

Conveyancing (General) Regulation 2018

[2018-424]



New South Wales

Status Information

Currency of version

Historical version for 3 July 2020 to 20 August 2020 (accessed 25 November 2024 at 10:40)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
CI 10 of Sch 5 to this Regulation (cl 10 of Sch 5 repeals Sch 5 on 24.10.2020)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 3 July 2020

Conveyancing (General) Regulation 2018



New South Wales

Contents

Part 1 Preliminary	5
1 Name of Regulation	5
2 Commencement	5
3 Definitions	5
4 Application of lodgment rules	6
Part 2 The General Register of Deeds	6
5 Certificate to accompany instrument for registration	6
6 Allocation of distinctive references to instruments	6
7 Renewal of registration of writs, court orders or legal proceedings	6
8 Registration of notices of resumption	7
Part 3 Register of plans	7
Division 1 General	7
9 Particulars of deposited plans to be recorded	7
10 Deposited plans to be plans of survey	7
11 Numbering of parcels and other information on deposited plan	7
12 Particulars relating to roads and other matters on deposited plan	8
13 Standard technical requirements relating to electronic lodgment	8
14 Electronic lodgment of documents—excluded documents	9
15 Lodgment of plans by hand	9
16 Miscellaneous plans	9
17 Plans of identification	10

Division 2 Deposited plans—easements and other interests in land	10
18 Creation of easement or other interest under section 88B	10
19 Release of easement or profit à prendre under section 88B	11
20 Creation of easement or other interest other than under section 88B	11
21 Dedication of public roads or creation of reserves	12
Division 3 Administration sheets and section 88B instruments	12
22 Administration sheets	12
23 Registration of section 88B instruments	13
Division 4 Additional provisions—land under Real Property Act 1900	13
24 Application of Division	13
25 Subdivision, consolidation or acquisition of part of land in a folio	13
26 Alteration of boundaries of strata title common property	14
Part 4 Easements and covenants—prescribed authorities	14
27 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities	14
28 Regulation of use of land not held by a prescribed authority	15
29 Fee payable to prescribed authority for certificate under section 88G	15
Part 5 Miscellaneous	15
30 Plans of subdivision for lease purposes—caravan parks, mobile home estates or forestry	15
31 Certificate of currency to accompany plan of survey for old surveys	16
32 Compliance with covenants to produce documents	17
33 Appointment of receiver by a mortgagee	17
34 Periods for retention of documents	17
35 Vacation of registrations	17
36 Identified documents	17
37 Savings	18
Schedule 1 Fees	18
Schedule 2 Forms	23
Schedule 3 Easements in gross—prescribed authorities	24

Schedule 4 Prescribed witnesses to deeds.....26

Schedule 5 Commercial leases—COVID-19 pandemic special provisions
..... 27

Conveyancing (General) Regulation 2018



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Conveyancing (General) Regulation 2018*.

2 Commencement

This Regulation commences on 1 September 2018 and is required to be published on the NSW legislation website.

Note—

This Regulation replaces the *Conveyancing (General) Regulation 2013* which is repealed on 1 September 2018 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.

deposited plan means a plan (other than a strata plan) lodged for registration or recording.

fee unit—see Part 2 of Schedule 1.

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 Development Act 2015*.

section 88B instrument means a section 88B instrument within the meaning of clause 18 or 19.

strata plan means a building alteration plan, a strata plan, a strata plan of consolidation or a strata plan of subdivision within the meaning of the [Strata Schemes Development Act 2015](#).

survey certificate has the same meaning as in the [Surveying and Spatial Information Regulation 2017](#) or in any regulation that replaces that regulation.

the Act means the [Conveyancing Act 1919](#).

Note—

The Act and the [Interpretation Act 1987](#) contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

4 Application of lodgment rules

The provisions of this Regulation apply in addition to the provisions of the regulations and lodgment rules made under the [Real Property Act 1900](#). However, to the extent of any inconsistency, the provisions of this Regulation prevail.

