

# Community Land Development Act 2021 No 6

[2021-6]



New South Wales

## Status Information

### Currency of version

Current version for 11 December 2023 to date (accessed 26 May 2024 at 22:08)

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.

### Responsible Minister

- Minister for Customer Service and Digital Government

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### 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 11 December 2023

# Community Land Development Act 2021 No 6



New South Wales

## Contents

<b>Long title</b> .....	8
<b>Part 1 Preliminary</b> .....	8
1 Name of Act .....	8
2 Commencement .....	8
3 Object of Act .....	8
4 Interpretation .....	8
5 Meaning of “community scheme” .....	9
6 Meaning of “precinct scheme” .....	9
7 Meaning of “neighbourhood scheme” .....	10
<b>Part 2 Establishment of schemes</b> .....	10
8 Establishment of community scheme .....	10
9 Establishment of precinct scheme .....	11
10 Establishment of neighbourhood scheme .....	12
11 Exclusion of corporations law .....	12
12 Requirements for scheme plans .....	12
13 Establishment of subsidiary strata scheme .....	14
<b>Part 3 Plans and instruments affecting schemes</b> .....	14
<b>Division 1 Plans of subdivision and consolidation</b> .....	14
14 Scheme plans of subdivision .....	14
15 Requirements for scheme plan of subdivision that subdivides or creates lot .....	15
16 Requirements for scheme plan of subdivision that adds land to scheme parcel .....	17

17 Scheme plans of consolidation .....	18
<b>Division 2 Community and precinct development lots</b> .....	<b>18</b>
18 Minor adjustments between development lots and community property .....	18
19 Severance of a development lot.....	19
<b>Part 4 Association property</b> .....	<b>20</b>
20 Definition.....	20
21 Vesting of association property .....	20
22 Shares in association property .....	21
23 Dealings with association property.....	21
24 Conversion of lots to association property .....	21
25 Acquisition of additional association property by transfer.....	22
26 Acquisition of additional association property by lease .....	23
27 Lease of certain association property.....	24
28 Transfer of association property .....	25
<b>Part 5 Easements and restrictions</b> .....	<b>26</b>
<b>Division 1 Granting or accepting relevant interests</b> .....	<b>26</b>
29 Definition.....	26
30 Association may grant or accept relevant interest .....	26
31 Dealings to grant or accept relevant interest .....	26
<b>Division 2 Statutory easements</b> .....	<b>27</b>
32 Definitions .....	27
33 Meaning of “statutory easement” .....	27
34 Creation of statutory easement.....	27
35 Service line provider has benefit of statutory easement .....	28
36 Implied covenants .....	28
37 Service line completed after creation of statutory easement.....	29
38 Developer to give copy of prescribed diagram to association .....	29
39 Registrar-General may make recordings.....	29
40 Division does not affect other rights or obligations .....	29
<b>Part 6 Access to schemes</b> .....	<b>30</b>

41	Setting apart access way in association property .....	30
42	Special resolution required for closure of open access way .....	30
43	Access ways remain as association property .....	30
44	Effect of access ways in relation to certain rights .....	31
	<b>Part 7 Development contracts</b> .....	<b>31</b>
45	Definitions .....	31
46	Form and content .....	31
47	Planning approval .....	32
48	Variation of liability for association property expenses .....	33
49	Binding effect .....	33
50	Amendment with approval of planning authority and association .....	34
51	Notice of decision of planning authority and appeal .....	35
52	Amendment with approval of Court .....	35
53	Registration of amendment .....	36
54	Orders of the Court for breach .....	36
55	Development concerns .....	37
56	Right to complete permitted development .....	37
57	Meetings of association relating to development concerns .....	38
58	Conclusion of development contract .....	39
	<b>Part 8 Amalgamation of schemes</b> .....	<b>40</b>
59	Amalgamation with subsidiary precinct or neighbourhood scheme .....	40
60	Public notice of proposed amalgamation .....	40
61	Application for amalgamation of schemes .....	40
62	Matters to accompany application .....	41
63	Consequences of registration of amalgamation of schemes .....	42
64	Regulations for purposes of this Part .....	43
	<b>Part 9 Variation or termination of scheme</b> .....	<b>43</b>
	<b>Division 1 Variation or termination by Supreme Court</b> .....	<b>43</b>
65	Variation or termination of scheme .....	43
66	Variation of associated development contract .....	44
67	Application to Supreme Court .....	44

<b>Division 2 Termination by Registrar-General</b> .....	45
68 Termination of scheme by Registrar-General .....	45
69 Making application for termination .....	45
70 Consequences of termination order by the Registrar-General .....	46
<b>Part 10 Resumptions</b> .....	47
<b>Division 1 Preliminary</b> .....	47
71 Definitions .....	47
72 Application of Part .....	48
<b>Division 2 Applications to Supreme Court</b> .....	48
73 Resuming authority must apply to Supreme Court .....	48
74 Notice of application to the Supreme Court .....	49
75 Application may be treated as application to vary or terminate scheme .....	50
76 Hearing of application .....	50
77 Costs .....	50
78 Orders take effect on registration .....	50
<b>Division 3 Notice of resumption</b> .....	50
79 Notice of resumption .....	50
80 When notice is required to apply to whole parcel .....	51
<b>Division 4 Plans and instruments to be lodged with Registrar-General</b> ..	51
81 Definition .....	51
82 Lodgment of plans .....	52
83 When registered plan takes effect .....	52
84 Registrar-General may make recordings and notations .....	52
85 Resumption of whole parcel .....	52
86 Resumption of entire lot with exclusion from scheme .....	52
87 Resumption of part of lot without exclusion from scheme .....	53
88 Resumption of part of lot with exclusion from scheme .....	54
89 Resumption of part of association property .....	54
90 Resumption of part of common property .....	55

<b>Division 5 Effect of resumption</b> .....	56
91 Exclusion of resumed land from scheme .....	56
92 Interest in association or common property .....	56
93 Continuation of resumed land within scheme.....	56
<b>Division 6 Sale as alternative to resumption</b> .....	57
94 Definition.....	57
95 Use of acquisition plan to acquire land.....	57
96 Grounds for refusing to register acquisition plan.....	57
97 Sale of association property using acquisition plan.....	58
98 Effect of registration of transfer .....	58
99 Division has effect despite other provisions of Act.....	58
<b>Division 7 Miscellaneous</b> .....	58
100 Compensation on resumption of part of lot .....	58
101 Compensation on resumption of association or common property.....	59
102 Resumption by authority not bound by Act .....	59
<b>Part 11 Lodgment and functions of Registrar-General</b> .....	59
103 Application of Act to electronic plans and documents .....	59
104 Recordings and notations .....	60
105 Amendment to registered plans and instruments .....	60
106 Replacement sheet or additional sheet for plan, and replacement schedule of unit entitlement..	61
107 Plans for strata subdivision not registrable under this Act .....	62
108 Registration of amendment of management statement.....	62
109 Notice to be given to Valuer-General.....	62
110 Recording of certain orders .....	62
<b>Part 12 Miscellaneous</b> .....	63
111 Functions of associations.....	63
112 Expiration of initial period .....	63
113 Accompanying documents become part of plan on registration .....	64
114 Act to bind Crown .....	64
115 Regulations.....	64
116 Repeals.....	64

<b>Schedule 1 Plans</b> .....	64
<b>Schedule 2 Management statements</b> .....	66
<b>Schedule 3 Schedules of unit entitlement</b> .....	71
<b>Schedule 4 Savings, transitional and other provisions</b> .....	77
<b>Schedule 5 (Repealed)</b> .....	78
<b>Dictionary</b> .....	78

# Community Land Development Act 2021 No 6



New South Wales

An Act to facilitate the subdivision and development of land with shared property; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Community Land Development Act 2021*.

### 2 Commencement

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

### 3 Object of Act

The object of this Act is to facilitate the subdivision of land into parcels for separate development or disposition—

- (a) with a common or shared property interest in associated land, and
- (b) in conjunction with the development of another parcel or parcels.

### 4 Interpretation

- (1) The Dictionary to this Act defines certain terms used in this Act.

**Note—**

The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

- (2) This Act is to be interpreted as part of the *Real Property Act 1900* but, if there is an inconsistency between them, this Act prevails.
- (3) For the purposes of this Act, land is contiguous even if it is divided by, or separated from other land by a natural feature, railway, public road, public reserve or drainage reserve.
- (4) A reference in this Act to any of the following approvals, contracts or statements includes a reference to the approval, contract or statement as modified or amended



from time to time in accordance with this or any other Act—

- (a) a planning approval,
- (b) a development contract,
- (c) a community management statement,
- (d) a precinct management statement,
- (e) a neighbourhood management statement.

(5) Notes included in this Act do not form part of this Act.

### **5 Meaning of “community scheme”**

In this Act, **community scheme** means—

- (a) the subdivision of land by a community plan, and
- (b) the subdivision of land in the community plan by a precinct plan, and
- (c) the subdivision of land in the community plan or precinct plan by a neighbourhood plan or strata plan, and
- (d) the proposals in any related development contract, and
- (e) the rights conferred, and the obligations imposed, by or under this Act, the [Community Land Management Act 2021](#), [Strata Schemes Development Act 2015](#) and [Strata Schemes Management Act 2015](#) in relation to the following—
  - (i) the community association,
  - (ii) the community property,
  - (iii) subsidiary schemes,
  - (iv) persons having interests in, or occupying, development lots and lots in subsidiary schemes.

### **6 Meaning of “precinct scheme”**

In this Act, **precinct scheme** means—

- (a) the subdivision of land by a precinct plan, and
- (b) the subdivision of land in the precinct plan by a neighbourhood plan or strata plan, and
- (c) the proposals in any related development contract, and
- (d) the rights conferred, and the obligations imposed, by or under this Act, the

*Community Land Management Act 2021*, *Strata Schemes Development Act 2015* and *Strata Schemes Management Act 2015* in relation to the following—

- (i) the precinct association,
- (ii) the precinct property,
- (iii) subsidiary schemes,
- (iv) persons having interests in, or occupying, development lots and lots in subsidiary schemes.

## **7 Meaning of “neighbourhood scheme”**

In this Act, ***neighbourhood scheme*** means—

- (a) the subdivision of land by a neighbourhood plan, and
- (b) the proposals in any related development contract, and
- (c) the rights conferred, and the obligations imposed, by or under this Act and the *Community Land Management Act 2021* in relation to the following—
  - (i) the neighbourhood association,
  - (ii) the neighbourhood property,
  - (iii) persons having interests in, or occupying, the neighbourhood lots.

## **Part 2 Establishment of schemes**

### **8 Establishment of community scheme**

- (1) A community scheme is established by the registration of a plan for the subdivision of land—
  - (a) that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, and
  - (b) into 2 or more community development lots and 1 other lot that is community property, whether or not the plan includes land that, on registration of the plan, will be dedicated as a public road, public reserve or drainage reserve.
- (2) The registration of a community plan constitutes a corporation with the corporate name “Community Association DP No                   ”, where the number to be inserted is the number of the plan registered as the community plan.
- (3) The members of the corporation are as follows—
  - (a) the owner of each community development lot in the community parcel that has not become subject to a subsidiary scheme,

- (b) the precinct association constituted if a community development lot in the community parcel becomes subject to a precinct scheme,
- (c) the neighbourhood association constituted if a community development lot in the community parcel becomes subject to a neighbourhood scheme,
- (d) the strata corporation constituted if a community development lot in the community parcel becomes subject to a strata scheme.

(4) In this Act—

**community association** means a corporation constituted by the registration of a community plan.

**community plan** means a plan referred to in subsection (1).

## 9 Establishment of precinct scheme

- (1) A precinct scheme is established by the registration of a plan for the subdivision of land—
  - (a) that is a community development lot, and
  - (b) into 2 or more precinct development lots and 1 other lot that is precinct property, whether or not the plan includes land that, on registration of the plan, will be dedicated as a public road, public reserve or drainage reserve.
- (2) The registration of a precinct plan constitutes a corporation with the corporate name “Precinct Association DP No \_\_\_\_\_”, where the number to be inserted is the number of the plan registered as the precinct plan.
- (3) The members of the corporation are as follows—
  - (a) the owner of each precinct development lot in the precinct parcel that has not become subject to a subsidiary scheme,
  - (b) the neighbourhood association constituted if a precinct development lot in the precinct parcel becomes subject to a neighbourhood scheme,
  - (c) the strata corporation constituted if a precinct development lot in the precinct parcel becomes subject to a strata scheme.

(4) In this Act—

**precinct association** means a corporation constituted by the registration of a precinct plan.

**precinct plan** means a plan referred to in subsection (1).

## 10 Establishment of neighbourhood scheme

- (1) A neighbourhood scheme that is part of a community scheme or precinct scheme is established by the registration of a plan for the subdivision of land—
  - (a) that is a development lot, and
  - (b) into 2 or more neighbourhood lots and 1 other lot that is neighbourhood property, whether or not the plan includes land that, on registration of the plan, will be dedicated as a public road, public reserve or drainage reserve.
- (2) A neighbourhood scheme that is not part of a community scheme or precinct scheme is established by the registration of a plan for the subdivision of land—
  - (a) that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, and
  - (b) into 2 or more neighbourhood lots and 1 other lot that is neighbourhood property, whether or not the plan includes land that, on registration of the plan, will be dedicated as a public road, public reserve or drainage reserve.
- (3) The registration of a neighbourhood plan constitutes a corporation with the corporate name “Neighbourhood Association DP No                   ”, where the number to be inserted is the number of the plan registered as the neighbourhood plan.
- (4) The members of the corporation are the owners of the neighbourhood lots in the neighbourhood parcel.
- (5) In this Act—

**neighbourhood association** means a corporation constituted by the registration of a neighbourhood plan.

**neighbourhood plan** means a plan referred to in subsection (1) or (2).

## 11 Exclusion of corporations law

A community association, precinct association or neighbourhood association is declared to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to the whole of the Corporations legislation.

**Note—**

That section permits a State to exclude a matter from the application of all or part of the Corporations legislation.

