section 5 (9) insert:
(10) In this section:
"community scheme" means a community scheme
under the Community Land Development Act 1989.

(3) Section 7 (**Subdivision**):

Omit section 7 (2), insert instead:

(2) By the registration of a plan as a strata plan, land may be subdivided:

- (a) into lots and common property, or
- (b) unless the land is a development lot under the Community Land Development Act 1989 - into lots without common property.

(4) Section 9 (**Subdivision of lots and common property**):

Omit section 9 (2), insert instead:

(2) A reference in subsection (1) to common property does not include a reference to:

- (a) common property the subject of a lease accepted under section 19 (2); or
- (b) common property in a strata scheme that is part of a community scheme under the Community Land Development Act 1989.

(5) Section 19 (**Acquisition of additional common property**):

After section 19 (2), insert:

(2A) Subsection (2) does not authorise acceptance of a transfer by the body corporate under a strata scheme that is part of a community scheme under the Community Land Development Act 1989.

SCHEDULE 1 - AMENDMENTS RELATING TO THE
COMMUNITY LAND DEVELOPMENT ACT 1989 AND THE
COMMUNITY LAND MANAGEMENT ACT 1989 - *continued*

(6) Section 25 (**Transfer or lease of common property**):

After section 25 (1), insert:

(1A) Subsection (1) does not authorise a transfer by the body corporate under a strata scheme that is part of a community scheme under the Community Land Development Act 1989.

(7) Section 27 (**Dedication of common property**):

Section 27 (1):

Before the definition of "drainage reserve", insert:

"common property" does not include common property in a strata scheme that is part of a community scheme under the Community Land Development Act 1989;

(8) Section 29:

Omit the section, insert instead:

Application of Division

29. This Division does not apply to:

- (a) an easement; or
- (b) land the subject of a strata scheme that is part of a community scheme under the Community Land Development Act 1989.

(9) Section 37 (**Approval of proposed strata plans, certain subdivisions and conversions of lots into common property**):

After section 37 (1), insert:

(1AA) If a proposed strata plan shows a dedication of land to widen an existing public road, the local council may include approval of the dedication in its certificate of approval.

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COMMUNITY LAND DEVELOPMENT ACT 1989 AND THE
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- (1AB) On registration of a strata plan that includes a proposed dedication approved by the local council under subsection (1AA), the land to which the proposal relates:
- (a) is dedicated and opened as a public road; and
 - (b) vests in the council in fee simple without any assurance other than this subsection.

(10) Section 58 (By-laws):

- (a) After section 58 (1), insert:

(1A) If a strata scheme is part of a community scheme under the Community Land Development Act 1989 and the by-laws are inconsistent:

- (a) with the community management statement; or
- (b) if the strata scheme is also part of a precinct scheme under that Act - with the precinct management statement,

the management statement prevails.

- (b) Omit section 58 (4), insert instead:

(4) In a lease of a lot or common property there is implied an agreement by the lessee to comply with the by-laws and:

- (a) if the strata scheme is part of a community scheme under the Community Land Development Act 1989 - an agreement by the lessee to comply with the community management statement; and
- (b) if the strata scheme is also part of a precinct scheme under that Act - an agreement by the lessee to comply with the precinct management statement.

SCHEDULE 1 - AMENDMENTS RELATING TO THE
COMMUNITY LAND DEVELOPMENT ACT 1989 AND THE
COMMUNITY LAND MANAGEMENT ACT 1989 - *continued*

- (11) **Section 58A (Copy of by-laws to be provided):**
- (a) Section 58A (1):
After "scheme" where firstly occurring, insert " that is not part of a community scheme".
- (b) After section 58A (2), insert:
- (3) If a strata scheme is part of a community scheme under the Community Land Development Act 1989 and it is proposed to grant a lease of the kind referred to in subsection (1), the lessor is guilty of an offence unless:
- (a) a copy of the community management statement;
and
- (b) if the strata scheme is also part of a precinct scheme under that Act - a copy of the precinct management statement,
- is annexed to the copy of the lease submitted for execution by the lessee.
- Maximum penalty - subsection (3): \$100.
- (12) **Section 61 (Change of body corporate's address):**
- (a) Section 61 (2) (b):
Omit "and".
- (b) At the end of section 61 (2) (c), insert:
- ; and
- (d) if the strata scheme is part of a community scheme under the Community Land Development Act 1989 - the body corporate has given written notice of the change:
- (i) to the community association; and
- (ii) if the strata scheme is also part of a precinct scheme under that Act - to the precinct association,

