

**MISCELLANEOUS ACTS (COMMUNITY LAND) AMENDMENT
ACT 1989 No. 204**

NEW SOUTH WALES



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SCHEDULE 1 - AMENDMENTS OF ACTS

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**MISCELLANEOUS ACTS (COMMUNITY LAND) AMENDMENT
ACT 1989 No. 204**

NEW SOUTH WALES



Act No. 204, 1989

An Act to amend certain Acts as a consequence of the enactment of the Community Land Development Act 1989 and the Community Land Management Act 1989. [Assented to 21 December 1989]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Miscellaneous Acts (Community Land) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendments

3. The Acts listed in Schedule 1 are amended as set out in that Schedule.

SCHEDULE 1 - AMENDMENTS OF ACTS

(Sec. 3)

Auctioneers and Agents Act 1941 No. 28:

(1) Long title:

Omit "and strata" wherever occurring, insert instead
", strata managing agents and community".

(2) Section 3 (**Definitions**):

(a) Section 3 (1):

Before the definition of "Council", insert:

"Community managing agent" means a person who is engaged or appointed, for monetary or other reward, to exercise functions of an association constituted for a scheme under the Community Land Development Act 1989 but who is not:

- (a) the proprietor of a lot within the scheme; or
- (b) the secretary or treasurer of the association; or
- (c) a person authorised by the management statement for the scheme to exercise the functions of the secretary or treasurer of the association; or

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (d) a person who maintains or repairs any property that the association is required to maintain and keep in repair.
- (b) Omit section 3 (3A), insert instead:
 - (3A) For the purposes of this Act:
 - (a) a person who at any time exercises a function of a strata managing agent is carrying on business as a strata managing agent; and
 - (b) a person who at any time exercises a function of a community managing agent is carrying on business as a community managing agent.
- (3) Section 4 (**Act not to apply to any Government department etc.**):
 - Section 4 (2) (a):
 - Omit "or strata", insert instead ", strata managing agent or community".
- (4) (a) Part 3, heading:
 - Omit "AND STRATA", insert instead ", STRATA MANAGING AGENTS AND COMMUNITY".
- (b) Part 3, Division 7, heading:
 - After "Agents", insert "and Community Managing Agents".
- (5) Section 20 (**No person to act without a licence**):
 - (a) Section 20 (2B):
 - After "agent", insert "or community managing agent".
 - (b) Section 20 (3):
 - Omit "or a strata", insert instead ", a strata managing agent or a community".
 - (c) After section 20 (3), insert:
 - (3A) For a community managing agent, the appropriate class of licence referred to in section 22 is a strata managing agent's licence.
- (6) Sections 23 (12), 32, 40 (1), 88:
 - Omit "or a strata" wherever occurring, insert instead ", a strata managing agent or a community".

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (7) Section 21 (**Each separate place of business to be in charge of licensee**):
Section 21 (2B), (2C), (2D):
After "agent" wherever occurring, insert "or as a community managing agent".
- (8) Section 35 (**Publication of name of licensee**):
Section 35 (3) (b) (v):
After "agent", insert "or as a community managing agent".
- (9) Section 36D (**Licensees to deposit part of trust account with the council**):
Section 36D (6), definition of "**carry on business**":
Omit "or a strata", insert instead ", a strata managing agent or a community".
- (10) Section 38B (**Inspection of records**):
Section 38B (1A):
After "body corporate", insert ", or on which a community managing agent operates on behalf of an association constituted under the Community Land Development Act 1989,".
- (11) Section 42 (**Provisions as to commission etc.**):
Section 42 (1) (e):
After "agent", insert "or as a community managing agent".
- (12) Section 50K:
Omit the section, insert instead:
Definitions
50K. In this Division:
"**association**" means a community association, precinct association or neighbourhood association constituted under section 25 of the Community Land Development Act 1989;
"**body corporate**" means a body corporate constituted under the Strata Titles Act 1973 or under the Strata Titles (Leasehold) Act 1986.

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (13) Section 50L (**Production of certain instruments**):
- (a) After "agent" wherever occurring, insert "or community managing agent".
 - (b) After "body corporate", insert "or an association".