## 12 Requirements for scheme plans

- (1) A scheme plan—
  - (a) must comply with Schedule 1, and

- (b) must include—
    - (i) a location plan, and
    - (ii) a detail plan, and
    - (iii) an association property plan, and
  - (c) must be accompanied by—
    - (i) a management statement for the scheme that complies with Schedule 2, and
    - (ii) any documents prescribed by the regulations, and
  - (d) may be accompanied by a development contract for the scheme that complies with Part 7.
- (2) The administration sheet for a scheme plan must include—
- (a) a schedule of unit entitlement that complies with Schedule 3, and
  - (b) the address at which documents may be served on the association constituted on registration of the plan.
- (3) On the registration of a scheme plan, the Registrar-General is to make—
- (a) a recording identifying the relevant association property in the folio for each development lot or neighbourhood lot, and
  - (b) the recordings required by subsection (4) in the folio for the association property.
- (4) The following recordings are to be made in the folio for association property—
- (a) the name of the relevant association,
  - (b) the latest address of which the Registrar-General has been notified for the service of notices on the association,
  - (c) if the association is the association for a subsidiary scheme, a recording identifying the association property of the scheme of which the subsidiary scheme is a part,
  - (d) a recording to identify easements benefiting or burdening the association property or the whole of the scheme parcel,
  - (e) a recording to identify positive covenants or restrictions on the use of land burdening the association property or the whole of the scheme parcel,
  - (f) a recording to identify the applicable management statement and amendments to the applicable management statement,

- (g) a recording to identify any development contract registered with the scheme plan and any amendments to the development contract,
- (h) the recordings required to be made under this Act or any other Act,
- (i) any other recordings that the Registrar-General thinks fit.

### **13 Establishment of subsidiary strata scheme**

- (1) A community development lot or precinct development lot may also be subdivided by the registration of a strata plan that includes common property.
- (2) On the registration of a strata plan, the Registrar-General is to make the following recordings—
  - (a) in the folio for the common property—
    - (i) the recordings required under sections 29, 31 and 32 of the *Strata Schemes Development Act 2015*, and
    - (ii) a recording identifying the association property of the scheme of which the strata scheme is a part, and
    - (iii) the recordings required to be made under this Act or any other Act, and
    - (iv) any other recordings that the Registrar-General thinks fit.
  - (b) in the folio for each strata lot, the recordings required under the *Strata Schemes Development Act 2015*.
- (3) A neighbourhood lot may not be subdivided by the registration of a strata plan.

## **Part 3 Plans and instruments affecting schemes**

### **Division 1 Plans of subdivision and consolidation**

#### **14 Scheme plans of subdivision**

- (1) A community plan of subdivision may be used to—
  - (a) subdivide 1 or more community development lots into—
    - (i) 2 or more community development lots, or
    - (ii) 1 or more community development lots and community property, or
  - (b) subdivide 1 or more community development lots and some, but not all, community property into 1 or more community development lots and community property, or
  - (c) subdivide community property into 1 or more community development lots and

community property, or

(d) add a community development lot to a community scheme.

(2) A precinct plan of subdivision may be used to—

(a) subdivide 1 or more precinct development lots into—

(i) 2 or more precinct development lots, or

(ii) 1 or more precinct development lots and precinct property, or

(b) subdivide 1 or more precinct development lots and some, but not all, precinct property into 1 or more precinct development lots and precinct property, or

(c) subdivide precinct property into 1 or more precinct development lots and precinct property, or

(d) add a precinct development lot to a precinct scheme.

(3) A neighbourhood plan of subdivision may be used to—

(a) subdivide 1 or more neighbourhood lots into—

(i) 2 or more neighbourhood lots, or

(ii) 1 or more neighbourhood lots and neighbourhood property, or

(b) subdivide 1 or more neighbourhood lots and some, but not all, neighbourhood property into 1 or more neighbourhood lots and neighbourhood property, or

(c) subdivide neighbourhood property into 1 or more neighbourhood lots and neighbourhood property, or

(d) add a neighbourhood lot to a neighbourhood scheme.

### **15 Requirements for scheme plan of subdivision that subdivides or creates lot**

(1) This section applies to a scheme plan of subdivision but not a scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot.

(2) The plan—

(a) must comply with Schedule 1, and

(b) must include an additional sheet of the detail plan showing the boundaries of all development lots or neighbourhood lots created by the subdivision, and

(c) must include a replacement schedule of unit entitlement for the scheme that complies with Schedule 3, and

- (d) if it is necessary to amend a registered development contract to give effect to the plan, must be accompanied by—
  - (i) a request for registration of the amendment to the development contract in the approved form, and
  - (ii) any documents prescribed by the regulations, and
- (e) if a neighbourhood lot is being subdivided and it is held by the original owner, must not be registered unless—
  - (i) the initial period has expired, or
  - (ii) there is a development contract in force and the dealing is in accordance with the development contract, or
  - (iii) the dealing has been authorised by the Tribunal.
- (3) The plan, if it subdivides or creates association property—
  - (a) must include a replacement sheet for the association property plan showing the altered boundaries of the association property, and
  - (b) must be accompanied by a certificate (the **association certificate**) in the approved form, and
  - (c) must not be registered unless—
    - (i) the initial period has expired, or
    - (ii) there is a development contract in force and the plan is in accordance with the contract, or
    - (iii) the plan has been authorised by the Tribunal.
- (4) The association certificate must be under the seal of the association and be to the effect that—
  - (a) execution of the plan was authorised by special resolution, and
  - (b) any interest in the land has been released if—
    - (i) the plan has not been made subject to the interest, and
    - (ii) the interest is not a statutory interest or an interest recorded in the Register, and
    - (iii) the association has notice of the interest, and
  - (c) land ceasing to be association property will no longer be affected by a by-law restricting the use of association property.



- (5) A development lot or neighbourhood lot created by a subdivision of association property ceases to be association property.

**16 Requirements for scheme plan of subdivision that adds land to scheme parcel**

- (1) This section applies to a scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot.
- (2) The plan—
- (a) must comply with Schedule 1, and
  - (b) must include an additional sheet of the detail plan showing the boundaries of all development lots or neighbourhood lots created by the subdivision, and
  - (c) must include a replacement schedule of unit entitlement for the scheme that complies with Schedule 3, and
  - (d) must be accompanied by a certificate in the approved form certifying the association has been approved by special resolution the addition of the land, and
  - (e) if required by the Registrar-General, must be accompanied by a replacement location plan showing the new boundaries and overall layout of the scheme parcel, and
  - (f) must not be registered if the scheme parcel is a community parcel, unless the land—
    - (i) is contiguous to the community parcel, and
    - (ii) is not part of a scheme parcel or strata parcel, and
  - (g) must not be registered if the scheme parcel is a precinct parcel, unless the land—
    - (i) is contiguous to the precinct parcel, and
    - (ii) comprises a community development lot in the relevant community scheme, and
  - (h) must not be registered if the scheme parcel is a neighbourhood parcel that is part of a community scheme, unless the land—
    - (i) is contiguous to the neighbourhood parcel, and
    - (ii) comprises a development lot in the community scheme or, if the neighbourhood scheme is also part of a precinct scheme, the precinct scheme, and
  - (i) must not be registered if the scheme parcel is a neighbourhood parcel that is not part of a community scheme, unless the land—

- (i) is contiguous to the neighbourhood parcel, and
- (ii) is not part of a scheme parcel or strata parcel, and
- (j) must not be registered, unless—
  - (i) the initial period has expired, or
  - (ii) there is a development contract in force and the addition of the land is in accordance with the contract, or
  - (iii) the addition of the land has been authorised by the Tribunal.

### **17 Scheme plans of consolidation**

- (1) A community plan of consolidation may be used to consolidate 2 or more, but not all, of the community development lots in the same community plan.
- (2) A precinct plan of consolidation may be used to consolidate 2 or more, but not all, of the precinct development lots in the same precinct plan.
- (3) A neighbourhood plan of consolidation may be used to consolidate 2 or more, but not all, of the neighbourhood lots in the same neighbourhood plan.
- (4) A scheme plan of consolidation—
  - (a) must comply with Schedule 1, and
  - (b) must include an additional sheet of the detail plan showing the boundaries of the consolidated lot, and
  - (c) must include a replacement schedule of unit entitlement that—
    - (i) complies with Schedule 3, and
    - (ii) does not differ from the existing schedule except to show the unit entitlement of the consolidated lot as the sum of the lots that have been consolidated, and
  - (d) must be accompanied by any documents prescribed by the regulations.

## **Division 2 Community and precinct development lots**

### **18 Minor adjustments between development lots and community property**

- (1) A boundary adjustment plan may be used to make an adjustment that, in the opinion of the Registrar-General, is a minor adjustment, to—
  - (a) the boundaries between community development lots and the community property in a community plan, or
  - (b) the boundaries between precinct development lots and the precinct property in a

precinct plan.

(2) A boundary adjustment plan must—

- (a) comply with Schedule 1, and
- (b) include an additional sheet of the detail plan showing the altered boundaries of the affected development lots, and
- (c) include a replacement sheet for the relevant association property plan showing the altered boundaries of the association property, and
- (d) be accompanied by any documents prescribed by the regulations.

(3) A boundary adjustment plan when registered—

- (a) operates, without any further assurance, to vest the land in accordance with the adjusted boundaries, and
- (b) does not of itself give rise to any liability for stamp duty.

#### **19 Severance of a development lot**

(1) An instrument in the approved form may be used to—

- (a) sever a community development lot from a community scheme, or
- (b) sever a precinct development lot from a precinct scheme.

(2) The instrument—

- (a) must be signed by the owner of the lot and by the association, and
- (b) must be accompanied by a replacement schedule of unit entitlement that complies with Schedule 3 for—
  - (i) the community scheme, and
  - (ii) if the severed lot is a precinct development lot, the precinct scheme, and
- (c) must be accompanied by a certificate of the planning authority signifying its consent to the severance, and
- (d) must be accompanied by a certificate under seal to the effect that consent to the severance has been given by special resolution—
  - (i) for a community development lot, by the community association, or
  - (ii) for a precinct development lot, by the community association and the precinct association, and

- (e) must be accompanied by the consent of each mortgagee, chargee or covenant chargee of the lot, and
  - (f) must be accompanied by any evidence the Registrar-General may require to show that all easements for access and services have been created if the easements are necessary for the community scheme and the severed lot because of the severance of the lot.
- (3) On registration of the instrument, the Registrar-General is to make any recordings in the folio for the severed lot as the Registrar-General thinks fit—
- (a) to give effect to the severance, and
  - (b) to preserve subsisting interests recorded in the folio.
- (4) A severed lot ceases to be a development lot but continues to be a lot in a current plan for the purposes of section 23F of the [Conveyancing Act 1919](#).

## Part 4 Association property

### 20 Definition

In this Part—

**relevant interest** means the following—

- (a) a mortgage,
- (b) a charge,
- (c) a covenant charge,
- (d) a writ,
- (e) a caveat,
- (f) a lease, other than a lease necessary for the provision of a service to the scheme.

### 21 Vesting of association property

- (1) Registration of a plan or dealing creating association property—
- (a) vests the land in the relevant association, and
  - (b) frees and discharges the land from all relevant interests.
- (2) Land vests under this section for the estate or interest evidenced by the folio for the land.

## **22 Shares in association property**

- (1) An association for a scheme holds association property in the scheme as agent for the following as tenants in common—
  - (a) the owners of the development lots or neighbourhood lots in the scheme, other than lots in a subsidiary scheme,
  - (b) any subsidiary body for a subsidiary scheme comprising a former development lot in the scheme.
- (2) The shares in the association property are proportional—
  - (a) for owners of development lots or neighbourhood lots, to the unit entitlement of the lots, and
  - (b) for a subsidiary body, to the unit entitlement of the former development lot.

## **23 Dealings with association property**

- (1) Association property may be dealt with only in accordance with this Act and the [Community Land Management Act 2021](#).
- (2) Association property held by an association as agent—
  - (a) for the owner of a development lot or neighbourhood lot, may be dealt with in conjunction with the lot, or
  - (b) for a subsidiary body, may be dealt with in conjunction with the subsidiary parcel.
- (3) A reference in a dealing, caveat or priority notice to a lot is taken to include a reference to association property held by an association as agent in relation to the lot.
- (4) Subsection (3) has effect without a recording being made in the folio for the association property.

## **24 Conversion of lots to association property**

- (1) An instrument in the approved form may be used to—
  - (a) convert a community development lot to community property, or
  - (b) convert a precinct development lot to precinct property, or
  - (c) convert a neighbourhood lot to neighbourhood property.
- (2) The instrument—
  - (a) must be signed by the owner of the lot and by the association, and
  - (b) must be accompanied by a replacement sheet for the association property plan

showing the altered boundaries of the association property, and

- (c) must be accompanied by a replacement schedule of unit entitlement for the affected scheme that complies with Schedule 3, and
  - (d) must be accompanied by a certificate of the planning authority showing its consent to the conversion, and
  - (e) must be accompanied by a certificate under the seal of the relevant association to the effect that it has, by special resolution, consented to the conversion and to the new schedule of unit entitlement, and
  - (f) must not be registered unless the folio for the lot is freed from all relevant interests, and
  - (g) if the instrument is converting a neighbourhood lot held by the original owner, must not be registered unless—
    - (i) the initial period has expired, or
    - (ii) there is a development contract in force and the instrument is in accordance with the contract, or
    - (iii) the conversion has been authorised by the Tribunal.
- (3) On registration of the instrument, the Registrar-General is to cancel the folio for the lot.

## **25 Acquisition of additional association property by transfer**

- (1) An association may add land to its association property by transfer if—
  - (a) the land is not part of the scheme parcel, and
  - (b) the land is contiguous to the scheme parcel, and
  - (c) the transfer is registered under the *Real Property Act 1900*.
- (2) If the scheme is a subsidiary scheme, the transferred land must comprise a development lot within a scheme of which the subsidiary scheme is part.
- (3) The transfer—
  - (a), (b) (Repealed)
  - (c) must be accompanied by a certificate under the seal of the association to which the land is to be transferred to the effect that acceptance of the transfer was authorised by special resolution, and
  - (d) must be accompanied by a replacement sheet for the association property plan

showing the altered boundaries of the association property, and

- (e) must be accompanied by an additional sheet of the detail plan showing the detailed survey information of the additional land, and
- (f) if required by the Registrar-General, must be accompanied by a replacement location plan showing the new boundaries and overall layout of the scheme parcel, and
- (g) must not be registered unless the folio for the lot is freed from all relevant interests, and
- (h) must not be registered unless—
  - (i) the initial period has expired, or
  - (ii) there is a development contract in force and the transfer is in accordance with the contract, or
  - (iii) the transfer has been authorised by the Tribunal.

(4) In this section—

***detailed survey information*** for a plan, means the survey information required to be included in the plan by regulations made under the [Surveying and Spatial Information Act 2002](#).

## **26 Acquisition of additional association property by lease**

- (1) An association may add land to its association property by lease if—
  - (a) the land is not part of the scheme parcel, and
  - (b) the land is contiguous to the scheme parcel, and
  - (c) the lease is registered under the [Real Property Act 1900](#).
- (2) The lease—
  - (a), (b) (Repealed)
  - (c) must be accompanied by a certificate under the seal of the association to which the land is to be transferred to the effect that acceptance of the lease was authorised by special resolution, and
  - (d) if the lease is to a neighbourhood association, must not be registered unless—
    - (i) the initial period has expired, or
    - (ii) there is a development contract in force and the lease is in accordance with the contract, or

(iii) the lease has been authorised by the Tribunal.

