



New South Wales

# **Strata Schemes Legislation Amendment (Strata Approvals) Bill 1999**

## **Explanatory note**

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

## **Overview of Bill**

The objects of this Bill are:

- (a) to amend the *Strata Schemes (Freehold Development) Act 1973* to enable approvals to strata plans, strata subdivisions and conversion of lots to common property to be given, in certain circumstances, by private accredited certifiers, and
- (b) to amend the *Strata Schemes (Leasehold Development) Act 1986* to enable approvals to strata plans, strata subdivisions and conversion of lots to common property to be given, in certain circumstances, by private accredited certifiers, and
- (c) to provide for the accreditation of certifiers and other related matters, and

- (d) to make other consequential amendments and amendments of a savings and transitional nature.

## Outline of provisions

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

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

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

### Amendments generally

Currently, a strata plan, a strata plan of subdivision or a notice of conversion of a lot to common property may not be registered by the Registrar-General under the *Strata Schemes (Freehold Development) Act 1973* or the *Strata Schemes (Leasehold Development) Act 1986* unless the local council has given a certificate of approval and the certificate is indicated on the plan or notice when it is lodged for registration. This approval is in addition to development consents that may be required to be given by the council or other consent authorities under the *Environmental Planning and Assessment Act 1979*.

Under recent amendments to that Act, provision was made for certain consents and approvals, including subdivision consents, to be given by accredited certifiers so as to reduce duplication of decisions by councils and other consent authorities.

The proposed amendments to the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986* enable the certificate of approval (to be known as a ***strata certificate***) to be given by an accredited certifier, if a relevant development consent under the *Environmental Planning and Assessment Act 1979* is in force in relation to the proposed subdivision the subject of the plan or subdivision concerned, or a building the subject of the plan or subdivision concerned, or the conversion concerned or an associated change of use. This will not prevent a person from applying to a local council for such a certificate in these cases and strata certificates will not be available from an accredited certifier in any other case (for example, where development consent of a relevant kind is not required).

## **Schedule 1    Amendment of Strata Schemes (Freehold Development) Act 1973**

**Schedule 1 [23]** inserts proposed sections 37A–37F. Proposed section 37A enables an accredited certifier to issue a strata certificate in respect of a proposed strata plan, strata plan of subdivision or notice of conversion of a lot to common property. The matters as to which the certifier must be satisfied before issuing a strata certificate are the same as those as to which a local council must be satisfied except that the certifier is not required to be satisfied as to discretionary matters relating to amenity and other matters (these will have been considered in relation to the granting of a development consent). In addition, the certifier cannot issue a strata certificate in respect of a strata plan or strata plan of subdivision unless there is a relevant development consent in force in relation to the subdivision the subject of the plan or strata plan of subdivision or a relevant development consent in force in relation to the building the subject of the plan or subdivision and conditions of any consent relating to the issue of a strata certificate have been complied with. The certifier cannot issue a strata certificate in respect of a notice of conversion unless there is a relevant development consent in force in relation to the conversion or an associated change of use and conditions of any consent relating to the issue of a strata certificate have been complied with.

Proposed section 37B defines the kind of development consent required to be in force before an accredited certifier can issue a strata certificate.

Proposed section 37C enables regulations to be made with respect to strata certificates, notification of strata certificates and records relating to strata certificates.

Proposed section 37D excludes a person who exercises functions under the Act or any other Act in reliance on a strata certificate from liability for loss or damage arising from any matter in respect of which a certificate has been issued.

Proposed section 37E applies the provisions of the *Environmental Planning and Assessment Act 1979* that relate to the accreditation of accredited certifiers and disciplinary proceedings to accredited certifiers issuing strata certificates.

Proposed section 37F applies the provisions of the *Environmental Planning and Assessment Act 1979* that relate to insurance requirements for accredited certifiers to accredited certifiers issuing strata certificates.

**Schedule 1 [1]** inserts definitions of *accredited certifier*, *relevant development consent* and *strata certificate*.

**Schedule 1 [2]–[11], [13], [15], [17]–[21], [24], [27], [29], [30], [40] and [41]** make amendments consequential on the amendment made by Schedule 1 [23].

**Schedule 1 [12], [14] and [16]** update references to provisions and tables.

**Schedule 1 [22]** provides that a local council is not required to be satisfied as to certain discretionary matters in considering whether to issue a strata certificate if a relevant development consent is in force. This reflects the requirements in relation to certification by accredited certifiers where a relevant development consent is in force. Schedule 1 [22] also requires a council, in determining whether to issue a strata certificate where there is no relevant development consent, to consider specified matters relating to fire safety, similar to those considered by a council when considering whether to consent to a proposed change of use of a building.

**Schedule 1 [25]** requires an accredited certifier to refuse to issue a strata certificate if a building illustrated by a proposed strata plan or strata plan of subdivision encroaches on a public place unless satisfied that the building complies with a development consent, that any relevant subdivision development consent indicates the encroachment and that the plan clearly indicates the encroachment.

**Schedule 1 [26] and [28]** make amendments consequential on the amendment made by Schedule 1 [25].

**Schedule 1 [31]** requires an accredited certifier to note a restriction on the use of a utility lot, arising from a development consent, on the strata certificate.

**Schedule 1 [32]–[34]** make amendments consequential on the amendment made by Schedule 1 [31].

**Schedule 1 [36]** requires an accredited certifier to give notice of refusal of an application for a strata certificate to the applicant.

**Schedule 1 [35] and [37]** make amendments consequential on the amendment made by Schedule 1 [36].

**Schedule 1 [38]** requires the notice of refusal to specify the grounds of refusal.

**Schedule 1 [39]** shortens the period within which an applicant to a council for a strata certificate may appeal to the Land and Environment Court from 40 days to 14 days after the relevant decision.

**Schedule 1 [42]** requires the Registrar-General to record a restriction as to the use of a utility lot, noted on a strata certificate by an accredited certifier, on a folio of the register when creating a folio for the lot.

