



Conveyancing (General) Regulation 2013

under the

Conveyancing Act 1919

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Conveyancing Act 1919*.

ANDREW CONSTANCE, MP
Minister for Finance and Services

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Conveyancing (General) Regulation 2008*, which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation contains provisions relating to the following matters:

- (a) the registration of instruments in the General Register of Deeds,
- (b) the register of plans, including the form and content of plans lodged for registration and electronic lodgment,
- (c) the lodgment of administration sheets containing signatures, certificates and other matters required in connection with the lodgment of plans,
- (d) deposited plans affecting interests in land, including the form and content of section 88B instruments (relating to the creation or release by a plan of an easement, profit à prendre, restriction on the use of land or positive covenant),
- (e) the manner in which a requisition for a search of old system title land, or a certificate of such a search, is to be made,
- (f) the times at which information in the registers kept under the *Conveyancing Act 1919 (the Act)* is to be made available to the public for searches and the manner in which that information is to be provided,
- (g) the payment of fees,
- (h) the form of certain documents required under the Act,
- (i) requirements relating to the attestation of deeds,

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Explanatory note

- (j) prescribing authorities for the purposes of provisions of the Act dealing with the creation of certain easements and the imposition of restrictions on the use of land and public positive covenants,
- (k) the period during which the Registrar-General may require production (in electronic format or hard copy) of plans or other documents lodged in electronic form,
- (l) prescribing documents kept by the Registrar-General in electronic format that, if issued as a hard copy version by the Registrar-General, are to be treated as having the same validity and effect as the original document,
- (m) other matters of a machinery nature, including savings and transitional matters.

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature, matters of a savings or transitional nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made under the *Conveyancing Act 1919*, including sections 23H (definition of *plan of subdivision for lease purposes*), 23J (definition of *plan of subdivision for lease purposes*), 38 (1A) (c), 64 (1), 88A (1) (paragraph (c) of definition of *prescribed authority*), 88B (2), 88D (1) (paragraph (c) of definition of *prescribed authority*), 88E (1) (paragraph (c) of definition of *prescribed authority*), 88G (3), 184D (3), 184E (1), 186 (2), 190A (3), 195 (1) (paragraph (c) of the definition of *miscellaneous plan* and paragraph (i) of the definition of *plan of identification*), 195C (1), 196AB (2) (c), 196A (3) (a), 196E (4), 197 (1), 199, 200 (2), 202 (the general regulation-making power), 203A (2) and clause 1 of Schedule 9.

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Clause 1 Conveyancing (General) Regulation 2013

Part 1 Preliminary

Conveyancing (General) Regulation 2013

under the

Conveyancing Act 1919

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Conveyancing (General) Regulation 2013*.

2 Commencement

This Regulation commences on 1 September 2013 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Conveyancing (General) Regulation 2008* which is repealed on 1 September 2013 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

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

approved means approved for the time being by the Registrar-General.

deeds index particulars form means an approved form setting out the particulars of or relating to an instrument that is signed and lodged for registration under section 184D (1) of the Act.

deposited plan means a plan (other than a strata plan) lodged for registration or recording in the office of the Registrar-General.

plan of survey means a formal land survey plan within the meaning of the *Surveying and Spatial Information Act 2002*.

register of plans means the register of plans kept by the Registrar-General that includes plans registered under Division 3 of Part 23 of the Act and strata plans registered under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

section 88B instrument:

- (a) means an instrument of a kind that:
 - (i) under clause 29, is required to accompany a deposited plan that creates an easement, profit à prendre, restriction on the use of land or positive covenant under section 88B of the Act, or
 - (ii) under clause 30, is required to accompany a deposited plan that releases an easement or profit à prendre under section 88B of the Act, and
- (b) includes a section 88B instrument within the meaning of the *Strata Schemes (Freehold Development) Regulation 2012* or the *Strata Schemes (Leasehold Development) Regulation 2012*.

strata plan means a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan within the meaning of the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*.

the Act means the *Conveyancing Act 1919*.

- (2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4 Conveyancing (General) Regulation 2013

Part 2 The General Register of Deeds

Part 2 The General Register of Deeds

4 Registration of instruments generally

- (1) An instrument that is lodged for registration in the General Register of Deeds must be accompanied by:
 - (a) a registration copy of the instrument or a request that a registration copy of the instrument be prepared by the Registrar-General, and
 - (b) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
 - (c) the relevant fee as set out in Schedule 1, and
 - (d) a completed statement of the title particulars in the approved form, if required by the Registrar-General, and
 - (e) a completed notice of sale in the approved form, if required by the Registrar-General.
- (2) This clause does not apply to:
 - (a) the registration, under section 186 of the Act, of writs, court orders or current legal proceedings, or
 - (b) the registration, under section 196A of the Act, of notices of resumption, or
 - (c) the registration of notifications of compulsory acquisition under a Commonwealth Act.

5 Registration of writs, court orders or legal proceedings

- (1) An application for registration of a writ, court order or current legal proceedings in the General Register of Deeds under section 186 of the Act must be in the approved form and must be accompanied by:
 - (a) the original or a copy of the writ, court order or legal proceedings, and
 - (b) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
 - (c) the relevant fee as set out in Schedule 1.
- (2) The application may also be accompanied by a registration copy of the writ, court order or legal proceedings.
- (3) For the purposes of section 186 (2) of the Act, the prescribed manner in which registration of a writ, order or current legal proceedings in the General Register of Deeds is to be renewed is by means of an application in the approved form, accompanied by the relevant fee as set out in Schedule 1.

6 Registration of notices of resumption

A notice of resumption that is lodged for registration in the General Register of Deeds under section 196A (3) (a) of the Act:

- (a) must be in the form of Form 1 as set out in Schedule 2 (executed by the resuming authority or by an agent appointed by the resuming authority to execute the notice on its behalf), and
- (b) must be accompanied by:
 - (i) a completed deeds index particulars form that includes the certificate referred to in section 184D (3) of the Act, and
 - (ii) the relevant fee as set out in Schedule 1, and
 - (iii) a completed notice of sale in the approved form, if required by the Registrar-General.

7 Production of instrument for registration and other documents

- (1) An instrument that is lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application):
 - (a) must have endorsed on it the name, address and DX box number (if any) of the person by whom or on whose behalf it is lodged, and
 - (b) must be produced at the office of the Registrar-General in such manner as may be approved.
- (2) Documents that are lodged for registration must not be bound together except by means of a pin, staple or split pin or other similar means acceptable to the Registrar-General.

8 Certificate to accompany instrument for registration

For the purposes of section 184D (3) of the Act, the certificate to accompany an instrument for registration must be signed by:

- (a) the person lodging the instrument, or
- (b) a party to the instrument, or
- (c) a solicitor or agent acting for the person lodging, or a party to, the instrument.

9 Instruments to comply with Schedule 3 requirements

An instrument lodged for registration in the General Register of Deeds (including any accompanying application and any registration copy of the instrument or application) must comply with the requirements set out in Schedule 3.

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Clause 10 Conveyancing (General) Regulation 2013

Part 2 The General Register of Deeds

10 Plans and diagrams to comply with Schedule 3 requirements

The registration copy of a plan or diagram annexed to an instrument or, if no registration copy is lodged, the plan or diagram from which a registration copy is to be prepared by the Registrar-General:

- (a) must comply with the requirements set out in clauses 3, 4 (1) and (2), 6, 7 and 9–14 of Schedule 3, and
- (b) must have all line work, dimensions, hatchings and notations in dense black ink, and
- (c) must not have on it any coloured ink, and
- (d) must have margins of not less than 10 mm on the top, bottom and sides.

11 Allocation of distinctive references to instruments

For the purposes of section 184E (1) of the Act, the Registrar-General is to allocate a distinctive reference to an instrument by placing the distinctive reference and the Registrar-General's seal on the original instrument and on the registration copy (if any) of the instrument.

12 Vacation of registration

For the purposes of section 190A (3) of the Act, an application for vacation of a registration under Division 2 of Part 23 of the Act must:

- (a) be made in the approved form, and
- (b) be accompanied by the relevant fee as set out in Schedule 1.

Part 3 Register of plans

Division 1 General

13 Particulars of deposited plans to be recorded (cf clause 13 2008 Reg)

The Registrar-General is to record in the register of plans particulars of all deposited plans registered or recorded under Division 3 of Part 23 of the Act.

14 Deposited plans to be plans of survey (cf clauses 14 and 42 2008 Reg)

A deposited plan must be in the form of a plan of survey unless the Registrar-General otherwise permits.

