

Part 2 Establishment of schemes

Clause 8 provides for the establishment of a community scheme and the constitution of the community association for the community scheme.

Clause 9 provides for the establishment of a precinct scheme on a development lot in a community scheme and the constitution of the precinct association for the precinct scheme.

Clause 10 provides for the establishment of a neighbourhood scheme either as a standalone scheme or on a development lot in a community scheme or a precinct scheme. The proposed section also provides for the constitution of the neighbourhood association for the neighbourhood scheme.

Clause 11 excludes a community association, precinct association and neighbourhood association in relation to the whole of the *Corporations Act 2001* of the Commonwealth.

Clause 12 sets out the requirements for the registration of a scheme plan.

Clause 13 provides for the subdivision of a community development lot or a precinct development lot by the registration of a strata plan that includes common property and sets out obligations for the Registrar-General on the registration of a strata plan.

Part 3 Plans and instruments affecting schemes

Division 1 Plans of subdivision and consolidation

Clause 14 permits a community plan of subdivision, precinct plan of subdivision or neighbourhood plan of subdivision to be used for certain purposes.

Clause 15 sets out registration requirements for a scheme plan of subdivision that subdivides or creates lots.

Clause 16 sets out registration requirements for a scheme plan of subdivision that adds land to the scheme parcel as a development lot or neighbourhood lot.

Clause 17 permits a community plan of consolidation, precinct plan of consolidation or neighbourhood plan of consolidation to be used to consolidate 2 or more, but not all, of the development lots in the same scheme plan and sets out registration requirements for the scheme plan.

Division 2 Community and precinct development lots

Clause 18 permits a boundary adjustment plan to be used to make a minor adjustment to boundaries between community development lots and the community property in a community plan, or to make a minor adjustment to the boundaries between precinct development lots and precinct property in a precinct plan and sets out registration requirements for the boundary adjustment plan.

Clause 19 provides for an instrument in the approved form to be used to sever a community development lot from a community scheme or to sever a precinct development lot from a precinct scheme and sets out registration requirements for the approved instrument.

Part 4 Association property

Clause 20 defines certain interests in land as a *relevant interest* for the purposes of the proposed Part.

Clause 21 provides for the registration of a plan or dealing creating association property to vest the land in the relevant association and to free the land and discharge it from all relevant interests.

Clause 22 provides for an association for a scheme to hold association property in the scheme as an agent for the owners of lots in the scheme and subsidiary bodies as tenants in common.

Clause 23 sets out how association property may be dealt with.

Clause 24 provides for an instrument in the approved form to be used to convert development lots or neighbourhood lots into association property and sets out registration requirements for the approved instrument.

Clause 25 permits an association to add land to its association property by transfer in certain circumstances and sets out registration requirements for the transfer.

Clause 26 permits an association to add land to its association property by lease in certain circumstances and sets out registration requirements for the lease.

Clause 27 permits an association to grant a lease of land forming part of its association property if certain conditions are met and sets out registration requirements for the lease.

Clause 28 permits an association to transfer land forming part of its association property if certain conditions are met and sets out registration requirements for the transfer.

Part 5 Easements and restrictions

Division 1 Granting or accepting relevant interests

Clause 29 provides that an easement, a restriction on the use of land or a positive covenant is a *relevant interest* for the purposes of the proposed Division.

Clause 30 sets out how an association may grant or accept a relevant interest that burdens or benefits association property or varies or releases a relevant interest.

Clause 31 sets out registration requirements for a dealing by an association to grant, release, vary or accept the benefit of, a relevant interest.

Division 2 Statutory easements

Clause 32 sets out the meaning of terms used in the proposed Division.

Clause 33 defines *statutory easement* for the purposes of the proposed Act, being certain rights and obligations relating to the delivery of a utility service to the scheme by way of a service line through the scheme.

Clause 34 provides for the creation of a statutory easement for a service line within a scheme when a prescribed diagram is registered as part of the management statement for the scheme.

Clause 35 provides that a service provider is to have the benefit of a statutory easement created in a scheme in relation to a service line if certain circumstances are met.

Clause 36 provides that an association, owner of land or service provider having the benefit of a statutory easement, is subject to certain covenants, including that the person exercising the rights under the easement will make good, at their own expense, any damage to, or interference with, the parts of the scheme affected by the exercise of the rights.

Clause 37 provides that if the installation of a service line is completed after the creation of the statutory easement, the relevant association must provide notice to the Registrar-General, and if the service line is installed in a different position, a new prescribed diagram.

Clause 38 provides that a developer must give a copy, within 1 month, of the prescribed diagram relating to a service line to the association for the scheme if a service line is installed as part of the scheme after registration of the management statement.

Clause 39 permits the Registrar-General to make recordings in the Register about any action taken under the proposed Division.

Clause 40 provides that the proposed Division does not affect any rights or obligations relating to service lines conferred or imposed by another Act.

Part 6 Access to schemes

Clause 41 provides that association property in a scheme may be set apart as an open access way or a private access way connecting the scheme parcel to a public place.

Clause 42 provides that an open access way within a community parcel may not be closed unless the closure is authorised by special resolution of each association whose members are entitled to use the access way.

Clause 43 makes it clear that setting apart land as an access way does not cause the land to cease to be association property.

Clause 44 makes it clear that section 45A of the *Real Property Act 1900* does not apply to a conveyance of land abutting on an open access way or private access way and provides that an owner of a lot in a scheme has no rights in relation to association property set apart as an open access way or private access way other than rights conferred by the proposed Act, the *Community Land Management Act 2020* or the management statement for the scheme.

Part 7 Development contracts

Clause 45 sets out a number of definitions used in the proposed Act, including *development contract*, being the instruments, plans and drawings registered with a scheme plan that describe the way in which it is proposed to develop land in the scheme.

Clause 46 sets out requirements for the form of a development contract and the matters that must be included in a development contract.

Clause 47 sets out certain requirements for the grant of planning approval by a planning authority for development in accordance with a proposed scheme plan accompanied by a proposed development contract.

Clause 48 permits a development contract to apportion the liability for certain expenses differently from the way liability would otherwise be apportioned by the schedule of unit entitlement applicable to lots under the scheme.

Clause 49 provides that a development contract registered with a scheme plan has effect as if it included an agreement under seal with certain covenants applicable to the developer and all other parties.

Clause 50 sets out how a development contract may be amended.

Clause 51 sets out what is to occur if a planning authority does not approve an amendment of a development contract, including obliging the planning authority to issue a notice, and provides for an appeal to the Land and Environment Court.

Clause 52 sets out the jurisdiction and powers of the Land and Environment Court to hear matters relating to an application made for the amendment of a development contract, and includes certain procedural matters.

Clause 53 permits the Registrar-General to register an amendment to a development contract made under the proposed Part.

Clause 54 permits the Land and Environment Court to make certain orders in addition to, or instead of existing orders provided under the *Environmental Planning and Assessment Act 1979* or the *Land and Environment Court Act 1979* in relation to court proceedings for a breach in relation to a development contract.

Clause 55 defines *development concerns* for the purposes of the proposed Part.

Clause 56 authorises a relevant developer to carry out development that is a development concern.

Clause 57 sets out certain requirements for meetings of an association relating to development concerns.

Clause 58 sets out when a development contract is concluded.

Part 8 Amalgamation of schemes

Clause 59 provides that a precinct scheme or neighbourhood scheme forming part of a community scheme may be amalgamated with the community scheme.

Clause 60 provides that a public notice must be made 14 days before an application for amalgamation is made.

Clause 61 sets out registration requirements for an application for amalgamation.

Clause 62 sets out additional matters that must accompany an application for amalgamation.

Clause 63 permits the Registrar-General to register an amalgamation, and sets out the effect on certain rights and liabilities of the registration of the amalgamation.

Clause 64 provides for regulations to be made in relation to the amalgamation of schemes under the proposed Part.

Part 9 Variation or termination of scheme

Division 1 Variation or termination by Supreme Court

Clause 65 permits the Supreme Court to vary or terminate a scheme, and provides for certain orders to be made by the Supreme Court to vary or terminate a scheme.

Clause 66 permits the Supreme Court to vary any applicable development contract, and provides for certain orders to be made by the Supreme Court to vary a development contract.

Clause 67 sets out who can make an application to the Supreme Court for an order under the proposed Division and also provides for other related court procedure matters in relation to the application.

Division 2 Termination by Registrar-General

Clause 68 permits the Registrar-General to terminate a scheme on the application of each owner of a lot within the scheme and any subsidiary scheme.

Clause 69 sets out certain requirements for the making of an application to the Registrar-General, including an obligation to issue a public notice.

Clause 70 sets out what occurs when a scheme is terminated by the Registrar-General.

Part 10 Resumptions

Division 1 Preliminary

Clause 71 sets out the meaning of terms used in the proposed Part.

Clause 72 specifies how the proposed Part fits with other Acts relating to resumptions and identifies land to which the proposed Part applies.

Division 2 Applications to Supreme Court

Clause 73 requires a resuming authority that proposes to resume land comprising all or part of a scheme to apply to the Supreme Court for an order terminating or restructuring the scheme, unless the land is association property or common property or below the surface of the scheme.

Clause 74 provides for a resuming authority, when making an application to the Supreme Court under the proposed Division, to provide a notice to certain interested people.

Clause 75 provides that the Supreme Court may direct an application in relation to a scheme to be heard and determined as if it were an application to vary or terminate the scheme.

Clause 76 provides for the hearing of an application under the proposed Division and includes the matters the Supreme Court must consider when deciding the application.

Clause 77 provides that the costs of an application made under the proposed Division are payable by the resuming authority unless the Supreme Court directs otherwise.

Clause 78 provides that an order of the Supreme Court under the proposed Division generally takes effect on registration of the order.

Division 3 Notice of resumption

Clause 79 provides for a notice of resumption to include certain matters, and the effect of a notice of resumption.

Clause 80 provides for certain circumstances when the resuming authority must resume the whole of the scheme parcel or strata parcel.

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

Clause 81 defines *resumption application* for the purposes of the proposed Division.

Clause 82 provides for the lodgment of plans with the Registrar-General.

Clause 83 specifies when a registered plan is to take effect.

Clause 84 permits the Registrar-General to make recordings and notations when registering a resumption application.

Clause 85 specifies the documents to be lodged when the land to be resumed is a scheme parcel or strata parcel that will cease to be subject to a scheme.

Clause 86 specifies the documents to be lodged when the land to be resumed is an entire development lot, neighbourhood lot or strata lot and is to be excluded from a scheme.

Clause 87 specifies the documents to be lodged when the land to be resumed is part of a lot and is not to be excluded from the scheme.

Clause 88 specifies the documents to be lodged when the land to be resumed is part of a lot and is to be excluded from the scheme.

Clause 89 specifies the documents to be lodged when the land to be resumed is part of association property.

Clause 90 specifies the documents to be lodged when the land to be resumed is part of common property.

Division 5 Effect of resumption

Clause 91 provides for certain land that has been resumed to be excluded from a scheme.

Clause 92 provides that a resuming authority does not acquire any interest in association property or common property by a resumption of land if the land is excluded from the scheme and the land is not association property or common property.

Clause 93 provides for limited circumstances in which resumed land remains within a scheme.

Division 6 Sale as alternative to resumption

Clause 94 defines *acquisition plan* for the purposes of the proposed Act.