Part 2 The General Register of Deeds

5 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.

6 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 of the instrument.

7 Renewal of registration of writs, court orders or legal proceedings

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.

8 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 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).

Part 3 Register of plans

Division 1 General

9 Particulars of deposited plans to be recorded

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.

10 Deposited plans to be plans of survey

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

11 Numbering of parcels and other information on deposited plan

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

12 Particulars relating to roads and other matters on deposited plan

- (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 evidence that satisfies the Registrar-General from the appropriate roads authority that confirms the change of name and the extent of the change.

13 Standard technical requirements relating to electronic lodgment

- (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 Guidelines published on the internet.

14 Electronic lodgment of documents—excluded documents

The following original documents may not be lodged electronically but must be produced and lodged by hand with 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.

15 Lodgment of plans by hand

- (1) This clause applies if a person lodges a plan by hand for registration with the Registrar-General as a deposited plan.
- (2) 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 13.

16 Miscellaneous plans

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,
- (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.

17 Plans of identification

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 Deposited plans—easements and other interests in land

18 Creation of easement or other interest under section 88B

- (1) If a 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 plan must be accompanied by a document in an approved form (a **section 88B instrument**).
- (4) If it is intended that a plan, on registration, is to 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 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 plan must be related to Australian Height Datum (AHD) as defined in the

Surveying and Spatial Information Act 2002.

(5) In this clause—

plan means a deposited plan or a strata plan (other than a building alteration plan).

19 Release of easement or profit à prendre under section 88B

(1) If a 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 plan must be accompanied by a document in an approved form (a **section 88B instrument**), and
- (c) sufficient information must be included in the section 88B instrument, or shown on the plan, to indicate the extent of the release.

(2) In this clause—

plan means a deposited plan or a strata plan (other than a building alteration plan).

20 Creation of easement or other interest other than under section 88B

(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”, 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”, 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.

21 Dedication of public roads or creation of reserves

- (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.

Division 3 Administration sheets and section 88B instruments

22 Administration sheets

- (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 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.

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

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 section 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.

23 Registration of section 88B instruments

On registration of a deposited plan or strata 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 4 Additional provisions—land under [Real Property Act 1900](#)

24 Application of Division

This Division applies to deposited plans with respect to land that is subject to the provisions of the [Real Property Act 1900](#).

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

- (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, filed or recorded by the Registrar-General or a public authority.

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.

26 Alteration of boundaries of strata title common property

- (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 Development Act 2015](#), 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 Easements and covenants—prescribed authorities

27 Imposition of restrictions or public positive covenants on certain land vested in prescribed authorities

For the purposes of paragraph (c) of the definition of **prescribed authority** in section 88D(1) of the Act, each of the following is prescribed—

- (a) Australian Gas Networks (NSW) Pty Ltd (ACN 083 199 839),
- (b) Australian Postal Corporation,
- (c) Defence Housing Australia,
- (d) an energy services corporation within the meaning of the [Energy Services Corporations Act 1995](#),
- (e) the owner of a transacted distribution system or transacted transmission system under the [Electricity Network Assets \(Authorised Transactions\) Act 2015](#),
- (f) Hunter Water Corporation,
- (g) an irrigation corporation within the meaning of the [Water Management Act 2000](#),
- (h) Water NSW,
- (i) Sydney Water Corporation,
- (j) The Uniting Church in Australia Property Trust (NSW),

- (k) AGL Macquarie Pty Limited (ACN 167 859 494),
- (l) Snowy Hydro Limited (ACN 090 574 431).