Environmental Planning and Assessment Act 1979 No. 203:

Section 99 (**Lapsing of consent**):

After section 99 (5), insert:

(5A) If a development is the subject of:

- (a) a proposed development statement referred to in section 28A (3) of the Strata Titles Act 1973; or
- (b) a development contract registered with a community plan or precinct plan under the Community Land Development Act 1989,

the relevant circumstances referred to in subsection (5) include the proposals relating to the stages in which the development is to be effected.

Land and Environment Court Act 1979 No. 204:

- (1) Section 17 (**Class 1 - environmental planning and protection appeals**):

(a) Section 17 (e):

Omit "and" where secondly occurring.

(b) At the end of section 17, insert:

; and

(g) applications under section 107 of the Community Land Management Act 1989.

- (2) Section 20 (**Class 4 - environmental planning and protection civil enforcement**):

(a) Section 20 (1) (da):

Before "proceedings", insert "proceedings on an agreement implied by section 15 of the Community Land Management Act 1989, or".

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(b) Section 20 (3) (c):

Before "an agreement", insert "an agreement implied by section 15 of the Community Land Management Act 1989, or".

Land Tax Management Act 1956 No. 26:

Section 10 (**Land exempted from tax**):

After section 10 (1) (k), insert:

- (l) association property that is vested in an association under the Community Land Development Act 1989 and is used primarily and principally:
 - (i) as an open access way or private access way within a community scheme, precinct scheme or neighbourhood scheme under the Community Land Development Act 1989; or
 - (ii) for the recreation of participants in such a scheme and their invitees,but is not used for a commercial purpose;

Local Government Act 1919 No. 41:

(1) Section 327AA (**Restriction on disposal of land in a current plan**):

Section 327AA (1), definition of "plan of subdivision":

- (a) After "plan" in paragraph (c), insert ", a strata plan of subdivision or a strata plan of consolidation".
- (b) After paragraph (c), insert:
 - (c1) a plan of the residue of a parcel after a road widening, being a plan required by the Registrar-General under section 53 of the Strata Titles Act 1973 to accompany a copy of an order for termination of a strata scheme;

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(2) Section 333 (**Subjects for consideration respecting subdivisions**):

After section 333 (1A), insert:

(1B) If a proposed subdivision is to form part of a scheme under the Community Land Development Act 1989, the council must, in addition to the matters referred to in subsections (1) and (1A), take into consideration:

- (a) the character and construction of roads, open access ways and private access ways within the scheme; and
- (b) the width of the roads, open access ways and private access ways; and
- (c) any other matters relating to the roads and access ways that the Minister directs, by order published in the Gazette, are to be taken into consideration under this section.

(1C) If a plan of subdivision:

- (a) is a community plan, precinct plan or neighbourhood plan under the Community Land Development Act 1989; and
- (b) includes a public reserve,

the plan may not be approved under this Act unless there is an adjoining public road or other public place giving the public direct access to the reserve.

Valuation of Land Act 1916 No. 2:

(1) Section 7H:

After section 7G, insert:

Community schemes, neighbourhood schemes and certain strata schemes

7H. (1) Expressions used in this section have the same meanings as they have in the Community Land Development Act 1989.

(2) Land that is association property is not to be separately valued unless the Valuer-General has been informed by:

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (a) the local council; or
 - (b) the Chief Commissioner for Land Tax; or
 - (c) a prescribed person,
- that the land is used for commercial purposes.

(3) In valuing:

- (a) a community development lot or a precinct development lot; or
- (b) a neighbourhood lot or strata parcel that is part of a community scheme (whether or not it is also part of a precinct scheme),

the Valuer-General is to take into account any benefits and disadvantages applicable to the lot or parcel because of its special status as part of the community scheme and, except in the case of a community development lot, as part of a subsidiary scheme or schemes.

(4) In valuing a neighbourhood lot that is not part of a community scheme the Valuer-General is to take into account any benefits and disadvantages applicable to the lot as part of the neighbourhood scheme.