(3) An association may surrender or vary a lease accepted by it under this section if—

- (a) it so decides by special resolution, and
- (b) the lessor consents.

(4) In this section—

**lease** includes—

- (a) a sublease, and
- (b) a leasehold estate or interest acquired by transfer.

## **27 Lease of certain association property**

(1) An association may grant a lease of land forming part of its association property if—

- (a) the land is not all of its association property, and
- (b) the lease is registered under the *Real Property Act 1900*.

(2) The lease—

- (a) must be accompanied by a certificate (an **association certificate**) in the approved form, and
- (b) must not be registered unless—
  - (i) the initial period has expired, or
  - (ii) the grant of the lease has been authorised by the Tribunal.

(3) The association certificate must be under the seal of the association and be to the effect that—

- (a) execution of the lease was authorised by special resolution, and
- (b) any interest in the land has been released if—
  - (i) the lease has not been made subject to the interest, and
  - (ii) the interest is not a statutory interest or an interest recorded in the Register, and
  - (iii) the association has notice of the interest, and
- (c) any by-law restricting the use of the association property no longer affects the interest passing under the lease.



(4) An association may by special resolution accept a surrender of, or exercise a right of re-entry under, a lease granted by it under this section.

(5) In this section—

**grant a lease** includes grant a sublease or transfer a lease, but only if the sublease or transfer is not in contravention of the lease.

## **28 Transfer of association property**

(1) An association may transfer land forming part of its association property if—

- (a) the land is not all of its association property, and
- (b) the land is not held by it on lease, and
- (c) the land is shown as a lot in a plan lodged for registration as a current plan, and
- (d) the transfer is registered under the [Real Property Act 1900](#).

(2) The transfer—

- (a) must be accompanied by a replacement sheet for the association property plan showing the altered boundaries of the association property, and
- (b) must be accompanied by a certificate (an **association certificate**) in the approved form, and
- (c) must not be registered unless—
  - (i) the initial period has expired, or
  - (ii) the transfer has been authorised by the Tribunal.

(3) The association certificate must be under the seal of the association and be to the effect that—

- (a) execution of the transfer was authorised by special resolution, and
- (b) any interest in the land has been released if—
  - (i) the transfer has not been made subject to the interest, and
  - (ii) the interest is not a statutory interest or an interest recorded in the Register, and
  - (iii) the association has notice of the interest, and
- (c) any by-law restricting the use of the association property no longer affects the interest passing under the transfer.

- (4) Land transferred under this section ceases to be association property.

## **Part 5 Easements and restrictions**

### **Division 1 Granting or accepting relevant interests**

#### **29 Definition**

In this Division—

**relevant interest** means an easement, restriction on the use of land or positive covenant.

#### **30 Association may grant or accept relevant interest**

- (1) An association may by special resolution—
- (a) grant an easement that burdens association property, or
  - (b) grant a restriction on the use of land or a positive covenant that burdens association property or the whole of the scheme parcel, or
  - (c) execute a dealing releasing or varying a relevant interest that benefits association property or the whole of the scheme parcel.
- (2) An association may by ordinary resolution—
- (a) accept the benefit of a relevant interest that benefits association property or the whole of the scheme parcel, or
  - (b) accept a dealing releasing or varying a relevant interest that burdens association property or the whole of the scheme parcel.

#### **31 Dealings to grant or accept relevant interest**

- (1) A dealing by an association to grant, release, vary or accept a relevant interest that burdens or benefits land must be accompanied by a certificate—
- (a) in the approved form, and
  - (b) under the seal of the association, and
  - (c) to the effect that the dealing was approved by the association in accordance with this Division.
- (2) A dealing under this section must not be registered if the association is a neighbourhood association unless—
- (a) the initial period has expired, or
  - (b) there is a development contract in force and the dealing is in accordance with the

contract, or

(c) the dealing has been authorised by the Tribunal.

## Division 2 Statutory easements

### 32 Definitions

In this Division—

**lot** means—

- (a) a development lot, neighbourhood lot or strata lot, or
- (b) community property, precinct property or neighbourhood property.

**prescribed diagram** means a diagram in the approved form that complies with any requirements prescribed by the regulations or the lodgment rules.

**service** includes—

- (a) the supply of water, gas, electricity, artificially heated or cooled air or heating oil, and
- (b) the provision of recycled water, sewerage and drainage, and
- (c) telecommunications services.

**service line** means a pipe, wire, cable, duct, channel or pole used for the provision of a service.

**service provider** includes an association that provides a service under a management statement.

### 33 Meaning of “statutory easement”

For the purposes of this Act, a **statutory easement** is an easement conferring rights—

- (a) to provide a service line within a scheme and a service using the service line, and
- (b) to maintain and repair the service line, and
- (c) to enter the following land within the scheme and do all things as may be reasonably necessary to exercise the rights referred to in paragraphs (a) and (b)—
  - (i) land that includes, or is to include, the service line,
  - (ii) land contiguous to the land.

### 34 Creation of statutory easement

- (1) A statutory easement is created within a scheme when a prescribed diagram showing the position of the service line is registered as part of the management statement for

the scheme.

- (2) On the creation within a scheme of a statutory easement for a service line—
- (a) the easement is appurtenant to each lot in the scheme to which a service is provided using the service line, and
  - (b) land within the scheme in which the service line is located is subject to the easement to the extent the lot is affected by the service line.

### **35 Service line provider has benefit of statutory easement**

A service provider has the benefit of a statutory easement created in a scheme in relation to a service line if—

- (a) the service provider provides a service within a scheme using the service line, and
- (b) the service is provided in accordance with an agreement or, if the service provider is the association for the scheme, in accordance with a management statement.

### **36 Implied covenants**

An association, owner of land or service provider, having the benefit of a statutory easement is subject to the following covenants—

- (a) the rights under the easement will be exercised in a way that—
  - (i) will not unreasonably interfere with the use and enjoyment by any other owner of land burdened by the easement, and
  - (ii) will ensure any interference with the use and enjoyment of community, precinct or neighbourhood property by owners or occupiers of lots will be kept to a minimum,
- (b) the person exercising the rights under the easement will make good, at the person's own expense, any damage to, or interference with, the parts of the scheme affected by the exercise of the rights—
  - (i) for land within the scheme that will include, or includes, the service line—by restoring the land to a basic standard not including the repair or restoration of unusual or expensive landscaping or other works erected over the land, and
  - (ii) for land within the scheme contiguous to the land referred to in subparagraph (i)—by restoring the land to its former state,
- (c) the person exercising the rights under the easement will leave the land on which they are exercised in a clean and tidy condition on completion of the installation, maintenance or repair of any service the subject of the easement.

### **37 Service line completed after creation of statutory easement**

- (1) If the installation of a service line is completed after the creation of the statutory easement, the relevant association—
  - (a) must notify the Registrar-General of the completion in the approved form, and
  - (b) if the service line is installed in a different position from the position shown in the registered prescribed diagram, must lodge a new prescribed diagram for registration—
    - (i) showing the actual position of the service line, and
    - (ii) signed by the owners of each of the lots to be burdened by the statutory easement to be created on registration of the new prescribed diagram.
- (2) If the installation is completed during the initial period, the notification and lodgment is to be done by the developer.
- (3) On registration of the new prescribed diagram—
  - (a) the earlier prescribed diagram is cancelled to the extent it is inconsistent with the new prescribed diagram, and
  - (b) the new prescribed diagram has effect on registration as if it had been registered immediately before installation of the service line.

### **38 Developer to give copy of prescribed diagram to association**

- (1) A developer must give a copy of the prescribed diagram relating to a service line to the association for a scheme if—
  - (a) a service line is installed as part of the scheme, and
  - (b) the service line is installed after registration of the management statement.
- (2) The copy must be given within 1 month after the installation.

### **39 Registrar-General may make recordings**

The Registrar-General may make in the Register any recordings the Registrar-General thinks fit about any action taken under this Division.

### **40 Division does not affect other rights or obligations**

This Division does not affect any rights or obligations relating to service lines conferred or imposed by another Act.

## Part 6 Access to schemes

### 41 Setting apart access way in association property

- (1) All or part of association property may be set apart as an open access way connecting part of the scheme parcel—
  - (a) to a public place, or
  - (b) if the association property is part of a subsidiary scheme, to a public place through an open access way in the community scheme of which the subsidiary scheme forms part.
- (2) All or part of association property, other than an open access way, may be set apart as a private access way connecting part of the scheme parcel—
  - (a) to an open access way within the scheme parcel or a public place, or
  - (b) if the association property is part of a subsidiary scheme, to an open access way within the scheme parcel or a public place through an open access way in the community scheme of which the subsidiary scheme forms part.
- (3) Land is set apart under this section if the management statement for the scheme includes a plan in the approved form that—
  - (a) defines the land to be set apart as an access way, and
  - (b) specifies whether the land is an open access way or a private access way, and
  - (c) includes any information prescribed by the regulations or lodgment rules.

**Note—**

See section 112 of the [Community Land Management Act 2021](#) for further provisions relating to open and private access ways.

### 42 Special resolution required for closure of open access way

An open access way within a community parcel may not be closed unless the closure is authorised by special resolution of each association whose members are entitled to use the access way.

### 43 Access ways remain as association property

- (1) Setting apart land as an open access way or a private access way does not—
  - (a) cause the land to cease to be association property, or
  - (b) affect the obligation of an association to maintain it as association property.
- (2) This section has effect to the exclusion of anything in the [Roads Act 1993](#) that

operates to vest land in a council as a public road.

#### 44 Effect of access ways in relation to certain rights

- (1) Section 45A of the *Real Property Act 1900* does not apply to a conveyance of land abutting on an open access way or a private access way.
- (2) The owner of a lot in a scheme has no rights in relation to association property set apart under the scheme as an open access way or a private access way other than—
  - (a) rights conferred by this Act and the *Community Land Management Act 2021* on the owner in relation to association property, and
  - (b) rights conferred by the management statement for the scheme.

### Part 7 Development contracts

#### 45 Definitions

In this Act—

**authorised proposal** means any part of the proposed development that the developer is permitted by the contract to carry out but cannot, merely because it is described in the contract, be compelled to carry out.

**development concern**—see section 55.

**development contract** means the instruments, plans and drawings registered with a scheme plan that describe the way in which it is proposed to develop land in the scheme.

**warranted development** means any part of the proposed development that the developer is permitted by the contract to carry out and may be compelled to carry out.

#### 46 Form and content

- (1) A development contract and any amendment of a development contract must be in the approved form and be signed by or on behalf of the developer.
- (2) A development contract must describe the following—
  - (a) the parcel of land to which the contract relates,
  - (b) any land proposed to be added to the parcel at a later time,
  - (c) the warranted development,
  - (d) the authorised proposals.
- (3) A development contract must identify—
  - (a) warranted development as “**warranted development**—proposed development

subject to a warranty”, and

(b) authorised proposals as “**authorised proposals**—proposed development *not* subject to a warranty”.

(4) A development contract must include—

(a) a concept plan, and

(b) a description of the amenities proposed to be provided, and

(c) details of access and construction zones, working hours and any related rights over association property, and

(d) an undertaking by the developer—

(i) to not cause unreasonable inconvenience to owners of lots in the scheme, and

(ii) to repair without delay any damage caused to association property or common property by development activities, and

(e) any other documents, particulars, information or matter prescribed by the regulations.

(5) A development contract cannot provide for the subdivision of association property without the consent, by special resolution, of the relevant association.

(6) This section does not limit the matters that may be included in a development contract.

#### **47 Planning approval**

(1) A planning authority must not grant planning approval to a relevant application unless the proposed development contract complies with this Part.

(2) The granting of planning approval may be, but need not be, subject to a condition requiring the community parcel, precinct parcel or neighbourhood parcel to be developed in accordance with the development contract.

(3) The condition has effect—

(a) for a development consent under Part 4 of the *Environmental Planning and Assessment Act 1979*—as a condition of the development consent authorised by, and imposed under, section 4.17 of that Act, or

(b) for an approval under Division 5.2 of that Act—as a condition of the approval.

(4) A planning authority that grants planning approval for a relevant application—

(a) must certify on the development contract that—



- (i) planning approval has been granted to the development proposed by the instruments, plans and drawings that comprise the development contract, and
  - (ii) the instruments, plans and drawings are not inconsistent with the planning approval, and
- (b) must provide the applicant with a copy of the development contract bearing the certificate.
- (5) In this section—

**relevant application** means an application for planning approval for development in accordance with a proposed scheme plan accompanied by a proposed development contract.

#### **48 Variation of liability for association property expenses**

- (1) A development contract may apportion the liability for expenses relating to the use or maintenance of association property in a scheme differently from the way liability would otherwise be apportioned by the schedule of unit entitlement applicable to lots under the scheme.
- (2) An apportionment under this section has effect despite the current schedule of unit entitlement, but does not apply to any liability relating to the use or maintenance of the association property after the development contract is concluded.

#### **49 Binding effect**

- (1) A development contract comes into effect when it is registered.
- (2) A development contract registered with a scheme plan has effect as if it included an agreement under seal with the covenants set out in subsections (3) and (4)—
- (3) The developer covenants that the developer must—
  - (a) carry out warranted development, and
  - (b) carry out development in accordance with—
    - (i) the covenants set out and implied in the contract, and
    - (ii) any relevant planning approval.
- (4) The other parties covenant that the developer will be permitted to carry out, in accordance with the development contract and any relevant planning approval—
  - (a) warranted development, and
  - (b) authorised proposals.

- (5) The covenants are given jointly and severally between the developer and each of the other parties.
- (6) Any attempt to exclude, modify or restrict the operation of the covenants is void.
- (7) The covenants do not affect any right or remedy a person has otherwise than under the covenants.
- (8) The covenants do not merge in a transfer.
- (9) Part 4 of the *Community Land Management Act 2021* does not apply to matters arising under the covenants.
- (10) In this section—

**lot owner**, for a scheme, means a person, other than a developer, who is the owner of a development lot or neighbourhood lot within the scheme.

**other parties**, for a scheme, means—

- (a) the association and any subsidiary bodies, and
- (b) the lot owners, and
- (c) each registered mortgagee, chargee, covenant chargee or lessee of a lot.