28 Regulation of use of land not held by a prescribed authority

For the purposes of section 88E(1)(c) of the Act, each of the following is a prescribed authority—

- (a) Australian Gas Networks (NSW) Pty Ltd (ACN 083 199 839),
- (b) Australian Postal Corporation,
- (c) an energy services corporation within the meaning of the *Energy Services Corporations Act 1995*,
- (d) the owner of a transacted distribution system or transacted transmission system under the *Electricity Network Assets (Authorised Transactions) Act 2015*,
- (e) Greening Australia (Capital Region) (ACN 110 484 181),
- (f) Hunter Water Corporation,
- (g) an irrigation corporation within the meaning of the *Water Management Act 2000*,
- (h) Water NSW,
- (i) Sydney Water Corporation,
- (j) The Uniting Church in Australia Property Trust (NSW).

29 Fee payable to prescribed authority for certificate under section 88G

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—0.35 fee units, or
- (b) 0.1 fee units in any other case.

Part 5 Miscellaneous

30 Plans of subdivision for lease purposes—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.

31 Certificate of currency to accompany plan of survey for old surveys

- (1) A plan of survey cannot be lodged with the Registrar-General more than 2 years after the date shown in the survey certificate as the date of completion of the survey to which the plan relates, unless the plan is accompanied by a certificate of currency.
- (2) A **certificate of currency** is a certificate in an approved form in which a surveyor attests to each of the following matters—
 - (a) there are no changes to the boundaries of the land to which the survey relates (the **subject land**), and the definition of those boundaries in the plan of survey remains consistent with surrounding plans, or if not, the plan of survey has been updated,
 - (b) that 2 or more of the permanent survey marks used in the survey remain in place, or if not, the plan of survey has been updated,
 - (c) that all reference marks placed in respect of the survey remain in place, or if not, the reference marks have been replaced and the plan of survey has been updated,
 - (d) that there has been no change to the occupations and other improvements relevant to the boundaries of the subject land since the completion of the survey, or if not, the plan of survey has been updated.
- (3) The Registrar-General may accept a certificate of currency that does not certify all the matters set out in subclause (2) if the Registrar General is satisfied that it was not reasonably practicable to do so.
- (4) A plan of survey that is updated for the purposes of subclause (2) is to be done so in accordance with the *Surveying and Spatial Information Act 2002* and the regulations under that Act as in force at the time when the survey was completed.
- (5) The reference to 2 years in subclause (1) is taken to instead be a reference to—

- (a) 5 years if the plan of survey is lodged with the Registrar-General before 1 September 2019, or
- (b) 3 years if the plan of survey is lodged with the Registrar-General on or after 1 September 2019 and before 1 September 2020.

(6) In this clause—

permanent survey mark has the same meaning as in the *Surveying and Spatial Information Act 2002*.

reference mark has the same meaning as in the *Surveying and Spatial Information Regulation 2017* or in any regulation that replaces that regulation.

32 Compliance with covenants to produce documents

- (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.

33 Appointment of receiver by a mortgagee

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.

34 Periods for retention of documents

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.

35 Vacation of registrations

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.

36 Identified documents

For the purposes of section 203A(2) 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 copy of the by-laws referred to in section 10(1)(b) of the *Strata Schemes*

Development Act 2015,

- (d) a strata development contract referred to in Division 3 of Part 5 of the *Strata Schemes Development Act 2015,*
- (e) a strata management statement referred to in Division 1 of Part 6 of the *Strata Schemes Development Act 2015,*
- (f) a development contract referred in section 5, 9, 13, 18 or 26 of the *Community Land Development Act 1989,*
- (g) a community, precinct or neighbourhood management statement referred to in section 5, 9, 13 or 18 of the *Community Land Development Act 1989.*

37 Savings

Any act, matter or thing that, immediately before the repeal of the *Conveyancing (General) Regulation 2013,* had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Fees

Note—

Section 3B(2) of the *Real Property Act 1900* provides that a fee prescribed under that Act or any other Act for or in respect of the exercise of a titling and registry function is, when the function is exercised by the authorised operator, the maximum fee that is payable and the authorised operator can accept a lesser fee for or in respect of the exercise of the function.

