



New South Wales

# Strata Schemes Development Bill 2015

## Explanatory note

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

This Bill is cognate with the *Strata Schemes Management Bill 2015*.

## Overview of Bill

The object of this Bill is to provide for matters relating to freehold strata schemes and leasehold strata schemes that are currently provided for under the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*. The main objects of the proposed Act are stated in clause 3 as being to provide for:

- (a) the subdivision of land, including buildings, into cubic spaces to create freehold strata schemes and leasehold strata schemes, and
- (b) the way in which lots and common property in strata schemes may be dealt with, and
- (c) the variation, termination and renewal of strata schemes.

The Bill generally re-enacts, with changes, the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*. The Bill also provides for a process to facilitate the renewal of particular freehold strata schemes by way of a collective sale or a redevelopment of the schemes.

## Outline of provisions

### Part 1 Preliminary

#### Division 1 Introduction

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** states the main objects of the proposed Act as mentioned in the overview.

## **Division 2 Interpretation**

**Clause 4** defines certain words and expressions used in the proposed Act.

**Clause 5** provides that land is contiguous to other land even if it is divided by, or separated from the other land by, a natural feature or other specified things.

**Clause 6** provides for how the boundaries of a lot shown on a floor plan are determined for the purposes of the proposed Act.

**Clause 7** defines *subdivision* of a lot or common property for the purposes of the proposed Act.

**Clause 8** provides for how the proposed Act relates to the *Real Property Act 1900*, including that the proposed Act is to be read and interpreted with the *Real Property Act 1900* as if it formed part of that Act.

## **Part 2 Creation of lots and common property in strata schemes**

### **Division 1 Strata plans**

**Clause 9** provides that specified land may be subdivided into lots, or lots and common property, by the registration of a plan as a strata plan. This clause further provides that land subject to a lease or leases may be subdivided for the purpose of creating a leasehold strata scheme, and that a development lot cannot be subdivided under the clause.

**Clause 10** specifies general requirements for a plan intended to be registered as a strata plan, including the requirements of an administration sheet that must be included with the plan. This clause further provides that the Registrar-General may refuse to register a proposed strata plan if the Registrar-General considers that the boundaries of the land over which the plan is to be registered are not sufficiently defined under Division 3 of Part 23 of the *Conveyancing Act 1919*.

**Clause 11** provides that the Registrar-General must not register a proposed strata plan for a leasehold strata scheme unless specified requirements for separate leases relating to the lots and common property in the proposed strata scheme have been met. This clause further provides that if a plan lodged for registration as a strata plan for a leasehold strata scheme is required to be accompanied by a lease or leases to be registered under the *Real Property Act 1900*, the plan is taken to have been registered only when the lease or leases are registered.

**Clause 12** provides for matters in relation to leases for a proposed leasehold strata scheme, including the determination of particular leases of land in the proposed scheme.

### **Division 2 Strata plans of subdivision and consolidation**

**Clause 13** provides that a lot (other than a development lot) or particular common property may be subdivided by the registration of a plan as a strata plan of subdivision. This clause specifies general requirements for a plan intended to be registered as a strata plan of subdivision, including the requirements of an administration sheet that must be included with the plan. This clause also specifies restrictions on the registration of a strata plan of subdivision under the clause if land comprised in the plan is held by the original owner of the strata scheme, and provides that particular by-laws affecting common property that is intended to be subdivided must be repealed or amended.

**Clause 14** provides that a development lot may be subdivided by the registration of a plan as a strata plan of subdivision. This clause specifies general requirements for a plan intended to be registered as a strata plan of subdivision, including the requirements of an administration sheet that must be included with the plan.

**Clause 15** provides that 2 or more lots may be consolidated into one lot by a strata plan of consolidation. This clause specifies general requirements for a plan intended to be registered as a strata plan of consolidation, including the requirements of an administration sheet that must be included with the plan. This clause also provides that any common property in a wall, floor or ceiling that is a boundary between any lots being consolidated vests in the owner of the consolidated lot on registration of the plan if the owners corporation of the strata scheme has, by special resolution, agreed to the consolidation and has signed the plan.

**Clause 16** provides for matters in relation to leases on the registration of a strata plan of subdivision or consolidation for a leasehold strata scheme, including the determination of particular leases. This clause further provides if a plan lodged for registration as a strata plan of subdivision for a leasehold strata scheme is required to be accompanied by a lease or leases to be registered under the *Real Property Act 1900*, the plan is taken to have been registered only when the lease or leases are registered.

### **Division 3 Notices of conversion**

**Clause 17** provides that one or more lots may be converted into common property by the registration of a notice as a notice of conversion, if the owners corporation of the strata scheme has, by special resolution, authorised the proposed conversion. This clause specifies requirements for a notice intended to be registered as a notice of conversion, and specifies restrictions on its registration, including a restriction if part or all of the land to be converted is held by the original owner.

**Clause 18** provides for the determination of a lease of a lot converted into common property on registration of a notice of conversion for a leasehold strata scheme, and for the vesting of the lot in the owners corporation as lessee.

### **Division 4 Building alteration plans**

**Clause 19** provides that, if a building of a strata scheme is altered in specified ways affecting a lot in the scheme, the owner of the lot must lodge a plan for registration as a building alteration plan relating to the lot. This clause also specifies requirements for a plan intended to be registered as a building alteration plan, including the requirements of an administration sheet that must be included with the plan.

**Clause 20** provides that, on registration of a building alteration plan showing an encroachment onto a public place, the Registrar-General is to give a copy of the plan to the relevant local council.

### **Division 5 Additional requirements for registration of plans and notices**

**Clause 21** provides that the Registrar-General may refuse to register a proposed strata plan of subdivision, strata plan of consolidation, building alteration plan or notice of conversion unless it is accompanied by a certificate of title comprising the common property in the relevant strata scheme.

**Clause 22** specifies who is required to sign, and who the Registrar-General may require to sign, plans lodged for registration as a strata plan, strata plan of subdivision, strata plan of consolidation or building alteration plan. This clause also provides that the Registrar-General may waive the requirement for a person to sign a plan.

### **Division 6 Common property**

**Clause 23** provides that common property may be dealt with only in accordance with the proposed Act and the *Strata Schemes Management Act 2015*.

**Clause 24** provides for matters relating to common property in a strata scheme, including its vesting in the owners corporation, on its creation by registration of a strata plan, strata plan of subdivision or notice of conversion, and that the Registrar-General is to create a folio for the estate or interest of the owners corporation in the common property. This clause also provides that the creation of the folio does not affect a right or remedy exercisable otherwise than in relation to

common property by specified persons even if they signed or consented to the registration of the plan or signed the notice.

**Clause 25** specifies the circumstances in which an owners corporation of any strata scheme may accept a lease or sublease, or a transfer of a lease or sublease, of land (an *accepted lease or sublease*) for the purpose of creating or creating additional common property in the strata scheme, and specifies the circumstances in which an owners corporation of a freehold strata scheme may accept a transfer of land for the purpose of creating or creating additional common property in the strata scheme. This clause further provides that, if the strata scheme forms part of a community scheme, the Registrar-General may refuse to register a transfer of land for the purpose of creating or creating additional common property unless the community scheme is appropriately amended by any necessary dealings registered under the *Community Land Development Act 1989*.

**Clause 26** provides that a dealing evidencing a transaction to which clause 25 applies must be lodged for registration under the *Real Property Act 1900*. This clause also specifies the things that must accompany the dealing, and provides that a dealing for the transfer of land may be registered only if a plan showing the transferred land and the original parcel as a single lot is registered under the *Conveyancing Act 1919*. This clause further provides for the effect of registration of the dealing.

