

SECOND PRINT

**CONVEYANCING (PLAN REGISTRATION) AMENDMENT  
BILL 1986**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The following Bills are cognate with this Bill:

Strata Titles (Plan Registration) Amendment Bill 1986;

Real Property (Plan Registration) Amendment Bill 1986;

Local Government (Plan Registration) Amendment Bill 1986.

The object of this Bill is to facilitate the registration and recording of plans under the Conveyancing Act 1919 by repealing sections 196 and 196AA of that Act and re-enacting those provisions with some modifications as a new Division 3 of Part XXIII of that Act. The major modifications relate to permitting the Registrar-General—

- (a) to register or record a plan of subdivision of land which has not been signed by every person having sufficient estate or interest to transfer or convey the land; and
- (b) to refuse to register or record any such plan unless the written consents of certain persons to the registration or recording of the plan have been obtained otherwise than by their signing the plan.

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Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on a day to be appointed by the Governor-in-Council.



Clause 3 is a formal provision that gives effect to the Schedules of amendments.

Clause 4 is a saving provision which provides that plans registered or recorded under section 196 of the Principal Act before its repeal and re-enactment by the proposed Act shall be deemed to be registered or recorded under the re-enacted provisions. The clause also requires references to that section in instruments existing before the commencement of those provisions to be read as references to those provisions.

Schedule 1 repeals sections 196 and 196AA of the Principal Act and inserts a proposed new Division 3 into Part XXIII of that Act which Division contains the following proposed sections:

Section 195 which states that references to signatures in the proposed Division include references to seals of corporations.

Section 195A which provides that plans of consolidated lots, of public roads or of any division of land required by law to be registered shall be lodged in the office of the Registrar-General for registration and that other plans may be so lodged for registration or recording.

Section 195B which permits the Registrar-General to refuse to accept lodgment of certain plans which are redundant, which are not of a subdivision or not for the purposes of a primary application under the Real Property Act 1900 or which do not comply with formal requirements made of those plans.

Section 195C which describes the formal requirements for plans intended to be registered or recorded. Any such plan is required to be prepared in the manner and to contain the particulars prescribed by regulations made under the Principal Act. Unless the Registrar-General dispenses with the certificate, each plan is required to be certified by a registered surveyor.

Section 195D which requires that, unless the Registrar-General dispenses with this requirement, a plan shall not be registered or recorded unless signed by the owner or registered proprietor of the affected land and certain other persons (such as mortgagees) having interests secured on the land. Under the proposed section, the Registrar-General may also require written consents to registration or recording from lessees, judgment creditors and other persons claiming an estate or interest in the land. A person who has a claim for damages because a plan is registered or recorded without having been signed or without the registration or recording having been consented to by all persons having an estate or interest in the land to which the plan relates may claim those damages from specified Government funds.

Section 195E which permits the Registrar-General to record plans not required by law to be registered and to refuse to record and to reject certain plans.

Section 195F which prohibits the Registrar-General from registering and permits the rejection of plans lodged for registration which are not in registrable form.

Section 195G which states how plans are to be registered and permits the Registrar-General to refuse to register and to reject a plan lodged for registration if the plan relates to land under the Real Property Act 1900 and the relevant grant or certificate of title has not been lodged or may not be made use of in connection with registering the plan.



Section 195H which enables the amendment of plans lodged for registration or recording for the purpose of correcting an error in or supplying an omission from the plans.

Section 195I which states that a conveyance of land may be effected by reference to a registered or recorded plan. The proposed section will be subject to section 327AA (2) of the Local Government Act 1919.

Section 195J which provides that a contravention of the proposed Division does not invalidate an instrument affecting the title to land and that the Registrar-General may retain fees paid in respect of plans which are rejected.