Part 1 Fees payable

The fees specified by this Part are exclusive of GST. GST may be added to any such fee to the extent that the fee is consideration for a taxable supply (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth).

Item	Matter for which fee payable	Fees (in fee units)
Registration in the General Register of Deeds		
1	For recording or registering any instrument in the General Register of Deeds	1.2618
2	On request for preparation of a registration copy of an instrument or part of an instrument—for each 4 pages (or part of 4 pages)	0.1296
Digital images		
3	For supplying a digital image 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	0.1296

	(b) by electronic means	0.0867
4	In addition to item 3—for copyright purposes in relation to supplying an image of a registered plan or part of a registered plan	See clause 3 of this Schedule
5	On lodgment of an application for a certified copy of a document in the custody of the Registrar-General	1.2618

Official searches

6	On request under section 197 of the Act—	
	(a) for an official search (including an office copy of the certificate of the result of the search)	3.4254
	(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)	3.4254
7	On request for an office copy of the certificate of the result of an official search or continuation of an official search	1.2618

Name search of the General Register of Deeds

8	For a search against each name—	
	(a) to any person attending an office	0.1296
	(b) by electronic means	0.0867

Plans

9	On lodgment for registration or recording of—	
	(a) a plan for the acquisition of land and easements under the <i>Pipelines Act 1967</i>	9.4893
	(b) a plan under the <i>Community Land Development Act 1989</i>	5.6936
	(c) any other plan (other than a plan prepared solely for the purpose of placing survey information on public record)	2.6570
10	In addition to item 9, where more than one lot is shown—	
	(a) in a plan under the <i>Community Land Development Act 1989</i> —for each additional lot shown in the plan	5.6936

	(b) in any other plan (other than a plan prepared solely for the purpose of placing survey information on public record)—for each additional lot shown in the plan	2.6570
11	In addition to item 9—	
	(a) for the management statement accompanying a community, precinct or neighbourhood plan, including any associated plans or sketches	3.4254
	(b) for any development contract accompanying a community, precinct or neighbourhood plan	3.4254
12	In addition to item 9, 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	1.2618
13	In addition to item 9, 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	1.2618
14	In addition to item 9, if the plan is accompanied by a building management statement	3.4254
15	In addition to item 9, 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	1.2618
16	In addition to item 9, 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	1.2618
17	On lodgment of an additional or replacement sheet in conjunction with an application to amend a registered plan under the <i>Community Land Development Act 1989</i>	1.2618
18	For recording a plan prepared solely for the purpose of placing survey information on public record	1.2618
19	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	1.2618
20	For pre-examination of—	
	(a) a plan under the <i>Community Land Development Act 1989</i> —for each lot shown in the plan	6.2629
	(b) for any other plan—for each lot shown in the plan	2.9227

21	For preparation and supply of a plan	9.3893
22	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
23	On lodgment of a substituted plan or any sheet of such a plan or an additional sheet of a plan	1.2618
24	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
25	On lodgment of an application to amend a plan	1.2618
26	In addition to item 25, 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	1.2618
	(b) for each subsequent grant, certificate or folio	0.1296
27	On lodgment of an application for an order terminating a neighbourhood scheme under section 72 of the <i>Community Land Development Act 1989</i>	1.2618
28	On lodgment of a building management statement (other than a building management statement lodged with a plan under item 9)	3.4254
Requisitions sent by Registrar-General		
29	For a requisition sent by the Registrar-General requiring correction, re-execution or the supply of additional information in support of a plan or associated instrument lodged for registration or recording	0.9258
Miscellaneous		
30	For furnishing a certificate of ownership (section 700(2) of the <i>Local Government Act 1993</i> or section 10.9(2) of the <i>Environmental Planning and Assessment Act 1979</i>)	1.2618
31	On depositing a document or documents pursuant to section 64 of the Act	0.3444
32	In addition to item 31—for each document in excess of 4	0.0866
33	On application for return of a document or documents deposited pursuant to section 64 of the Act	0.3444
34	In addition to item 33—for each document in excess of 4	0.0866
35	For inspection of a packet containing a document or documents deposited pursuant to section 64 of the Act	0.3444