**Schedule 1 [43]** makes an amendment consequential on the amendment made by Schedule 1 [42].

**Schedule 1 [44]** makes provision of a savings and transitional nature.

## **Schedule 2 Amendment of Strata Schemes (Leasehold Development) Act 1986**

**Schedule 2 [23]** inserts proposed sections 66A–66F. Proposed section 66A enables an accredited certifier to issue a strata certificate in respect of a proposed strata plan, strata plan of subdivision or notice of conversion of a lot to common property. The matters as to which the certifier must be satisfied before issuing a strata certificate are the same as those as to which a local council must be satisfied except that the certifier is not required to be satisfied as to discretionary matters relating to amenity and other matters (these will have been considered in relation to the granting of a development consent). In addition, the certifier cannot issue a strata certificate in respect of a strata plan or strata plan of subdivision unless there is a relevant development consent in force in relation to the subdivision the subject of the plan or strata plan of subdivision or a relevant development consent in force in relation to the building the subject of the plan or subdivision and conditions of any consent relating to the issue of a strata certificate have been complied with. The certifier cannot issue a strata certificate in respect of a notice of conversion unless there is a relevant development consent in force in relation to the conversion or an associated change of use and conditions of any consent relating to the issue of a strata certificate have been complied with.

Proposed section 66B defines the kind of development consent required to be in force before an accredited certifier can issue a strata certificate.

Proposed section 66C enables regulations to be made with respect to strata certificates, notification of strata certificates and records relating to strata certificates.

Proposed section 66D excludes a person who exercises functions under the Act or any other Act in reliance on a strata certificate from liability for loss or damage arising from any matter in respect of which a certificate has been issued.

Proposed section 66E applies the provisions of the *Environmental Planning and Assessment Act 1979* that relate to the accreditation of accredited certifiers and disciplinary proceedings to accredited certifiers issuing strata certificates.

Proposed section 66F applies the provisions of the *Environmental Planning and Assessment Act 1979* that relate to insurance requirements for accredited certifiers to accredited certifiers issuing strata certificates.

**Schedule 2 [1]** inserts definitions of *accredited certifier*, *relevant development consent* and *strata certificate*.

**Schedule 2 [2]–[11], [13], [16]–[21], [24], [27], [29], [30], [40] and [41]** make amendments consequential on the amendment made by Schedule 2 [23].

**Schedule 2 [12], [14] and [15]** update references to provisions and tables.

**Schedule 2 [22]** provides that a local council is not required to be satisfied as to certain discretionary matters in considering whether to issue a strata certificate if a relevant development consent is in force. This reflects the requirements in relation to certification by accredited certifiers where a relevant development consent is in force. Schedule 2 [22] also requires a council, in determining whether to issue a strata certificate where there is no relevant development consent, to consider specified matters relating to fire safety, similar to those considered by a council when considering whether to consent to a proposed change of use of a building.

**Schedule 2 [25]** requires an accredited certifier to refuse to issue a strata certificate if a building illustrated by a proposed strata plan or strata plan of subdivision encroaches on a public place unless satisfied that the building complies with a development consent, that any relevant subdivision consent indicates the existence of the encroachment and that the plan clearly indicates the encroachment.

**Schedule 2 [26] and [28]** make amendments consequential on the amendment made by Schedule 2 [25].

**Schedule 2 [31]** requires an accredited certifier to note a restriction on the use of a utility lot, arising from a development consent, on the strata certificate.

**Schedule 2 [32]–[34]** make amendments consequential on the amendment made by Schedule 2 [31].

**Schedule 2 [36]** requires an accredited certifier to give notice of refusal of an application for a strata certificate to the applicant.

**Schedule 2 [35] and [37]** make amendments consequential on the amendment made by Schedule 2 [36].

**Schedule 2 [38]** requires the notice of refusal to specify the grounds of refusal.

**Schedule 2 [39]** shortens the period within which an applicant to a council for a strata certificate may appeal to the Land and Environment Court from 40 days to 14 days after the relevant decision.

**Schedule 2 [42]** requires the Registrar-General to record a restriction as to the use of a utility lot, noted on a strata certificate by an accredited certifier, on a folio of the register when creating a folio for the lot.

Strata Schemes Legislation Amendment (Strata Approvals) Bill 1999

Explanatory note

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**Schedule 2 [43]** makes an amendment consequential on the amendment made by Schedule 2 [42].

**Schedule 2 [44]** makes provision of a savings and transitional nature.



New South Wales

# Strata Schemes Legislation Amendment (Strata Approvals) Bill 1999

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New South Wales

# **Strata Schemes Legislation Amendment (Strata Approvals) Bill 1999**

No. , 1999

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## **A Bill for**

An Act to amend the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986* with respect to private certification of strata plans, strata plans of subdivision and notices of conversion, and accredited certifiers; and for other purposes.

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**The Legislature of New South Wales enacts:** 1

**1 Name of Act** 2

    This Act is the *Strata Schemes Legislation Amendment (Strata Approvals) Act 1999*. 3  
4

**2 Commencement** 5

    This Act commences on a day or days to be appointed by proclamation. 6  
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**3 Amendment of Acts** 8

    The Acts specified in Schedules 1 and 2 are amended as set out in those Schedules. 9  
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<b>Schedule 1</b>	<b>Amendment of Strata Schemes (Freehold Development) Act 1973 No 68</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 5 Definitions</b>	4
	Insert in alphabetical order in section 5 (1):	5
	<i>accredited certifier</i> , in relation to a strata certificate, means a person who is accredited under section 37E in relation to those certificates.	6
		7
		8
	<i>relevant development consent</i> —see section 37B.	9
	<i>strata certificate</i> means a certificate issued under Division 4 of Part 2 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.	10
		11
		12
<b>[2]</b>	<b>Section 8 Registration of strata plans</b>	13
	Omit “certificate issued by the local council under section 37” from section 8 (2) (b).	14
		15
	Insert instead “strata certificate issued by the local council under section 37 or an accredited certifier under section 37A”.	16
		17
<b>[3]</b>	<b>Section 8A Subdivision of development lot</b>	18
	Omit “certificate issued by the local council under section 37” from section 8A (3) (a).	19
		20
	Insert instead “strata certificate issued by the local council under section 37 or an accredited certifier under section 37A”.	21
		22
<b>[4]</b>	<b>Section 9 Subdivision of lots and common property</b>	23
	Omit “certificate given by the local council” from section 9 (3) (b).	24
	Insert instead “strata certificate issued by the local council or an accredited certifier”.	25
		26
<b>[5]</b>	<b>Section 9 (3) (b) (i)</b>	27
	Insert “or section 37A (4)” after “section 37 (3)”.	28