Clause 95 provides that a resuming authority proposing to resume part of the land in a community scheme, precinct scheme or neighbourhood scheme may instead register an acquisition plan and purchase the land in the acquisition plan.

Clause 96 provides for certain circumstances in which the Registrar-General may refuse to register an acquisition plan.

Clause 97 permits an association to sell part of its association property to a resuming authority if certain conditions are met.

Clause 98 provides for the effect of registration of a transfer to a resuming authority of land in an acquisition plan.

Clause 99 provides for the proposed Division to have effect despite any other proposed provision in the proposed Act.

Division 7 Miscellaneous

Clause 100 provides that the residue of the part lot that has been resumed must be considered in assessing compensation for the resumption.

Clause 101 provides that only the association or strata corporation in which association property or common property is vested may claim compensation.

Clause 102 provides that, where land is resumed by an authority not bound by the proposed Act, an application may be made under the proposed Act for an affected scheme to be varied or terminated.

Part 11 Lodgment and functions of Registrar-General

Clause 103 provides for the application of the proposed Act to electronic plans and documents.

Clause 104 provides that the Registrar-General is to make certain recordings and notations when registering an order, plan or other instrument under the proposed Act.

Clause 105 provides that a requirement to lodge a plan or instrument for registration may be satisfied, if appropriate, by lodging an amendment to an existing registered plan or instrument.

Clause 106 provides for a replacement sheet or an additional sheet for a plan, or a replacement schedule of unit entitlement, to be registered with a relevant plan, order of a court or other instrument.

Clause 107 provides for circumstances in which plans for strata subdivision are not registrable under the proposed Act.

Clause 108 provides for an amendment to a management statement made under the *Community Land Management Act 2020* to be registered in the Register.

Clause 109 provides for certain circumstances in which the Registrar-General is to give notice to the Valuer-General.

Clause 110 provides for the Registrar-General to make recordings that are necessary to give effect to certain orders.

Part 12 Miscellaneous

Clause 111 provides for the functions of associations.

Clause 112 provides for a notification of the expiration of the initial period under a scheme to be lodged with the Registrar-General.

Clause 113 provides for a document accompanying a plan to become part of the plan on registration.

Clause 114 provides that the proposed Act binds the Crown in right of New South Wales.

Clause 115 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 116 provides for the repeal of the *Community Land Development Act 1989* and the *Community Land Development Regulation 2018*.

Schedule 1 Plans

Schedule 1 specifies requirements for plans lodged under the proposed Act.

Schedule 2 Management statements

Schedule 2 specifies the matters that must be included in management statements for community schemes, precinct schemes and neighbourhood schemes.

Schedule 3 Schedules of unit entitlement

Schedule 3 specifies requirements for schedules of unit entitlement under the proposed Act.

Schedule 4 Savings, transitional and other provisions

Schedule 4 contains savings, transitional and other provisions consequent on the enactment of the proposed Act.

Schedule 5 Amendment of Acts and instruments

Schedule 5 amends the Acts and instruments specified in the Schedule.

Dictionary

The *Dictionary* sets out the meaning of terms used in the proposed Act.



New South Wales

Community Land Development Bill 2020

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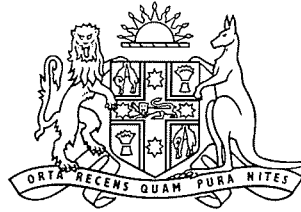
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New South Wales

Community Land Development Bill 2020

No. , 2020

A Bill for

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

See also the *Community Land Management Bill 2020*.

The Legislature of New South Wales enacts—	1
Part 1 Preliminary	2
1 Name of Act	3
This Act is the <i>Community Land Development Act 2020</i> .	4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Object of Act	7
The object of this Act is to facilitate the subdivision of land into parcels for separate development or disposition—	8
(a) with a common or shared property interest in associated land, and	10
(b) in conjunction with the development of another parcel or parcels.	11
4 Interpretation	12
(1) The Dictionary to this Act defines certain terms used in this Act.	13
Note. The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	14
(2) This Act is to be interpreted as part of the <i>Real Property Act 1900</i> but, if there is an inconsistency between them, this Act prevails.	16
(3) For the purposes of this Act, land is contiguous even if it is divided by, or separated from other land by a natural feature, railway, public road, public reserve or drainage reserve.	18
(4) A reference in this Act to any of the following approvals, contracts or statements includes a reference to the approval, contract or statement as modified or amended from time to time in accordance with this or any other Act—	21
(a) a planning approval,	24
(b) a development contract,	25
(c) a community management statement,	26
(d) a precinct management statement,	27
(e) a neighbourhood management statement.	28
(5) Notes included in this Act do not form part of this Act.	29
5 Meaning of “community scheme”	30
In this Act, <i>community scheme</i> means—	31
(a) the subdivision of land by a community plan, and	32
(b) the subdivision of land in the community plan by a precinct plan, and	33
(c) the subdivision of land in the community plan or precinct plan by a neighbourhood plan or strata plan, and	34
(d) the proposals in any related development contract, and	35
(e) the rights conferred, and the obligations imposed, by or under this Act, the <i>Community Land Management Act 2020</i> , <i>Strata Schemes Development Act 2015</i> and <i>Strata Schemes Management Act 2015</i> in relation to the following—	37
(i) the community association,	38
(ii) the community property,	39
	40
	41

(iii) subsidiary schemes,	1
(iv) persons having interests in, or occupying, development lots and lots in subsidiary schemes.	2 3
6 Meaning of “precinct scheme”	4
In this Act, <i>precinct scheme</i> means—	5
(a) the subdivision of land by a precinct plan, and	6
(b) the subdivision of land in the precinct plan by a neighbourhood plan or strata plan, and	7 8
(c) the proposals in any related development contract, and	9
(d) the rights conferred, and the obligations imposed, by or under this Act, the <i>Community Land Management Act 2020</i> , <i>Strata Schemes Development Act 2015</i> and <i>Strata Schemes Management Act 2015</i> in relation to the following—	10 11 12
(i) the precinct association,	13
(ii) the precinct property,	14
(iii) subsidiary schemes,	15
(iv) persons having interests in, or occupying, development lots and lots in subsidiary schemes.	16 17
7 Meaning of “neighbourhood scheme”	18
In this Act, <i>neighbourhood scheme</i> means—	19
(a) the subdivision of land by a neighbourhood plan, and	20
(b) the proposals in any related development contract, and	21
(c) the rights conferred, and the obligations imposed, by or under this Act and the <i>Community Land Management Act 2020</i> in relation to the following—	22 23
(i) the neighbourhood association,	24
(ii) the neighbourhood property,	25
(iii) persons having interests in, or occupying, the neighbourhood lots.	26

Part 2 Establishment of schemes

8 Establishment of community scheme

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

9 Establishment of precinct scheme

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

<i>precinct plan</i> means a plan referred to in subsection (1).	1
10 Establishment of neighbourhood scheme	2
(1) A neighbourhood scheme that is part of a community scheme or precinct scheme is established by the registration of a plan for the subdivision of land—	3 4
(a) that is a development lot, and	5
(b) into 2 or more neighbourhood lots and 1 other lot that is neighbourhood property, whether or not the plan includes land that, on registration of the plan, will be dedicated as a public road, public reserve or drainage reserve.	6 7 8
(2) A neighbourhood scheme that is not part of a community scheme or precinct scheme is established by the registration of a plan for the subdivision of land—	9 10
(a) that is not part of a community parcel, precinct parcel, neighbourhood parcel or strata parcel, and	11 12
(b) into 2 or more neighbourhood lots and 1 other lot that is neighbourhood property, whether or not the plan includes land that, on registration of the plan, will be dedicated as a public road, public reserve or drainage reserve.	13 14 15
(3) The registration of a neighbourhood plan constitutes a corporation with the corporate name “Neighbourhood Association DP No _____”, where the number to be inserted is the number of the plan registered as the neighbourhood plan.	16 17 18
(4) The members of the corporation are the owners of the neighbourhood lots in the neighbourhood parcel.	19 20
(5) In this Act—	21
<i>neighbourhood association</i> means a corporation constituted by the registration of a neighbourhood plan.	22 23
<i>neighbourhood plan</i> means a plan referred to in subsection (1) or (2).	24
11 Exclusion of corporations law	25
A community association, precinct association or neighbourhood association is declared to be an excluded matter for the purposes of section 5F of the <i>Corporations Act 2001</i> of the Commonwealth in relation to the whole of the Corporations legislation.	26 27 28 29
Note. That section permits a State to exclude a matter from the application of all or part of the Corporations legislation.	30 31
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(ii) a detail plan, and	37
(iii) an association property plan, and	38
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(i) a management statement for the scheme that complies with Schedule 2, and	40 41
(ii) any documents prescribed by the regulations, and	42
(d) may be accompanied by a development contract for the scheme that complies with Part 7.	43 44
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(a)	a schedule of unit entitlement that complies with Schedule 3, and	1
(b)	the address at which documents may be served on the association constituted on registration of the plan.	2 3
(3)	On the registration of a scheme plan, the Registrar-General is to make—	4
(a)	a recording identifying the relevant association property in the folio for each development lot or neighbourhood lot, and	5 6
(b)	the recordings required by subsection (4) in the folio for the association property.	7 8
(4)	The following recordings are to be made in the folio for association property—	9
(a)	the name of the relevant association,	10
(b)	the latest address of which the Registrar-General has been notified for the service of notices on the association,	11 12
(c)	if the association is the association for a subsidiary scheme, a recording identifying the association property of the scheme of which the subsidiary scheme is a part,	13 14 15
(d)	a recording to identify easements benefiting or burdening the association property or the whole of the scheme parcel,	16 17
(e)	a recording to identify positive covenants or restrictions on the use of land burdening the association property or the whole of the scheme parcel,	18 19
(f)	a recording to identify the applicable management statement and amendments to the applicable management statement,	20 21
(g)	a recording to identify any development contract registered with the scheme plan and any amendments to the development contract,	22 23
(h)	the recordings required to be made under this Act or any other Act,	24
(i)	any other recordings that the Registrar-General thinks fit.	25
13	Establishment of subsidiary strata scheme	26
(1)	A community development lot or precinct development lot may also be subdivided by the registration of a strata plan that includes common property.	27 28
(2)	On the registration of a strata plan, the Registrar-General is to make the following recordings—	29 30
(a)	in the folio for the common property—	31
(i)	the recordings required under sections 29, 31 and 32 of the <i>Strata Schemes Development Act 2015</i> , and	32 33
(ii)	a recording identifying the association property of the scheme of which the strata scheme is a part, and	34 35
(iii)	the recordings required to be made under this Act or any other Act, and	36
(iv)	any other recordings that the Registrar-General thinks fit.	37
(b)	in the folio for each strata lot, the recordings required under the <i>Strata Schemes Development Act 2015</i> .	38 39
(3)	A neighbourhood lot may not be subdivided by the registration of a strata plan.	40