Section 196 which permits the Registrar-General to assume—

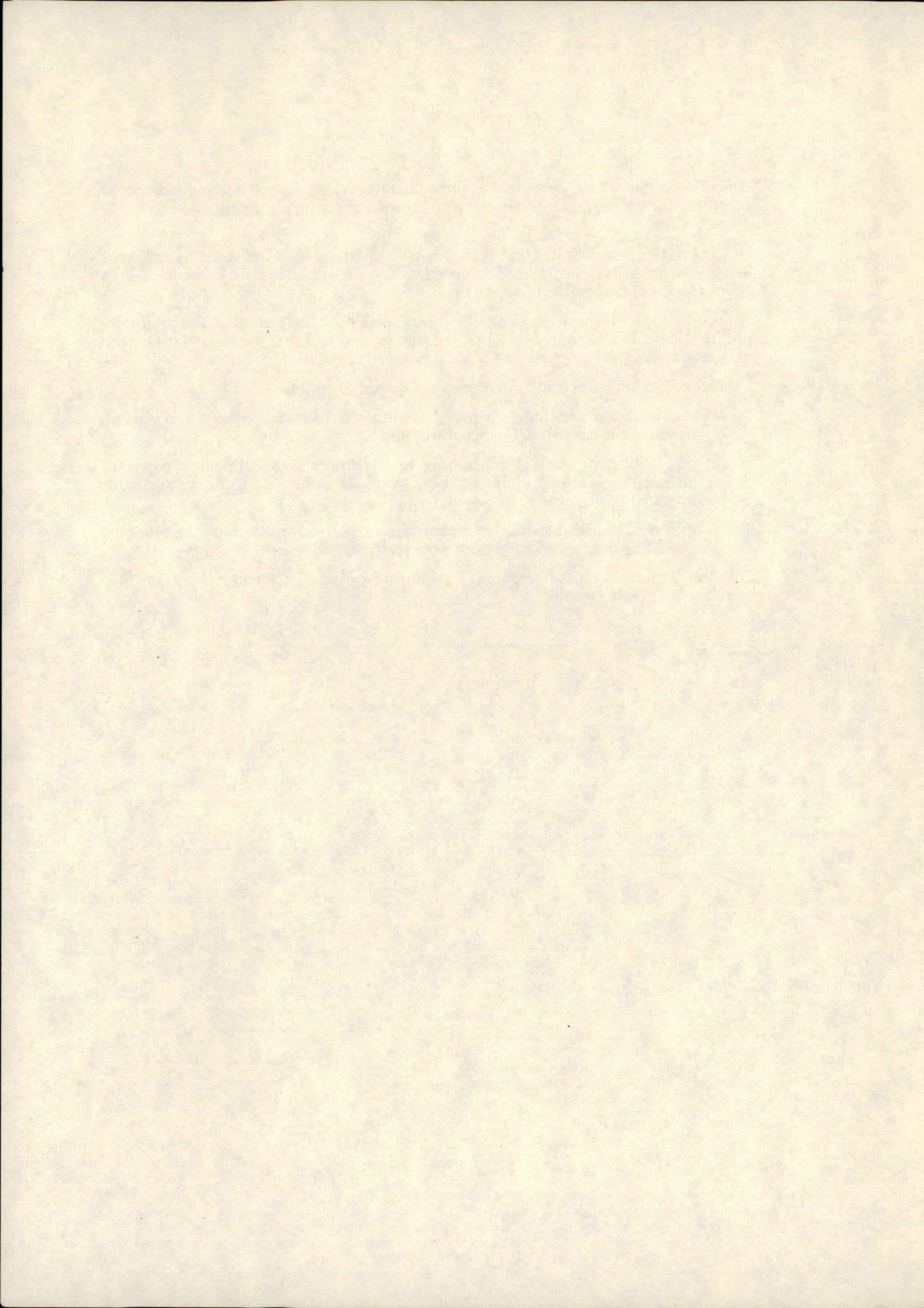
- (a) that a person who lodges a plan has authority to take the steps necessary to have the plan registered or recorded; and
- (b) that a plan or consent purporting to have been signed under a power of attorney or executed under seal was, and was authorised to be, so signed or executed.

The proposed section also states that a plan registered or recorded under the proposed Division shall be deemed to have been sufficiently signed.

Schedule 2 changes cross-references in section 88B of the Principal Act so that they refer to the proposed Division.

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**CONVEYANCING (PLAN REGISTRATION)  
AMENDMENT BILL 1986**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Act No. 6, 1919
4. Savings

SCHEDULE 1—SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919

SCHEDULE 2—CONSEQUENTIAL AMENDMENTS TO THE CONVEYANCING  
ACT 1919

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# CONVEYANCING (PLAN REGISTRATION) AMENDMENT BILL 1986

NEW SOUTH WALES



No.           , 1986

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## A BILL FOR

An Act to amend the Conveyancing Act 1919 in relation to the registration or recording of plans.

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See also: Strata Titles (Plan Registration) Amendment Bill 1986; Real Property (Plan Registration) Amendment Bill 1986; Local Government (Plan Registration) Amendment Bill 1986.



*Conveyancing (Plan Registration) Amendment 1986*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**5 Short title**

1. This Act may be cited as the "Conveyancing (Plan Registration) Amendment Act 1986".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this  
10 Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 6, 1919**

15 3. The Conveyancing Act 1919 is amended in the manner set forth in Schedules 1 and 2.