36	For production of documents at Revenue NSW	0.3129
37	On request for entry of a marginal note evidencing a discrepancy between an original instrument and a registered copy of the instrument	1.2618

Part 2 Adjustment of fees for inflation

1 Definitions

In this Part—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

financial year means a period of 12 months commencing on 1 July.

2 Calculation of fee unit for purposes of Regulation

- (1) For the purposes of this Regulation, a **fee unit** is—
- in the financial year 2018/2019—\$102.07, and
 - in each subsequent financial year—the amount calculated as follows—

$$\$100 \times \frac{A}{111.3}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

Note—

111.3 is the CPI number for the March quarter of 2017.

- The amount of a fee unit and the amount of a fee calculated by reference to a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).
- However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

3 Adjustment of fees relating to copyright

- The fee amount that is to apply for the 2018/2019 financial year in relation to the fee described in item 4 of Part 1 is—
 - for a supply under item 3(a)—\$0.96, and

(b) for a supply under item 3(b)—\$1.16.

(2) The fee amount for those fees that is to apply for a financial year subsequent to the 2018/2019 financial year is the amount calculated in accordance with the formulae set out in Schedule A to the Order made by the Copyright Tribunal of Australia on 28 October 2013 in the matter of *Copyright Agency Limited v State of New South Wales* (a copy of which is published on the website of the Office of the Registrar General).

4 Notice of indexed fees

(1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Registrar-General is required to—

(a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of that amount can be published on the NSW legislation website, and

(b) give public notice on an appropriate government website of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Part.

(2) This Part operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.

Schedule 2 Forms

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

(Clause 8)

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

Conveyancing (General) Regulation 2018, clause 8

(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 35)

Conveyancing Act 1919, section 200

Conveyancing (General) Regulation 2018, clause 35

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.

[Include a copy of the relevant order of Supreme Court that authorises the registration to be vacated]

[Signed and dated]

Schedule 3 Easements in gross—prescribed authorities

1 Prescribed authorities

For the purposes of paragraph (c) of the definition of **prescribed authority** in section 88A(1) of the Act, each corporation specified in clause 2 or 3 is prescribed.

2 Classes of corporations

- (1) An energy services corporation within the meaning of the *Energy Services Corporations Act 1995*.
- (2) The owner of a transacted distribution system or transacted transmission system under the *Electricity Network Assets (Authorised Transactions) Act 2015*.
- (3) An irrigation corporation within the meaning of the *Water Management Act 2000*.
- (4) A licensee within the meaning of the *Pipelines Act 1967* (but only in respect of easements for the purposes of the construction and use of pipelines (including purposes incidental to the construction and use)) and access to pipelines or to apparatus or works.
- (5) Expressions used in subclause (4) have the same meanings as they have in the *Pipelines Act 1967*.

3 Corporations

- (1) AGL Macquarie Pty Limited (ACN 167 859 494).
- (2) Australian Gas Networks (Albury) Pty Ltd (ACN 000 001 249).
- (3) Australian Gas Networks (NSW) Pty Ltd (ACN 083 199 839).
- (4) Australian Rail Track Corporation Limited (ACN 081 455 754).
- (5) Axicom Pty Ltd (ACN 090 873 019).
- (6) BAI Communications Pty Ltd (ACN 086 048 562).
- (7) Blayney and Crookwell Windfarm Pty Ltd (ACN 612 416 029).
- (8) Cochrane Dam Pty Ltd (ACN 613 015 768).
- (9) Directlink (No. 1) Pty Limited (ACN 085 123 468).
- (10) EnergyAustralia NSW Pty Ltd (ACN 163 935 635).
- (11) GSP Energy Pty Ltd (ACN 101 038 386).