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<b>[6] Section 9 (3) (b) (ii)</b>	1
Insert “or section 37A (5)” after “section 37 (4)”.	2
<b>[7] Section 11 Unit entitlements of lots in subdivisions involving common property</b>	3 4
Insert “or section 37A (5) (b)” after “section 37 (4) (a)” in section 11 (b).	5
<b>[8] Section 13 Conversion of lots into common property</b>	6
Omit “certificate” from section 13 (2) (a).	7
Insert instead “strata certificate”.	8
<b>[9] Section 13 (2) (a)</b>	9
Insert “or by an accredited certifier in accordance with section 37A (6)” after “section 37 (5)”.	10 11
<b>[10] Part 2, Division 4</b>	12
Omit the heading. Insert instead:	13
<b>Division 4      Strata certificates</b>	14
<b>[11] Section 37 Approval of proposed strata plans, certain subdivisions and conversions of lots into common property</b>	15 16
Omit “certificate of approval of” where firstly and secondly occurring in section 37 (1).	17 18
Insert instead “strata certificate in respect of”.	19
<b>[12] Section 37 (1) (a) (i) and (ii)</b>	20
Omit the subparagraphs. Insert instead:	21
(i)      a construction certificate has been issued under the <i>Environmental Planning and Assessment Act 1979</i> with respect to the erection of any building containing any proposed lots to which that plan relates, and	22 23 24 25 26

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(ii)	the proposed lots illustrated by that plan substantially correspond with parts of any such building shown in the building plans accompanying the construction certificate and designated in those building plans as being intended for separate occupation, and	1 2 3 4 5 6
<b>[13]</b>	<b>Section 37 (1) (a) (iii)</b>	7
	Omit “certificate of approval”. Insert instead “strata certificate”.	8
<b>[14]</b>	<b>Section 37 (1) (b) (v)</b>	9
	Omit “Order No 4 in the Table to section 124 of the <i>Local Government Act 1993</i> ”.	10 11
	Insert instead “Order No 6 in the Table to section 121B of the <i>Environmental Planning and Assessment Act 1979</i> ”.	12 13
<b>[15]</b>	<b>Section 37 (1A)</b>	14
	Omit “certificate of approval of” wherever occurring.	15
	Insert instead “strata certificate in respect of”.	16
<b>[16]</b>	<b>Section 37 (1B)</b>	17
	Omit the subsection. Insert instead:	18
	(1B) For the purposes of subsection (1) (b) (iv), the orders and provisions referred to in this subsection are as follows:	19 20
	(a) any order of the kind referred to in Orders Nos 2, 4, 8 or 9 in the Table to section 121B of the <i>Environmental Planning and Assessment Act 1979</i> ,	21 22 23
	(b) any order of the kind referred to in Orders Nos 21, 22, 23, 24 or 25 in the Table to section 124 of the <i>Local Government Act 1993</i> ,	24 25 26
	(c) provisions of regulations made under the <i>Local Government Act 1993</i> or the <i>Environmental Planning and Assessment Act 1979</i> that are prescribed for the purposes of this subsection.	27 28 29 30

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<b>[17] Section 37 (2)</b>	1
Omit “certificate of approval of”.	2
Insert instead “strata certificate in respect of”.	3
<b>[18] Section 37 (3)</b>	4
Omit “certificate of approval of”.	5
Insert instead “strata certificate in respect of”.	6
<b>[19] Section 37 (4)</b>	7
Omit “certificate of approval of”.	8
Insert instead “strata certificate in respect of”.	9
<b>[20] Section 37 (4)</b>	10
Omit “certificate of approval” where secondly occurring.	11
Insert instead “strata certificate”.	12
<b>[21] Section 37 (5)</b>	13
Omit “certificate of approval of”.	14
Insert instead “strata certificate in respect of”.	15
<b>[22] Section 37 (6)–(8)</b>	16
Insert after section 37 (5):	17
(6) Despite any other provision of this section, a council, in	18
considering an application for a strata certificate where there is	19
a relevant development consent in force, is not required to	20
satisfy itself of the following matters:	21
(a) the matters set out in subsection (1) (b) (iii) (as required	22
by subsections (1), (1A) (a), (3) (c) and (4) (b)),	23
(b) the matters set out in subsection (3) (b),	24
(c) the matters set out in subsection (5) (b).	25

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(7) Despite any other provision of this section, a local council must not grant a strata certificate in respect of a proposed strata plan, strata plan of subdivision or notice of conversion for which no relevant development consent is in force or is required unless it has considered the following:	1 2 3 4 5
(a) whether the following will be appropriate to the building's proposed use:	6 7
(i) the structural strength and load-bearing capacity of the building the subject of the plan or notice,	8 9
(ii) the measures to protect persons using the building, and to facilitate their egress from the building, in the event of fire,	10 11 12
(iii) the measures to restrict the spread of fire from the building to other buildings nearby,	13 14
(b) whether the building complies, or will, when completed, comply, with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.	15 16 17 18
(8) In subsection (7):	19
<i>Category 1 fire safety provisions</i> means the provisions prescribed for the purposes of this section by the regulations.	20 21 22
<b>[23] Sections 37A–37F</b>	23
Insert after section 37:	24
<b>37A Approvals by accredited certifiers</b>	25
(1) An accredited certifier may issue a strata certificate in respect of a proposed strata plan, proposed strata plan of subdivision or proposed notice of conversion in accordance with this section.	26 27 28
(2) An accredited certifier must issue a strata certificate in respect of a proposed strata plan that does not include a development lot or lots if the certifier is satisfied as to each of the following matters:	29 30 31 32
(a) that there is a relevant development consent in force,	33