**Savings**

20 4. (1) A plan registered or recorded in the office of the Registrar-General under section 196 of the Conveyancing Act 1919 before the commencement of this Act shall be deemed to have been registered or recorded in that office under Division 3 of Part XXIII of that Act, as amended by this Act.

(2) A reference in any Act or other instrument enacted, made or entered into before the commencement of this Act to section 196 of the Conveyancing Act 1919 shall be read and construed as a reference to  
25 Division 3 of Part XXIII of that Act, as amended by this Act.

(3) Anything done before the commencement of this Act for the purposes of any provision of section 196 of the Conveyancing Act 1919 shall be deemed to have been done for the purposes of the corresponding provision of Division 3 of Part XXIII of that Act, as amended by this Act.

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*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1

(Sec. 3)

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919

5 Part XXIII, Division 3—

Omit the Division, insert instead after section 194:

DIVISION 3—*Plans*

**Interpretation**

195. In this Division—

- 10 (a) a reference to the signature of a person includes, where the person is a corporation, a reference to the seal of the corporation; and
- (b) a reference to a division of land includes a reference to any subdivision.

15 **Lodgment of plans with Registrar-General**

195A. (1) Where a plan of a consolidated lot, a public road or a division of land is required by law to be registered, that plan shall, unless the contrary intention appears, be lodged in the office of the Registrar-General for registration under this Division.

20 (2) Any person who effects or intends to make a lawful division of land, a plan of which is not required by law to be registered, may lodge in the office of the Registrar-General a plan of the division of the land for registration under this Division.

25 (3) The Registrar-General may accept lodgment of a plan, other than a plan referred to in subsection (1) or (2), whether or not it complies with section 195C.

**Refusal to accept lodgment**

195B. The Registrar-General may refuse to accept lodgment of—

- 30 (a) a plan of land under the provisions of the Real Property Act 1900 that, in the Registrar-General's opinion, illustrates without material change a lot in a plan registered or recorded in the office of the Registrar-General that constitutes a current plan under section 327AA of the Local Government Act 1919;
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*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

(b) a plan of land not under the provisions of the Real Property Act 1900, unless it is a plan of a division of land or is lodged for the purposes of a primary application under that Act; or

5 (c) a plan which does not comply with a requirement made with respect to the plan by or under this or any other Act.

**Form and certification of plans**

195C. A plan lodged under this Division shall—

- 10 (a) be prepared in the prescribed manner;
- (b) contain all prescribed particulars;
- (c) be certified, in the form prescribed under the Surveyors Act 1929, by a surveyor registered under that Act, unless the Registrar-General dispenses with the certificate; and
- 15 (d) contain a statement showing—
- (i) which roads (if any) shown on the plan are intended to be dedicated to the public; and
- (ii) whether any public reserve or drainage reserve shown on the plan is intended to be created by registration of the plan.

20 **Signatures and consents**

195D. (1) The Registrar-General shall not register or record a plan lodged under this Division (other than a plan referred to in paragraph (c) or (g) of the definition of “plan of subdivision” in section 327AA (1) of the Local Government Act 1919) which, if it were registered or recorded in the office of the Registrar-General, would become a current plan under section 327AA of that Act, or which bears a statement of intention—

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- (a) to dedicate specified land as a public road, as referred to in section 336 (1) of that Act;
- 30 (b) to create a public reserve, as referred to in section 340D of that Act;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

(c) to create a drainage reserve, as referred to in section 340E of that Act; or

(d) to create an easement, a restriction on the use of land or a positive covenant, as referred to in section 88B (2),

5 unless the plan is signed—

(e) where the plan relates to land under the provisions of the Real Property Act 1900—

(i) by the registered proprietor of the land; and

10 (ii) by every mortgagee, chargee or covenant chargee under a mortgage, charge or covenant charge recorded in the folio of the Register kept under that Act relating to the land; or

15 (f) where the plan relates to land which is not under the provisions of that Act, by the persons who appear to the Registrar-General, on consideration of the last registered deed relating to the land and of such further evidence as may be tendered to the Registrar-General, to be—

(i) the owner of the land; and

20 (ii) a mortgagee, incumbrancee or covenant chargee of the land.