Part 3	Plans and instruments affecting schemes	1
Division 1	Plans of subdivision and consolidation	2
14	Scheme plans of subdivision	3
(1)	A community plan of subdivision may be used to—	4
(a)	subdivide 1 or more community development lots into—	5
(i)	2 or more community development lots, or	6
(ii)	1 or more community development lots and community property, or	7
(b)	subdivide 1 or more community development lots and some, but not all, community property into 1 or more community development lots and community property, or	8 9 10
(c)	subdivide community property into 1 or more community development lots and community property, or	11 12
(d)	add a community development lot to a community scheme.	13
(2)	A precinct plan of subdivision may be used to—	14
(a)	subdivide 1 or more precinct development lots into—	15
(i)	2 or more precinct development lots, or	16
(ii)	1 or more precinct development lots and precinct property, or	17
(b)	subdivide 1 or more precinct development lots and some, but not all, precinct property into 1 or more precinct development lots and precinct property, or	18 19
(c)	subdivide precinct property into 1 or more precinct development lots and precinct property, or	20 21
(d)	add a precinct development lot to a precinct scheme.	22
(3)	A neighbourhood plan of subdivision may be used to—	23
(a)	subdivide 1 or more neighbourhood lots into—	24
(i)	2 or more neighbourhood lots, or	25
(ii)	1 or more neighbourhood lots and neighbourhood property, or	26
(b)	subdivide 1 or more neighbourhood lots and some, but not all, neighbourhood property into 1 or more neighbourhood lots and neighbourhood property, or	27 28
(c)	subdivide neighbourhood property into 1 or more neighbourhood lots and neighbourhood property, or	29 30
(d)	add a neighbourhood lot to a neighbourhood scheme.	31
15	Requirements for scheme plan of subdivision that subdivides or creates lot	32
(1)	This section applies to a scheme plan of subdivision but not a scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot.	33 34 35
(2)	The plan—	36
(a)	must comply with Schedule 1, and	37
(b)	must include an additional sheet of the detail plan showing the boundaries of all development lots or neighbourhood lots created by the subdivision, and	38 39
(c)	must include a replacement schedule of unit entitlement for the scheme that complies with Schedule 3, and	40 41
(d)	if it is necessary to amend a registered development contract to give effect to the plan, must be accompanied by—	42 43

(i)	a request for registration of the amendment to the development contract in the approved form, and	1
		2
(ii)	any documents prescribed by the regulations, and	3
(e)	if a neighbourhood lot is being subdivided and it is held by the original owner, must not be registered unless—	4
		5
(i)	the initial period has expired, or	6
(ii)	there is a development contract in force and the dealing is in accordance with the development contract, or	7
		8
(iii)	the dealing has been authorised by the Tribunal.	9
(3)	The plan, if it subdivides or creates association property—	10
(a)	must include a replacement sheet for the association property plan showing the altered boundaries of the association property, and	11
		12
(b)	must be accompanied by a certificate (the <i>association certificate</i>) in the approved form, and	13
		14
(c)	must not be registered unless—	15
(i)	the initial period has expired, or	16
(ii)	there is a development contract in force and the plan is in accordance with the contract, or	17
		18
(iii)	the plan has been authorised by the Tribunal.	19
(4)	The association certificate must be under the seal of the association and be to the effect that—	20
		21
(a)	execution of the plan was authorised by special resolution, and	22
(b)	any interest in the land has been released if—	23
(i)	the plan has not been made subject to the interest, and	24
(ii)	the interest is not a statutory interest or an interest recorded in the Register, and	25
		26
(iii)	the association has notice of the interest, and	27
(c)	land ceasing to be association property will no longer be affected by a by-law restricting the use of association property.	28
		29
(5)	A development lot or neighbourhood lot created by a subdivision of association property ceases to be association property.	30
		31
16	Requirements for scheme plan of subdivision that adds land to scheme parcel	32
(1)	This section applies to a scheme plan of subdivision that adds land to a scheme parcel as a development lot or neighbourhood lot.	33
		34
(2)	The plan—	35
(a)	must comply with Schedule 1, and	36
(b)	must include an additional sheet of the detail plan showing the boundaries of all development lots or neighbourhood lots created by the subdivision, and	37
		38
(c)	must include a replacement schedule of unit entitlement for the scheme that complies with Schedule 3, and	39
		40
(d)	must be accompanied by a certificate in the approved form certifying the association has been approved by special resolution the addition of the land, and	41
		42
		43
(e)	if required by the Registrar-General, must be accompanied by a replacement location plan showing the new boundaries and overall layout of the scheme parcel, and	44
		45
		46

(f)	must not be registered if the scheme parcel is a community parcel, unless the land—	1
	(i) is contiguous to the community parcel, and	2
	(ii) is not part of a scheme parcel or strata parcel, and	3
(g)	must not be registered if the scheme parcel is a precinct parcel, unless the land—	4
	(i) is contiguous to the precinct parcel, and	5
	(ii) comprises a community development lot in the relevant community scheme, and	6
(h)	must not be registered if the scheme parcel is a neighbourhood parcel that is part of a community scheme, unless the land—	7
	(i) is contiguous to the neighbourhood parcel, and	8
	(ii) comprises a development lot in the community scheme or, if the neighbourhood scheme is also part of a precinct scheme, the precinct scheme, and	9
(i)	must not be registered if the scheme parcel is a neighbourhood parcel that is not part of a community scheme, unless the land—	10
	(i) is contiguous to the neighbourhood parcel, and	11
	(ii) is not part of a scheme parcel or strata parcel, and	12
(j)	must not be registered, unless—	13
	(i) the initial period has expired, or	14
	(ii) there is a development contract in force and the addition of the land is in accordance with the contract, or	15
	(iii) the addition of the land has been authorised by the Tribunal.	16
17	Scheme plans of consolidation	17
(1)	A community plan of consolidation may be used to consolidate 2 or more, but not all, of the community development lots in the same community plan.	18
(2)	A precinct plan of consolidation may be used to consolidate 2 or more, but not all, of the precinct development lots in the same precinct plan.	19
(3)	A neighbourhood plan of consolidation may be used to consolidate 2 or more, but not all, of the neighbourhood lots in the same neighbourhood plan.	20
(4)	A scheme plan of consolidation—	21
	(a) must comply with Schedule 1, and	22
	(b) must include an additional sheet of the detail plan showing the boundaries of the consolidated lot, and	23
	(c) must include a replacement schedule of unit entitlement that—	24
	(i) complies with Schedule 3, and	25
	(ii) does not differ from the existing schedule except to show the unit entitlement of the consolidated lot as the sum of the lots that have been consolidated, and	26
	(d) must be accompanied by any documents prescribed by the regulations.	27

Division 2	Community and precinct development lots	1
18	Minor adjustments between development lots and community property	2
(1)	A boundary adjustment plan may be used to make an adjustment that, in the opinion of the Registrar-General, is a minor adjustment, to—	3 4
(a)	the boundaries between community development lots and the community property in a community plan, or	5 6
(b)	the boundaries between precinct development lots and the precinct property in a precinct plan.	7 8
(2)	A boundary adjustment plan must—	9
(a)	comply with Schedule 1, and	10
(b)	include an additional sheet of the detail plan showing the altered boundaries of the affected development lots, and	11 12
(c)	include a replacement sheet for the relevant association property plan showing the altered boundaries of the association property, and	13 14
(d)	be accompanied by any documents prescribed by the regulations.	15
(3)	A boundary adjustment plan when registered—	16
(a)	operates, without any further assurance, to vest the land in accordance with the adjusted boundaries, and	17 18
(b)	does not of itself give rise to any liability for stamp duty.	19
19	Severance of a development lot	20
(1)	An instrument in the approved form may be used to—	21
(a)	sever a community development lot from a community scheme, or	22
(b)	sever a precinct development lot from a precinct scheme.	23
(2)	The instrument—	24
(a)	must be signed by the owner of the lot and by the association, and	25
(b)	must be accompanied by a replacement schedule of unit entitlement that complies with Schedule 3 for—	26 27
(i)	the community scheme, and	28
(ii)	if the severed lot is a precinct development lot, the precinct scheme, and	29
(c)	must be accompanied by a certificate of the planning authority signifying its consent to the severance, and	30 31
(d)	must be accompanied by a certificate under seal to the effect that consent to the severance has been given by special resolution—	32 33
(i)	for a community development lot, by the community association, or	34
(ii)	for a precinct development lot, by the community association and the precinct association, and	35 36
(e)	must be accompanied by the consent of each mortgagee, chargee or covenant chargee of the lot, and	37 38
(f)	must be accompanied by any evidence the Registrar-General may require to show that all easements for access and services have been created if the easements are necessary for the community scheme and the severed lot because of the severance of the lot.	39 40 41 42
(3)	On registration of the instrument, the Registrar-General is to make any recordings in the folio for the severed lot as the Registrar-General thinks fit—	43 44

- (a) to give effect to the severance, and 1
- (b) to preserve subsisting interests recorded in the folio. 2
- (4) A severed lot ceases to be a development lot but continues to be a lot in a current plan 3
for the purposes of section 23F of the *Conveyancing Act 1919*. 4

Part 4 Association property	1
20 Definition	2
In this Part—	3
relevant interest means the following—	4
(a) a mortgage,	5
(b) a charge,	6
(c) a covenant charge,	7
(d) a writ,	8
(e) a caveat,	9
(f) a lease, other than a lease necessary for the provision of a service to the scheme.	10 11
21 Vesting of association property	12
(1) Registration of a plan or dealing creating association property—	13
(a) vests the land in the relevant association, and	14
(b) frees and discharges the land from all relevant interests.	15
(2) Land vests under this section for the estate or interest evidenced by the folio for the land.	16 17
22 Shares in association property	18
(1) An association for a scheme holds association property in the scheme as agent for the following as tenants in common—	19 20
(a) the owners of the development lots or neighbourhood lots in the scheme, other than lots in a subsidiary scheme,	21 22
(b) any subsidiary body for a subsidiary scheme comprising a former development lot in the scheme.	23 24
(2) The shares in the association property are proportional—	25
(a) for owners of development lots or neighbourhood lots, to the unit entitlement of the lots, and	26 27
(b) for a subsidiary body, to the unit entitlement of the former development lot.	28
23 Dealings with association property	29
(1) Association property may be dealt with only in accordance with this Act and the <i>Community Land Management Act 2020</i> .	30 31
(2) Association property held by an association as agent—	32
(a) for the owner of a development lot or neighbourhood lot, may be dealt with in conjunction with the lot, or	33 34
(b) for a subsidiary body, may be dealt with in conjunction with the subsidiary parcel.	35 36
(3) A reference in a dealing, caveat or priority notice to a lot is taken to include a reference to association property held by an association as agent in relation to the lot.	37 38
(4) Subsection (3) has effect without a recording being made in the folio for the association property.	39 40

