

FIRST PRINT

**STRATA TITLES (PLAN REGISTRATION) AMENDMENT
BILL 1986**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Conveyancing (Plan Registration) Amendment Bill 1986.

The objects of this Bill are—

- (a) to facilitate the registration of plans under the Strata Titles Act 1973 by reducing the categories of persons required to sign those plans, by enabling the Registrar-General to refuse to register those plans unless written consents to registration have been given and by permitting the Registrar-General to dispense with the signing of those plans by persons otherwise required to sign them; and
- (b) to make other minor amendments to the Principal Act either consistent with amendments intended to be made to the Conveyancing Act 1919 in relation to the registration of plans or for the purpose of statute law revision.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on the commencement of the proposed Conveyancing (Plan Registration) Amendment Act 1986.

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

Clause 4 is a transitional provision which applies the proposed new section 16 of the Principal Act to plans lodged for registration but not registered before the commencement of the proposed Act.

Schedule 1 (1) repeals and re-enacts section 16 of the Principal Act so as to require that, unless the Registrar-General dispenses with this requirement, a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan shall not be registered unless signed by the registered proprietor of the affected land and any registered mortgagee, chargee or covenant chargee whose interest is secured on the land. Under this proposed section, the Registrar-General may also require written consents to registration from lessees, judgment creditors or caveators.

Schedule 1 (2) amends section 18 of the Principal Act to make it clear—

- (a) that, where land becomes common property upon the registration of a notice of conversion, it is not subject to any charge, writ or caveat which may previously have affected the land; and
- (b) that the extinguishing of interests in so far as they affected land before it became common property does not affect any right that may be exercised otherwise than in relation to the common property by the holder of the interest.

Schedule 1 (3) and (5) amend sections 27 and 42 of the Principal Act as a consequence of the proposed repeal and re-enactment of Division 3 of Part XXIII of the Conveyancing Act 1919 by the proposed Conveyancing (Plan Registration) Amendment Act 1986.

Schedule 1 (4) amends section 30 of the Principal Act as a consequence of the proposed re-enactment of that Division of the Conveyancing Act 1919 and the repeal and re-enactment of section 16 of the Principal Act.

STRATA TITLES (PLAN REGISTRATION) AMENDMENT BILL 1986

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 68, 1973
4. Transitional

SCHEDULE 1—AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING
TO THE REGISTRATION OF PLANS

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**STRATA TITLES (PLAN REGISTRATION) AMENDMENT
BILL 1986**

NEW SOUTH WALES



No. , 1986

A BILL FOR

An Act to amend the Strata Titles Act 1973 in relation to the registration of plans and for other purposes.

Strata Titles (Plan Registration) Amendment 1986

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 "Strata Titles (Plan Registration) Amendment Act 1986".

Commencement

10 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 the commencement of the Conveyancing (Plan Registration) Amendment Act 1986.

Amendment of Act No. 68, 1973

15 3. The Strata Titles Act 1973 is amended in the manner set forth in Schedule 1.

Transitional

20 4. Section 16 of the Strata Titles Act 1973, as amended by this Act, applies to and in respect of strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans which were lodged in the office of the Registrar-General but not registered before the commencement of this Act in the same way as that section of that Act, as so amended, applies to any such plan so lodged after that commencement.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING TO
THE REGISTRATION OF PLANS

5 (1) Section 16—

Omit the section, insert instead:

Strata plans to be signed or consented to

10 16. (1) The Registrar-General shall not register as a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan a plan lodged in the office of the Registrar-General unless the plan is signed—

- 15 (a) by the registered proprietor of the land comprised in the plan; and
- (b) by every mortgagee, chargee or covenant chargee under a mortgage, charge or covenant charge recorded in the folio of the Register kept under the Real Property Act 1900 relating to that land.

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

- 25 (a) the lessee under any lease, or the judgment creditor under any writ, recorded in the folio of the Register kept under the Real Property Act 1900 relating to the land comprised in the plan;
- (b) the caveator under a caveat affecting any estate or interest in that land,

are lodged in the office of the Registrar-General.

30 (3) In relation to any particular plan lodged for registration 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.

Strata Titles (Plan Registration) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING TO
THE REGISTRATION OF PLANS—*continued*

(2) Section 18 (**Vesting of common property upon registration of strata plan**)—

(a) Section 18 (1), (3)—

After “covenant charge,” wherever occurring, insert “lease,”.

5 (b) Section 18 (4)—

After “registered”, insert “but freed and discharged from any mortgage, charge, covenant charge, lease, writ or caveat affecting that land before registration of that notice”.

(c) Section 18 (5)—

10 After section 18 (4), insert:

(5) Nothing in subsection (1), (3) or (4) affects any right or remedy that may be exercised otherwise than in relation to common property by a person who is a mortgagee, chargee, covenant chargee, lessee, judgment creditor or caveator, even
15 though the person may have signed or consented to the registration of the plan or signed the notice creating the common property.

