Western Australia

Strata Titles Amendment Bill 2018

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Western Australia

LEGISLATIVE ASSEMBLY

Strata Titles Amendment Bill 2018

A Bill for

An Act —

- **to amend the *Strata Titles Act 1985*; and**
- **to make consequential and related amendments to other Acts; and**
- **for related purposes.**

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Strata Titles Amendment Act 2018*.

2. Commencement

This Act comes into operation as follows —

(a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;

(b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

3. Notes not part of Act

A note in this Act is provided to assist understanding and does not form part of this Act.

Part 2 — *Strata Titles Act 1985* amended

Division 1 — Preliminary

4. Act amended

This Part amends the *Strata Titles Act 1985*.

Division 2 — Amendment of long title and Parts I to VIII

Note:

The sections amended in this Division and other sections not amended are redesignated or renumbered and relocated by Divisions 4 and 6.

5. Long title replaced

Delete the long title and insert:

An Act —

- **to provide for the subdivision of land by strata titles schemes, the creation of strata titles and the governance and operation of strata titles schemes; and**
- **for related purposes.**

6. Part 1 heading replaced

Delete the heading to Part 1 and insert:

Part 1 — Preliminary

7. Section 3 amended

(1) In section 3(1) delete the definitions of:

administrator

building

Commission
common property
council
licensed surveyor
licensed valuer
local government
occupier
open space
original proprietor
parcel
permitted boundary deviation
person concerned
prescribed
proprietor
Register
Registrar of Titles
resolution without dissent
re-subdivision
scheme
single tier strata scheme
special resolution
strata company
strata/survey-strata plan
strata plan
strata scheme
structural cubic space
survey-strata plan
survey-strata scheme
take, taken and ***taking***

two-lot scheme

unanimous resolution

unit entitlement

(2) In section 3(1) insert in alphabetical order:

2, 3, 4 or 5-lot scheme means a strata titles scheme in which there are, respectively, 2, 3, 4 or 5 lots;

address for service — see section 215;

ADI means an authorised deposit-taking institution within the meaning given in the *Banking Act 1959* (Commonwealth) section 5(1);

administrative fund — see section 100(1)(a);

administrator of a strata company means a person appointed by the Tribunal as an administrator of the strata company under section 205;

amendment of a strata titles scheme —see section 12(2);

amendment in relation to common property or a lot in a strata titles scheme — see subsection (7);

approved form — a document, evidence or information is in an approved form only if it is in the form approved under the regulations or Transfer of Land Act requirements and it complies with any requirements of the regulations or Transfer of Land Act requirements;

assistance animal has the meaning given in the *Disability Discrimination Act 1992* (Commonwealth) section 9(2);

associate — 2 persons are associates if —

(a) 1 is the spouse or de facto spouse of the other; or

(b) 1 is the child or grandchild of the other; or

(c) they have a parent or grandparent in common; or

(d) they are partners; or

(e) they are directors of the same body corporate; or

(f) 1 is employed by the other; or

(g) 1 is a body corporate and the other is a director, officer or employee of the body corporate or a person who is otherwise in a position to control or substantially influence the conduct of the body corporate; or

(h) they are bodies corporate and the same person is a director of both bodies corporate;

Australian legal practitioner has the meaning given in the *Legal Profession Act 2008* section 3;

building includes structure;

capital value has the meaning given in the *Valuation of Land Act 1978* section 4(1);

chairperson of a general meeting of a strata company means the person presiding at the meeting;

chairperson of a strata company means the member of the council of the strata company holding office as the chairperson of the strata company;

Commissioner of Titles means the person holding or acting in the office of the Commissioner of Titles under the *Transfer of Land Act 1893*;

common property — see section 10;

common property (utility and sustainability infrastructure) easement means an easement under section 64;

conduct by-laws for a strata titles scheme —

(a) means scheme by-laws (other than governance by-laws) dealing with —

(i) the conduct of an owner or occupier of a lot in the scheme or of any other person on the land subdivided by the scheme; or

(ii) the management, control, use or enjoyment of a lot or common property in the scheme;

and

(b) includes the following —

(i) scheme by-laws set out in Schedule 2;

(ii) scheme by-laws that deal with any of the following —

(I) landscaping requirements to be observed by owners of lots;

(II) the maintenance of water, sewerage, drainage, gas, electricity, telephone and other services;

(III) insurance of the common property;

(IV) safety and security;

(V) procedures for the resolution of disputes;

(iii) scheme by-laws classified by the regulations as conduct by-laws;

contract means a contract, agreement or document that legally binds a person, whether conditionally or unconditionally;

contributions means the levies imposed on owners of lots by a strata company to raise amounts for payment

into its administrative fund or reserve fund under section 100;

council means the governing body of a strata company;

cubic space — see subsection (3);

designated interest means —

(a) a registered mortgage; or

(b) a registered lease; or

(c) a caveat recorded under the *Transfer of Land Act 1893*; or

(d) the interest of a judgment creditor named in a property seizure and sale order registered under the *Transfer of Land Act 1893* section 133; or

(e) the interest of a person named in a memorial registered under the *Transfer of Land Act 1893* as having a statutory right requiring the consent of the person to any dealing with the land; or

(f) a plantation interest registered under the *Transfer of Land Act 1893*; or

(g) a carbon covenant registered under the *Transfer of Land Act 1893*;

development has the meaning given in the *Planning and Development Act 2005* section 4(1);

disability has the meaning given in the *Disability Discrimination Act 1992* (Commonwealth) section 4(1);

disposition statement — see section 222;

electronic address means —

(a) an email address; or

(b) anything included in this definition by the regulations;

encumbrance has the meaning given in the *Transfer of Land Act 1893* section 4(1);

exclusive use by-laws — see section 43(1);

expiry day for a leasehold scheme — see section 8(3)(c);

financial year for a strata company means —

(a) if the scheme by-laws are silent on the matter, the period of 12 months ending on 30 June; or

(b) if the scheme by-laws specify a period of 12 months ending on a different date as the financial year for the scheme, the period specified in the by-laws;

first mortgagee of a lot in a strata titles scheme means a registered mortgagee who is first entitled in priority and who has given written notice of the mortgage to the strata company for the scheme;

freehold scheme — see section 8(2);

Note for this definition:

A freehold scheme may be a strata scheme or a survey-strata scheme depending on how the lots are defined: see section 9.

fundamental covenant or condition — see section 52(1)(b);

governance by-laws for a strata titles scheme —

(a) means scheme by-laws dealing with —

(i) the governance of the scheme; or

(ii) the subdivision or development of the land subdivided by the scheme (other than a matter of landscaping); or

(iii) exclusive use of common property in the scheme;

and

(b) includes the following —

(i) scheme by-laws set out in Schedule 1;

(ii) leasehold by-laws;

(iii) staged subdivision by-laws;

(iv) exclusive use by-laws;

(v) scheme by-laws made under a planning (scheme by-laws) condition;

(vi) scheme by-laws setting out architectural requirements designed to control or preserve the essence or theme of development;

(vii) scheme by-laws that specify plot ratio restrictions or open space requirements;

(viii) scheme by-laws affecting the provision of, or payment for —

(I) internal fencing on the parcel; or

(II) fencing to which the *Dividing Fences Act 1961* applies;

(ix) scheme by-laws for a 3, 4 or 5-lot scheme that exempt the strata company from a designated function under section 140;

(x) scheme by-laws that deal with —

(I) the constitution or procedures of the council of the strata company; or

(II) the officers of the strata company; or

(III) the procedures of a general meeting of the strata company; or

(IV) the organisation of the affairs of the strata company; or

(V) contributions, levies or money payable by the owner of a lot in

the scheme to the strata company; or

(VI) the carrying on of a business or trading activity by the strata company or the method of distributing and sharing any profit or loss;

(xi) scheme by-laws classified by the regulations as governance by-laws;

infrastructure includes public or private access ways, lifts, swimming pools, gymnasiums, shared carparks, loading bays other recreational facilities, infrastructure for utility services and other fixtures and, in each case, associated equipment;

infrastructure contract — see section 64(1)(a);

infrastructure owner — see section 64(3);

insurable asset of a strata titles scheme —

(a) means —

(i) the common property of the scheme (including the fixtures and improvements on the common property); or

(ii) the parts of scheme buildings that comprise lots in the scheme (including the paint and wallpaper); or

(iii) anything included in this definition by the regulations;

but

(b) does not include —

(i) fixtures or improvements on the common property that are not themselves common property; or

(ii) carpet and temporary wall, floor and ceiling coverings in a scheme building; or

(iii) fixtures removable by a lessee at the expiration of a tenancy; or

(iv) anything excluded from this definition by the regulations;

interim development order has the meaning given in the *Planning and Development Act 2005* section 4(1);

item registered or recorded for a strata titles scheme — see section 58(5);

Note for this definition:

For example, an item may comprise an estate, interest, right, encumbrance, notification, memorial or caveat.

judicial member has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1);

key document in relation to a subdivision of land by a strata titles scheme (including a stage of subdivision) means each of the following —

(a) the application for registration of the scheme or amendment of the scheme to give effect to the subdivision and everything that accompanies the application;

(b) the scheme documents, or amendments of the scheme documents, as registered for the subdivision;

(c) planning approvals for the subdivision and development associated with the scheme;

(d) occupancy permits and building approval certificates under the *Building Act 2011* relating to development associated with the subdivision;

(e) official notices relating to the subdivision or development associated with the subdivision;

(f) specifications, diagrams and drawings relating to the parcel or a building on the parcel (including any specifications, diagrams and drawings that show utility conduits, utility infrastructure or sustainability infrastructure);

(g) warranty documents and operational and servicing manuals for infrastructure that ought reasonably to be given to the strata company;

(h) certificates and schedules relating to the insurance required for, or relating to, the scheme taken out or arranged by the scheme developer of the subdivision;

(i) any contracts for the provision of services or amenities to the strata company or to members of the strata company entered into or arranged by the scheme developer for the subdivision or by the strata company;

(j) any leases or licences over the common property of the scheme;

(k) accounting records and other documents that ought reasonably to be given to the strata company;

(l) anything included in this definition by the regulations;

lease of a lot includes a sublease of the lot, but does not, in a leasehold scheme, include the strata lease for the lot;

leasehold by-laws — see section 40;

leasehold scheme — see section 8(3);

Note for this definition:

A leasehold scheme may be a strata scheme or a survey-strata scheme depending on how the lots are defined: see section 9.

legally qualified member has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1);

licensed surveyor has the meaning given in the *Licensed Surveyors Act 1909* section 3;

licensed valuer has the meaning given in the *Land Valuers Licensing Act 1978* section 4;

local government means a local government, regional local government or regional subsidiary;

local planning scheme has the meaning given in the *Planning and Development Act 2005* section 4(1);

member of a strata company — see section 14(8);

member of the council of a strata company includes a person appointed under scheme by-laws to act as a member of the council;

monetary order has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1);

mortgagee of a lot in a leasehold scheme includes a mortgagee or chargee of the strata leasehold estate in the lot;

notifiable variation means —

(a) a type 1 notifiable variation; or

(b) a type 2 notifiable variation;

occupier of a lot means a person who occupies the lot on a temporary or permanent basis (either solely or jointly with other persons) and includes a person who is unlawfully in occupation of a lot;

officer of a strata company means —

(a) the chairperson of the strata company; or

(b) if, under the scheme by-laws, the strata company has a secretary, the secretary of the strata company; or

(c) if, under the scheme by-laws, the strata company has a treasurer, the treasurer of the strata company;

on common property in relation to infrastructure means situated in or on common property;

open space means the area of a lot that is not occupied by a building, calculated in accordance with the regulations;

order to act means an order of the Tribunal that —

(a) is not a monetary order; and

(b) requires a person to take specified action or to refrain from taking specified action;

ordinary resolution of a strata company — see section 123;

original proprietor of a strata titles scheme means the person registered under the *Transfer of Land Act 1893* as the proprietor of an estate in fee simple in a parcel immediately before it is subdivided by a strata titles scheme;

owner of a leasehold scheme means the person registered under the *Transfer of Land Act 1893* as the holder of the freehold reversion in the land that comprises the parcel (being an interest that will revert to an estate in fee simple on the expiry or termination of the scheme);

owner of a lot means —

(a) for a lot in a freehold scheme —

(i) a person who is registered under the *Transfer of Land Act 1893* as the proprietor of an estate in fee simple in the lot; or

(ii) if the fee simple is divided into a life estate with a remainder or reversionary interest — a person who is registered as the proprietor of a life estate in the lot to the exclusion of the proprietor of the remainder or reversionary interest in the lot; or

(iii) if a mortgagee is in possession of the lot — the mortgagee to the exclusion of the persons referred to in the preceding paragraphs;

or

(b) for a lot in a leasehold scheme —

(i) a person who is registered under the *Transfer of Land Act 1893* as the proprietor of a strata leasehold estate in the lot; or

(ii) if a mortgagee is in possession of the lot — the mortgagee to the exclusion of a person referred to in the preceding paragraph;

parcel means the land subdivided by a strata titles scheme;

planning approval means an approval of the subdivision of land or development required under this Act or the *Planning and Development Act 2005*, and includes the approval or endorsement of approval of the Planning Commission on a scheme plan or amendment of a scheme plan;

Planning Commission means the Western Australian Planning Commission established under the *Planning and Development Act 2005*;

planning (scheme by-laws) condition means a condition of a planning approval requiring a strata titles

scheme to have specified scheme by-laws, which may include by-laws that provide that they cannot be amended or repealed without the approval of the Planning Commission, each local government in whose district the parcel is situated or some other specified body (such as a government agency or a utility service provider);

present at a meeting of a strata company — see section 131;

President has the meaning given in the *State Administrative Tribunal Act 2004* section 3(1);

proponent of a termination proposal — see section 173;

Register has the meaning given in the *Transfer of Land Act 1893* section 4(1);

registered lease means a lease registered under the *Transfer of Land Act 1893*;

registered mortgage means a mortgage or charge (including a statutory charge) registered under the *Transfer of Land Act 1893*;

Registrar of Titles means the person holding or acting in the office of the Registrar of Titles under the *Transfer of Land Act 1893*;

replacement value of an insurable asset means —

(a) the amount required to rebuild, replace, repair or restore the asset so that, on completion of the work, the asset is no less extensive and in no worse condition than when the asset was new; and

(b) the amount required for costs of demolition, site clearance and the remuneration of architects, surveyors, engineers and other persons whose services are necessary for the

rebuilding, replacement, repair or restoration of the asset;

reserve fund — see section 100(2)(a);

resolution without dissent of a strata company — see section 123;

restricted use condition — see section 32(2)(a);

Note for this definition:

An example of a restricted use is use of a strata titles scheme as a retirement village.

schedule of unit entitlements for a strata titles scheme means the schedule of unit entitlements registered, or proposed to be registered, for the scheme as a scheme document;

scheme building means a building shown on a strata plan and by reference to which the boundaries of lots are defined;

scheme by-laws for a strata titles scheme means the scheme by-laws registered, or proposed to be registered, for the scheme as a scheme document;

Note for this definition:

Scheme by-laws may be governance by-laws or conduct by-laws.

scheme developer —

(a) for the initial subdivision of a parcel by registration of a strata titles scheme, the original proprietor of the scheme is the scheme developer; and

(b) for a subsequent subdivision of land by registration of an amendment of a strata titles scheme to which staged subdivision by-laws apply, the owners of lots that are, on registration of the amendment, subdivided by that subdivision together constitute the scheme developer;

scheme dispute — see section 197;

scheme document — see section 12;

scheme function for a strata titles scheme means —

(a) a function of the strata company; or

(b) a function of the council of the strata company; or

(c) a function of an officer of the strata company;

scheme notice for a strata titles scheme means the scheme notice registered, or proposed to be registered, for the scheme as a scheme document;

scheme participant — see section 197(2);

scheme plan for a strata titles scheme means the strata plan or survey-strata plan registered, or proposed to be registered, for the strata titles scheme as a scheme document;

settlement date for a contract for the purchase and sale of a lot means —

(a) the date on which the purchase price, or the balance of the purchase price, for the lot is paid in exchange for documents that enable the buyer to be registered as the owner of the lot; or

(b) if the contract for the lot is a terms contract within the meaning given in the *Sale of Land Act 1970* section 5, the date on which the buyer becomes entitled to possession or occupation of the lot;

short form easement or restrictive covenant — see section 33(1);

site value has the meaning given in the *Valuation of Land Act 1978* section 4(1);

special common property — see section 43(1);

special lot — see section 43(1);

special resolution of a strata company — see section 123;

staged subdivision by-laws — see section 42;

statutory easement means an easement under Part 5 Division 3;

strata company means a body corporate established under section 14 on registration of a strata titles scheme;

strata lease for a lot in a leasehold scheme means the lease registered, or proposed to be registered, for the lot as a scheme document;

strata leasehold estate means a leasehold estate held under a strata lease;

strata management contract — see section 144(1)(a);

strata manager — see section 143(1);

strata plan means a scheme plan for a strata scheme;

strata scheme — see section 9;

strata title — see section 13;

strata titles scheme means —

(a) a strata scheme; or

(b) a survey-strata scheme;

Note for this definition:

Section 7 describes the abstract concept of a strata titles scheme and what such a scheme is designed to achieve. Section 9 sets out how the boundaries of lots in a strata titles scheme may be defined. If there is a scheme building divided into lots, the scheme is a strata scheme. If the lots are defined without reference to a building, the scheme is a survey-strata scheme. No matter how the boundaries are defined, the scheme may be either a freehold scheme or a leasehold scheme reflecting the 2 types of tenure described in section 8.

structural cubic space means —

(a) cubic space occupied by a vertical structural member, not being a wall, of a building; or

(b) utility conduits in a building; or

(c) cubic space enclosed by a structure enclosing utility conduits,

but does not include utility conduits that are for the exclusive use or enjoyment of 1 lot;

Note for this definition:

Schedule 2A provides for a special rule about the definition of structural cubic space for single tier strata schemes.

subdivision of land by a strata titles scheme — see section 11;

survey-strata plan means a scheme plan for a survey-strata scheme;

survey-strata scheme — see section 9;

sustainability infrastructure means infrastructure that is designed or is likely to avoid, remedy or mitigate adverse effects on the environment;

Examples for this definition:

Sustainability infrastructure includes solar panels, clothes lines and rainwater tanks.

take, ***taken*** and ***taking*** have, in Part 11 Division 2, the meanings given in the *Land Administration Act 1997* Part 9;

temporary common property means land leased by a strata company under section 92 and registered as temporary common property in the strata titles scheme as a result of inclusion in the description of temporary common property in the scheme plan;

termination infrastructure report — see section 179(2);

termination proposal — see section 174(1);

termination resolution — see section 182;

termination valuation report — see section 179(3);

Transfer of Land Act requirements means requirements determined under the *Transfer of Land Act 1893* section 182A;

Tribunal means the State Administrative Tribunal;

type 1 notifiable variation means any of the following that occur after a contract for the sale and purchase of a lot in a strata titles scheme is entered into but before the settlement date for the contract —

(a) the area or size of the lot or proposed lot is reduced by 5% or more from the area or size notified to the buyer before the buyer entered into the contract;

(b) the proportion that the unit entitlement, or a reasonable estimate of the unit entitlement, of the lot bears to the sum of the unit entitlements of all the lots is increased by 5% or more, or decreased by 5% or more, from the proportion that the unit entitlement, or the estimate of the unit entitlement, of the lot notified to the buyer before the buyer entered into the contract bears to the sum of the unit entitlements of all the lots as so notified;

(c) anything relating to a proposal for the termination of the strata titles scheme is served on the seller by the strata company;

(d) any other event classified by the regulations as a type 1 notifiable variation;

type 2 notifiable variation means any of the following that occur after a contract for the sale and purchase of a lot in a strata titles scheme is entered into but before the settlement date for the contract and that do not give rise to a type 1 notifiable variation —

(a) the scheme plan, or proposed scheme plan or amendment of the scheme plan, for the strata

titles scheme is modified in a way that affects the lot or the common property;

(b) the schedule of unit entitlements, or proposed schedule of unit entitlements or amendment of the schedule of unit entitlements, for the strata titles scheme is modified in a way that affects the lot;

(c) the scheme by-laws, or proposed scheme by-laws, are modified;

(d) the strata company or a scheme developer —

(i) enters into a contract for the provision of services or amenities to the strata company or to members of the strata company or a contract that is otherwise likely to affect the rights of the buyer; or

(ii) varies an existing contract of that kind in a way that is likely to affect the rights of the buyer;

(e) a lease, licence, right or privilege over the common property in the strata titles scheme is granted or varied;

(f) any other event classified by the regulations as a type 2 notifiable variation;

Note for this definition:

For when an amendment of a strata titles scheme affects a lot or common property see subsection (7).

type 1 subdivision means —

(a) the addition of land from outside the parcel of a strata titles scheme to common property in the scheme (but not including temporary common property); or

(b) the conversion of a lot in a strata titles scheme to common property in the scheme;

type 2 subdivision means the removal from the parcel of a strata titles scheme of land comprised of common property;

type 3 subdivision means a consolidation of 2 more lots in a strata titles scheme into 1 lot in the scheme (not affecting common property in the scheme);

type 4 subdivision means a subdivision that does not involve the alteration of the boundaries of the parcel and is not a type 1, type 2 or type 3 subdivision;

Note for the definitions of types of subdivision:

1. There are 4 types of amendment of a strata titles scheme that give effect to a subdivision, with varying requirements for resolutions and consents:
   - A type 1 subdivision covers adding land from outside the parcel to the common property (other than as temporary common property) and what was formerly referred to as conversion of lots into common property.
   - A type 2 subdivision covers the removal of common property from the parcel of a strata titles scheme.
   - A type 3 subdivision covers what was formerly referred to as consolidation of lots.
   - A type 4 subdivision covers what was formerly referred to as re-subdivision.
2. Re-subdivision of a lot or common property was defined in section 3(5) of the Act as in force immediately before the *Strata Titles Amendment Act 2018* to include the alteration of the boundaries of —
   - 1 or more lots so as to create only 2 or more different lots; or
   - 1 or more lots so as to create 1 or more different lots and common property; or
   - 1 or more lots and common property so as to create 1 or more different lots or 1 or more different lots and common property; or
   - common property so as to create 1 or more lots or 1 or more lots and common property.

unanimous resolution of a strata company — see section 123;

unit entitlement of a lot — see section 37(1)(a);

utility conduit means a conduit for the provision of a utility service (including pipes, wires, cables and ducts);

utility infrastructure means infrastructure and equipment necessary for, or related to, the provision of a utility service;

utility service means —

(a) the collection and passage of stormwater; or

(b) the supply of water for drinking or any other use; or

(c) a sewerage and drainage service; or

(d) a garbage collection service; or

(e) a gas, electricity or air service, including air conditioning and heating; or

(f) a communication or data service, including telephone, radio, television and internet; or

(g) a service classified by the regulations as a utility service; or

(h) another like service;

utility service easement means an easement under section 63;

vacant lot means a lot that is wholly unimproved apart from having merged improvements within the meaning given in the *Valuation of Land Act 1978* section 4(1);

volunteer strata manager means a strata manager of a strata company who —

(a) is the owner of a lot in the strata titles scheme; and

(b) does not receive any fee, reward or benefit for work performed as a strata manager other than an honorary fee or reward not exceeding, if an amount is fixed by the regulations, that amount; and

(c) personally performs the work of the strata manager;

working day means a day other than a Saturday, a Sunday or a public holiday throughout the State.