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COMMUNITY LAND DEVELOPMENT ACT 1989 AND THE
COMMUNITY LAND MANAGEMENT ACT 1989 - *continued*

(13) **Section 70 (Supply of certificates and information by body corporate):**

After section 70 (1), insert:

(1A) If the strata scheme is part of a community scheme under the Community Land Development Act 1989, the certificate given under subsection (1) (a) must include:

- (a) the amount of any regular periodic contributions required to be made to the administrative fund, and the sinking fund, of the community association and the respective periods to which they relate; and
- (b) the amount of any such contribution that has not been paid; and
- (c) the date on which any regular periodic contribution to the administrative fund, and the sinking fund, of the association was levied; and
- (d) if the strata scheme is also part of a precinct scheme - the same information in relation to the precinct scheme as is required by paragraphs (a), (b) and (c) in relation to the community scheme.

(14) **Section 146 (Other rights and remedies not affected by this Act):**

Section 146 (2):

After "Part 5", insert "of this Act or Part 4 of the Community Land Management Act 1989".

(15) **Section 149 (Dividing fences):**

After "strata scheme", insert "that is not part of a community scheme under the Community Land Management Act 1989".

SCHEDULE 2 - MISCELLANEOUS AMENDMENTS

(Sec. 3)

(1) **Section 27 (Dedication of common property):**

After section 27 (2), insert:

(2A) The seal may not be affixed to a plan dedicating common property as a public reserve unless there is an adjoining public road or other public place giving access to the reserve by the public.

(2) **Section 53 (Consequences of making an order under section 50 or 51):**

After section 53 (1), insert:

(1A) If the certificate of approval of a strata plan given under section 37 for a strata scheme terminated under section 51 includes approval of a dedication to widen a public road, the Registrar-General:

- (a) may require a certified or office copy lodged under subsection (1) to be accompanied by a plan defining the residue of the original parcel after the road widening for registration as a current plan; and
- (b) may refuse to make recordings under subsection (2) until the requirement has been complied with.

(3) **Section 54 (Constitution of bodies corporate):**

Omit section 54 (2), insert instead:

(2) A body corporate is not a corporation within the meaning of the Companies (New South Wales) Code.

(4) **Section 146 (Other rights and remedies not affected by this Act):**

Section 146 (2):

After "proceedings" where firstly occurring, insert "have been taken".

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SCHEDULE 2 - MISCELLANEOUS AMENDMENTS - *continued*

(5) Schedule 2 (**Meetings, and voting at meetings, of body corporate**):

(a) At the end of clause 5 of Part 1 insert:

(2) A duly appointed proxy may vote on a show of hands or demand a poll.

(3) A person duly appointed as a proxy:

(a) if entitled to vote otherwise than as a proxy - may also vote in his or her own right; and

(b) if appointed as proxy for more than one person - may vote separately as a proxy in each case.

(b) Part 2, clause 3 (1) (b) (iii):

Omit "before a time specified in the notice (being a time not later than the time for the holding of the meeting)", insert instead "at or before the meeting".

(c) At the end of clause 8 of Part 2, insert:

(2) A duly appointed proxy may vote on a show of hands or demand a poll.

(3) A person duly appointed as a proxy:

(a) if entitled to vote otherwise than as a proxy - may also vote in his or her own right; and

(b) if appointed as proxy for more than one person - may vote separately as a proxy in each case.

[*Minister's second reading speech made in -
Legislative Assembly on 21 November 1989
Legislative Council on 29 November 1989*]