(3) Section 27 (**Dedication of common property**)—

Section 27 (3)—

20 Omit the subsection, insert instead:

(3) A body corporate shall affix its seal to a plan referred to in subsection (2) which relates to common property the subject of a lease accepted or acquired by the body corporate under section 19 (2) only if—

25 (a) the plan has been signed in accordance with Division 3 of Part XXIII of the Conveyancing Act 1919; and

(b) the seal is affixed pursuant to a unanimous resolution of the body corporate.

Strata Titles (Plan Registration) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING TO
THE REGISTRATION OF PLANS—*continued*

(4) Section 30 (**Resumptions affecting parcels**)—

Section 30 (4)—

Omit the subsection, insert instead:

5 (4) A plan lodged in the office of the Registrar-General for registration as—

(a) a strata plan of subdivision, being a plan bearing a statement referred to in subsection (3) (a), may be registered notwithstanding section 16; or

10 (b) a current plan, being a plan bearing a statement referred to in subsection (3) (b), may be registered notwithstanding section 195D (1) of the Conveyancing Act 1919,

if the plan has been signed or sealed by or on behalf of the resuming authority.

(5) Section 42 (**Provisions applying to strata plans, etc.**)—

15 (a) Section 42 (1)—

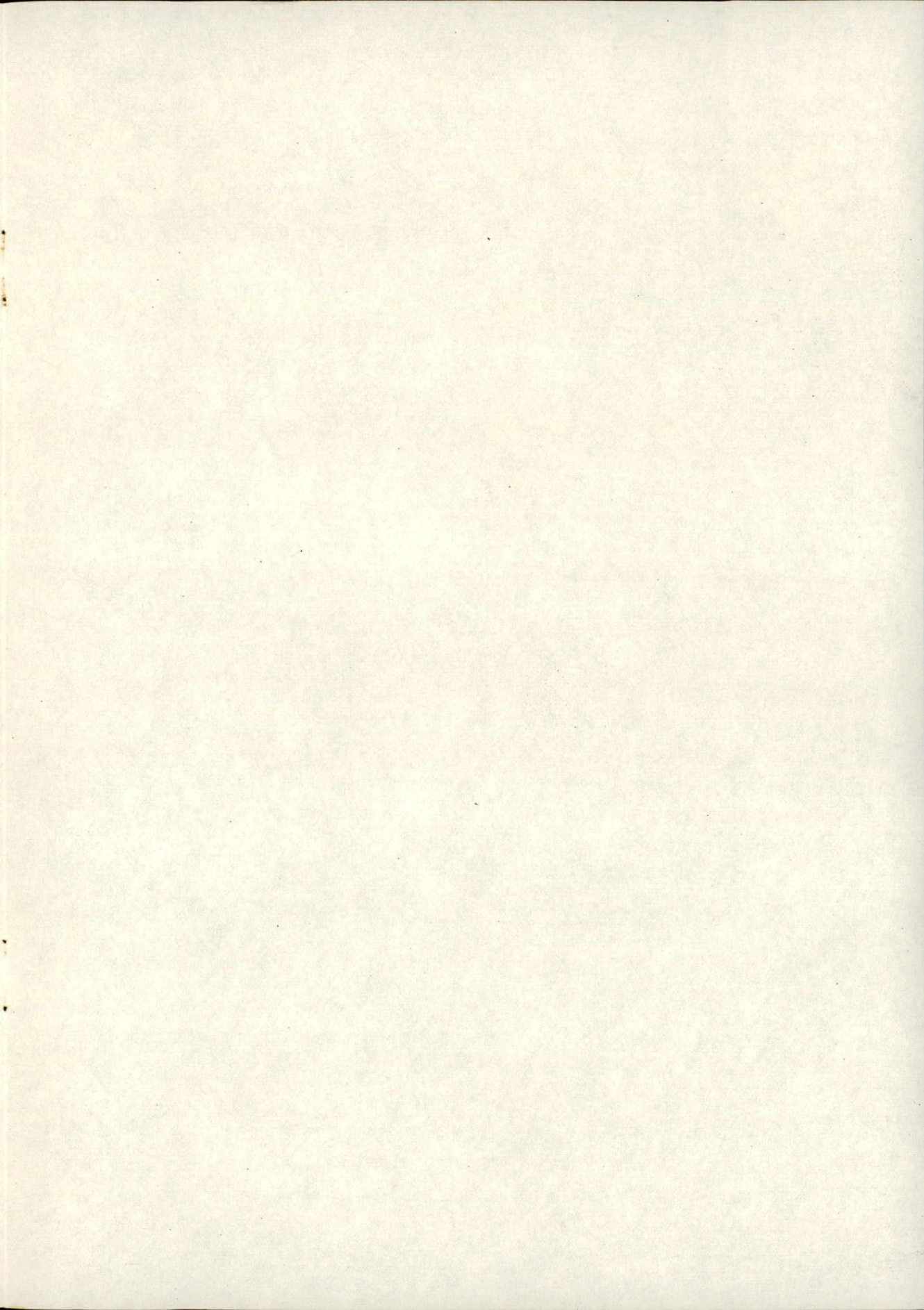
Omit “section 196 (9) (paragraphs (e) and (f) excepted) and section 196 (13)”, insert instead “sections 195F, 195H, 195J (2) and 196 (1)”.