25 (2) Without limiting the effect of subsection (1), the Registrar-General may refuse to register or record a plan referred to in that subsection unless consents in writing to the registration or recording of the plan signed by (or by an agent authorised by) such of the following persons as the Registrar-General may determine:

(a) where the plan relates to land under the provisions of the Real Property Act 1900—

30 (i) the lessee under any lease, or the judgment creditor under any writ, recorded in the folio of the Register kept under that Act relating to the land;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

(ii) the caveator under a caveat affecting any estate or interest in that land; or

5 (b) where the plan relates to land which is not under the provisions of that Act, the persons who appear to the Registrar-General, on consideration of the last registered deed relating to the land and of such further evidence as may be tendered to the Registrar-General, to be—

(i) the lessee under any lease, or the judgment creditor under any writ, relating to that land; or

10 (ii) a person having or claiming any other estate or interest in that land,

are lodged in the office of the Registrar-General.

15 (3) In relation to any particular plan lodged for registration or recording as referred to in subsection (1), the Registrar-General may, without giving notice to any person, dispense with the requirement for a person mentioned in that subsection to sign the plan.

20 (4) Nothing in this section affects or prejudices the enforcement by any person of any remedy which the person may have because of the registration or recording of a plan which has not been signed (or the registration or recording of which has not been consented to) by every person having an estate or interest in the land to which the plan relates.

25 (5) Where a remedy referred to in subsection (4) is an action in damages and—

(a) the person against whom the remedy may be available ceases to be liable for the payment of damages; or



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

- (b) the person liable to pay damages has died, is bankrupt or insolvent or cannot be found within the jurisdiction,

5 damages with costs may be recovered from the Closer Settlement and Public Reserves Fund or the Consolidated Fund by action against such person as the Governor may appoint as nominal defendant.

**Recording of plans which are not to be registered**

10 195E. (1) On lodgment of a type of plan which the Registrar-General is not by law required to register, the Registrar-General may record the plan and may do so in such manner as the Registrar-General thinks appropriate.

15 (2) The Registrar-General may refuse to record and may reject a plan lodged pursuant to section 195A (3) or the lodgment of which might have been refused under section 195B even though the Registrar-General accepted lodgment of the plan.

**Certain plans to be in registrable form**

20 195F. (1) The Registrar-General shall not register and may reject a plan lodged under this Division for registration if the Registrar-General is not satisfied that the plan is in registrable form.

(2) For the purposes of subsection (1), a plan is not in registrable form if—

- 25 (a) the plan does not comply with a requirement made with respect to the plan by or under this or any other Act; or
- (b) any boundary shown on the plan that existed before the plan was prepared is not correctly defined on the plan.



SCHEDULE 1—*continued*SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued***Registration of plans**

5 195G. (1) Where the Registrar-General is satisfied that a plan lodged under section 195A (1) or (2) is in registrable form, the Registrar-General shall register the plan by affixing the Registrar-General's seal to the plan and, where land comprised in the plan is under the provisions of the Real Property Act 1900, may create such folios of the Register kept under that Act as the Registrar-General considers appropriate.

10 (2) The Registrar-General may refuse to register and may reject a plan lodged under this Division and relating to land under the provisions of the Real Property Act 1900—

(a) if any relevant grant or certificate of title has not been lodged for the purpose of enabling the plan to be registered; or

15 (b) where the grant or certificate of title is already in the custody of the Registrar-General, if—

(i) written notice has been given to such persons as the Registrar-General thinks fit of the Registrar-General's intention to use the grant or certificate of title for the purpose of registering the plan; and

20 (ii) any of those persons, within the time limited in the notice for the purpose, notifies the Registrar-General in writing of the person's refusal to permit the grant or certificate of title to be so used.

**Amendment of plans**

25 195H. (1) The Registrar-General may, on the application of any person with an interest in any land to which a plan registered or recorded under this Division relates, or without any such application, and on such evidence and after such notices (if any) as appear to the Registrar-General to be necessary, amend the plan  
30 for the purpose of correcting any error in or supplying any omission from the plan.



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

(2) An amendment to a plan—

(a) shall not render original words or symbols illegible;

(b) shall bear the date of the amendment on the plan; and

5 (c) shall be initialled by the Registrar-General or a person  
authorised by the Registrar-General.

(3) Except as provided by subsection (4), an amendment shall  
take effect as if the error corrected or omission supplied had not  
been made.

10 (4) An amendment made under the authority of this section  
does not affect the construction of any instrument made or entered  
into before the amendment so as to prejudice any person claiming  
under that instrument.

**Conveyance of land in plans**

15 195I. A conveyance of land comprised in a plan registered or  
recorded under this Division may be effected by reference to the  
plan.