24 Conversion of lots to association property	1
(1) An instrument in the approved form may be used to—	2
(a) convert a community development lot to community property, or	3
(b) convert a precinct development lot to precinct property, or	4
(c) convert a neighbourhood lot to neighbourhood property.	5
(2) The instrument—	6
(a) must be signed by the owner of the lot and by the association, and	7
(b) must be accompanied by a replacement sheet for the association property plan showing the altered boundaries of the association property, and	8 9
(c) must be accompanied by a replacement schedule of unit entitlement for the affected scheme that complies with Schedule 3, and	10 11
(d) must be accompanied by a certificate of the planning authority showing its consent to the conversion, and	12 13
(e) must be accompanied by a certificate under the seal of the relevant association to the effect that it has, by special resolution, consented to the conversion and to the new schedule of unit entitlement, and	14 15 16
(f) must not be registered unless the folio for the lot is freed from all relevant interests, and	17 18
(g) if the instrument is converting a neighbourhood lot held by the original owner, must not be registered unless—	19 20
(i) the initial period has expired, or	21
(ii) there is a development contract in force and the instrument is in accordance with the contract, or	22 23
(iii) the conversion has been authorised by the Tribunal.	24
(3) On registration of the instrument, the Registrar-General is to cancel the folio for the lot.	25 26
25 Acquisition of additional association property by transfer	27
(1) An association may add land to its association property by transfer if—	28
(a) the land is not part of the scheme parcel, and	29
(b) the land is contiguous to the scheme parcel, and	30
(c) the transfer is registered under the <i>Real Property Act 1900</i> .	31
(2) If the scheme is a subsidiary scheme, the transferred land must comprise a development lot within a scheme of which the subsidiary scheme is part.	32 33
(3) The transfer—	34
(a) must be accompanied by the certificate of title for the land transferred, and	35
(b) must be accompanied by the certificate of title for the association property, and	36
(c) must be accompanied by a certificate under the seal of the association to which the land is to be transferred to the effect that acceptance of the transfer was authorised by special resolution, and	37 38 39
(d) must be accompanied by a replacement sheet for the association property plan showing the altered boundaries of the association property, and	40 41
(e) must be accompanied by an additional sheet of the detail plan showing the detailed survey information of the additional land, and	42 43

(f)	if required by the Registrar-General, must be accompanied by a replacement location plan showing the new boundaries and overall layout of the scheme parcel, and	1 2 3
(g)	must not be registered unless the folio for the lot is freed from all relevant interests, and	4 5
(h)	must not be registered unless—	6
(i)	the initial period has expired, or	7
(ii)	there is a development contract in force and the transfer is in accordance with the contract, or	8 9
(iii)	the transfer has been authorised by the Tribunal.	10
(4)	In this section—	11
	detailed survey information for a plan, means the survey information required to be included in the plan by regulations made under the <i>Surveying and Spatial Information Act 2002</i> .	12 13 14
26	Acquisition of additional association property by lease	15
(1)	An association may add land to its association property by lease if—	16
(a)	the land is not part of the scheme parcel, and	17
(b)	the land is contiguous to the scheme parcel, and	18
(c)	the lease is registered under the <i>Real Property Act 1900</i> .	19
(2)	The lease—	20
(a)	must be accompanied by the certificate of title for the land leased, except where a leasehold interest is acquired by transfer of a lease or sublease, and	21 22
(b)	must be accompanied by the certificate of title for the association property, and	23
(c)	must be accompanied by a certificate under the seal of the association to which the land is to be transferred to the effect that acceptance of the lease was authorised by special resolution, and	24 25 26
(d)	if the lease is to a neighbourhood association, must not be registered unless—	27
(i)	the initial period has expired, or	28
(ii)	there is a development contract in force and the lease is in accordance with the contract, or	29 30
(iii)	the lease has been authorised by the Tribunal.	31
(3)	An association may surrender or vary a lease accepted by it under this section if—	32
(a)	it so decides by special resolution, and	33
(b)	the lessor consents.	34
(4)	In this section—	35
	lease includes—	36
(a)	a sublease, and	37
(b)	a leasehold estate or interest acquired by transfer.	38
27	Lease of certain association property	39
(1)	An association may grant a lease of land forming part of its association property if—	40
(a)	the land is not all of its association property, and	41
(b)	the lease is registered under the <i>Real Property Act 1900</i> .	42
(2)	The lease—	43

- (a) must be accompanied by a certificate (an *association certificate*) in the approved form, and 1
 - (b) must not be registered unless— 2
 - (i) the initial period has expired, or 3
 - (ii) the grant of the lease has been authorised by the Tribunal. 4
- (3) The association certificate must be under the seal of the association and be to the effect that— 5
- (a) execution of the lease was authorised by special resolution, and 6
 - (b) any interest in the land has been released if— 7
 - (i) the lease has not been made subject to the interest, and 8
 - (ii) the interest is not a statutory interest or an interest recorded in the Register, and 9
 - (iii) the association has notice of the interest, and 10
 - (c) any by-law restricting the use of the association property no longer affects the interest passing under the lease. 11
- (4) An association may by special resolution accept a surrender of, or exercise a right of re-entry under, a lease granted by it under this section. 12
- (5) In this section— 13
- grant a lease* includes grant a sublease or transfer a lease, but only if the sublease or transfer is not in contravention of the lease. 14

28 Transfer of association property 15

- (1) An association may transfer land forming part of its association property if— 16
- (a) the land is not all of its association property, and 17
 - (b) the land is not held by it on lease, and 18
 - (c) the land is shown as a lot in a plan lodged for registration as a current plan, and 19
 - (d) the transfer is registered under the *Real Property Act 1900*. 20
- (2) The transfer— 21
- (a) must be accompanied by a replacement sheet for the association property plan showing the altered boundaries of the association property, and 22
 - (b) must be accompanied by a certificate (an *association certificate*) in the approved form, and 23
 - (c) must not be registered unless— 24
 - (i) the initial period has expired, or 25
 - (ii) the transfer has been authorised by the Tribunal. 26
- (3) The association certificate must be under the seal of the association and be to the effect that— 27
- (a) execution of the transfer was authorised by special resolution, and 28
 - (b) any interest in the land has been released if— 29
 - (i) the transfer has not been made subject to the interest, and 30
 - (ii) the interest is not a statutory interest or an interest recorded in the Register, and 31
 - (iii) the association has notice of the interest, and 32
 - (c) any by-law restricting the use of the association property no longer affects the interest passing under the transfer. 33

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

1

Part 5	Easements and restrictions	1
Division 1	Granting or accepting relevant interests	2
29	Definition	3
	In this Division—	4
	<i>relevant interest</i> means an easement, restriction on the use of land or positive covenant.	5 6
30	Association may grant or accept relevant interest	7
(1)	An association may by special resolution—	8
(a)	grant an easement that burdens association property, or	9
(b)	grant a restriction on the use of land or a positive covenant that burdens association property or the whole of the scheme parcel, or	10 11
(c)	execute a dealing releasing or varying a relevant interest that burdens association property or the whole of the scheme parcel.	12 13
(2)	An association may by ordinary resolution—	14
(a)	accept the benefit of a relevant interest that benefits association property or the whole of the scheme parcel, or	15 16
(b)	accept a dealing releasing or varying a relevant interest that benefits association property or the whole of the scheme parcel.	17 18
31	Dealings to grant or accept relevant interest	19
(1)	A dealing by an association to grant, release, vary or accept a relevant interest that burdens or benefits land must be accompanied by a certificate—	20 21
(a)	in the approved form, and	22
(b)	under the seal of the association, and	23
(c)	to the effect that the dealing was approved by the association in accordance with this Division.	24 25
(2)	A dealing under this section must not be registered if the association is a neighbourhood association unless—	26 27
(a)	the initial period has expired, or	28
(b)	there is a development contract in force and the dealing is in accordance with the contract, or	29 30
(c)	the dealing has been authorised by the Tribunal.	31
Division 2	Statutory easements	32
32	Definitions	33
	In this Division—	34
	<i>lot</i> means—	35
(a)	a development lot, neighbourhood lot or strata lot, or	36
(b)	community property, precinct property or neighbourhood property.	37
	<i>prescribed diagram</i> means a diagram in the approved form that complies with any requirements prescribed by the regulations or the lodgment rules.	38 39
	<i>service</i> includes—	40

(a)	the supply of water, gas, electricity, artificially heated or cooled air or heating oil, and	1 2
(b)	the provision of recycled water, sewerage and drainage, and	3
(c)	telecommunications services.	4
	<i>service line</i> means a pipe, wire, cable, duct, channel or pole used for the provision of a service.	5 6
	<i>service provider</i> includes an association that provides a service under a management statement.	7 8
33	Meaning of “statutory easement”	9
	For the purposes of this Act, a <i>statutory easement</i> is an easement conferring rights—	10
(a)	to provide a service line within a scheme and a service using the service line, and	11 12
(b)	to maintain and repair the service line, and	13
(c)	to enter the following land within the scheme and do all things as may be reasonably necessary to exercise the rights referred to in paragraphs (a) and (b)—	14 15 16
	(i) land that includes, or is to include, the service line,	17
	(ii) land contiguous to the land.	18
34	Creation of statutory easement	19
(1)	A statutory easement is created within a scheme when a prescribed diagram showing the position of the service line is registered as part of the management statement for the scheme.	20 21 22
(2)	On the creation within a scheme of a statutory easement for a service line—	23
(a)	the easement is appurtenant to each lot in the scheme to which a service is provided using the service line, and	24 25
(b)	land within the scheme in which the service line is located is subject to the easement to the extent the lot is affected by the service line.	26 27
35	Service line provider has benefit of statutory easement	28
	A service provider has the benefit of a statutory easement created in a scheme in relation to a service line if—	29 30
(a)	the service provider provides a service within a scheme using the service line, and	31 32
(b)	the service is provided in accordance with an agreement or, if the service provider is the association for the scheme, in accordance with a management statement.	33 34 35
36	Implied covenants	36
	An association, owner of land or service provider, having the benefit of a statutory easement is subject to the following covenants—	37 38
(a)	the rights under the easement will be exercised in a way that—	39
	(i) will not unreasonably interfere with the use and enjoyment by any other owner of land burdened by the easement, and	40 41
	(ii) will ensure any interference with the use and enjoyment of community, precinct or neighbourhood property by owners or occupiers of lots will be kept to a minimum,	42 43 44

(b)	the person exercising the rights under the easement will make good, at the person's own expense, any damage to, or interference with, the parts of the scheme affected by the exercise of the rights—	1 2 3
(i)	for land within the scheme that will include, or includes, the service line—by restoring the land to a basic standard not including the repair or restoration of unusual or expensive landscaping or other works erected over the land, and	4 5 6 7
(ii)	for land within the scheme contiguous to the land referred to in subparagraph (i)—by restoring the land to its former state,	8 9
(c)	the person exercising the rights under the easement will leave the land on which they are exercised in a clean and tidy condition on completion of the installation, maintenance or repair of any service the subject of the easement.	10 11 12
37	Service line completed after creation of statutory easement	13
(1)	If the installation of a service line is completed after the creation of the statutory easement, the relevant association—	14 15
(a)	must notify the Registrar-General of the completion in the approved form, and	16
(b)	if the service line is installed in a different position from the position shown in the registered prescribed diagram, must lodge a new prescribed diagram for registration—	17 18 19
(i)	showing the actual position of the service line, and	20
(ii)	signed by the owners of each of the lots to be burdened by the statutory easement to be created on registration of the new prescribed diagram.	21 22
(2)	If the installation is completed during the initial period, the notification and lodgment is to be done by the developer.	23 24
(3)	On registration of the new prescribed diagram—	25
(a)	the earlier prescribed diagram is cancelled to the extent it is inconsistent with the new prescribed diagram, and	26 27
(b)	the new prescribed diagram has effect on registration as if it had been registered immediately before installation of the service line.	28 29
38	Developer to give copy of prescribed diagram to association	30
(1)	A developer must give a copy of the prescribed diagram relating to a service line to the association for a scheme if—	31 32
(a)	a service line is installed as part of the scheme, and	33
(b)	the service line is installed after registration of the management statement.	34
(2)	The copy must be given within 1 month after the installation.	35
39	Registrar-General may make recordings	36
	The Registrar-General may make in the Register any recordings the Registrar-General thinks fit about any action taken under this Division.	37 38
40	Division does not affect other rights or obligations	39
	This Division does not affect any rights or obligations relating to service lines conferred or imposed by another Act.	40 41