#### **50 Amendment with approval of planning authority and association**

- (1) A development contract may be amended by the developer but the amendment is ineffective unless—
  - (a) this section has been complied with in relation to the amendment, and
  - (b) the amendment is registered.
- (2) A proposed amendment to a development contract may not be made unless it is approved—
  - (a) by the planning authority, and
  - (b) by the relevant association.
- (3) The approval of the relevant association must be by—
  - (a) unanimous resolution, if the proposed amendment involves a change in—
    - (i) the basic architectural or landscaping design of the development, or
    - (ii) the essence or theme of the development, or
  - (b) resolution, if the proposed amendment gives effect only to—

- (i) a change in the law, or
  - (ii) a change in the requirements of the planning authority, or
  - (c) special resolution, in any other case.
- (4) For the purposes of this section, an approval given under this Part by the Land and Environment Court to an amendment of a development contract has the same effect as if the approval were given by an association.
- (5) A planning authority that approves an amendment of a development contract must provide the applicant for the approval with—
- (a) a copy of the instruments, plans and drawings that describe and illustrate the amendment, and
  - (b) a certificate to the effect that—
    - (i) the copy describes and illustrates the approved amendment, and
    - (ii) the development contract, if amended as approved by the authority, would not be inconsistent with the related planning approval.

#### **51 Notice of decision of planning authority and appeal**

- (1) If a planning authority does not approve an amendment of a development contract, the planning authority must give the applicant for the approval a notice stating—
- (a) the grounds for the refusal, and
  - (b) the applicant may appeal to the Land and Environment Court against the refusal, and
  - (c) the period within which the appeal may be made.
- (2) The applicant may appeal to the Land and Environment Court against the refusal within 12 months after receiving the notice.
- (3) However, the Land and Environment Court may, if it considers it appropriate in the circumstances, extend the period for making the appeal.
- (4) A decision of the Land and Environment Court on appeal is taken to be the final decision of the planning authority and is to be given effect as if it were the decision of the planning authority.

#### **52 Amendment with approval of Court**

- (1) A developer may apply to the Land and Environment Court for an order approving an amendment of a development contract if the approval by the relevant association is not given under this Part because—

- (a) a motion for giving the approval has been defeated, or
  - (b) the notice relating the motion has been given but a meeting to consider the motion has not been held within a reasonable time after the giving of the notice.
- (2) A copy of the application must be served by the developer on—
- (a) the planning authority, and
  - (b) the association and any subsidiary body, and
  - (c) each person other than the developer who is the owner of a development lot or neighbourhood lot in the scheme or any subsidiary scheme, and
  - (d) each registered mortgagee, chargee and covenant chargee of a development lot or neighbourhood lot in the scheme or any subsidiary scheme.
- (3) Each person or body served with a copy of the application is entitled to appear and be heard at the hearing of the application.
- (4) The Land and Environment Court may—
- (a) approve the amendment, or
  - (b) approve a different amendment, or
  - (c) refuse to approve the amendment.

### **53 Registration of amendment**

- (1) An amendment to a development contract made in accordance with this Part may be registered by the recordings in the Register as the Registrar-General thinks fit.
- (2) The Registrar-General may refuse an application for registration of an amendment unless—
  - (a) it is in the approved form, and
  - (b) it bears the approval of the planning authority, and
  - (c) it bears a certificate by the association to the effect that the amendment was approved by the association as required by this Part.

### **54 Orders of the Court for breach**

- (1) This section applies to proceedings brought in the Land and Environment Court.
- (2) If proceedings are brought by an association, or a member of an association, under section 9.45 of the *Environmental Planning and Assessment Act 1979* for a breach of a condition of a planning approval constituted by a breach of a development contract,

the Court may make an award of damages under section 20(2)(d) of the *Land and Environment Court Act 1979*—

- (a) instead of making a restraining order under section 9.46 of the *Environmental Planning and Assessment Act 1979*, or
  - (b) instead of, or in addition to, making an order under that section other than a restraining order.
- (3) If proceedings are brought under section 20(2)(d) of the *Land and Environment Court Act 1979* for a breach of the agreement implied by section 49 in relation to a development contract—
- (a) the Court may make an order under section 9.46 of the *Environmental Planning and Assessment Act 1979* instead of, or in addition to, making an award of damages, or
  - (b) the Court may order specific performance of the development contract instead of making an award of damages.

## 55 Development concerns

- (1) The following are **development concerns** for the purposes of this Part—
- (a) adding to association property in accordance with a development contract,
  - (b) adding land to a scheme in accordance with a development contract,
  - (c) carrying out any other development permitted to be carried out because it is included in a development contract.
- (2) The following are not **development concerns** for the purposes of this Part—
- (a) the subdivision of association property created by a registered plan,
  - (b) the grant of a lease over association property,
  - (c) the amendment of a development contract, regardless of whether the subject-matter involved is, or relates to, a development concern.

## 56 Right to complete permitted development

- (1) The developer who is permitted to carry out development that is a development concern under a development contract is the **relevant developer** for the development concern.
- (2) A motion included in the notice for a meeting of an association that would have the effect of making a decision about a development concern may be passed or defeated by—

- (a) the vote of the relevant developer, or
  - (b) if there is more than 1 relevant developer, the vote of each of the developers.
- (3) It is not necessary for a decision about a development concern to be supported by special or unanimous resolution of an association, despite any other provision of this Act.
- (4) A dealing, plan or other instrument may be executed for the purpose of giving effect to a decision about a development concern by—
- (a) an association, or
  - (b) the relevant developer on behalf of an association.
- (5) The regulations or the lodgment rules may—
- (a) impose requirements for the execution of dealings, plans and other instruments by associations and developers, and
  - (b) require verification by statutory declaration of the circumstances in which they were executed.

#### **57 Meetings of association relating to development concerns**

- (1) A motion, the passing or defeat of which at a meeting of an association or of the association committee of an association would have the effect of making a decision about a development concern, must be—
- (a) identified as relating to a development concern in the notice for the meeting, and
  - (b) moved separately from any other kind of motion.
- (2) A general meeting of an association under Schedule 1 to the [Community Land Management Act 2021](#)—
- (a) may be convened by the developer, or
  - (b) must be convened if a qualified request is made under section 17 of that Act.
- (3) In convening the general meeting, the developer or the persons or bodies making the qualified request may give notice of the meeting on behalf of the association committee of the association.
- (4) The required quorum at a meeting of the association or association committee of the association is the developer—
- (a) while business relating to a development concern is being dealt with, and
  - (b) if notice of the meeting has been duly given.

- (5) A developer may exercise any of the following functions for the purpose only of allowing development permitted by a development contract to be carried out—
  - (a) functions of an association bound by the development contract,
  - (b) functions of any other person having functions under the scheme concerned as may be prescribed by the regulations.
- (6) A reference to a developer in subsections (4) and (5) is, if the developer is a corporation, a reference to the company nominee of the corporation.
- (7) This section has effect despite any other provision of this Act.
- (8) In this section—

**company nominee**, for a corporation, means a company nominee within the meaning of the [Community Land Management Act 2021](#) who is authorised to exercise the voting rights of the corporation.

## 58 Conclusion of development contract

- (1) For the purposes of this Act, a development contract is concluded when any of the following occurs—
  - (a) any planning approval required for carrying out the contract is revoked,
  - (b) the time specified by the contract for conclusion of the contract arrives,
  - (c) a notice (a **completion notice**) stating that the scheme to which the contract relates is completed is registered by the Registrar-General,
  - (d) the scheme to which the contract relates is terminated under Part 9.
- (2) A development contract must specify a time for the conclusion of the contract being a time not later than—
  - (a) 10 years after the registration of the contract, or
  - (b) if the regulations permit a later date to be specified, the later date.
- (3) A completion notice must not be registered by the Registrar-General unless—
  - (a) it is in the approved form, and
  - (b) it has been signed by the developer concerned, and
  - (c) it is lodged with a certificate of the association for the scheme concerned—
    - (i) in the approved form, and
    - (ii) certifying that the association has agreed, by unanimous resolution, that the

development contract has concluded.

- (4) The Registrar-General must, if satisfied that a development contract has concluded—
- (a) make an appropriate record of the conclusion of the contract in the folio for the association and the association property, if any, of the scheme concerned, and
  - (b) remove the contract from the Register.

## **Part 8 Amalgamation of schemes**

### **59 Amalgamation with subsidiary precinct or neighbourhood scheme**

A precinct scheme or neighbourhood scheme forming part of a community scheme may be amalgamated with the community scheme in accordance with this Part.

### **60 Public notice of proposed amalgamation**

- (1) The following must be publicly notified at least 14 days before an application for amalgamation is made—
- (a) details of the proposed amalgamation,
  - (b) a statement of intention to make the application.
- (2) The public notification must be done in a way the Registrar-General considers appropriate to cause notice of the application to come to the attention of the public.

### **61 Application for amalgamation of schemes**

- (1) An application for amalgamation must—
- (a) be made to the Registrar-General in the approved form, and
  - (b) be made under the seal of each of the following associations after being approved by special resolution of each of the associations—
    - (i) the community association,
    - (ii) the precinct association or neighbourhood association for the precinct scheme or neighbourhood scheme to be amalgamated,
    - (iii) the association or strata corporation for each other subsidiary scheme in the community scheme,
    - (iv) if the amalgamated scheme is a precinct scheme, the association or strata corporation for each other subsidiary scheme in the precinct scheme, and
  - (c) be signed by the registered owner of each development lot in the community scheme that has not become part of a subsidiary scheme, and



(d) bear the consent of the planning authority.

(2) The Registrar-General may refuse to register an amalgamation unless—

- (a) the application for amalgamation is signed by each registered mortgagee, chargee or covenant chargee of each development lot in the community scheme that has not become part of a subsidiary scheme, and
- (b) the application bears the consent of each lessee of precinct property or neighbourhood property in the precinct scheme or neighbourhood scheme to be amalgamated with the community scheme.

## **62 Matters to accompany application**

(1) The application for amalgamation must be accompanied by—

- (a) an additional sheet of the detail plan for the community plan showing all the amalgamated precinct development lots or neighbourhood lots as community development lots or former community development lots without any changes to the boundaries or dimensions of the lots, and
- (b) a replacement sheet for the community property plan showing the altered boundaries of the community property including the amalgamated precinct property or neighbourhood property, and
- (c) a replacement schedule of unit entitlement for the community plan that complies with Schedule 3, and
- (d) an amended community management statement, and
- (e) any documents prescribed by the regulations.

(2) The amended community management statement must—

- (a) comply with Schedule 2, and
- (b) include a new prescribed diagram for all the statutory easements to which the community scheme will be subject on registration of the amalgamation, and
- (c) if the position of service lines has changed, or is proposed to be changed, from the position shown on the prescribed diagrams for the community scheme, precinct scheme or neighbourhood scheme before amalgamation, be accompanied by the consent to the change of each owner of a lot affected by the change on registration of the amalgamation, and
- (d) include new plans under section 41 for all access ways that will exist in the community scheme on registration of the amalgamation, and
- (e) be accompanied by a certificate under the seal of the community association to

the effect that the community management statement was amended in accordance with the *Community Land Management Act 2021*.

### **63 Consequences of registration of amalgamation of schemes**

- (1) On receiving an application for amalgamation in accordance with this Part, the Registrar-General may register the amalgamation.
- (2) On registration of the amalgamation—
  - (a) each precinct scheme or neighbourhood scheme the subject of the application is terminated, and
  - (b) the association for a terminated scheme is dissolved, and
  - (c) any money in the administrative fund of a terminated scheme is to be transferred to the administrative fund of the community scheme, and
  - (d) any money in the sinking fund of a terminated scheme is to be transferred to the sinking fund of the community scheme, and
  - (e) any association property in a terminated scheme becomes community property in the community scheme, and
  - (f) any other assets and property of the association for a terminated scheme become the assets and property of the community association, and
  - (g) any liabilities of the association for a terminated scheme become the liabilities of the community association, and
  - (h) each precinct development lot or neighbourhood lot in a terminated scheme becomes a development lot in the community scheme, and
  - (i) each former precinct development lot in a terminated precinct scheme becomes a former development lot in the community scheme, and
  - (j) the change of a precinct development lot or neighbourhood lot to a community development lot does not affect any mortgage, charge, lease or other interest registered on the lot, and
  - (k) each owner of a precinct development lot or neighbourhood lot in a terminated scheme becomes a member of the community association, and
  - (l) each neighbourhood scheme or strata scheme that is a subsidiary scheme of a terminated precinct scheme and not the subject of the application continues as a subsidiary scheme of the community scheme.
- (3) If the Registrar-General registers the amalgamation, the Registrar-General—

- (a) must record in the Register the termination of each scheme that amalgamated with the community scheme, and
- (b) may make any other appropriate recordings in the Register to give effect to the amalgamation and its consequences.

#### **64 Regulations for purposes of this Part**

Regulations may be made about the amalgamation of schemes under this Part, including transitional matters arising from an amalgamation of schemes.

### **Part 9 Variation or termination of scheme**

#### **Division 1 Variation or termination by Supreme Court**

##### **65 Variation or termination of scheme**

- (1) The Supreme Court may vary or terminate a scheme if satisfied that—
  - (a) the continuation of the scheme is impracticable, or
  - (b) if the scheme is a staged scheme, completion of the staged scheme has become impracticable.
- (2) The Supreme Court may terminate a scheme and any subsidiary scheme if an application to terminate the scheme is made by—
  - (a) the association for the scheme and each subsidiary body, and
  - (b) each owner of a lot within the scheme and any subsidiary scheme, and
  - (c) each registered mortgagee, chargee and covenant chargee of a lot within the scheme and any subsidiary scheme.
- (3) An order of the Supreme Court varying or terminating a scheme may provide for any 1 or more of the following—
  - (a) the adjustment, exercise and discharge of rights and liabilities under the scheme of an association and its members,
  - (b) disposal of the assets of an association or of a strata corporation that is a member of an association,
  - (c) the vesting of estates or interests in land within the scheme,
  - (d) the winding up of an association or of a strata corporation that is a member of an association,
  - (e) a variation of unit entitlement in accordance with a new valuation,

- (f) the amendment of the management statement for the scheme,
  - (g) the registration of a new plan or reversion to a former plan,
  - (h) any other matter the Court considers to be appropriate, just and equitable in the circumstances.
- (4) If the Supreme Court orders termination of a scheme, the parcel that was subdivided to constitute the scheme is, for the purposes of section 23F of the *Conveyancing Act 1919*, reinstated as a lot in a current plan.
- (5) Subsection (4) does not apply if the Supreme Court orders the lodgment for registration of a current plan for the parcel.

(6) In this section—

***staged scheme*** means a scheme for which a development contract is in force.

#### **66 Variation of associated development contract**

- (1) The Supreme Court may also vary an applicable development contract if satisfied that completion of a staged scheme has become impracticable.
- (2) An order of the Supreme Court varying a development contract may provide for any 1 or more of the following—
- (a) the conversion of a development lot or former development lot to community property or precinct property,
  - (b) the conversion of a neighbourhood lot to neighbourhood property,
  - (c) the severance from the scheme of a development lot or neighbourhood lot,
  - (d) the amendment of the management statement for the scheme,
  - (e) the persons authorised to sign an instrument for the purposes of any of the matters referred to in paragraphs (a)-(d),
  - (f) any other matter the Court considers to be appropriate, just and equitable in the circumstances.