(5) In valuing a lot:

- (a) in a scheme referred to in subsection (3) - the Valuer-General is to take into account the value to the proprietor of the lot of the interest attributable to the lot in community property, precinct property or neighbourhood property that is not used for commercial purposes;
- (b) in a neighbourhood scheme referred to in subsection (4) - the Valuer-General is to take into account the value to the proprietor of the lot of the interest attributable to the lot in neighbourhood property that is not used for commercial purposes.

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(2) Section 76 (**Copies of entries to be supplied**):

After section 76 (2), insert:

(3) To enable a revised schedule of unit entitlements to be prepared for the purposes of section 30 of the Community Land Development Act 1989, the Valuer-General, at the request of an association constituted under that Act and on payment of the prescribed fee, is to provide the association with a table showing the values at the same base date of the lots in the scheme under which the association is constituted by that Act.

[*Minister's second reading speech made in -
Legislative Assembly on 21 November 1989
Legislative Council on 29 November 1989*]







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**MISCELLANEOUS ACTS (COMMUNITY LAND) AMENDMENT
BILL 1989**

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Community Land Development Bill 1989.

The object of this Bill is to amend certain Acts as a consequence of the proposed enactment of the Community Land Development Act 1989 ("the Development Act") and the Community Land Management Act 1989 ("the Management Act").

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision which gives effect to the proposed amendments to other Acts.

Schedule 1 contains amendments to the following Acts:

Auctioneers and Agents Act 1941

Section 3 is amended by inserting a definition of "Community managing agent" as being a person engaged for monetary or other reward to exercise the functions of an association constituted under the Development Act for a community scheme, precinct scheme or neighbourhood scheme. (Item (2))

The Act is also amended (items (3) - (13)):

- (a) to require a person carrying on business as a community managing agent to hold a licence as a strata managing agent; and
- (b) to confer and impose on a community managing agent for an association under the Management Act similar functions to those conferred and imposed on a strata managing agent for a body corporate under the Strata Titles Act 1973.

Miscellaneous Acts (Community Land) Amendment 1989

Environmental Planning and Assessment Act 1979

Section 99 is amended to require a consent authority, when imposing a time limit for completion of the development proposed in a development contract for a community scheme or a precinct scheme, to have regard to the stages in which development is proposed to be effected.

Land and Environment Court Act 1979

Section 17 is amended to give the Land and Environment Court jurisdiction to hear and dispose of proceedings relating to an amendment of a development contract registered under the Development Act. (Item (1))

Section 20 is amended to give the Land and Environment Court jurisdiction to hear and dispose of certain matters arising under the Development Act and the Management Act. (Item (2))

Land Tax Management Act 1956

Section 10 is amended by giving to association property vested in an association under the Development Act the same exemption from land tax as is given to common property vested in a body corporate under the Strata Titles Act 1973.

Local Government Act 1919

Section 327AA is amended to include among the plans of subdivision to which the section applies a strata plan of subdivision, a strata plan of consolidation and a plan of the residue of a strata parcel after a road widening followed by termination of a strata scheme.

Section 333 is amended to specify the matters required to be taken into account by a local council when considering a proposed subdivision under the Development Act. (Item (2))

Valuation of Land Act 1916

Section 7H is inserted to provide that certain matters are to be taken into account by the Valuer-General when valuing land the subject of a community scheme, precinct scheme or neighbourhood scheme. (Item (1))

Section 76 is amended to require the Valuer-General, on application by an association constituted under the Development Act, to provide the association with a table of values to enable the association to prepare a revised schedule of unit entitlements for the scheme under which the association is constituted.