(b) Section 42 (2)—

20 Omit the subsection.

BY AUTHORITY

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



**STRATA TITLES (PLAN REGISTRATION) AMENDMENT
ACT 1986 No. 151**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 68, 1973
4. Transitional

SCHEDULE 1—AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING
TO THE REGISTRATION OF PLANS

**STRATA TITLES (PLAN REGISTRATION) AMENDMENT
ACT 1986 No. 151**

NEW SOUTH WALES



Act No. 151, 1986

An Act to amend the Strata Titles Act 1973 in relation to the registration of plans and for other purposes. [Assented to, 17 December 1986]

Strata Titles (Plan Registration) Amendment 1986

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 "Strata Titles (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 the commencement of the Conveyancing (Plan Registration) Amendment Act 1986.

Amendment of Act No. 68, 1973

3. The Strata Titles Act 1973 is amended in the manner set forth in Schedule 1.

Transitional

4. Section 16 of the Strata Titles Act 1973, as amended by this Act, applies to and in respect of strata plans, strata plans of subdivision, strata plans of consolidation and building alteration plans which were lodged in the office of the Registrar-General but not registered before the commencement of this Act in the same way as that section of that Act, as so amended, applies to any such plan so lodged after that commencement.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING TO
THE REGISTRATION OF PLANS

(1) Section 16—

Omit the section, insert instead:

Strata plans to be signed or consented to

16. (1) The Registrar-General shall not register as a strata plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan a plan lodged in the office of the Registrar-General unless the plan is signed—

- (a) by the registered proprietor of the land comprised in the plan; and
- (b) by every mortgagee, chargee or covenant chargee under a mortgage, charge or covenant charge recorded in the folio of the Register kept under the Real Property Act 1900 relating to that land.

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

- (a) the lessee under any lease, or the judgment creditor under any writ, recorded in the folio of the Register kept under the Real Property Act 1900 relating to the land comprised in the plan;
- (b) the caveator under a caveat affecting any 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 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.

Strata Titles (Plan Registration) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING TO
THE REGISTRATION OF PLANS—*continued*

(2) Section 18 (**Vesting of common property upon registration of strata plan**)—

(a) Section 18 (1), (3)—

After “covenant charge,” wherever occurring, insert “lease,”.

(b) Section 18 (4)—

After “registered”, insert “but freed and discharged from any mortgage, charge, covenant charge, lease, writ or caveat affecting that land before registration of that notice”.

(c) Section 18 (5)—

After section 18 (4), insert:

(5) Nothing in subsection (1), (3) or (4) affects any right or remedy that may be exercised otherwise than in relation to common property by a person who is a mortgagee, chargee, covenant chargee, lessee, judgment creditor or caveator, even though the person may have signed or consented to the registration of the plan or signed the notice creating the common property.

(3) Section 27 (**Dedication of common property**)—

Section 27 (3)—

Omit the subsection, insert instead:

(3) A body corporate shall affix its seal to a plan referred to in subsection (2) which relates to common property the subject of a lease accepted or acquired by the body corporate under section 19 (2) only if—

(a) the plan has been signed in accordance with Division 3 of Part XXIII of the Conveyancing Act 1919; and

(b) the seal is affixed pursuant to a unanimous resolution of the body corporate.

Strata Titles (Plan Registration) Amendment 1986

SCHEDULE 1—*continued*

AMENDMENTS TO THE STRATA TITLES ACT 1973 RELATING TO
THE REGISTRATION OF PLANS—*continued*

(4) Section 30 (**Resumptions affecting parcels**)—

Section 30 (4)—

Omit the subsection, insert instead:

(4) A plan lodged in the office of the Registrar-General for registration as—

(a) a strata plan of subdivision, being a plan bearing a statement referred to in subsection (3) (a), may be registered notwithstanding section 16; or

(b) a current plan, being a plan bearing a statement referred to in subsection (3) (b), may be registered notwithstanding section 195D (1) of the Conveyancing Act 1919,

if the plan has been signed or sealed by or on behalf of the resuming authority.

(5) Section 42 (**Provisions applying to strata plans, etc.**)—

(a) Section 42 (1)—

Omit “section 196 (9) (paragraphs (e) and (f) excepted) and section 196 (13)”, insert instead “sections 195F, 195H, 195J (2) and 196 (1)”.

(b) Section 42 (2)—

Omit the subsection.