**Effect of contravention of Division or of rejection of plans**

20 195J. (1) A contravention of any of the provisions of this  
Division does not invalidate any instrument intended to affect or  
evidence the title to any land.

(2) Where a plan lodged under this Division is rejected, the  
Registrar-General may retain all of the fees paid in respect of the  
plan or such proportion of those fees as the Registrar-General  
determines.

25 **Presumptions relating to execution, etc., of certain plans**

196. (1) The Registrar-General is entitled to assume that a  
person who lodges a plan under this Division has authority from  
all persons having an interest in the land comprised in the plan—

(a) to lodge the plan with the Registrar-General;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

(b) to uplift the plan for amendment or to withdraw it from registration or recording and, in either case, to give a receipt for the plan; and

5 (c) to attend to all other matters which may arise in connection with the registration or recording of the plan.

10 (2) Where a plan lodged or consent given under this Division purports to have been signed under a power of attorney or under any other power or authority, whether statutory or not, the Registrar-General may assume that the plan was so signed and that there was sufficient power or authority for its being signed.

(3) Where—

15 (a) a seal purporting to be the seal of a corporation, whether sole or aggregate, has been affixed to a plan lodged or a consent given under this Division; and

(b) the affixing of the seal purports to have been attested by a person or persons holding office in the corporation or by a person or persons authorised to attest the affixing of the seal,

the Registrar-General may assume—

20 (c) that the seal and attestation are genuine and were lawfully affixed to, or subscribed on, the plan or consent; and

25 (d) that the person or persons purporting to have attested the affixing of the seal had sufficient authority to attest the affixing of the seal in the capacity in which the person or persons purported to do so.

(4) If a plan is registered or recorded under this Division by the Registrar-General, the plan shall be deemed to have been sufficiently signed for the purposes of this Division.

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*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 2

(Sec. 3)

CONSEQUENTIAL AMENDMENTS TO THE CONVEYANCING ACT 1919

5 Section 88B (Creation of easements, restrictions on use of land and positive covenants by plans)—

Section 88B (2), (3)—

Omit "section 196" wherever occurring, insert instead "Division 3 of Part XXIII".

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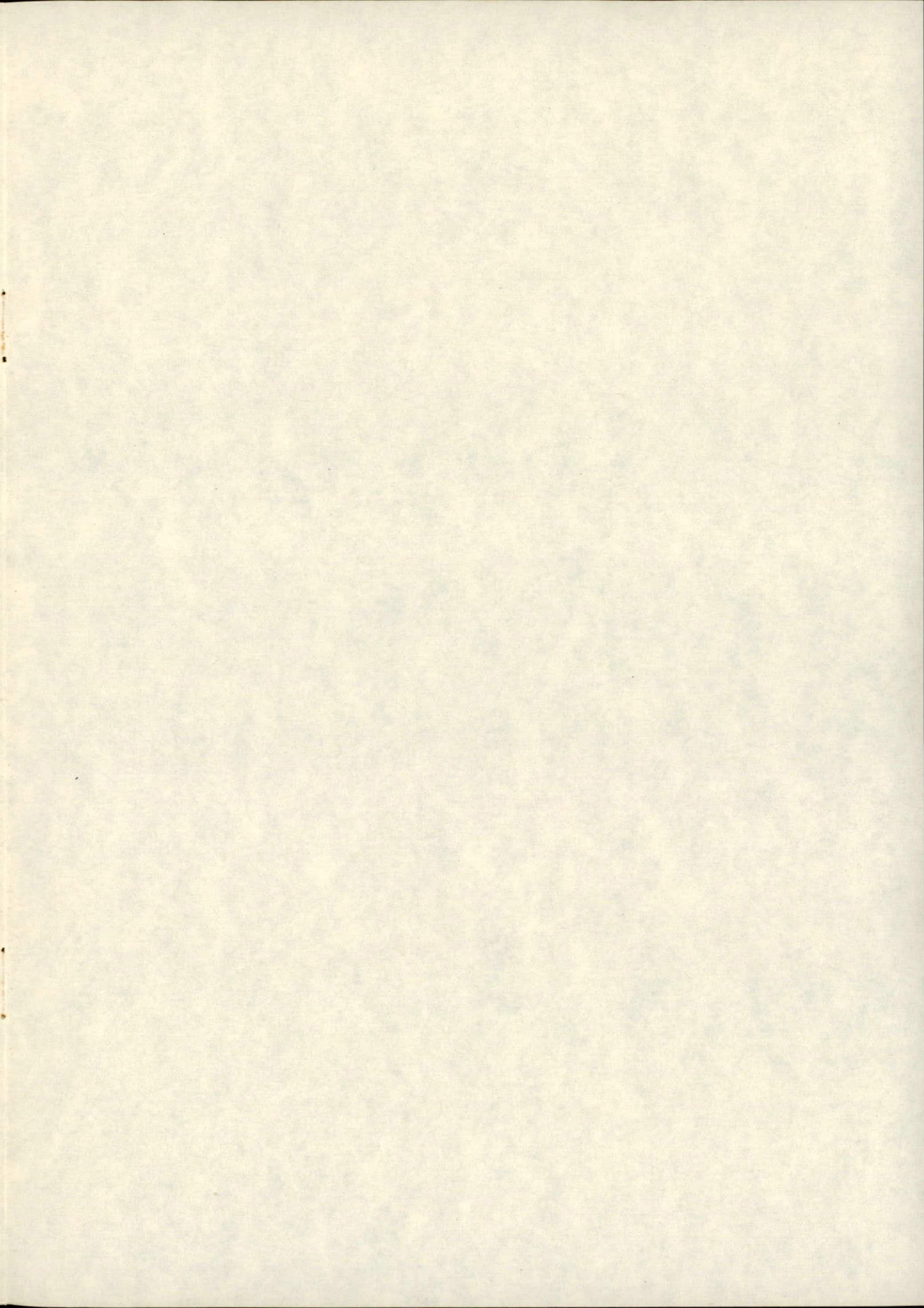
BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1986