15 Numbering of parcels and other information on deposited plan

(cf clauses 15 and 16 2008 Reg)

- (1) All parcels of land (including parcels intended for public reserves and drainage reserves) shown on a deposited plan must be numbered on the plan consecutively in strict numerical sequence, using no more than 4 numerals for each parcel number.
- (2) All parcels of land shown on a deposited plan that are intended to be dedicated as roads must be numbered consecutively on the plan in strict numerical sequence, using no more than 4 numerals for each parcel number, if the Registrar-General requires them to be so numbered.
- (3) Parcels must not be identified on a deposited plan by reference to a "section" or "block".
- (4) The complete dimensions (including area) of each parcel must be shown on the deposited plan.
- (5) Each deposited plan must include (if required by the Registrar-General) a table indicating the street address of each parcel shown in the plan.
- (6) The following matters must be shown in the relevant spaces of the information panels of a deposited plan:
 - (a) the name of the surveyor who carried out the relevant survey (if applicable),
 - (b) the surveyor's reference (if applicable),
 - (c) the date of the survey (if applicable),
 - (d) the reduction ratio at which the plan is drawn,
 - (e) the plan heading,
 - (f) the local government area,

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Part 3 Register of plans

- (g) the locality,
- (h) the subdivision certificate number (if applicable).

16 Particulars relating to roads and other matters on deposited plan

(cf clauses 19, 20 and 22 2008 Reg)

- (1) A deposited plan that comprises a plan of survey must contain the following particulars:
 - (a) references to any marks of former surveys used, or in respect of which connections are shown, and the recorded numbers of the plans of those surveys,
 - (b) the widths of all roads indicated in the plan and of their footways and carriageways if defined by alignment,
 - (c) information sufficient to indicate that the external boundaries have been properly established and do not include any part of adjoining properties or roads,
 - (d) the present name of every road shown in the plan.
- (2) A deposited plan that does not comprise a plan of survey must contain the following particulars:
 - (a) sufficient connections to locate each parcel comprised in the plan,
 - (b) the present name of every road shown in the plan.

Note. Plans of this kind are **compiled plans** for the purposes of the regulations made under the *Surveying and Spatial Information Act 2002*.
- (3) If the name of a road shown in a plan differs from that shown on the cadastral record maintained by the Registrar-General, the plan must be accompanied by a letter from the appropriate authority confirming the change of name and the extent of the change.

17 Cadastral record identifying locations and names of roads (cf clause 21 2008 Reg)

The Registrar-General is to maintain a cadastral record, being a record of mapping and titling information referenced to the Digital Cadastral Database (DCDB) in which the locations and, where appropriate, names of roads are identified for the purposes of clause 16.

18 Other requirements relating to form and content of plans and other documents (cf clause 18 2008 Reg)

- (1) The following provisions apply in relation to a plan lodged electronically for registration in the office of the Registrar-General as a deposited plan:
 - (a) if the plan is in an image format—Schedule 4,

- (b) if the plan is not in an image format—clauses 1 (1), 2 (1) and 13–16 of Schedule 4.
- (2) Schedule 5 applies in relation to any other documents that are required to be electronically lodged with the plan.

Note. If a plan is lodged electronically, all other documents that are required to be lodged with the plan must also be lodged electronically in an electronic form approved by the Registrar-General, except for any of the following:

 - (a) certificates of title and office copies of court orders,
 - (b) the original documents that clause 20 provides may not be produced electronically,
 - (c) documents that are excepted by the Registrar-General,
 - (d) documents that are excepted under any other Act.

See section 6A (3) of the Act.
- (3) A plan lodged by hand for registration at the office of the Registrar-General as a deposited plan must comply with the requirements set out in Schedule 6.

19 Standard technical requirements relating to electronic lodgment

(cf clause 17 2008 Reg)

- (1) For the purpose of facilitating the lodgment of plans and other documents electronically, the Registrar-General may determine standard technical requirements with respect to the preparation and lodgment of plans and other documents lodged electronically.
- (2) Without limiting section 195AA (5) of the Act, an approval under that subsection may require a person lodging plans or other documents electronically to do so in accordance with the standard technical requirements determined under this clause.
- (3) The Registrar-General may make the standard technical requirements determined under this clause available through the Registrar-General's Directions published on the internet.

20 Electronic lodgment of plans and other documents (cf clause 25 2008 Reg)

- (1) A person lodging a plan or other documents electronically for registration in the office of the Registrar-General must lodge the plan or other documents in accordance with the e-plan system established under section 195AA of the Act or otherwise with the consent of the Registrar-General.
- (2) Plan lodgment details must be provided in the manner required by the Registrar-General.

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Part 3 Register of plans

- (3) The electronic data file containing the plan in electronic form must be accompanied by electronic data files containing:
- (a) such instruments and data as the Registrar-General may require,
 - (b) a completed plan checklist in the approved form, if required by the Registrar-General.

Note. An administration sheet is also required to be lodged with the plan. See Division 2.

- (4) The relevant fee as set out in Schedule 1 must be paid in the manner and by the time specified by the Registrar-General.
- (5) The following original documents may not be lodged electronically but must be produced and lodged by hand at the office of the Registrar-General:
- (a) such certificates of title, deeds, office copies of court orders, powers of attorney and statutory declarations as the Registrar-General may require,
 - (b) a completed statement of title particulars in the approved form, if required by the Registrar-General,
 - (c) a primary application and associated documents, if required by the Registrar-General,
 - (d) such consents in writing to the registration of the plan signed by a lessee, caveator, judgment creditor or other person, as may be required by the Registrar-General,
 - (e) any other original documents that may be required by the Registrar-General.

21 Lodgment of plans by hand (cf clause 23 2008 Reg)

- (1) This clause applies if a person lodges a plan by hand for registration in the office of the Registrar-General as a deposited plan.
- (2) The original plan must be accompanied by the following:
- (a) a completed plan lodgment form in the approved form,
 - (b) a completed statement of the title particulars in the approved form, if required by the Registrar-General,
 - (c) one print of each sheet of the plan (each sheet being a positive reproduction on a light background),
 - (d) the relevant fee as set out in Schedule 1,
 - (e) a completed plan checklist in the approved form, if required by the Registrar-General,

- (f) such certificates of titles and such instruments as the Registrar-General may require.

Note. An administration sheet is also required to be lodged with a deposited plan. See Division 2.

- (3) If required by the Registrar-General, such geometry files (in the form of electronic data files in a format approved by the Registrar-General) relating to the original plan as are specified by the Registrar-General must be lodged and prepared in accordance with any relevant standard technical requirements determined under clause 19.

22 Replacement plan for plan lodged by hand may be lodged electronically

(cf clause 24 2008 Reg)

- (1) This clause applies to a plan lodged by hand for registration that is required to be replaced because no signatures or seals appear on the plan drawing sheets.
- (2) The Registrar-General may permit a replacement plan to be lodged electronically in respect of a plan to which this clause applies if:
- (a) the Registrar-General has issued a requisition or requirement to the effect that a specified thing is to be done by a registered surveyor in respect of the plan, and
 - (b) the replacement plan is lodged by a registered surveyor who is:
 - (i) authorised under the *Surveying and Spatial Information Act 2002* or any other law to do the thing specified by the Registrar-General, and
 - (ii) authorised to lodge plans and other documents electronically under section 195AA of the Act, and
 - (iii) authorised, by way of the plan lodgment form or other instrument in writing, to lodge the replacement plan by the person who lodged the plan by hand.
- (3) A replacement administration sheet is not required to be lodged with a replacement plan (whether the replacement plan is lodged electronically or by hand) unless the Registrar-General so directs.

23 Miscellaneous plans (cf clause 26 2008 Reg)

For the purposes of paragraph (c) of the definition of *miscellaneous plan* in section 195 (1) of the Act, the following matters are prescribed as matters that, if shown on a plan, constitute the plan as a miscellaneous plan:

- (a) the site of an easement, profit à prendre, restriction on the use of land or positive covenant to be created under section 88B of the Act,

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- (b) the site of an easement or profit à prendre to be released under section 88B of the Act,
- (c) minor adjustments to the boundaries of development lots and association property within the meaning of the *Community Land Development Act 1989* in such a manner as to constitute the plan as a boundary adjustment plan within the meaning of that Act,
- (d) a division of land effected, prior to 1 July 1920, by the erection of structures (such as buildings, walls and fences) if the plan also shows:
 - (i) that the various parts of the land so divided are separately rateable under the *Local Government Act 1993*, and
 - (ii) that the structures that are currently on the land are in the same position as were the structures by which the division of land was effected.

