

[Act 2002 No 2]



New South Wales

Conveyancing Legislation Amendment (e-plan) Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to provide for the electronic lodging of plans and certain accompanying documents so as to facilitate their being registered or recorded by the Registrar-General.

For the purpose of achieving that object, the proposed Act will amend:

- (a) the *Conveyancing Act 1919*, under which plans of consolidation, identification and subdivision and miscellaneous other plans are registered, and
 - (b) the *Real Property Act 1900*, under which delimitation plans that remove limitations from land titles are registered, and
 - (c) the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*, under which strata and strata leasehold schemes are created when plans and other related documents are registered, and
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- (d) the *Community Land Development Act 1989*, under which community, precinct and neighbourhood schemes are created when plans and other related documents are registered.

The proposed Act will also allow the Registrar-General to make the same presumptions about compliance with requirements in regard to plans lodged for registration as strata plans as can now be made in regard to plans lodged for registration as deposited plans.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Conveyancing Act 1919* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Real Property Act 1900*, *Strata Schemes (Freehold Development) Act 1973*, *Strata Schemes (Leasehold Development) Act 1986* and *Community Land Development Act 1989* set out in Schedule 2.

Schedule 1 Amendment of Conveyancing Act 1919

Schedule 1 [1] inserts proposed section 6A which explains how the *Conveyancing Act 1919* (*the Act*) applies to electronic form plans and other documents. The Act provides for the registration or recording of plans of consolidation, plans of identification, plans of subdivision and miscellaneous other plans relating to land that may or may not be under the *Real Property Act 1900*, but not land subject to strata schemes.

The proposed section extends references in the Act:

- (a) to plans or other documents to those in an electronic form, and
- (b) to the lodging of plans and other documents to the electronic lodging of a plan or document in such a form.

Other documents accompanying a plan that is lodged electronically are also required to be lodged electronically. Exceptions are made for certificates of title, office copies of court orders and other documents prescribed by regulations or excepted by the Registrar-General.

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Signatures, seals, certificates, consents or other approvals required to allow the registration or recording of a plan lodged in electronic form are required to be endorsed on an approved form for signatures which is to be lodged electronically.

The proposed section extends to plans and other documents relating to land under the *Real Property Act 1900*.

Schedule 1 [2], [4], [5], [7] and [8] make minor consequential amendments to various provisions of Division 3 of Part 23 of the Act relating to the registration of plans so as to accommodate the electronic lodgment of plans and other documents. Those provisions were written on the assumption that plans and other documents will be lodged manually in a hard copy format and will, at the time of registration, be signed or otherwise executed by the parties with estates or interests in the land affected by them.

Schedule 1 [3] inserts proposed section 195AA which sets up the e-plan system. This system will be able to be used by a person approved by the Registrar-General (and, if the terms of the approval allow, by others authorised by an approved person) to lodge plans and other documents electronically so they may be registered or recorded for the purposes of the Act and the *Real Property Act 1900*, *Strata Schemes (Freehold Development) Act 1973*, *Strata Schemes (Leasehold Development) Act 1986* and *Community Land Development Act 1989*. Approvals will be subject to such terms as are specified, and may be cancelled, by the Registrar-General.

Schedule 1 [6] amends section 195D to require signatures and consents needed for the registration or recording of a plan to be lodged in the same way as the plan. If a plan is lodged manually, the signatures and consents must be endorsed on the plan or on the form for signatures approved by the Registrar-General, in which case that form must also be lodged manually. If a plan is lodged electronically, the signatures and consents must be endorsed on the form for signatures approved by the Registrar-General which must also be lodged electronically.

Schedule 1 [9] amends section 195H to allow the Registrar-General to require electronic lodging of a replacement plan if a plan that was lodged electronically has been altered after being registered or recorded.

Schedule 1 [10]–[13] update section 196 which allows the Registrar-General to assume that all signatures and consents required for the registration of hard copy plans under the Act have been duly provided.

Schedule 1 [14] inserts proposed section 196AB to allow the Registrar-General to require a person who has lodged plans or other documents in electronic form for the purposes of the Act to provide copies of the plans or the original versions of the other documents before they are registered and for a period after they have been registered.

Schedule 1 [15] amends section 196H (3) by way of minor statute law revision to make it clear that the Registrar-General may dispense with the need for a person to sign a building management statement or an amendment of such a statement.

Schedule 1 [16] inserts proposed section 203A which gives the same effect as the original has to a hard copy dated and issued by the Registrar-General of a plan (or another document prescribed by the regulations) kept in electronic form that has been registered or recorded by the Registrar-General under any Act.

Schedule 1 [17] and [18] amend Schedule 9 to the Act to allow regulations of a savings or transitional nature to be made consequential on the enactment of the proposed Act and to validate the registration or recording of any plan that could have been validly registered or recorded before the commencement of an amendment made by the proposed Act only if the amendment had been in force.