(3) In section 3(1) in the definition of ***floor area*** delete "***area*** in relation to a cubic space," and insert:

area of a cubic space

(4) In section 3(1) in the definition of ***floor plan***:

(a) after "a plan" insert:

for a strata scheme

(b) delete "one" and insert"

1

(c) in paragraph (a) delete "proposed" (each occurrence);

(d) in paragraph (b)(ii) delete "where" and insert:

if

(e) in paragraph (b)(ii) delete "proposed" (each occurrence);

(f) in paragraph (c) delete "where proposed lots or parts thereof" and insert:

if lots or parts of lots

(g) in paragraph (c) delete "proposed lots or parts thereof" (each occurrence) and insert:

lots or parts of lots

(h) in paragraph (c)(i) delete "upon" and insert:

on

Note: At the end of the definition of ***floor plan*** the following note is to be inserted:

Note for this definition:
Also see subsections (2) to (4).

(5) In section 3(1) in the definition of ***location plan***:

(a) delete "***plan***, in relation to a strata plan," and insert:

plan for a strata scheme

(b) delete "one" and insert:

1

(c) delete "proposed" (each occurrence).

(6) In section 3(1) in the definition of ***lot*** (1st occurrence):

(a) delete "***lot***, in relation to a strata scheme," and insert:

lot in a strata scheme

(b) delete "one" (each occurrence) and insert:

1

(c) delete "to which a strata scheme relates," and insert:

subdivided by the strata scheme,

(d) delete "plan, plan of re-subdivision or plan of consolidation to which that strata scheme relates, being in each case, but subject to section 3AB," and insert:

plan or an amendment of the strata plan being, in each case,

(e) delete "where —" and insert:

if that structural cubic space —

(f) delete paragraphs (a) and (b) and insert:

(a) has boundaries described in accordance with the regulations; and

(b) is shown in that floor plan as part of a lot;

Note: At the end of the definition of ***lot*** the following note is to be inserted:

Note for this definition:

Schedule 2A provides for a special rule about the definition of lot in a single tier strata scheme.

(7) In section 3(1) in the definition of ***lot*** (2nd occurrence):

(a) delete "***lot***, in relation to a survey-strata scheme," and insert:

lot in a survey-strata scheme

(b) delete "one" and insert:

1

(c) delete "scheme, but does not include —" and insert:

scheme;

(d) delete paragraphs (a) and (b).

(8) In section 3(1) in the definition of ***wall***:

(a) after "a lot" insert:

in a strata titles scheme

(b) delete "another lot." and insert:

another lot in the scheme;

(9) In section 3(2):

(a) delete "Except where section 3AB applies, the boundaries of any" and insert:

The boundaries of a

(b) in paragraph (a)(i) delete "where the base of any" and insert:

if the base of a

(c) in paragraph (a)(i) delete "any" and insert:

a

(d) in paragraph (a)(ii) delete "where any" and insert:

if a

(e) in paragraph (b) delete "prescribed manner" and insert:

manner required by the regulations

Note: At the end of subsection (2) the following note is to be inserted:

Note for this subsection:

Schedule 2A provides for a special rule about lot boundaries for single tier strata schemes.

(10) In section 3(2a):

(a) delete "(2a) Notwithstanding subsection (2), where — " and insert:

(2A) Despite subsection (2), if —

(b) delete "prescribed circumstances" and insert:

circumstances specified in the regulations

(c) delete "prescribed manner," and insert:

manner required by the regulations,

(11) Delete section 3(5).

(12) After section 3(6) insert:

(7) An amendment of a strata titles scheme affects the common property or a lot in the scheme as follows —

(a) an amendment affects the common property to the extent that it involves an amendment of the scheme plan that —

(i) modifies the common property; or

(ii) creates or discharges an easement or restrictive covenant that benefits or burdens the common property;

(b) an amendment affects a lot to the extent that it involves an amendment of the scheme plan that —

(i) modifies the definition of boundaries of the lot; or

(ii) creates or discharges an easement or restrictive covenant that benefits or burdens the lot;

(c) an amendment affects a lot to the extent that it involves an amendment of the schedule of unit entitlements for the scheme that modifies the unit entitlement of the lot.

8. Section 3A amended

(1) In section 3A(1):

(a) delete "Section" and insert:

Clause

(b) delete paragraphs (a) and (b) and insert:

(a) unless the strata plan for a scheme provides that clause 3AB does not apply to it, for a scheme the strata plan for which is registered —

(i) on or after the commencement of section 6 of the *Strata Titles Amendment Act 1996*; and

(ii) before 1 January 1998;

(b) for a scheme in respect of which a notice of resolution has been registered under clause 21H, including any lot or part of a lot in such a scheme the boundaries of which are amended by registration of a notice of resolution under clause 21X;

(c) in paragraph (c) delete "where" and insert:

if

(2) Delete section 3A(2) and insert:

(2) Clause 3AB also fixes the boundaries of lots or parts of lots, other than boundaries that are external to a building, created by way of subdivision of a strata scheme to which subclause (1) applies.

Note: The heading to amended section 3A is to read:
Single tier strata schemes to which clause 3AB applies

Note:
Section 3A (as amended) is redesignated as clause 3A and relocated to Schedule 2A.

9. Section 3AB amended

(1) In section 3AB(1):

(a) delete "Where this section applies the boundaries of any" and insert:

If this clause applies, the boundaries of a

(b) In paragraph (b) delete "where" and insert:

if

(2) In section 3AB(2):

(a) delete "subsection (1) —" and insert:

subclause (1) —

(b) delete paragraph (b) and insert:

(b) the part is destroyed and is not reinstated within 1 year, or a longer period allowed under clause 4, after the destruction,

(3) In section 3AB(3) delete "section" and insert:

clause

(4) In section 3AB(4):

(a) delete "Where this section" and insert:

If this clause

(b) in paragraph (b) delete "subsection (2)(b) of that section." and insert:

section 3(2)(b).

Note:

Section 3AB (as amended) is redesignated as clause 3AB and relocated to Schedule 2A.

10. Section 7 amended

(1) Delete section 7(1), (2) and (3) and insert:

(1) The owner of a lot in a 2-lot scheme that is a strata scheme must not cause or permit the structural alteration of the lot except with the prior written approval of —

(a) the owner of the other lot; and

(b) for a leasehold scheme, the owner of the leasehold scheme.

(2) The owner of a lot in a strata scheme, other than a 2-lot scheme, must not cause or permit the structural alteration of the lot except —

(a) with the prior approval, expressed by resolution without dissent, of the strata company and, for a leasehold scheme, the prior written approval of the owner of the leasehold scheme; or

(b) if —

(i) the prior written approval to the structural alteration has been given by the owner of each lot in the scheme, and, for a leasehold scheme, the owner of the leasehold scheme; and

(ii) all approvals are either unconditional or are subject to the same conditions; and

(iii) a copy of each approval is served on the strata company.

(3) If an application is made under this section for approval for the structural alteration of a lot, the owner of any other lot in the strata scheme or the owner of the leasehold scheme may refuse to give approval on a ground permitted by subsection (5), but not otherwise.

(2) In section 7(4):

(a) delete "Where an application is made to a strata company in accordance with section 7B —" and insert:

If an application is made to a strata company under this section —

(b) delete paragraphs (a) and (b) and insert:

(a) notice of the proposed resolution on the application must contain or be accompanied by a statement, in the approved form, of the effect of paragraphs (c) and (d); and

(b) if a vote on the resolution is taken at a general meeting, the chairperson must, before the vote is taken, read out the statement referred to in paragraph (a); and

(c) in paragraph (c) delete "a proprietor may vote —" and insert:

the vote for a lot may be cast —

(d) in paragraph (c) delete "any ground that is" and insert:

a ground

(e) in paragraph (d) delete "his vote one" and insert:

the person's vote 1

(3) In section 7(5):

(a) in paragraph (a) delete "lot ascertained in accordance with section 7A(3); or" and insert:

lot; or

(b) in paragraph (b)(iii) delete "any easement created by section 11 or 12;" and insert:

a statutory easement;

(c) in paragraph (c) delete "that is prescribed." and insert:

specified in the regulations.

(4) Delete section 7(6).

Note: The heading to amended section 7 is to read:

Structural alteration of lot in strata scheme

Note:

Section 7 (as amended) is renumbered as section 87 and relocated to Part 7 Division 2.

11. Section 7B amended

(1) Delete section 7B(1), (2) and (3) and insert:

(1) An application for the approval of the structural alteration of a lot must set out details of the proposal and such other information as may be prescribed.

(2) If an application is made to a strata company under subsection (1), voting on the application must open within 35 days after the application is received (the ***allowed period***).

(3) If voting on the application does not open as required by subsection (2), the applicant may convene a general meeting, in the same manner as nearly as possible as that in which meetings are to be convened by the council, and submit the application to that meeting.

(2) Delete section 7B(5), (6) and (7) and insert:

(5) The owner of a lot or the owner of a leasehold scheme is taken to have approved the structural alteration of a lot as set out in an application for approval served on the owner if —

(a) the owner serves on the applicant written consent to the alteration; or

(b) the owner has not, at the end of 42 days after being given the application, made a written objection to the alteration; or

(c) for a strata scheme, the owner has made such an objection but the objection does not specify the grounds of the objection or the grounds specified are not grounds on which the owner may object under section 87.

(6) A strata company is taken to have approved the structural alteration of a lot as set out in an application for approval served on the strata company if —

(a) the strata company serves on the applicant written consent to the alteration expressed by resolution without dissent; or

(b) despite section 87(2) —

(i) the strata company has not, at the end of 77 days after being given the application, made a written objection to the alteration; or

(ii) for a strata scheme, the strata company has made such an objection but the objection does not specify the grounds of the objection or the grounds specified are not grounds on which members of the strata company may object under section 87.

Note: The heading to amended section 7B is to read:

Approvals and objections to structural alterations

Note:

Section 7B (as amended) is renumbered as section 89 and relocated to Part 7 Division 2.

12. Section 12A amended

(1) Delete section 12A(1) and insert:

(1) If, under clause 3AB(1), the boundary of a lot or part of a lot is the external surface of a part of a building that constitutes a permitted boundary deviation or is on the boundary of another lot, the owner of the lot that includes that part of the building, and any of the owner's agents, employees and contractors, may —

(a) inspect, maintain, repair, renew or replace the part; and

(b) enter on the other lot, if necessary with vehicles, equipment, materials and other items, for the purpose of doing so.

(2) In section 12A(2) delete "subsection (1)" and insert:

subclause (1)

(3) In section 12A(2) delete "to which the other lot is subject." and insert:

burdening the other lot.

Note: The heading to amended 12A is to read:
Easement for access for certain work

Note:
Section 12A (as amended) is redesignated as clause 12A and relocated to Schedule 2A.

13. Section 21A amended

In section 21A delete the definition of ***existing small strata scheme*** and insert:

existing small strata scheme means a 2, 3, 4 or 5-lot strata scheme, the strata plan for which was registered before 1 January 1998, but does not include a strata scheme the strata plan for which provides that clause 3AB does not apply to the scheme.

Note:
Section 21A (as amended) is redesignated as clause 21A and relocated to Schedule 2A.

14. Section 21C amended

In section 21C delete "section" (each occurrence) and insert:

clause

Note:
Section 21C (as amended) is redesignated as clause 21C and relocated to Schedule 2A.

15. Section 21D amended

(1) In section 21D:

(a) delete "re-subdivision" and insert:

subdivision

(b) delete "a plan of re-subdivision under section 8." and insert:

an amendment of the strata scheme.

Note:

Section 21D (as amended) is redesignated as clause 21D and relocated to Schedule 2A.

16. Section 21F amended

(1) In section 21F(1):

(a) delete "in the prescribed form," and insert:

by resolution in the approved form,

(b) delete "section" and insert:

clause

(2) Delete section 21F(2) and insert:

(2) A resolution is effective for the purposes of subclause (1) only if it is a resolution without dissent.

Note:

Section 21F (as amended) is redesignated as clause 21F and relocated to Schedule 2A.

17. Section 21G amended

(1) Delete section 21G(1) and insert:

(1) If a strata company has passed a resolution under clause 21F it may lodge with the Registrar of Titles a notice of resolution in the approved form.

(1A) The notice of resolution cannot be lodged before the end of the period of 60 days after the day on which the resolution was passed.

(2) In section 21G(2) delete the passage that begins with "company or alternatively —" and ends with "one proprietor." and insert:

company or, in the case of an existing small strata scheme, by all of the owners of lots in the scheme.

(3) Delete section 21G(3).

Note: The heading to amended 21G is to read:

Notice of resolution may be lodged for registration

Note:

Section 21G (as amended) is redesignated as clause 21G and relocated to Schedule 2A.

18. Section 21I amended

(1) In section 21I(1)(a) delete "section" and insert:

clause

(2) In section 21I(2) —

(a) delete "subsection (1) is to be" and insert:

subclause (1) is

(b) delete "that subsection." and insert:

that subclause.

Note:

Section 21I (as amended) is redesignated as clause 21I and relocated to Schedule 2A.

19. Section 21J amended

In section 21J delete "prescribed manner to give effect to section 21I." and insert:

manner specified in the regulations to give effect to clause 21I.

Note:

Section 21J (as amended) is redesignated as clause 21J and relocated to Schedule 2A.

20. Section 21Q amended

(1) In section 21Q(1) delete "prescribed form, resolve that the strata plan be amended in one" and insert:

approved form, resolve that the strata plan be amended in 1

(2) Delete section 21Q(2) and insert:

(2) A resolution is effective for the purposes of subclause (1) only if it is a resolution without dissent.

(3) In section 21Q(3) delete "subsection" and insert:

subclause

(4) In section 21Q(3) delete "section" and insert:

clause

(5) In section 21Q(4) delete "subsection" and insert:

subclause

Note:

Section 21Q (as amended) is redesignated as clause 21Q and relocated to Schedule 2A.

21. Section 21R amended

(1) In section 21R(1):

(a) delete "section 21Q(1)(a) or (b)" and insert:

clause 21Q(1)(a) or (b)

(b) in paragraph (b) delete "proprietors of lots in the scheme." and insert:

owners of lots in the strata scheme.

(2) In section 21R(2) delete "section" (each occurrence) and insert:

clause

Note:

Section 21R (as amended) is redesignated as clause 21R and relocated to Schedule 2A.

22. Section 21S amended

(1) Delete section 21S(1) and insert:

(1) If a strata company has passed a resolution under clause 21Q it may lodge with the Registrar of Titles a notice of resolution in the approved form.

(1A) The notice of resolution cannot be lodged before the end of the period of 60 days after the day on which the resolution was passed.

(2) In section 21S(2) delete the passage that begins with "company or alternatively —" and ends with "one proprietor." and insert:

company or, in the case of an existing small strata scheme, by all of the owners of lots in the scheme.

(3) Delete section 21S(3).

Note:

Section 21S (as amended) is redesignated as clause 21S and relocated to Schedule 2A.

23. Section 21T amended

(1) In section 21T(1):

(a) delete paragraph (a).

(b) in paragraph (b) delete "subsection (2) applies, a sketch plan (the ***sketch plan***) showing in the prescribed manner" and insert:

subclause (2) applies, a plan (the ***sketch plan***) showing in the manner specified in the regulations

(c) in paragraph (b)(iv) delete "section" and insert:

clause

(d) delete paragraphs (c) and (d) and insert:

and

(c) unless subclause (2) applies, a certificate given by a licensed surveyor in accordance with clause 21U; and

(d) if any unit entitlement is to be changed, an amended schedule of unit entitlements; and

(e) in paragraph (e) delete "*pro rata*".

(f) in paragraph (e) delete "his" and insert:

the person's

(2) In section 21T(2) delete "he" and insert:

the Registrar

Note:

Section 21T (as amended) is redesignated as clause 21T and relocated to Schedule 2A.

24. Section 21U amended

(1) Delete section 21U(1) and insert:

(1) The certificate of a licensed surveyor referred to in clause 21T(1)(c) is to comply with —

(a) this clause; and

(b) the regulations and Transfer of Land Act requirements for certification of amendments of scheme plans.

(2) In section 21U(2):

(a) in paragraph (b)(ii) delete "proprietors of lots in the" and insert:

owners of lots in the strata

(b) delete paragraph (d)(ii) and insert:

(ii) the requirements of the regulations and Transfer of Land Act requirements for preparation and certification of amendments of scheme plans by a licensed surveyor are satisfied.

(3) In section 21U(3):

(a) delete "subsection" and insert:

subclause

(b) in paragraph (b) delete "section" and insert:

clause

(4) In section 21U(4)(a) delete "subsection" and insert:

subclause

(5) In section 21U(5) delete "subsection (3) is to relate to matters prescribed for the purposes of subsection" and insert:

subclause (3) is to relate to matters prescribed under subclause

Note:

Section 21U (as amended) is redesignated as clause 21U and relocated to Schedule 2A.

25. Section 21V amended

(1) In section 21V(1) delete "subsection (2)," and insert:

subclause (2A),

(2) Delete section 21V(2)(c) and the words following that paragraph and insert:

(c) in which any certificate required by clause 21T(1)(e) is set out.

(3) After section 21V(2) insert:

(2A) Subclause (1) does not apply if a disposition statement is lodged for registration with the notice of resolution.

Note:

Section 21V (as amended) is redesignated as clause 21V and relocated to Schedule 2A.

26. Section 21W amended

(1) In section 21W(1):

(a) delete "section 21T(1)(b)" and insert:

clause 21T(1)(b)

(b) delete "under section 5D" and insert:

as a short form easement or restrictive covenant

(2) Delete section 21W(2) and (3) and insert:

(2) Section 33 also applies to the discharge of an easement that is created under subclause (1).

(3) If the sketch plan makes provision as mentioned in subclause (1), section 33 applies for the purposes of this Subdivision with the following modifications —

(a) any easement provided for is created on the registration of the notice of resolution; and

(b) any discharge of an easement under section 33 is required to be approved by the local government instead of the Planning Commission (subject to review under the *Planning and Development Act 2005* Part 14).

Note:

Section 21W (as amended) is redesignated as clause 21W and relocated to Schedule 2A.