24 Plans of identification (cf clause 27 2008 Reg)

For the purposes of paragraph (i) of the definition of *plan of identification* in section 195 (1) of the Act, a plan supporting a primary application to bring land under the provisions of the *Real Property Act 1900* (being land in respect of which the applicant claims to have acquired title wholly or partly by adverse possession) is prescribed as a plan of identification.

Division 2 Administration sheet

Note. Section 195A of the Act requires plans lodged for registration to be accompanied by a separate document in the form approved by the Registrar-General. In this Regulation, the separate document is called an *administration sheet*. Section 195C of the Act requires the endorsement, in accordance with the regulations, of certain certificates relating to plans lodged for registration or recording. This Division requires those certificates to be endorsed on the administration sheet. Further, section 195D of the Act generally requires relevant signatures to appear on the administration sheet.

25 Content of administration sheet (cf clause 28 2008 Reg)

- (1) An administration sheet:
 - (a) must repeat the heading of the plan with which it is required to be lodged and the surveyor's reference (if applicable) in the appropriate panels on each sheet of the approved form, and
 - (b) must contain the following certificates (endorsed in the appropriate panels on the approved form):
 - (i) a survey certificate of a surveyor registered under the *Surveying and Spatial Information Act 2002* that is in the

form prescribed by the regulations made under that Act, unless the Registrar-General dispenses with the certificate,

Note. Section 195C (1) (c) of the Act enables the Registrar-General to dispense with the certificate.

- (ii) in the case of a plan of subdivision (other than a plan referred to in section 195C (2) of the Act)—a subdivision certificate,
- (iii) such other certificates as the Registrar-General may require, and
- (c) in the case of an administration sheet for a deposited plan that does not comprise a plan of survey—must contain a statement identifying the source of the information from which the plan has been compiled.

Note. Plans of this kind are **compiled plans** for the purposes of the regulations made under the *Surveying and Spatial Information Act 2002*.

- (2) In this clause, a reference to a subdivision certificate is:
 - (a) if the plan concerned is a plan of subdivision for lease purposes within the meaning of Division 3B of Part 2 of the Act—a reference to a subdivision certificate stating that the plan is a plan of subdivision for lease purposes and that it relates to land within a caravan park or a manufactured home estate, or
 - (b) if the plan is a plan of subdivision for lease purposes within the meaning of Division 3C of Part 2 of the Act—a reference to a subdivision certificate stating that the plan is a plan of subdivision for forestry lease purposes.

Note. Division 3 may require further matters to be included on the administration sheet.

26 Administration sheet to comply with Schedule 7 (cf clause 29 2008 Reg)

An administration sheet must comply with the requirements set out in Schedule 7.

Note. See clauses 18 (2), 19 and 20 in relation to electronic lodgment.

27 Refusal to accept an administration sheet (cf clause 30 2008 Reg)

The Registrar-General may refuse to accept an administration sheet that, in the Registrar-General's opinion, is not in the approved form or does not comply with, or is not lodged in accordance with, this Division.

28 Registration of an administration sheet (cf clause 32 2008 Reg)

On registration of a deposited plan, the administration sheet accompanying the deposited plan is to be registered in the register of plans.

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Clause 29 Conveyancing (General) Regulation 2013

Part 3 Register of plans

Division 3 Deposited plans that create, release or indicate easements and other interests in land

29 Indication of creation of easement, profit à prendre, restriction or positive covenant under section 88B (cf clause 35 2008 Reg)

- (1) If a deposited plan is intended, on registration, to create an easement, profit à prendre, restriction on the use of land or positive covenant pursuant to section 88B of the Act, a statement of intention to that effect must be legibly printed on the administration sheet lodged with the plan.
- (2) The statement of intention must not:
 - (a) incorporate the terms of the easement, profit à prendre, restriction or positive covenant, or
 - (b) specify the lots intended to be benefited and burdened.
- (3) The deposited plan must be accompanied by an instrument that complies with Division 4.
- (4) If it is intended that a deposited plan, on registration, create an easement pursuant to section 88B of the Act:
 - (a) the site of the easement must be indicated in the plan-drawing area of the approved form of the deposited plan with sufficient indication of the nature of the easement to distinguish it from any other easement intended to be created on registration of the plan, and
 - (b) if the easement is limited in height or depth, the levels of the limits shown on the deposited plan must be related to Australian Height Datum (AHD) as defined in the *Surveying and Spatial Information Act 2002*.

30 Indication of release of easement or profit à prendre under section 88B (cf clause 36 2008 Reg)

If a deposited plan is intended, on registration, to release an easement or profit à prendre (in respect of some or all of the land to which it formerly applied) pursuant to section 88B of the Act:

- (a) a statement of intention to release the easement or profit à prendre must be legibly printed on the administration sheet lodged with the plan, and
- (b) the deposited plan must be accompanied by an instrument that complies with Division 4, and
- (c) sufficient information must be included in that instrument, or shown on the deposited plan, to indicate the extent of the release.

31 Indication of proposed site of easement or other interest in land where section 88B not applied (cf clause 33 2008 Reg)

- (1) A deposited plan may designate the site of a proposed easement, profit à prendre, restriction on the use of land or positive covenant that is intended to be created by an instrument of grant or reservation (other than pursuant to section 88B of the Act by registration of the plan) if:
 - (a) the designation of the site of the proposed easement, profit à prendre, restriction or positive covenant includes the word “proposed” or an abbreviation of that word, and
 - (b) no statement of the intention to create or vary the easement or profit à prendre, or to create the restriction or positive covenant, is entered on the administration sheet lodged with the plan.
- (2) A deposited plan may designate the proposed varied site of an existing easement or profit à prendre that is intended to be varied by an instrument of variation pursuant to section 47 (5A) of the *Real Property Act 1900* (other than pursuant to section 88B of the Act by registration of the plan) if:
 - (a) the designation of the proposed varied site of the existing easement or profit à prendre includes the word “proposed” or an abbreviation of that word, and
 - (b) no statement of the intention to vary the easement or profit à prendre is entered on the administration sheet lodged with the plan.
- (3) The designation of the site of a proposed easement, profit à prendre, restriction or positive covenant in accordance with this clause does not, for the purposes of section 88B of the Act, indicate in the prescribed manner an intention to create an easement, profit à prendre, restriction or positive covenant.

32 Indication of dedication of public roads or creation of reserves

(cf clause 34 2008 Reg)

- (1) This clause applies to a deposited plan that, on registration, is intended to dedicate a public road (including a temporary public road) under the *Roads Act 1993* or to create a public reserve or drainage reserve under the *Local Government Act 1993*.
- (2) The statement of intention to dedicate the road or to create the reserve must be legibly printed on the administration sheet lodged with the plan.

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Clause 33 Conveyancing (General) Regulation 2013

Part 3 Register of plans

Division 4 Section 88B instruments

33 Form and content of section 88B instruments (cf clause 37 2008 Reg)

- (1) A section 88B instrument is to be in the approved form.
- (2) The instrument must, in Part 1 of the approved form, repeat each (if any) statement of intention to create an easement, profit à prendre, restriction on the use of land or positive covenant in the same form (and, where there is more than one statement of intention, in the same order) as set out in the administration sheet lodged with the relevant plan.
- (3) The instrument must contain in Part 1 of the approved form, after each such statement of intention, a schedule setting out the lot numbers of the lots burdened by the easement, profit à prendre, restriction or positive covenant (numbered individually and in numerical sequence) and, opposite the lot number of each lot burdened:
 - (a) the numbers of the lots intended to receive the benefit of the easement, profit à prendre, restriction or positive covenant, and
 - (b) the name of any road to which any easement, profit à prendre, restriction or positive covenant is to be appurtenant, and
 - (c) the name of any body in whose favour any easement referred to in section 88A of the Act or positive covenant without a dominant tenement is to be created, and
 - (d) the name of any prescribed authority in whose favour any restriction or positive covenant that is of the type that may be imposed under section 88D or 88E of the Act is to be created.
- (4) The instrument must, in Part 1A of the approved form, repeat each (if any) statement of intention to release an easement or profit à prendre in the same form (and, where there is more than one, in the same order) as set out in the administration sheet lodged with the relevant plan.
- (5) The instrument must contain in Part 1A of the approved form, after each such statement of intention, a schedule setting out the lot numbers of the lots burdened by each easement or profit à prendre proposed to be released and, opposite the lot number of each lot burdened:
 - (a) the numbers of the lots that receive the benefit of the easement or profit à prendre, and
 - (b) the name of any road to which the easement is appurtenant, and
 - (c) the name of any prescribed authority in whose favour any easement referred to in section 88A of the Act was created.
- (6) If each lot in a plan is intended to be burdened by an easement, profit à prendre, restriction on the use of land or positive covenant, the benefit of which is intended to be received by every other lot in the plan, it is

sufficient if the words “each lot” and “every other lot”, or words to the same effect, are respectively noted in the schedule.

