

# Community Land Development Regulation 2021

[2021-600]



New South Wales

## Status Information

### Currency of version

Current version for 14 October 2021 to date (accessed 24 November 2024 at 16:19)

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

### Provisions in force

None of the provisions displayed in this version of the legislation have commenced.

### Notes—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2027

### 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 14 October 2021

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# Community Land Development Regulation 2021



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

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

### 2 Commencement

This Regulation commences on 1 December 2021 and is required to be published on the NSW legislation website.

### 3 Definitions

In this Regulation—

**access way plan** means a plan for an open access way or private access way included in the management statement for a scheme under the Act, section 41(3).

**detailed survey information**, for a plan, has the same meaning as in the Act, section 25.

**statutory easement diagram**—see section 26(1).

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

**the Act** means the *Community Land Development Act 2021*.

#### Note—

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

### 4 Application

(1) This Regulation applies in addition to—

(a) the *Conveyancing (General) Regulation 2018*, Part 3 and Schedule 1, or the equivalent provisions of a regulation that replaces that regulation, and

(b) the regulations made under the *Real Property Act 1900* and the lodgment rules.

- (2) This Regulation prevails to the extent of an inconsistency between this Regulation and the provisions referred to in subsection (1).

## **Part 2 Scheme plans**

### **5 Location plans—the Act, Schedule 1, cl 1(2)(b)**

A location plan included in a scheme plan must—

- (a) be clearly labelled “LOCATION PLAN” in the plan drawing area, and
- (b) contain a schedule on which to record subsequent subdivisions, consolidations, severances and other changes to lots in the scheme.

### **6 Detail plans—the Act, Schedule 1, cl 1(2)(b)**

- (1) Each sheet of a detail plan included in a scheme plan must be clearly labelled “DETAIL PLAN” in the plan drawing area.
- (2) The detail plan must set out the detailed survey information for all of the lots in the scheme, including the association property.
- (3) The association property must be numbered “Lot 1” and, if it comprises more than 1 part, each part must be identified as part of Lot 1.
- (4) All other lots on the detail plan must be numbered consecutively, beginning with “Lot 2”.

### **7 Association property plans—the Act, Schedule 1, cl 1(2)(b)**

- (1) An association property plan included in a scheme plan must be clearly labelled with one of the following, as the case requires, in the plan drawing area—

COMMUNITY PROPERTY PLAN

PRECINCT PROPERTY PLAN

NEIGHBOURHOOD PROPERTY PLAN

- (2) The association property plan must be a diagram showing all association property in the scheme.
- (3) The association property plan must include the boundaries and complete dimensions, including area and part areas, of the whole of the association property but without the detailed survey information.
- (4) The association property must be numbered “Lot 1” and, if it comprises more than 1 part, each part must be identified as part of Lot 1.
- (5) Unless the Registrar-General otherwise agrees, the association property plan must

comprise 1 sheet only.

### **8 Schedules of unit entitlement—the Act, s 115(2)(c)**

- (1) A schedule of unit entitlement accompanying a scheme plan must contain 3 columns as follows—
  - (a) the first column, headed “LOT”, must list the lots in the scheme in numerical order,
  - (b) the second column, headed “UNIT ENTITLEMENT”, must contain—
    - (i) for the association property—the words “COMMUNITY PROPERTY”, “PRECINCT PROPERTY” or “NEIGHBOURHOOD PROPERTY”, as the case requires, and
    - (ii) for a lot that is to be dedicated as a public reserve or drainage reserve—the words “PUBLIC RESERVE” or “DRAINAGE RESERVE”, as the case requires, and
    - (iii) for each other lot—the value of the unit entitlement,
  - (c) the third column, headed “SUBDIVISION”, must record details of subsequent subdivisions, consolidations, severances and other changes to lots as they occur.
- (2) At the end of the schedule of unit entitlement—
  - (a) the first column must contain the word “TOTAL”, and
  - (b) the second column must contain the total value of all the unit entitlements of the individual lots referred to in subsection (1)(b)(iii).
- (3) A warning statement that the schedule of unit entitlement may be altered or replaced must be—
  - (a) in the approved form, and
  - (b) set out in the panels provided on the administration sheet required to accompany the scheme plan.