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**MISCELLANEOUS ACTS (COMMUNITY LAND) AMENDMENT
BILL 1989**

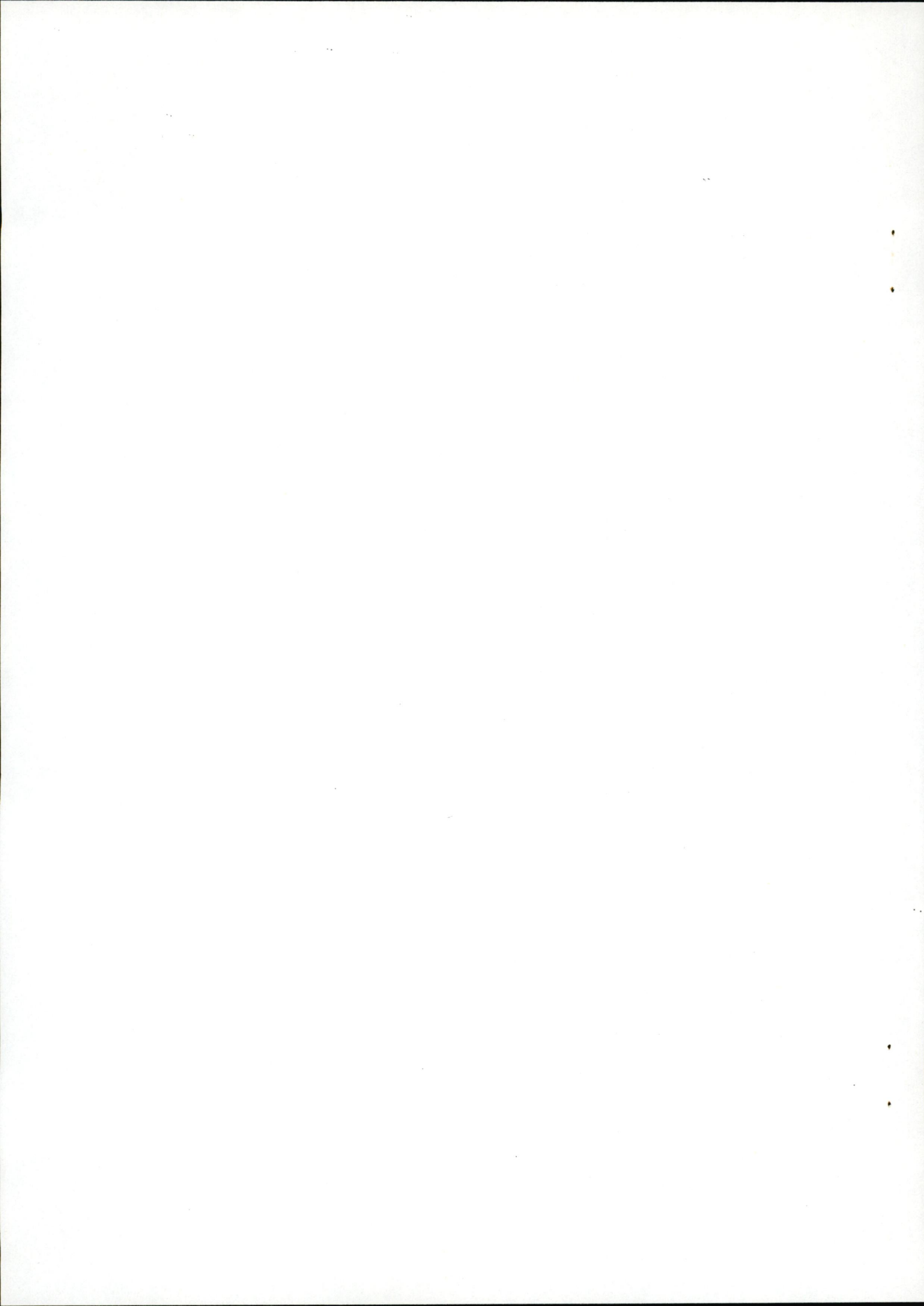
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SCHEDULE 1 - AMENDMENTS OF ACTS



**MISCELLANEOUS ACTS (COMMUNITY LAND) AMENDMENT
BILL 1989**

NEW SOUTH WALES



No. , 1989

A BILL FOR

**An Act to amend certain Acts as a consequence of the enactment of
the Community Land Development Act 1989 and the Community
Land Management Act 1989.**

Miscellaneous Acts (Community Land) Amendment 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Miscellaneous Acts (Community Land) Amendment Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendments

3. The Acts listed in Schedule 1 are amended as set out in that Schedule.

SCHEDULE 1 - AMENDMENTS OF ACTS

(Sec. 3)

Auctioneers and Agents Act 1941 No. 28:

(1) Long title:

Omit "and strata" wherever occurring, insert instead
", strata managing agents and community".