**Clause 27** provides that the owners corporation may, by special resolution and with the agreement of the lessor or sublessor, surrender an accepted lease or sublease.

**Clause 28** provides that an owners corporation holds the common property in the strata scheme as agent for the owners as tenants in common in shares proportional to the unit entitlement of the owners' lots. This clause also provides that an owner's interest in common property cannot be severed from, or dealt with separately from, the owner's lot, and that a dealing or caveat relating to an owner's lot also affects the owner's interest in the common property.

**Clause 29** provides that the Registrar-General must create a folio of the Register in relation to a strata scheme that does not contain common property, and specifies matters to be recorded in the folio.

**Clause 30** provides that a reference in the proposed Act to a folio includes a reference to a specified folio during any period in which it does not contain common property, and a reference to a certificate of title includes a reference to a certificate of title in relation to any such folio. This clause further provides for the application of provisions of the *Real Property Act 1900* in relation to the folio or certificate of title.

**Clause 31** provides that, in a folio for common property, it is sufficient that the land comprised in the common property is described as the common property in a designated strata plan without defining its area or dimensions. This clause further provides that a folio for specified common property is taken to certify title to the common property. This clause also specifies matters the Registrar-General must record in a folio for common property.

**Clause 32** specifies restrictions on recording matters about easements, restrictions on the use of land or positive covenants relating to common property in a strata scheme in the folio for a lot in the scheme, and provides that the Registrar-General must make the recordings in the folio for the common property in the scheme. This clause further provides that any such easement, restriction on use or positive covenant affects a lot in a strata scheme to the extent that it can affect the lot, and as if it were recorded in the folio for the lot. This clause also provides that the Registrar-General must not record a mortgage, charge, covenant charge or writ in the folio for the common property in a strata scheme.

**Clause 33** provides for how an owners corporation of a freehold strata scheme or a leasehold strata scheme may deal with specified common property in the scheme. This clause also provides that an owners corporation of any strata scheme may, by special resolution, accept a surrender of a lease or sublease of common property granted under the clause or re-enter under the lease or sublease. This clause also specifies circumstances in which the Registrar-General may refuse to register a dealing that is the transfer of common property in a community scheme. This clause further provides that, if the strata scheme forms part of a community scheme, the Registrar-General may refuse to register a transfer of common property unless the community

scheme is appropriately amended by any necessary dealings registered under the *Community Land Development Act 1989*.

**Clause 34** provides for how an owners corporation of a strata scheme may execute or accept a dealing creating, releasing or varying an easement, or a restriction on the use of land or a positive covenant relating to common property in the scheme.

**Clause 35** provides that an owners corporation of a strata scheme may, by special resolution, dedicate common property in the scheme as a public road, public reserve or drainage reserve by registration of a plan under Division 3 of Part 23 of the *Conveyancing Act 1919*. This clause further provides for restrictions on such dedications, and specifies circumstances in which the Registrar-General may refuse to register a plan if the strata scheme forms part of a community scheme.

**Clause 36** specifies restrictions on the execution and registration of dealings for the purposes of the proposed Division. This clause further provides that a certificate under the seal of an owners corporation (and given in relation to a dealing for registration under the *Real Property Act 1900* or the *Conveyancing Act 1919*) is conclusive evidence of the facts stated in the certificate in favour of the Registrar-General and any person taking under the dealing or benefiting by its registration.

**Clause 37** provides that a dealing executed by an owners corporation for the purposes of the proposed Division is as valid and effective as it would be if it were also executed by the owners of all the lots in the strata scheme. This clause further provides that a receipt of the owners corporation for an amount payable to it in relation to a dealing is a sufficient discharge for the payment and exonerates each person paying the amount from any responsibility for its application.

## **Division 7      Miscellaneous**

**Clause 38** provides that section 88B of the *Conveyancing Act 1919* applies to a strata plan, strata plan of subdivision and strata plan of consolidation in the same way as it applies to a plan referred to in that section relating to land under the *Real Property Act 1900*. This clause further provides that specified provisions of the *Conveyancing Act 1919* apply in relation to plans lodged for registration as a strata plan, strata plan of subdivision, strata plan of consolidation or building alteration plan in the same way the specified provisions apply to plans referred to in the provisions.

**Clause 39** specifies how the proposed Act applies to an encroachment shown on a proposed strata plan, strata plan of subdivision or building alteration plan. This clause further provides that it does not apply to a provision of the proposed Act relating to ownership and certification of title.

**Clause 40** provides that proposed by-laws for a strata scheme have no effect until the strata plan and any proposed by-laws that are required to accompany it are registered, and that registration does not operate to give effect to by-laws that have not been lawfully made.

## **Part 3      Provisions relating to leases in leasehold strata schemes**

### **Division 1      Leases of lots and common property**

**Clause 41** provides that the provisions of the *Conveyancing Act 1919* relating to leases of land apply in relation to a lease of a lot or common property in a leasehold strata scheme, other than to the extent the provisions are inconsistent with the proposed Act or the regulations made under the proposed Act. This clause further provides that the lessor of a leasehold strata scheme may be the owner of any lot in the scheme.

**Clause 42** provides that, except as expressly provided by Division 6 of Part 2 of the proposed Act, a provision of a lease of a lot or common property in a leasehold strata scheme purporting to require the consent of the lessor of the scheme to any dealing with the lease is void.

**Clause 43** provides that, for the purposes of the proposed Act, a lessor of a leasehold strata scheme who is entitled to immediate possession of a lot in the scheme because of the determination of a lease is taken to be the owner of the lot. This clause further provides that the

section does not confer or impose on the lessor certain specified rights or obligations of former owners.

**Clause 44** provides that the lessor of a leasehold strata scheme may grant further leases of lots or common property in the scheme, and provides for the circumstances in which the lessor must grant further leases of lots in the scheme or of common property in the scheme. This clause also specifies particular requirements of further leases granted under the clause, and provides that a right to a further lease of a lot or common property may not be exercised otherwise than in accordance with the clause.

**Clause 45** specifies the circumstances in which the lessor of a leasehold strata scheme may refuse to grant further leases of lots or common property in the scheme.

## **Division 2 Re-entry or forfeiture of leases of lots**

**Clause 46** restricts the right of re-entry or forfeiture under a lease of a lot in a leasehold strata scheme for breach of a covenant, condition or agreement in the lease if the lease is subject to a registered mortgage, charge or covenant charge. This clause provides that the right may not be exercised unless the lessor of the leasehold strata scheme has served on the mortgagee, chargee or covenant chargee a copy of the notice served on the owner under section 129 of the *Conveyancing Act 1919* in relation to the breach.

**Clause 47** provides that if a lessor has brought legal proceedings to enforce a right of re-entry or forfeiture under a lease of a lot in a leasehold strata scheme, the Supreme Court may, on application of a mortgagee, chargee or covenant chargee of the lot, make an order staying the proceedings and vesting the lease of the lot in a mortgagee, chargee or covenant chargee on conditions the court considers just and equitable.

## **Division 3 Conversion of leasehold strata schemes to freehold strata schemes**

**Clause 48** provides that in specified circumstances the owners corporation of a leasehold strata scheme may, by special resolution, authorise the conversion of the scheme into a freehold strata scheme, and sets out procedures for the conversion. This clause further provides that in specified circumstances the owners corporation or the lessor may acquire the reversion in, or the lease of, a lot in the scheme. This clause also provides that the lessor must give the Registrar-General notice, in the approved form, about the conversion of a leasehold strata scheme.