(3) In this section—

***staged scheme*** means a scheme for which a development contract is in force.

#### **67 Application to Supreme Court**

- (1) An application to the Supreme Court for an order under this Division may be made by—
- (a) an association or strata corporation within the scheme, or

- (b) a member of an association or strata corporation within the scheme, or
  - (c) a person with a registered estate or interest in land within the scheme, or
  - (d) a resuming authority.
- (2) If an application for an order is made to the Supreme Court under this Part—
- (a) the Registrar-General must be joined as a party to the application, and
  - (b) the Supreme Court may join as a party to the application the local council or any other person, and
  - (c) the Supreme Court may, on application or of its own motion—
    - (i) deal with the application for an order to vary a development contract as if it were an application for an order to terminate the scheme, or
    - (ii) deal with an application for an order to terminate a scheme as if it were an application for an order to vary a development contract.

## **Division 2 Termination by Registrar-General**

### **68 Termination of scheme by Registrar-General**

- (1) This Division does not apply to a scheme if the scheme—
- (a) is the subject of an application to the Supreme Court under Division 1, or
  - (b) has a strata scheme as a subsidiary scheme.
- (2) The Registrar-General may terminate a scheme on the application of each owner of a lot within the scheme and any subsidiary scheme.
- (3) On receiving an application under this Division, the Registrar-General may—
- (a) make an order terminating the scheme, or
  - (b) refuse to terminate the scheme.
- (4) A refusal by the Registrar-General to terminate a scheme does not preclude an application to the Supreme Court under Division 1 for termination of the scheme.
- (5) An order terminating a scheme takes effect on being recorded in the Register.

### **69 Making application for termination**

- (1) The following must be publicly notified at least 14 days, but not more than 6 months, before an application is made under this Division—
- (a) details of the scheme that is proposed to be terminated,

- (b) a statement of intention to make the application.
- (2) The public notification must be done in a way the Registrar-General considers appropriate to cause notice of the application to come to the attention of the public.
- (3) The application must be signed by—
  - (a) the association for the scheme and each subsidiary body, and
  - (b) each owner of a lot within the scheme and any subsidiary scheme, and
  - (c) each registered mortgagee, chargee and covenant chargee of a lot within the scheme and any subsidiary scheme.
- (4) The application must be accompanied by the written consent of—
  - (a) the relevant planning authority, and
  - (b) each person who, on the basis of a recording in the Register affecting a lot within the scheme or a subsidiary scheme, is—
    - (i) a lessee, or
    - (ii) a judgment creditor under a writ, or
    - (iii) a caveator, and
  - (c) any of the following required by the Registrar-General—
    - (i) a service provider having the benefit of a statutory easement in the scheme,
    - (ii) a public authority whose consent is required to amend or revoke a by-law in the management statement for the scheme.
- (5) There must be lodged with the application—
  - (a) a plan for the scheme parcel for registration as a current plan, and
  - (b) (Repealed)
  - (c) evidence that public notification has occurred as required by this section, and
  - (d) any other documents or evidence as the Registrar-General requires.
- (6) The Registrar-General may wholly or partly waive compliance with subsections (1)–(4).

#### **70 Consequences of termination order by the Registrar-General**

- (1) When the Registrar-General makes an order terminating a scheme and the order takes effect—
  - (a) the association is dissolved and the scheme is terminated, and

- (b) the former owners are liable for the liabilities of the association, and
  - (c) any action taken by or against the association may be continued by or against the former owners, and
  - (d) the following vest in the former owners as tenants in common—
    - (i) the land in the community parcel, precinct parcel or neighbourhood parcel defined in the plan lodged with the application for the order,
    - (ii) the assets of the association, and
  - (e) the Registrar-General is to cancel the folios of the Register that evidenced title to the lots and association property in the scheme immediately before its termination, and
  - (f) the estates or interests of the former owners in land vested by paragraph (d) are subject to any estate or interest subsisting on the folios of the Register for the land immediately before the termination, and
  - (g) the Registrar-General is to create a folio of the Register for the land in the plan lodged with the application for the order.
- (2) The liabilities, land and assets vest in the former owners—
- (a) in proportion to the unit entitlement of their lots, or
  - (b) as otherwise provided for in the application for termination.
- (3) Subsections (1) and (2) apply to any subsidiary scheme of the terminated scheme in the same way as they apply to the terminated scheme.
- (4) The Registrar-General may make appropriate recordings in the Register to give effect to the termination and its consequences.
- (5) In this section—

**former owners** means the persons who were the owners of the development lots or neighbourhood lots in the scheme immediately before the termination order took effect.

## Part 10 Resumptions

### Division 1 Preliminary

#### 71 Definitions

In this Part—

**notice of resumption** means a notice, notification or other instrument on publication of

which land is resumed.

**resume** means compulsorily acquire under the authority of an Act or Commonwealth Act.

**resuming authority** means an authority in which land is proposed to be, or is, vested by resumption.

## 72 Application of Part

- (1) This Part prevails to the extent of any inconsistency with any other Act, including section 8 of the *Land Acquisition (Just Terms Compensation) Act 1991*.
- (2) A person must comply with the following, as well as this Part, to the extent they are not inconsistent with this Part—
  - (a) the *Land Acquisition (Just Terms Compensation) Act 1991*, for a resumption of land to which both this Part and that Act apply,
  - (b) Part 12 of the *Roads Act 1993*, for a resumption of land to which both this Part and that Part apply.
- (3) In this Part, a reference to a resumption does not include a reference to a resumption that merely results in land being burdened by an easement.
- (4) This Part applies only to resumptions of land within—
  - (a) a community scheme, or
  - (b) a precinct scheme, or
  - (c) a neighbourhood scheme, or
  - (d) a strata scheme that is part of a community scheme or precinct scheme.

## Division 2 Applications to Supreme Court

### 73 Resuming authority must apply to Supreme Court

- (1) A resuming authority proposing to resume the whole of a scheme parcel or strata parcel that will cease to be subject to a scheme must apply to the Supreme Court for an order under Part 9 terminating the scheme.
- (2) A resuming authority proposing to resume part of the land in a scheme parcel or strata parcel must apply to the Supreme Court for an order restructuring the scheme.
- (3) Subsection (2) does not apply if the only land to be resumed is—
  - (a) part of the association property or common property in a scheme, or
  - (b) land below the surface of the scheme parcel and there will be no disturbance to



the surface.

- (4) The Supreme Court may, when making an order restructuring the scheme, also make any order it considers necessary, including—
  - (a) to adjust unit entitlements, or
  - (b) to amend any applicable—
    - (i) development contract, or
    - (ii) management statement, or
    - (iii) by-laws under a strata scheme, or
  - (c) if part of a lot is to be resumed—
    - (i) to make the residue of the lot a lot in the scheme, or
    - (ii) with the consent of the owner of the residue of the lot, to vest the residue of the lot in the relevant association or strata corporation as association property or common property.
- (5) An order under subsection (4)(c)(ii) vests the land freed from any mortgage, lease, charge, covenant charge, writ or caveat affecting it before the vesting.
- (6) An application under this section must be made before the publication of the relevant notice of resumption.

#### **74 Notice of application to the Supreme Court**

- (1) A resuming authority that makes an application to the Supreme Court under this Division must serve notice of the application on each of the following (an **interested person**)—
  - (a) except to the extent, if any, that the Supreme Court otherwise directs—each registered owner, and each registered mortgagee, chargee and covenant chargee of a lot within the scheme,
  - (b) the association or strata corporation for the scheme,
  - (c) any subsidiary bodies of the scheme,
  - (d) if the scheme is a subsidiary body of another scheme, the association for the scheme,
  - (e) if the land resumed is part of a lot or common property and is to be excluded from the related scheme, the local council,
  - (f) the Registrar-General,

(g) any other persons as the Supreme Court may direct.

(2) An interested person is entitled to be heard on the application.

#### **75 Application may be treated as application to vary or terminate scheme**

(1) The Supreme Court may direct an application in relation to a scheme be heard and determined as if it were an application to vary or terminate the scheme.

(2) The direction may be given by the Supreme Court on application or of its own motion.

#### **76 Hearing of application**

(1) The Supreme Court, when deciding an application under this Division, must—

(a) disregard any failure by the resuming authority to comply strictly with the requirements of this Part and of any regulations made for the purposes of this Part, and

(b) consider whether any amendment is required to a schedule of unit entitlement, development contract or management statement, and

(c) consider whether any contribution should be made by the resuming authority for the period following publication of the notice of resumption, and

(d) make any orders the Court considers to be appropriate, just and equitable in the circumstances.

(2) The Supreme Court may order a whole parcel to be resumed or a scheme to be terminated if it appears to the Supreme Court that the effect of a resumption of land would cause the continuation of the scheme to be impracticable.

(3) Nothing in this Division authorises the Supreme Court to modify or nullify the effect of a notice of resumption in relation to the land resumed.

#### **77 Costs**

The costs of an application under this Division to the Supreme Court are payable by the resuming authority unless the Court directs otherwise.

#### **78 Orders take effect on registration**

An order of the Supreme Court under this Division takes effect on registration unless the order provides otherwise.

### **Division 3 Notice of resumption**

#### **79 Notice of resumption**

(1) A notice of resumption must state whether or not the land resumed is excluded from a

scheme.

- (2) Land is excluded from a scheme if a notice of resumption so provides.
- (3) If land is excluded from a scheme, it is also excluded from—
  - (a) any scheme of which the scheme forms a part, or
  - (b) any subsidiary scheme.
- (4) A notice of resumption for part of association property or community property in a scheme must—
  - (a) describe the land to be resumed as a lot in a current plan, and
  - (b) state that the land resumed is excluded from the scheme.
- (5) A notice of resumption must also include a Supreme Court case number if an application has been made to the Supreme Court to terminate or restructure a scheme as a consequence of a resumption, whether because of a requirement of this Part or otherwise.
- (6) The Registrar-General may, on publication of a notice of resumption, make any recordings and notations in the Register as the Registrar-General thinks fit.

#### **80 When notice is required to apply to whole parcel**

- (1) A resuming authority must resume the whole of a scheme parcel if it intends to resume—
  - (a) all the association property for the scheme, or
  - (b) all the development lots or neighbourhood lots in the scheme.
- (2) A resuming authority must resume the whole of a strata parcel for a strata scheme if it intends to resume—
  - (a) all the common property forming part of the scheme, or
  - (b) all the strata lots forming part of the scheme.

- (3) In this section—

***development lot*** includes a former development lot.

### **Division 4 Plans and instruments to be lodged with Registrar-General**

#### **81 Definition**

In this Division—

**resumption application** means a resumption application under section 31A of the *Real Property Act 1900*.

## **82 Lodgment of plans**

A plan required to be lodged under this Division must—

- (a) be lodged with the Registrar-General for registration before the publication of the relevant notice of resumption, and
- (b) bear a statement to the effect that it was lodged because of the resumption.

## **83 When registered plan takes effect**

A plan required to be lodged under this Division takes effect when the plan and the resumption application have both been registered.

## **84 Registrar-General may make recordings and notations**

The Registrar-General may, when registering a resumption application, make any of the following as the Registrar-General thinks fit—

- (a) recordings in the folio for the association property or common property,
- (b) recordings in the folio for the resumed land,
- (c) notations on the scheme plan.

## **85 Resumption of whole parcel**

- (1) This section applies if the land to be resumed is a scheme parcel or strata parcel that will cease to be subject to a scheme.
- (2) The resuming authority must lodge the following—
  - (a) a resumption application,
  - (b) an order of the Supreme Court made under Division 2,
  - (c) a plan of the parcel—
    - (i) for registration as a current plan, and
    - (ii) bearing a statement to the effect that the plan has been lodged to terminate the scheme.

## **86 Resumption of entire lot with exclusion from scheme**

- (1) This section applies if the land to be resumed—
  - (a) is an entire development lot, neighbourhood lot or strata lot, and

(b) is to be resumed and excluded from the related scheme.

(2) The resuming authority must lodge the following—

(a) a resumption application,

(b) an order of the Supreme Court made under Division 2,

(c) a revised schedule of unit entitlement sealed by the Supreme Court for the affected scheme and each subsidiary scheme,

(d) if the lot is a strata lot, a plan—

(i) for registration as a current plan, and

(ii) showing the lot, and

(iii) bearing a statement to the effect that the lot is to be excluded from the scheme.

### **87 Resumption of part of lot without exclusion from scheme**

(1) This section applies if the land to be resumed is—

(a) a part of a lot, and

(b) to be resumed without being excluded from the scheme, and

(c) not association property or common property.

(2) The resuming authority must lodge the following—

(a) a resumption application,

(b) an order of the Supreme Court made under Division 2,

(c) a revised schedule of unit entitlement sealed by the Supreme Court for the affected scheme,

(d) if the resumed land is part of a strata scheme, a plan showing the land to be resumed as 1 or more lots in a strata plan of subdivision,

(e) if the resumed land is not part of a strata scheme—

(i) an additional sheet of the relevant detail plan—

(A) for registration as a scheme plan of subdivision, and

(B) showing the boundaries of both the land to be resumed and the residue of the lot after the resumption, and

(ii) if the residue vests in the association as association property, a replacement

sheet for the association property plan showing the altered boundaries of the association property.

### **88 Resumption of part of lot with exclusion from scheme**

- (1) This section applies if the land to be resumed—
  - (a) is a part of a lot, and
  - (b) is to be resumed and excluded from the scheme, and
  - (c) is not association property or common property.
- (2) The resuming authority must lodge the following—
  - (a) a resumption application,
  - (b) an order of the Supreme Court made under Division 2,
  - (c) a revised schedule of unit entitlement sealed by the Supreme Court for the affected scheme and each subsidiary scheme,
  - (d) a plan of the land to be resumed—
    - (i) for registration as a current plan, and
    - (ii) bearing a statement to the effect that the land is to be excluded from the scheme,
  - (e) if the resumed land is not part of a strata scheme, an additional sheet of the detail plan for the relevant scheme plan showing the altered boundaries of the residue of the lots affected,
  - (f) if the resumed land is part of a strata scheme, a strata plan of subdivision showing the residue of the resumed lot as a lot, unless the residue is to be vested in the strata corporation as common property.