(2) Section 3 (**Definitions**):

(a) Section 3 (1):

Before the definition of "Council", insert:

"Community managing agent" means a person who is engaged or appointed, for monetary or other reward, to exercise functions of an association constituted for a scheme under the Community Land Development Act 1989 but who is not:

- (a) the proprietor of a lot within the scheme; or
- (b) the secretary or treasurer of the association; or
- (c) a person authorised by the management statement for the scheme to exercise the functions of the secretary or treasurer of the association; or

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (d) a person who maintains or repairs any property that the association is required to maintain and keep in repair.
- (b) Omit section 3 (3A), insert instead:
 - (3A) For the purposes of this Act:
 - (a) a person who at any time exercises a function of a strata managing agent is carrying on business as a strata managing agent; and
 - (b) a person who at any time exercises a function of a community managing agent is carrying on business as a community managing agent.
- (3) Section 4 (Act not to apply to any Government department etc.):
 - Section 4 (2) (a):
 - Omit "or strata", insert instead ", strata managing agent or community".
- (4) (a) Part 3, heading:
 - Omit "AND STRATA", insert instead ", STRATA MANAGING AGENTS AND COMMUNITY".
- (b) Part 3, Division 7, heading:
 - After "Agents", insert "and Community Managing Agents".
- (5) Section 20 (No person to act without a licence):
 - (a) Section 20 (2B):
 - After "agent", insert "or community managing agent".
 - (b) Section 20 (3):
 - Omit "or a strata", insert instead ", a strata managing agent or a community".
 - (c) After section 20 (3), insert:
 - (3A) For a community managing agent, the appropriate class of licence referred to in section 22 is a strata managing agent's licence.
- (6) Sections 23 (12), 32, 40 (1), 88:
 - Omit "or a strata" wherever occurring, insert instead ", a strata managing agent or a community".

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (7) Section 21 (**Each separate place of business to be in charge of licensee**):
Section 21 (2B), (2C), (2D):
After "agent" wherever occurring, insert "or as a community managing agent".
- (8) Section 35 (**Publication of name of licensee**):
Section 35 (3) (b) (v):
After "agent", insert "or as a community managing agent".
- (9) Section 36D (**Licensees to deposit part of trust account with the council**):
Section 36D (6), definition of "carry on business":
Omit "or a strata", insert instead ", a strata managing agent or a community".
- (10) Section 38B (**Inspection of records**):
Section 38B (1A):
After "body corporate", insert ", or on which a community managing agent operates on behalf of an association constituted under the Community Land Development Act 1989,".
- (11) Section 42 (**Provisions as to commission etc.**):
Section 42 (1) (e):
After "agent", insert "or as a community managing agent".
- (12) Section 50K:
Omit the section, insert instead:
Definitions
50K. In this Division:
"association" means a community association, precinct association or neighbourhood association constituted under section 25 of the Community Land Development Act 1989;
"body corporate" means a body corporate constituted under the Strata Titles Act 1973 or under the Strata Titles (Leasehold) Act 1986.

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(13) Section 50L (Production of certain instruments):

- (a) After "agent" wherever occurring, insert "or community managing agent".
- (b) After "body corporate", insert "or an association".

Environmental Planning and Assessment Act 1979 No. 203:

Section 99 (Lapsing of consent):

After section 99 (5), insert:

(5A) If a development is the subject of:

- (a) a proposed development statement referred to in section 28A (3) of the Strata Titles Act 1973; or
- (b) a development contract registered with a community plan or precinct plan under the Community Land Development Act 1989,

the relevant circumstances referred to in subsection (5) include the proposals relating to the stages in which the development is to be effected.

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(1) Section 17 (Class 1 - environmental planning and protection appeals):

(a) Section 17 (e):

Omit "and" where secondly occurring.

(b) At the end of section 17, insert:

; and

(g) applications under section 107 of the Community Land Management Act 1989.