27. Section 21Y amended

(1) In section 21Y(1):

(a) delete paragraphs (a) and (b) and insert:

(a) the operation of a transfer, document or disposition statement referred to in clause 21V; and

(b) the creation of a short form easement or restrictive covenant under section 33 as read with clause 21W,

(b) delete "subsections" and insert:

subclauses

(2) Delete section 21Y(2)(b) and insert:

(b) exclusive use by-laws,

(3) In section 21Y(4) delete "proprietors" and insert:

owners of the lots

(4) In section 21Y(5) delete "a proprietor" and insert:

the owner of a lot

(5) In section 21Y(5) delete "his" and insert:

the

(6) Delete section 21Y(6) and insert:

(6) Any encumbrance or caveat referred to in subclause (3) or (5) is taken to be amended to give effect to that subclause.

Note:

Section 21Y (as amended) is redesignated as clause 21Y and relocated to Schedule 2A.

28. Section 21Z amended

(1) Delete section 21Z(1)(a) and insert:

(a) the strata plan in the manner specified in the regulations to give effect to clauses 21V, 21W and 21Y; and

(2) In section 21Z(2) delete "subsection" and insert:

subclause

Note:

Section 21Z (as amended) is redesignated as clause 21Z and relocated to Schedule 2A.

29. Section 24 amended

(1) In section 24(2):

(a) delete "Upon or at any time after" and insert:

On, or at any time after,

(b) in paragraph (a) delete "in force" and insert:

or interim development order

(c) in paragraph (b) delete "under the provisions of the last-mentioned Act relating to any"

(2) Delete section 24(2a) and insert:

(2A) In making determinations of a kind provided for by this section, a local government must have regard to considerations specified in the regulations as being relevant to determinations of that kind.

(3) In section 24(4) and (5) delete "shall" and insert:

must

(4) In section 24(6) delete "shall be" (each occurrence) and insert:

is

Note:

Section 24 (as amended) is relocated to Part 3 Division 2.

30. Section 26 amended

(1) Delete section 26(1) and (2) and insert:

(1) A local government must give written notice of its decision on an application made to it under this Part to the applicant.

(2) In section 26(3) delete "shall —" and insert:

made to it under this Part must —

(3) Delete section 26(4) and (5) and insert:

(4) Subject to this section, an applicant may apply to the Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, of —

(a) a refusal by a local government to approve an amendment or repeal of scheme by-laws under section 22; or

(b) a refusal by a local government to approve an application under section 23 or 24; or

(c) the attachment of a condition to the approval of an application under section 23 or 24; or

(d) to refuse to approve acceptance of a lease under section 25; or

(e) a decision to refuse to approve a lease or licence under section 26.

(5) Part 13 does not apply to a proceeding under this section (which is a proceeding within the Tribunal's review jurisdiction).

(4) In section 26(6):

(a) delete "subsections (4) and (5)," and insert:

subsection (4),

(b) after "application" (1st occurrence) insert:

under this Part

(c) delete "40 days of receiving" and insert:

the prescribed period after being given

(5) In section 26(7):

(a) delete "of the day on which the applicant received" and insert:

after the day on which the applicant is given

(b) delete "of the expiration of the period of 40 days" and insert:

after the expiration of the prescribed period

(6) After section 26(7) insert:

(8) In this section —

prescribed period means 40 days or, if some other period is specified in the regulations, that period.

Note:

Section 26 (as amended) is renumbered as section 28 and relocated to Part 3 Division 4.

31. Section 28 amended

(1) Delete section 28(1) and insert:

(1A) An application for an order under this section for a strata scheme can be made by —

(a) the strata company; or

(b) the owner of a lot in the scheme; or

(c) a registered mortgagee of a lot in the scheme; or

(d) for a leasehold scheme, the owner of the leasehold scheme.

(1) If a scheme building is damaged or destroyed, the Tribunal may make an order for or with respect to the variation of the existing strata scheme or the substitution for the existing strata scheme of a new strata scheme.

(2) In section 28(2):

(a) after “on the” insert:

scheme

(b) delete "District Court" and insert:

Tribunal

(3) In section 28(3):

(a) delete "the generality of";

(b) delete "such directions for or with respect to any one" and insert:

directions for any 1

(c) delete "matters as the District Court considers necessary or expedient —" and insert:

matters —

(d) in paragraph (b) delete "proprietors" (1st occurrence) and insert:

owners

(e) in paragraph (b) delete "proprietors" (2nd occurrence) and insert:

owners of lots

(f) in paragraph (c) delete "entitlement of" and insert:

entitlements of

(g) in paragraph (c) delete "entitlement;" and insert:

entitlements;

(h) in paragraph (d) delete "moneys" and insert

money

(i) in paragraph (d) after "destruction of the" insert:

scheme

(j) delete paragraph (e) and insert:

(e) the payment of money to or by the strata company, the owner of a lot or, for a leasehold scheme, the owner of the leasehold scheme;

(k) in paragraph (f) delete "registered";

(l) in paragraph (f) delete "District Court" and insert:

Tribunal

(m) in paragraph (g) after "insurer of the" insert:

scheme

(n) in paragraph (h) delete "District Court," and insert:

Tribunal,

(o) in paragraph (i) delete "District Court" and insert:

Tribunal

(4) In section 28(4) delete "District Court may from time to time amend any" and insert:

Tribunal may amend an

(5) In section 28(5):

(a) delete "shall take effect —" and insert:

takes effect as follows —

(b) in paragraph (b) delete "section 29," and insert:

section 167,

(6) Delete section 28(6) and (7).

Note: The heading to amended section 28 is to read:
Variation of strata scheme on damage or destruction of building

Note:
Section 28 (as amended) is renumbered as section 166 and relocated to Part 11 Division 1.

32. Section 29 amended

In section 29:

(a) delete "28 shall apply and the District Court shall have" and insert:

166 applies and the Tribunal has

(b) delete "that section applies and the District Court" and insert:

section 166 applies and the Tribunal

(c) after "destruction of a" insert:

scheme

Note: The heading to amended section 29 is to read:
Variation of strata scheme on taking

Note:
Section 29 (as amended) is renumbered as section 167 and relocated to Part 11 Division 2.

33. Section 29A amended

(1) Before section 29A(1) insert:

(1A) An application for an order under this section for a survey-strata scheme can be made by any of the following —

(a) the strata company;

(b) the owner of a lot in the scheme;

(c) a registered mortgagee of a lot in the scheme;

(d) for a leasehold scheme, the owner of the leasehold scheme.

(2) In section 29A(1) delete "Where part of the land in a parcel in a survey-strata scheme is taken, the District Court may, on an application by the strata company or by a proprietor or a registered mortgagee of a lot within the scheme," and insert:

If part of a parcel subdivided by a survey-strata scheme is taken, the Tribunal may

(3) In section 29A(2):

(a) delete "the generality of";

(b) delete "such directions for or with respect to any one" and insert:

directions for any 1

(c) delete "matters as the District Court considers necessary or expedient —" and insert:

matters —

(d) in paragraph (a) delete "entitlement of" and insert:

entitlements of

(e) in paragraph (a) delete "entitlement; and" and insert:

entitlements; and

(f) in paragraph (b) delete "moneys" and insert

money

(g) in paragraph (b) delete "any one or more of the proprietors; and" and insert:

the owner of a lot or, in the case of a leasehold scheme, the owner of the leasehold scheme; and

(h) in paragraph (c) delete "registered";

(i) in paragraphs (c), (d) and (e) delete "District Court" (each occurrence) and insert:

Tribunal

(4) In section 29A(3) delete "District Court may from time to time amend any" and insert:

Tribunal may amend an

(5) Delete section 29A(4) and (5).

Note: The heading to amended 29A is to read:

Variation of survey-strata scheme on taking

Note:

Section 29A (as amended) is renumbered as section 168 and relocated to Part 11 Division 2.

34. Section 29B amended

(1) In section 29B(1):

(a) delete "Where part of the land in a strata plan is taken and the taking includes part but not the whole of any lot in the scheme," and insert:

If part of a parcel subdivided by a strata titles scheme is taken,

(b) delete "shall," and insert:

must,

(c) delete "subsection (2)." and insert:

requirements specified in the regulations (the ***redefining plan***).

(2) Delete section 29B(2) and (3) and insert:

(2) On registration of the redefining plan —

(a) the redefining plan is taken to be part of the scheme plan as previously registered; and

(b) the Registrar of Titles must amend the registered scheme plan in the manner specified in the regulations.

(3) In section 29B(4) in the definition of ***acquiring authority*** paragraph (b) delete "where" and insert:

if

Note: The heading to amended 29B is to read:
Acquiring authority to lodge redefining plan after partial taking

Note:
Section 29B (as amended) is renumbered as section 169 and relocated to Part 11 Division 2.

35. Section 29C amended

(1) In section 29C(1) after "that a" insert:

strata titles

(2) In section 29C(2):

(a) delete "Where" and insert:

If

(b) delete "shall" and insert:

must

Note: The heading to amended section 29C is to read:

Termination on compulsory acquisition

Note:

Section 29C (as amended) is renumbered as section 196 and relocated to Part 12 Division 7.

36. Section 31B amended

In section 31B delete "in respect of any land under Division 2 and the subsequent registration of a survey-strata plan relating to the land under Part II." and insert:

and the subsequent subdivision of the land by a strata titles scheme.

Note:

Section 31B (as amended) is redesignated as clause 31B and relocated to Schedule 2A.

37. Section 31C amended

(1) In section 31C(1) delete "prescribed form" and insert:

approved form

(2) In section 31C(2) delete "section" and insert:

clause

(3) In section 31C(3):

(a) delete "subsection" and insert:

subclause

(b) delete "section" and insert:

clause

(4) Delete section 31C(4).

Note:

Section 31C (as amended) is redesignated as clause 31C and relocated to Schedule 2A.

38. Section 31D amended

(1) Delete section 31D(1) and insert:

(1) If a strata company has passed a resolution under clause 31C it may, in accordance with the regulations, lodge with the Registrar of Titles a notice of resolution in the approved form.

(2) In section 31D(2) delete "proprietors" and insert:

owners

(3) Delete section 31D(3) and insert:

(3) The notice of resolution —

(a) if it is lodged by the strata company, is to be executed by the strata company; or

(b) if it is lodged by the owners of lots, is to be signed by each owner.

Note:

Section 31D (as amended) is redesignated as clause 31D and relocated to Schedule 2A.

39. Section 31E amended

(1) In section 31E(1):

(a) in paragraph (a)(i) delete "prescribed manner —" and insert:

manner specified in the regulations —

(b) delete paragraph (a)(i)(II) and insert:

(II) the location of a short form easement or restrictive covenant that is to be created under section 33 as read with clause 31G,

(c) delete paragraph (a)(v) and insert:

(v) containing such other features as may be prescribed by the regulations relating to the preparation of scheme plans by a licensed surveyor;

(d) in paragraph (b) delete "section" and insert:

clause

(e) delete paragraph (c)(ii) and insert:

(ii) the sum of the unit entitlements of all the lots in the strata titles scheme;

(f) delete paragraph (d) and insert:

(d) a certificate of a licensed valuer as required for a schedule of unit entitlements; and

(g) in paragraph (e) delete "a proprietor," and insert:

the owner of a lot,

(h) in paragraph (e) delete "his consent to the proposed schedule of unit entitlement." and insert:

the person's consent to the proposed schedule of unit entitlements.

(2) In section 31E(2):

(a) delete "section" and insert:

clause

(b) delete "subsection" and insert:

subclause

Note:

Section 31E (as amended) is redesignated as clause 31E and relocated to Schedule 2A.

40. Section 31F amended

(1) In section 31F(1) delete "section 31E(1)(b)" and insert:

clause 31E(1)(b)

(2) In section 31F(1)(a) delete "section;" and insert:

clause;

(3) In section 31F(1)(b) delete "section." and insert:

clause.

(4) In section 31F(2):

(a) delete paragraphs (a) and (b) and insert:

(a) that the requirements of the regulations and Transfer of Land Act requirements for

preparation and certification of amendments of scheme plans by a licensed surveyor are satisfied; and

(b) that there are not more lots on the survey-strata plan than there are on the existing strata plan; and

(b) in paragraph (d) delete "where" and insert:

if

(c) in paragraph (e) delete "subsection" and insert:

subclause

(d) in paragraph (e)(ii) delete "section" and insert:

clause

(5) In section 31F(3)(a) delete "subsection" and insert:

subclause

(6) In section 31F(4) delete "subsection" (each occurrence) and insert:

subclause

Note:

Section 31F (as amended) is redesignated as clause 31F and relocated to Schedule 2A.

41. Section 31G amended

(1) In section 31G(1) delete "section 31E(1)(a) may provide for easements to be created under section 5D," and insert:

clause 31E(1)(a) may provide for a short form easement or restrictive covenant to be created under section 33,

(2) Delete section 31G(2) and insert:

(2) Section 33 also applies to the discharge of an easement that is created under subclause (1).

Note:

Section 31G (as amended) is redesignated as clause 31G and relocated to Schedule 2A.

42. Section 31H amended

(1) In section 31H(1) delete "subsection (2)," and insert:

subclause (2A),

(2) Delete section 31H(2)(c) and all the words after that paragraph and insert:

(c) in which any certificate required by clause 31E(1)(e) is set out.

(3) After section 31H(2) insert:

(2A) Subclause (1) does not apply if a disposition statement is lodged for registration with the notice of resolution.

Note:

Section 31H (as amended) is redesignated as clause 31H and relocated to Schedule 2A.

43. Section 31J amended

(1) Delete section 31J(2) and insert:

(2) In addition to —

(a) the operation of any transfer, document or disposition statement referred to in clause 31H; and

(b) the creation of a short form easement or restrictive covenant under section 33 as read with clause 31G,

the registration of a notice of resolution also has the effects described in subclauses (3), (4), (5), (6) and (7).

(2) In section 31J(3):

(a) delete "Where" and insert:

If

(b) delete paragraph (b)(ii) and insert:

(ii) exclusive use by-laws,

(3) In section 31J(5) delete "proprietors" and insert:

owners of the lots

(4) In section 31J(6):

(a) delete "a proprietor" and insert:

the owner of a lot

(b) delete "his" and insert:

the

(5) In section 31J(7):

(a) delete "this section is to be" and insert:

this clause is

(b) delete "that section." and insert:

that clause.

Note:

Section 31J (as amended) is redesignated as clause 31J and relocated to Schedule 2A.

44. Section 31K amended

Delete section 31K(1)(a) and insert:

(a) the strata plan in the manner specified in the regulations to give effect to clauses 31G, 31H and 31J; and

Note:

Section 31K (as amended) is redesignated as clause 31K and relocated to Schedule 2A.

45. Section 33 amended

(1) In section 33(1):

(a) delete "Where the proprietors of the lots the subject of a " and insert:

If the owners of the lots in a strata titles

(b) delete "any" (1st occurrence) and insert:

a

(c) delete "taken against them jointly (any such proceedings being proceedings for or with respect to common property)," and insert:

relating to common property taken against them jointly,

(d) delete "any such proceedings shall have" and insert:

the proceedings has

(e) delete "proprietors." and insert:

owners.

(2) In section 33(2):

(a) delete "Where a proprietor" and insert:

If an owner of a lot

(b) delete "proprietor in respect of" and insert:

owner for

(c) delete "shall" and insert:

must

(d) delete "proprietor bears to the aggregate unit entitlement." and insert:

owner bears to the sum of the unit entitlements of all the lots.

Note: The heading to amended section 33 is to read:

Strata company is representative of owners in proceedings

Note:

Section 33 (as amended) is renumbered as section 103 and relocated to Part 8 Division 1 Subdivision 4.

46. Section 34 amended

(1) In section 34(1):

(a) delete "varying or discharging" and insert:

varying, extending, discharging or terminating

(b) delete "vary or discharge" and insert:

vary, extend, discharge or terminate

(c) delete "varied or discharged" and insert:

varied, extended, discharged or terminated

(2) In section 34(2) delete "variation or discharge" and insert:

variation, extension, discharge or termination

(3) Delete section 34(3) and insert:

(3) This section does not affect —

(a) section 115; or

(b) section 151; or

(c) the operation of a law that requires some consent or sanction to be obtained, or some procedure to be complied with, in relation to the making, variation, extension, discharge or termination of a contract.

Note:

Section 34 (as amended) is renumbered as section 139 and relocated to Part 8 Division 5.

47. Section 35 amended

(1) In section 35(1):

(a) delete "shall —" and insert:

must —

(b) delete paragraph (a);

(c) in paragraph (b) delete "proprietors; and" and insert:

owners of lots; and

(d) in paragraph (c) delete "where" and insert:

if

(e) in paragraph (c)(ii) delete "vested in" and insert:

owned by

(f) in paragraph (c) delete "cause; and" and insert:

cause.

(g) delete paragraphs (e) to (k).

(2) Delete section 35(2) and insert:

(2) A strata company may improve or alter the common property in a manner that goes beyond what is required under subsection (1).

Note for this subsection:

Expenditure above a certain amount incurred for the purposes set out in subsection (2) must be authorised by special resolution, except for expenditure on sustainability infrastructure, which may be authorised by ordinary resolution: see section 102.

(3) A strata company may sue and be sued for rights and liabilities related to the common property in the strata titles scheme as if it were the owner and occupier of the common property.

Note: The heading to amended section 35 is to read:

General duty

Note:

Section 35 (as amended) is renumbered as section 91 and relocated to Part 8 Division 1 Subdivision 1.

48. Section 35A amended

(1) In section 35A(1) delete "shall" and insert:

must

(2) In section 35A(1) delete the Penalty and insert:

Penalty for this subsection: a fine of $3 000.

(3) In section 35A(3)(b) delete "a proprietor" and insert:

an owner

(4) Delete section 35A(4) and insert:

(4) The particulars to be entered in the roll are —

(a) the name of the strata company; and

(b) the name and address for service of each member of the council, or officer, of the strata company; and

(c) the name and address for service of the owner of each lot; and

(d) the name and address for service of each strata manager of the strata company; and

(e) the name and address for service of any lessee or tenant of a lot notified to the strata company; and

(f) the name and address for service of any mortgagee of a lot notified to the strata company.

(5) In section 35A(5) delete "shall" and insert:

must

Note:

Section 35A (as amended) is renumbered as section 105 and relocated to Part 8 Division 1 Subdivision 5.

49. Section 36 amended

(1) Delete section 36(1), (1a) and (2) and insert:

(1) A strata company must —

(a) establish a fund (an ***administrative fund***) for administrative expenses that is sufficient in the opinion of the strata company for the control and management of the common property, for the payment of any premiums of insurance and the discharge of any other obligation of the strata company; and

(b) determine the amounts to be raised for payment into the administrative fund; and

(c) raise amounts so determined by levying contributions on owners of lots —

(i) in proportion to the unit entitlements of their respective lots; or

(ii) if the scheme by-laws provide for a different basis for levying contributions, in accordance with that basis;

and

(d) recover from the owner of a lot, by action in a court of competent jurisdiction if necessary, any sum of money expended by the company for repairs or work done by it or at its direction in complying with a notice issued, or order made, under a written law in respect of the lot.

(2) A strata company must, if it is a designated strata company, and may, in any other case —

(a) establish a fund (a ***reserve fund***) for the purpose of accumulating funds to meet contingent expenses, other than those of a

routine nature, and other major expenses of the strata company likely to arise in the future; and

(b) determine the amounts to be raised for payment into the reserve fund; and

(c) may raise amounts so determined by levying contributions on the owners in proportion to the unit entitlements of their respective lots.

(2A) A designated strata company must ensure —

(a) that there is a 10 year plan that sets out —

(i) the common property and the personal property of the strata company that is anticipated to require maintenance, repair, renewal or replacement (other than of a routine nature) in the period covered by the plan; and

(ii) the estimated costs for the maintenance, repairs, renewal or replacement; and

(iii) other information required to be included by the regulations;

and

(b) that the 10 year plan is revised at least once in each 5 years and that, when revised, the plan is extended to cover the 10 years following the revision.

(2) In section 36(3):

(a) delete "by-laws of a strata company" and insert:

scheme by-laws

(b) delete "shall" and insert;

must

(c) delete "of proprietors passed at a general meeting of" and insert:

passed by

(3) In section 36(4):

(a) in paragraph (b) delete "prescribed," and insert:

specified in the regulations,

(b) in paragraph (b) delete "shall bear" and insert:

bears

(4) In section 36(5) delete "shall form" and insert:

forms

(5) In section 36(6):

(a) delete "Subject to section 43(4), a proprietor" and insert:

The owner

(b) delete "thereon," and insert:

on the contribution,

(c) delete "proprietor" (each occurrence) and insert:

owner

(d) delete "he" and insert:

the owner

(6) After section 36(6) insert:

(7) In this section —

designated strata company means —

(a) a strata company for a scheme with 10 or more lots; or

(b) a strata company included in this definition by the regulations.

Note: The heading to amended section 36 is to read:
Administrative and reserve funds and contributions

Note:
Section 36 (as amended) is renumbered as section 100 and relocated to Part 8 Division 1 Subdivision 3.