### **89 Resumption of part of association property**

- (1) This section applies if the land to be resumed is part of the association property in a scheme.
- (2) The resuming authority must lodge the following—
  - (a) a resumption application,
  - (b) a plan of the land to be resumed—
    - (i) for registration as a current plan, and
    - (ii) bearing a statement to the effect that the land is to be excluded from the

scheme,

- (c) a replacement sheet for the association property plan showing the altered boundaries of the association property,
- (d) any of the following required by the Registrar-General—
  - (i) a certificate by the resuming authority stating that the land resumed was not restricted property,
  - (ii) a request by the association for registration of an amendment of the management statement under which, on registration, the land resumed would cease to be restricted property,
  - (iii) evidence that an application has been made to the Supreme Court for amendment of the management statement in its application to the association property.

#### **90 Resumption of part of common property**

- (1) This section applies if the land to be resumed is part of the common property in a strata scheme.
- (2) The resuming authority must lodge the following—
  - (a) a resumption application,
  - (b) a plan of the land to be resumed—
    - (i) for registration as a current plan, and
    - (ii) bearing a statement to the effect that the land is to be excluded from the strata scheme,
  - (c) any of the following required by the Registrar-General—
    - (i) a certificate by the resuming authority stating that the land resumed was not restricted property,
    - (ii) a request by the strata corporation for registration of an amendment of the by-laws under which, on registration, the land resumed would cease to be restricted property,
    - (iii) evidence that an application has been made to the Supreme Court for amendment of the by-laws in their application to the common property.

## **Division 5 Effect of resumption**

### **91 Exclusion of resumed land from scheme**

- (1) If part of association property or common property is resumed—
  - (a) the land ceases to be association property or common property, and
  - (b) this Act and the *Community Land Management Act 2021* cease to apply to it.
- (2) If resumed land was not association property or common property and the notice of resumption states that it is excluded from any related scheme—
  - (a) the land ceases to be within the scheme, and
  - (b) this Act and the *Community Land Management Act 2021* cease to apply to it.
- (3) A development lot or neighbourhood lot excluded from a scheme—
  - (a) ceases to be a development lot or neighbourhood lot, and
  - (b) continues, for the purposes of section 23F of the *Conveyancing Act 1919*, as a lot in a current plan.

### **92 Interest in association or common property**

- (1) A resuming authority does not acquire any interest in association property or common property by a resumption of land within a scheme, if—
  - (a) the notice of resumption states that the land is excluded from a scheme, and
  - (b) the land is not association property or common property.
- (2) If resumed land is excluded from a scheme, any interest in restricted property attaching to the land is extinguished.

### **93 Continuation of resumed land within scheme**

- (1) Resumed land remains within a scheme if—
  - (a) the notice of resumption states that the land is not excluded from the scheme, and
  - (b) the land is—
    - (i) the whole of a scheme parcel or strata parcel, or
    - (ii) not association property or common property.
- (2) This Act and the *Community Land Management Act 2021*—
  - (a) continue to apply to land referred to in subsection (1), and



- (b) apply as if the land had been vested in the resuming authority by a registered transfer.

## **Division 6 Sale as alternative to resumption**

### **94 Definition**

In this Act—

**acquisition plan** means a plan—

- (a) lodged for registration as a current plan, and
- (b) showing the parts of lots and association property within a scheme that are to be purchased by a resuming authority under this Division.

### **95 Use of acquisition plan to acquire land**

A resuming authority proposing to resume part of the land in a community scheme, precinct scheme or neighbourhood scheme may instead—

- (a) register an acquisition plan, and
- (b) purchase the land in the acquisition plan.

### **96 Grounds for refusing to register acquisition plan**

- (1) The Registrar-General may refuse to register an acquisition plan unless the plan bears a statement to the effect that, on being transferred to the resuming authority, the land is excluded from the scheme.
- (2) The Registrar-General may refuse to register an acquisition plan involving a subdivision of any of the following unless the plan is accompanied by—
  - (a) for association property, a replacement sheet for the association property plan that—
    - (i) shows the altered boundaries of the association property, and
    - (ii) complies with Schedule 1,
  - (b) for a development lot or neighbourhood lot, an additional sheet of the relevant detail plan that—
    - (i) shows the altered boundaries of the lot, and
    - (ii) complies with Schedule 1,
  - (c) for a community development lot, a replacement schedule of unit entitlement for the community plan that complies with Schedule 3,

- (d) for a precinct development lot, replacement schedules of unit entitlement for the community plan and the precinct plan that comply with Schedule 3,
- (e) for a neighbourhood lot within a community scheme, replacement schedules of unit entitlement for the community plan, the neighbourhood plan and, if the neighbourhood lot is within a precinct scheme, the precinct plan that comply with Schedule 3,
- (f) for a neighbourhood lot not within a community scheme, a replacement schedule of unit entitlement for the neighbourhood plan that complies with Schedule 3.

#### **97 Sale of association property using acquisition plan**

- (1) An association may sell part of its association property to a resuming authority if—
  - (a) the part to be sold is included in an acquisition plan, and
  - (b) the sale is authorised by special resolution.
- (2) The Registrar-General may refuse to register a transfer of association property included in an acquisition plan unless the transfer is accompanied by a certificate—
  - (a) in the approved form, and
  - (b) given under the seal of the association, and
  - (c) to the effect that the sale has been approved by special resolution.

#### **98 Effect of registration of transfer**

On the registration of a transfer to a resuming authority of land in an acquisition plan—

- (a) any interest in restricted property benefiting or burdening the land is extinguished, and
- (b) any of the land that is association property ceases to be association property, and
- (c) this Act and the [Community Land Management Act 2021](#) cease to apply to the land.

#### **99 Division has effect despite other provisions of Act**

This Division has effect despite any other provision of this Act.

### **Division 7 Miscellaneous**

#### **100 Compensation on resumption of part of lot**

In assessing compensation on a resumption of part of a lot, the effect of the resumption on the residue of the lot must be taken into account.

### **101 Compensation on resumption of association or common property**

- (1) Only the association or strata corporation in which association property or common property is vested may claim and be awarded compensation for the resumption of the property.
- (2) Subsection (1) has effect as if—
  - (a) the beneficial interests of the members in the property were vested in the association or strata corporation, and
  - (b) any compensation paid is held by the association or strata corporation in trust for the members according to their beneficial interests immediately before the resumption.

### **102 Resumption by authority not bound by Act**

- (1) If land is resumed by an authority not bound by this Act and otherwise than in compliance with its provisions, an application may be made under this Act for the affected scheme to be varied or terminated.
- (2) The application may be made by the association or strata corporation, or any other person, affected by the resumption.

## **Part 11 Lodgment and functions of Registrar-General**

### **103 Application of Act to electronic plans and documents**

- (1) This section applies to—
  - (a) plans lodged for the purposes of this Act, and
  - (b) other documents—
    - (i) required by or under this or any other Act to be lodged with or to accompany the plans, or
    - (ii) of a class prescribed by the regulations made under this Act as documents that may be lodged in electronic form.
- (2) A required endorsement for a plan lodged electronically is to be included on an approved form lodged with the plan.
- (3) A document required to be lodged with a plan must be lodged electronically if the plan is lodged electronically unless the document is exempted by—
  - (a) the regulations, or
  - (b) the Registrar-General.

- (4) This Act applies to plans and documents lodged electronically—
- (a) in the same way as it applies to other plans and documents, and
  - (b) subject to any modifications prescribed by this Act or the *Conveyancing Act 1919* or the regulations under either of those Acts.
- (5) A reference in this Act—
- (a) to a plan or document includes a reference to an electronic data file containing a plan or document in an electronic form, and
  - (b) to the lodging of a plan or document includes a reference to the electronic lodging of a plan or document in an electronic form approved by the Registrar-General, and
  - (c) to a sheet of a plan or document in electronic form, is a reference to a sheet on which the whole or part of the plan or document would be reproduced if the plan or document were converted to hard copy form without re-pagination.
- (6) In this section—
- required endorsement** means any of the following required to authenticate, or to authorise, the registration or recording of a plan—
- (a) a signature,
  - (b) a seal,
  - (c) a certificate,
  - (d) a consent.

#### **104 Recordings and notations**

The Registrar-General, when registering an order, plan or other instrument under this Act—

- (a) is to make any recordings or notations required under this or any other Act, and
- (b) may make any other recordings and notations as the Registrar-General thinks fit.

#### **105 Amendment to registered plans and instruments**

- (1) A requirement in this Act to lodge a plan or instrument for registration may, if the Registrar-General considers it appropriate, be satisfied by lodging an amendment to an existing registered plan or instrument.
- (2) The Registrar-General may give effect to the amendment by adding to, or substituting part of, the registered plan or instrument and the addition or substitution forms part of

the registered plan or instrument.

- (3) Part 23, Division 3 of the *Conveyancing Act 1919* applies to an amendment to a plan in the same way as it applies to the plan.

**106 Replacement sheet or additional sheet for plan, and replacement schedule of unit entitlement**

- (1) On registration of an order, plan or other instrument including, or accompanied by—
- (a) a replacement sheet for a scheme plan, the Registrar-General is to substitute the replacement sheet for the corresponding sheet of the scheme plan, or
  - (b) an additional sheet of a detail plan for a scheme plan, the Registrar-General is to file the additional sheet as an additional sheet of the scheme plan, or
  - (c) a schedule of unit entitlement for a scheme plan, the Registrar-General is to cancel the previous schedule and substitute the replacement as the schedule of unit entitlement for the scheme plan.
- (2) Part 23, Division 3 of the *Conveyancing Act 1919* applies to a replacement sheet or additional sheet for a plan in the same way as it applies to the plan.
- (3) On registration of a replacement sheet or additional sheet for a plan, or a replacement schedule of unit entitlement, the Registrar-General must provide a copy—
- (a) if the plan is a community plan, precinct plan or neighbourhood plan within a community scheme, for the community association, and
  - (b) if the plan is a precinct plan or neighbourhood plan within a precinct scheme, for the precinct association, and
  - (c) if the plan is a neighbourhood plan, for the neighbourhood association.
- (4) If a replacement schedule of unit entitlement is substituted under this section, the Registrar-General must, in addition to providing a copy under subsection (3), provide a copy for the following—
- (a) the Valuer-General,
  - (b) the Chief Commissioner of State Revenue,
  - (c) any other public authority prescribed by the regulations.
- (5) On amending a schedule of unit entitlement, the Registrar-General is to comply with subsections (3) and (4) as if the amended schedule were a replacement schedule of unit entitlement for a plan.
- (6) The Registrar-General may provide a copy of a replacement sheet, additional sheet for

a plan or a replacement schedule of unit entitlement for any other persons as the Registrar-General thinks fit.

### **107 Plans for strata subdivision not registrable under this Act**

A plan is not registrable under this Act if, in the opinion of the Registrar-General, it is essentially for—

- (a) the subdivision of a building into lots, or into lots and common property, even if it includes land outside the building, or
- (b) the subdivision of land into lots and common property, if the common property is mainly above or below the lots, or
- (c) the subdivision of land into lots with limited height or depth.

### **108 Registration of amendment of management statement**

- (1) An amendment made under the [Community Land Management Act 2021](#) to a management statement may be registered by the recordings in the Register as the Registrar-General thinks fit.
- (2) The Registrar-General may refuse to register an amendment to a management statement unless it is lodged in the approved form together with the prescribed fee.

### **109 Notice to be given to Valuer-General**

The Registrar-General is to notify the Valuer-General of the date of registration of—

- (a) an instrument severing a community development lot from a community scheme, and
- (b) an instrument severing a precinct development lot from a precinct scheme, and
- (c) a community plan of subdivision, and
- (d) a precinct plan of subdivision, and
- (e) a neighbourhood plan of subdivision, and
- (f) an acquisition plan.

### **110 Recording of certain orders**

- (1) This section applies to an order made by the Tribunal or a court affecting—
  - (a) unit entitlement, or
  - (b) a management statement, or
  - (c) restricted property.

- (2) If a certified copy of an order to which this section applies is lodged with the Registrar-General, the Registrar-General is to make the recordings that, in the opinion of the Registrar-General, are necessary to give effect to the order in—
  - (a) the Register, and
  - (b) the schedule of unit entitlement, and
  - (c) the management statement.
- (3) The Registrar-General may refuse to make recordings under subsection (2) unless the copy of the order is accompanied by—
  - (a) a request in the approved form, and
  - (b) the prescribed fee.
- (4), (5) (Repealed)
- (6) In this section—

**certified**, for a copy of an order, means certified to be a true copy—

  - (a) for an order of the Tribunal—by the principal registrar of the Tribunal, or
  - (b) for an order of a court—by the appropriate officer of the court.

## Part 12 Miscellaneous

### 111 Functions of associations

The functions of a community association, precinct association or neighbourhood association are specified in the [Community Land Management Act 2021](#).

### 112 Expiration of initial period

- (1) A notification of the expiration of the initial period under a community scheme, precinct scheme or neighbourhood scheme may be lodged with the Registrar-General and recorded in the folio for the association property under the scheme.
- (2) A notification under subsection (1) must—
  - (a) be in the approved form, and
  - (b) be executed under seal by the relevant community association, precinct association or neighbourhood association.
- (3) A notification recorded under this section is, in favour of the Registrar-General, conclusive evidence of the expiration of the initial period.

### **113 Accompanying documents become part of plan on registration**

A document accompanying a plan because it is required or permitted to accompany the plan under this Act, becomes, on registration of the plan, part of the plan.

### **114 Act to bind Crown**

- (1) This Act binds the Crown in right of New South Wales and, to the extent the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.
- (2) This Act does not bind the Crown in relation to a requirement to obtain a planning approval from a planning authority.

### **115 Regulations**

- (1) The Governor may make regulations not inconsistent with this Act about matters—
  - (a) this Act requires or permits to be prescribed, or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), regulations may be made about—
  - (a) development contracts, or
  - (b) management statements, or
  - (c) schedules of unit entitlement.

### **116 Repeals**

The following are repealed—

- (a) *Community Land Development Act 1989 No 201*,
- (b) *Community Land Development Regulation 2018*.