Part 6	Access to schemes	1
41	Setting apart access way in association property	2
(1)	All or part of association property may be set apart as an open access way connecting part of the scheme parcel—	3 4
(a)	to a public place, or	5
(b)	if the association property is part of a subsidiary scheme, to a public place through an open access way in the community scheme of which the subsidiary scheme forms part.	6 7 8
(2)	All or part of association property, other than an open access way, may be set apart as a private access way connecting part of the scheme parcel—	9 10
(a)	to an open access way within the scheme parcel or a public place, or	11
(b)	if the association property is part of a subsidiary scheme, to an open access way within the scheme parcel or a public place through an open access way in the community scheme of which the subsidiary scheme forms part.	12 13 14
(3)	Land is set apart under this section if the management statement for the scheme includes a plan in the approved form that—	15 16
(a)	defines the land to be set apart as an access way, and	17
(b)	specifies whether the land is an open access way or a private access way, and	18
(c)	includes any information prescribed by the regulations or lodgment rules.	19
	Note. See section 112 of the <i>Community Land Management Act 2020</i> for further provisions relating to open and private access ways.	20 21
42	Special resolution required for closure of open access way	22
	An open access way within a community parcel may not be closed unless the closure is authorised by special resolution of each association whose members are entitled to use the access way.	23 24 25
43	Access ways remain as association property	26
(1)	Setting apart land as an open access way or a private access way does not—	27
(a)	cause the land to cease to be association property, or	28
(b)	affect the obligation of an association to maintain it as association property.	29
(2)	This section has effect to the exclusion of anything in the <i>Roads Act 1993</i> that operates to vest land in a council as a public road.	30 31
44	Effect of access ways in relation to certain rights	32
(1)	Section 45A of the <i>Real Property Act 1900</i> does not apply to a conveyance of land abutting on an open access way or a private access way.	33 34
(2)	The owner of a lot in a scheme has no rights in relation to association property set apart under the scheme as an open access way or a private access way other than—	35 36
(a)	rights conferred by this Act and the <i>Community Land Management Act 2020</i> on the owner in relation to association property, and	37 38
(b)	rights conferred by the management statement for the scheme.	39

Part 7	Development contracts	1
45	Definitions	2
	In this Act—	3
	<i>authorised proposal</i> means any part of the proposed development that the developer is permitted by the contract to carry out but cannot, merely because it is described in the contract, be compelled to carry out.	4 5 6
	<i>development concern</i> —see section 55.	7
	<i>development contract</i> means the instruments, plans and drawings registered with a scheme plan that describe the way in which it is proposed to develop land in the scheme.	8 9 10
	<i>warranted development</i> means any part of the proposed development that the developer is permitted by the contract to carry out and may be compelled to carry out.	11 12
46	Form and content	13
(1)	A development contract and any amendment of a development contract must be in the approved form and be signed by or on behalf of the developer.	14 15
(2)	A development contract must describe the following—	16
	(a) the parcel of land to which the contract relates,	17
	(b) any land proposed to be added to the parcel at a later time,	18
	(c) the warranted development,	19
	(d) the authorised proposals.	20
(3)	A development contract must identify—	21
	(a) warranted development as “ warranted development —proposed development subject to a warranty”, and	22 23
	(b) authorised proposals as “ authorised proposals —proposed development <i>not</i> subject to a warranty”.	24 25
(4)	A development contract must include—	26
	(a) a concept plan, and	27
	(b) a description of the amenities proposed to be provided, and	28
	(c) details of access and construction zones, working hours and any related rights over association property, and	29 30
	(d) an undertaking by the developer—	31
	(i) to not cause unreasonable inconvenience to owners of lots in the scheme, and	32 33
	(ii) to repair without delay any damage caused to association property or common property by development activities, and	34 35
	(e) any other documents, particulars, information or matter prescribed by the regulations.	36 37
(5)	A development contract cannot provide for the subdivision of association property without the consent, by special resolution, of the relevant association.	38 39
(6)	This section does not limit the matters that may be included in a development contract.	40 41

47	Planning approval	1
(1)	A planning authority must not grant planning approval to a relevant application unless the proposed development contract complies with this Part.	2 3
(2)	The granting of planning approval may be, but need not be, subject to a condition requiring the community parcel, precinct parcel or neighbourhood parcel to be developed in accordance with the development contract.	4 5 6
(3)	The condition has effect—	7
(a)	for a development consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> —as a condition of the development consent authorised by, and imposed under, section 4.17 of that Act, or	8 9 10
(b)	for an approval under Division 5.2 of that Act—as a condition of the approval.	11
(4)	A planning authority that grants planning approval for a relevant application—	12
(a)	must certify on the development contract that—	13
(i)	planning approval has been granted to the development proposed by the instruments, plans and drawings that comprise the development contract, and	14 15 16
(ii)	the instruments, plans and drawings are not inconsistent with the planning approval, and	17 18
(b)	must provide the applicant with a copy of the development contract bearing the certificate.	19 20
(5)	In this section—	21
	relevant application means an application for planning approval for development in accordance with a proposed scheme plan accompanied by a proposed development contract.	22 23 24
48	Variation of liability for association property expenses	25
(1)	A development contract may apportion the liability for expenses relating to the use or maintenance of association property in a scheme differently from the way liability would otherwise be apportioned by the schedule of unit entitlement applicable to lots under the scheme.	26 27 28 29
(2)	An apportionment under this section has effect despite the current schedule of unit entitlement, but does not apply to any liability relating to the use or maintenance of the association property after the development contract is concluded.	30 31 32
49	Binding effect	33
(1)	A development contract comes into effect when it is registered.	34
(2)	A development contract registered with a scheme plan has effect as if it included an agreement under seal with the covenants set out in subsections (3) and (4)—	35 36
(3)	The developer covenants that the developer must—	37
(a)	carry out warranted development, and	38
(b)	carry out development in accordance with—	39
(i)	the covenants set out and implied in the contract, and	40
(ii)	any relevant planning approval.	41
(4)	The other parties covenant that the developer will be permitted to carry out, in accordance with the development contract and any relevant planning approval—	42 43
(a)	warranted development, and	44

(b) authorised proposals.	1
(5) The covenants are given jointly and severally between the developer and each of the other parties.	2 3
(6) Any attempt to exclude, modify or restrict the operation of the covenants is void.	4
(7) The covenants do not affect any right or remedy a person has otherwise than under the covenants.	5 6
(8) The covenants do not merge in a transfer.	7
(9) Part 4 of the <i>Community Land Management Act 2020</i> does not apply to matters arising under the covenants.	8 9
(10) In this section—	10
<i>lot owner</i> , for a scheme, means a person, other than a developer, who is the owner of a development lot or neighbourhood lot within the scheme.	11 12
<i>other parties</i> , for a scheme, means—	13
(a) the association and any subsidiary bodies, and	14
(b) the lot owners, and	15
(c) each registered mortgagee, chargee, covenant chargee or lessee of a lot.	16
50 Amendment with approval of planning authority and association	17
(1) A development contract may be amended by the developer but the amendment is ineffective unless—	18 19
(a) this section has been complied with in relation to the amendment, and	20
(b) the amendment is registered.	21
(2) A proposed amendment to a development contract may not be made unless it is approved—	22 23
(a) by the planning authority, and	24
(b) by the relevant association.	25
(3) The approval of the relevant association must be by—	26
(a) unanimous resolution, if the proposed amendment involves a change in—	27
(i) the basic architectural or landscaping design of the development, or	28
(ii) the essence or theme of the development, or	29
(b) resolution, if the proposed amendment gives effect only to—	30
(i) a change in the law, or	31
(ii) a change in the requirements of the planning authority, or	32
(c) special resolution, in any other case.	33
(4) For the purposes of this section, an approval given under this Part by the Land and Environment Court to an amendment of a development contract has the same effect as if the approval were given by an association.	34 35 36
(5) A planning authority that approves an amendment of a development contract must provide the applicant for the approval with—	37 38
(a) a copy of the instruments, plans and drawings that describe and illustrate the amendment, and	39 40
(b) a certificate to the effect that—	41
(i) the copy describes and illustrates the approved amendment, and	42

(ii)	the development contract, if amended as approved by the authority, would not be inconsistent with the related planning approval.	1 2
51	Notice of decision of planning authority and appeal	3
(1)	If a planning authority does not approve an amendment of a development contract, the planning authority must give the applicant for the approval a notice stating—	4 5
(a)	the grounds for the refusal, and	6
(b)	the applicant may appeal to the Land and Environment Court against the refusal, and	7 8
(c)	the period within which the appeal may be made.	9
(2)	The applicant may appeal to the Land and Environment Court against the refusal within 12 months after receiving the notice.	10 11
(3)	However, the Land and Environment Court may, if it considers it appropriate in the circumstances, extend the period for making the appeal.	12 13
(4)	A decision of the Land and Environment Court on appeal is taken to be the final decision of the planning authority and is to be given effect as if it were the decision of the planning authority.	14 15 16
52	Amendment with approval of Court	17
(1)	A developer may apply to the Land and Environment Court for an order approving an amendment of a development contract if the approval by the relevant association is not given under this Part because—	18 19 20
(a)	a motion for giving the approval has been defeated, or	21
(b)	the notice relating the motion has been given but a meeting to consider the motion has not been held within a reasonable time after the giving of the notice.	22 23 24
(2)	A copy of the application must be served by the developer on—	25
(a)	the planning authority, and	26
(b)	the association and any subsidiary body, and	27
(c)	each person other than the developer who is the owner of a development lot or neighbourhood lot in the scheme or any subsidiary scheme, and	28 29
(d)	each registered mortgagee, chargee and covenant chargee of a development lot or neighbourhood lot in the scheme or any subsidiary scheme.	30 31
(3)	Each person or body served with a copy of the application is entitled to appear and be heard at the hearing of the application.	32 33
(4)	The Land and Environment Court may—	34
(a)	approve the amendment, or	35
(b)	approve a different amendment, or	36
(c)	refuse to approve the amendment.	37
53	Registration of amendment	38
(1)	An amendment to a development contract made in accordance with this Part may be registered by the recordings in the Register as the Registrar-General thinks fit.	39 40
(2)	The Registrar-General may refuse an application for registration of an amendment unless—	41 42
(a)	it is in the approved form, and	43