50. Section 37 amended

(1) In section 37(1):

(a) delete "A" and insert:

Without limiting the powers of a strata company to perform its functions, a

(b) in paragraph (a) delete "proprietors" and insert:

owners of lots

(c) in paragraph (c) delete "moneys" and insert:

money

(d) in paragraph (d) delete "moneys" and insert:

money

(e) in paragraph (d) delete "thereon," and insert:

on that money,

(f) in paragraph (d) delete "vested in" and insert:

owned by

(g) in paragraph (e) delete "any moneys" and insert:

money

(h) in paragraph (e) delete "any" (1st occurrence) and insert:

the

(i) in paragraph (e) delete "in any investment prescribed; and" and insert:

by the regulations; and

(j) in paragraph (f) delete "where" and insert:

if

(k) in paragraph (f) delete "any" and insert:

an

(l) in paragraph (g) delete "make an agreement with any proprietor" and insert:

make a contract with the owner

(m) in paragraph (g) delete "that lot or to the proprietor or occupier of that lot; and" and insert:

the lot or to the owner or occupier; and

(n) in paragraph (h) delete "vessels." and insert:

vessels; and

(o) after paragraph (h) insert:

(i) grant a lease, licence or other rights over common property for the purpose of utility infrastructure or sustainability infrastructure; and

(j) for the purpose of performing any of its functions, develop and turn to account any technology, software, or intellectual property that relates to the function and, for that purpose, apply for, hold, exploit, and dispose of any

patent, patent rights, copyright, or similar rights; and

(k) arrange for the auditing of any accounting records.

(2) In section 37(2) delete "shall form" and insert:

forms

Note: The heading to amended section 37 is to read:
Powers of strata company generally

Note:
Section 37 (as amended) is renumbered as section 116 and relocated to Part 8 Division 1 Subdivision 7.

51. Section 38 amended

(1) Delete section 38(1) and (2) and insert:

(1) If a notice issued, or order made, under a written law has been served on the owner of a lot requiring that owner to carry out any work on or in relation to that lot and the notice or order is not complied with, the strata company may carry out the work.

(2) A strata company may carry out work that an owner or occupier of a lot fails or neglects to carry out if the work is —

(a) required to be carried out by that person under a term or condition of exclusive use by-laws; or

(b) necessary to remedy a contravention of a duty that the person has under a statutory easement.

(2) In section 38(3):

(a) delete "Where a proprietor, mortgagee in possession," and insert:

If an owner

(b) delete " any".

(3) Delete section 38(4) and insert:

(4) If the strata company carries out work under subsection (1), other than work performed for the benefit of the scheme building generally, or under subsection (2), it may recover the cost of so doing, as a debt in a court of competent jurisdiction —

(a) from the owner or occupier referred to in subsection (1) or (2); or

(b) if the work is carried out under —

(i) subsection (1), from a person who, after the work is carried out, becomes the owner of the lot on or in relation to which the work was carried out; or

(ii) subsection (2), from a person who, after the work is carried out, becomes the owner of the lot referred to in subsection (2).

(4) In section 38(5) delete "Where" and insert:

If

(5) Delete section 38(6) and insert:

(6) If any part of a scheme building comprised in a lot contains a structural defect which affects or is likely to affect the support or shelter provided by that lot for another lot in that building or the common property and the defect is not due to any contravention of a duty that a person has under a statutory easement, the strata company may, at its own expense, carry out such work as is necessary to rectify the defect.

Note:

Section 38 (as amended) is renumbered as section 94 and relocated to Part 8 Division 1 Subdivision 1.

52. Section 39A amended

(1) In section 39A(1):

(a) delete "agreement" (1st occurrence) and insert:

contract

(b) delete "agreement, by notice in writing to every other party to the agreement," and insert:

contract, by written notice to every other party to the contract,

(c) delete "agreement was entered into." and insert:

contract was made.

(2) In section 39A(3) delete "An agreement shall" and insert:

A contract or any other agreement or arrangement must

(3) In section 39A(4):

(a) delete "an agreement if —" and insert:

a contract if —

(b) delete paragraph (a) and insert:

(a) it relates to the provision of amenities or services to the strata company or the owners of lots; and

(c) delete paragraph (c) and insert:

(c) it was made before registration of the strata titles scheme or when any owner held 50% or more of the unit entitlement of the lots.

(4) Delete section 39A(5) and insert:

(5) The Tribunal may, on the application of a person made in respect of a contract, by order extend the period of 5 years provided for by subsection (1), so far as it applies to that contract, if satisfied that the contract —

(a) is fair to all owners of lots in the strata titles scheme; and

(b) will remain fair to all those owners during the extended period.

(5) In section 39A(6):

(a) delete "agreement" (1st occurrence) and insert:

contract

(b) delete "agreement was entered into," and insert:

contract was made,

(6) Delete section 39A(7).

Note: The heading to amended 39A is to read:

Power to terminate certain contracts for amenities or services

Note:

Section 39A (as amended) is renumbered as section 115 and relocated to Part 8 Division 1 Subdivision 7.

53. Section 44 amended

(1) In section 44(1):

(a) delete " company shall," and insert:

company,

(b) delete "at a general meeting, be" and insert:

by ordinary resolution, are to be

(2) In section 44(2):

(a) delete "shall" (1st occurrence) and insert:

must

(b) delete "shall" (2nd occurrence);

(c) delete "and in the manner provided by the by-laws of the strata company." and insert:

this Act and the scheme by-laws.

(3) After section 44(2) insert:

(3) On an election of the council at a general meeting of the strata company —

(a) a person who is entitled to vote in the election and who is present in person or by proxy at the meeting may demand that the votes in the election be counted by unit entitlement of the lots; and

(b) if no such demand is made, the votes in the election are to be counted by number.

(4) 1 of the members of the council of a strata company must hold office as the chairperson of the strata company.

Note for this section:

Section 143 provides that the functions of a strata company or the council or an officer of a strata company may be performed by a strata manager.

Note: The heading to amended section 44 is to read:

Functions and constitution of councils

Note:

Section 44 (as amended) is renumbered as section 135 and relocated to Part 8 Division 4.

54. Section 45 amended

(1) Delete section 45(1) and insert:

(1) A corporation is eligible to be an officer of a strata company or a member of the council of a strata company.

(2) In section 45(2):

(a) delete "any function conferred by or" and insert:

a function conferred

(b) delete "chairman, secretary or treasurer of the strata company or as a member or alternate" and insert:

an officer of the strata company or as a

(c) after "revoke" insert:

the

(3) In section 45(3):

(a) delete "Where" and insert:

If

(b) delete "shall be deemed" and insert:

is taken

Note: The heading to amended section 45 is to read:
Corporate body may be officer or council member

Note:

Section 45 (as amended) is renumbered as section 136 and relocated to Part 8 Division 4.

55. Section 53A amended

In section 53A:

(a) delete "Subdivision —" and insert:

Part —

(b) in paragraph (c) delete "***proprietor*** are to a proprietor" and insert:

an ***owner of a lot*** are to an owner

Note: The heading to amended section 53A is to read:
References in this Part

Note:

Section 53A (as amended) is redesignated as clause 53A and relocated to Schedule 2A.

56. Section 53B amended

(1) In section 53B(1):

(a) delete paragraph (a)(i) and (ii) and insert:

(i) insurable assets within a lot in a scheme; or

(ii) damage to property, death, bodily injury or illness for which the owner of a lot in a scheme could become liable in damages;

(b) in paragraph (b) delete "proprietor" and insert:

owner of the lot

(c) in paragraph (c) delete "any";

(d) delete "section, at the discretion of the proprietor" and insert:

clause, at the discretion of the owner

(2) Delete section 53B(2) and (3) and insert:

(2) A strata company for a scheme may determine, by ordinary resolution, that it is a function of the strata company to insure in respect of the matters referred to in subclause (1), and may at any time, by ordinary resolution, revoke that determination.

(3) While such a resolution is in force, the strata company must comply with clause 53D.

(4) If insurable assets are wholly within common property, whether there is insurance in respect of the assets is not at the discretion of the owner of a lot.

Note:

Section 53B (as amended) is redesignated as clause 53B and relocated to Schedule 2A.

57. Section 53C amended

(1) In section 53C(1):

(a) delete "shall —" and insert:

must —

(b) in paragraph (a) delete "any building, or part of a building, or improvement on the parcel that is" and insert:

insurable assets that are within the

(c) in paragraph (b) delete "death or bodily injury for which the proprietors" and insert:

death, bodily injury or illness for which the owners

(2) In section 53C(2):

(a) delete "subsection" and insert:

subclause

(b) in paragraph (a)(i) delete "is no building or improvement" and insert:

are no insurable assets

(c) in paragraph (a)(ii) delete "lot;" and insert:

lot or on the boundary of temporary common property;

(d) in paragraph (b) delete "(or unanimous resolution in the case of a two-lot scheme) determined that subsection" and insert:

determined that subclause

(3) Delete section 53C(3) to (5) and insert:

(3) A resolution under subclause (2)(b) remains in force until —

(a) it is revoked; or

(b) it ceases to have effect under subclause (5).

(4) The owner of a lot may, at any time after the passing of the resolution, serve written notice on the strata company or, in the case of a 2-lot scheme, on the owner of the other lot, that the owner requires that subclause (1) apply to the scheme.

(5) If the owner of a lot serves a notice under subclause (4), the resolution under subclause (2)(b) ceases to have effect at the end of the period of 1 month beginning on the day on which the notice was served.

(6) While a resolution under subclause (2)(b) is in force, the following are at the discretion of the owner of the lot —

(a) whether there is insurance in respect of —

(i) the share of the owner of a lot in insurable assets in the scheme that are within the common property; or

(ii) damage to property, death, bodily injury or illness for which an owner of a lot in the scheme could become liable in damages as the holder of a share in the common property;

(b) the occurrences to be insured against by the owner of a lot in relation to those matters;

(c) the terms on which insurance is obtained.

Note:

Section 53C (as amended) is redesignated as clause 53C and relocated to Schedule 2A.

58. Section 53D amended

(1) Delete section 53D(1) and (2) and insert:

(1) This clause applies if —

(a) a resolution is in force under clause 53B(2); or

(b) in accordance with clause 53C, a strata company has the obligations described in subclause (1) of that clause.

(2) This clause also applies if a strata company passes an ordinary resolution to insure common property that it is not obliged to insure by reason of clause 53C(2)(a).

(2) In section 53D(3):

(a) delete "shall —" and insert:

must —

(b) delete paragraph (a) and insert:

(a) insure and keep insured insurable assets to which its obligation extends against fire, storm and tempest (excluding damage by sea, flood or erosion), lightning, explosion and earthquake —

(i) to replacement value; or

(ii) to replacement value, up to, for an event of a specified kind, a maximum amount specified in the contract of insurance that is a reasonable limitation in the circumstances;

and

(c) in paragraph (b) delete "or bodily injury for not less than $5 000 000 or such other amount as may be prescribed" and insert:

bodily injury or illness for not less than $10 000 000 or such other amount as may be specified in the regulations

(3) In section 53D(3) delete the penalty and insert:

Penalty for this subclause: a fine of $3 000.

(4) Delete section 53D(4) and insert:

(4) It is a defence to a charge of an offence against subclause (3) for a strata company to prove that, despite having taken all reasonably practicable steps available to it to comply with that subclause, no insurer is willing to enter into a contract of insurance, on reasonable terms, that meets the obligation imposed by that subclause.

Note: The heading to amended section 53D is to read:

Strata company's obligations if it has insurance function in single tier strata scheme

Note:

Section 53D (as amended) is redesignated as clause 53D and relocated to Schedule 2A.

59. Section 53E amended

(1) Delete section 53E(1) and (2) and insert:

(1) If —

(a) in accordance with section 140, an administrative fund is not maintained by a strata company under section 100(1)(a); and

(b) the strata company or the owner of a lot receives notice of the amount of any premium or other charge for insurance under clause 53D,

the strata company, or the owner, may give notice in writing of that amount to the owner of each lot in the scheme, or each other owner, and require the owner to pay a share of the premium or other charge before a specified time.

(2) The share payable by the owner of a lot is —

(a) a sum equal to the same proportion of the amount as the unit entitlement of the lot bears to the sum of the unit entitlements of all the lots in the scheme; or

(b) if applicable, a sum fixed under the scheme by-laws.

(2) In section 53E(3):

(a) delete "Where —" and insert:

If —

(b) delete paragraph (a) and insert:

(a) notice has been given to the owner of a lot under subclause (1); and

(c) in paragraph (b) delete "proprietor's" and insert:

owner's

(d) delete "proprietor" and insert:

owner

(3) Delete section 53E(4) and insert:

(4) If the amount of an owner's share has become due to the strata company but has not been paid, the owner of another lot may —

(a) pay the amount; and

(b) recover the amount as a debt on application to the Tribunal.

Note: The heading to amended section 53E is to read:

Recovery of premium by strata company or owner if no administrative fund in single tier strata schemes

Note:

Section 53E (as amended) is redesignated as clause 53E and relocated to Schedule 2A.

60. Section 57 amended

(1) Delete section 57(1) and insert:

(1) The owner of a lot in a strata titles scheme may enter into a contract of insurance (a ***contract of mortgage insurance***) against damage to or destruction of the lot or a building or other improvement on the lot for an amount equal to the amount secured by mortgages of the lot at the date of any loss referred to in the contract.

(2) In section 57(2):

(a) delete "Where any contract of insurance of the kind authorised by subsection (1)" and insert:

If a contract of mortgage insurance

(b) in paragraph (a) delete "shall" and insert:

must

(c) in paragraph (a) delete "thereon" and insert:

in the contract

(d) in paragraph (b) delete "thereunder —" and insert:

the lesser of the following —

(e) in paragraph (b)(iii) delete "charged upon the lot," and insert:

of the lot;

(f) in paragraph (b) delete "whichever is the least amount;";

(g) in paragraph (c) delete "where" and insert:

if

(h) in paragraph (c) delete "charged upon" and insert

of

(i) in paragraph (d) delete "where" and insert:

if

(j) in paragraph (d) delete "shall be" and insert:

is

(3) In section 57(2) after each of paragraphs (a), (b) and (c) insert:

and

(4) Delete section 57(3), (4) and (5) and insert:

(3) A contract of mortgage insurance is not liable to be brought into contribution with any other such contract of mortgage insurance unless both contracts cover the same lot and relate to the same mortgage debt.

(4) Nothing in this Act limits the right of the owner of a lot to effect insurance for the lot.

Note: The heading to amended section 57 is to read:

Insurance for lot

Note:

Section 57 (as amended) is renumbered as section 84 and relocated to Part 7 Division 1.

61. Section 60 amended

(1) In section 60(1):

(a) delete "any plan" and insert:

a scheme plan or an amendment of a scheme plan

(b) delete "shall" and insert:

must

(2) Delete section 60(2).

(3) In section 60(3):

(a) after "plan" insert:

or amended plan

(b) delete "shall" and insert:

must

Note: The heading to amended section 60 is to read:

Registrar of Titles to deliver copies of plans

Note:

Section 60 (as amended) is renumbered as section 67 and relocated to Part 5 Division 4.

62. Section 61 amended

In section 61:

(a) delete "all purposes in relation to";

(b) delete "the parcel or any part of the" and insert:

a parcel or part of a

(c) in paragraph (a) delete "certified copy of the strata/survey-strata plan, plan of re-subdivision or consolidation for a scheme or transfer" and insert:

copy of the scheme plan or amended plan

(d) in paragraph (a) delete "section 60," and insert:

section 67,

(e) in paragraph (b) delete "certified" (each occurrence);

(f) in paragraph (b) delete "transfer" and insert:

amended plan

Note:

Section 61 (as amended) is renumbered as section 68 and relocated to Part 5 Division 4.

63. Section 62 amended

(1) In section 62(1):

(a) delete "Where" and insert:

If

(b) delete "in a strata plan" and insert:

subdivided by a strata scheme

(c) delete "shall, notwithstanding" and insert:

must, despite

(2) In section 62(2):

(a) delete "thereto," and insert:

to the valuation,

(b) delete "thereon shall be deemed" and insert:

on the parcel are taken

(3) In section 62(3):

(a) delete "strata/survey-strata plan" and insert:

strata scheme

(b) delete "shall for the purposes of this section be deemed" and insert:

is taken, for the purposes of this section,

(4) In section 62(4):

(a) delete "where" and insert:

if

(b) delete "in this section called".

(c) in paragraph (a) delete "shall" and insert:

must

(d) in paragraph (a) delete "as shown on the registered strata plan;" and insert:

in the strata scheme;

(e) in paragraph (c) delete "proprietor" and insert:

owner

(f) in paragraph (c) delete "deemed" and insert:

taken

(5) In section 62(5):

(a) delete "Where —" and insert:

If —

(b) in paragraph (a) delete "shall" and insert:

must

(c) in paragraph (a) delete "upon" and insert:

on

(d) in paragraph (b) delete "shall" and insert:

is to

(e) in paragraph (b) delete " therefrom";

(f) in paragraph (b) delete "such" and insert:

the

Note: The heading to amended section 62 is to read:

Rating for strata schemes

Note:

Section 62 (as amended) is renumbered as section 69 and relocated to Part 5 Division 4.

64. Section 62A amended

(1) In section 62A(2):

(a) delete "shall" and insert:

must

(b) delete "any" and insert:

a

(2) In section 62A(3):

(a) delete "shall" and insert:

must

(b) delete "any".

(3) In section 62A(4):

(a) delete "Where" and insert:

If

(b) delete "any" and insert:

a

(c) delete "shall" and insert:

must

(d) delete "upon" and insert:

on

Note:

Section 62A (as amended) is renumbered as section 70 and relocated to Part 5 Division 4.

65. Section 63 amended

(1) In section 63(1):

(a) delete "Where" and insert:

If

(b) delete "shall, notwithstanding" and insert:

must, despite

(2) In section 63(2):

(a) delete "where" and insert:

if

(b) delete "in this subsection called".

(c) in paragraph (a) delete "of the parcel for any" and insert:

for a

(d) in paragraph (b) delete "proprietor" and insert:

owner

(e) in paragraph (b) delete "any rate" and insert:

a rate

(3) In section 63(3):

(a) delete "Where" and insert:

If

(b) delete "any" and insert:

a

(c) delete "shall" and insert:

must

(d) delete "upon" and insert:

on

Note:

Section 63 (as amended) is renumbered as section 71 and relocated to Part 5 Division 4.

66. Section 64 amended

(1) In section 64(1):

(a) delete "Notwithstanding section 62(2)" and insert:

Despite section 69(2)

(b) delete "where" and insert:

if

(c) delete "proprietor" (each occurrence) and insert:

owner

(d) delete "shall be" and insert:

is

(2) In section 64(2):

(a) delete "Upon" and insert:

On

(b) delete "a proprietor" and insert:

the owner

(c) delete "pursuant to" and insert:

under

(d) in paragraph (a) delete "shall" and insert:

must

(e) in paragraph (a) delete "upon" and insert:

on

(f) in paragraph (b) delete "such" and insert:

the

Note: The heading to amended section 64 is to read:
Owner may seek a review of unimproved value of parcel

Note:

Section 64 (as amended) is renumbered as section 72 and relocated to Part 5 Division 4.

67. Section 65 amended

(1) In section 65(1):

(a) delete "(1) For all" and insert:

For all

(b) delete "the parcel in a strata plan," and insert:

a parcel subdivided by a strata scheme,

(c) in paragraph (a) delete "shall" and insert:

must

(d) in paragraph (a) delete "lots as shown on the registered strata plan; and" and insert:

lots;

(e) in paragraph (b) delete "improvement tax; and" and insert:

improvement tax;

(f) in paragraph (c) delete "shall be deemed" and insert:

is taken

(2) Delete section 65(2).

Note: The heading to amended section 65 is to read:

Land tax and metropolitan region improvement tax: strata schemes

Note:

Section 65 (as amended) is renumbered as section 73 and relocated to Part 5 Division 4.

68. Section 65A amended

In section 65A(2):

(a) in paragraph (a) delete "shall" and insert:

must

(b) in paragraph (a) delete "section 62A," and insert:

section 70,

(c) in paragraph (b) delete "lot; and" and insert:

lot.

(d) delete paragraph (c).

Note: The heading to amended section 65A is to read:

Land tax and metropolitan region improvement tax: survey-strata schemes

Note:

Section 65A (as amended) is renumbered as section 74 and relocated to Part 5 Division 4.

69. Section 66 amended

In section 66:

(a) delete "Where in relation to a scheme" and insert:

If, in relation to a strata titles scheme,

(b) delete "as defined" and insert:

within the meaning given

(c) delete "one" and insert:

1

(d) delete "all the proprietors" and insert:

the parcel

(e) delete "proprietor" and insert:

lot

(f) delete "any" and insert:

the

(g) delete "shall be" and insert:

are

Note:

Section 66 (as amended) is renumbered as section 75 and relocated to Part 5 Division 4.