- (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with, 1  
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  - (c) the matters specified in section 37 (1) (a) or (1) (b) (i), (ii), (iv), (v) and (vi). 5  
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- (3) An accredited certifier must issue a strata certificate in respect of a proposed strata plan that includes a development lot or development lots, or in respect of a proposed strata plan of subdivision of a development lot, if the certifier is satisfied as to each of the following matters: 7  
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11
  - (a) that there is a relevant development consent in force, 12
  - (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with, 13  
14  
15  
16
  - (c) the matters specified in section 37 (1) (a) or (1) (b) (i), (ii), (iv), (v) and (vi), 17  
18
  - (d) the matters specified in section 37 (1A) (b). 19
- (4) An accredited certifier must issue a strata certificate in respect of a plan illustrating a proposed subdivision (not being a proposed subdivision of a development lot) referred to in section 5 (7) (a) if the certifier is satisfied as to each of the following matters: 20  
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22  
23  
24
  - (a) that there is a relevant development consent in force, 25
  - (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with, 26  
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  - (c) that the body corporate concerned has certified that by resolution passed at a general meeting it agrees to the proposed subdivision, 30  
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  - (d) the matters specified in section 37 (1) (b) (i) and (ii) (as if the reference in section 37 (1) (b) to a plan were a reference to the plan to which the application for certification relates). 33  
34  
35  
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- (5) An accredited certifier must issue a strata certificate in respect of a plan illustrating a proposed subdivision (not being a proposed subdivision of a development lot) referred to in section 5 (7) (b), (c) or (d) if the certifier is satisfied as to each of the following matters:
- (a) that there is a relevant development consent in force,
  - (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with,
  - (c) that the body corporate concerned has certified that by special resolution passed by the body corporate it agrees to the proposed subdivision,
  - (d) the matters specified in section 37 (1) (b) (i) and (ii) (as if the reference in section 37 (1) (b) to a plan were a reference to the plan illustrating the proposed subdivision).
- (6) An accredited certifier must issue a strata certificate in respect of a proposed notice of conversion if the certifier is satisfied as to each of the following matters:
- (a) that there is a relevant development consent in force,
  - (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with,
  - (c) that the body corporate concerned has certified that by special resolution passed by the body corporate it agrees to the proposed conversion.
- (7) Despite any other provision of this section, a strata certificate must not be issued by an accredited certifier unless the certifier is satisfied that the requirements of any regulations with respect to the provision of such certificates have been complied with.
- (8) For the purposes of being satisfied of the matters in section 37 (1) (a) (iii), an accredited certifier must be satisfied that the building was completed not more than 12 months before the application for the strata certificate was made.

<b>37B</b>	<b>Relevant development consents</b>	1
(1)	For the purposes of this Act, a relevant development consent is in force in relation to a proposed strata plan or strata plan of subdivision if:	2 3 4
(a)	development consent is required to the subdivision the subject of the proposed strata plan or strata plan of subdivision and the development consent has been granted, or	5 6 7 8
(b)	such development consent is not required but development consent is required with respect to the building concerned and development consent has been granted to building work in respect of a building, or a change of use of a building, having proposed lots designed for separate occupation as illustrated by the plan,	9 10 11 12 13 14 15
	and the development consent has not lapsed.	16
(2)	For the purposes of this Act, a relevant development consent is in force in relation to a notice of conversion if:	17 18
(a)	development consent is required to the conversion the subject of the notice and the development consent has been granted, or	19 20 21
(b)	such development consent is not required but development consent is required with respect to a change of use or building work associated with the conversion and the development consent has been granted,	22 23 24 25 26
	and the development consent has not lapsed.	27
<b>37C</b>	<b>Regulations</b>	28
	The regulations may make provision for or with respect to the following matters:	29 30
(a)	applications for and the issue of strata certificates,	31
(b)	the matters to be notified by accredited certifiers to local councils with respect to strata certificates,	32 33

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(c)	the records to be kept by accredited certifiers and local councils with respect to strata certificates issued, or refused, by accredited certifiers.	1 2 3
<b>37D</b>	<b>Satisfaction as to compliance with conditions precedent to issue of strata certificates</b>	4 5
(1)	A person who exercises functions under this or any other Act in reliance on a strata certificate issued under this Act is entitled to assume:	6 7 8
(a)	that the certificate has been duly issued, and	9
(b)	that all conditions precedent to the issue of the certificate have been duly complied with, and	10 11
(c)	that all things that are stated in the certificate as existing or having been done do exist or have been done,	12 13
	and is not liable for any loss or damage arising from any matter in respect of which the certificate has been issued.	14 15
(2)	This section does not apply to an accredited certifier in relation to any strata certificate that he or she has issued.	16 17
<b>37E</b>	<b>Accreditation of certifiers</b>	18
(1)	Part 4B of the <i>Environmental Planning and Assessment Act 1979</i> applies, with any necessary modifications and any modifications prescribed by the regulations, in respect of the following:	19 20 21 22
(a)	the appointment and accreditation of accredited certifiers for the purposes of this Act,	23 24
(b)	accredited certifiers,	25
(c)	the authorisation of accreditation bodies,	26
(d)	accreditation bodies,	27
(e)	the exercise of functions under this Act by accredited certifiers.	28 29
(2)	Without limiting subsection (1), Part 4B of the <i>Environmental Planning and Assessment Act 1979</i> applies to a strata certificate in the same way as it applies to a Part 4A certificate under that Act.	30 31 32 33

<b>37F Insurance of accredited certifiers</b>	1
Division 3 of Part 4C of the <i>Environmental Planning and Assessment Act 1979</i> applies, with any necessary modifications and any modifications prescribed by the regulations, to accredited certifiers exercising functions under this Act in the same way that it applies to accredited certifiers exercising the functions of a certifying authority in relation to any building work or subdivision work.	2 3 4 5 6 7 8
<b>[24] Section 38 Encroachments</b>	9
Omit “approve of” from section 38 (1).	10
Insert instead “issue a strata certificate in respect of”.	11
<b>[25] Section 38 (1A)</b>	12
Insert after section 38 (1):	13
(1A) An accredited certifier must refuse to issue a strata certificate in respect of a proposed strata plan or strata plan of subdivision if any building illustrated by that plan encroaches on to a public place unless the certifier is satisfied as to the matters set out in paragraph (a) or (b) and the matters set out in paragraph (c):	14 15 16 17 18
(a) that the building complies with any relevant development consent in force with respect to the building with the encroachment,	19 20 21
(b) that any relevant development consent in force with respect to the subdivision the subject of the plan specifies the existence of the encroachment,	22 23 24
(c) that the plan clearly indicates the existence of the encroachment and its nature and extent.	25 26
<b>[26] Section 38 (2)</b>	27
Omit “proposed strata plan or strata plan of subdivision illustrating a building referred to in subsection (1) has been approved by the local council”.	28 29 30
Insert instead “local council or an accredited certifier issues a strata certificate in respect of a proposed strata plan or a strata plan of subdivision illustrating a building referred to in subsection (1) or (1A)”.	31 32 33