(b)	it bears the approval of the planning authority, and	1
(c)	it bears a certificate by the association to the effect that the amendment was approved by the association as required by this Part.	2 3
54	Orders of the Court for breach	4
(1)	This section applies to proceedings brought in the Land and Environment Court.	5
(2)	If proceedings are brought by an association, or a member of an association, under section 9.45 of the <i>Environmental Planning and Assessment Act 1979</i> for a breach of a condition of a planning approval constituted by a breach of a development contract, the Court may make an award of damages under section 20(2)(d) of the <i>Land and Environment Court Act 1979</i> —	6 7 8 9 10
(a)	instead of making a restraining order under section 9.46 of the <i>Environmental Planning and Assessment Act 1979</i> , or	11 12
(b)	instead of, or in addition to, making an order under that section other than a restraining order.	13 14
(3)	If proceedings are brought under section 20(2)(d) of the <i>Land and Environment Court Act 1979</i> for a breach of the agreement implied by section 49 in relation to a development contract—	15 16 17
(a)	the Court may make an order under section 9.46 of the <i>Environmental Planning and Assessment Act 1979</i> instead of, or in addition to, making an award of damages, or	18 19 20
(b)	the Court may order specific performance of the development contract instead of making an award of damages.	21 22
55	Development concerns	23
(1)	The following are <i>development concerns</i> for the purposes of this Part—	24
(a)	adding to association property in accordance with a development contract,	25
(b)	adding land to a scheme in accordance with a development contract,	26
(c)	carrying out any other development permitted to be carried out because it is included in a development contract.	27 28
(2)	The following are not <i>development concerns</i> for the purposes of this Part—	29
(a)	the subdivision of association property created by a registered plan,	30
(b)	the grant of a lease over association property,	31
(c)	the amendment of a development contract, regardless of whether the subject-matter involved is, or relates to, a development concern.	32 33
56	Right to complete permitted development	34
(1)	The developer who is permitted to carry out development that is a development concern under a development contract is the <i>relevant developer</i> for the development concern.	35 36 37
(2)	A motion included in the notice for a meeting of an association that would have the effect of making a decision about a development concern may be passed or defeated by—	38 39 40
(a)	the vote of the relevant developer, or	41
(b)	if there is more than 1 relevant developer, the vote of each of the developers.	42
(3)	It is not necessary for a decision about a development concern to be supported by special or unanimous resolution of an association, despite any other provision of this Act.	43 44 45

(4)	A dealing, plan or other instrument may be executed for the purpose of giving effect to a decision about a development concern by—	1
	(a) an association, or	2
	(b) the relevant developer on behalf of an association.	3
(5)	The regulations or the lodgment rules may—	4
	(a) impose requirements for the execution of dealings, plans and other instruments by associations and developers, and	5
	(b) require verification by statutory declaration of the circumstances in which they were executed.	6
		7
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57	Meetings of association relating to development concerns	10
(1)	A motion, the passing or defeat of which at a meeting of an association or of the association committee of an association would have the effect of making a decision about a development concern, must be—	11
	(a) identified as relating to a development concern in the notice for the meeting, and	12
	(b) moved separately from any other kind of motion.	13
(2)	A general meeting of an association under Schedule 1 to the <i>Community Land Management Act 2020</i> —	14
	(a) may be convened by the developer, or	15
	(b) must be convened if a qualified request is made under section 17 of that Act.	16
(3)	In convening the general meeting, the developer or the persons or bodies making the qualified request may give notice of the meeting on behalf of the association committee of the association.	17
		18
(4)	The required quorum at a meeting of the association or association committee of the association is the developer—	19
	(a) while business relating to a development concern is being dealt with, and	20
	(b) if notice of the meeting has been duly given.	21
(5)	A developer may exercise any of the following functions for the purpose only of allowing development permitted by a development contract to be carried out—	22
	(a) functions of an association bound by the development contract,	23
	(b) functions of any other person having functions under the scheme concerned as may be prescribed by the regulations.	24
(6)	A reference to a developer in subsections (4) and (5) is, if the developer is a corporation, a reference to the company nominee of the corporation.	25
		26
(7)	This section has effect despite any other provision of this Act.	27
(8)	In this section—	28
	<i>company nominee</i> , for a corporation, means a company nominee within the meaning of the <i>Community Land Management Act 2020</i> who is authorised to exercise the voting rights of the corporation.	29
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58	Conclusion of development contract	40
(1)	For the purposes of this Act, a development contract is concluded when any of the following occurs—	41
	(a) any planning approval required for carrying out the contract is revoked,	42
	(b) the time specified by the contract for conclusion of the contract arrives,	43
		44

- (c) a notice (a *completion notice*) stating that the scheme to which the contract relates is completed is registered by the Registrar-General, 1
 - (d) the scheme to which the contract relates is terminated under Part 9. 2
- (2) A development contract must specify a time for the conclusion of the contract being a time not later than— 3
- (a) 10 years after the registration of the contract, or 4
 - (b) if the regulations permit a later date to be specified, the later date. 5
- (3) A completion notice must not be registered by the Registrar-General unless— 6
- (a) it is in the approved form, and 7
 - (b) it has been signed by the developer concerned, and 8
 - (c) it is lodged with a certificate of the association for the scheme concerned— 9
 - (i) in the approved form, and 10
 - (ii) certifying that the association has agreed, by unanimous resolution, that the development contract has concluded. 11
- (4) The Registrar-General must, if satisfied that a development contract has concluded— 12
- (a) make an appropriate record of the conclusion of the contract in the folio for the association and the association property, if any, of the scheme concerned, and 13
 - (b) remove the contract from the Register. 14

Part 8	Amalgamation of schemes	1
59	Amalgamation with subsidiary precinct or neighbourhood scheme	2
	A precinct scheme or neighbourhood scheme forming part of a community scheme may be amalgamated with the community scheme in accordance with this Part.	3 4
60	Public notice of proposed amalgamation	5
(1)	The following must be publicly notified at least 14 days before an application for amalgamation is made—	6 7
(a)	details of the proposed amalgamation,	8
(b)	a statement of intention to make the application.	9
(2)	The public notification must be done in a way the Registrar-General considers appropriate to cause notice of the application to come to the attention of the public.	10 11
61	Application for amalgamation of schemes	12
(1)	An application for amalgamation must—	13
(a)	be made to the Registrar-General in the approved form, and	14
(b)	be made under the seal of each of the following associations after being approved by special resolution of each of the associations—	15 16
(i)	the community association,	17
(ii)	the precinct association or neighbourhood association for the precinct scheme or neighbourhood scheme to be amalgamated,	18 19
(iii)	the association or strata corporation for each other subsidiary scheme in the community scheme,	20 21
(iv)	if the amalgamated scheme is a precinct scheme, the association or strata corporation for each other subsidiary scheme in the precinct scheme, and	22 23 24
(c)	be signed by the registered owner of each development lot in the community scheme that has not become part of a subsidiary scheme, and	25 26
(d)	bear the consent of the planning authority.	27
(2)	The Registrar-General may refuse to register an amalgamation unless—	28
(a)	the application for amalgamation is signed by each registered mortgagee, chargee or covenant chargee of each development lot in the community scheme that has not become part of a subsidiary scheme, and	29 30 31
(b)	the application bears the consent of each lessee of precinct property or neighbourhood property in the precinct scheme or neighbourhood scheme to be amalgamated with the community scheme.	32 33 34
62	Matters to accompany application	35
(1)	The application for amalgamation must be accompanied by—	36
(a)	an additional sheet of the detail plan for the community plan showing all the amalgamated precinct development lots or neighbourhood lots as community development lots or former community development lots without any changes to the boundaries or dimensions of the lots, and	37 38 39 40
(b)	a replacement sheet for the community property plan showing the altered boundaries of the community property including the amalgamated precinct property or neighbourhood property, and	41 42 43

(c)	a replacement schedule of unit entitlement for the community plan that complies with Schedule 3, and	1 2
(d)	an amended community management statement, and	3
(e)	any documents prescribed by the regulations.	4
(2)	The amended community management statement must—	5
(a)	comply with Schedule 2, and	6
(b)	include a new prescribed diagram for all the statutory easements to which the community scheme will be subject on registration of the amalgamation, and	7 8
(c)	if the position of service lines has changed, or is proposed to be changed, from the position shown on the prescribed diagrams for the community scheme, precinct scheme or neighbourhood scheme before amalgamation, be accompanied by the consent to the change of each owner of a lot affected by the change on registration of the amalgamation, and	9 10 11 12 13
(d)	include new plans under section 41 for all access ways that will exist in the community scheme on registration of the amalgamation, and	14 15
(e)	be accompanied by a certificate under the seal of the community association to the effect that the community management statement was amended in accordance with the <i>Community Land Management Act 2020</i> .	16 17 18
63	Consequences of registration of amalgamation of schemes	19
(1)	On receiving an application for amalgamation in accordance with this Part, the Registrar-General may register the amalgamation.	20 21
(2)	On registration of the amalgamation—	22
(a)	each precinct scheme or neighbourhood scheme the subject of the application is terminated, and	23 24
(b)	the association for a terminated scheme is dissolved, and	25
(c)	any money in the administrative fund of a terminated scheme is to be transferred to the administrative fund of the community scheme, and	26 27
(d)	any money in the sinking fund of a terminated scheme is to be transferred to the sinking fund of the community scheme, and	28 29
(e)	any association property in a terminated scheme becomes community property in the community scheme, and	30 31
(f)	any other assets and property of the association for a terminated scheme become the assets and property of the community association, and	32 33
(g)	any liabilities of the association for a terminated scheme become the liabilities of the community association, and	34 35
(h)	each precinct development lot or neighbourhood lot in a terminated scheme becomes a development lot in the community scheme, and	36 37
(i)	each former precinct development lot in a terminated precinct scheme becomes a former development lot in the community scheme, and	38 39
(j)	the change of a precinct development lot or neighbourhood lot to a community development lot does not affect any mortgage, charge, lease or other interest registered on the lot, and	40 41 42
(k)	each owner of a precinct development lot or neighbourhood lot in a terminated scheme becomes a member of the community association, and	43 44
(l)	each neighbourhood scheme or strata scheme that is a subsidiary scheme of a terminated precinct scheme and not the subject of the application continues as a subsidiary scheme of the community scheme.	45 46 47

- (3) If the Registrar-General registers the amalgamation, the Registrar-General— 1
 - (a) must record in the Register the termination of each scheme that amalgamated 2
with the community scheme, and 3
 - (b) may make any other appropriate recordings in the Register to give effect to the 4
amalgamation and its consequences. 5

64 Regulations for purposes of this Part 6

Regulations may be made about the amalgamation of schemes under this Part, 7
including transitional matters arising from an amalgamation of schemes. 8

Part 9 Variation or termination of scheme 1

Division 1 Variation or termination by Supreme Court 2

65 Variation or termination of scheme 3

- (1) The Supreme Court may vary or terminate a scheme if satisfied that— 4
- (a) the continuation of the scheme is impracticable, or 5
 - (b) if the scheme is a staged scheme, completion of the staged scheme has become impracticable. 6
7
- (2) The Supreme Court may terminate a scheme and any subsidiary scheme if an application to terminate the scheme is made by— 8
9
- (a) the association for the scheme and each subsidiary body, and 10
 - (b) each owner of a lot within the scheme and any subsidiary scheme, and 11
 - (c) each registered mortgagee, chargee and covenant chargee of a lot within the scheme and any subsidiary scheme. 12
13
- (3) An order of the Supreme Court varying or terminating a scheme may provide for any 14
1 or more of the following— 15
- (a) the adjustment, exercise and discharge of rights and liabilities under the scheme of an association and its members, 16
17
 - (b) disposal of the assets of an association or of a strata corporation that is a member of an association, 18
19
 - (c) the vesting of estates or interests in land within the scheme, 20
 - (d) the winding up of an association or of a strata corporation that is a member of an association, 21
22
 - (e) a variation of unit entitlement in accordance with a new valuation, 23
 - (f) the amendment of the management statement for the scheme, 24
 - (g) the registration of a new plan or reversion to a former plan, 25
 - (h) any other matter the Court considers to be appropriate, just and equitable in the circumstances. 26
27
- (4) If the Supreme Court orders termination of a scheme, the parcel that was subdivided to constitute the scheme is, for the purposes of section 23F of the *Conveyancing Act 1919*, reinstated as a lot in a current plan. 28
29
30
- (5) Subsection (4) does not apply if the Supreme Court orders the lodgment for registration of a current plan for the parcel. 31
32
- (6) In this section— 33
staged scheme means a scheme for which a development contract is in force. 34