- (7) The instrument is to set out, in Part 2 of the approved form, the terms of each easement, profit à prendre, restriction or positive covenant referred to in any statement of intention set out in Part 1 of the approved form.
- (8) However, if a statement of intention in Part 1 of the instrument uses an expression, the meaning of which is provided for in the Act by section 88A and Schedule 4A or section 181A and Schedule 8, and it is intended:
 - (a) that the expression have that meaning in the instrument—no terms are to be set out in Part 2 of the approved form in respect of the statement of intention, or
 - (b) that the expression have another meaning in the instrument—the terms of the relevant easement are to be set out in Part 2 of the approved form in respect of the statement of intention.
- (9) No sketch, drawing or other diagram is to appear on the instrument.

34 Other requirements (cf clause 38 2008 Reg)

A section 88B instrument must comply with the requirements set out in Schedule 8.

Note. See also clauses 18 (2), 19 and 20 in relation to electronic lodgment.

35 Refusal to accept section 88B instruments (cf clause 39 2008 Reg)

The Registrar-General may refuse to accept a section 88B instrument that, in the Registrar-General’s opinion, does not comply with this Division.

36 Registration of section 88B instruments (cf clause 40 2008 Reg)

On registration of a deposited plan that is accompanied by a section 88B instrument, the section 88B instrument is, if accepted, to be registered in the register of plans.

Division 5 Additional provisions with respect to land under the Real Property Act 1900

37 Application of Division (cf clause 41 2008 Reg)

This Division applies to deposited plans with respect to land that is subject to the provisions of the *Real Property Act 1900*.

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Clause 38 Conveyancing (General) Regulation 2013

Part 3 Register of plans

38 Subdivision, consolidation or acquisition of part of land in a folio

(cf clause 43 2008 Reg)

- (1) If a proposed subdivision, consolidation or acquisition of land, or a proposed acquisition, opening or closing of a road, does not comprise the whole of a parcel of land described in a folio of the Register kept under the *Real Property Act 1900*, the relevant deposited plan must show the residue to scale.
- (2) The residue must be numbered as a separate parcel.
- (3) If the boundaries of the residue are extensive, the part of the plan showing the residue may, unless the Registrar-General otherwise requires, be prepared on the basis of information recorded on plans held on public record.
Note. Plans prepared on the basis of such information are **compiled plans** for the purposes of the regulations made under the *Surveying and Spatial Information Act 2002*.
- (4) The Registrar-General may dispense with the requirement to show the residue:
 - (a) in the case of land vested in Roads and Maritime Services, a public road, a public railway or an irrigation channel, or
 - (b) in any other case where the Registrar-General considers that compliance with the requirement would be unduly onerous.

39 Alteration of boundaries of strata title common property (cf clause 44 2008 Reg)

- (1) A deposited plan of subdivision or consolidation lodged for the purpose of altering the external boundaries of common property must show to scale the whole of the common property as it will subsist after the alteration.
- (2) The common property must be numbered as a separate parcel in the plan.
- (3) In this clause, **common property** means common property that is:
 - (a) created under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986*, and
 - (b) held by an owners corporation constituted under the relevant Act, and
 - (c) comprised in a folio of the Register kept under the *Real Property Act 1900*.

Part 4 Searches

40 Official searches (cf clause 45 2008 Reg)

- (1) A requisition under section 197 of the Act for a search of old system title land, or a request for an office copy of a certificate of the result of such a search, must be made in the approved form.
- (2) A requisition is to be limited to a single chain of title.
- (3) The relevant fee as set out in Schedule 1 must, if required by the Registrar-General, be paid before delivery of the office copy of a certificate of the result of a search.
- (4) If a requisition is withdrawn after commencement but before completion of a search, such fees as the Registrar-General determines (having regard to the work done up to the time of withdrawal) must be paid.
- (5) The Registrar-General may require an interim payment of fees before completion of a search.

41 Public searches (cf clause 46 2008 Reg)

For the purposes of section 199 of the Act:

- (a) information in registers kept under the Act is to be made available from 8.30 am to 4.30 pm each day (other than a Saturday, Sunday or public holiday) or such other times as the Registrar-General directs, and
- (b) the information is to be made available (in response to a request for the dispatch of information by post, facsimile or other approved means) by the Registrar-General furnishing a copy of the information, and
- (c) the prescribed fee for making the information available is the relevant fee as set out in Schedule 1.

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Clause 42 Conveyancing (General) Regulation 2013

Part 5 Fees

Part 5 Fees

42 Fees payable to the Registrar-General (cf clause 47 2008 Reg)

- (1) The fees specified opposite the matters listed in Schedule 1 are payable to the Registrar-General in respect of those matters.
- (2) A fee is payable before the service to which the fee relates is provided or at such time and in accordance with such conditions as the Registrar-General may agree with the person paying the fee.

43 Fee payable to a prescribed authority for a certificate under section 88G of the Act (cf clause 48 2008 Reg)

For the purposes of section 88G (3) of the Act, the fee payable to a prescribed authority for a certificate under that section is:

- (a) if the authority has inspected the relevant land for the purpose of issuing the certificate—\$35, or
- (b) \$10 in any other case.

Part 6 Miscellaneous

44 Plans of subdivision for lease purposes relating to caravan parks, mobile home estates or forestry

- (1) For the purposes of the definition of *plan of subdivision for lease purposes* in section 23H of the Act, a plan of subdivision is marked to indicate that development consent has been granted under the *Environmental Planning and Assessment Act 1979* subject to a condition that the subdivision is a subdivision for lease purposes if the plan contains a statement that:
 - (a) development consent has been granted under that Act subject to such a condition, and
 - (b) the plan relates to land in a caravan park or manufactured home estate.
- (2) For the purposes of the definition of *plan of subdivision for lease purposes* in section 23J of the Act, a plan of subdivision is marked to indicate that development consent has been granted under the *Environmental Planning and Assessment Act 1979* subject to a condition that the subdivision is a subdivision for forestry lease purposes if the plan contains a statement that development consent has been granted under that Act subject to such a condition.

45 Vacation of registrations (cf clause 49 2008 Reg)

For the purposes of section 200 (2) of the Act, the prescribed form of application for vacation of a registration (other than a registration made under Division 2 of Part 23 of the Act) is Form 2 as set out in Schedule 2.

Note. See clause 12 in relation to the vacation of registrations made under Division 2 of Part 23 of the Act.

46 Appointment of receiver by a mortgagee (cf clause 50 2008 Reg)

An appointment of a receiver by a mortgagee under section 109 (1) (c) of the Act is not to be registered in the General Register of Deeds unless it is in the approved form.

47 Compliance with covenants to produce documents (cf clause 51 2008 Reg)

- (1) A document that is deposited with the Registrar-General under section 64 of the Act for the purpose of complying with a covenant or undertaking to produce documents must be accompanied by a notice to that effect.
- (2) The notice must be in the approved form and lodged in duplicate. Its particulars must not be handwritten.

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Clause 48 Conveyancing (General) Regulation 2013

Part 6 Miscellaneous

48 Prescribed witnesses to deeds (cf clause 52 2008 Reg)

For the purposes of section 38 (1A) (c) of the Act, a prescribed witness is:

- (a) in the case of a deed that is signed within Australia or an external Territory—any person of a class referred to in Part 1 of Schedule 9, or
- (b) in the case of a deed that is signed within a foreign country—any person of a class referred to in Part 2 of Schedule 9.