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<b>[27] Section 38 (2) (a)</b>	1
Omit “the local council shall not issue a certificate of approval”.	2
Insert instead “in the case of an approval by a local council, the council must not issue a strata certificate”.	3 4
<b>[28] Section 38 (2) (a1)</b>	5
Insert after section 38 (2) (a):	6
(a1) in the case of an approval by an accredited certifier, the accredited certifier must not issue a strata certificate under section 37A (2), (3), (4) or (5) unless the certificate refers to the existence of the encroachment and indicates that:	7 8 9 10 11
(i) the local council has granted a relevant development consent that is in force for the building with the encroachment, or	12 13 14
(ii) the local council has granted a relevant development consent that is in force for the subdivision the subject of the plan specifying the existence of the encroachment, and	15 16 17 18
<b>[29] Section 39 Utility lots</b>	19
Omit “its approval” from section 39 (1).	20
Insert instead “the issue of a strata certificate”.	21
<b>[30] Section 39 (1)</b>	22
Omit “certificate of approval”.	23
Insert instead “strata certificate”.	24

Strata Schemes Legislation Amendment (Strata Approvals) Bill 1999

Schedule 1      Amendment of Strata Schemes (Freehold Development) Act 1973  
No 68

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<b>[31] Section 39 (1A)</b>	1
Insert after section 39 (1):	2
(1A) If the registration of a plan submitted to an accredited certifier for issue of a strata certificate would result in the creation of one or more utility lots as referred to in subsection (1) and the relevant development consent contains a condition restricting the use of that utility lot or those utility lots to use by a proprietor or occupier of a lot or proposed lot, not being such a utility lot, the certifier must note the restriction on the strata certificate.	3 4 5 6 7 8 9 10
<b>[32] Section 39 (2)</b>	11
Insert “or noted under subsection (1A)” after “subsection (1)”.	12
<b>[33] Section 39 (3)</b>	13
Insert “or in a development consent referred to in subsection (1A)” after “subsection (1)”.	14 15
<b>[34] Section 39 (4)</b>	16
Insert “or (1A)” after “subsection (1)”.	17
<b>[35] Section 40 Notices of and appeals against refusal of approval</b>	18
Omit “for a certificate of approval of” from section 40 (1).	19
Insert instead “or an accredited certifier for a strata certificate in respect of”.	20
<b>[36] Section 40 (2)</b>	21
Insert “or an accredited certifier” after “council”.	22
<b>[37] Section 40 (2)</b>	23
Omit “its”. Insert instead “the”.	24

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<b>[38] Section 40 (2A)</b>	1
Insert after section 40 (2):	2
(2A) A notice of refusal by an accredited certifier to approve of an application must specify the grounds of refusal.	3 4
<b>[39] Section 40 (4)</b>	5
Omit “forty days” wherever occurring.	6
Insert instead “14 days”.	7
<b>[40] Section 40 (4) (b)</b>	8
Omit “certificate of approval”.	9
Insert instead “strata certificate”.	10
<b>[41] Section 44 Recording of condition restricting use imposed by local council</b>	11 12
Insert “strata” before “certificate” in section 44 (1).	13
<b>[42] Section 44 (1A)</b>	14
Insert after section 44 (1):	15
(1A) If a strata certificate issued by an accredited certifier under section 37A is qualified by noting, in accordance with section 39, a condition restricting the use of a lot, the Registrar-General must, when creating a folio of the Register for the lot, suitably record the condition in the folio.	16 17 18 19 20
<b>[43] Section 44 (2)</b>	21
Insert “or (1A)” after “subsection (1)”.	22

<b>[44] Schedule 4 Transitional and savings provisions</b>	1
Insert after Part 3:	2
<b>Part 4 Transitional provisions relating to the Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</b>	3
	4
	5
<b>1 Regulations</b>	6
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the <i>Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</i> .	7
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(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	10
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(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	13
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(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	16
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(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	19
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	21
<b>2 Application to existing developments</b>	22
(1) The amendments made to this Act by the <i>Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</i> do not apply to any proposed strata plan, strata plan of subdivision or notice of conversion in respect of which an application for development consent was lodged before the commencement of this clause.	23
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(2) For the purposes of satisfying section 37 (1) (a) (i), as amended by the <i>Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</i> , it is sufficient if the provisions of that subparagraph as in force immediately before that amendment are satisfied in respect of a building.	29
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**3 References to approvals under section 37**

A reference in any Act (other than in this clause) or in any instrument made under any Act or in any instrument of any kind to:

- (a) an approval under section 37, or
- (b) a certificate of approval under section 37,

is to be read as a reference to a strata certificate issued under section 37 or 37A.

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<b>Schedule 2</b>	<b>Amendment of Strata Schemes (Leasehold Development) Act 1986 No 219</b>	1
		2
	(Section 3)	3
<b>[1]</b>	<b>Section 4 Definitions</b>	4
	Insert in alphabetical order in section 4 (1):	5
	<i>accredited certifier</i> , in relation to a strata certificate, means a person who is accredited under section 66E in relation to those certificates.	6
		7
		8
	<i>relevant development consent</i> —see section 66B.	9
	<i>strata certificate</i> means a certificate issued under Division 7 of Part 2 that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.	10
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		12
<b>[2]</b>	<b>Section 7 Registration of strata plans</b>	13
	Omit “certificate issued by the local council under section 66” from section 7 (2A) (b).	14
		15
	Insert instead “strata certificate issued by the local council under section 66 or an accredited certifier under section 66A”.	16
		17
<b>[3]</b>	<b>Section 10 Subdivision of development lot</b>	18
	Omit “certificate issued by the local council under section 66” from section 10 (3) (a).	19
		20
	Insert instead “strata certificate issued by the local council under section 66 or an accredited certifier under section 66A”.	21
		22
<b>[4]</b>	<b>Section 11 Subdivision of lots and common property</b>	23
	Omit “certificate given by the local council” from section 11 (2) (b).	24
	Insert instead “strata certificate issued by the local council or an accredited certifier”.	25
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<b>[5]</b>	<b>Section 11(2) (b) (i)</b>	27
	Insert “or section 66A (4)” after “section 66 (4)”.	28