## **Schedule 1 Plans**

Sections 12, 15-18 and 96

### **1 Requirements for all plans**

- (1) In this clause—

**plan** means the following—

  - (a) a scheme plan,
  - (b) a scheme plan of subdivision,



- (c) a scheme plan of consolidation,
  - (d) a boundary adjustment plan,
  - (e) an additional sheet of a detail plan or a replacement sheet for an association plan required by this Act,
  - (f) any other prescribed plan.
- (2) A plan must be—
- (a) a formal land survey plan within the meaning of the *Surveying and Spatial Information Act 2002*, and
  - (b) otherwise prepared in the approved form and in compliance with any requirements imposed by the regulations or by or under another Act.
- (3) A plan must be accompanied by—
- (a) an administration sheet, and
  - (b) the written consent of each person who, on the basis of a recording in the Register affecting the land, is—
    - (i) a lessee, or
    - (ii) a judgment creditor under a writ, or
    - (iii) a caveator.
- (4) The administration sheet must—
- (a) be signed by each person who, on the basis of a recording in the Register affecting the land, is—
    - (i) a registered owner, or
    - (ii) a mortgagee, chargee or covenant chargee, and
  - (b) include a certificate, in the form prescribed under the *Surveying and Spatial Information Act 2002*, endorsed—
    - (i) by a surveyor registered under that Act, and
    - (ii) in accordance with the regulations under this Act, and
  - (c) for a plan of subdivision other than a boundary adjustment plan—include the relevant subdivision certificate issued by the planning authority, and
  - (d) for a boundary adjustment plan—include the consent of the local council given in the approved form.

- (5) The Registrar-General may wholly or partly waive compliance with subclauses (2)(a), (3)(b) or (4)(a) or (b).

## 2 Public roads and public or drainage reserves

- (1) A scheme plan or a scheme plan of subdivision must define any land in the plan to be dedicated as a public road, a public reserve or a drainage reserve.
- (2) On registration of a plan dedicating association property, the dedicated land ceases to be association property.

## Schedule 2 Management statements

Sections 12 and 62

### Part 1 Preliminary

#### 1 Definitions

In this Act—

**community management statement** means a statement registered with a community plan as a statement of the by-laws and other particulars governing participation in the community scheme.

**neighbourhood management statement** means a statement registered with a neighbourhood plan as a statement of the by-laws and other particulars governing participation in the neighbourhood scheme.

**precinct management statement** means a statement registered with a precinct plan as a statement of the by-laws and other particulars governing participation in the precinct scheme.

### Part 2 Community management statements

#### 2 Form of community management statement

- (1) A community management statement must—
- (a) be in the approved form, and
  - (b) include the information prescribed by the regulations, and
  - (c) include the approval of the planning authority.
- (2) A community management statement must not be inconsistent with—
- (a) a development contract for the community scheme, or
  - (b) an Act or law that, by the operation of section 112 of the [Community Land](#)

*Management Act 2021*, applies to any part of the community property set apart as an open access way.

- (3) Despite subclause (2), if there is an inconsistency, the development contract, Act or law prevails.

### **3 Matters to be included**

A community management statement must include by-laws, plans and other particulars relating to the following—

- (a) the location, control, management, use and maintenance of any part of the community property set apart as an open access way or a private access way,
- (b) the control, management, use and maintenance of any other part of the community property, including any special facilities provided on the community property,
- (c) the provision of, and payment for, internal fencing on the community parcel including any obligations of the community association or subsidiary bodies,
- (d) the storage and collection of garbage on and from the community parcel and any related obligations of the community association or subsidiary bodies,
- (e) the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services,
- (f) insurance of the community property.

## **Part 3 Precinct management statements**

### **4 Form of precinct management statement**

- (1) A precinct management statement must—
- (a) be in the approved form, and
  - (b) include the information prescribed by the regulations, and
  - (c) include the approval of the planning authority.
- (2) A precinct management statement must not be inconsistent with—
- (a) a development contract for the precinct scheme, or
  - (b) the management statement, or a development contract, for the community scheme of which the precinct scheme is part, or
  - (c) an Act or law that, by the operation of section 112 of the *Community Land Management Act 2021*, applies to any part of the precinct property set apart as an open access way.

- (3) Despite subclause (2), if there is an inconsistency, the development contract, community management statement, Act or law prevails.

## **5 Matters to be included**

- (1) A precinct management statement must include by-laws, plans and other particulars relating to the following—
- (a) the location, control, management, use and maintenance of any part of the precinct property set apart as an open access way or a private access way,
  - (b) the control, management, use and maintenance of any other part of the precinct property, including any special facilities provided on the precinct property,
  - (c) the provision of, and payment for, internal fencing on the precinct parcel including any obligations of the precinct association or subsidiary bodies,
  - (d) the storage and collection of garbage on and from the precinct parcel and any related obligations of the precinct association or subsidiary bodies,
  - (e) the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services,
  - (f) insurance of the precinct property.
- (2) A precinct management statement is not required to include anything already provided for by the community management statement.

## **Part 4 Neighbourhood management statements**

### **6 Form of neighbourhood management statement**

- (1) A neighbourhood management statement must—
- (a) be in the approved form, and
  - (b) include the information prescribed by the regulations, and
  - (c) include the approval of the planning authority.
- (2) A neighbourhood management statement must not be inconsistent with—
- (a) a development contract for the neighbourhood scheme, or
  - (b) the management statement, or a development contract, for a community scheme or precinct scheme of which the neighbourhood scheme is part, or
  - (c) an Act or law that, by the operation of section 112 of the *Community Land Management Act 2021*, applies to any part of the neighbourhood property set apart as an open access way.

- (3) Despite subclause (2), if there is an inconsistency, the development contract, community management statement, precinct management statement, Act or law prevails.

## **7 Matters to be included**

- (1) A neighbourhood management statement must include by-laws, plans and other particulars relating to the following—
- (a) the location, control, management, use and maintenance of any part of the neighbourhood property set apart as an open access way or a private access way,
  - (b) the control, management, use and maintenance of any other part of the neighbourhood property, including any special facilities provided on the neighbourhood property,
  - (c) the provision of, and payment for, internal fencing on the neighbourhood parcel,
  - (d) the storage and collection of garbage on and from the neighbourhood parcel,
  - (e) the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services,
  - (f) insurance of the neighbourhood property.
- (2) A neighbourhood management statement is not required to include anything already provided for by the community management statement or precinct management statement for a scheme under which the neighbourhood scheme is a subsidiary scheme.

## **Part 5 Provisions applying to all management statements**

### **8 Optional matters for management statement**

- (1) A management statement for a scheme may include by-laws and other particulars relating to any of the following—
- (a) the hanging of washing within the scheme parcel,
  - (b) safety and security measures,
  - (c) details of any restricted property,
  - (d) the keeping of pets,
  - (e) the obligation of the owner of a lot within the scheme not to interfere with the quiet enjoyment of another lot or the association property,
  - (f) the control of unacceptable noise levels,

- (g) details of any business or trading activity to be carried on by the association and the method of distributing and sharing any profit or loss,
- (h) the control or preservation of the essence or theme of the development under the scheme,
- (i) architectural and landscaping guidelines to be observed by lot owners,
- (j) a diagram for the purpose of statutory easements,
- (k) any agreements entered into for the provision of services or recreational facilities,
- (l) a plan showing access ways within the scheme.

(2) This clause does not limit the matters that may be included in a management statement.

#### **9 By-law required by public authority**

- (1) A management statement may include a schedule specifying by-laws made at the request of public authorities.
- (2) If a by-law made at the request of a public authority so provides, the by-law may not be amended or revoked without the consent of the public authority.
- (3) Subclause (2) has effect despite any other provision of this Act or the [Community Land Management Act 2021](#).

#### **10 Excluded matters**

- (1) A management statement must not include any prohibition or restriction that—
  - (a) affects the keeping on a lot of an animal used as an assistance animal by a person with a disability who is an owner or occupier of a lot, or
  - (b) affects the use on a lot, or on association property, of an assistance animal by a person with a disability, or
  - (c) unlawfully discriminates against a person, or
  - (d) is based on socio-economic grouping, or
  - (e) excludes public housing from a scheme.

(2) In this clause—

**assistance animal** has the same meaning as in the [Companion Animals Act 1998](#).

**disability** has the same meaning as in the [Disability Inclusion Act 2014](#).

## 11 Restricted property

A management statement restricting the use of association property must include—

- (a) a description of the property, and
- (b) details of the persons entitled to use the property, and
- (c) the terms and conditions on which the persons may use the property, and
- (d) particulars relating to access to the property and the provision and keeping of any necessary key, and
- (e) particulars of the hours during which the property may be used, and
- (f) provisions relating to the maintenance of the property, and
- (g) matters relating to the determination, imposition and collection of levies on persons entitled to use the property.

## Schedule 3 Schedules of unit entitlement

Sections 12, 15–17, 19, 24, 62 and 96

### 1 Definitions

In this Schedule—

**approval of an association** for a schedule of unit entitlement means a certificate—

- (a) in the approved form, and
- (b) given under the seal of the association, and
- (c) certifying the proposed schedule of unit entitlement has been approved by special resolution.

**comparative market value** of lots means a comparative market value of lots as if the lots were vacant.

**completed scheme** means a scheme for which a schedule of unit entitlement has been registered in accordance with clause 14.

**valuer's certificate** means a certificate in the approved form given by a qualified valuer.

### 2 General requirements for all schedules of unit entitlement

A schedule of unit entitlement must—

- (a) be in the approved form, and
- (b) clearly state—

- (i) for a schedule for a completed scheme—that the schedule has been revised, or
- (ii) in any other case—that the schedule is liable to be altered before, or on, completion of the scheme to which it relates, and

(c) show all unit entitlement as whole numbers.

### **3 Schedule for scheme plan**

A schedule of unit entitlement accompanying a scheme plan must—

- (a) show the unit entitlement of each development lot or neighbourhood lot, and
- (b) show the total of the unit entitlement under paragraph (a), and
- (c) be based on the comparative market values of the lots at the date prescribed by the regulations as the valuation day, and
- (d) be supported by a valuer's certificate.

### **4 Scheme plan of subdivision altering entitlement or affecting association property**

(1) This clause applies to a schedule of unit entitlement accompanying a scheme plan of subdivision that—

- (a) subdivides or creates association property, or
- (b) adds land to a scheme parcel as a development lot or neighbourhood lot.

(2) The schedule of unit entitlement must—

- (a) show the unit entitlement of each development lot, former development lot or neighbourhood lot, and
- (b) show the total of the unit entitlement under paragraph (a), and
- (c) be based on the comparative market values of the lots at the date prescribed by the regulations as the valuation day, and
- (d) be supported by a valuer's certificate, and
- (e) be accompanied by the approval of the association.

### **5 Scheme plan of subdivision not altering entitlement or affecting association property**

(1) This clause applies to a schedule of unit entitlement accompanying a scheme plan of subdivision that does not—

- (a) subdivide or create association property, or
- (b) add land to a scheme parcel as a development lot or neighbourhood lot.



(2) The schedule of unit entitlement must—

- (a) show the unit entitlement of each development lot, former development lot or neighbourhood lot, and
- (b) show the total of the unit entitlement under paragraph (a), and
- (c) not differ from the existing schedule except by showing—
  - (i) the unit entitlement for each new lot created, and
  - (ii) the total unit entitlement of the new lots, which must be the same as the total unit entitlement for the subdivided lots, and
- (d) be based on the comparative market values of the lots at the date prescribed by the regulations as the valuation day, and
- (e) be supported by a valuer's certificate.

#### **6 Acquisition plan affecting scheme**

A schedule of unit entitlement accompanying an acquisition plan lodged under section 95 of this Act that affects the unit entitlement in a scheme must—

- (a) show the unit entitlement of each development lot, former development lot or neighbourhood lot, and
- (b) show the total of the unit entitlement under paragraph (a), and
- (c) be based on the comparative market values of the lots at the date prescribed by the regulations as the valuation day, and
- (d) be supported by a valuer's certificate, and
- (e) be accompanied by the approval of the association.

#### **7 Instrument severing community development lot from scheme**

A schedule of unit entitlement accompanying an instrument lodged under section 19 of this Act that severs a community development lot from a community scheme must—

- (a) reduce the total of the unit entitlement for the community scheme by the unit entitlement of the severed lot, and
- (b) show the unit entitlement of each development lot or former development lot forming part of the community scheme without changing the unit entitlements, and
- (c) show the total of the unit entitlement under paragraph (b).

## **8 Instrument severing precinct development lot from scheme**

A schedule of unit entitlement accompanying an instrument lodged under section 19 of this Act that severs a precinct development lot from a precinct scheme must—

- (a) reduce the total of the unit entitlement for the precinct scheme by the unit entitlement of the severed lot, and
- (b) show the unit entitlement of each development lot or former development lot forming part of the precinct scheme without changing the unit entitlements, and
- (c) show the total of the unit entitlement under paragraph (b), and
- (d) be accompanied by a replacement schedule of unit entitlement for the community scheme of which the precinct scheme is part, that—
  - (i) reduces the affected former development lot by the proportion attributable to the severed lot, and
  - (ii) reduces the total of the unit entitlement for the community scheme by the proportion of unit entitlement attributable to the severed lot, and
  - (iii) shows the unit entitlement of each development lot or former development lot forming part of the community scheme without changing the unit entitlements, and
  - (iv) shows the total of the unit entitlement under subparagraph (iii), and
- (e) be accompanied by the approval of the community association.

## **9 Instrument converting community development lot to community property**

A schedule of unit entitlement accompanying an instrument lodged under section 24 of this Act that converts a community development lot to community property must—

- (a) make a proportionate allocation of the unit entitlement of the lot being converted among any former community development lots, and any remaining community development lots, in the community scheme, and
- (b) base the proportionate allocation on the relative sizes of the existing unit entitlement for each remaining community development lot and each former community development lot, and
- (c) show the unit entitlement of each of the lots, and
- (d) show the total of the unit entitlement under paragraph (c), and
- (e) be accompanied by the approval of the community association.

### **10 Instrument converting precinct development lot to precinct property**

A schedule of unit entitlement accompanying an instrument lodged under section 24 of this Act that converts a precinct development lot to precinct property must—

- (a) make a proportionate allocation of the unit entitlement of the lot being converted among any former precinct development lots, and any remaining precinct development lots, in the precinct scheme, and
- (b) base the proportionate allocation on the relative sizes of the existing unit entitlement for each remaining precinct development lot and each former precinct development lot, and
- (c) show the unit entitlement of each of the lots, and
- (d) show the total of the unit entitlement under paragraph (c), and
- (e) be accompanied by the approval of the precinct association.

### **11 Instrument converting neighbourhood development lot to neighbourhood property**

A schedule of unit entitlement accompanying an instrument lodged under section 24 of this Act that converts a neighbourhood lot to neighbourhood property must—

- (a) make a proportionate allocation of the unit entitlement of the lot being converted among the remaining neighbourhood lots in the neighbourhood scheme, and
- (b) base the proportionate allocation on the relative sizes of the existing unit entitlement for each remaining neighbourhood lot, and
- (c) show the unit entitlement of each of the lots, and
- (d) show the total of the unit entitlement under paragraph (c), and
- (e) be accompanied by the approval of the neighbourhood association.