49 Easements in gross (cf clause 53 2008 Reg)

(1) For the purposes of section 88A of the Act, each of the following corporations is a prescribed authority:

- (a) Actew Distribution Ltd (ACN 073 025 224),
- (b) Australian Rail Track Corporation Limited (ACN 081 455 754),
- (c) Crown Castle Australia Pty Ltd (ACN 090 873 019),
- (d) Directlink (No. 1) Pty Limited (ACN 085 123 468),
- (e) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
- (f) Envestra (NSW) Pty Limited (ACN 083 199 839),
- (g) Eraring Energy Pty Limited (ACN 164 994 012),
- (h) Hunter Water Corporation,
- (i) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (j) Jemena Eastern Gas Pipeline (3) Pty Ltd (ACN 067 715 646),
- (k) Jemena Gas Networks (NSW) Ltd (ACN 003 004 322),
- (l) Jemena Networks (ACT) Pty Ltd (ACN 008 552 663),
- (m) the Ministerial Holding Corporation constituted by the *State Owned Corporations Act 1989*,
- (n) Santos NSW (Narrabri Energy) Pty Ltd (ACN 055 932 315),
- (o) Santos NSW (Narrabri Power) Pty Ltd (ACN 104 570 943),
- (p) Santos NSW Pty Ltd (ACN 094 269 780),
- (q) SDP Australia No. 3 Pty Ltd (ACN 158 077 411),
- (r) Silverton Wind Farm Transmission Pty Ltd (ACN 139 624 632),
- (s) SPI Rosehill Network Pty Limited (ACN 131 213 691),
- (t) State Water Corporation,
- (u) Sydney Desalination Plant Pty Limited (ACN 125 935 177),

- (v) Sydney Water Corporation,
 - (w) Telstra Corporation Limited (ACN 051 775 556),
 - (x) The Albury Gas Co Ltd (ACN 000 001 249),
 - (y) Vodafone Network Pty Limited (ACN 081 918 461).
- (2) For the purposes of section 88A of the Act, a licensee is a prescribed authority, but only in respect of easements for the purpose of the construction and use of pipelines, for any purpose incidental to any such purpose and for the purpose of access to pipelines or to apparatus or works. Expressions used in this subclause have the same meanings they have in the *Pipelines Act 1967*.

50 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities (cf clause 54 2008 Reg)

For the purposes of section 88D of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) Defence Housing Australia,
- (c) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
- (d) Envestra (NSW) Pty Limited (ACN 083 199 839),
- (e) Hunter Water Corporation,
- (f) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (g) State Water Corporation,
- (h) Sydney Water Corporation,
- (i) The Uniting Church in Australia Property Trust (N.S.W.).

51 Regulation of use of land not held by a prescribed authority (cf clause 55 2008 Reg)

For the purposes of section 88E of the Act, each of the following is a prescribed authority:

- (a) Australian Postal Corporation,
- (b) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
- (c) Envestra (NSW) Pty Limited (ACN 083 199 839),
- (d) Greening Australia (Capital Region) (ACN 110 484 181),
- (e) Hunter Water Corporation,

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Clause 52 Conveyancing (General) Regulation 2013

Part 6 Miscellaneous

- (f) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (g) State Water Corporation,
- (h) Sydney Water Corporation,
- (i) The Uniting Church in Australia Property Trust (N.S.W.).

52 Periods for retention of documents (cf clause 56 2008 Reg)

For the purposes of section 196AB (2) (c) of the Act, the period prescribed is the period of 7 years commencing with the day on which the plan or other document was registered or recorded.

53 Identified documents (cf clause 57 2008 Reg)

For the purposes of section 203A of the Act, each of the following is an identified document:

- (a) a section 88B instrument,
- (b) a building management statement referred to in Division 3B of Part 23 of the Act,
- (c) a statement of the by-laws referred to in section 8 (4B) of the *Strata Schemes (Freehold Development) Act 1973*,
- (d) a strata development contract referred to in Division 2A of Part 2 of the *Strata Schemes (Freehold Development) Act 1973*,
- (e) a strata management statement referred to in Division 2B of Part 2 of the *Strata Schemes (Freehold Development) Act 1973*,
- (f) a statement of the by-laws referred to in section 7 (2CC) of the *Strata Schemes (Leasehold Development) Act 1986*,
- (g) a strata development contract referred to in Division 5 of Part 2 of the *Strata Schemes (Leasehold Development) Act 1986*,
- (h) a strata management statement referred to in Division 5A of Part 2 of the *Strata Schemes (Leasehold Development) Act 1986*,
- (i) a development contract referred in section 5, 9, 13, 18 or 26 of the *Community Land Development Act 1989*,
- (j) a community, precinct or neighbourhood management statement referred to in section 5, 9, 13 or 18 of the *Community Land Development Act 1989*.

54 Savings

Any act, matter or thing that, immediately before the repeal of the *Conveyancing (General) Regulation 2008*, had effect under that Regulation continues to have effect under this Regulation.

55 Transitional provision consequent on the enactment of Environmental Planning and Assessment Amendment Act 1997

- (1) This clause applies to:
- (a) any plan of subdivision certified in accordance with section 327 (1) (d) or (2) (b) of the repealed Act, regardless of when the plan is certified or lodged with the Registrar-General for registration under the Act, and
 - (b) any plan of the division of land (other than a plan of subdivision) lodged with the Registrar-General for registration under the Act before 1 July 1998.
- (2) The provisions of Division 3 of Part 23 of the Act, and the *Conveyancing (General) Regulation 1992*, as in force immediately before 1 July 1998 apply to and in respect of a plan to which this clause applies as if:
- (a) the 1997 amending Act had not been enacted, and
 - (b) the *Conveyancing (General) Regulation 1992* had not been repealed, and
 - (c) any regulation made under the *Conveyancing Act 1919* on or after the commencement of the 1997 amending Act had not been made.
- (3) In this clause:
- plan of subdivision*** has the same meaning as it had in section 327AA of the repealed Act.
- repealed Act*** means the *Local Government Act 1919*.
- the 1997 amending Act*** means the *Environmental Planning and Assessment Amendment Act 1997*.

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Schedule 1 Fees

Schedule 1 Fees

(Clauses 4–6, 12, 20, 21 and 40–42)

Item	Matter for which fee payable	Fee
Registration in the General Register of Deeds		
1	For each registration, or renewal or vacation of registration, of any writ, order or legal proceedings made under Division 2 of Part 23 of the Act	\$100.50
2	For recording or registering any instrument not otherwise provided for in this Schedule	\$100.50
3	On request for preparation of a registration copy of an instrument or part of an instrument	\$13.90 for up to 4 pages, and then \$13.90 for each additional 4 pages or part of that number
	In addition, for preparation of the copy	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved
Copies		
4	For supplying a copy of a document or part of a document (other than a certified copy) in the custody of the Registrar-General:	
(a)	to any person attending an office of the Land and Property Information Division, Department of Finance and Services	\$13.90
(b)	by electronic means to any agent licensed by the Land and Property Information Division, Department of Finance and Services	\$7.20
(c)	to any person by some other means	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service
5	On lodgment of an application for a certified copy of a document or part of a document in the custody of the Registrar-General	\$104.50

Item	Matter for which fee payable	Fee
6	In the case of a requisition for a copy available to any person attending an office of the Land and Property Information Division, Department of Finance and Services that, in the opinion of the Registrar-General, is a request for a copy for which the above schedule of fees is not appropriate	Such reasonable fee (determined by the Registrar-General in negotiation with the requesting party) as is warranted by the cost incurred in providing the copy
7	On lodgment of an application for a copy of a document in the custody of the Registrar-General, other than a certified copy or a copy available to any person attending an office of the Land and Property Information Division, Department of Finance and Services	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in preparing the copy
Official searches (General Register of Deeds)		
8	On requisition under section 197 of the Act:	
	(a) for an official search (including an office copy of the certificate of the result of the search)	\$212.00
	(b) for the continuation of an official search from the date of the prior certificate of the result of the search (including an office copy of the certificate of the result of the continuation of the search)	\$212.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in the search or continuation of the search after the first hour	\$53.00
9	On request for an office copy of the certificate of the result of an official search or continuation of an official search	\$104.50
Public searches (General Register of Deeds)		
10	On requisition for a search, or the continuation of a search, of the General Register of Deeds	\$106.00
	In addition, for each quarter-hour or part of a quarter-hour occupied in the search or continuation of the search after the first half-hour	\$53.00
Search for writs, orders or legal proceedings		
11	For a search against each name	\$13.90
Search for security interests in goods (General Register of Deeds)		
12	For a search against each name:	
	(a) by any person attending an office of the Land and Property Information Division, Department of Finance and Services	\$13.90

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Schedule 1 Fees

Item	Matter for which fee payable	Fee
(b)	by electronic means to any agent licensed by the Land and Property Information Division, Department of Finance and Services	\$7.20
(c)	by any person by some other means	Such reasonable fee (determined by the Registrar-General) as is warranted by the work involved in providing the service