## **Part 3 Additional sheets and replacement sheets and schedules**

### **9 Additional sheet of a detail plan—the Act, Schedule 1, cl 1(2)(b)**

- (1) An additional sheet of a detail plan must comply with the requirements in section 6, to the extent that the requirements are relevant to an additional sheet.
- (2) An additional sheet must also—
  - (a) contain a note in the note column, in the approved form, indicating the sheet is an additional sheet, and
  - (b) include the deposited plan number of the scheme, and

- (c) be numbered with the next sheet number after the last number used for the scheme plan.

**10 Replacement sheet for an association property plan—the Act, Schedule 1, cl 1(2)(b)**

- (1) A replacement sheet for an association property plan must comply with the requirements in section 7, to the extent that the requirements are relevant to a replacement sheet.
- (2) A replacement sheet must also—
  - (a) contain a note in the note column, in the approved form, indicating that the sheet is a replacement sheet, and
  - (b) include the deposited plan number of the scheme, and
  - (c) be numbered with the same sheet number as the sheet it is to replace, together with an alphabetic suffix to indicate the number of times the sheet has been replaced.

**11 Replacement schedule of unit entitlement—the Act, s 115(2)(c)**

- (1) A replacement schedule of unit entitlement must comply with the requirements in section 8, to the extent that the requirements are relevant to a replacement schedule.
- (2) The administration sheet containing the replacement schedule must contain a note, in the approved form, indicating that the schedule is a replacement schedule.

**Part 4 Plans and instruments**

**12 Subdivision by scheme plan of subdivision—the Act, Schedule 1, cl 1(2)(b)**

- (1) A scheme plan of subdivision must show only the lots subject to the subdivision.
- (2) The boundaries of new lots that follow the boundaries of existing lots may be compiled from the relevant scheme plan.
- (3) The additional sheet of the detail plan required to be included with the scheme plan of subdivision must also include the detailed survey information for the altered association property.
- (4) The new lots on the additional sheet of the detail plan must be numbered consecutively, beginning with the next available lot number for the scheme.
- (5) The replacement schedule of unit entitlement required to be included with the scheme plan of subdivision must also include the following—
  - (a) in the “LOT” column—a list of the lots being created,
  - (b) in the “UNIT ENTITLEMENT” column—

- (i) for each lot being subdivided—a reference to the new lots being created, and
- (ii) for each lot being created—its unit entitlement,
- (c) in the “SUBDIVISION” column—opposite each lot being subdivided, a reference to the sheet of the scheme plan of subdivision that created the new lots.

**13 Dedication of land by scheme plan of subdivision—the Act, Schedule 1, cl 1(2)(b)**

A scheme plan of subdivision may dedicate association property as a public road, a public reserve or a drainage reserve.

**Note—**

The Act, section 15 applies to a scheme plan of subdivision that dedicates association property as a public road, a public reserve or a drainage reserve.

**14 Consolidation by scheme plan of consolidation—the Act, Schedule 1, cl 1(2)(b)**

- (1) An additional sheet of the detail plan required to be included with a scheme plan of consolidation—
  - (a) may be compiled from information in the relevant scheme plan, and
  - (b) must show only the lots subject to the consolidation.
- (2) The new lots on the additional sheet of the detail plan must be numbered consecutively, beginning with the next available lot number for the scheme.
- (3) The replacement schedule of unit entitlement required to be included with a scheme plan of consolidation must also include the following—
  - (a) in the “LOT” column—a list of the newly consolidated lots,
  - (b) in the “UNIT ENTITLEMENT” column—
    - (i) against the superseded lots—a reference to the relevant consolidated lot, and
    - (ii) for each consolidated lot—its unit entitlement,
  - (c) in the “SUBDIVISION” column—a reference to the sheet of the scheme plan that shows the consolidated lot.

**15 Boundary adjustment plans—the Act, s 18(2)(d) and Schedule 1, cl 1(2)(b)**

- (1) A boundary adjustment plan must—
  - (a) illustrate the results of a survey identifying the altered boundaries of the community property or precinct property and of the affected development lots, and
  - (b) include the original lot numbers of the affected development lots.



- (2) Other boundaries shown on the boundary adjustment plan that have not been altered may be compiled from the relevant community plan or precinct plan.
- (3) An additional sheet of the detail plan required to be included in a boundary adjustment plan must also include detailed survey information for the altered boundaries of the affected development lots.
- (4) The administration sheet required to accompany the boundary adjustment plan must include a certificate—
  - (a) in the approved form, and
  - (b) given under seal of the community association or precinct association, and
  - (c) to the effect that the association approved the altered boundaries by an ordinary resolution of the association.
- (5) A comprehensive report provided by a surveyor stating the reasons for the boundary adjustment, and containing other information required by the Registrar-General, must be lodged with the boundary adjustment plan.
- (6) If an adjustment is made by the boundary adjustment plan that causes the position of an open access way or a private access way to move—
  - (a) an amendment must be made to the access way plan, and
  - (b) an amendment to the management statement must be registered under the Act, section 108.