- (12) Hunter Water Corporation.
- (13) Icon Distribution Investments Limited (ACN 073 025 224).
- (14) Jemena Eastern Gas Pipeline (3) Pty Ltd (ACN 067 715 646).
- (15) Jemena Gas Networks (NSW) Ltd (ACN 003 004 322).
- (16) Jemena Networks (ACT) Pty Ltd (ACN 008 552 663).
- (17) Kooragang Water Pty Ltd (ACN 609 789 808).
- (18) NBN Co Limited (ACN 136 533 741).
- (18A) Optus Fixed Infrastructure Pty Limited (ACN 092 450 783).
- (19) Optus Mobile Pty Limited (ACN 054 365 696).
- (20) Optus Networks Pty Limited (ACN 008 570 330).
- (21) Origin Energy Eraring Pty Limited (ACN 164 994 012).
- (22) Santos NSW (Narrabri Energy) Pty Ltd (ACN 055 932 315).
- (23) Santos NSW (Narrabri Power) Pty Ltd (ACN 104 570 943).
- (24) Santos NSW Pty Ltd (ACN 094 269 780).
- (25) SDP Australia No. 3 Pty Ltd (ACN 158 077 411).
- (26) SGSP Rosehill Network Pty Limited (ACN 131 213 691).
- (27) Silverton Wind Farm Transmission Pty Ltd (ACN 139 624 632).
- (28) Snowy Hydro Limited (ACN 090 574 431).
- (29) Stilmark Holdings Pty Ltd (ACN 147 919 122).
- (30) Sunset Power International Pty Ltd (ACN 162 696 335).
- (31) Sydney Desalination Plant Pty Limited (ACN 125 935 177).
- (32) Sydney Water Corporation.
- (33) Telstra Corporation Limited (ACN 051 775 556).
- (34) the Ministerial Holding Corporation constituted by the [State Owned Corporations Act 1989](#).
- (34A) Transgrid Services Pty Limited (ACN 626 136 865).
- (35) Vodafone Network Pty Limited (ACN 081 918 461).

(36) Water NSW.

(37) WaterNSW Infrastructure Pty Ltd (ACN 629 813 270).

Schedule 4 Prescribed witnesses to deeds

1 Prescribed witnesses

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 clause 2, or
- (b) in the case of a deed that is signed within a foreign country—any person of a class referred to in clause 3.

2 Deed signed within Australia or external Territory

accountant

Australian legal practitioner

bank manager

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
stockbroker
veterinary practitioner

3 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

Schedule 5 Commercial leases—COVID-19 pandemic special provisions

1 Definitions

In this Schedule—

business means an undertaking (whether or not carried on with a view to profit) involving the manufacture, sale or supply of goods or services.

commercial lease means any agreement to which the Act applies relating to the leasing of premises or land for commercial purposes, but does not include the following—

- (a) a lease entered into after the commencement of this Schedule, but not a lease entered into by means of an option to extend or renew the lease or any other extension or renewal of an existing lease on the same terms as the existing lease,
- (b) a retail shop lease under the *Retail Leases Act 1994*,
- (c) a lease under the *Agricultural Tenancies Act 1990*.

impacted lessee—see clause 2.

lessee means the person who has the right to occupy premises or land under a commercial lease.

lessor means the person who grants the right to occupy premises or land under a commercial lease.

National Code of Conduct means the *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* adopted on 7 April 2020.