Plans

13	On lodgment for registration or recording of a plan (other than a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i> or a plan prepared solely for the purpose of placing survey information on public record):	
(a)	comprising no more than 2 lots	\$1,127.50
(b)	comprising more than 2 lots	\$1,354.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of:	
(a)	the first 4 hours occupied in the examination of a plan referred to in paragraph (a) above	\$53.00
(b)	the first 6 hours occupied in the examination of a plan referred to in paragraph (b) above	\$53.00
	In addition, if the plan is accompanied by a building management statement	\$344.40
14	On lodgment for registration of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	\$1,807.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of the first 8 hours occupied in the examination of the plan	\$53.00
	In addition:	
(a)	for each additional sheet in excess of 4	\$104.50
(b)	for the management statement accompanying the community, precinct or neighbourhood plan, including any associated plans or sketches	\$344.40
(c)	for any development contract accompanying the community, precinct or neighbourhood plan	\$225.50

Item	Matter for which fee payable	Fee
	In addition, for each lot, allotment or portion shown or separately defined on the plan	\$135.00
	In addition, if the plan is accompanied by a section 88B instrument, for each easement, restriction on the use of land, positive covenant or profit à prendre to be created, irrespective of the number of lots burdened or benefited	\$104.50
	In addition, if the plan is accompanied by a section 88B instrument, for each easement or profit à prendre to be released, irrespective of the number of lots burdened or benefited	\$104.50
	In addition, if the plan is accompanied by a building management statement	\$344.40
	In addition, if the plan is lodged for the purpose of consolidating 2 or more folios of the Register kept under the <i>Real Property Act 1900</i> —for each folio of the Register to be consolidated	\$17.80
	In addition, if a plan lodged in connection with an application to bring land under the <i>Real Property Act 1900</i> includes land already under that Act and a consolidated folio of the Register kept under that Act is to be created—for each folio to be consolidated	\$17.80
15	On lodgment of an additional or replacement sheet in conjunction with an application to amend a registered community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	\$104.50
16	For recording a plan prepared solely for the purpose of placing survey information on public record	\$104.50
17	For examining a plan if survey information has been added to an original compiled plan (within the meaning of regulations made under the <i>Surveying and Spatial Information Act 2002</i>) as a result of a requisition	\$104.50
18	For pre-examination of a plan (other than a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>):	
	(a) comprising no more than 2 lots	\$1,240.25
	(b) comprising more than 2 lots	\$1,489.40
	In addition, for each quarter-hour or part of a quarter-hour in excess of:	
	(a) the first 4 hours occupied in the examination of the plan referred to in paragraph (a) above	\$58.30

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Conveyancing (General) Regulation 2013

Schedule 1 Fees

Item	Matter for which fee payable	Fee
	(b) the first 6 hours occupied in the examination of the plan referred to in paragraph (b) above	\$58.30
19	For pre-examination of a community, precinct or neighbourhood plan under the <i>Community Land Development Act 1989</i>	\$1,987.70
	In addition, for each quarter-hour or part of a quarter-hour in excess of the first 8 hours occupied in the examination of the plan	\$58.30
20	For preparation and supply of a plan	\$212.00
	In addition, for each quarter-hour or part of a quarter-hour in excess of the first hour occupied in the preparation of the plan	\$53.00
21	On lodgment of an application for revival of a plan previously rejected or withdrawn	Such fee as would be appropriate to the plan as a new lodgment
22	On lodgment of a substituted plan or any sheet of such a plan or an additional sheet of a plan	\$104.50
23	On lodgment of a section 88B instrument in substitution for another such instrument or part of such instrument	Such fee as would be appropriate to the instrument as an original lodgment
24	On lodgment of an application to amend a plan	\$104.50
	In addition, if the application involves the amendment of a Crown grant, a certificate of title or a folio of the Register kept under the <i>Real Property Act 1900</i> :	
	(a) for the first grant, certificate or folio	\$104.50
	(b) for each subsequent grant, certificate or folio	\$13.90
25	On lodgment of an application for an order terminating a neighbourhood scheme under section 72 of the <i>Community Land Development Act 1989</i>	\$104.50
	In addition, for each quarter-hour or part of a quarter-hour occupied in examining the application	\$53.00
26	On lodgment of a building management statement (other than a building management statement lodged with a plan under item 13 or 14)	\$344.40
Miscellaneous		
27	For furnishing a certificate of ownership (<i>Local Government Act 1993</i> —section 700 (2) or <i>Environmental Planning and Assessment Act 1979</i> —section 151 (2))	\$53.00

Item	Matter for which fee payable	Fee
	In addition, for each quarter-hour or part of a quarter-hour occupied in preparing the certificate of ownership after the first quarter-hour	\$53.00
28	On depositing a document or documents pursuant to section 64 of the Act	\$25.20
	In addition, for each document in excess of 4	\$4.20
29	On application for return of a document or documents deposited pursuant to section 64 of the Act	\$25.20
	In addition, for each document in excess of 4	\$4.20
30	For inspection of a packet containing a document or documents deposited pursuant to section 64 of the Act	\$25.20
31	For production of documents at the Office of State Revenue	\$25.20
32	On request for entry of a marginal note evidencing a discrepancy between an original instrument and a registered copy of the instrument	\$104.50

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Conveyancing (General) Regulation 2013

Schedule 2 Forms

Schedule 2 Forms

Form 1 Notice of resumption of land not subject to the Real Property Act 1900

(Clause 6)

Conveyancing Act 1919, section 196A (3) (a)

Conveyancing (General) Regulation 2013, clause 6

(Extract from Government Gazette of notification of resumption)

I, [*Name and address of person signing the notice*], certify that the above matter is a true copy of the notification of resumption published in the Government Gazette on [*Date and page number*].

[*Signed and dated*]

Form 2 Application for vacation of registration

(Clause 45)

Conveyancing Act 1919, section 200

Conveyancing (General) Regulation 2013, clause 45

I, [*Name and address of applicant*], apply for the vacation of the registration of [*Insert nature of instrument and its registration number*].

Evidence in support of my right to have the registration vacated is set out below/attached.

[*Signed and dated*]

Schedule 3 Requirements for instruments registered in General Register of Deeds

(Clauses 9 and 10)

1 Text

The text must be clearly printed or written:

- (a) across the width of each sheet of paper used, and
- (b) unless the Registrar-General otherwise permits, on one side only of each sheet.

2 Margins

The sheets used must have clear margins:

- (a) on the first sheet—of not less than 25 mm (top) and 10 mm (on each side and bottom), and
- (b) on each subsequent sheet—of not less than 10 mm (on each side and top and bottom).

3 Paper

The paper used must be:

- (a) archival paper of a quality approved by the Registrar-General, that is:
 - (i) white and free from discolouration and blemishes, and
 - (ii) of a paper density of not less than 80 grams per square metre (80 gsm), and
 - (iii) 297 mm in length by 210 mm in width (standard A4), or
- (b) such other paper as may be approved by the Registrar-General.

4 Lettering

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols must be in a font style that is:
 - (a) at least 10 point (1.8 mm) in size, and
 - (b) dense black or dense dark blue in colour, and
 - (c) open in formation and construction, and
 - (d) in an upright style.
- (2) The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread or are liable to mark or damage an adjacent sheet, will not be accepted.

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Schedule 3 Requirements for instruments registered in General Register of Deeds

- (3) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.
- (4) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, symbols may only be used for punctuation of text, and letters must be used instead of special symbols.

5 Name and address

The name and address of a witness who attested to the signing of an instrument is to be set out below the witness's attestation if the attestation does not include the name and address.

6 Content must not extend into margin

No printing, writing or other notation (other than directions or notations authorised by the Registrar-General or as otherwise provided for by this Schedule) must appear in, or extend into, the margin.

7 Content must not extend into any seal

No printing, writing or other notation must extend into any seal.

8 Information to be included on registration copy

In the top margin on the first sheet of a registration copy there must be printed or written the nature of the original instrument and a note of the stamp duty, if any, appearing on the original instrument.

9 Alterations

Alterations may only be made by striking through the matter intended to be altered or by interlineation and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be verified by the parties to the instrument.

10 Verification of alterations

Signatures or initials verifying alterations must be placed in the margin as near as practicable to the alteration.

11 No creases

The instrument must be flat and free from creases caused by folding or otherwise.

12 Registration copy must be true copy

If a registration copy is made by a photographic or similar approved copying process, the image in the copy must be dense black, permanent, legible and clearly reproduce all details and notations visible on the

original. The process must not affect the quality and permanence of the paper.

13 Part lots

A part of a lot must not be shown on a plan or diagram unless the whole of the lot is shown on another part of the plan or diagram, whether or not on the same sheet.