66 Variation of associated development contract 35

- (1) The Supreme Court may also vary an applicable development contract if satisfied that completion of a staged scheme has become impracticable. 36
37
- (2) An order of the Supreme Court varying a development contract may provide for any 38
1 or more of the following— 39
- (a) the conversion of a development lot or former development lot to community property or precinct property, 40
41
 - (b) the conversion of a neighbourhood lot to neighbourhood property, 42
 - (c) the severance from the scheme of a development lot or neighbourhood lot, 43

(d)	the amendment of the management statement for the scheme,	1
(e)	the persons authorised to sign an instrument for the purposes of any of the matters referred to in paragraphs (a)–(d),	2 3
(f)	any other matter the Court considers to be appropriate, just and equitable in the circumstances.	4 5
(3)	In this section—	6
	<i>staged scheme</i> means a scheme for which a development contract is in force.	7
67	Application to Supreme Court	8
(1)	An application to the Supreme Court for an order under this Division may be made by—	9 10
(a)	an association or strata corporation within the scheme, or	11
(b)	a member of an association or strata corporation within the scheme, or	12
(c)	a person with a registered estate or interest in land within the scheme, or	13
(d)	a resuming authority.	14
(2)	If an application for an order is made to the Supreme Court under this Part—	15
(a)	the Registrar-General must be joined as a party to the application, and	16
(b)	the Supreme Court may join as a party to the application the local council or any other person, and	17 18
(c)	the Supreme Court may, on application or of its own motion—	19
(i)	deal with the application for an order to vary a development contract as if it were an application for an order to terminate the scheme, or	20 21
(ii)	deal with an application for an order to terminate a scheme as if it were an application for an order to vary a development contract.	22 23
Division 2	Termination by Registrar-General	24
68	Termination of scheme by Registrar-General	25
(1)	This Division does not apply to a scheme if the scheme—	26
(a)	is the subject of an application to the Supreme Court under Division 1, or	27
(b)	has a strata scheme as a subsidiary scheme.	28
(2)	The Registrar-General may terminate a scheme on the application of each owner of a lot within the scheme and any subsidiary scheme.	29 30
(3)	On receiving an application under this Division, the Registrar-General may—	31
(a)	make an order terminating the scheme, or	32
(b)	refuse to terminate the scheme.	33
(4)	A refusal by the Registrar-General to terminate a scheme does not preclude an application to the Supreme Court under Division 1 for termination of the scheme.	34 35
(5)	An order terminating a scheme takes effect on being recorded in the Register.	36
69	Making application for termination	37
(1)	The following must be publicly notified at least 14 days before an application is made under this Division—	38 39
(a)	details of the proposed termination,	40
(b)	a statement of intention to make the application.	41

- (2) The public notification must be done in a way the Registrar-General considers appropriate to cause notice of the application to come to the attention of the public. 1
2
- (3) The application must be signed by— 3
- (a) the association for the scheme and each subsidiary body, and 4
 - (b) each owner of a lot within the scheme and any subsidiary scheme, and 5
 - (c) each registered mortgagee, chargee and covenant chargee of a lot within the scheme and any subsidiary scheme. 6
7
- (4) The application must be accompanied by the written consent of— 8
- (a) the relevant planning authority, and 9
 - (b) each person who, on the basis of a recording in the Register affecting a lot within the scheme or a subsidiary scheme, is— 10
11
 - (i) a lessee, or 12
 - (ii) a judgment creditor under a writ, or 13
 - (iii) a caveator, and 14
 - (c) any of the following required by the Registrar-General— 15
 - (i) a service provider having the benefit of a statutory easement in the scheme, 16
17
 - (ii) a public authority whose consent is required to amend or revoke a by-law in the management statement for the scheme. 18
19
- (5) There must be lodged with the application— 20
- (a) a plan for the scheme parcel for registration as a current plan, and 21
 - (b) the certificates of title for all the development lots or neighbourhood lots and the association property within the scheme or a subsidiary scheme, and 22
23
 - (c) evidence that public notification has occurred as required by this section, and 24
 - (d) any other documents or evidence as the Registrar-General requires. 25
- (6) The Registrar-General may wholly or partly waive compliance with subsections (1)–(4). 26
27

70 Consequences of termination order by the Registrar-General 28

- (1) When the Registrar-General makes an order terminating a scheme and the order takes effect— 29
30
- (a) the association is dissolved and the scheme is terminated, and 31
 - (b) the former owners are liable for the liabilities of the association, and 32
 - (c) any action taken by or against the association may be continued by or against the former owners, and 33
34
 - (d) the following vest in the former owners as tenants in common— 35
 - (i) the land in the community parcel, precinct parcel or neighbourhood parcel defined in the plan lodged with the application for the order, 36
37
 - (ii) the assets of the association, and 38
 - (e) the Registrar-General is to cancel the folios of the Register that evidenced title to the lots and association property in the scheme immediately before its termination, and 39
40
41
 - (f) the estates or interests of the former owners in land vested by paragraph (d) are subject to any estate or interest subsisting on the folios of the Register for the land immediately before the termination, and 42
43
44

- | | | |
|-----|--|----------------|
| (g) | the Registrar-General is to create a folio of the Register for the land in the plan lodged with the application for the order. | 1
2 |
| (2) | The liabilities, land and assets vest in the former owners— | 3 |
| | (a) in proportion to the unit entitlement of their lots, or | 4 |
| | (b) as otherwise provided for in the application for termination. | 5 |
| (3) | Subsections (1) and (2) apply to any subsidiary scheme of the terminated scheme in the same way as they apply to the terminated scheme. | 6
7 |
| (4) | The Registrar-General may make appropriate recordings in the Register to give effect to the termination and its consequences. | 8
9 |
| (5) | In this section— | 10 |
| | <i>former owners</i> means the persons who were the owners of the development lots or neighbourhood lots in the scheme immediately before the termination order took effect. | 11
12
13 |

Part 10 Resumptions	1
Division 1 Preliminary	2
71 Definitions	3
In this Part—	4
<i>notice of resumption</i> means a notice, notification or other instrument on publication of which land is resumed.	5 6
<i>resume</i> means compulsorily acquire under the authority of an Act or Commonwealth Act.	7 8
<i>resuming authority</i> means an authority in which land is proposed to be, or is, vested by resumption.	9 10
72 Application of Part	11
(1) This Part prevails to the extent of any inconsistency with any other Act, including section 8 of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> .	12 13
(2) A person must comply with the following, as well as this Part, to the extent they are not inconsistent with this Part—	14 15
(a) the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> , for a resumption of land to which both this Part and that Act apply,	16 17
(b) Part 12 of the <i>Roads Act 1993</i> , for a resumption of land to which both this Part and that Part apply.	18 19
(3) In this Part, a reference to a resumption does not include a reference to a resumption that merely results in land being burdened by an easement.	20 21
(4) This Part applies only to resumptions of land within—	22
(a) a community scheme, or	23
(b) a precinct scheme, or	24
(c) a neighbourhood scheme, or	25
(d) a strata scheme that is part of a community scheme or precinct scheme.	26
Division 2 Applications to Supreme Court	27
73 Resuming authority must apply to Supreme Court	28
(1) A resuming authority proposing to resume the whole of a scheme parcel or strata parcel that will cease to be subject to a scheme must apply to the Supreme Court for an order under Part 9 terminating the scheme.	29 30 31
(2) A resuming authority proposing to resume part of the land in a scheme parcel or strata parcel must apply to the Supreme Court for an order restructuring the scheme.	32 33
(3) Subsection (2) does not apply if the only land to be resumed is—	34
(a) part of the association property or common property in a scheme, or	35
(b) land below the surface of the scheme parcel and there will be no disturbance to the surface.	36 37
(4) The Supreme Court may, when making an order restructuring the scheme, also make any order it considers necessary, including—	38 39
(a) to adjust unit entitlements, or	40
(b) to amend any applicable—	41

(i)	development contract, or	1
(ii)	management statement, or	2
(iii)	by-laws under a strata scheme, or	3
(c)	if part of a lot is to be resumed—	4
(i)	to make the residue of the lot a lot in the scheme, or	5
(ii)	with the consent of the owner of the residue of the lot, to vest the residue of the lot in the relevant association or strata corporation as association property or common property.	6 7 8
(5)	An order under subsection (4)(c)(ii) vests the land freed from any mortgage, lease, charge, covenant charge, writ or caveat affecting it before the vesting.	9 10
(6)	An application under this section must be made before the publication of the relevant notice of resumption.	11 12
74	Notice of application to the Supreme Court	13
(1)	A resuming authority that makes an application to the Supreme Court under this Division must serve notice of the application on each of the following (an <i>interested person</i>)—	14 15 16
(a)	except to the extent, if any, that the Supreme Court otherwise directs—each registered owner, and each registered mortgagee, chargee and covenant chargee of a lot within the scheme,	17 18 19
(b)	the association or strata corporation for the scheme,	20
(c)	any subsidiary bodies of the scheme,	21
(d)	if the scheme is a subsidiary body of another scheme, the association for the scheme,	22 23
(e)	if the land resumed is part of a lot or common property and is to be excluded from the related scheme, the local council,	24 25
(f)	the Registrar-General,	26
(g)	any other persons as the Supreme Court may direct.	27
(2)	An interested person is entitled to be heard on the application.	28
75	Application may be treated as application to vary or terminate scheme	29
(1)	The Supreme Court may direct an application in relation to a scheme be heard and determined as if it were an application to vary or terminate the scheme.	30 31
(2)	The direction may be given by the Supreme Court on application or of its own motion.	32 33
76	Hearing of application	34
(1)	The Supreme Court, when deciding an application under this Division, must—	35
(a)	disregard any failure by the resuming authority to comply strictly with the requirements of this Part and of any regulations made for the purposes of this Part, and	36 37 38
(b)	consider whether any amendment is required to a schedule of unit entitlement, development contract or management statement, and	39 40
(c)	consider whether any contribution should be made by the resuming authority for the period following publication of the notice of resumption, and	41 42
(d)	make any orders the Court considers to be appropriate, just and equitable in the circumstances.	43 44