Note—

The *National Cabinet Mandatory Code of Conduct—SME Commercial Leasing Principles During COVID-19* can be accessed at <https://www.pm.gov.au/sites/default/files/files/national-cabinet-mandatory-code-ofconduct-sme-commercial-leasing-principles.pdf>

prescribed action means taking action under the provisions of a commercial lease or seeking orders or issuing proceedings in a court or tribunal for any of the following—

- (a) eviction of the lessee from premises or land the subject of the commercial lease,
- (b) exercising a right of re-entry to premises or land the subject of the commercial lease,
- (c) recovery of the premises or land,
- (d) distraint of goods,
- (e) forfeiture,
- (f) damages,
- (g) requiring a payment of interest on, or a fee or charge related to, unpaid rent otherwise payable by a lessee,
- (h) recovery of the whole or part of a security bond under the commercial lease,
- (i) performance of obligations by the lessee or any other person pursuant to a guarantee under the commercial lease,
- (j) possession,

- (k) termination of the commercial lease,
- (l) any other remedy otherwise available to a lessor against a lessee at common law or under the law of this State.

prescribed period means the period ending at the end of the day that is 6 months after the day on which the *Retail and Other Commercial Leases (COVID-19) Regulation 2020* commences.

2 Meaning of “impacted lessee”

- (1) A lessee is an **impacted lessee** if—
 - (a) the lessee qualifies for the jobkeeper scheme under sections 7 and 8 of the *Coronavirus Economic Response Package (Payments and Benefits) Rules 2020* of the Commonwealth, and
 - (b) the following turnover in the 2018–2019 financial year was less than \$50 million—
 - (i) if the lessee is a franchisee—the turnover of the business conducted at the premises or land concerned,
 - (ii) if the lessee is a corporation that is a member of a group—the turnover of the group,
 - (iii) in any other case—the turnover of the business conducted by the lessee.
- (2) To avoid doubt, in this clause, **turnover** of a business includes any turnover derived from internet sales of goods or services.
- (3) In this clause, corporations constitute a **group** if they are related bodies corporate within the meaning of the *Corporations Act 2001* of the Commonwealth.

3 Application of Schedule

This Schedule applies to the exercise or enforcement of rights under a commercial lease in relation to circumstances occurring during the prescribed period.

4 Prohibitions and restrictions relating to commercial leases

- (1) If a lessee is an impacted lessee, a lessor must not take any prescribed action against the lessee on the grounds of a breach of the commercial lease during the prescribed period consisting of—
 - (a) a failure to pay rent, or
 - (b) a failure to pay outgoings, or
 - (c) the business operating under the lease not being open for business during the hours specified in the lease.

Note—

See leasing principles No. 1, 11 and 14 in the National Code of Conduct.

- (2) If, during the prescribed period, a lessee under a commercial lease is an impacted lessee, the rent payable under the commercial lease (other than rent or a component of rent determined by reference to turnover) must not be increased.

Note—

See leasing principle No. 13 in the National Code of Conduct.

- (3) If, during the prescribed period, a lessee under a commercial lease was an impacted lessee, a lessor must not, after the prescribed period, take any prescribed action against the lessee on the grounds of a breach of the commercial lease consisting of a failure to pay an amount equivalent to or representing the rent increase amount referred to in subclause (2).

Note—

See leasing principle No. 13 in the National Code of Conduct.

- (4) If an impacted lessee is required by a provision of a commercial lease to pay a fixed amount that represents an amount of land tax or any other statutory charge (such as local council rates) or insurance payable by a lessor and the amount of the land tax or other statutory charge or insurance payable is reduced, the impacted lessee is exempted from the operation of the provision to the extent of the reduction.

Note—

See leasing principle No. 6 in the National Code of Conduct.

- (5) An act or omission of an impacted lessee required under a law of the Commonwealth or the State in response to the COVID-19 pandemic—
- (a) is taken not to amount to a breach of the commercial lease to which the impacted lessee is a party, and
 - (b) does not constitute grounds for termination of the lease or the taking of any prescribed action by the lessor against the impacted lessee.
- (6) Nothing in this clause prevents a lessor and impacted lessee agreeing to the parties taking any action in relation to the commercial lease (including the lessor taking any prescribed action or the parties agreeing to terminate the commercial lease).