**Clause 49** provides that, on receiving a notice about the conversion of a leasehold strata scheme, and an application in the approved form, before termination of the leasehold strata scheme, the Registrar-General may record matters in the Register the Registrar-General considers appropriate to effect a merger of the leasehold and reversionary estates. This clause also specifies matters that take effect on the making of the record by the Registrar-General.

# **Part 4 Strata certificates**

## **Division 1 Preliminary**

**Clause 50** defines certain words and expressions used in proposed Part 4.

**Clause 51** provides that, subject to the proposed Act, a provision of the *Conveyancing Act 1919*, the *Environmental Planning and Assessment Act 1979* or another Act relating to the way land is divided does not apply to a subdivision effected under proposed Part 2. This clause does not affect a requirement to obtain planning approval for a subdivision.

**Clause 52** specifies the circumstances in which a relevant planning approval is in force, for the purposes of the proposed Act, for a proposed strata plan, strata plan of subdivision or notice of conversion.

**Clause 53** provides that an application for a strata certificate can be made only by an owner of land to which the application relates or another person with the owner's consent.

## **Division 2 Issue of strata certificates by local councils**

**Clause 54** provides that a local council must, subject to proposed Part 4 and on application made to the council, issue a strata certificate in relation to a proposed strata plan, or a proposed strata plan of subdivision of a development lot, if specified requirements are met.

**Clause 55** provides that a local council may, on application made to the council, issue a strata certificate in relation to a proposed strata plan of subdivision (other than a subdivision of a development lot) after considering and being satisfied about specified matters. This clause further provides for the giving of a notice to the owners corporation about a proposed subdivision that does not subdivide or create common property in order to obtain the views of the owners corporation on the proposed subdivision.

**Clause 56** provides that a local council may, on application made to the council, issue a strata certificate in relation to a proposed notice of conversion on being satisfied about specified matters.

**Clause 57** specifies restrictions that apply to the issue of a strata certificate by a local council despite any other provision of proposed Division 2.

## **Division 3 Issue of strata certificates by accredited certifiers**

**Clause 58** provides that an accredited certifier must, on application made to the certifier, issue a strata certificate in relation to a proposed strata plan, or a proposed strata plan of subdivision of a development lot, if specified requirements are met.

**Clause 59** provides that an accredited certifier must, on application made to the certifier, issue a strata certificate in relation to a proposed strata plan of subdivision (other than a subdivision of a development lot) if specified requirements are met.

**Clause 60** provides that an accredited certifier must, on application made to the certifier, issue a strata certificate in relation to a notice of conversion if specified requirements are met.

**Clause 61** specifies restrictions that apply to the issue of a strata certificate by an accredited certifier despite any other provision of proposed Division 3.

## **Division 4 Strata certificates relating to encroachments onto public places, and to utility lots**

**Clause 62** provides that a local council may, unless specified requirements are met, refuse to issue a strata certificate in relation to a strata plan or strata plan of subdivision if a building to which the plan relates encroaches on a public place. This clause also provides that an accredited certifier must, unless specified requirements are met, refuse to issue any such strata certificate.

**Clause 63** provides that a local council may impose a condition (a *restrictive use condition*) on a strata certificate restricting the use of a utility lot if the lot would be created on registration of a plan for which the certificate is sought. This clause further provides that an accredited certifier must note, on a strata certificate issued by the certifier, a restriction on the use of a utility lot contained in a relevant planning approval. This clause also provides that section 88 of the *Conveyancing Act 1919* does not apply to a restriction referred to in the clause.

**Clause 64** provides that a local council may, by instrument under the *Real Property Act 1900*, release a utility lot from a restrictive use condition imposed by the council on the use of the utility lot.

## **Division 5 Notice of decisions and appeals**

**Clause 65** provides that a local council or accredited certifier must give notice, stating specified matters, of the council's or certifier's decision on an application for a strata certificate.

**Clause 66** provides that the applicant for an application for a strata certificate made to a local council may appeal to the Land and Environment Court against the council's decision to refuse the application or to issue the certificate subject to a restrictive use condition. This clause further provides for when a local council's decision on an application is taken to have been made, and for the period within which an appeal must be made. This clause also provides that the court's

decision on appeal is taken to be the final decision of the local council and is to be given effect as if it were the decision of the local council.

## **Division 6      Application of Building Professionals Act 2005**

**Clause 67** provides that, for the purposes of the proposed Act, an accredited certifier is the holder of an accreditation as an accredited certifier for the purposes of the Act. This clause also provides that specified provisions of the *Building Professionals Act 2005* and the regulations made under that Act relating generally to accredited certifiers apply in relation to the accreditation of accredited certifiers for the purposes of the proposed Act, those accredited certifiers and the exercise of their functions under the proposed Act.

**Clause 68** provides that specified provisions of the *Building Professionals Act 2005* and the regulations made under that Act relating to a requirement to have insurance apply in relation to accredited certifiers exercising functions under the proposed Act in the same way as the provisions apply to accredited certifiers exercising the functions of a certifying authority within the meaning of the *Environmental Planning and Assessment Act 1979*.

## **Division 7      Miscellaneous**

**Clause 69** provides that a person who exercises functions under the proposed Act or another Act in reliance on a strata certificate is entitled to assume specified matters, and is not liable for loss or damage arising from a matter in relation to which the certificate was issued. This clause further provides that it does not apply to an accredited certifier in relation to a strata certificate issued by the accredited certifier.

**Clause 70** specifies matters that the regulations may make provision for or with respect to in relation to proposed Part 4.

# **Part 5      Staged development**

## **Division 1      Preliminary**

**Clause 71** specifies the purpose and scope of proposed Part 5, in particular that its purpose is to facilitate the development in stages of a parcel subject to a strata scheme.

**Clause 72** defines certain words and expressions used in proposed Part 5.

**Clause 73** provides that the proposed development in stages of a parcel subject to a strata scheme consists of the progressive improvement of the parcel by constructing buildings or carrying out works on development lots, and the subsequent subdivision of development lots and consequential adjustment of the unit entitlement of lots in the strata scheme. This clause further provides that the proposed development will be carried out subject to a strata development contract that describes specified matters.

**Clause 74** defines *development concern* for the purpose of proposed Part 5.

## **Division 2      Restriction on granting planning approval**

**Clause 75** provides that a planning authority must not grant a planning approval for the subdivision of land by a strata plan for the purposes of the development in stages of a parcel under proposed Part 5 unless the proposed plan includes a development lot and a development contract accompanies the application for the planning approval. This clause further provides that a planning authority must certify specified matters if it grants any such planning approval, and a planning approval granted in contravention of the clause is invalid.

## **Division 3      Strata development contracts and registration of contracts and amendments**

**Clause 76** provides that a strata development contract must be in the approved form, and specifies matters that must be included in a strata development contract. This clause further provides that a



strata development contract cannot provide for the subdivision of common property in a strata scheme without the consent, by special resolution, of the owners corporation.

**Clause 77** provides that a concept plan for a strata development contract must separately illustrate the sites proposed for, and the nature of, the buildings and works that would result from the carrying out of permitted development and warranted development under the contract.

**Clause 78** provides that a strata development contract may apportion the liability for expenses relating to the use or maintenance of common property in a strata scheme differently from the way the expenses are apportioned by the schedule of unit entitlement for the scheme. This clause further provides that, despite the schedule of unit entitlement, the apportionment has effect until the development scheme is concluded.