70. Section 67 amended

In section 67:

(a) in paragraph (a) delete "as defined" and insert:

within the meaning given

(b) in paragraph (a) and (b) delete "to be taken" and insert:

taken

Note:

Section 67 (as amended) is renumbered as section 76 and relocated to Part 5 Division 4.

71. Section 122 amended

(1) In section 122(1):

(a) delete "any rights or remedies that a strata company, a proprietor" and insert:

rights or remedies that a strata company, an owner

(b) delete "or an occupier may have in relation to any" and insert:

or, an owner of a leasehold scheme or an occupier may have in relation to a

(2) In section 122(2):

(a) delete "Where a court in which any proceedings to enforce any" and insert:

If a court in which proceedings to enforce

(b) delete "Part VI makes adequate provision for the enforcement of those rights or remedies, the court shall" and insert:

proceedings under this Act make adequate provision for the enforcement of those rights or remedies, the court must

Note:

Section 122 (as amended) is renumbered as section 211 and relocated to Part 14.

72. Section 122A amended

(1) In section 122A(1) delete the passage that begins with "or re-subdivided under this Act" and continues until the end of the subsection and insert:

by a strata titles scheme if that subdivision would result in there being a caravan park on more than 1 lot, a camping ground on more than 1 lot or a caravan park and camping ground on more than 1 lot.

(2) In section 122A(2) delete "re-subdivided where that re-subdivision would not result in the land being re-subdivided" and insert:

subdivided by registration of a strata titles scheme if that subdivision would not result in the land being subdivided

(3) In section 122A(3) delete "meaning as they have for the purposes of the *Caravan Parks and Camping Grounds Act 1995*." and insert:

meanings as they have in the *Caravan Parks and Camping Grounds Act 1995* section 5.

Note:

Section 122A (as amended) is renumbered as section 212 and relocated to Part 14.

73. Section 123 amended

(1) In section 123(1) after "land in a" insert:

strata titles

(2) Delete section 123(2) to (4) and insert:

(2) Subject to subsection (3), the strata company for a strata titles scheme is taken to be the owner of the parcel that is the subject of that scheme.

(3) In a survey-strata scheme, the owner of land in the scheme that adjoins land outside the scheme is taken to be —

(a) in the case of a lot, the owner of the lot; and

(b) in the case of common property, the strata company.

(4) However, if a notice given under repealed section 123A (as in force immediately before its repeal) is recorded on the scheme plan, subsection (2) continues to apply to the scheme and subsection (3) does not apply to the scheme.

(5) If scheme by-laws for a survey-strata scheme, determine who is to be regarded as the owner of land in the scheme for the purposes of the *Dividing Fences Act 1961*, those by-laws have effect despite that Act or this section.

Note:

Section 123 (as amended) is renumbered as section 213 and relocated to Part 14.

74. Section 123B amended

(1) In section 123B(1):

(a) delete "and a single tier strata scheme";

(b) in paragraph (b) delete "a proprietor" and insert:

an owner

(2) Delete section 123B(2) and insert:

(2) However, if a notice given under repealed section 123C (as in force immediately before its repeal) is recorded on the scheme plan, liability for fencing between lots in the scheme is to be determined as if this section had not been enacted.

(3) This section has effect subject to the scheme by-laws.

Note:

Section 123B (as amended) is renumbered as section 214 and relocated to Part 14.

75. Section 124 amended

(1) In section 124(1) delete "District Court may, in respect of any proceedings on an application for an order under section 28, 29 or 31," and insert:

Tribunal may, in proceedings on an application for an order under section 166, 167 or 168,

(2) In section 124(2):

(a) delete "rules of court, the District Court shall not make an order referred to in subsection (1)(b) in respect of any person unless the District Court" and insert:

the rules of the Tribunal, the Tribunal must not make an order referred to in subsection (1)(b) in respect of a person unless the Tribunal

(b) in paragraph (c) delete "upon" and insert:

on

(c) in paragraph (c) delete "his" and insert:

the person's

Note: The heading to amended section 124 is to read:

Notice of application for order under section 166, 167 or 168

Note:

Section 124 (as amended) is renumbered as section 170 and relocated to Part 11 Division 3.

76. Section 126 amended

In section 126 delete "public authority or local government which is authorised by any Act to enter upon part of a parcel for the purpose of exercising any power conferred on it may enter upon" and insert:

person who is authorised under a written law to enter on part of a parcel for the purpose of exercising a power conferred on the person may enter on

Note: The heading to amended 126 is to read:

Powers of entry under written laws

Note:

Section 126 (as amended) is renumbered as section 217 and relocated to Part 14.

77. Section 129B amended

(1) In section 129B(1) delete "power that section 129A gives the Commissioner to any other" and insert:

Commissioner's functions under section 218 to a

(2) In section 129B(2) delete "Commissioner." insert:

Commissioner of Titles.

(3) In section 129B(3):

(a) delete "power or duty" and insert:

function

(b) delete "power or duty." and insert:

function.

(4) In section 129B(4) delete "exercising or performing a power or duty that has been delegated to the person under this section is to be" and insert:

performing a function that has been delegated to the person under this section is

(5) In section 129B(5) after "Commissioner" insert:

of Titles

(6) Delete section 129B(6).

Note:

Section 129B (as amended) is renumbered as section 219 and relocated to Part 14.

78. Section 129C amended

(1) In section 129C(1) delete "any power or duty of the Registrar under another provision of" and insert:

a function of the Registrar under

(2) In section 129C(2) delete "Registrar." insert:

Registrar of Titles.

(3) In section 129C(3):

(a) delete "power or duty" and insert:

function

(b) delete "power or duty." and insert:

function.

(4) In section 129C(4) delete "exercising or performing a power or duty that has been delegated to the person under this section is to be" and insert:

performing a function that has been delegated to the person under this section is

(5) In section 129C(5) after "Registrar" insert:

of Titles

(6) Delete section 129C(6).

Note:

Section 129C (as amended) is renumbered as section 220 and relocated to Part 14.

79. Section 130 amended

(1) At the beginning of section 130 insert:

(1) The Governor may make regulations prescribing matters —

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for giving effect to this Act.

(2) In section 130:

(a) delete the passage that begins with "The Governor" and ends with "to —" and insert:

(2) Without limiting subsection (1), the regulations may provide for —

(b) in paragraph (b) delete "to be payable in respect of applications to the State Administrative Tribunal; and" and insert:

for applications to the Tribunal; and

(c) in paragraph (c) delete "prescribing forms under this Act and the respective purposes for which those forms are to be used and providing that in such cases as may be prescribed, forms or other documents required by or" and insert:

circumstances in which forms or other documents required

(d) in paragraph (c) delete "shall" and insert:

must

(e) in paragraph (f) delete "prescribing";

(f) delete paragraph (i) and insert:

(g) the review by the Tribunal of a decision made under the regulations; and

(h) additional requirements relating to the first annual general meeting of the strata company.

(3) At the end of section 130 insert:

(3) The fees fixed by the regulations for an application lodged with the Registrar of Titles may, without limitation, include a separate fee for lodgement of a scheme document or an amendment of a scheme document and, in such a case, the separate fee is payable when the document or amendment of the document is lodged (including in anticipation of the application).

(4) The regulations may provide that contravention of a regulation is an offence and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of $3 000.

(5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of an Act (an amending Act) amending this Act.

(6) Any such provision may, if the regulations so provide, take effect from the date of assent to the amending Act or a later date.

(7) To the extent to which any such provision takes effect from a date that is earlier than the date on which it is made, the provision does not operate so as —

(a) to affect, in a manner prejudicial to any person (other than the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State) in respect of anything done or omitted to be done before the date of its publication.

Note:

Section 130 (as amended) is renumbered as section 224 and relocated to Part 14.

80. Section 131A amended

(1) In section 131A(1) delete "section 130" and insert:

section 224

(2) Delete section 131A(2).

Note:

Section 131A (as amended) is renumbered as section 225 and relocated to Part 14.

81. Section 131B amended

(1) In section 131B delete "131A" (each occurrence) and insert:

225

(2) In section 131B(6) delete "130" and insert:

224

Note: The heading to amended 131B is to read:

Expiry of section 225

Note:

Section 131B (as amended) is renumbered as section 226 and relocated to Part 14.

Division 3 — Deletion and insertion of provisions in body of Act

82. Deletion of headings and provisions

In the body of the Act delete —

(a) all Part, Division and Subdivision headings except the heading to Part 1 (as inserted by section 6 of this Act); and

(b) all provisions except —

(i) the provisions amended by Part 2 Division 2 of this Act; and

(ii) the provisions relocated without amendment to Parts 2 to 14 (as inserted by section 83 of this Act) by Part 2 Division 4 of this Act; and

(iii) the provisions relocated without amendment to Schedule 2A (as replaced by section 114 of this Act) by Part 2 Division 6 of this Act.

83. Insertion of sections 4 and 5 and Parts 2 to 14

Note for this section:

The gaps in the Parts inserted by this section are filled by the relocation of provisions by Division 4.

After section 3 (as amended by section 7 of this Act) insert:

4. Notes and examples not part of Act

A note or example set out at the foot of a provision of this Act is provided to assist understanding and does not form part of this Act.

5. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Strata titles schemes

6. Legislative framework

(1) This Act provides for a form of subdivision of land referred to as subdivision by a strata titles scheme, and sets out requirements for that form of subdivision.

(2) Relevant planning approvals must be obtained for the subdivision of land by a strata titles scheme under this Act or the *Planning and Development Act 2005*.

(3) A strata titles scheme is to be incorporated in the Register, and certificates of title for lots in the scheme are to be created for strata titles, under the *Transfer of Land Act 1893*.

(4) Consequently, this Act must be read together with the *Planning and Development Act 2005* and the *Transfer of Land Act 1893* to gain a proper understanding of the legislative framework for the subdivision of land by a strata titles scheme.

(5) This Act also contains provisions about the governance and operation of strata titles schemes and about strata managers.

7. Strata titles schemes

A strata titles scheme is a scheme for the creation of strata titles on registration of the scheme so as to —

(a) effect a physical division of a parcel of land into —

(i) 2 or more lots; or

(ii) 2 or more lots and common property;

and

(b) allow for the lots to be owned and sold or otherwise dealt with separately; and

(c) require the common property to be administered by a strata company that comes into existence under this Act on registration of the strata titles scheme; and

(d) limit how the common property may be dealt with.

8. Freehold schemes and leasehold schemes

(1) A strata titles scheme may be —

(a) a freehold scheme; or

(b) a leasehold scheme.

Note for this section:

All schemes created under this Act before the commencement of the *Strata Titles Amendment Act 2018* are freehold schemes.

(2) In a ***freehold scheme*** —

(a) there is no separate title for the parcel subdivided by the scheme; and

(b) each lot is a freehold lot; and

(c) the parcel cannot be dealt with (including by registration of a mortgage) or disposed of under the *Transfer of Land Act 1893*.

(3) In a ***leasehold scheme*** —

(a) there is a separate title for the parcel subdivided by the scheme; and

(b) each lot in the scheme is a leasehold lot subject to a strata lease; and

(c) the scheme expires on a specified day (the expiry day for the scheme); and

(d) the expiry day must be a day that is —

(i) at least 20 years (or, if some other period is specified in the regulations,

that period) after registration of the scheme; and

(ii) not more than 99 years after registration of the scheme;

and

(e) the expiry day will be specified in the scheme notice; and

(f) within the parameters set out in paragraph (d)(ii), leasehold by-laws for the scheme may provide for postponement of the expiry day; and

(g) if leasehold by-laws provide for postponement of the expiry day, the expiry day may be postponed if the postponement is within the parameters set out in paragraph (d)(ii) and is supported by a resolution under section 41; and

(h) the expiry day is postponed when an amendment of the scheme notice is registered giving effect to the postponement; and

(i) the registered proprietor of the parcel (the ***owner of the leasehold scheme***) is entitled to the reversion in the land on the expiry or termination of the scheme; and

(j) the existence of the leasehold scheme and its expiry day must be endorsed on the certificate of title for the parcel; and

(k) the owner of the leasehold scheme is the lessor and the owner of a lot in the scheme is the lessee under the strata lease for the lot; and

(l) the owner of the leasehold scheme may be the owner of a lot in the scheme despite any law relating to the merger of leasehold and reversionary estates in land; and

(m) the owner of the leasehold scheme cannot separately deal with or dispose of the reversion in a lot or the common property of the strata titles scheme; and

(n) the reversion in the parcel can be transferred, disposed of or mortgaged as a whole, and a memorial or property seizure sale order can be made in relation to the reversion of the parcel as a whole under the *Transfer of Land Act 1893*, but no other dealings can be registered under that Act against the reversion in the parcel.

Note for this subsection:

For the scheme notice, see section 29. For leasehold by-laws, see section 40.

9. Lots — strata schemes and survey-strata schemes

(1) The boundaries of lots in a strata titles scheme are defined on the scheme plan for the strata titles scheme.

(2) A lot can be comprised of non-contiguous parts defined on the scheme plan for the strata titles scheme.

Example for this subsection:

The non-contiguous parts may be to allow for a separate car parking space or shed to be part of the lot.

(3) The way in which the boundaries of lots are defined on the scheme plan for a strata titles scheme determines whether the scheme is a ***strata scheme*** or a ***survey-strata scheme***.

(4) The way in which the boundaries of a lot in a strata scheme are defined on the scheme plan must be as set out in the definition of lot in a strata scheme in section 3(1) and in section 3(2) to (4).

Note for this subsection:

Schedule 2A provides for a special rule for how lots may be defined in a single tier strata scheme.

(5) The way in which the boundaries of a lot in a survey-strata scheme are defined on the scheme plan must be as set out in the definition of ***lot*** in a survey-strata scheme in section 3(1).

(6) A change in the definition of the boundaries of a lot does not, even if the lot is assigned a new identifying number, of itself affect —

(a) for a leasehold scheme — the strata lease for the lot; or

(b) for a leasehold or freehold scheme — any other item registered or recorded for the scheme in the Register.

(7) Damage to, or destruction or removal of a wall, floor, ceiling or other structural element by reference to which a lot in a strata scheme is defined does not of itself affect the definition of the boundaries of the lot (which remain as defined on the scheme plan).

10. Common property

(1) The ***common property*** in a strata titles scheme is —

(a) that part of the parcel of land subdivided by the strata titles scheme that does not form part of a lot in the strata titles scheme; and

(b) temporary common property.

(2) The ***common property*** includes, for a strata scheme, those parts of a scheme building that do not form part of a lot.

(3) The ***common property*** does not include —

(a) any land vested in the Crown under the *Planning and Development Act 2005* section 152; or

(b) any dedicated road under the *Planning and Development Act 2005* section 168.

(4) If a strata plan identifies an encroachment outside the parcel that is to be controlled and managed as common property, the encroachment is to be regarded, for this Act, as if it were common property.

11. Subdivision of land by strata titles scheme

(1) Land is ***subdivided*** by a strata titles scheme —

(a) by registration of the scheme; or

(b) by registration of an amendment of the scheme.

(2) Registration of an amendment of a strata titles scheme gives effect to a ***subdivision*** if it —

(a) effects a change to the definition of a lot in the scheme; or

(b) effects a change to the boundary of the parcel of land subdivided by the scheme.

Note for this section:

1. There are 4 types of amendment of a strata titles scheme that give effect to a subdivision, with varying requirements for resolutions and consents:

- A type 1 subdivision covers adding land from outside the parcel to the common property (other than as temporary common property) and what was formerly referred to as conversion of lots into common property.
- A type 2 subdivision covers the removal of common property from the parcel of a strata titles scheme.

- A type 3 subdivision covers what was formerly referred to as consolidation of lots.
- A type 4 subdivision covers what was formerly referred to as re-subdivision.

2. Re-subdivision of a lot or common property was defined in section 3(5) of the Act as in force immediately before the *Strata Titles Amendment Act 2018* to include the alteration of the boundaries of —
   - 1 or more lots so as to create only 2 or more different lots; or
   - 1 or more lots so as to create 1 or more different lots and common property; or
   - 1 or more lots and common property so as to create 1 or more different lots or 1 or more different lots and common property; or
   - common property so as to create 1 or more lots or 1 or more lots and common property.
3. Schedule 2A provides special provisions relating to subdivision in a single tier strata scheme.

12. Registration of strata titles scheme

(1) A strata titles scheme is registered when the following documents (the ***scheme documents***) are registered and incorporated in the Register —

(a) for a freehold scheme —

(i) a scheme notice;

(ii) a scheme plan;

(iii) a schedule of unit entitlements;

(iv) scheme by-laws;

(b) for a leasehold scheme —

(i) a scheme notice (which must specify the expiry day for the scheme);

(ii) a scheme plan;

(iii) a schedule of unit entitlements;

(iv) scheme by-laws;

(v) a strata lease for each lot.

Note for this subsection:

If the scheme by-laws comprise the by-laws set out in Schedules 1 and 2 without amendment, the scheme by-laws will be taken to be registered without the need for submission of the by-laws to the Registrar of Titles.

(2) A registered strata titles scheme is amended when amendments of the relevant scheme documents, or replacements of the relevant scheme documents, are registered or recorded and incorporated in the Register.

Note for this subsection:

The amendment may be necessary to give effect to a subdivision of land as referred to in section 11(2) or it may be unrelated to a subdivision of land, comprising, for example —

- the amendment of the scheme notice so as to amend the name or address for service of the strata company; or
- the amendment or replacement of the scheme plan for the strata titles scheme for a purpose related to an easement or restrictive covenant or a restricted use condition; or
- the amendment or replacement of the schedule of unit entitlements for the strata titles scheme because of a new valuation of lots; or
- the amendment or replacement of scheme by-laws.

(3) If a registered leasehold scheme is amended to give effect to a subdivision involving the creation of new lots, a strata lease must be registered as a scheme document for each new lot.

13. Strata titles

(1) The title to the land comprised in a lot is referred to as a ***strata title***.

(2) A certificate of title must be created and registered for each strata title under the *Transfer of Land Act 1893*.

Note for this subsection:

A separate certificate of title is not created for common property.

(3) For a leasehold scheme, the existence of the scheme and its expiry day must be endorsed on the certificate of title for each strata title for a lot in the scheme.

(4) On registration of a strata titles scheme or an amendment of a strata titles scheme to give effect to a subdivision of land, strata titles come into existence, cease to exist or are varied as necessary to ensure that —

(a) there is 1 strata title registered for each lot in the scheme or the scheme as amended; and

(b) the strata title for a lot confers the rights on the owner of the lot as set out in this section.

(5) When a new lot is created and a strata title comes into existence, it vests as follows —

(a) in the case of a parcel of land that is being subdivided, in the person who is, immediately before the new lot is created, the registered proprietor of the land under the *Transfer of Land Act 1893*;

(b) in the case of a lot that is being subdivided, in the person who is, immediately before the new lot is created, the owner of that lot;

(c) in the case of common property that is being subdivided, in the persons who are, immediately before the new lot is created, the owners of lots in the strata titles scheme as tenants in common in shares proportional to the unit entitlements of their respective lots.

(6) If a lot that is created vests in 2 or more persons, they hold their share in the lot as tenants in common or as joint tenants in the same manner as they owned the land or lot and, if they owned it as tenants in common, in the same proportions as they owned the land or lot.

(7) A strata title for a lot in a freehold scheme confers on the owner of the lot —

(a) rights as the proprietor of a fee simple estate in the lot under the *Transfer of Land Act 1893*; and

(b) an undivided share of the fee simple estate in the common property (other than temporary common property) as a tenant in common with the other owners of lots in the scheme, proportional to the unit entitlements of their respective lots; and

(c) an undivided share of the temporary common property as a tenant in common with the other owners of lots in the scheme, proportional to the unit entitlements of their respective lots.

(8) A strata title for a lot in a leasehold scheme confers on the owner of the lot, subject to Part 4 Division 5 —

(a) rights as the proprietor of a strata leasehold estate in the lot under the *Transfer of Land Act 1893*; and

(b) an undivided share of the strata leasehold estate in the common property as a tenant in common with the other owners of lots in the scheme, proportional to the unit entitlements of their respective lots; and

(c) an undivided share of the temporary common property as a tenant in common with the other owners of lots in the scheme, proportional to the unit entitlements of their respective lots.

(9) The owner of a lot cannot separately deal with or dispose of the owner's share in the common property of the strata titles scheme.

(10) A dealing under the *Transfer of Land Act 1893* affecting the owner's interest in a lot affects, without express reference, the owner's interest in the common property in the same manner and to the same extent.

(11) A strata title is subject to interests registered or recorded under the *Transfer of Land Act 1893* to the extent that they affect the lot or common property to which the strata title relates.

(12) The owner of a lot in a leasehold scheme cannot deal with the strata lease separately from the strata title.

14. Strata company

(1) On registration of a strata titles scheme, a strata company is established for the strata titles scheme.

(2) The name of the strata company is "The Owners of [*the name of the scheme*] (survey-strata scheme/strata scheme [*according to the type of strata titles scheme*] [*the reference number allocated to the scheme by the Registrar of Titles*])".

