

**STRATA TITLES (COMMUNITY LAND) AMENDMENT BILL
1989**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Community Land Development Bill 1989.

The objects of this Bill are:

- (a) to amend the Strata Titles Act 1973 as a consequence of the proposed Community Land Development Act 1989 ("the Development Act") and the proposed Community Land Management Act 1989 ("the Management Act"); and
- (b) to make miscellaneous amendments to the Strata Titles Act 1973.

The matters excluded by the proposed amendments from the operation of the Principal Act are dealt with in the Development Act and the Management Act.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the schedules of amendments.

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

Schedule 1 (1) inserts proposed section 4 which has the effect of precluding from registration under the Principal Act a subdivision of land that could be registered under the Development Act.

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Schedule 1 (2) amends section 5 in relation to the interpretation of a reference in the Principal Act to a subdivision of common property in a strata scheme that is part of a community scheme under the Development Act.

Schedule 1 (3) amends section 7 to ensure that a subdivision by a strata plan that does not include common property may be effected only if the strata scheme is not part of a community scheme.

Schedule 1 (4) amends section 9 to ensure that a subdivision of common property is effected in accordance with the Development Act if the strata scheme is part of a community scheme.

Schedule 1 (5) amends section 19 to ensure that acceptance by a body corporate of a transfer adding land to its common property is effected in accordance with the Development Act if the strata scheme is part of a community scheme.

Schedule 1 (6) amends section 25 to ensure that a transfer of common property by a body corporate is effected in accordance with the Development Act if the strata scheme is part of a community scheme.

Schedule 1 (7) amends section 27 to ensure that a dedication of common property to open or widen a public road, or to create a public reserve or a drainage reserve, is effected in accordance with the Development Act if the strata scheme is part of a community scheme.

Schedule 1 (8) substitutes section 29 in order to exclude the operation of the provisions of the Principal Act relating to resumptions of land in a strata scheme if the strata scheme is part of a community scheme.

Schedule 1 (9) amends section 37 to enable land in a strata plan to be dedicated to widen a public road in a manner similar to that provided by the Development Act in relation to land in a community plan.

Schedule 1 (10) amends section 58 in relation to a strata scheme that is part of a community scheme:

- (a) to provide that an applicable management statement registered under the Development Act prevails over any inconsistent by-laws under the strata scheme; and
- (b) to imply in a lease of a lot or common property in the strata scheme an agreement by the lessee to comply with the applicable management statement or statements registered under the Development Act.

Schedule 1 (11) amends section 58A to require the lessor under a proposed lease of a lot or common property in a strata scheme that is part of a community scheme to annex to the copy of the lease to be executed by the lessee a copy of the applicable management statement, or statements, in force under the Management Act.

Schedule 1 (12) amends section 61 to render ineffective a change in the address for the service of notices on a body corporate if the strata scheme is part of a community scheme and notice of the change has not been given to the community association and, if the strata scheme is part of a precinct scheme, to the precinct association.

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Schedule 1 (13) amends section 70 which provides for the giving of a certificate that includes information relating to the administrative fund, and the sinking fund, established under a strata scheme. The amendment would require the certificate to include similar information in relation to a community scheme, and any precinct scheme, of which the strata scheme forms part.

Schedule 1 (14) amends section 146 which enables a court to award costs against the plaintiff in proceedings that the court considers could properly have been taken under the provisions of the Principal Act relating to disputes. The amendment would make a similar provision in relation to proceedings that could have been taken under the Management Act in relation to a strata scheme that is part of a community scheme.

Schedule 1 (15) amends section 149 to limit to a strata scheme that is not part of a community scheme the provisions of the Principal Act relating to the operation of the Dividing Fences Act 1951.

SCHEDULE 2 - MISCELLANEOUS AMENDMENTS

Schedule 2 (1) amends section 27 to provide that common property may not be dedicated as a public reserve unless there is access to the reserve from a public road or other public place.

Schedule 2 (2) enables the Registrar-General, before making recordings of the termination of a strata scheme, to require the lodgment of a plan of the residue of the strata parcel after allowing for a previously approved dedication for road widening.

Schedule 2 (3) amends section 54 to exclude a body corporate under the Principal Act from the operation of the provisions of the Companies (New South Wales) Code relating to corporations.

Schedule 2 (4) amends section 146 to rectify an omission.

Schedule 2 (5) clarifies the provisions of the Principal Act relating to voting by proxy at a general meeting of a body corporate.