**CONVEYANCING (PLAN REGISTRATION)  
AMENDMENT ACT 1986 No. 150**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Act No. 6, 1919
4. Savings

SCHEDULE 1—SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919

SCHEDULE 2—CONSEQUENTIAL AMENDMENTS TO THE CONVEYANCING  
ACT 1919

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**CONVEYANCING (PLAN REGISTRATION)  
AMENDMENT ACT 1986 No. 150**

NEW SOUTH WALES



**Act No. 150, 1986**

An Act to amend the Conveyancing Act 1919 in relation to the registration or recording of plans. [Assented to, 17 December 1986]

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See also: Strata Titles (Plan Registration) Amendment Act 1986; Real Property (Plan Registration) Amendment Act 1986; Local Government (Plan Registration) Amendment Act 1986.



*Conveyancing (Plan Registration) Amendment 1986*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the "Conveyancing (Plan Registration) Amendment Act 1986".

**Commencement**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 6, 1919**

3. The Conveyancing Act 1919 is amended in the manner set forth in Schedules 1 and 2.

**Savings**

4. (1) A plan registered or recorded in the office of the Registrar-General under section 196 of the Conveyancing Act 1919 before the commencement of this Act shall be deemed to have been registered or recorded in that office under Division 3 of Part XXIII of that Act, as amended by this Act.

(2) A reference in any Act or other instrument enacted, made or entered into before the commencement of this Act to section 196 of the Conveyancing Act 1919 shall be read and construed as a reference to Division 3 of Part XXIII of that Act, as amended by this Act.

(3) Anything done before the commencement of this Act for the purposes of any provision of section 196 of the Conveyancing Act 1919 shall be deemed to have been done for the purposes of the corresponding provision of Division 3 of Part XXIII of that Act, as amended by this Act.

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## SCHEDULE 1

(Sec. 3)

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919

Part XXIII, Division 3—

Omit the Division, insert instead after section 194:

DIVISION 3—*Plans***Interpretation**

195. In this Division—

- (a) a reference to the signature of a person includes, where the person is a corporation, a reference to the seal of the corporation; and
- (b) a reference to a division of land includes a reference to any subdivision.

**Lodgment of plans with Registrar-General**

195A. (1) Where a plan of a consolidated lot, a public road or a division of land is required by law to be registered, that plan shall, unless the contrary intention appears, be lodged in the office of the Registrar-General for registration under this Division.

(2) Any person who effects or intends to make a lawful division of land, a plan of which is not required by law to be registered, may lodge in the office of the Registrar-General a plan of the division of the land for registration under this Division.

(3) The Registrar-General may accept lodgment of a plan, other than a plan referred to in subsection (1) or (2), whether or not it complies with section 195C.

**Refusal to accept lodgment**

195B. The Registrar-General may refuse to accept lodgment of—

- (a) a plan of land under the provisions of the Real Property Act 1900 that, in the Registrar-General's opinion, illustrates without material change a lot in a plan registered or recorded in the office of the Registrar-General that constitutes a current plan under section 327AA of the Local Government Act 1919;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

- (b) a plan of land not under the provisions of the Real Property Act 1900, unless it is a plan of a division of land or is lodged for the purposes of a primary application under that Act; or
- (c) a plan which does not comply with a requirement made with respect to the plan by or under this or any other Act.