**Clause 79** specifies requirements relating to the signing and lodging of a strata development contract or an amendment of any such contract. This clause further provides that the same person may be more than one of the parties to a strata development contract.

**Clause 80** provides that the Registrar-General may register a strata development contract or an amendment of any such contract by recording the contract or amendment in the Register. This clause also specifies requirements for the registration of the contract or amendment.

**Clause 81** provides that a strata development contract has effect as an agreement under seal containing the covenants specified in Schedule 3 entered into by the owners corporation and other specified types of persons, and that the contract ceases to have effect in relation to a specified person (other than in relation to obligations incurred or rights that accrued before the contract ceases) when the person ceases to be the specified type of person. This clause further provides that a lessee entitled to immediate possession of a development lot (and a mortgagee, chargee and covenant chargee in possession of a development lot) is taken to be the developer for the purposes of the proposed Act, the regulations and the strata development contract instead of the person who would otherwise be the developer. This clause also provides that a strata development contract does not permit development to be carried out in contravention of any law, that a provision of another contract or instrument is void if it excludes, modifies or restricts a strata development contract, and that a covenant under a strata development contract does not merge on the transfer of a lot. This clause also excludes the application of the *Strata Schemes Management Act 2015* to matters arising under a strata development contract.

**Clause 82** provides that a strata development contract may confer on the developer an exclusive or any lesser right to occupy common property, and that a developer is entitled to use common property or the relevant development lot to the extent necessary to carry out the development or, in relation to common property specified in the contract, to the extent conferred by the contract. This clause further provides that the right to occupy or use the common property or development lot must be exercised in a way that does not cause unreasonable inconvenience to an occupier of any lot, and that the right may be exercised (and the provisions of the contract relating to the maintenance or upkeep of common property have effect) despite other provisions of the proposed Act, the by-laws or an order under section 131 of the *Strata Schemes Management Act 2015*.

**Clause 83** provides that land may be added to a parcel containing a development lot by registration of a plan as a strata plan of subdivision. This clause also specifies requirements for the registration of any such plan and provides that on registration of the plan the added land becomes common property, a further development lot or an addition to an existing development lot (or a combination of these) as provided by the strata development contract.

#### **Division 4      Amendment of strata development contracts**

**Clause 84** provides that a strata development contract may be amended by the developer and has effect only if the specified requirements relating to the type of amendment are met. This clause further provides that a planning authority that approves an amendment must give the applicant for the approval a copy of the instruments, plans and drawings that describe and illustrate the amendment and a specified certificate relating to the approved amendment.

**Clause 85** provides that an applicant may appeal to the Land and Environment Court against a planning authority's decision to refuse to approve an amendment of a strata development contract,

and that the planning authority must give the applicant notice of a decision to refuse. This clause further provides for the period within which an appeal must be made and that the decision of the 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.

**Clause 86** provides that a proposed amendment of a strata development contract need not be supported by a resolution of an owners corporation if the amendment is approved by the Land and Environment Court. This clause further provides that the court must be satisfied of specified matters before approving the amendment, that the developer must serve an application for the amendment on specified persons and that a person entitled to be served with the application is entitled to appear and be heard on the hearing of the application.

## **Division 5 Provisions relating to development concerns**

**Clause 87** provides that the vote of a developer permitted to carry out development included in a strata development contract is sufficient to pass or defeat a motion in the notice for a meeting of the owners corporation or its strata committee if the passing or defeat of the motion would have the effect of making a decision about a development concern. This clause further provides that it is not necessary for a decision about a development concern to be supported by a special or unanimous resolution despite any other provision of the proposed Act or the *Strata Schemes Management Act 2015*, and that a dealing, plan or other instrument may be executed by the owners corporation (or a developer on behalf of the owners corporation) to give effect to the decision. This clause also provides that the regulations may impose requirements for the execution of any such dealings, plans or other instruments.

**Clause 88** provides that a motion the passing or defeat of which would have the effect of making a decision about a development concern must be identified as relating to a development concern in the notice of the relevant meeting and moved separately from any other kind of motion. This clause further specifies requirements for convening general meetings of owners corporations for the purpose of making decisions about development concerns, and for the constitution of a sufficient quorum for a meeting in relation to business dealing with a development concern. This clause also provides that, for the purpose only of allowing development permitted by a strata development contract to be carried out, a developer (or if the developer is a corporation, its company nominee) may exercise specified functions prescribed by the regulations.

## **Division 6 Conclusion of development schemes**

**Clause 89** provides that a development scheme to which a strata development contract relates is concluded on the happening of specified events, and also specifies requirements for the signing and lodging of a notice relating to the conclusion of the development scheme to which a strata development contract relates.

**Clause 90** provides that, within 2 years after the conclusion of a development scheme, the owners corporation may lodge a revised schedule of unit entitlement for the strata scheme if it considers the schedule for the scheme does not apportion the unit entitlements so as to reflect the market value of the lots in the scheme. This clause also specifies requirements of a revised schedule of unit entitlement.

**Clause 91** provides that the Registrar-General must record the conclusion of a development scheme in the folio of the owners corporation and the common property in the strata scheme, and must record a revised schedule of unit entitlement (if any) as the schedule of unit entitlement in substitution for the existing schedule of unit entitlement for the scheme.

**Clause 92** provides that the Land and Environment Court may, by order, defer or fix the time for conclusion of a development scheme and may vary any such order on the application of a person entitled to apply for an order. This clause further provides that the applicant for the order must serve notice of an application for an order on specified persons, and that each specified person may appear and be heard on the hearing of the application. This clause also specifies matters that may be included in an order.

## **Division 7 Applications for assistance**

**Clause 93** provides that an owners corporation or an owner of a lot (other than a developer) may apply to the Secretary of the Department of Finance, Services and Innovation (the *Secretary*) for assistance to bring or defend proceedings before the Land and Environment Court relating to specified matters. This clause further provides that the Secretary may require an applicant to give the Secretary further information about an application and may refuse to proceed with the application until the information is given.

**Clause 94** provides that the Secretary may decide to investigate an application for assistance or to discontinue an investigation, and specifies matters the Secretary must have regard to in making the decision. This clause also specifies obligations imposed on the Secretary in relation to the Secretary's decision about an application for assistance.

**Clause 95** applies sections 20–22 of the *Fair Trading Act 1987* to an investigation of an application for assistance.

**Clause 96** applies Division 2 of Part 2 of the *Fair Trading Act 1987* (other than specified provisions) to an application for assistance. This clause also provides that the Secretary may, with the consent of the Minister administering the *Fair Trading Act 1987*, seek an interim restraining order under the *Environmental Planning and Assessment Act 1979* in relation to the subject-matter of an application, and specifies particular matters relating to the order.

**Clause 97** provides that an owners corporation may, if authorised by resolution, make an application for assistance, or bring specified proceedings relating to a strata development contract, an amendment of any such contract, a planning approval granted in accordance with clause 75 (1) or a modification of any such planning approval. This clause further provides that any vote cast by the developer or a mortgagee of the developer is to be disregarded in determining whether a resolution has been passed.

## **Division 8 Miscellaneous**

**Clause 98** specifies particular functions of the Secretary in relation to matters under proposed Part 5.

## **Part 6 Strata management statements and easements relating to part strata parcels**

### **Division 1 Strata management statements**

**Clause 99** provides that the Registrar-General must not register a plan as a strata plan that creates a part strata parcel unless the Registrar-General also registers a strata management statement for the building and its site or waives the requirement for a strata management statement on specified grounds.