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<b>[6] Section 11 (2) (b) (ii)</b>	1
Insert “or section 66A (5)” after “section 66 (5)”.	2
<b>[7] Section 14 Unit entitlement of lots in subdivision involving common property</b>	3 4
Insert “or section 66A (5) (b)” after “section 66 (5) (a)” in section 14 (b).	5
<b>[8] Section 16 Conversion of lots into common property</b>	6
Omit “certificate” from section 16 (2) (a).	7
Insert instead “strata certificate”.	8
<b>[9] Section 16 (2) (a)</b>	9
Insert “or by an accredited certifier in accordance with section 66A (6)” after “section 66 (6)”.	10 11
<b>[10] Part 2, Division 7</b>	12
Omit the heading. Insert instead:	13
<b>Division 7           Strata certificates</b>	14
<b>[11] Section 66 Approval of proposed strata plans, certain subdivisions and conversions of lots into common property</b>	15 16
Omit “certificate of approval of ” where firstly and secondly occurring in section 66 (1).	17 18
Insert instead “strata certificate in respect of”.	19
<b>[12] Section 66 (1) (a) (i) and (ii)</b>	20
Omit the subparagraphs. Insert instead:	21
(i) a construction certificate has been issued under the <i>Environmental Planning and Assessment Act 1979</i> with respect to the erection of any building containing any proposed lots to which that plan relates, and	22 23 24 25 26

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(ii)	the proposed lots illustrated by that plan substantially correspond with parts of any such building shown in the building plans accompanying the construction certificate and designated in those building plans as being intended for separate occupation, and	1 2 3 4 5 6
<b>[13]</b>	<b>Section 66 (1) (a) (iii)</b>	7
	Omit “certificate of approval”. Insert instead “strata certificate”.	8
<b>[14]</b>	<b>Section 66 (1) (b) (v) and (c) (v)</b>	9
	Omit “Order No 4 in the Table to section 124 of the <i>Local Government Act 1993</i> ” wherever occurring.	10 11
	Insert instead “Order No 6 in the Table to section 121B of the <i>Environmental Planning and Assessment Act 1979</i> ”.	12 13
<b>[15]</b>	<b>Section 66 (1A)</b>	14
	Omit the subsection. Insert instead:	15
	(1A) For the purposes of subsection (1) (b) (iv) and (c) (iv), the orders and provisions referred to in this subsection are as follows:	16 17 18
	(a) any order of the kind referred to in Orders Nos 2, 4, 8 or 9 in the Table to section 121B of the <i>Environmental Planning and Assessment Act 1979</i> ,	19 20 21
	(b) any order of the kind referred to in Orders Nos 21, 22, 23, 24 or 25 in the Table to section 124 of the <i>Local Government Act 1993</i> ,	22 23 24
	(c) provisions of regulations made under the <i>Local Government Act 1993</i> or the <i>Environmental Planning and Assessment Act 1979</i> that are prescribed for the purposes of this subsection.	25 26 27 28
<b>[16]</b>	<b>Section 66 (2)</b>	29
	Omit “certificate of approval of” wherever occurring.	30
	Insert instead “strata certificate in respect of”.	31

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<b>[17] Section 66 (3)</b>	1
Omit “certificate of approval of”.	2
Insert instead “strata certificate in respect of”.	3
<b>[18] Section 66 (4)</b>	4
Omit “certificate of approval of”.	5
Insert instead “strata certificate in respect of”.	6
<b>[19] Section 66 (5)</b>	7
Omit “certificate of approval of”.	8
Insert instead “strata certificate in respect of”.	9
<b>[20] Section 66 (5)</b>	10
Omit “certificate of approval” where secondly occurring.	11
Insert instead “strata certificate”.	12
<b>[21] Section 66 (6)</b>	13
Omit “certificate of approval of”.	14
Insert instead “strata certificate in respect of”.	15
<b>[22] Section 66 (7)–(9)</b>	16
Insert after section 66 (6):	17
(7) Despite any other provision of this section, a council, in	18
considering an application for a strata certificate where there is	19
a relevant development consent in force, is not required to	20
satisfy itself of the following matters:	21
(a) the matters set out in subsection (1) (b) (iii) or (1) (c)	22
(iii) (as required by subsections (1), (2) (a), (4) (c) and	23
(5) (b)),	24
(b) the matters set out in subsection (4) (b),	25
(c) the matters set out in subsection (6) (b).	26

(8) Despite any other provision of this section, a local council must not grant a strata certificate in respect of a proposed strata plan, strata plan of subdivision or notice of conversion for which no relevant development consent is in force or is required unless it has considered the following:	1
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(a) whether the following will be appropriate to the building's proposed use:	6
	7
(i) the structural strength and load-bearing capacity of the building the subject of the plan or notice,	8
	9
(ii) the measures to protect persons using the building, and to facilitate their egress from the building, in the event of fire,	10
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	12
(iii) the measures to restrict the spread of fire from the building to other buildings nearby,	13
	14
(b) whether the building complies, or will, when completed, comply, with such of the Category 1 fire safety provisions as are applicable to the building's proposed use.	15
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(9) In subsection (8):	19
<i>Category 1 fire safety provisions</i> means the provisions prescribed for the purposes of this section by the regulations.	20
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<b>[23] Sections 66A–66F</b>	22
Insert after section 66:	23
<b>66A Approvals by accredited certifiers</b>	24
(1) An accredited certifier may issue a strata certificate in respect of a proposed strata plan, proposed strata plan of subdivision or proposed notice of conversion in accordance with this section.	25
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(2) An accredited certifier must issue a strata certificate in respect of a proposed strata plan that does not include a development lot or lots if the certifier is satisfied as to each of the following matters:	28
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(a) that there is a relevant development consent in force,	32
(b) that all conditions of the development consent that, by its terms, are required to be complied with before a	33
	34