14 Plans or diagrams

Any plan or diagram included in, or annexed to, the instrument must not be in the form of a plan of survey unless the Registrar-General otherwise permits.

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Schedule 4 Requirements for deposited plans lodged electronically

Schedule 4 Requirements for deposited plans lodged electronically (cf Schedule 6 2008 Reg)

(Clause 18)

1 File type in which plan to be created

- (1) The plan must be created in a format approved by the Registrar-General.
- (2) A plan comprising more than one sheet must be created as a multipage file.

2 Use of approved forms

- (1) A plan intended to be lodged electronically for registration as a deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

3 Numbering

Each plan sheet must be numbered consecutively.

4 Margins

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

5 Lettering

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols appearing on a plan must be in a font style that is:
 - (a) dense and black in colour, and
 - (b) in upper case only (except as otherwise provided by this Schedule), and
 - (c) open in formation and construction, and
 - (d) in an upright style.
- (2) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, symbols may only be used for punctuation of text, and letters must be used instead of special symbols.

6 Use of colouring and edging prohibited

Neither colouring nor edging are to be used on a plan sheet.

7 Clarity of detail

- (1) The plan must be drawn to a scale and the image created in a manner that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.
- (2) The Registrar-General may require a plan file to be resubmitted if, in the opinion of the Registrar-General, the plan image does not comply with subclause (1).

8 Alterations

- (1) A plan image must not be altered.
- (2) Any alterations must be made to the relevant Computer Aided Drafting (CAD) software plan file and a new image created.

9 Information to be included on plan sheets

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 4 sheets must be numbered "Sheet 1 of 4 sheets" and "Sheet 2 of 4 sheets", respectively).
- (2) Each plan sheet must contain a north point (directed towards the top of the plan sheet) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.

10 Linear dimensions

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

11 Area dimensions

- (1) Area measurements must be expressed as follows:
 - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol "m²",

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Schedule 4 Requirements for deposited plans lodged electronically

- (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol “ha”,
 - (c) areas of 10,000 hectares or more must be expressed in square kilometres, accompanied by the symbol “km²”.
- (2) The total area of a parcel:
- (a) must be shown within or related to the most significant part of the parcel, and
 - (b) must be the exact mathematical total of all the areas shown on the plan as being within that parcel.

12 Reduction ratio

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

13 Identification of adjoining land

The identity of all adjoining land must be shown.

14 Identification of new or proposed easements, profits à prendre, restrictions and positive covenants

- (1) A plan must contain sufficient information to define the site of:
- (a) any easement, profit à prendre, restriction on the use of land or positive covenant that is intended to be created as a consequence of the registration of the plan, and
 - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
 - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction on the use of land or positive covenant, or proposed variation or partial release of an easement or profit à prendre,
- and where necessary, must also contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.
- (2) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.

15 Identification of existing easements, profits à prendre, restrictions and positive covenants

- (1) A plan must:
 - (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction on the use of land or positive covenant affecting a parcel, and
 - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.
- (3) In this clause, *origin*, in relation to an existing easement, profit à prendre, restriction or positive covenant means the Gazette reference or registration number of the instrument or plan by which the easement, profit à prendre, restriction or positive covenant was granted, reserved, notified or otherwise created.

16 Signatures not to appear

No signatures, initials or seals are to appear on the plan drawing sheets.

Note. All signatures and seals must be shown on the administration sheet.

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Schedule 5 Requirements for lodging other documents electronically

Schedule 5 Requirements for lodging other documents electronically (cf Schedules 7, 8 and 10 2008 Reg)

(Clause 18)

1 File type in which image of document to be created

If a document is required to be lodged electronically with a plan, each sheet of the completed paper document that bears original signatures and seals must be scanned by the lodging party and an image created in a format approved by the Registrar-General.

Note. If a plan is lodged electronically, all other documents that are required to be lodged with the plan must also be lodged electronically in an electronic form approved by the Registrar-General, except for any of the following:

- (a) certificates of title and office copies of court orders,
- (b) the original documents that clause 20 provides may not be produced electronically,
- (c) documents that are excepted by the Registrar-General,
- (d) documents that are excepted under any other Act.

See section 6A (3) of the Act.

2 Multiple sheets

A document comprising more than one sheet must be created as a multipage file.

3 Standard of electronic file

The standard of the electronic file received by the Registrar-General must be acceptable to the Registrar-General.

Note. The completed paper document, bearing original signatures and seals, must be retained by the lodging party for a period of at least 7 years following the date of registration of the plan (see clause 52).

Schedule 6 Requirements for deposited plans lodged by hand (cf Schedule 5 2008 Reg)

(Clause 18)

1 Material on which plan to be drawn

- (1) Each plan sheet must consist of archival paper of a quality approved by the Registrar-General.
- (2) A plan must be drawn on one side of a plan sheet only.
- (3) Each plan sheet must be free from blemishes and creases.

2 Use of approved forms

- (1) A plan intended to be lodged by hand for registration as a deposited plan must be in the approved form.
- (2) Any land that cannot satisfactorily be shown on one sheet may be shown on additional sheets in the approved form. The total number of additional sheets must not be more than 3 unless the Registrar-General otherwise approves.

3 Numbering

Each plan sheet must be numbered consecutively.

4 Margins

- (1) A margin of at least 10 millimetres must be left around the plan drawing area of each plan sheet.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

5 Lettering

- (1) Unless the Registrar-General otherwise approves, all words must be in the English language, and all letters, numbers and other symbols appearing on a plan must be in a font style that is:
 - (a) dense and black in colour, and
 - (b) in upper case only (except as otherwise provided by this Schedule), and
 - (c) open in formation and construction, and
 - (d) in an upright style.

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Schedule 6 Requirements for deposited plans lodged by hand

- (2) Unless the Registrar-General otherwise approves or this Schedule provides otherwise, symbols may only be used for punctuation of text, and letters must be used instead of special symbols.

6 Use of colouring and edging prohibited

Neither colouring nor edging are to be used on a plan sheet.

7 Clarity of detail

The plan must be drawn in a manner and to a scale that allows all details and notations to be clearly reproduced by the copying processes used by the Registrar-General.

8 Alterations

- (1) A plan may be altered only by striking through the matter to be altered.
- (2) In particular, a plan may not be altered by the use of correction fluid or by rubbing, scraping or cutting the surface of the plan sheet.
- (3) The Registrar-General may require a plan sheet to be replaced if, in the opinion of the Registrar-General, any alteration on the sheet will render it unsuitable for copying.

9 Information to be included on plan sheets

- (1) Each plan sheet in a series of plan sheets must be numbered consecutively as part of the series (for example, the first and second sheets in a plan that is made up of 4 sheets must be numbered "Sheet 1 of 4 sheets" and "Sheet 2 of 4 sheets", respectively).
- (2) Each plan sheet must contain a north point (directed towards the top of the plan sheet) and must also specify the orientation to which the north point relates.
- (3) Any separate diagrams or tabulations of dimensions or marks used in an additional sheet must be shown on the sheet.
- (4) No information (other than the plan and any separate diagrams and tabulations of dimensions and marks relating to the plan) is to appear within the plan drawing area of a plan sheet.

10 Linear dimensions

- (1) Linear measurements must be expressed in metres, correct to 3 decimal places, without any accompanying symbol.
- (2) If a length of less than one metre is shown, the decimal point must be preceded by the numeral "0".

11 Area dimensions

- (1) Area measurements must be expressed as follows:
 - (a) areas of less than one hectare must be expressed in square metres, accompanied by the symbol “m²”,
 - (b) areas of one hectare or more must be expressed in hectares (using not more than 4 significant figures), accompanied by the symbol “ha”,
 - (c) areas of 10 000 hectares or more must be expressed in square kilometres, accompanied by the symbol “km²”.
- (2) The total area of a parcel:
 - (a) must be shown within or related to the most significant part of the parcel, and
 - (b) must be the exact mathematical total of all the areas shown on the plan as being within that parcel.

12 Reduction ratio

There must be a statement on each sheet of the reduction ratio at which the plan is drawn.

13 Identification of adjoining lands

The identities of all adjoining lands must be shown.