5 Obligation to renegotiate rent and other terms of commercial leases before prescribed action

- (1A) This clause applies to a commercial lease to which an impacted lessee is a party (an ***impacted lease***).

- (1) A lessor under an impacted lease must not take or continue any prescribed action against the impacted lessee concerned on grounds of a breach of the impacted lease

consisting of a failure to pay rent during the prescribed period unless the lessor has complied with this clause.

Note—

This clause does not prevent parties to an impacted lease coming to agreements relating to the lease. For example, an impacted lessee may voluntarily agree to pay full rent during the prescribed period. The clause prevents the lessor taking unilateral prescribed action without complying with the requirements set out in subclauses (2)–(4).

- (2) Any party to an impacted lease may request the other parties to renegotiate the rent payable under, and other terms of, the impacted lease.
- (3) A party to an impacted lease must, if requested, renegotiate in good faith the rent payable under, and other terms of, the impacted lease.
- (3A) An impacted lessee must give the lessor the following in respect of the impacted lease—
 - (a) a statement to the effect that the lessee is an impacted lessee,
 - (b) evidence that the lessee is an impacted lessee.
- (3B) If the impacted lessee does not comply with subclause (3A), the lessor is taken to have complied with this clause.
- (4) The parties are to renegotiate the rent payable under, and other terms of, the impacted lease having regard to—
 - (a) the economic impacts of the COVID-19 pandemic, and
 - (b) the leasing principles set out in the National Code of Conduct.

Note—

See leasing principles No. 3–5, 7–10 and 12 in the National Code of Conduct.

In particular, leasing principle No. 3 in the National Code of Conduct requires landlords to offer rent reductions, in the form of waivers or deferrals of rent, proportionate to lessees' reductions in turnover.

6 Disputes must be submitted to mediation before proceedings can be taken

A lessor must not do any one or more of the following unless and until the Small Business Commissioner has certified in writing that mediation offered to be conducted by the Small Business Commissioner has failed to resolve the dispute and given reasons for the failure—

- (a) seek to recover possession of premises or land under the commercial lease,
- (b) terminate the commercial lease,
- (c) exercise or enforce any other right of the lessor under the lease.

7 Court consideration of National Code of Conduct leasing principles

A court, when considering whether to make a decision or order relating to any of the following, is to have regard to the leasing principles set out in the National Code of Conduct—

- (a) the recovery of possession of premises or land from a lessee,
- (b) the termination of a commercial lease by a lessor,
- (c) the exercise or enforcement of another right of a lessor of premises or land.

8 Lessor action for non-COVID-19 pandemic related reasons

Nothing in this Schedule prevents a lessor taking a prescribed action on grounds not related to the economic impacts of the COVID-19 pandemic.

Note—

For example, a lessor may terminate a commercial lease if the lessee has breached the lease by damaging the premises concerned or may take action if a lessee fails to vacate premises following the expiry of a fixed term commercial lease.

9 Equity and law preserved

Nothing in this Schedule excludes the rules of equity and of common law from applying to the determination of a dispute concerning—

- (a) the recovery of possession of premises or land from a lessee, or
- (b) the termination of a commercial lease by a lessor, or
- (c) the exercise or enforcement of another right of a lessor of premises or land.

10 Repeal of Schedule

This Schedule is repealed on the day that is 6 months after the day on which it commences.

Note—

Section 87(4) of the [Retail Leases Act 1994](#) regarding the duration of regulations made under Part 11 (Response to COVID-19 pandemic) of that Act.

11 Evidence of impacted lessee status—savings provision

- (1) The amendments to clause 5 made by the [Retail and Other Commercial Leases \(COVID-19\) Amendment Regulation 2020](#) extend to renegotiations commenced but not completed before the commencement of the amendments.
- (2) For the avoidance of doubt, the amendments do not extend to a matter for which proceedings have commenced in a court.