**Clause 100** provides that a strata management statement must be in the approved form and that it must comply with proposed Schedule 4. This clause further provides that Schedule 4 applies to a strata management statement.

**Clause 101** provides that the Registrar-General may register a strata management statement, or an amendment of a strata management statement, by recording the statement or amendment in the Register. This clause further provides that the Registrar-General may refuse to register a strata management statement on specified grounds, and may register a strata management statement for a building and its site at any time a part of the building is included in a part strata parcel but is not the subject of a strata management statement.

**Clause 102** provides that, if a strata management statement is registered, the Registrar-General must record specified matters about the statement in the folio relating to the owners corporations of the strata scheme and the common property and in the folio for each owners corporation of a strata scheme for part of the building and for each part of the building or site that does not form part of a part strata parcel.

**Clause 103** provides that a strata management statement may be amended only if the amendment is supported by a special resolution of the owners corporation of each strata scheme for part of the building and other specified persons, or is ordered by a court or is consequential on the revocation or modification of a planning approval. This clause further provides that an amendment must be in the approved form and has effect only if it is recorded in the folio for each owners corporation of a strata scheme for part of the building and for each part of the building or site that does not form part of a part strata parcel.

**Clause 104** provides that the Registrar-General may register a strata management statement or amendment only if specified requirements for lodging and signing the strata management statement or amendment are met, and may refuse to register a strata management statement or amendment unless written consents to the registration have been lodged and signed by specified persons that the Registrar-General determines. This clause further provides that the Registrar-General may waive a requirement for a signature under this clause without giving notice to any person.

**Clause 105** provides that a registered strata management statement has effect as an agreement under seal, containing specified covenants, entered into by specified persons. This clause further provides for the circumstances in which the agreement ceases to have effect in relation to the specified persons and that the ceasing of the agreement does not prejudice or affect obligations incurred or rights accrued while it was in force. This clause also provides that a strata management statement has no effect to the extent it is inconsistent with specified conditions and orders, or another Act or law, and that (subject to the proposed Act and the regulations) a provision of any instrument that excludes, modifies or restricts the agreement is void. In addition, this clause provides that a covenant under the agreement does not merge in the transfer of a lot. This clause does not affect a right or remedy a person may have under a strata management statement apart from a right or remedy under proposed Part 6.

## **Division 2 Easements**

**Clause 106** specifies the easements, and the rights under the easements, that are implied in relation to lots and common property comprising a part strata parcel on registration of a plan as a strata plan that creates the part strata parcel. This clause also provides that the Registrar-General must record the easements in the Register and that the clause applies despite section 88 of the *Conveyancing Act 1919*.

**Clause 107** provides that the rights and obligations conferred or imposed by an instrument creating specified types of easement are the rights and obligations specified in Schedule 5 other than to the extent they are varied or negated under this clause or in the particular instrument. This clause further provides that particular terms of the easements may be varied, and how they may be varied, under the *Real Property Act 1900* or by order of the Supreme Court. This clause also provides for the recording in the Register, and the effect, of an order of the Supreme Court and that the site of an easement for a specified service is not required to be identified on a strata plan.

## **Division 3 Miscellaneous**

**Clause 108** provides that on the registration of a plan as a strata plan that creates a part strata parcel and in relation to which the requirement for a strata management statement has been waived because a registered building management statement is in force for the building and its site, the building management statement is taken to be the registered strata management statement for the building and its site.

**Clause 109** provides that in a lease of a lot or common property in a strata scheme that is part of a community scheme, an agreement by the lessee to comply with the community management statement, and the precinct management statement if the community scheme is part of a precinct scheme, is implied.

**Clause 110** provides that if it is proposed to grant a lease of a lot or common property in a strata scheme that is part of a community scheme, the lessor must include a copy of the community

management statement, and the precinct management statement if the community scheme is part of a precinct scheme, with the copy of the lease to be signed by the lessee.

## **Part 7 Compulsory acquisition of lots and common property**

**Clause 111** provides that proposed Part 7 does not apply to an easement or land in a strata scheme that is part of a community scheme.

**Clause 112** provides that, despite any other Act, a resuming authority cannot resume particular land unless the specified requirements in relation to the land are met.

**Clause 113** provides that the Registrar-General must not register a plan that relates to a parcel and is lodged to effect a resumption referred to in clause 112 (1), unless the notice of resumption and the plan comply with specified requirements. This clause also specifies requirements for the registration of plans intended to effect a resumption.

**Clause 114** states the effect of a resumption of common property and other resumed land under proposed Part 7.

**Clause 115** provides that a resuming authority may apply to the Supreme Court for an order in relation to the resumption of land in a parcel and exclusion of that land from a strata scheme. This clause further provides that notice of an application for an order must be served on specified persons and states who is entitled to appear and be heard on the hearing of the application. This clause also provides that the Supreme Court may, if it considers an order should not be made, direct that the application for the order be treated as an application for another specified type of order under the proposed Act. If the court makes the direction, the application for the order is taken to be an application for the other type of order.

**Clause 116** provides that the costs for an application for an order of the Supreme Court are payable by the resuming authority unless the Supreme Court otherwise orders.

**Clause 117** provides that a resuming authority does not acquire any interest in common property in a strata scheme merely because it resumes the whole or part of a lot in the scheme, if the notice of resumption states that the lot is to be excluded from the scheme.

**Clause 118** provides that, for the purposes of any Act relating to the payment of compensation on the resumption of land, a resumed part of a lot is severed from every other part of the lot and the beneficial interests of the owners in resumed common property is taken to be vested in the owners corporation to the exclusion of the owners for the purposes of any claim for, or the payment of, compensation.

**Clause 119** provides that a resumption of land to which proposed Part 7 and the *Land Acquisition (Just Terms Compensation) Act 1991* apply must comply with the proposed Part and that Act, and a resumption of land to which proposed Part 7 and to which Part 12 of the *Roads Act 1993* apply must comply with the proposed Part and Part 12 of that Act. This clause further provides that proposed Part 7 prevails to the extent of any inconsistency.

**Clause 120** provides that if a part of a parcel is resumed by a resuming authority that is not bound by the proposed Act and does not comply with proposed Part 7, the owners corporation or a person affected by the resumption may apply for a stated order under proposed Part 9 in relation to the resumption.

## **Part 8 Particular functions of Registrar-General**

**Clause 121** empowers the Registrar-General to register plans and other instruments for the purposes of the proposed Act, and provides for when a strata plan, strata plan of subdivision, strata plan of consolidation, building alteration plan or notice of conversion is taken to be registered. This clause also provides that any such plans or notices must not be registered unless they are lodged with all other plans or documents prescribed by the regulations.

**Clause 122** provides that the Registrar-General may copy specified documents and certify the copies as true copies, and that the certified copies have the same validity and effect as the original

documents. This clause further provides that the Registrar-General may destroy, or cease to keep in electronic form, an original document to which a certified copy relates.

**Clause 123** provides that the Registrar-General may record particular unit entitlements in the folio for common property, or amend schedules of unit entitlement recorded in the folio for common property or amend revised schedules of unit entitlement, in accordance with the circumstances specified in the clause. This clause further provides that, on making a recording or amendment, the Registrar-General must give the owners corporation notice of the unit entitlements recorded.

**Clause 124** provides that the Registrar-General must record restrictive use conditions relating to a lot on creating a folio for the lot, and the recorded condition is an interest within the meaning of section 42 of the *Real Property Act 1900*. This clause further provides that the Registrar-General also must record matters about the release of a utility lot from a restrictive use condition, and the release has effect when the record is made.