(3) The name of the strata titles scheme is the name stated in the scheme notice.

(4) The address for service of the strata company is the address for service stated in the scheme notice.

(5) A strata company —

(a) is a body corporate; and

(b) has perpetual succession; and

(c) is capable of suing and being sued in its own name; and

(d) has, subject to this Act, all the powers of a natural person that are capable of being exercised by a body corporate.

(6) The governing body of a strata company is the council of the strata company.

(7) A strata company may have a common seal, but it does not have to do so.

(8) A strata company is comprised of the owners for the time being of the lots in the strata titles scheme (who are the members of the strata company).

Part 3 — Planning and development

Division 1 — Planning approvals

Subdivision 1 — Strata schemes

15. Subdivision approval of strata scheme

(1) An application may be made under this section to the Planning Commission for approval of a strata plan or an amendment of a strata plan to give effect to a subdivision of land by a strata scheme.

(2) The Planning Commission's approval of a strata plan or an amendment of a strata plan under this section may be subject to conditions in the same way as if the approval were an approval of a plan of subdivision given under the *Planning and Development Act 2005*.

(3) The *Planning and Development Act 2005* applies to the conditions as if the approval were an approval of a plan of subdivision given under that Act.

(4) Before a strata plan or an amendment of a strata plan can be registered under this Act, the Planning Commission must issue a certificate endorsing the

strata plan or amendment with its unconditional approval of the subdivision.

(5) An application under this section must —

(a) be in the approved form; and

(b) be accompanied by the fee fixed by the regulations.

(6) The regulations may provide for exemptions from the requirement for a strata plan or amendment of a strata plan to be approved by the Planning Commission for registration of a subdivision of land by a strata scheme.

16. Application of Planning and Development Act

(1) The *Planning and Development Act 2005* sections 135, 146 and 147 do not apply to a subdivision of land by a strata scheme.

(2) If a strata plan, or an amendment of a strata plan, contains any vacant lot, the Planning Commission must comply with the *Planning and Development Act 2005* sections 142, 143 and 144, and section 151 of that Act applies, as if the plan were a plan of subdivision which required the approval of the Planning Commission under that Act.

Subdivision 2 — Survey-strata schemes

17. Subdivision approval of survey-strata scheme

(1) The *Planning and Development Act 2005* Divisions 1, 2 (other than section 141) and 3 of Part 10 and section 166 apply to the subdivision of land by a survey-strata scheme.

(2) For subdivision of land by a survey-strata scheme, the diagram or plan of survey of the subdivision under section 145 of that Act must be the scheme plan or an amendment of the scheme plan.

(3) The unconditional approval of the Planning Commission of the scheme plan or amendment of the scheme plan is required to enable the plan or amendment to be registered under this Act.

Subdivision 3 — General provisions

18. Planning (scheme by-laws) condition

The conditions of a planning approval applying to a strata titles scheme may include a planning (scheme by-laws) condition.

19. Planning approval of scheme plan or amendment of scheme plan

(1) An application for the required unconditional approval of the Planning Commission of a scheme plan or an amendment of a scheme plan to give effect to a subdivision of land by a strata titles scheme must be in an approved form and accompanied by —

(a) the scheme notice or any amendment of the scheme notice proposed to be submitted for registration with the scheme plan or amendment of the scheme plan; and

(b) any existing scheme by-laws made under a planning (scheme by-laws) condition; and

(c) for a leasehold scheme, any existing or proposed leasehold by-laws providing for postponement of the expiry day for the scheme; and

(d) for a strata scheme, an occupancy permit or building approval certificate granted under the *Building Act 2011* Part 4 Division 3 for each scheme building shown on the scheme plan or amendment of the scheme plan (as the case requires).

(2) An application for the required unconditional approval of the Planning Commission of a scheme plan or an amendment of a scheme plan to give effect to a subdivision of land by a strata titles scheme may be refused unless the Planning Commission is satisfied that —

(a) the scheme plan or amendment of the scheme plan is an accurate depiction of the subdivision that has been prepared after completion of the works necessary for the subdivision and, for a strata scheme, the construction or modification of the scheme buildings necessary for the subdivision; and

(b) the subdivision and development has been undertaken consistently with —

(i) the approval of the Planning Commission under this Act or the *Planning and Development Act 2005* (including the conditions of approval); and

(ii) any relevant approval of development under the *Planning and Development Act 2005* (including the conditions of approval);

and

(c) the requirements of the *Building Act 2011* have been complied with for the development; and

(d) any restricted use condition proposed to be imposed by the scheme plan or amendment of the scheme plan is suitable for the scheme; and

(e) scheme by-laws have been or are proposed to be made in accordance with any planning (scheme by-laws) condition.

20. Approval for postponement of expiry day for leasehold scheme

(1) For a leasehold scheme, the approval of the Planning Commission is required for the making, amendment or repeal of leasehold by-laws providing for postponement of the expiry day for the scheme (including for leasehold by-laws registered when the strata titles scheme is registered and not made by the strata company).

(2) The approval may be applied for and given in conjunction with an approval of a plan of subdivision.

(3) If a separate application is made, an application for approval under this section must —

(a) be in the approved form; and

(b) be accompanied by the fee fixed by the regulations.

Note for this section:

See section 8(3) and sections 40 and 41.

21. Approval for modification of restricted use condition

(1) The approval of the Planning Commission is required for the amendment of a scheme plan so as to impose, vary or revoke a restricted use condition.

(2) The approval may be applied for and given in conjunction with an approval of a plan of subdivision.

(3) If a separate application is made, an application for approval under this section must —

(a) be in the approved form; and

(b) be accompanied by the fee fixed by the regulations.

22. Approval under planning (scheme by-laws) condition

(1) If, in accordance with scheme by-laws required under a planning (scheme by-laws) condition, the amendment or repeal of scheme by-laws requires the approval of the Planning Commission or a local government, an application for that approval can be made under this section.

(2) The approval may be applied for and given in conjunction with an application for a planning approval or by separate application.

(3) If a separate application is made, an application for approval under this section must —

(a) be in the approved form; and

(b) be accompanied by the fee fixed by the regulations.

23. Requirement for local government approval

(1) In addition to approval of the Planning Commission, a subdivision must be approved by each local government in whose district the parcel is situated if the subdivision involves —

(a) 2 or more lots being consolidated into 1 lot; or

(b) 1 or more lots being converted into common property; or

(c) the removal, from the parcel, of land comprised of common property.

(2) If the subdivision is approved, it is subject to any planning (scheme by-laws) condition attached to the local government approval.

Division 2 — Preliminary determinations

Division 3 — Common property

25. Long term lease of temporary common property

A strata company may not accept a lease of land for the purpose of creating temporary common property for a term or terms exceeding the period specified in the regulations in aggregate (including any option to extend or renew the term of the lease) unless that acceptance has been approved in writing by the local government of the district in which the parcel is situated.

26. Long term lease or licence over common property

A lease or licence, or lease and licence, to use or occupy the common property or part of the common property, in a strata titles scheme for a term or terms exceeding the period specified in the regulations in aggregate (including any option to extend or renew the term of a lease or licence) is not effective unless it has been approved in writing by the local government of the district in which the parcel is situated.

Division 4 — Review of decisions

27. Review of Planning Commission decision

(1) The Planning Commission must give written notice of its decision on an application made to it under this Part to the applicant.

(2) A person who has made an application under this Part may apply to the Tribunal for a review of a decision of the Planning Commission —

(a) to refuse to approve an application under section 15; or

(b) to impose a condition of an approval under section 15; or

(c) to refuse to vary or revoke a condition of an approval under section 15; or

(d) to refuse to approve an application for approval of the making, amendment or repeal of leasehold by-laws under section 20; or

(e) to refuse to approve an amendment of a scheme plan under section 21;

(f) to refuse to approve an amendment or repeal of scheme by-laws under section 22.

(3) The Tribunal has jurisdiction to carry out the review in accordance with the *Planning and Development Act 2005* Part 14.

(4) Part 13 does not apply to a proceeding under this section (which is a proceeding within the Tribunal's review jurisdiction).

(5) If at the end of the prescribed period after an application is made under this Part (or any longer period agreed with an applicant), the Planning Commission has not made a decision, the applicant may give written notice of default to the Planning Commission.

(6) If a notice of default is given to the Planning Commission, the applicant may apply to the Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, as if the Planning Commission had refused to approve the application on the day on which the notice of default was given to the Planning Commission.

(7) In this section —

prescribed period means 40 days or, if some other period is specified in the regulations, that period.

Part 4 — Scheme documents

Division 1 — Scheme notice

29. Scheme notice

(1) A scheme notice for a strata titles scheme must —

(a) specify the name of the scheme; and

(b) specify the address for service of the strata company; and

(c) if it is a leasehold scheme —

(i) identify the scheme as a leasehold scheme; and

(ii) specify the expiry day for the scheme.

(2) A scheme notice, or an amendment of a scheme notice, for a strata titles scheme must be in the approved form.

30. Scheme name and address for service of strata company

(1) A scheme notice, or an amendment of a scheme notice to alter the name of the scheme, must not be registered if the Registrar of Titles is satisfied that the name of the scheme is undesirable.

(2) An amendment of a scheme notice to alter the name of the scheme must not be registered unless the amendment is authorised by special resolution of the strata company.

(3) An amendment of a scheme notice to alter the address for service of the strata company must not be registered unless the amendment is authorised by ordinary resolution of the strata company.

31. Postponement of expiry day for leasehold scheme

An amendment of a scheme notice to postpone the expiry day for a leasehold scheme must not be registered unless the postponement is in accordance with leasehold by-laws and is authorised by resolution of the strata company under section 41.

Division 2 — Scheme plans

32. Scheme plan

(1) A scheme plan for a strata titles scheme must —

(a) specify the address of the land subdivided by the scheme; and

(b) identify the title to the land subdivided by the scheme; and

(c) specify whether the scheme is a strata scheme or a survey-strata scheme; and

(d) if it is a strata scheme — consist of a floor plan and a location plan; and

(e) if it is a survey-strata scheme — consist of a survey plan of the land subdivided by the scheme prepared in accordance with the regulations; and

(f) enable each lot in the scheme to be separately identified and located; and

(g) define the boundaries of each lot in the manner required under section 9 depending on whether the scheme is a strata scheme or survey-strata scheme; and

(h) if land is or is to be vested in the Crown under the *Planning and Development Act 2005* section 152, delineate that land; and

(i) delineate areas that are roads, or are to be new roads, for the *Planning and Development Act 2005* section 168; and

(j) if it is a strata scheme, identify the nature and extent of any part of a wall or building or material attached to a wall or building that encroaches on land outside the parcel and —

(i) if an encroachment is to be controlled and managed as if it were common property, specify that fact; and

(ii) if an encroachment is to be subject to an easement, specify that easement.

(2) A scheme plan, or an amendment of a scheme plan, for a strata titles scheme may also —

(a) restrict the purposes for which the whole or a part of the parcel may be used (a ***restricted use condition***); and

(b) in the case of an amendment —

(i) describe, by reference to a lease accepted by the strata company under section 92, land that is temporary common property in the scheme; and

(ii) delete land from the description of temporary common property by referring to the surrender by the strata company of the lease of the land under section 92;

and

(c) delineate or record easements (other than statutory easements) and restrictive covenants over the land subdivided by the scheme, including —

(i) short form easements or restrictive covenants; and

(ii) easements created under the *Planning and Development Act 2005* section 167; and

(iii) easements and restrictive covenants created under the *Transfer of Land Act 1893* Part IVA;

and

(d) for a survey-strata scheme, delineate different areas of common property and allocate a reference number (being a unique series of numbers or letters or both numbers and letters) to those areas.

(3) A scheme plan, or an amendment of a scheme plan, for a strata titles scheme —

(a) may consist of multiple plans, drawings and documents containing descriptions or other matters; and

(b) must be in the approved form; and

(c) must be prepared and certified by a licensed surveyor (except for an amendment that relates only to a restricted use condition or temporary common property and does not involve any aspect of survey).

(4) A licensed surveyor must comply with the regulations and Transfer of Land Act requirements in preparing and certifying a scheme plan, or an amendment of a scheme plan, for a strata titles scheme.

33. Short form easements or restrictive covenants

(1) A scheme plan for a strata titles scheme may contain an easement or restrictive covenant of a class specified in the regulations (a ***short form easement or restrictive covenant***) that benefits or burdens land in the parcel as follows —

(a) the type of easement or restrictive covenant must be identified using the description specified in the regulations;

(b) for an easement, its location must be delineated in the manner specified in the regulations;

(c) the lots and common property benefited and burdened by the easement or restrictive covenant must be identified in the manner specified in the regulations;

(d) any other requirements specified in the regulations must be complied with.

(2) The nature of a short form easement or restrictive covenant and the rights and liabilities under the easement or restrictive covenant are as specified in the regulations.

(3) The liabilities specified in the regulations may include positive obligations.

(4) A short form easement or restrictive covenant runs with the land and is binding on the owners, from time to time, of lots in the strata titles scheme.

(5) A short form easement or restrictive covenant comes into force when the scheme plan, or an amendment of the scheme plan, for the strata titles scheme containing the easement or the restrictive covenant is registered.

(6) A short form easement or restrictive covenant is discharged by —

(a) registration of an amendment of the scheme plan to give effect to the discharge; or

(b) termination of the strata titles scheme.

(7) A short form easement or restrictive covenant has effect even if the lot benefited and the lot burdened have the same owner.

(8) The *Property Law Act 1969* section 121 does not apply to a short form easement or restrictive covenant.

(9) This section does not derogate from any other method by which an easement or restrictive covenant may be created over a parcel.

34. Requirements for registration of scheme plan

A scheme plan for a strata titles scheme must not be registered unless —

(a) the owner of the parcel is the applicant for registration or has given written consent to the subdivision of the parcel by the strata titles scheme; and

(b) the holder of each designated interest over the whole or a part of the parcel to be subdivided by registration of the scheme —

(i) has been given notice in the approved form of the subdivision and the schedule of unit entitlements; and

(ii) has given written consent to the subdivision;

and

(c) the scheme plan is approved by the Planning Commission (subject to any exemption in regulations under section 15(6)); and

(d) for a strata scheme —

(i) the scheme plan is accompanied by an occupancy permit or building approval certificate under the *Building Act 2011* Part 4 Division 3 for each scheme building; and

(ii) if the scheme plan identifies an encroachment that is not on to a public road, street or way and is to be managed and controlled as if it were common property, an appropriate easement has

been granted and lodged with the Registrar of Titles.

35. Requirements for registration of amendment of scheme plan

(1) An amendment of a scheme plan for a strata titles scheme must not be registered unless —

(a) for a leasehold scheme, the owner of the leasehold scheme is the applicant for registration or has given written consent to the amendment; and

(b) to the extent that the amendment gives effect to a type 1 subdivision —

(i) the subdivision is authorised by resolution without dissent of the strata company; and

(ii) each owner of a lot affected by the amendment who is not an applicant for registration of the amendment —

(I) has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements; and

(II) has given written consent to the amendment;

and

(iii) if the owner of a lot affected by the amendment holds a life estate in the land, the person who holds the remainder or reversionary interest in the land —

(I) has been given notice in the approved form of the

subdivision and any associated amendment of the schedule of unit entitlements; and

(II) has given written consent to the amendment;

and

(iv) each designated interest in land that is to become common property has been discharged, surrendered, withdrawn or otherwise extinguished;

and

(c) to the extent that the amendment gives effect to a type 2 subdivision —

(i) the subdivision is authorised by resolution without dissent of the strata company; and

(ii) the holder of each designated interest over the whole or a part of the parcel has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements and —

(I) has given written consent to the subdivision; or

(II) has not, at the end of 60 days after being given notice, made a written objection to the subdivision setting out the reasons for the objection;

and

(d) to the extent that the amendment gives effect to a type 3 subdivision —

(i) each owner of a lot affected by the amendment who is not an applicant for registration of the amendment —

(I) has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements; and

(II) has given written consent to the amendment;

and

(ii) if the owner of a lot affected by the amendment holds a life estate in the land, the person who holds the remainder or reversionary interest in the land —

(I) has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements; and

(II) has given written consent to the amendment;

and

(iii) the holder of each designated interest over the whole or a part of a lot affected by the amendment has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements and —

(I) has given written consent to the amendment; or

(II) has not, at the end of 60 days after being given notice, made a written objection to the amendment setting out the reasons for the objection;

and

(e) to the extent that the amendment gives effect to a type 4 subdivision —

(i) the amendment is authorised by unanimous resolution of the strata company; and

(ii) the holder of each designated interest over the whole or a part of the parcel has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements and —

(I) has given written consent to the subdivision; or

(II) has not, at the end of 60 days after being given notice, made a written objection to the subdivision setting out the reasons for the objection;

and

(f) to the extent that the amendment gives effect to any type of subdivision — the amendment is approved by the Planning Commission (subject to any exemption in regulations under section 15(6)); and

(g) to the extent that the amendment imposes, varies or revokes a restricted use condition, the imposition, variation or revocation —

(i) has been approved by the Planning Commission under section 21; and

(ii) is authorised by resolution without dissent of the strata company;

and

(h) to the extent that the amendment describes land as temporary common property in the scheme or deletes land from such a description — the acceptance or surrender of the lease of the temporary common property under section 92 is authorised by resolution without dissent of the strata company; and

(i) to the extent that the amendment creates or discharges an easement or restrictive covenant —

(i) for a short form easement or restrictive covenant — the amendment of the scheme plan is approved by the Planning Commission;

(ii) in the case of an amendment affecting the common property — the amendment is authorised by resolution without dissent of the strata company; and

(iii) in the case of an amendment affecting a lot — the owner of the lot has given written consent to the amendment; and

(iv) in any case — the holder of each designated interest over the common property or a lot affected by the amendment has been given notice in the

approved form of the amendment and —

(I) has given written consent to the subdivision; or

(II) has not, at the end of 60 days after being given notice, made a written objection to the creation or discharge setting out the reasons for the objection;

and

(j) for a strata scheme —

(i) the amendment of the scheme plan is accompanied by an occupancy permit or building approval certificate under the *Building Act 2011* Part 4 Division 3 for each scheme building constructed or modified in the course of a subdivision to be given effect by registration of the amendment of the scheme; and

(ii) if the amendment of the scheme plan identifies an encroachment that is not on to a public road, street or way and is to be managed or controlled as if it were common property, an appropriate easement has been granted and will be lodged with the Registrar of Titles.

(2) The Tribunal may, on the application of an applicant for registration of an amendment of a strata titles scheme, order that an objection to the amendment of a person with a designated interest be disregarded on the grounds that the objection is unreasonable.

(3) In considering whether an objection is unreasonable, the Tribunal may consider —

(a) the merits of the proposed amendment of the strata titles scheme; and

(b) the grounds for the objection; and

(c) any other factor the Tribunal considers relevant.

(4) If the Tribunal makes such an order, the applicant must lodge a copy of the order certified by the Tribunal with the Registrar of Titles.

(5) The notice of a resolution for an amendment of a scheme plan must include details of the proposed amendment, and any associated amendment of the schedule of unit entitlements, in the approved form.

Note for this section:

For when an amendment of a scheme plan affects the common property or a lot, see section 3(7).

36. Exemption for staged subdivision

If the amendment of a scheme plan is required as a consequence of completion of a stage of subdivision to which staged subdivision by-laws apply and the subdivision has been undertaken with sufficient compliance with the by-laws as determined in accordance with the regulations —

(a) section 35(1)(a) to (e) do not apply; and

(b) to the extent that the by-laws contemplate the creation or discharge of a particular easement or restrictive covenant on the completion of the stage of subdivision, section 35(1)(i) does not apply to that easement or restrictive covenant.

Note for this section:

Because staged subdivision by-laws cannot apply to subdivision comprised of the removal, from the parcel, of land comprised of common property or the addition, to the

parcel, of land from outside the parcel, the question of an exemption can arise in the context of a type 1 subdivision comprised of the conversion of a lot to common property or a type 3 or type 4 subdivision. The question cannot arise in the context of a type 2 subdivision.

Division 3 — Schedule of unit entitlements

37. Schedule of unit entitlements

(1) The schedule of unit entitlements for a strata titles scheme must —

(a) allocate a whole number (a ***unit entitlement***) to each lot in the strata titles scheme; and

(b) state the number that is the sum of the unit entitlements of all the lots in the strata titles scheme.

Note for this subsection:

The unit entitlement of a lot determines —

- the interest of the owner of the lot in the common property in the strata titles scheme: see section 13; and
- subject to the scheme by-laws, the contributions payable by the owner of a lot in the scheme: see section 100; and
- the voting rights that attach to the lot: see section 120.

(2) When allocated, the proportion that a unit entitlement of a lot bears to the sum of the unit entitlements of all the lots in the strata titles scheme must not be greater than 5% more, or 5% less, than the proportion that the value of the lot bears to the sum of the value of all the lots in the strata titles scheme.