(2) Section 20 (Class 4 - environmental planning and protection civil enforcement):

(a) Section 20 (1) (da):

Before "proceedings", insert "proceedings on an agreement implied by section 15 of the Community Land Management Act 1989, or".

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(b) Section 20 (3) (c):

Before "an agreement", insert "an agreement implied by section 15 of the Community Land Management Act 1989, or".

Land Tax Management Act 1956 No. 26:

Section 10 (Land exempted from tax):

After section 10 (1) (k), insert:

- (1) association property that is vested in an association under the Community Land Development Act 1989 and is used primarily and principally:
 - (i) as an open access way or private access way within a community scheme, precinct scheme or neighbourhood scheme under the Community Land Development Act 1989; or
 - (ii) for the recreation of participants in such a scheme and their invitees,but is not used for a commercial purpose;

Local Government Act 1919 No. 41:

(1) Section 327AA (Restriction on disposal of land in a current plan):

Section 327AA (1), definition of "plan of subdivision":

- (a) After "plan" in paragraph (c), insert ", a strata plan of subdivision or a strata plan of consolidation".
- (b) After paragraph (c), insert:
 - (c1) a plan of the residue of a parcel after a road widening, being a plan required by the Registrar-General under section 53 of the Strata Titles Act 1973 to accompany a copy of an order for termination of a strata scheme;

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(2) Section 333 (Subjects for consideration respecting subdivisions):

After section 333 (1A), insert:

(1B) If a proposed subdivision is to form part of a scheme under the Community Land Development Act 1989, the council must, in addition to the matters referred to in subsections (1) and (1A), take into consideration:

- (a) the character and construction of roads, open access ways and private access ways within the scheme; and
- (b) the width of the roads, open access ways and private access ways; and
- (c) any other matters relating to the roads and access ways that the Minister directs, by order published in the Gazette, are to be taken into consideration under this section.

(1C) If a plan of subdivision:

- (a) is a community plan, precinct plan or neighbourhood plan under the Community Land Development Act 1989; and
- (b) includes a public reserve,

the plan may not be approved under this Act unless there is an adjoining public road or other public place giving the public direct access to the reserve.

Valuation of Land Act 1916 No. 2:

(1) Section 7H:

After section 7G, insert:

Community schemes, neighbourhood schemes and certain strata schemes

7H. (1) Expressions used in this section have the same meanings as they have in the Community Land Development Act 1989.

(2) Land that is association property is not to be separately valued unless the Valuer-General has been informed by:

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

- (a) the local council; or
 - (b) the Chief Commissioner for Land Tax; or
 - (c) a prescribed person,
- that the land is used for commercial purposes.
- (3) In valuing:
- (a) a community development lot or a precinct development lot; or
 - (b) a neighbourhood lot or strata parcel that is part of a community scheme (whether or not it is also part of a precinct scheme),
- the Valuer-General is to take into account any benefits and disadvantages applicable to the lot or parcel because of its special status as part of the community scheme and, except in the case of a community development lot, as part of a subsidiary scheme or schemes.
- (4) In valuing a neighbourhood lot that is not part of a community scheme the Valuer-General is to take into account any benefits and disadvantages applicable to the lot as part of the neighbourhood scheme.
- (5) In valuing a lot:
- (a) in a scheme referred to in subsection (3) - the Valuer-General is to take into account the value to the proprietor of the lot of the interest attributable to the lot in community property, precinct property or neighbourhood property that is not used for commercial purposes;
 - (b) in a neighbourhood scheme referred to in subsection (4) - the Valuer-General is to take into account the value to the proprietor of the lot of the interest attributable to the lot in neighbourhood property that is not used for commercial purposes.

SCHEDULE 1 - AMENDMENTS OF ACTS - *continued*

(2) Section 76 (Copies of entries to be supplied):

After section 76 (2), insert:

(3) To enable a revised schedule of unit entitlements to be prepared for the purposes of section 30 of the Community Land Development Act 1989, the Valuer-General, at the request of an association constituted under that Act and on payment of the prescribed fee, is to provide the association with a table showing the values at the same base date of the lots in the scheme under which the association is constituted by that Act.