**Clause 125** provides that the Registrar-General must not, on registering a strata plan of subdivision or a current plan in relation to a specified resumption, create a folio for a lot or make a recording in the Register in relation to a lot comprised in the strata plan of subdivision or a current plan lot in the current plan until the Registrar-General makes a recording in the Register under section 31A (3) of the *Real Property Act 1900* in relation to the resumption.

**Clause 126** provides that on registration of particular strata plans of subdivision, or a strata plan of consolidation, the Registrar-General must cancel the folios for any former lots, create new folios for the new lots and amend the schedule of unit entitlement recorded in the folio for the common property in the strata scheme. This clause further provides that on registration of a notice of conversion of a lot into common property the Registrar-General must cancel the folio for the converted lot and amend the schedule of unit entitlement recorded in the folio for the common property in the strata scheme.

**Clause 127** provides that in relation to a specified resumption of a lot the Registrar-General is to make, in the folio for the resumed lot, a recording that is authorised or required to be made under section 31A (3) of the *Real Property Act 1900*. This clause further provides that, in relation to a resumption of a lot in a specified strata plan of subdivision, the Registrar-General must cancel the folio for the subdivided lot, create a folio for each new lot and amend the schedule of unit entitlement recorded in the folio for the common property in the strata scheme.

**Clause 128** provides that in relation to a resumption solely of common property the Registrar-General is to make, in the folio for the common property, a recording that is authorised or required to be made under section 31A (3) of the *Real Property Act 1900*. This clause further provides that, in relation to a resumption of the whole of a parcel or any part of a parcel that does not consist of common property, the Registrar-General must make the recordings in the Register, and create the folios, the Registrar-General considers necessary or appropriate to give effect to particular orders made under the proposed Act.

## **Part 9 Variation or termination of strata schemes**

### **Division 1 Preliminary**

**Clause 129** defines certain words and expressions used in proposed Part 9.

### **Division 2 Variation of strata schemes**

**Clause 130** provides that specified persons may apply to the Supreme Court (the *court*) for an order about the variation or substitution of a strata scheme, that notice of the application must be served in accordance with rules of court and that the applicant and persons entitled to be served may appear and be heard on the hearing of the application.

**Clause 131** provides that the court may make an order about the variation or substitution of a strata scheme (a *variation order*), that specified directions may be included in the order and that

the court may change a variation order on application of a person entitled to appear and be heard on the hearing of the application for the order.

**Clause 132** specifies when a variation order takes effect.

**Clause 133** provides that the court may, on application of a person entitled to appear and be heard on the hearing of the application for a variation order or on its own initiative, direct that the application for the variation order be treated as an application for an order about the termination of a strata scheme. This clause further provides that an application the subject of the direction is taken to have been made, under the clause for the order about the termination, by a person entitled to make it, and that the applicant and any other person entitled to appear and be heard under that clause is entitled to appear and be heard on the hearing of the application.

**Clause 134** provides that, unless the court otherwise orders, the costs of proceedings in relation to a specified application are payable by the resuming authority.

### **Division 3 Termination of strata schemes by order of court**

**Clause 135** provides that specified persons may apply to the court for an order about the termination of a strata scheme, that notice of the application must be served in accordance with rules of court and that the applicant and persons entitled to be served may appear and be heard on the hearing of the application. This clause also restricts an application being made under the clause by a prescribed authority within the meaning of section 88D or 88E of the *Conveyancing Act 1919*.

**Clause 136** provides that the court may make an order about the termination of a strata scheme (a *termination order*), that specified directions may be included in the order and that the court may change a termination order on application of a person entitled to appear and be heard on the hearing of the application for the order.

**Clause 137** specifies when a termination order takes effect.

**Clause 138** specifies matters in relation to a termination order taking effect, including that compensation payable in relation to the value of improvements in a leasehold strata scheme is to be determined in accordance with the formula set out in Schedule 6 or as otherwise agreed between the former lessor and former owners.

**Clause 139** provides that a dispute about the amount of compensation payable in relation to the value of improvements in a terminated leasehold strata scheme is to be resolved by arbitration or by order of the Supreme Court, that an application for an order of the Supreme Court may be made by any party to the dispute, that notice of the application must be served in accordance with rules of court and that all applications in relation to the same leasehold strata scheme must, as far as practicable, be heard together.

**Clause 140** provides that the court may, on application of a person entitled to appear and be heard on the hearing of the application for a termination order or on its own initiative, direct that the application for the termination order be treated as an application for a variation order. This clause further provides that an application the subject of the direction is taken to have been made under the clause for making an application for a variation order by a person entitled to make it, and that the applicant and any other person entitled to appear and be heard under that clause is entitled to appear and be heard on the hearing of the application.

**Clause 141** provides that, unless the court otherwise orders, the costs of proceedings in relation to specified applications are payable by the resuming authority.

### **Division 4 Termination of strata schemes by Registrar-General**

**Clause 142** provides that a person may apply to the Registrar-General for termination of a strata scheme that does not relate to a parcel the subject of a strata development contract. This clause further provides that the applicant must publish details about the proposed termination and that the application must be signed by specified persons (unless the Registrar-General otherwise agrees), and be accompanied by specified documents.

**Clause 143** provides that the Registrar-General may make an order terminating a strata scheme (also a *termination order*) or refuse to make the order. This clause further provides that a refusal of the Registrar-General does not prevent a person applying to the court for a termination order.

**Clause 144** provides that a termination order made by the Registrar-General has effect when the Registrar-General records the order in the folio for the land comprising the parcel.

**Clause 145** provides that, on recording the termination order in the folio for the land comprising the parcel, the Registrar-General must cancel the folios for the lots and common property in the parcel and, in the case of a freehold strata scheme, create a folio or folios for the land in the former parcel.

**Clause 146** specifies matters relating to the effect of the termination of a freehold strata scheme.

**Clause 147** specifies matters relating to the effect of the termination of a leasehold strata scheme.

## **Division 5 Termination of leasehold strata schemes on expiry of leases**

**Clause 148** provides that a leasehold strata scheme is terminated when all leases of lots and common property in the scheme expire or are otherwise determined without being wholly or partly replaced by further registered leases. This clause also specifies matters that take effect on the termination of a leasehold strata scheme, and provides for the payment of compensation for the value of improvements comprised in the parcel and for the cancellation of the folios for the leases of lots and common property in the scheme and the cancellation of the strata plan for the scheme.

**Clause 149** provides that a dispute about the amount of compensation payable for improvements in relation to a lot in a terminated leasehold strata scheme must be resolved by arbitration under the *Commercial Arbitration Act 2010* or by order of the Supreme Court. This clause further provides that an application for an order of the court may be made by any party to the dispute and that notice of the application is to be served in accordance with rules of court.

**Clause 150** provides that an owner of a lot in a leasehold strata scheme, the owners corporation or a creditor of the owners corporation may, before the expiry of the leases of lots and common property in the scheme, apply to the Supreme Court for an order to continue the owners corporation in existence for the purposes, and until the time, specified in the order. This clause further provides for the directions that may be included in the order and the variation of any such order.

## **Division 6 Miscellaneous**

**Clause 151** provides that a notice served under any one of the particular specified clauses may be taken to be a notice served under another of those clauses if it relates to an application that is required to be treated as an application made under the other clause.

**Clause 152** provides that, subject to the requirement in the proposed Act for the Registrar-General to make recordings in the Register, and create folios, to give effect to orders relating to resumed land, the Registrar-General must make appropriate recordings in the Register to give effect to a variation order or a termination order under proposed Division 3. This clause further provides that in relation to making a recording about a termination order the Registrar-General must cancel or create specified folios and record specified matters.