**Form and certification of plans**

195C. A plan lodged under this Division shall—

- (a) be prepared in the prescribed manner;
- (b) contain all prescribed particulars;
- (c) be certified, in the form prescribed under the Surveyors Act 1929, by a surveyor registered under that Act, unless the Registrar-General dispenses with the certificate; and
- (d) contain a statement showing—
  - (i) which roads (if any) shown on the plan are intended to be dedicated to the public; and
  - (ii) whether any public reserve or drainage reserve shown on the plan is intended to be created by registration of the plan.

**Signatures and consents**

195D. (1) The Registrar-General shall not register or record a plan lodged under this Division (other than a plan referred to in paragraph (c) or (g) of the definition of “plan of subdivision” in section 327AA (1) of the Local Government Act 1919) which, if it were registered or recorded in the office of the Registrar-General, would become a current plan under section 327AA of that Act, or which bears a statement of intention—

- (a) to dedicate specified land as a public road, as referred to in section 336 (1) of that Act;
- (b) to create a public reserve, as referred to in section 340D of that Act;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

- (c) to create a drainage reserve, as referred to in section 340E of that Act; or
- (d) to create an easement, a restriction on the use of land or a positive covenant, as referred to in section 88B (2),

unless the plan is signed—

- (e) where the plan relates to land under the provisions of the Real Property Act 1900—
  - (i) by the registered proprietor of the land; and
  - (ii) by every mortgagee, chargee or covenant chargee under a mortgage, charge or covenant charge recorded in the folio of the Register kept under that Act relating to the land; or
- (f) where the plan relates to land which is not under the provisions of that Act, by the persons who appear to the Registrar-General, on consideration of the last registered deed relating to the land and of such further evidence as may be tendered to the Registrar-General, to be—
  - (i) the owner of the land; and
  - (ii) a mortgagee, incumbrancee or covenant chargee of the land.

(2) Without limiting the effect of subsection (1), the Registrar-General may refuse to register or record a plan referred to in that subsection unless consents in writing to the registration or recording of the plan signed by (or by an agent authorised by) such of the following persons as the Registrar-General may determine:

- (a) where the plan relates to land under the provisions of the Real Property Act 1900—
  - (i) the lessee under any lease, or the judgment creditor under any writ, recorded in the folio of the Register kept under that Act relating to the land;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

- (ii) the caveator under a caveat affecting any estate or interest in that land; or
- (b) where the plan relates to land which is not under the provisions of that Act, the persons who appear to the Registrar-General, on consideration of the last registered deed relating to the land and of such further evidence as may be tendered to the Registrar-General, to be—
  - (i) the lessee under any lease, or the judgment creditor under any writ, relating to that land; or
  - (ii) a person having or claiming any other estate or interest in that land,

are lodged in the office of the Registrar-General.

(3) In relation to any particular plan lodged for registration or recording as referred to in subsection (1), the Registrar-General may, without giving notice to any person, dispense with the requirement for a person mentioned in that subsection to sign the plan.

(4) Nothing in this section affects or prejudices the enforcement by any person of any remedy which the person may have because of the registration or recording of a plan which has not been signed (or the registration or recording of which has not been consented to) by every person having an estate or interest in the land to which the plan relates.

(5) Where a remedy referred to in subsection (4) is an action in damages and—

- (a) the person against whom the remedy may be available ceases to be liable for the payment of damages; or



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

- (b) the person liable to pay damages has died, is bankrupt or insolvent or cannot be found within the jurisdiction,

damages with costs may be recovered from the Closer Settlement and Public Reserves Fund or the Consolidated Fund by action against such person as the Governor may appoint as nominal defendant.

**Recording of plans which are not to be registered**

195E. (1) On lodgment of a type of plan which the Registrar-General is not by law required to register, the Registrar-General may record the plan and may do so in such manner as the Registrar-General thinks appropriate.

(2) The Registrar-General may refuse to record and may reject a plan lodged pursuant to section 195A (3) or the lodgment of which might have been refused under section 195B even though the Registrar-General accepted lodgment of the plan.

**Certain plans to be in registrable form**

195F. (1) The Registrar-General shall not register and may reject a plan lodged under this Division for registration if the Registrar-General is not satisfied that the plan is in registrable form.