(2)	The Supreme Court may order a whole parcel to be resumed or a scheme to be terminated if it appears to the Supreme Court that the effect of a resumption of land would cause the continuation of the scheme to be impracticable.	1 2 3
(3)	Nothing in this Division authorises the Supreme Court to modify or nullify the effect of a notice of resumption in relation to the land resumed.	4 5
77	Costs	6
	The costs of an application under this Division to the Supreme Court are payable by the resuming authority unless the Court directs otherwise.	7 8
78	Orders take effect on registration	9
	An order of the Supreme Court under this Division takes effect on registration unless the order provides otherwise.	10 11
Division 3	Notice of resumption	12
79	Notice of resumption	13
(1)	A notice of resumption must state whether or not the land resumed is excluded from a scheme.	14 15
(2)	Land is excluded from a scheme if a notice of resumption so provides.	16
(3)	If land is excluded from a scheme, it is also excluded from—	17
	(a) any scheme of which the scheme forms a part, or	18
	(b) any subsidiary scheme.	19
(4)	A notice of resumption for part of association property or community property in a scheme must—	20 21
	(a) describe the land to be resumed as a lot in a current plan, and	22
	(b) state that the land resumed is excluded from the scheme.	23
(5)	A notice of resumption must also include a Supreme Court case number if an application has been made to the Supreme Court to terminate or restructure a scheme as a consequence of a resumption, whether because of a requirement of this Part or otherwise.	24 25 26 27
(6)	The Registrar-General may, on publication of a notice of resumption, make any recordings and notations in the Register as the Registrar-General thinks fit.	28 29
80	When notice is required to apply to whole parcel	30
(1)	A resuming authority must resume the whole of a scheme parcel if it intends to resume—	31 32
	(a) all the association property for the scheme, or	33
	(b) all the development lots or neighbourhood lots in the scheme.	34
(2)	A resuming authority must resume the whole of a strata parcel for a strata scheme if it intends to resume—	35 36
	(a) all the common property forming part of the scheme, or	37
	(b) all the strata lots forming part of the scheme.	38
(3)	In this section—	39
	<i>development lot</i> includes a former development lot.	40

Division 4	Plans and instruments to be lodged with Registrar-General	1
81	Definition	2
	In this Division—	3
	<i>resumption application</i> means a resumption application under section 31A of the <i>Real Property Act 1900</i> .	4 5
82	Lodgment of plans	6
	A plan required to be lodged under this Division must—	7
	(a) be lodged with the Registrar-General for registration before the publication of the relevant notice of resumption, and	8 9
	(b) bear a statement to the effect that it was lodged because of the resumption.	10
83	When registered plan takes effect	11
	A plan required to be lodged under this Division takes effect when the plan and the resumption application have both been registered.	12 13
84	Registrar-General may make recordings and notations	14
	The Registrar-General may, when registering a resumption application, make any of the following as the Registrar-General thinks fit—	15 16
	(a) recordings in the folio for the association property or common property,	17
	(b) recordings in the folio for the resumed land,	18
	(c) notations on the scheme plan.	19
85	Resumption of whole parcel	20
(1)	This section applies if the land to be resumed is a scheme parcel or strata parcel that will cease to be subject to a scheme.	21 22
(2)	The resuming authority must lodge the following—	23
	(a) a resumption application,	24
	(b) an order of the Supreme Court made under Division 2,	25
	(c) a plan of the parcel—	26
	(i) for registration as a current plan, and	27
	(ii) bearing a statement to the effect that the plan has been lodged to terminate the scheme.	28 29
86	Resumption of entire lot with exclusion from scheme	30
(1)	This section applies if the land to be resumed—	31
	(a) is an entire development lot, neighbourhood lot or strata lot, and	32
	(b) is to be resumed and excluded from the related scheme.	33
(2)	The resuming authority must lodge the following—	34
	(a) a resumption application,	35
	(b) an order of the Supreme Court made under Division 2,	36
	(c) a revised schedule of unit entitlement sealed by the Supreme Court for the affected scheme and each subsidiary scheme,	37 38
	(d) if the lot is a strata lot, a plan—	39
	(i) for registration as a current plan, and	40

(ii)	showing the lot, and	1
(iii)	bearing a statement to the effect that the lot is to be excluded from the scheme.	2 3
87	Resumption of part of lot without exclusion from scheme	4
(1)	This section applies if the land to be resumed is—	5
(a)	a part of a lot, and	6
(b)	to be resumed without being excluded from the scheme, and	7
(c)	not association property or common property.	8
(2)	The resuming authority must lodge the following—	9
(a)	a resumption application,	10
(b)	an order of the Supreme Court made under Division 2,	11
(c)	a revised schedule of unit entitlement sealed by the Supreme Court for the affected scheme,	12 13
(d)	if the resumed land is part of a strata scheme, a plan showing the land to be resumed as 1 or more lots in a strata plan of subdivision,	14 15
(e)	if the resumed land is not part of a strata scheme—	16
(i)	an additional sheet of the relevant detail plan—	17
(A)	for registration as a scheme plan of subdivision, and	18
(B)	showing the boundaries of both the land to be resumed and the residue of the lot after the resumption, and	19 20
(ii)	if the residue vests in the association as association property, a replacement sheet for the association property plan showing the altered boundaries of the association property.	21 22 23
88	Resumption of part of lot with exclusion from scheme	24
(1)	This section applies if the land to be resumed—	25
(a)	is a part of a lot, and	26
(b)	is to be resumed and excluded from the scheme, and	27
(c)	is not association property or common property.	28
(2)	The resuming authority must lodge the following—	29
(a)	a resumption application,	30
(b)	an order of the Supreme Court made under Division 2,	31
(c)	a revised schedule of unit entitlement sealed by the Supreme Court for the affected scheme and each subsidiary scheme,	32 33
(d)	a plan of the land to be resumed—	34
(i)	for registration as a current plan, and	35
(ii)	bearing a statement to the effect that the land is to be excluded from the scheme,	36 37
(e)	if the resumed land is not part of a strata scheme, an additional sheet of the detail plan for the relevant scheme plan showing the altered boundaries of the residue of the lots affected,	38 39 40
(f)	if the resumed land is part of a strata scheme, a strata plan of subdivision showing the residue of the resumed lot as a lot, unless the residue is to be vested in the strata corporation as common property.	41 42 43

89 Resumption of part of association property	1
(1) This section applies if the land to be resumed is part of the association property in a scheme.	2 3
(2) The resuming authority must lodge the following—	4
(a) a resumption application,	5
(b) a plan of the land to be resumed—	6
(i) for registration as a current plan, and	7
(ii) bearing a statement to the effect that the land is to be excluded from the scheme,	8 9
(c) a replacement sheet for the association property plan showing the altered boundaries of the association property,	10 11
(d) any of the following required by the Registrar-General—	12
(i) a certificate by the resuming authority stating that the land resumed was not restricted property,	13 14
(ii) a request by the association for registration of an amendment of the management statement under which, on registration, the land resumed would cease to be restricted property,	15 16 17
(iii) evidence that an application has been made to the Supreme Court for amendment of the management statement in its application to the association property.	18 19 20
90 Resumption of part of common property	21
(1) This section applies if the land to be resumed is part of the common property in a strata scheme.	22 23
(2) The resuming authority must lodge the following—	24
(a) a resumption application,	25
(b) a plan of the land to be resumed—	26
(i) for registration as a current plan, and	27
(ii) bearing a statement to the effect that the land is to be excluded from the strata scheme,	28 29
(c) any of the following required by the Registrar-General—	30
(i) a certificate by the resuming authority stating that the land resumed was not restricted property,	31 32
(ii) a request by the strata corporation for registration of an amendment of the by-laws under which, on registration, the land resumed would cease to be restricted property,	33 34 35
(iii) evidence that an application has been made to the Supreme Court for amendment of the by-laws in their application to the common property.	36 37
Division 5 Effect of resumption	38
91 Exclusion of resumed land from scheme	39
(1) If part of association property or common property is resumed—	40
(a) the land ceases to be association property or common property, and	41
(b) this Act and the <i>Community Land Management Act 2020</i> cease to apply to it.	42
(2) If resumed land was not association property or common property and the notice of resumption states that it is excluded from any related scheme—	43 44

(a)	the land ceases to be within the scheme, and	1
(b)	this Act and the <i>Community Land Management Act 2020</i> cease to apply to it.	2
(3)	A development lot or neighbourhood lot excluded from a scheme—	3
(a)	ceases to be a development lot or neighbourhood lot, and	4
(b)	continues, for the purposes of section 23F of the <i>Conveyancing Act 1919</i> , as a lot in a current plan.	5 6
92	Interest in association or common property	7
(1)	A resuming authority does not acquire any interest in association property or common property by a resumption of land within a scheme, if—	8 9
(a)	the notice of resumption states that the land is excluded from a scheme, and	10
(b)	the land is not association property or common property.	11
(2)	If resumed land is excluded from a scheme, any interest in restricted property attaching to the land is extinguished.	12 13
93	Continuation of resumed land within scheme	14
(1)	Resumed land remains within a scheme if—	15
(a)	the notice of resumption states that the land is not excluded from the scheme, and	16 17
(b)	the land is—	18
(i)	the whole of a scheme parcel or strata parcel, or	19
(ii)	not association property or common property.	20
(2)	This Act and the <i>Community Land Management Act 2020</i> —	21
(a)	continue to apply to land referred to in subsection (1), and	22
(b)	apply as if the land had been vested in the resuming authority by a registered transfer.	23 24
Division 6	Sale as alternative to resumption	25
94	Definition	26
	In this Act—	27
	acquisition plan means a plan—	28
(a)	lodged for registration as a current plan, and	29
(b)	showing the parts of lots and association property within a scheme that are to be purchased by a resuming authority under this Division.	30 31
95	Use of acquisition plan to acquire land	32
	A resuming authority proposing to resume part of the land in a community scheme, precinct scheme or neighbourhood scheme may instead—	33 34
(a)	register an acquisition plan, and	35
(b)	purchase the land in the acquisition plan.	36
96	Grounds for refusing to register acquisition plan	37
(1)	The Registrar-General may refuse to register an acquisition plan unless the plan bears a statement to the effect that, on being transferred to the resuming authority, the land is excluded from the scheme.	38 39 40

(2)	The Registrar-General may refuse to register an acquisition plan involving a subdivision of any of the following unless the plan is accompanied by—	1 2
(a)	for association property, a replacement sheet for the association property plan that—	3 4
(i)	shows the altered boundaries of the association property, and	5
(ii)	complies with Schedule 1,	6
(b)	for a development lot or neighbourhood lot, an additional sheet of the relevant detail plan that—	7 8
(i)	shows the altered boundaries of the lot, and	9
(ii)	complies with Schedule 1,	10
(c)	for a community development lot, a replacement schedule of unit entitlement for the community plan that complies with Schedule 3,	11 12
(d)	for a precinct development lot, replacement schedules of unit entitlement for the community plan and the precinct plan that comply with Schedule 3,	13 14
(e)	for a neighbourhood lot within a community scheme, replacement schedules of unit entitlement for the community plan, the neighbourhood plan and, if the neighbourhood lot is within a precinct scheme, the precinct plan that comply with Schedule 3,	15 16 17 18
(f)	for a neighbourhood lot not within a community scheme, a replacement schedule of unit entitlement for the neighbourhood plan that complies with Schedule 3.	19 20 21
97	Sale of association property using acquisition plan	22
(1)	An association may sell part of its association property to a resuming authority if—	23
(a)	the part to be sold is included in an acquisition plan, and	24
(b)	the sale is authorised by special resolution.	25
(2)	The Registrar-General may refuse to register a transfer of association property included in an acquisition plan unless the transfer is accompanied by a certificate—	26 27
(a)	in the approved form, and	28
(b)	given under the seal of the association, and	29
(c)	to the effect that the sale has been approved by special resolution.	30
98	Effect of registration of transfer	31
	On the registration of a transfer to a resuming authority of land in an acquisition plan—	32 33
(a)	any interest in restricted property benefiting or burdening the land is extinguished, and	34 35
(b)	any of the land that is association property ceases to be association property, and	36 37
(c)	this Act and the <i>Community Land Management Act 2020</i> cease to apply to the land.	38 39
99	Division has effect despite other provisions of Act	40
	This Division has effect despite any other provision of this Act.	41