# **Part 10 Strata renewal process for freehold strata schemes**

## **Division 1 Preliminary**

**Clause 153** provides that proposed Part 10 applies to freehold strata schemes, other than a strata scheme relating to a parcel that is the subject of a development contract or a strata scheme in which one or more of the lots in the scheme are, or form part of, a retirement village and that the purpose of the proposed Part is to facilitate the collective sale or redevelopment of those strata schemes.

**Clause 154** defines certain words and expressions used in proposed Part 10.



**Clause 155** provides that proposed Part 10 and an order of the Land and Environment Court made under the Part prevail to the extent of any inconsistency with the *Strata Schemes Management Act 2015*. This clause further provides that Schedules 1 and 2 to the *Strata Schemes Management Act 2015* apply to meetings of an owners corporation or strata committee for the purposes of the proposed Part.

## **Division 2      Strata renewal proposals**

**Clause 156** provides that any person may give a written proposal (a *strata renewal proposal*) to a strata committee about a collective sale or redevelopment of a strata scheme.

**Clause 157** provides that a strata committee that receives a strata renewal proposal must consider the proposal at a meeting of the committee and decide whether or not the proposal warrants further consideration by the owners corporation. This clause further provides that the minutes of the meeting must include a complete copy of the proposal and detailed reasons for the committee's decision, and that a copy of the minutes must be given to each owner.

**Clause 158** provides that a strata committee must convene a general meeting of the owners corporation if it decides a strata renewal proposal warrants further consideration by the owners corporation, and that a general meeting to consider a strata renewal proposal may also be convened by way of a qualified request under the *Strata Schemes Management Act 2015*. This clause further provides that the notice of the general meeting must comply with specified matters and be given to each owner at least 14 days before the meeting.

**Clause 159** provides that a strata renewal proposal lapses if the strata committee or the owners corporation decide the proposal does not warrant further consideration or investigation.

## **Division 3      Establishment, membership, function, operation and dissolution of strata renewal committees**

**Clause 160** provides that an owners corporation must, by resolution, establish a strata renewal committee to prepare a strata renewal plan for a strata renewal proposal, and elect its members, if the owners corporation decides that a strata renewal proposal warrants further investigation. A person who has a financial interest in more than 25% of the lots in the strata scheme is required to disclose that fact before voting for (or being elected as a member of) the strata renewal committee. This clause further provides that a strata renewal committee must consist of a chairperson and the number of other members, being not more than 8, the owners corporation determines, and that the committee is taken to have been established on the day its members are first elected. This clause also provides that appropriate forms of motion may be included in a motion for a resolution to establish a strata renewal committee.

**Clause 161** provides that an owners corporation may elect persons as members of the strata renewal committee if they are eligible for appointment or election to the strata committee of the owners corporation. This clause further provides that, before a person is elected to the strata renewal committee, the person must disclose conflicts of interest to the owners corporation. This clause also provides for when a nomination for election may be made, and that a person may be a member of both a strata renewal committee and a strata committee.

**Clause 162** provides that notice of the decision of an owners corporation to establish a strata renewal committee must be given to the owner of each lot in the strata scheme. This clause further provides that the notice must include the information prescribed by the regulations.

**Clause 163** specifies when a person is taken to vacate office as a member of the strata renewal committee.

**Clause 164** provides that the function of a strata renewal committee is to prepare a strata renewal plan relating to the relevant strata renewal proposal for consideration by the owners corporation and the owners of lots in the strata scheme. This clause further provides that, in exercising its function, the strata renewal committee must not spend more than an amount approved by the owners corporation, and may engage persons to help it prepare the strata renewal plan if delegated the authority to do so. This clause also provides that a strata renewal committee may ask the

secretary of the owners corporation to convene a general meeting to seek approval about expenditure and other matters relating to a proposed strata renewal plan. This clause also specifies particular matters relating to acts or proceedings of a strata renewal committee.

**Clause 165** provides that a member of a strata renewal committee must disclose potential conflicts of interest to a meeting of the relevant strata committee. This clause further provides that the strata committee must inform the owners corporation of the potential conflict of interest, and the owners corporation is to make a decision about removing the member from office or allowing the member to remain in office (having regard to the nature of the member's interest). This clause also provides that a member must comply with any requirement of the owners corporation relating to the member's right to vote at, or participate in, meetings of the strata renewal committee.

**Clause 166** provides that, unless earlier dissolved, a strata renewal committee may exercise its function for 1 year after the day it is established or for any further period approved by special resolution of the owners corporation.

**Clause 167** specifies when a strata renewal committee is dissolved.

#### **Division 4      Procedures of strata renewal committees**

**Clause 168** provides that a strata renewal committee may hold its meetings at the times and in the way it decides, that a quorum for a meeting of a strata renewal committee is a majority of its members and that a majority of votes cast at a meeting at which a quorum is present is the decision of the strata renewal committee.

**Clause 169** provides that the strata renewal committee must keep minutes of its meetings and a record of its decisions, and give copies of its minutes to specified persons and place a copy of the minutes on any owners corporation notice board.

#### **Division 5      Strata renewal plans**

**Clause 170** specifies particular matters that must be included in a strata renewal plan relating to a proposed collective sale or redevelopment of a strata scheme.

**Clause 171** provides that the amount paid under a collective sale of a strata scheme provided for in a strata renewal plan must be apportioned among the owners in shares equal to their unit entitlements. This clause further provides that an amount paid to a dissenting owner in a strata scheme subject to a proposed redevelopment must not be less than the compensation value of the owner's lot.

**Clause 172** provides that, on completing a strata renewal plan, the strata renewal committee must convene a meeting of the owners corporation to consider the plan. This clause further provides that the owners corporation may amend the plan or return it to the strata renewal committee for amendment and may, by special resolution, decide to give the plan (whether or not amended) to the owners for their consideration. This clause also provides that a strata renewal plan has no force or effect merely because the owners corporation decides to give the plan to the owners for their consideration.

**Clause 173** provides that the secretary of the owners corporation must give a copy of the strata renewal plan to each owner if the owners corporation decides to give the plan to the owners for their consideration. This clause further provides that the copy of the plan must be accompanied by the information or documents prescribed by the regulations.

**Clause 174** provides that an owner may, at least 60 days after receiving a strata renewal plan and before the plan lapses, give written notice (a *support notice*) of the owner's support for the plan to the person who has been appointed as the returning officer. This clause further provides for witnessing the signatures of owners, registered mortgagees and covenant chargees on the support notice. This clause also provides that the notice has effect as a support notice under the proposed Part on the day it is given to the returning officer. This clause also provides that the returning officer must keep a record of the number of lots for which a support notice is in effect and advise owners of this information if requested.

**Clause 175** provides that an owner may withdraw a support notice before the owner is given a notice under clause 176 about the required level of support. This clause further provides that a support notice that is withdrawn ceases to have effect as a support notice under the proposed Part.

**Clause 176** provides that if the *required level of support* is obtained (being the support of at least 75% of the owners) in relation to a proposed strata renewal plan, the returning officer must give the secretary of the owners corporation notice that the required level of support has been obtained and the secretary must then notify each owner and the Registrar-General of that fact. This clause further provides that, on receiving the notice, the Registrar-General must make appropriate recordings in the folio for the common property in the strata scheme concerned to show the scheme is the subject of a strata renewal plan. This clause further provides that, on and from the making of the recordings and for the purposes of the proposed Part, a support notice that is in effect for the strata renewal plan is taken to have been given by each subsequent owner and registered mortgagee or covenant chargee of the lot in relation to which the support notice was given.