Schedule 2 Amendment of other Acts

Real Property Act 1900

Schedule 2.1 [1] inserts proposed section 3A which explains how the *Real Property Act 1900 (the Act)* applies to electronic form plans and other documents. The Act provides for the registration of plans of survey (known as delimitation plans) which will remove limitations that were placed on the indefeasibility of certain titles to land when it was brought under the Act. The Act also allows the Registrar-General to require plans to be lodged in connection with an application to bring land under the Act, for the purpose of defining a boundary established by a determination under the Act and in other circumstances.

Proposed section 3A parallels proposed section 6A intended to be inserted by Schedule 1 [1] into the *Conveyancing Act 1919* which is more fully explained above in that item.

Schedule 2.1 [2] inserts proposed section 12AA to allow the Registrar-General to require a person who has lodged plans or other documents in electronic form for the purposes of the Act to provide copies of the plans or the original versions of the other documents before they are registered and for a period after they have been registered.

Schedule 2.1 [3]–[6] make minor consequential amendments to sections 28X, 114 and 135K of the Act so as to accommodate the electronic lodgment of plans. Those sections were written on the assumption that plans and other documents will be lodged manually in a hard copy format.

Strata Schemes (Freehold Development) Act 1973

Schedule 2.2 [1] inserts proposed section 6A which explains how the *Strata Schemes (Freehold Development) Act 1973 (the Act)* applies to electronic form plans and other documents. The Act provides for the registration of strata plans and other plans relating to freehold strata schemes. Proposed section 6A parallels proposed section 6A intended to be inserted by Schedule 1 [1] into the *Conveyancing Act 1919* which is more fully explained above in that item.

Schedule 2.2 [2]–[8], [10]–[31] and [35] make minor consequential amendments to or restate various sections of the Act so as to accommodate the electronic lodgment of plans and accompanying documents. Those sections were written on the assumption that plans and other documents will be lodged manually in a hard copy format.

Schedule 2.2 [9] amends section 14 (3) to correct an error in expression.

Schedule 2.2 [32] amends section 42 (1) to apply to plans lodged for registration under the Act all of the presumptions about regularity that apply to plans lodged for registration under Division 3 of Part 23 of the *Conveyancing Act 1919*.

Schedule 2.2 [33] and [34] amend section 42 to supply missing references relating to strata management statements and amendments of strata development contracts.

Schedule 2.2 [36] repeals section 49 to remove an obsolete requirement for the Registrar-General to supply copies of certain plans and documents and replaces it with a provision that allows the Registrar-General to require a person who has lodged plans or other documents in electronic form for the purposes of the Act to provide copies of the plans or the original versions of the other documents before they are registered and for a period after they have been registered.

Strata Schemes (Leasehold Development) Act 1986

Schedule 2.3 [1] inserts proposed section 5A which explains how the *Strata Schemes (Leasehold Development) Act 1986 (the Act)* applies to electronic form plans and other documents. The Act provides for the registration of strata plans and other plans relating to leasehold strata schemes. Proposed section 5A parallels proposed section 6A intended to be inserted by Schedule 1 [1] into the *Conveyancing Act 1919* which is more fully explained above in that item.

Schedule 2.3 [2]–[30] and [34] make minor consequential amendments to or restate various sections of the Act so as to accommodate the electronic lodgment of plans and accompanying documents. Those sections were written on the assumption that plans and other documents will be lodged manually in a hard copy format.

Schedule 2.3 [31] amends section 71 (1) to apply to plans lodged for registration under the Act all of the presumptions about regularity that apply to plans lodged for registration under Division 3 of Part 23 of the *Conveyancing Act 1919*.

Schedule 2.3 [32] and [33] amend section 71 to supply missing references relating to strata management statements and amendments of strata development contracts.

Schedule 2.3 [35] repeals section 78 to remove an obsolete requirement for the Registrar-General to supply copies of certain plans and documents and replaces it with a provision that allows the Registrar-General to require a person who has lodged plans or other documents in electronic form for the purposes of the Act to provide copies of the plans or the original versions of the other documents before they are registered and for a period after they have been registered.

Community Land Development Act 1989

Schedule 2.4 [1] inserts proposed section 3A which explains how the *Community Land Development Act 1989 (the Act)* applies to electronic form plans and other documents. The Act makes provisions relating to the registration under the *Conveyancing Act 1919* of community, precinct and neighbourhood plans for community, precinct and neighbourhood schemes. Proposed section 3A parallels proposed section 6A intended to be inserted by Schedule 1 [1] into the *Conveyancing Act 1919* which is more fully explained above in that item.

Schedule 2.4 [2]–[10] make minor consequential amendments to various sections of the Act so as to accommodate the electronic lodgment of plans and accompanying documents. Those sections were written on the assumption that plans and other documents will be lodged manually in a hard copy format.