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- strata certificate may be issued have been complied with, 1  
2
- (c) the matters specified in section 66 (1) (a) or either of 3  
section 66 (1) (b) (i), (ii), (iv), (v) and (vi) or (1) (c) (i), 4  
(ii), (iv), (v) and (vi). 5
- (3) An accredited certifier must issue a strata certificate in respect 6  
of a proposed strata plan that includes a development lot or 7  
development lots, or in respect of a proposed strata plan of 8  
subdivision of a development lot, if the certifier is satisfied as 9  
to each of the following matters: 10
- (a) that there is a relevant development consent in force, 11
- (b) that all conditions of the development consent that, by 12  
its terms, are required to be complied with before a 13  
strata certificate may be issued have been complied 14  
with, 15
- (c) the matters specified in section 66 (1) (a) or either of 16  
section 66 (1) (b) (i), (ii), (iv), (v) and (vi) or (1) (c) (i), 17  
(ii), (iv), (v) and (vi), 18
- (d) the matters specified in section 66 (2) (b). 19
- (4) An accredited certifier must issue a strata certificate in respect 20  
of a plan illustrating a proposed subdivision (not being a 21  
proposed subdivision of a development lot) referred to in 22  
section 4 (7) (a) if the certifier is satisfied as to each of the 23  
following matters: 24
- (a) that there is a relevant development consent in force, 25
- (b) that all conditions of the development consent that, by 26  
its terms, are required to be complied with before a 27  
strata certificate may be issued have been complied 28  
with, 29
- (c) that the body corporate concerned has certified that by 30  
resolution passed at a general meeting it agrees to the 31  
proposed subdivision, 32
- (d) the matters specified in section 66 (1) (b) (i) and (ii) or 33  
(1) (c) (i) and (ii) (as if the reference in section 66 (1) 34  
(b) or (c) to a plan were a reference to the plan to which 35  
the application for certification relates). 36

- (5) An accredited certifier must issue a strata certificate in respect of a plan illustrating a proposed subdivision (not being a proposed subdivision of a development lot) referred to in section 4 (7) (b), (c) or (d) if the certifier is satisfied as to each of the following matters:
- (a) that there is a relevant development consent in force,
  - (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with,
  - (c) that the body corporate concerned has certified that by special resolution passed by the body corporate it agrees to the proposed subdivision,
  - (d) the matters specified in section 66 (1) (b) (i) and (ii) or (1) (c) (i) and (ii) (as if the reference in section 66 (1) (b) or (c) to a plan were a reference to the plan illustrating the proposed subdivision).
- (6) An accredited certifier must issue a strata certificate in respect of a proposed notice of conversion if the certifier is satisfied as to each of the following matters:
- (a) that there is a relevant development consent in force,
  - (b) that all conditions of the development consent that, by its terms, are required to be complied with before a strata certificate may be issued have been complied with,
  - (c) that the body corporate concerned has certified that by special resolution passed by the body corporate it agrees to the proposed conversion.
- (7) Despite any other provision of this section, a strata certificate must not be issued by an accredited certifier unless the certifier is satisfied that the requirements of any regulations with respect to the provision of such certificates have been complied with.
- (8) For the purposes of being satisfied of the matters in section 66 (1) (a) (iii), an accredited certifier must be satisfied that the building was completed not more than 12 months before the application for the strata certificate was made.



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<b>66B</b>	<b>Relevant development consents</b>	1
(1)	For the purposes of this Act, a relevant development consent is in force in relation to a proposed strata plan or strata plan of subdivision if:	2
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(a)	development consent is required to the subdivision the subject of the proposed strata plan or strata plan of subdivision and the development consent has been granted, or	5
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(b)	such development consent is not required but development consent is required with respect to the building concerned and development consent has been granted to building work in respect of a building, or a change of use of a building, having proposed lots designed for separate occupation as illustrated by the plan,	9
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	and the development consent has not lapsed.	16
(2)	For the purposes of this Act, a relevant development consent is in force in relation to a notice of conversion if:	17
		18
(a)	development consent is required to the conversion the subject of the notice and the development consent has been granted, or	19
		20
		21
(b)	such development consent is not required but development consent is required with respect to a change of use or building work associated with the conversion and the development consent has been granted,	22
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	and the development consent has not lapsed.	27
<b>66C</b>	<b>Regulations</b>	28
	The regulations may make provision for or with respect to the following matters:	29
		30
(a)	applications for and the issue of strata certificates,	31
(b)	the matters to be notified by accredited certifiers to local councils with respect to strata certificates,	32
		33

(c)	the records to be kept by accredited certifiers and local councils with respect to strata certificates issued, or refused, by accredited certifiers.	1 2 3
<b>66D</b>	<b>Satisfaction as to compliance with conditions precedent to issue of strata certificates</b>	4 5
(1)	A person who exercises functions under this or any other Act in reliance on a strata certificate issued under this Act is entitled to assume:	6 7 8
(a)	that the certificate has been duly issued, and	9
(b)	that all conditions precedent to the issue of the certificate have been duly complied with, and	10 11
(c)	that all things that are stated in the certificate as existing or having been done do exist or have been done,	12 13
	and is not liable for any loss or damage arising from any matter in respect of which the certificate has been issued.	14 15
(2)	This section does not apply to an accredited certifier in relation to any strata certificate that he or she has issued.	16 17
<b>66E</b>	<b>Accreditation of certifiers</b>	18
(1)	Part 4B of the <i>Environmental Planning and Assessment Act 1979</i> applies, with any necessary modifications and any modifications prescribed by the regulations, in respect of the following:	19 20 21 22
(a)	the appointment and accreditation of accredited certifiers for the purposes of this Act,	23 24
(b)	accredited certifiers,	25
(c)	the authorisation of accreditation bodies,	26
(d)	accreditation bodies,	27
(e)	the exercise of functions under this Act by accredited certifiers.	28 29
(2)	Without limiting subsection (1), Part 4B of the <i>Environmental Planning and Assessment Act 1979</i> applies to a strata certificate in the same way as it applies to a Part 4A certificate under that Act.	30 31 32 33