**Clause 177** specifies when a strata renewal plan lapses, and that the plan ceases to have any force or effect if it lapses. The owners corporation must notify the Registrar-General when a plan lapses.

## **Division 6      Applying for orders to give effect to strata renewal plans**

**Clause 178** provides that, if the required level of support for a strata renewal plan is obtained, the secretary of the owners corporation or a member of the strata renewal committee must convene a general meeting of the owners corporation for the purpose of deciding whether to apply to the Land and Environment Court (the *court*) for an order to give effect to the plan, and that the owners corporation may, by resolution, apply for the order. This clause also clarifies that an application for an order may be made even if an owner of a lot in the strata scheme concerned was not the actual owner who gave a support notice. This clause also specifies matters the owners corporation must be satisfied about before applying for an order, and requires the secretary of the owners corporation to give tenants of lots on the strata scheme written notice of a decision to apply for an order.

**Clause 179** provides for the information or documents that must accompany an application for an order, and that notice of the application must be served on each owner, registered mortgagee or covenant chargee of a dissenting owner's lot and other persons directed by the court.

**Clause 180** provides that an objection to an application for an order to give effect to a strata renewal plan may be filed in the court by a dissenting owner, a registered mortgagee or covenant chargee of a dissenting owner's lot or a person on whom notice of the application was served under a direction of the court. This clause further provides that a person must file an objection within 21 days after notice of the application is served on the person, but need not be a party to proceedings relating to the application.

## **Division 7      Orders to give effect to strata renewal plans**

**Clause 181** provides that the court must hear and dispose of an application for an order in proceedings before the court. This clause further provides for matters relating to mediation or conciliation conferences ordered by the court in relation to an application. This clause also provides that, if a strata renewal plan is varied at mediation or a conciliation conference, the court must not make an order on the application unless the owner of each lot in relation to which a support notice has been given for the plan agrees in writing to the variation and the owners corporation has served notice of the variation on specified persons. This clause also specifies who may be joined as a party to the proceedings.

**Clause 182** provides that the court must make an order giving effect to a strata renewal plan if satisfied of specified matters, and must not make an order if the court is not satisfied about those matters. This clause further provides that the court may, on its own initiative, make minor variations to a strata renewal plan with the written agreement of the owner of each lot in relation to which a support notice has been given for the plan. This clause also requires the court to give

written reasons for its decision to make, or not to make, an order to give effect to a strata renewal plan.

**Clause 183** provides that, if the court makes an order to give effect to a strata renewal plan, the order may include directions about specified matters. This clause also provides for lodgment of the order with the Registrar-General, recording by the Registrar-General, and that the order has effect when it is recorded.

**Clause 184** specifies the effect of the court making an order to give effect to a strata renewal plan for the collective sale of a strata scheme, including that the owner of each lot in the scheme must sell the owner's lot in accordance with the order.

**Clause 185** specifies the effect of the court making an order to give effect to a strata renewal plan for a redevelopment of a strata scheme, including that each dissenting owner of a lot in the scheme must sell the owner's lot in accordance with the order.

**Clause 186** provides that the court may make ancillary orders relating to a strata renewal plan.

**Clause 187** provides that an order of the court attaches to the parcel the subject of the application. This clause specifies the persons who are bound by the order, including successors in title to the owners.

## **Division 8      Miscellaneous**

**Clause 188** provides that the reasonable costs of proceedings for an application for an order to give effect to a strata renewal plan that are incurred by a dissenting owner are payable by the owners corporation. This clause further provides that the owners corporation can not levy a contribution for any part of the costs on a dissenting owner. This clause also provides that other matters relating to the costs of proceedings may be prescribed by the regulations.

**Clause 189** provides that, if there is an inconsistency between a strata renewal plan and an order of the court, the order prevails to the extent of the inconsistency.

**Clause 190** provides that, if a strata renewal proposal or a strata renewal plan relating to a proposal lapses, the proposal or a substantially similar proposal cannot be submitted under the proposed Part within 12 months after proposal or plan lapses.

## **Part 11   Rates and charges relating to parcels**

**Clause 191** defines *rate* for the purposes of Part 11.

**Clause 192** provides that rates, in relation to a lot comprised in a rateable parcel or a rateable part of a parcel, must not be made or levied on the relevant owners corporation. This clause further provides for how the rates are to be made or levied.

**Clause 193** provides that a rate may not be made or levied in relation to certain lots in a strata plan of subdivision or a plan that is registered for the purpose of effecting a resumption referred to in Part 7 unless the resumption has been effected.

**Clause 194** provides that charges or fees for specified water, sewerage, drainage or effluent services rendered in relation to a parcel or part of a parcel otherwise than exclusively for the use and benefit of a particular lot are payable by the relevant owners corporation. This clause further provides for how the charges or fees are to be worked out.

## **Part 12   General**

**Clause 195** provides that duty is not payable under the *Duties Act 1997* in relation to the determination or partial determination of a lease under the proposed Act.

**Clause 196** provides that persons lodging plans or other document in electronic form for the purposes of the proposed Act must give the Registrar-General other specified documents if required to do so by the Registrar-General.

**Clause 197** provides for matters relating to the lodgment of plans and other documents in electronic form for the purposes of the proposed Act.

**Clause 198** provides that the Registrar-General may make particular records in the Register or a folio by recording the matters the Registrar-General considers appropriate.

**Clause 199** states that the proposed Act binds the Crown.

**Clause 200** provides that the Secretary may delegate the exercise of the Secretary's functions under the proposed Act.

**Clause 201** provides that proceedings for an offence under the proposed Act are to be dealt with summarily.

**Clause 202** provides for the making of regulations for the purposes of the proposed Act.

**Clause 203** repeals the *Strata Schemes (Freehold Development) Act 1973* and the *Strata Schemes (Leasehold Development) Act 1986*.

**Clause 204** provides for a review of the proposed Act within 5 years of its assent.

## **Schedule 1 Requirements for plans**

**Schedule 1** sets out particular requirements of floor plans and location plans included with a proposed strata plan, strata plan of subdivision or strata plan of consolidation.

## **Schedule 2 Requirements for schedules of unit entitlement**

**Schedule 2** sets out requirements with which a schedule of unit entitlement relating to a strata plan or a strata plan of subdivision must comply.

## **Schedule 3 Covenants implied in strata development contracts**

**Schedule 3** specifies covenants that are part of a strata development contract relating to a strata scheme.

## **Schedule 4 Strata management statements**

**Schedule 4** sets out the matters that apply to a strata management statement, and with which a strata management statement must comply.

## **Schedule 5 Rights and obligations implied in certain easements**

**Schedule 5** specifies the rights and obligations conferred or imposed by an easement identified on a plan that has been lodged in relation to a part strata parcel that is the subject of a strata scheme.

## **Schedule 6 Compensation payable on termination of leasehold strata scheme**

**Schedule 6** sets out the formula for determining compensation payable in relation to the value of improvements comprised in a parcel for a leasehold strata scheme that is terminated.

## **Schedule 7 Requirements for notices of meetings relating to strata renewal process**

**Schedule 7** sets out the matters that must be included in notices of general meetings of an owners corporation in relation to strata renewal proposals and strata renewal plans.

## **Schedule 8      Savings, transitional and other provisions**

**Schedule 8** contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

## **Schedule 9      Amendment of Acts**

**Schedule 9** makes consequential amendments to the Acts specified in the Schedule.