14 Identification of new or proposed easements, profits à prendre, restrictions and positive covenants

- (1) A plan must contain sufficient information to define the site of:
 - (a) any easement, profit à prendre, restriction on the use of land or positive covenant that is intended to be created as a consequence of the registration of the plan, and
 - (b) any easement or profit à prendre intended to be partially released as a consequence of the registration of the plan, and
 - (c) any proposed easement (other than an easement referred to in paragraph (a) or (b)), profit à prendre, restriction on the use of land or positive covenant, or proposed variation or partial release of an easement or profit à prendre,and where necessary, must also contain sufficient information to indicate the relationship of any such easement, profit à prendre, restriction or positive covenant to the boundaries of any affected parcel or lot.
- (2) If a proposed easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath

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Schedule 6 Requirements for deposited plans lodged by hand

an existing building, it is sufficient to indicate on the plan the approximate position of the easement.

15 Identification of existing easements, profits à prendre, restrictions and positive covenants

- (1) A plan must:
 - (a) contain sufficient information to define the site, nature and origin of any existing easement, profit à prendre, restriction on the use of land or positive covenant affecting a parcel, and
 - (b) wherever possible, show the relationship of the easement, profit à prendre, restriction or positive covenant to the boundaries of the parcel.
- (2) If an easement is in respect of an existing tunnel, pipe, conduit, wire or other similar object that is underground or is within or beneath an existing building, it is sufficient to indicate on the plan the approximate position of the easement.
- (3) In this clause, *origin*, in relation to an existing easement, profit à prendre, restriction or positive covenant means the Gazette reference or registration number of the instrument or plan by which the easement, profit à prendre, restriction or positive covenant was granted, reserved, notified or otherwise created.

16 Signatures not to appear

No signatures, initials or seals are to appear on a plan sheet.

Note. All signatures and seals must be shown on the administration sheet.

Schedule 7 Requirements for administration sheet

(cf Schedule 4 2008 Reg)

(Clause 26)

1 Use of approved form

Any signatures, seals or certificates that cannot satisfactorily be shown on one sheet may be shown on one or more additional sheets in the approved form. The total number of additional sheets must not be more than 5 unless the Registrar-General otherwise approves.

Note. An administration sheet is required by section 195A of the Act to be in the approved form. The completed administration sheet must be lodged with and in the same manner as the plan. This Schedule prescribes additional requirements.

2 Paper

The paper used must be:

- (a) archival paper of a quality approved by the Registrar-General, that is:
 - (i) white and free from discolouration and blemishes, and
 - (ii) of a paper density of not less than 80 grams per square metre (80 gsm), and
 - (iii) 297 mm in length by 210 mm in width (standard A4), or
- (b) such other paper as may be approved by the Registrar-General.

3 Margins

- (1) The sheets used must have clear margins of not less than 10 mm on each side and top and bottom.
- (2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General or as otherwise provided for by this Schedule) must appear in, or extend into, the margin.

4 Lettering

- (1) The text of an administration sheet must be clearly printed or written:
 - (a) across the width of each panel on the sheet of paper used, and
 - (b) on one side only of each sheet.
- (2) All text must be clear and legible and dense black or dense dark blue in colour. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.

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Schedule 7 Requirements for administration sheet

- (3) Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.

5 Alterations

Alterations may only be made by striking through the matter intended to be altered or by interlineation and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be verified by the parties to the instrument.

6 Verification of alterations

Signatures or initials verifying alterations must be placed in the margin as near as practicable to the alteration.

7 Information to be included on multiple sheets

If the administration sheet comprises more than one sheet:

- (a) each sheet other than the first sheet must repeat:
- (i) the heading on the first sheet, and
 - (ii) if the administration sheet relates to a plan of subdivision—the subdivision certificate number and date of endorsement, and
 - (iii) the surveyor's reference, and
- (b) each sheet must be numbered:
- (i) sequentially in the top right hand corner of each sheet as "Sheet of sheets", and
 - (ii) separately from the drawing sheets.

Schedule 8 Requirements for section 88B instruments (cf Schedule 9 2008 Reg)

(Clause 34)

1 Text

The text of a section 88B instrument must be clearly printed or written:

- (a) across the width of each sheet of paper used, and
- (b) unless the Registrar-General otherwise permits, on one side only of each sheet.

2 Margins

(1) The sheets used must have clear margins:

- (a) on the first sheet—of not less than 10 mm (on the left-hand side), 10 mm (on the right-hand side), 25 mm (at the top) and 10 mm (at the bottom), and
- (b) on each subsequent sheet—of not less than 10 mm (on the sides and top and bottom).

(2) No printing, writing or other notation (other than directions or notations authorised by the Registrar-General) must appear in, or extend into, the margin.

3 Paper

The paper used must be:

- (a) archival paper of a quality approved by the Registrar-General, that is:
 - (i) white and free from discolouration and blemishes, and
 - (ii) of a paper density of not less than 80 grams per square metre (80 gsm), and
 - (iii) 297 mm in length by 210 mm in width (standard A4), or
- (b) such other paper as may be approved by the Registrar-General.

4 Size of lettering

All text must be at least 10 point (1.8 mm) in size and be clear and legible and dense black or dense dark blue in colour. The lines must not overlap. A carbon copy, or a copy in which the typewritten characters blur or spread, or are liable to mark or damage an adjacent sheet, will not be accepted.

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Schedule 8 Requirements for section 88B instruments

5 Legibility

Handwriting and any imprint of a seal must be clear and legible and in dense black ink or dense dark blue ink.

6 Alterations

Alterations may only be made by striking through the matter intended to be altered or by interlineation and not by rubbing, scraping or cutting the surface of the paper or by using correction fluid. An alteration must be verified by the parties to the instrument.

7 Verification of alterations

Signatures or initials verifying alterations must be placed in the margin as near as practicable to the alteration.

8 Signatures

The final sheet must bear:

- (a) in any case—the attested original signatures of the persons who appear to the Registrar-General to be the owners, mortgagees, or covenant chargees of the land over which the easement, or in respect of which the restriction on the use of land, covenant or profit à prendre, is intended to be created, and
- (b) in the case of the creation of an easement referred to in section 88A of the Act—the attested original signature of the prescribed authority in whose favour the easement is to be created, and
- (c) in the case of the creation of a restriction on the use of land, or a positive covenant, that is of a type that may be imposed under section 88BA, 88D or 88E of the Act—the attested original signature of any prescribed authority in whose favour the restriction or positive covenant is to be created, and
- (d) in the case of the creation of a covenant intended to impose an obligation (however described) on a prescribed authority, or the owner of land that is not shown on the plan, to maintain or repair, or to contribute to the maintenance or repair of, the site of an easement—the attested original signature of the prescribed authority or owner, and
- (e) in the case of the release or partial release of an easement or profit à prendre:
 - (i) the attested original signatures of the persons who appear to the Registrar-General to be the owners, mortgagees or covenant chargees of the land that has the benefit of the easement or profit à prendre, and

-
- (ii) the attested original signature of any person whose consent is required to the release or partial release, and
 - (f) in any case—the capacity in which each signatory has signed.

9 Numbering of sheets

If the instrument comprises more than one sheet:

- (a) each sheet other than the first sheet and the final sheet must repeat the heading on the first sheet and the plan identification appearing in Part 1 of the instrument, and
- (b) each sheet other than the final sheet must be signed by an attesting witness to the final sheet, and
- (c) each sheet must be numbered sequentially in the top right hand corner of each sheet as “Sheet of sheets”.

10 References to signatures

In this Schedule, a reference to a *signature* includes a reference to the affixing of a seal or any other method by which a corporation or prescribed authority executes an instrument.

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Schedule 9 Prescribed witnesses

Schedule 9 Prescribed witnesses (cf Schedule 11 2008 Reg)

(Clause 48)

Part 1 Deed signed within Australia or external Territory

accountant
bank manager
barrister
chancellor, deputy chancellor or dean of a faculty of a university
commissioned officer in the defence forces of the Commonwealth of Australia
commissioner for taking affidavits
dentist
judge
justice of the peace
licensed conveyancer
magistrate
mayor or general manager of any local government council
medical practitioner
member of parliament of the Commonwealth or of a State or Territory
member of the police force of the Commonwealth or of a State or Territory
minister of religion
notary public
officer in charge of a police station
pharmacist
postal manager of a post office
principal or deputy principal of a school or college
registered surveyor
registrar of the Local Court
solicitor
stockbroker
veterinary practitioner

Part 2 Deed signed within a foreign country

Australian Consular Officer, within the meaning of section 26 of the *Oaths Act 1900* or British Consular Officer, within the meaning of the same provision, exercising functions in the country where the document is executed or witnessed

commissioned officer in the defence forces of the Commonwealth of Australia

commissioner for taking affidavits

judge

justice of the peace

legal practitioner

magistrate

mayor or general manager of any local government corporation

medical practitioner

notary public

officer in charge of a police station