(3) The value of a lot is —

(a) in a strata scheme — the capital value; and

(b) in a survey-strata scheme — the site value.

(4) Without limitation, the regulations may prescribe matters relating to the determination of the value of a lot.

(5) A schedule of unit entitlements, or an amendment of a schedule of unit entitlements, for a strata titles scheme must —

(a) be in the approved form; and

(b) be prepared and certified by a licensed valuer.

(6) A licensed valuer must comply with the regulations and Transfer of Land Act requirements in preparing and certifying a schedule of unit entitlements, or an amendment of a schedule of unit entitlements, for a strata titles scheme.

(7) A schedule of unit entitlements, or an amendment of a schedule of unit entitlements, must not be registered unless it is certified by a licensed valuer within a period specified in the regulations before an application is made for registration of the schedule or amendment.

38. Requirements for registration of amendment of schedule of unit entitlements

(1) An amendment of a schedule of unit entitlements may only be registered —

(a) in conjunction with an amendment of the scheme plan to give effect to a subdivision; or

(b) if the amendment is authorised by resolution without dissent of the strata company; or

(c) if the amendment is authorised by order of the Tribunal.

(2) An amendment under subsection (1)(b) must not be registered unless the holder of each designated interest over the whole or a part of the parcel —

(a) has been given notice in the approved form of the amendment; and

(b) either —

(i) has given written consent to the amendment; or

(ii) has not, at the end of 60 days after being given notice, made a written objection to the amendment.

(3) The Tribunal may, on the application of an applicant for registration of an amendment of a strata titles scheme involving the amendment of the schedule of unit entitlements, order that an objection to the amendment of a person with a designated interest be disregarded on the grounds that the objection is unreasonable.

(4) In considering whether an objection is unreasonable, the Tribunal may consider —

(a) the merits of the proposed amendment of the strata titles scheme; and

(b) the grounds for the objection; and

(c) any other factor the Tribunal considers relevant.

(5) The Tribunal may, on the application of a strata company or the owner or registered mortgagee of a lot in a strata titles scheme, authorise the amendment of the schedule of unit entitlements for the scheme if satisfied that, if unit entitlements were to be allocated at the time of the application, the schedule of unit entitlements would require amendment for compliance with section 37(2).

(6) If the Tribunal makes an order under this section, the applicant for the order must lodge a copy of the order certified by the Tribunal with the Registrar of Titles for registration of the amendment of the schedule of unit entitlements.

Division 4 — Scheme by-laws

39. Scheme by-laws on registration

On registration of a strata titles scheme —

(a) subject to paragraph (b), the governance by-laws set out in Schedule 1 and the conduct by-laws set out in Schedule 2 are taken to be registered for the scheme; and

(b) if other scheme by-laws are registered for the scheme, the strata company is taken to have made those by-laws and the by-laws referred to in paragraph (a) are amended or repealed accordingly.

40. Leasehold by-laws

(1) ***Leasehold by-laws*** of a leasehold scheme are by-laws that provide —

(a) for postponement of the expiry day for the scheme; or

(b) for compensation payable on the expiry of the scheme.

(2) If a leasehold scheme does not have leasehold by-laws, the expiry day for the scheme cannot be postponed.

(3) The expiry day for a leasehold scheme —

(a) cannot be postponed to a day that is more than 99 years after registration of the scheme; and

(b) cannot be postponed unless the postponement is supported by resolution of the strata company as set out in section 41.

(4) Leasehold by-laws —

(a) may provide that the owner of the leasehold scheme is to be paid an amount for the postponement of the expiry day for the scheme by the owner of each lot in the scheme and, if they do so —

(i) the amount paid by the owners of the lots must be proportional to the unit entitlements of their respective lots; and

(ii) the by-laws —

(I) must set out how the amount is to be calculated; and

(II) must set out when and how the amount is to be paid (which must be at least 4 months before the expiry day); and

(III) must provide that, if the amount is not paid as required under the by-laws, the owner of the leasehold scheme is entitled to re-enter the lot from the end of the expiry day for the scheme that applied before the postponement;

and

(b) may provide for compensation to be payable to the owner of a lot on the expiry of the scheme for improvements to the lot effected by the owner or a former owner of the lot; and

(c) must comply with requirements set out in the regulations.

(5) Leasehold by-laws can only be made, amended or repealed if the owner of the leasehold scheme has given written consent to the by-laws.

Note for this section:

Leasehold by-laws providing for postponement of the expiry day for the scheme can only be made, amended or repealed with the approval of the Planning Commission as set out in section 20.

41. Resolution for postponement of expiry day under leasehold by-laws

(1) If the leasehold by-laws provide for postponement of the expiry day for the leasehold scheme, the expiry day may only be postponed if the postponement is supported by a resolution as follows —

(a) 14 days' notice of the terms of the proposed resolution must be given to each member of the strata company before voting on the resolution opens;

(b) the resolution must specify a proposed new expiry day (in accordance with the leasehold by-laws) that is a day that is not more than 99 years after registration of the scheme;

(c) the votes in favour of the resolution must equal not less than 75% of the number of lots in the scheme;

(d) the resolution must be passed not later than 6 months before the expiry day.

(2) The owner of the leasehold scheme or an owner of a lot in a leasehold scheme may convene a general meeting of the strata company to vote on a resolution for postponing the expiry day for the scheme if the strata company has not done so.

(3) Section 126(a) does not apply to a vote on a resolution for postponing the expiry day for a leasehold scheme.

(4) The strata company must, as soon as reasonably practicable after the passing of a resolution under this section —

(a) serve notice of the resolution, in the approved form, on the owner of the leasehold scheme; and

(b) apply for registration of an amendment of the scheme notice to give effect to the postponement of the expiry day.

42. Staged subdivision by-laws

(1) ***Staged subdivision by-laws*** of a strata titles scheme are by-laws that apply as if they were an agreement by the strata company with a person about subdivision of the strata titles scheme in stages.

Note for this subsection:

Under section 36, compliance with a stage of subdivision as set out in staged subdivision by-laws removes the need for resolutions and consents for registration of an amendment of the strata titles scheme to give effect to the subdivision.

(2) Staged subdivision by-laws must—

(a) describe in detail —

(i) the stages of subdivision that are agreed; and

(ii) any amendments to the scheme plan and schedule of unit entitlements that will be made on completion of each stage of subdivision;

and

(b) identify the lots or common property affected by each stage of subdivision; and

(c) comply with requirements set out in the regulations.

(3) Staged subdivision by-laws cannot apply to subdivision comprised of the removal, from the parcel, of land comprised of common property or the addition, to the parcel, of land from outside the parcel.

(4) Staged subdivision by-laws do not bind the Planning Commission or a local government to give a planning approval for an agreed stage of subdivision.

(5) Staged subdivision by-laws do not bind the scheme developer of a stage of subdivision to undertake the subdivision.

(6) Staged subdivision by-laws can only be made, amended or repealed if —

(a) for a leasehold scheme, the owner of the leasehold scheme —

(i) has been given notice in the approved form of the by-laws; and

(ii) has given written consent to the by-laws;

and

(b) in any case, the holder of each designated interest over the whole or a part of the parcel —

(i) has been given notice in the approved form of the by-laws; and

(ii) either —

(I) has given written consent to the application; or

(II) has not, at the end of 60 days after being given notice, made a written objection to the proposed by-laws.

(7) The Tribunal may, on the application of an applicant for registration of staged subdivision by-laws or an

amendment of staged subdivision by-laws, order that an objection to the by-laws of a person with a designated interest be disregarded on the grounds that the objection is unreasonable.

(8) In considering whether an objection is unreasonable, the Tribunal may consider —

(a) the merits of the proposed by-laws; and

(b) the grounds for the objection; and

(c) any other factor the Tribunal considers relevant.

(9) If the Tribunal makes such an order, the applicant must lodge a copy of the order certified by the Tribunal with the Registrar of Titles.

43. Exclusive use by-laws

(1) ***Exclusive use by-laws*** of a strata titles scheme are scheme by-laws that confer exclusive use and enjoyment of, or special privileges over, the common property in the strata titles scheme or specified common property in the strata titles scheme (the ***special common property***) on the occupiers, for the time being, of a specified lot or lots in the strata titles scheme (the ***special lots***).

(2) Exclusive use by-laws may include the following —

(a) terms and conditions on which the occupiers of special lots may use the special common property;

(b) particulars relating to access to the special common property and the provision and keeping of any key necessary;

(c) particulars of the hours during which the special common property may be used;

(d) provisions relating to the condition, maintenance, repair, renewal or replacement of the special common property;

(e) provisions relating to insurance of the special common property to be maintained by the owners of special lots;

(f) matters relating to the determination of amounts payable to the strata company by the owners of special lots and the imposition and collection of the amounts.

(3) Subject to the terms of exclusive use by-laws, the obligations that would, apart from this subsection, fall on the strata company under its function of managing and controlling the special common property fall instead on the owners of the special lots.

(4) An amount payable by a person to a strata company under exclusive use by-laws must be paid (together with interest on any outstanding amount) and may be recovered by the strata company, as if the amount payable were an unpaid contribution levied on the person as a member of the strata company.

(5) Exclusive use by-laws can only be made, amended or repealed if the owner of each lot that is or is proposed to be a special lot has given written consent to the by-laws.

44. Making of scheme by-laws

(1) Subject to this Act, a strata company may, by resolution of the strata company, make governance by-laws or conduct by-laws for the strata titles scheme (including by-laws that amend or repeal the by-laws it is taken to have made on registration of the scheme).

(2) The resolution to make by-laws must be —

(a) for governance by-laws — a resolution without dissent; and

(b) for conduct by-laws — a special resolution.

(3) The power to make by-laws includes power to amend or repeal by-laws in the same manner and on the same conditions as they are made.

(4) If by-laws purport to be made in exercise of a particular power or powers, they are also taken to be made in exercise of all powers under which they can be made.

(5) Scheme by-laws must be in the approved form.

45. Application of scheme by-laws

(1) Scheme by-laws may apply to the following —

(a) the strata company for the strata titles scheme;

(b) a member, for the time being, of the strata company for the strata titles scheme;

(c) an occupier or lessee, for the time being, of a lot, or the common property, in the strata titles scheme;

(d) in the case of leasehold by-laws — the owner of the leasehold scheme;

(e) in the case of exclusive use by-laws — the owners and occupiers, for the time being, of special lots.

(2) Each person to whom scheme by-laws apply must comply with the by-laws as if the by-laws were a deed (signed and sealed by each person to whom they apply) containing mutual covenants to observe and perform the matters set out in the by-laws.

(3) A lease of a lot or common property in a strata titles scheme is taken to contain an agreement by the lessee that the lessee will comply with the scheme by-laws.

(4) The owner, occupier or lessee of a lot or common property in a strata titles scheme must take all steps that are reasonable in the circumstances to ensure that every person who they permit to use or who they invite on to the lot or common property complies with by-laws that apply to the owner, occupier or lessee.

(5) Scheme by-laws are not by-laws or subsidiary legislation within the meaning of the *Interpretation Act 1984*.

(6) An interest created under scheme by-laws does not have effect as an interest registered under the *Transfer of Land Act 1893*.

(7) Nothing in subsection (6) derogates from the operation of leasehold by-laws.

46. Invalidity of scheme by-laws

Scheme by-laws are invalid as follows —

(a) to the extent that there is no power to make the by-laws;

(b) to the extent that they are inconsistent with this Act or any other written law;

(c) to the extent that they are inconsistent with a restricted use condition;

(d) for a leasehold scheme — to the extent that they are inconsistent with the covenants or conditions of a strata lease over a lot in the scheme;

(e) to the extent that they purport to deny or limit the right of a member of the strata company to

vote on a proposed resolution of the strata company (except as set out in this Act);

(f) to the extent that they prohibit or restrict the devolution of a lot or a transfer, lease, mortgage or other dealing with a lot;

(g) to the extent that they purport to discharge or modify an easement or restrictive covenant;

(h) to the extent that they prohibit or restrict the keeping on a lot of an animal that is used as an assistance animal by a person with a disability who is an owner or occupier of a lot;

(i) to the extent that they prohibit or restrict the use on the parcel of an assistance animal by a person with a disability;

(j) to the extent that, having regard to the interests of all of the owners of lots in the strata titles scheme in the use and enjoyment of their lots and the common property —

(i) they are unfairly prejudicial to, or unfairly discriminatory against, 1 or more of the owners of lots; or

(ii) they are oppressive or unreasonable.

47. Enforcement of scheme by-laws

(1) A strata company may —

(a) give a written notice to a person alleged to have contravened the scheme by-laws; or

(b) apply to the Tribunal under this section for an order enforcing scheme by-laws if —

(i) the contravention has had serious adverse consequences for a person other than the person alleged to have contravened the scheme by-laws; or

(ii) the person has contravened the particular scheme by-law on at least 3 separate occasions; or

(iii) the person has been given notice under paragraph (a) and has contravened the notice.

(2) A written notice given by a strata company to a person alleged to have contravened the scheme by-laws must —

(a) specify the particular scheme by-law that is alleged to have been contravened; and

(b) specify the particular facts relied on as evidence of the contravention; and

(c) specify the action that must be taken or refrained from being taken in order to avoid a continuing or further contravention of the particular scheme by-law; and

(d) contain an explanation of the effect of this section in terms set out in the regulations.

(3) An application may also be made to the Tribunal for enforcement of scheme by-laws by —

(a) the owner of a lot in the strata titles scheme; or

(b) if the scheme is a leasehold scheme — the owner of the leasehold scheme; or

(c) a mortgagee of a lot in the strata titles scheme; or

(d) an occupier of a lot in the strata titles scheme.

(4) An application can only be made under subsection (3) on the grounds that —

(a) if a person other than the strata company is alleged to have contravened the scheme by-laws — the person has been given notice

under subsection (1)(a) and has contravened the notice; or

(b) the contravention has had serious adverse consequences for a person other than the person alleged to have contravened the scheme by-laws; or

(c) the person has contravened the particular scheme by-law on at least 3 separate occasions.

(5) The Tribunal may, if satisfied that a person has contravened the scheme by-laws, by order require the person to do 1 or more of the following —

(a) pay a specified amount to the strata company by way of penalty for the contravention;

(b) take specified action within a period stated in the order to remedy the contravention or prevent further contraventions;

(c) refrain from taking specified action to prevent further contraventions.

(6) The Tribunal's power to impose a penalty is subject to the following limitations —

(a) a penalty must not be imposed on the strata company;

(b) a penalty may only be imposed if the Tribunal is satisfied of the matters set out in subsection (1)(b) or (4) as the case requires;

(c) the penalty must not exceed an amount fixed by the regulations;

(d) a daily penalty may be imposed for a continuing contravention only if that is authorised by the regulations.

(7) The regulations may —

(a) specify a maximum amount that may be imposed by the Tribunal by way of penalty for contravention of scheme by-laws; and

(b) specify circumstances in which a daily penalty may be imposed for a continuing contravention and a maximum amount that may be imposed as a daily penalty.

(8) If an order is made under this section requiring a member of a strata company to pay an amount to a strata company, the amount may be recovered by the strata company, and interest is payable on any outstanding amount, as if the amount payable were an unpaid contribution levied on the member as a member of the strata company.

(9) An amount otherwise ordered to be paid by way of penalty under this section is recoverable as a debt in a court of competent jurisdiction.

48. Requirements for registration of amendment to give effect to scheme by-laws

(1) A strata company must apply for registration of an amendment of the strata titles scheme to register scheme by-laws as soon as reasonably practicable and, in any event, within 3 months, after they are made, amended or repealed.

(2) An amendment of a strata titles scheme to give effect to scheme by-laws may only be registered if the scheme by-laws have been made, amended or repealed in accordance with this Division.

Division 5 — Strata leases

49. Relationship with other laws

(1) When a strata lease is registered as a scheme document, the lease is taken to be a registered lease under the *Transfer of Land Act 1893*.

(2) The following provisions do not apply to or in relation to a strata lease —

(a) the *Transfer of Land Act 1893* Part IV Division 2;

(b) the *Property Law Act 1969* sections 72, 73, 74, 75, 76, 79, 80, 81 and 83 and Part VII Division 2;

(c) other provisions of those or other Acts specified in the regulations.

(3) Subsection (2) does not affect the application of the *Transfer of Land Act 1893* or the *Property Law Act 1969* to a lease of a lot in a leasehold scheme.

50. Term of strata lease

(1) A strata lease for a lot in a leasehold scheme commences when the lot is created on the registration of the leasehold scheme or an amendment of the leasehold scheme to give effect to a subdivision and expires on the expiry day for the scheme.

(2) A strata lease is of no effect to the extent that it purports to extend beyond the expiry day for the scheme.

(3) A strata lease is not subject to renewal, but its term is extended by postponement of the expiry day for the scheme.

(4) The fact that the expiry day may be postponed does not render a strata lease invalid for being of uncertain duration or for any other reason.

(5) A strata lease is not subject to forfeiture.

51. Limitations on powers of owner of leasehold scheme

(1) The owner of a leasehold scheme must not interfere with the use and enjoyment of a lot or common property in the leasehold scheme by the owner of a lot in the scheme.

(2) Subject to subsection (3), the consent of the owner of the leasehold scheme is not required by the owner of a lot in the scheme to deal with or dispose of the strata title for the lot.

(3) The regulations may specify circumstances in which the consent of the owner of the leasehold scheme may be required despite subsection (2).

(4) The owner of a leasehold scheme cannot re-enter a lot in the scheme except if that is authorised by order of the Tribunal or under the leasehold by-laws (for non-payment of an amount for postponement of the expiry day) or if the owner of the lot surrenders the strata lease.

52. Content and form of strata lease

(1) A strata lease —

(a) can only contain covenants or conditions allowed by the regulations; and

(b) if breach of a covenant or condition may lead to an order of the Tribunal for re-entry, the strata lease must identify the covenant or condition as a ***fundamental covenant or condition***; and

(c) cannot grant the owner of the leasehold scheme a right of re-entry of the lot for breach of a covenant or condition (express or implied); and

(d) must be in the approved form.

(2) The covenants or conditions allowed by the regulations cannot include covenants or conditions for the following —

(a) a matter that could be included in leasehold by-laws;

(b) refurbishment of the lot or improvements on the lot;

(c) a matter that is dealt with under this Act including —

(i) financial contributions towards the maintenance, repair, renewal or replacement of common property in the leasehold scheme or property of the strata company; and

(ii) the insurance required for the leasehold scheme;

(d) the acquisition of the owner of a leasehold scheme's freehold reversion in the lot and the common property appurtenant to the lot;

(e) compensation for the value of improvements to the lot;

(f) any other matter specified in the regulations.

(3) If a strata lease cannot provide for, or relate to, something under this section, then it cannot be provided for in any other way, other than under scheme by-laws (if the thing may be the subject of scheme by-laws).

Note for this subsection:

For example, the thing cannot be made the subject of a lease, contract or deed.

53. Amendment of strata lease

(1) A strata lease can only be amended by written agreement between the owner of the leasehold scheme and the owner of the lot to which the strata lease relates.

(2) The regulations may impose additional requirements for the amendment of a strata lease.

(3) The amendment of a strata lease cannot take effect until registration of the amendment.

(4) An amendment of a strata lease must not be registered unless —

(a) if the owner of the leasehold scheme or the owner of the lot is not an applicant, that owner has given written consent to the amendment; and

(b) the strata lease as amended is lodged with the Registrar of Titles.

54. Enforcement of strata lease

(1) The owner of a leasehold scheme or the owner of a lot in the leasehold scheme may apply to the Tribunal for enforcement of a covenant or condition in the strata lease or an obligation under this Division.

(2) However, an application can only be made by the owner of the leasehold scheme if —

(a) the owner of the leasehold scheme has served notice about the breach of the strata lease on the owner of the lot, and the mortgagee of the lot, if any, that complies with the *Property Law Act 1969* section 81(1)(a), (b) and (c); and

(b) the owner of the lot has failed within a reasonable time after the service of the notice on the owner, to remedy the breach, if it is

capable of remedy, and to make reasonable compensation in money, to the satisfaction of the owner of the leasehold scheme, for the breach.

(3) The Tribunal may, if satisfied that the owner of a lot in a leasehold scheme has breached a covenant or condition in the strata lease, by order do 1 or more of the following —

(a) require the owner of the lot to pay compensation to the owner of the leasehold scheme for any pecuniary loss or damage caused by the breach of the strata lease;

(b) require the owner of the lot to do, or refrain from doing, a specified act to remedy the breach;

(c) vest, for the remaining term of the strata lease, or for a shorter term, the strata lease for the lot in a mortgagee of the lot on conditions that the Tribunal is satisfied are just and equitable, including, for example, conditions relating to —

(i) the execution of a dealing or other document; or

(ii) the payment of costs, expenses, damages or compensation; or

(iii) the giving of security;

(d) if the covenant or condition is a fundamental covenant or condition and the Tribunal is satisfied that the owner of the leasehold scheme cannot be reasonably compensated by an order under a preceding paragraph, authorise the owner of the leasehold scheme to re-enter the lot.