(2) For the purposes of subsection (1), a plan is not in registrable form if—

- (a) the plan does not comply with a requirement made with respect to the plan by or under this or any other Act; or
- (b) any boundary shown on the plan that existed before the plan was prepared is not correctly defined on the plan.



SCHEDULE 1—*continued*SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued***Registration of plans**

195G. (1) Where the Registrar-General is satisfied that a plan lodged under section 195A (1) or (2) is in registrable form, the Registrar-General shall register the plan by affixing the Registrar-General's seal to the plan and, where land comprised in the plan is under the provisions of the Real Property Act 1900, may create such folios of the Register kept under that Act as the Registrar-General considers appropriate.

(2) The Registrar-General may refuse to register and may reject a plan lodged under this Division and relating to land under the provisions of the Real Property Act 1900—

- (a) if any relevant grant or certificate of title has not been lodged for the purpose of enabling the plan to be registered; or
- (b) where the grant or certificate of title is already in the custody of the Registrar-General, if—
  - (i) written notice has been given to such persons as the Registrar-General thinks fit of the Registrar-General's intention to use the grant or certificate of title for the purpose of registering the plan; and
  - (ii) any of those persons, within the time limited in the notice for the purpose, notifies the Registrar-General in writing of the person's refusal to permit the grant or certificate of title to be so used.

**Amendment of plans**

195H. (1) The Registrar-General may, on the application of any person with an interest in any land to which a plan registered or recorded under this Division relates, or without any such application, and on such evidence and after such notices (if any) as appear to the Registrar-General to be necessary, amend the plan for the purpose of correcting any error in or supplying any omission from the plan.



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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

(2) An amendment to a plan—

- (a) shall not render original words or symbols illegible;
- (b) shall bear the date of the amendment on the plan; and
- (c) shall be initialled by the Registrar-General or a person authorised by the Registrar-General.

(3) Except as provided by subsection (4), an amendment shall take effect as if the error corrected or omission supplied had not been made.

(4) An amendment made under the authority of this section does not affect the construction of any instrument made or entered into before the amendment so as to prejudice any person claiming under that instrument.

**Conveyance of land in plans**

195I. A conveyance of land comprised in a plan registered or recorded under this Division may be effected by reference to the plan.

**Effect of contravention of Division or of rejection of plans**

195J. (1) A contravention of any of the provisions of this Division does not invalidate any instrument intended to affect or evidence the title to any land.

(2) Where a plan lodged under this Division is rejected, the Registrar-General may retain all of the fees paid in respect of the plan or such proportion of those fees as the Registrar-General determines.

**Presumptions relating to execution, etc., of certain plans**

196. (1) The Registrar-General is entitled to assume that a person who lodges a plan under this Division has authority from all persons having an interest in the land comprised in the plan—

- (a) to lodge the plan with the Registrar-General;



*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 1—*continued*

SUBSTITUTION OF DIVISION 3 OF PART XXIII OF THE  
CONVEYANCING ACT 1919—*continued*

- (b) to uplift the plan for amendment or to withdraw it from registration or recording and, in either case, to give a receipt for the plan; and
- (c) to attend to all other matters which may arise in connection with the registration or recording of the plan.

(2) Where a plan lodged or consent given under this Division purports to have been signed under a power of attorney or under any other power or authority, whether statutory or not, the Registrar-General may assume that the plan was so signed and that there was sufficient power or authority for its being signed.

(3) Where—

- (a) a seal purporting to be the seal of a corporation, whether sole or aggregate, has been affixed to a plan lodged or a consent given under this Division; and
- (b) the affixing of the seal purports to have been attested by a person or persons holding office in the corporation or by a person or persons authorised to attest the affixing of the seal,

the Registrar-General may assume—

- (c) that the seal and attestation are genuine and were lawfully affixed to, or subscribed on, the plan or consent; and
- (d) that the person or persons purporting to have attested the affixing of the seal had sufficient authority to attest the affixing of the seal in the capacity in which the person or persons purported to do so.

(4) If a plan is registered or recorded under this Division by the Registrar-General, the plan shall be deemed to have been sufficiently signed for the purposes of this Division.

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*Conveyancing (Plan Registration) Amendment 1986*

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SCHEDULE 2

(Sec. 3)

CONSEQUENTIAL AMENDMENTS TO THE CONVEYANCING ACT 1919

Section 88B (Creation of easements, restrictions on use of land and positive covenants by plans)—

Section 88B (2), (3)—

Omit "section 196" wherever occurring, insert instead "Division 3 of Part XXIII".

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BY AUTHORITY

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