### **12 Instrument dedicating lot as public road or reserve**

(1) A schedule of unit entitlement accompanying an instrument or plan that dedicates the whole or part of a lot as a public road or public reserve must reduce the total of the unit entitlement for the scheme by—

- (a) the unit entitlement of the lot, if the whole of the lot is dedicated as a public road or public reserve, or
- (b) if part of the lot is dedicated as a public road or public reserve, the unit entitlement that would have been attributable to the part if it had been created as a separate lot.

(2) A schedule of unit entitlement accompanying an instrument or plan that dedicates the

whole or part of a lot as a public road or public reserve must—

- (a) show the unit entitlement of each development lot or former development lot forming part of the community scheme without changing the unit entitlements, and
- (b) show the total of the unit entitlement under paragraph (a).

### **13 Application for amalgamation**

- (1) A schedule of unit entitlement accompanying an application under section 61 of this Act must—
  - (a) be lodged as a replacement schedule of unit entitlement, and
  - (b) show the unit entitlement of each of the amalgamated precinct development lots or neighbourhood lots that will become community development lots in the community scheme.
- (2) The total of the unit entitlement for the new community development lots must equal the unit entitlement for the community development lots that were subdivided to create the amalgamated precinct development lots or neighbourhood lots.
- (3) The unit entitlement of the new community development lots must bear the same proportion as existed between the lots when the lots were precinct development lots in the precinct scheme or neighbourhood lots in the neighbourhood scheme.
- (4) Despite subclauses (2) and (3), if it is intended to revise 1 or more of the unit entitlement for the existing community development lots in the community scheme as well as allocate unit entitlement for the new community development lots, the schedule of unit entitlement must—
  - (a) show the unit entitlement of each community development lot, and
  - (b) show the total of the unit entitlement under paragraph (a), and
  - (c) be based on the comparative market values of the lots at the date prescribed by the regulations as the valuation day, and
  - (d) be supported by a valuer's certificate, and
  - (e) be accompanied by the approval of the community association.

### **14 Revised schedule lodged on completion of scheme**

- (1) An association for a scheme may lodge a revised schedule of unit entitlement for registration if it is satisfied the scheme is complete.
- (2) A schedule of unit entitlement may be lodged under this clause—

- (a) for a precinct scheme even if the community scheme of which it is a part is not completed, or
  - (b) for a neighbourhood scheme that is part of a community scheme or precinct scheme even if the community scheme or precinct scheme is not completed.
- (3) A schedule of unit entitlement lodged under this clause must—
- (a) be lodged as a replacement schedule of unit entitlement, and
  - (b) show the unit entitlement of each development lot, former development lot or neighbourhood lot for the scheme to which it relates, and
  - (c) show the total of the unit entitlement under paragraph (b), and
  - (d) be based on a table of values provided by the Valuer-General under section 76(3) of the *Valuation of Land Act 1916* showing the values of the lots at the same base date, and
  - (e) be accompanied by the approval of the association.

## **15 Simplification of schedule of unit entitlement**

The Registrar-General may amend a schedule of unit entitlement without changing its effect to simplify the way in which it is expressed.

## **Schedule 4 Savings, transitional and other provisions**

### **Part 1 Regulations**

#### **1 Savings or transitional regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
  - (a) a provision of this Act, or
  - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after that commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after that commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before that commencement but not before—
  - (a) for a provision of this Act, the date of assent to this Act, or

(b) for a provision amending this Act, the date of assent to the amending Act.

(5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not, before its publication—

(a) affect the rights of a person in a way prejudicial to the person, or

(b) impose liabilities on a person about anything done or omitted to be done.

(6) In this clause—

**person** does not include the State or an authority of the State.

## Part 2 Provisions consequent on enactment of this Act

### 2 Definitions

In this Part—

**former Act** means the [Community Land Development Act 1989](#).

**repeal day** means the day on which the former Act is repealed.

### 3 General savings

(1) Any act, matter or thing that immediately before the repeal of the former Act had effect under the former Act continues to have effect under this Act.

(2) This clause does not apply to the extent its application is inconsistent with any other provision of this Schedule.

### 4 Existing proceedings

Any proceedings commenced but not determined or finalised under the former Act are to be dealt with and determined as if the former Act had not been repealed.

### 5 Development contracts

The former Act continues to apply to a development contract entered into before the repeal day as if the former Act had not been repealed.

## Schedule 5 (Repealed)

### Dictionary

In this Act—

**acquisition plan**—see section 94.

**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 [Conveyancing Act 1919](#).

**approval of an association**, for Schedule 3—see Schedule 3, clause 1.

**approved form** means a form approved by the Registrar-General.

**association** means a community association, precinct association or neighbourhood association.

**association property**—

- (a) for a community scheme means the community property in the scheme, or
- (b) for a precinct scheme means the precinct property in the scheme, or
- (c) for a neighbourhood scheme means the neighbourhood property in the scheme.

**association property plan**—

- (a) for a community scheme means a community property plan, or
- (b) for a precinct scheme means a precinct property plan, or
- (c) for a neighbourhood scheme means a neighbourhood property plan.

**authorised proposal**—see section 45.

**boundary adjustment plan** means a plan registered as a boundary adjustment plan.

**common property**, in relation to a strata scheme or a proposed strata scheme, has the same meaning as in the [Strata Schemes Development Act 2015](#).

**community association**—see section 8.

**community development lot** means a lot in a community plan that is not any of the following—

- (a) community property,
- (b) a public road, public reserve or drainage reserve,
- (c) subject to a subsidiary scheme,
- (d) severed from the community scheme.

**community management statement**—see Schedule 2, clause 1.

**community parcel** means land the subject of a community scheme.

**community plan**—see section 8.

**community plan of consolidation** means a plan registered as a community plan of consolidation.

**community plan of subdivision** means a plan registered as a community plan of subdivision.

**community property** means the lot shown in a community plan as community property.

**community property plan** means the sheets of a community plan showing the community property in the community scheme.

**community scheme**—see section 5.

**comparative market value**, for Schedule 3—see Schedule 3, clause 1.

**completed scheme**, for Schedule 3—see Schedule 3, clause 1.

**current plan** means a registered plan that is a current plan within the meaning of the [Conveyancing Act 1919](#) but is not any of the following under the [Strata Schemes Development Act 2015](#)—

- (a) a strata plan,
- (b) a strata plan of subdivision,
- (c) a strata plan of consolidation.

**detail plan**—

- (a) for a community plan means a plan showing details of each of the community development lots in the community scheme, or
- (b) for a precinct plan means a plan showing details of each of the precinct development lots in the precinct scheme, or
- (c) for a neighbourhood plan means a plan showing details of each of the neighbourhood lots in the neighbourhood scheme, whether or not any sheet includes land dedicated as a public road or a lot for dedication as a public reserve or drainage reserve.

**developer**, in relation to a scheme, means—

- (a) the original owner for the scheme, or
- (b) if there is a development contract in force, the registered owner of a development lot who is permitted or compelled to carry out development under the contract.

**development** has the same meaning as in the [Environmental Planning and Assessment Act 1979](#).

**development concern**—see section 45.

**development contract**—see section 45.

**development lot** means a community development lot or precinct development lot.

**drainage reserve** means land set aside as a drainage reserve under section 49 of the [Local Government Act 1993](#).

**folio** means a folio of the Register.

**former development lot** means a precinct parcel, neighbourhood parcel or strata parcel that, immediately before it became subject to the precinct scheme, neighbourhood scheme or strata scheme, was a development lot.

**function** includes a power, authority or duty, and **exercise** a function includes perform a duty.

**initial period** has the same meaning as in the [Community Land Management Act 2021](#).



**land** means land held under the [Real Property Act 1900](#) in fee simple, no part of which is land in a qualified or limited folio and which comprises 1 or more contiguous lots in a current plan.

**location plan** means a sheet of a scheme plan that—

- (a) delineates the location of the parcel in relation to natural and artificial features including rivers, harbours, the ocean, roads and railways, and
- (b) includes a diagrammatic representation of the parcel and the lots in the plan, without dimensions, and
- (c) shows the distance of the parcel from the nearest intersection of public roads.

**lodgment rules** means the lodgment rules made under the [Real Property Act 1900](#).

**lot**, for Part 5, Division 2—see section 32.

**management statement** means a community management statement, precinct management statement or neighbourhood management statement.

**neighbourhood association**—see section 10.

**neighbourhood lot** means a lot in a neighbourhood plan that is not any of the following—

- (a) neighbourhood property,
- (b) a public road, public reserve or drainage reserve.

**neighbourhood management statement**—see Schedule 2, clause 1.

**neighbourhood parcel** means land the subject of a neighbourhood scheme.

**neighbourhood plan**—see section 10.

**neighbourhood plan of consolidation** means a plan registered as a neighbourhood plan of consolidation.

**neighbourhood plan of subdivision** means a plan registered as a neighbourhood plan of subdivision.

**neighbourhood property** means the lot shown in a neighbourhood plan as neighbourhood property.

**neighbourhood property plan** means the sheets of a neighbourhood plan showing the neighbourhood property in the neighbourhood scheme.

**neighbourhood scheme**—see section 7.

**notice of resumption**, for Part 10—see section 71.

**occupier** of a lot means a person in lawful occupation of the lot.

**open access way** means an open access way set apart under Part 6.

**original owner** of land means the person who held the fee simple in the land when a scheme plan

subdividing the land was registered.

**owner** of a development lot or a neighbourhood lot means—

- (a) a person for the time being recorded in the Register as being entitled to a fee simple in the lot, or
- (b) a person who has an interest in the lot entitling the person to vote at a meeting of an association and who has given the association an association interest notice in accordance with the [Community Land Management Act 2021](#).

**planning approval** means—

- (a) a development consent within the meaning of the [Environmental Planning and Assessment Act 1979](#), or
- (b) an approval under Division 5.2 of that Act.

**planning authority**, for a planning approval, means the entity or person authorised under the [Environmental Planning and Assessment Act 1979](#) to grant the approval.

**precinct association**—see section 9.

**precinct development lot** means a lot in a precinct plan that is not any of the following—

- (a) precinct property,
- (b) a public road, public reserve or drainage reserve,
- (c) subject to a subsidiary scheme,
- (d) severed from the precinct scheme.

**precinct management statement**—see Schedule 2, clause 1.

**precinct parcel** means land the subject of a precinct scheme.

**precinct plan**—see section 9.

**precinct plan of consolidation** means a plan registered as a precinct plan of consolidation.

**precinct plan of subdivision** means a plan registered as a precinct plan of subdivision.

**precinct property** means the lot shown in a precinct plan as precinct property.

**precinct property plan** means the sheets of a precinct plan showing the precinct property in the precinct scheme.

**precinct scheme**—see section 6.

**prescribed diagram**—see section 32.

**private access way** means a private access way set apart under Part 6.

**public authority** includes—

- (a) the council of a local government area, and
- (b) a corporation prescribed by the regulations as a public authority.

**public place** and **public reserve** have the same meanings as in the [Local Government Act 1993](#).

**public road** has the same meaning as in the [Roads Act 1993](#).

**qualified valuer** means a person who—

- (a) has membership of the Australian Valuers Institute (other than associate or student membership),  
or
- (b) has membership of the Australian Property Institute (other than student or provisional membership), acquired in connection with his or her occupation as a valuer, or
- (c) has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or
- (d) is of a class prescribed by the regulations.

**Register** means the Register kept under the [Real Property Act 1900](#).

**registered** means registered by the Registrar-General.

**registration**, for a plan under this Act, other than a strata plan, means registration in accordance with Part 23, Division 3 of the [Conveyancing Act 1919](#).

**relevant interest**, for Part 4—see section 20.

**relevant interest**, for Part 5, Division 1—see section 29.

**restricted property** means—

- (a) association property the use of which is restricted by a management statement, or
- (b) common property in a strata scheme the use of which is restricted by the by-laws of the strata scheme.

**resume**, for Part 10—see section 71.

**resuming authority**, for Part 10—see section 71.

**resumption application**, for Part 10, Division 4—see section 81.

**schedule of unit entitlement**, for a strata scheme, means a schedule of unit entitlement under the [Strata Schemes Development Act 2015](#).

**scheme** means a community scheme, precinct scheme, neighbourhood scheme or strata scheme.

**scheme parcel** means a community parcel, precinct parcel or neighbourhood parcel.

**scheme plan** means a community plan, precinct plan or neighbourhood plan.

**scheme plan of consolidation** means a community plan of consolidation, precinct plan of

consolidation or neighbourhood plan of consolidation.

**scheme plan of subdivision** means a community plan of subdivision, precinct plan of subdivision or neighbourhood plan of subdivision.

**service**, for Part 5, Division 2—see section 32.

**service line**, for Part 5, Division 2—see section 32.

**service provider**, for Part 5, Division 2—see section 32.

**sign** includes seal and, for a corporation other than an association or strata corporation, includes sign as a person authorised by the corporation.

**special resolution** has the same meaning as in the [Community Land Management Act 2021](#).

**statutory easement**—see section 33.

**statutory interest** means a charge or other proprietary interest—

- (a) created by this or any other Act or a Commonwealth Act, and
- (b) affecting land forming part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, and
- (c) enforceable against an owner, an association or a strata corporation, whether or not it has been recorded in the Register.

**strata corporation** means an owners corporation within the meaning of the [Strata Schemes Management Act 2015](#).

**strata lot** means a lot within the meaning of the [Strata Schemes Development Act 2015](#) that is part of a community scheme.

**strata parcel** means land the subject of a strata scheme.

**strata plan** has the same meaning as in the [Strata Schemes Development Act 2015](#).

**strata scheme** means—

- (a) a strata scheme under the [Strata Schemes Development Act 2015](#) that includes common property and is part of a community scheme, and
- (b) the proposals in any related development contract, and
- (c) the rights conferred, and the obligations imposed, by or under the [Strata Schemes Development Act 2015](#), this Act and the [Community Land Management Act 2021](#) in relation to the scheme.

**subsidiary body** of a community scheme or precinct scheme means an association or strata corporation constituted under a subsidiary scheme to the community scheme or precinct scheme.

**subsidiary parcel**—

- (a) for a community scheme means a precinct parcel, neighbourhood parcel or strata parcel that is the

subject of a subsidiary scheme, or

- (b) for a precinct scheme means a neighbourhood parcel or strata parcel that is the subject of a subsidiary scheme.

***subsidiary scheme***—

- (a) for a community scheme means a precinct scheme, neighbourhood scheme or strata scheme that is part of the community scheme, or
- (b) for a precinct scheme means a neighbourhood scheme or strata scheme that is part of the precinct scheme.

***Tribunal*** means the Civil and Administrative Tribunal.

***unanimous resolution*** means a resolution passed at a properly convened general meeting where no vote is cast against the resolution.

***valuer's certificate***, for Schedule 3—see Schedule 3, clause 1.

***warranted development***, for Part 7—see section 45.