**16 Acquisition plans—the Act, s 115 and Schedule 1, cl 1(2)(b)**

- (1) An acquisition plan must show only the lots to be acquired and must not show residue lots.
- (2) If part of a lot is to be acquired, the residue that is not being acquired and will remain in the scheme must be shown as a whole lot in—
  - (a) if the part to be acquired is association property—the replacement sheet for the association property plan required to be lodged with the acquisition plan, or
  - (b) if the part to be acquired is a development lot or neighbourhood lot—the additional sheet of the detail plan required to be lodged with the acquisition plan.
- (3) The acquisition plan, and the replacement sheet for the association property plan or additional sheet of the detail plan required to be lodged with the plan, must illustrate the results of a survey identifying the altered boundaries of the affected lots.
- (4) Other boundaries shown on the acquisition plan, or on the replacement or additional sheet, that have not been altered may be compiled from the relevant scheme plan.

- (5) A replacement sheet for an association property plan required to be lodged with an acquisition plan must also be accompanied by an additional sheet of the detail plan showing the updated survey information for the altered boundaries.
- (6) The new lots on the additional sheet of a detail plan must be numbered consecutively, beginning with the next available lot number for the scheme.
- (7) The acquisition plan must be lodged for registration at the same time as the transfers of the land being acquired under the plan, unless the Registrar-General agrees otherwise in writing.

## **Part 5 Instruments of severance and conversion**

### **17 Severance of development lots—the Act, s 115(2)(c)**

The replacement schedule of unit entitlement required to accompany an instrument under the Act, section 19 must include, in the “UNIT ENTITLEMENT” column, the words “SEVERED LOT” for each lot severed by the instrument.

### **18 Conversion of development lots or neighbourhood lots to association property—the Act, s 115**

- (1) An instrument of conversion must be accompanied by an additional sheet of the detail plan for the relevant scheme plan showing the updated detailed survey information for the altered boundaries.
- (2) The additional sheet of the detail plan may be compiled from information in the relevant scheme plan, unless the information conflicts or the Registrar-General requires otherwise.
- (3) The replacement schedule of unit entitlements required to accompany an instrument of conversion must include, against the converted lots in the “UNIT ENTITLEMENT” column, the words “CONVERTED TO LOT 1”.
- (4) In this section—

***instrument of conversion*** means an instrument referred to in the Act, section 24.

## **Part 6 Development contracts**

### **19 Registration of development contracts—the Act, s 115(2)(a)**

- (1) A proposed development contract that is lodged for registration must comply with the following provisions of the lodgment rules—
  - (a) if lodged in paper form—Schedule 2,
  - (b) if lodged in electronic form—Schedule 6.

- (2) For the purposes of this section, a proposed development contract—
  - (a) is taken to be an instrument or other document to which Schedule 2 or 6 of the lodgment rules applies, and
  - (b) includes an instrument setting out amendments to sheets of a proposed development contract.

**20 Matters to be included in development contracts—the Act, ss 46(4)(e) and 115(2)(a)**

- (1) A development contract must include each of the following matters—
  - (a) a description of the buildings, services, facilities or infrastructure proposed to be built, installed or provided on association property,
  - (b) details of easements proposed to be created benefiting or burdening association property,
  - (c) details of restrictions on the use of land, or positive covenants, proposed to be created benefiting or burdening association property,
  - (d) if land is proposed to be added to the scheme—whether the land is to be added as a development lot or neighbourhood lot or association property.
- (2) Authorised proposals and warranted development should be listed and dealt with separately in the development contract.
- (3) The concept plan required to be included in the development contract must relate to the authorised proposals and warranted development.

**21 Execution of a dealing, plan or other instrument—the Act, s 56(5)**

- (1) A dealing, plan or other instrument executed by a relevant developer on behalf of an association under the Act, section 56(4)(b) must be executed in the approved form.
- (2) The relevant developer must also provide the Registrar-General with a statutory declaration that—
  - (a) sets out the circumstances in which the decision about the development concern to which the dealing, plan or other instrument relates was made, including the particulars of the meeting at which the decision was made, and
  - (b) verifies that the requirements of the Act, section 57(1) and (4) were complied with in making the decision.
- (3) If the relevant developer is a corporation, the statutory declaration must be provided by a director or officer of the relevant developer.