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<b>66F Insurance of accredited certifiers</b>	1
Division 3 of Part 4C of the <i>Environmental Planning and Assessment Act 1979</i> applies, with any necessary modifications and any modifications prescribed by the regulations, to accredited certifiers exercising functions under this Act in the same way that it applies to accredited certifiers exercising the functions of a certifying authority in relation to any building work or subdivision work.	2 3 4 5 6 7 8
<b>[24] Section 67 Encroachments</b>	9
Omit “approve of” from section 67 (1).	10
Insert instead “issue a strata certificate in respect of”.	11
<b>[25] Section 67 (1A)</b>	12
Insert after section 67 (1):	13
(1A) An accredited certifier must refuse to issue a strata certificate in respect of a proposed strata plan or strata plan of subdivision if any building illustrated by that plan encroaches on to a public place unless the certifier is satisfied as to the matters set out in paragraph (a) or (b) and the matters set out in paragraph (c):	14 15 16 17 18 19
(a) that the building complies with any relevant development consent in force with respect to the building,	20 21 22
(b) that any relevant development consent in force with respect to the subdivision the subject of the plan specifies the existence of the encroachment,	23 24 25
(c) that the plan clearly indicates the existence of the encroachment and its nature and extent.	26 27
<b>[26] Section 67 (2)</b>	28
Omit “proposed strata plan or strata plan of subdivision illustrating a building referred to in subsection (1) has been approved by the local council”.	29 30 31

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Insert instead “local council or an accredited certifier issues a strata certificate in respect of a proposed strata plan or a strata plan of subdivision illustrating a building referred to in subsection (1) or (1A)”.	1 2 3
<b>[27] Section 67 (2) (a)</b>	4
Omit “the local council shall not issue a certificate of approval”.	5
Insert instead “in the case of an approval by a local council, the local council must not issue a strata certificate”.	6 7
<b>[28] Section 67 (2) (a1)</b>	8
Insert after section 67 (2) (a):	9
(a1) in the case of an approval by an accredited certifier, the accredited certifier must not issue a strata certificate under section 66A (2), (3), (4) or (5) unless the certificate refers to the existence of the encroachment and indicates:	10 11 12 13 14
(i) the local council has granted a relevant development consent that is in force for the building with the encroachment, or	15 16 17
(ii) a relevant development consent that is in force for the subdivision the subject of the plan specifying the existence of the encroachment, and	18 19 20 21
<b>[29] Section 68 Utility lots</b>	22
Omit “its approval” from section 68 (1).	23
Insert instead “the issue of a strata certificate”.	24
<b>[30] Section 68 (1)</b>	25
Omit “certificate of approval”.	26
Insert instead “strata certificate”.	27

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<b>[31] Section 68 (1A)</b>	1
Insert after section 68 (1):	2
(1A) If the registration of a plan submitted to an accredited certifier for issue of a strata certificate would result in the creation of one or more utility lots as referred to in subsection (1) and the relevant development consent contains a condition restricting the use of that utility lot or those utility lots to use by a proprietor or occupier of a lot or proposed lot, not being such a utility lot, the certifier must note the restriction on the strata certificate.	3 4 5 6 7 8 9 10
<b>[32] Section 68 (2)</b>	11
Insert “or noted under subsection (1A)” after “subsection (1)”.	12
<b>[33] Section 68 (3)</b>	13
Insert “or in a development consent referred to in subsection (1A)” after “subsection (1)”.	14 15
<b>[34] Section 68 (4)</b>	16
Insert “or (1A)” after “subsection (1)”.	17
<b>[35] Section 69 Notices of and appeals against refusal of approval</b>	18
Omit “for a certificate of approval of” from section 69 (1).	19
Insert instead “or an accredited certifier for a strata certificate in respect of”.	20
<b>[36] Section 69 (2)</b>	21
Insert “or an accredited certifier” before “to which”.	22
<b>[37] Section 69 (2)</b>	23
Omit “its”. Insert instead “the”.	24

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<b>[38] Section 69 (2A)</b>	1
Insert after section 69 (2):	2
(2A) A notice of refusal by an accredited certifier to approve of an application must specify the grounds of refusal.	3 4
<b>[39] Section 69 (4)</b>	5
Omit “40 days” wherever occurring. Insert instead “14 days”.	6
<b>[40] Section 69 (4) (b)</b>	7
Omit “certificate of approval”. Insert instead “strata certificate”.	8
<b>[41] Section 73 Recording of condition restricting use imposed by local council</b>	9 10
Insert “strata” before “certificate” in section 73 (1).	11
<b>[42] Section 73 (1A)</b>	12
Insert after section 73 (1):	13
(1A) If a strata certificate issued by an accredited certifier under section 66A is qualified by noting, in accordance with section 68, a condition restricting the use of a lot, the Registrar-General must, when creating a folio of the Register for the lot, suitably record the condition in the folio.	14 15 16 17 18
<b>[43] Section 73 (2)</b>	19
Insert “or (1A)” after “subsection (1)”.	20

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<b>[44] Schedule 5 Transitional and savings provisions</b>	1
Insert after Part 2:	2
<b>Part 3 Provisions relating to the Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</b>	3 4 5
<b>1 Regulations</b>	6
(1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the <i>Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</i> .	7 8 9
(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.	10 11 12
(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:	13 14 15
(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or	16 17 18
(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.	19 20 21
<b>2 Application to existing developments</b>	22
(1) The amendments made to this Act by the <i>Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</i> do not apply to any proposed strata plan, strata plan of subdivision or notice of conversion in respect of which an application for development consent was lodged before the commencement of this clause.	23 24 25 26 27 28
(2) For the purposes of satisfying section 66 (1) (a) (i), as amended by the <i>Strata Schemes Legislation Amendment (Strata Approvals) Act 1999</i> , it is sufficient if the provisions of that subparagraph as in force immediately before that amendment are satisfied in respect of a building.	29 30 31 32 33

<b>3</b>	<b>References to approvals under section 66</b>	1
	A reference in any Act (other than in this clause) or in any instrument made under any Act or in any instrument of any kind to:	2
		3
		4
	(a) an approval under section 66, or	5
	(b) a certificate of approval under section 66,	6
	is to be read as a reference to a strata certificate issued under section 66 or 66A.	7
		8