## **22 Notices relating to development concerns—the Act, s 115(2)(a)**

Each of the following must, to the extent it deals with a motion relating to a development concern, identify the motion as relating to a development concern and refer to the Act, section 57—

- (a) a notice served on the secretary of an association requiring inclusion of the motion in the agenda of the next general meeting of the association,
- (b) a qualified request made under the *Community Land Management Act 2021*, section 17 requesting the convening of a general meeting to consider the motion,
- (c) a request made under the *Community Land Management Act 2021*, section 43 requesting the convening of a meeting of the association committee to consider the motion.

## **23 Conclusion of development contract for a community scheme—the Act, s 58(2)(b)**

- (1) A development contract for a community scheme may specify a date for the conclusion of the contract that is between 10 and 20 years after the registration of the contract if—
  - (a) the developer applies to the Registrar-General for the longer period, and
  - (b) the Registrar-General is satisfied the development cannot be completed in 10 years.
- (2) The application—
  - (a) must contain an explanation of why the development cannot be completed in 10 years, which may include the following information—
    - (i) the number of lots and subsidiary schemes proposed to be created before the conclusion of the development contract,
    - (ii) the proposed number of stages for the development of the land in the community scheme and the timing of those stages,
    - (iii) the details of planning approvals granted for the development of the land in the community scheme, and
  - (b) must be made before, or at the time of, lodgment of the proposed development contract for registration.

## **24 Planning authority approval—the Act, s 115(2)(a)**

- (1) The certificates referred to in the Act, sections 47(4) and 50(5)(b) must be in the approved form.
- (2) The approval of the planning authority referred to in the Act, section 53(2)(b) must be

evidenced by the certificate referred to in the Act, section 50(5)(b).

## **Part 7 Management statements**

### **25 Registration of management statements—the Act, s 115(2)(b)**

- (1) A proposed management statement that is lodged for registration must comply with the following provisions of the lodgment rules—
  - (a) if lodged in paper form—Schedule 2,
  - (b) if lodged in electronic form—Schedule 6.
- (2) For the purposes of this section, the proposed management statement—
  - (a) is taken to be an instrument or other document to which Schedule 2 or 6 of the lodgment rules applies, and
  - (b) includes an instrument setting out amendments to a proposed management statement.
- (3) The proposed management statement must be signed by or on behalf of the developer.

### **26 Statutory easement diagram—the Act, s 115(2)(b)**

- (1) This section applies to a prescribed diagram which creates a statutory easement when registered as part of the management statement for a scheme (**statutory easement diagram**).
- (2) A statutory easement diagram must—
  - (a) illustrate the position of—
    - (i) all existing service lines for which a statutory easement is proposed to be created, and
    - (ii) all proposed service lines intended to be provided within the scheme and over which a statutory easement is proposed to be created, and
  - (b) show sufficient information to locate the approximate position of each service line within each lot through which the service line passes, and
  - (c) indicate the nature of each service and how it is, or is proposed to be, provided, and
  - (d) on the first page, contain the deposited plan number and a description of the relevant scheme.
- (3) Each sheet of the statutory easement diagram must be numbered as a sheet of the

management statement.

(4) In this section—

**lot**, **prescribed diagram**, **service** and **service line** have the same meanings as in the Act, section 32.

## **27 Access way plans—the Act, s 41(3)(c)**

(1) An access way plan must—

- (a) illustrate the position of each access way within the association property, and
- (b) show and define the extent of each open access way and each private access way and indicate how the change of status between an open access way and private access way will be indicated, and
- (c) if an access way has been named, show the name within the access way with the words “known as” before the name, and
- (d) include a note indicating the access ways are still association property and are not public roads, and
- (e) on the first page, contain the deposited plan number of the relevant scheme.

(2) Each sheet of an access way plan must be numbered as a sheet of the management statement for the relevant scheme.

(3) All survey information required under the [Surveying and Spatial Information Act 2002](#) to define an access way must be shown on the detail plan included in the scheme plan.

(4) In this section—

**access way** means a private access way or an open access way.

## **28 Amendments to management statements—the Act, s 115(2)(b)**

(1) An amendment to a management statement must be lodged with the Registrar-General in the form of a consolidated version of the management statement that incorporates the amendment.

(2) The Registrar-General may permit an amendment to a management statement to be lodged separately and not in the form of a consolidated version if—

- (a) the amendment relates only to an access way plan or a statutory easement diagram, or
- (b) otherwise—

- (i) the Registrar-General is satisfied it would be too onerous for a consolidated version to be lodged, and
- (ii) there are no more than 5 separate changes recorded on the relevant folio of the Register for the association property.

## Part 8 Amalgamation of schemes

### 29 Application for amalgamation—the Act, s 62(1)(e) and 64

- (1) The additional sheet of the detail plan for the community plan required to accompany an application for amalgamation—
  - (a) must show the updated survey information for the association property that is to be amalgamated, and
  - (b) may be compiled from information in the relevant precinct plan or neighbourhood plan.
- (2) The new lots on the additional sheet of the detail plan must be numbered consecutively, beginning with the next available lot number for the community scheme.
- (3) The replacement schedule of unit entitlement required to accompany an application for a standard amalgamation must be accompanied by a certificate (an **association certificate**) in the approved form.
- (4) The association certificate must—
  - (a) be under the seal of the association, and
  - (b) contain a statement to the effect that the unit entitlement of the new community development lots have been apportioned in accordance with the Act, Schedule 3, clause 13(2).
- (5) The consent of the planning authority required under the Act, section 61(1)(d) must be in the approved form.
- (6) In this section—

**standard amalgamation** means an amalgamation to which the Act, Schedule 3, clause 13(4) does not apply.

## Part 9 Miscellaneous

### 30 Evidence of expiration of initial period—the Act, s 115

- (1) This section applies to a plan or dealing if—
  - (a) the plan or dealing must not be registered unless the initial period has expired,

and

- (b) the plan or dealing is not in accordance with a development contract that is in force, and
  - (c) the Tribunal has not—
    - (i) for a scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot—authorised the addition of the land, or
    - (ii) for a dealing or other plan—authorised the dealing or other plan.
- (2) A certificate in the approved form certifying that the initial period has expired must—
- (a) for a plan—be included on the administration sheet required to be lodged with the plan for registration, and
  - (b) for a dealing—accompany the dealing when the dealing is lodged for registration.

### **31 Valuation day—the Act, Schedule 3, cll 3-6 and 13**

The valuation day for a schedule of unit entitlement is prescribed as—

- (a) for the purposes of a schedule of unit entitlement referred to in the Act, Schedule 3, clause 3—a day within 2 months before an application is made for a subdivision certificate required by the Act, Schedule 1, clause 1 (4)(c), and
- (b) for the purposes of a schedule of unit entitlement referred to in the Act, Schedule 3, clause 4—a day within 2 months before an application is made for a subdivision certificate required by the Act, Schedule 1, clause 1 (4)(c), and
- (c) for the purposes of a schedule of unit entitlement referred to in the Act, Schedule 3, clause 5—
  - (i) the valuation day for the original scheme plan, or
  - (ii) if there has been a subsequent subdivision affecting the association property—the most recent valuation day, and
- (d) for the purposes of a schedule of unit entitlement referred to in the Act, Schedule 3, clause 6—
  - (i) a day within 2 months before an application is made for a subdivision certificate required by the Act, Schedule 1, clause 1 (4)(c), or
  - (ii) if a subdivision certificate is not required, 2 months before the date of the transfer of the relevant land, and
- (e) for the purposes of a schedule of unit entitlement referred to in the Act, Schedule 3, clause 13(4)—a day within 2 months before an application is made for the consent of



the planning authority required by the Act, section 61(1)(d).

### **32 Prescribed public authorities**

Each of the following is prescribed as a public authority for the purposes of the Act, Dictionary, definition of **public authority**—

- (a) Australian Postal Corporation,
- (b) Essential Energy,
- (c) Foxtel Management Pty Limited (ACN 068 671 938),
- (d) Hunter Water Corporation,
- (e) Jemena Gas Networks (NSW) Ltd (ACN 003 004 322),
- (f) Origin Energy Electricity Limited (ACN 071 052 287),
- (g) Origin Energy LPG Limited (ACN 000 508 369),
- (h) Origin Energy Retail Limited (ACN 078 868 425),
- (i) Riverina Water County Council,
- (j) Sydney Water Corporation,
- (k) the owner of a transacted distribution system under the *Electricity Network Assets (Authorised Transactions) Act 2015*.