(4) The Tribunal may, if satisfied that the owner of a leasehold scheme has breached a covenant or condition in the strata lease or has contravened this Act, by order do 1 or more of the following —

(a) require the owner of the leasehold scheme to pay compensation to the owner of a lot in the scheme for any pecuniary loss or damage caused by the owner of the leasehold scheme, including by purporting to exercise a right to re-enter the lot in circumstances in which the owner does not have that right;

(b) require the owner of the leasehold scheme to return possession of a lot in the scheme to the owner of the lot.

55. Contracting out prohibited

(1) A contract or any other agreement or arrangement is of no effect to the extent that it purports to exclude or restrict the operation of this Division.

(2) A purported waiver of a right, remedy or benefit conferred on a person under this Division is of no effect.

Part 5 — Registration and land titles

Division 1 — Schemes and amendment of schemes

56. Application for registration

(1) An application for registration of a strata titles scheme or an amendment of a strata titles scheme can be made —

(a) for registration to give effect to a subdivision, by the scheme developer for the subdivision; or

(b) for registration of an amendment of a strata titles scheme, by —

(i) the strata company for the scheme; or

(ii) an owner of a lot in the scheme; or

(iii) if the scheme is a leasehold scheme, the owner of the leasehold scheme.

(2) An application for registration of a strata titles scheme or an amendment of a strata titles scheme must —

(a) be lodged with the Registrar of Titles; and

(b) be in the approved form; and

(c) be accompanied by —

(i) for registration of a scheme — the scheme documents; or

(ii) for an amendment of a scheme — amendments or replacements of the scheme documents that require modification as a consequence of the amendment of the scheme;

and

(d) be accompanied by evidence, in the approved form, that the requirements of this Act for the making and registration of the scheme documents or amendments of the scheme documents have been complied with; and

Note for this paragraph:

See especially the requirements set out in sections 30 and 31 for the scheme notice, sections 34 and 35 (but subject to section 36) for the scheme plan, section 38 for the schedule of unit entitlements, section 48 for scheme by-laws and section 53 for strata leases.

(e) must be accompanied, if applicable, by —

(i) a statement (in the approved form) of how each item registered or recorded for

the scheme in the Register is to be dealt with; and

(ii) disposition statements, instruments or documents necessary for that purpose;

and

(f) be accompanied by the fee fixed by the regulations.

(3) The Registrar of Titles may accept an application for registration of a scheme plan or amendment of a scheme plan, or a scheme plan or amendment of a scheme plan for lodgement, before the plan or amendment is endorsed with the approval of the Planning Commission as required under Part 3 Division 1, but the plan or amendment cannot be registered until it is so endorsed.

(4) The regulations may impose time limits within which an application for registration must be made.

Note for this subsection:

For example, an application involving an amendment of a scheme plan may be required to be made within a specified period after endorsement of the scheme plan by the Planning Commission.

57. Effect of registration

(1) On registration of a freehold scheme —

(a) the title to the parcel of land that existed immediately before registration of the scheme ceases to exist; and

(b) the certificate of title for the parcel must be cancelled under the *Transfer of Land Act 1893*.

(2) On registration of a leasehold scheme —

(a) the fee simple of the parcel of land subdivided by the scheme is divided into the strata leases and a reversionary interest in the parcel that

reverts to the owner of the leasehold scheme on the expiry or termination of the scheme; and

(b) the certificate of title for the parcel must be endorsed accordingly under the *Transfer of Land Act 1893*.

(3) On registration of a strata titles scheme or an amendment of a strata titles scheme to give effect to a subdivision of land —

(a) the relevant lots are created, cease to exist or are varied as required by the subdivision; and

(b) if a lot in a leasehold scheme ceases to exist, the strata lease for the lot is extinguished; and

(c) the relevant common property (if any) comes into existence, ceases to exist or is varied as required by the subdivision.

(4) A scheme document, or an amendment of a scheme document, has effect from when it is registered or recorded by the Registrar of Titles.

58. Registration process

(1) To register a strata titles scheme or an amendment of a strata titles scheme, the Registrar of Titles must —

(a) allocate a reference number (being a unique series of numbers or letters or both numbers and letters) to the scheme; and

(b) register or record, in the manner that the Registrar considers appropriate for incorporation of the strata titles scheme in the Register under the *Transfer of Land Act 1893*, the scheme documents or amendments of the scheme documents (including, without limitation, by attaching the reference number of the scheme to the scheme plan); and

(c) as appropriate in the circumstances, register or record a disposition statement, transfers or other documents lodged with the application for registration in the manner that the Registrar considers appropriate for incorporation in the Register under the *Transfer of Land Act 1893*; and

(d) on registration of a strata titles scheme or an amendment of a strata titles scheme to give effect to a subdivision of land —

(i) ensure that there is a separate certificate of title registered under the *Transfer of Land Act 1893* for each lot in the strata titles scheme; and

(ii) for a leasehold scheme, ensure that there is —

(I) a strata lease registered for each lot in the scheme; and

(II) a separate certificate of title registered under the *Transfer of Land Act 1893* for the parcel;

and

(iii) create and register or cancel, or enter a memorial on, certificates of title as necessary for those purposes.

(2) A separate certificate of title is not to be created for common property or for a parcel subdivided by a freehold scheme.

(3) The *Transfer of Land Act 1893* section 48B does not apply to a certificate of title for a lot in a leasehold scheme.

(4) The *Transfer of Land Act 1893* section 166 does not apply to a subdivision of land by a strata titles scheme.

(5) Without limiting how the Registrar of Titles incorporates material into the Register, an item will be taken to be registered or recorded for a strata titles scheme in the Register if it is registered or recorded on the scheme plan, a certificate of title for a lot in the scheme, a certificate of title for the parcel in a leasehold scheme, or on a separate record of information relating to the scheme.

Note for this subsection:

For example, an item may comprise an estate, interest, right, encumbrance, notification, memorial or caveat.

59. No presumption of validity of scheme by-laws

(1) The Registrar of Titles may, but is not obliged to, examine scheme by-laws lodged for registration for compliance with this Act.

(2) It must not be presumed that, because the Registrar of Titles has registered scheme by-laws, the by-laws are valid or enforceable.

(3) The State does not guarantee the validity or enforceability of scheme by-laws.

Division 2 — Re-entry or surrender of strata leases

60. Notice and registration

If a strata lease is re-entered by order of the Tribunal or under the leasehold by-laws (for non-payment of an amount for postponement of the expiry day) or a strata lease is otherwise surrendered to the owner of the leasehold scheme —

(a) the owner of the leasehold scheme must lodge with the Registrar of Titles notice in the approved form of that fact, together with, for re-entry, evidence in the approved form that the requirements of this Act have been met; and

(b) the Registrar of Titles must register the notice; and

(c) on registration of the notice —

(i) the Registrar must register the owner of the leasehold scheme as the owner of the lot; and

(ii) the owner of the leasehold scheme is entitled to vacant possession of the lot; and

(iii) the strata lease is otherwise unaffected.

Division 3 — Statutory easements

61. Easement for support, shelter and projections — lot

(1) For each lot in a strata titles scheme there is an easement benefiting the lot —

(a) for the subjacent and lateral support of the lot —

(i) by every other lot in the scheme capable of affording support; and

(ii) by all the common property in the scheme capable of affording support;

and

(b) if the scheme is a strata scheme —

(i) for the support and shelter of the parts of a scheme building within the lot by every other part of the scheme building capable of affording support or shelter; and

(ii) for the projection of window sills, windows, window awnings, eaves, guttering and other minor parts of a scheme building within the lot.

(2) The easement entitles the owner of a lot benefited by the easement to examine, maintain, repair, modify and replace the support, shelter or projection to which the easement relates.

(3) The rights conferred by the easement must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the strata titles scheme.

(4) For each lot in a strata titles scheme there is an easement burdening the lot —

(a) for the subjacent and lateral support of —

(i) every other lot in the scheme capable of enjoying support; and

(ii) all the common property in the scheme capable of enjoying support;

and

(b) if the scheme is a strata scheme —

(i) for the support and shelter by the parts of a scheme building within the lot of all other parts of the scheme building capable of enjoying support or shelter; and

(ii) for the projection over the lot by window sills, windows, window awnings, eaves, guttering and other minor parts of a scheme building within another lot or the common property.

(5) An owner or occupier of a lot must not do anything or permit anything to be done that would interfere with rights under the easement burdening the lot under this section.

(6) An easement under this section has effect even if the lot benefited and the lot burdened have the same owner.

62. Easement for support, shelter and projections — common property

(1) For common property in a strata titles scheme there is an easement benefiting the common property —

(a) for the subjacent and lateral support of the common property, by every lot in the strata titles scheme capable of affording support; and

(b) if the scheme is a strata scheme —

(i) for the support and shelter of the parts of a scheme building within the common property by every other part of the scheme building capable of affording support or shelter; and

(ii) for the projection of window sills, windows, window awnings, eaves, guttering and other minor parts of a scheme building within the common property.

(2) The easement entitles the strata company to examine, maintain, repair, modify and replace the support, shelter or projection to which the easement relates.

(3) The rights conferred by the easement must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the strata titles scheme.

(4) For common property in a strata titles scheme there is an easement burdening the common property —

(a) for the subjacent and lateral support of every lot in the strata titles scheme capable of enjoying support; and

(b) if the scheme is a strata scheme —

(i) for the support and shelter by the parts of a scheme building within the common property of all other parts of the scheme building capable of enjoying support or shelter; and

(ii) for the projection over the common property by window sills, windows, window awnings, eaves, guttering and other minor parts of a scheme building within a lot.

(5) A strata company must not do anything or permit anything to be done that would interfere with rights under the easement burdening the common property under this section.

63. Utility service easement

(1) An easement (a ***utility service easement***) exists for the benefit and burden of each lot and the common property in a strata titles scheme to the extent reasonably required for the provision of utility services to each lot and the common property.

(2) A utility service easement entitles the strata company, and the owner of a lot, in the strata titles scheme —

(a) to install and remove utility conduits; and

(b) to examine, maintain, repair, modify and replace utility conduits.

(3) The rights conferred by a utility service easement must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the strata titles scheme.

(4) A strata company must not interfere or permit interference with utility conduits or a utility service

provided by means of utility conduits in a way that may prejudice the use or enjoyment of a lot or the common property, other than —

(a) in the reasonable exercise of rights under a utility service easement of which it has the benefit; or

(b) in the performance of its function of controlling and managing common property in the scheme.

(5) An owner or occupier of a lot must not, either within or outside the lot, interfere or permit interference with utility conduits or a utility service provided by means of utility conduits in a way that may prejudice the use or enjoyment of another lot or the common property in the strata titles scheme, other than in the reasonable exercise of rights under a utility service easement.

(6) A utility service easement has effect even if the lot benefited and the lot burdened have the same owner.

(7) In any dispute about the location of utility conduits under a utility service easement, the objective must be to resolve the matter fairly taking into account the options that are reasonably available to give effect to the easement.

(8) If, in the course of exercising rights under a utility service easement, the owner of a lot comes into possession of documents specifying the location of utility conduits or other information relating to utility conduits that ought reasonably to be kept by the strata company, the owner of the lot must ensure that the documents are provided to the strata company.

(9) If, in the course of exercising rights under a utility service easement, the strata company comes into possession of documents specifying the location of utility conduits or other information relating to utility conduits that ought reasonably to be kept by the strata

company, the strata company must keep the documents.

64. Common property (utility and sustainability infrastructure) easement

(1) This section applies if —

(a) a strata company has entered into a contract (an ***infrastructure contract***) with a person under which the person owns and operates utility infrastructure or sustainability infrastructure on common property in the strata titles scheme; and

(b) this section is applied to the infrastructure contract by ordinary resolution of the strata company.

(2) An infrastructure contract must —

(a) specify the common property over which there is an easement under this section; and

(b) specify the infrastructure to which the easement applies.

(3) The person (the ***infrastructure owner***) who, from time to time, owns the infrastructure the subject of an infrastructure contract has an easement over the common property specified in the infrastructure contract that entitles the infrastructure owner —

(a) to install and remove the infrastructure specified in the contract; and

(b) to operate that infrastructure; and

(c) to examine, maintain, repair, modify and replace that infrastructure.

(4) The easement is subject to any conditions set out in the infrastructure contract (as in force from time to time).

(5) The infrastructure contract may be varied by agreement between the strata company and the person who is the infrastructure owner from time to time.

(6) The easement ceases to exist if the infrastructure contract is terminated or otherwise ceases to have effect.

(7) The rights conferred by the easement must be exercised so as to minimise, as far as reasonably practicable, interference with the enjoyment and use of the common property.

(8) The regulations may —

(a) specify special procedures for notice or voting on the resolution required for the application of this section; and

(b) set out terms and conditions that are to be taken to be implied in an infrastructure contract; and

(c) otherwise regulate the rights and obligations of the strata company and the infrastructure owner.

65. Entry under statutory easement

(1) A strata company has a right to enter the common property of its strata titles scheme to exercise its rights under a statutory easement without notice to any person.

(2) If a person needs to enter a lot or common property in order to exercise rights under a statutory easement (other than as set out in subsection (1)), the person must give notice —

(a) for entry to a lot — to the occupier of the lot; and

(b) for entry to common property other than special common property — to the strata company for the strata titles scheme; and

(c) for special common property — to the occupiers of the special lots who have exclusive use and enjoyment of, or special privileges over, the special common property under exclusive use by-laws.

(3) Notice is unnecessary—

(a) in an emergency if there is insufficient time to give notice; or

(b) for entry to a lot, if the occupier of the lot dispenses with the requirement for notice; or

(c) for entry to common property other than special common property if —

(i) the person has the right to enter and enters only for the purposes of inspection; or

(ii) the strata company dispenses with the requirement for notice;

or

(d) for entry to special common property — if the requirement for notice is dispensed with by the occupiers of the special lots.

(4) Notice must be given in the approved form.

(5) The length of the notice must be at least —

(a) for entry by a strata company — 7 days unless a shorter period is agreed to by the occupier of the lot; and

(b) in any other case — 28 days unless a shorter period is agreed to by the occupier of the lot or strata company, as the case requires.

(6) If notice is not given (in an emergency) or the period of the notice has expired and it is not possible for the person, or a person acting on behalf of the person, to gain entry without using force, the person wishing to enter may use such force as is reasonable in the circumstances.

(7) Rights of entry under a statutory easement include rights of entry by the person's agents, employees and contractors, with vehicles, equipment, materials and other items as reasonably necessary for the purpose of exercising rights under the easement.

66. Rectification of damage

(1) Any damage caused to a lot or common property in the course of exercising rights under a statutory easement must be repaired and made good as soon as practicable by the person exercising those rights.

(2) Subsection (1) does not apply to the extent that the damage was the result of an unreasonable act or omission on the part of the owner of the lot damaged or, in the case of damage to the common property, on the part of the strata company.

Note for this Division:

Schedule 2A sets out an additional statutory easement for single tier strata schemes.

Division 4 — Rates, taxes and charges

Part 6 — Scheme developer

77. First statutory general meeting

(1) The scheme developer of the initial subdivision of land by registration of a strata titles scheme must, within 3 months after registration of the scheme, convene a general meeting of the strata company for the scheme.

(2) The scheme developer must do so even if the scheme developer is no longer a member of the strata company and even if there are no other members of the strata company.

(3) If there is another member of the strata company, a member of the strata company may convene the meeting if the scheme developer fails to do so.

(4) The first statutory general meeting is to be conducted as an annual general meeting of the strata company and the obligations that would usually fall on the strata company fall instead on the scheme developer.

(5) The person who convenes the meeting is to preside at the meeting or nominate someone to preside at the meeting.

78. Key documents

(1) The scheme developer of a subdivision of land by a strata titles scheme must ensure that —

(a) all the key documents for the subdivision that come into the possession or control of the scheme developer are retained; and

(b) all the key documents for the subdivision that the scheme developer possesses or controls are given to the strata company —

(i) at the first general meeting of the strata company following the subdivision; or

(ii) if the key document comes into the possession or control of the scheme developer after that meeting — as soon as reasonably practicable after it comes into the possession or control of the scheme developer.

(2) The scheme developer is bound by this section whether or not the scheme developer is the owner of a lot in the strata titles scheme when the general meeting is held.

79. Disclosure of remuneration and other benefits

(1) This section applies to the following —

(a) a contract for the provision of services or amenities to the strata company or to members of the strata company entered into or arranged by a scheme developer for the subdivision or by the strata company;

(b) any other contract that binds the strata company;

(c) a lease or licence of the common property of the strata titles scheme.

(2) A scheme developer of a subdivision of land by a strata titles scheme must disclose in writing to the strata company for the scheme the following for each contract, lease or licence to which this section applies —

(a) details of any remuneration or other benefit (including savings connected with installation or commissioning of infrastructure for the provision of services under the contract) that the scheme developer or an associate of the scheme developer has received or has a reasonable expectation of receiving arising out of the contract, lease or licence;

(b) details of any other direct or indirect pecuniary interest that the scheme developer or an associate of the scheme developer has in the contract, lease or licence, other than as a member of the strata company.

(3) The disclosure —

(a) must be made as soon as reasonably practicable after the scheme developer becomes aware of the facts giving rise to the requirement to disclose; and

(b) must include information as to the value of the remuneration or other benefit.

80. Defects in scheme buildings or infrastructure

(1) On establishment of a strata company for a strata scheme, the strata company is subrogated to all the rights and remedies of the scheme developer in respect of —

(a) in a strata scheme — each scheme building; and

(b) in a strata scheme or survey-strata scheme — infrastructure comprising common property of the scheme.

(2) If, within 10 years after completion of a scheme building or infrastructure comprising common property of a strata titles scheme, a proposed resolution is put to a strata company about a defect in the scheme building or infrastructure, a member of the strata company must be excluded from voting on the resolution if the member is —

(a) the scheme developer of a subdivision of land by the strata titles scheme in which the building was constructed or modified; or

(b) an associate of such a person.

(3) If a member is excluded under subsection (2), the unit entitlement of the lot of the member must be disregarded in determining whether the proposed resolution is passed as a resolution of the strata company.

81. Contracting out prohibited

(1) A contract or any other agreement or arrangement is of no effect to the extent that it purports to exclude or restrict the operation of this Part.

(2) A purported waiver of a right, remedy or benefit conferred on a person under this Part is of no effect.

Part 7 — Lot owners and occupiers

Division 1 — General

82. Offence to contravene restricted use condition

An owner or occupier of a lot in a strata titles scheme commits an offence if the owner or occupier uses, or permits to be used, an area or space in a manner that contravenes a restricted use condition set out on the scheme plan for the scheme.

Penalty for this subsection:

(a) a fine of $10 000;

(b) a daily penalty of a fine of $1 000 for each day or part of a day during which the offence continues.

83. Use and enjoyment

The owner or occupier of a lot must not use, or permit the use of, the lot or common property of the strata titles scheme in a way that interferes unreasonably with the use or enjoyment of another lot or the common property by a person who is lawfully on the lot or common property.

85. Person to act for lot owner in certain circumstances

(1) If the owner of a lot in a strata titles scheme cannot be located after reasonable enquiry or the owner lacks the

capacity to vote or consent to a matter under this Act, an application for an order under this section may be made to the Tribunal by the strata company or a person who the Tribunal considers has a proper interest in the matter.

(2) The Tribunal may, on an application under this section, by order —

(a) dispense with the requirement for the owner to vote or consent on a particular matter; or

(b) authorise the Public Trustee under the *Public Trustee Act 1941* or another specified person (with that person's consent) to exercise all or specified powers of the person under this Act as the owner of a lot.

Division 2 — Structural alteration of lots

Note for this Division:

This Division does not derogate from the requirement for subdivision approval if the definition of a lot is modified.

86. Terms used in this Division

In this Division —

structural alteration of a lot means —

(a) the erection of a structure within the lot; or

(b) an alteration of a structural kind to, or extension of, a structure within the lot;

structure includes anything classified as a structure by the regulations.

88. Structural alteration of lot in survey-strata scheme

(1) The owner of a lot in a 2-lot scheme that is a survey-strata scheme must not cause or permit the structural alteration of the lot if, on completion of the work, the structures on the lot will not conform to plot

ratio restrictions or open space requirements for the lot, except with the prior written approval of —

(a) the owner of the other lot; and

(b) for a leasehold scheme, the owner of the leasehold scheme.

(2) The owner of a lot in a survey-strata scheme, other than a 2-lot scheme, must not cause or permit the structural alteration of the lot if, on completion of the work, the structures on the lot will not conform to plot ratio restrictions or open space requirements for the lot, except with —

(a) the prior approval of the strata company, expressed by resolution without dissent; and

(b) for a leasehold scheme, the prior written approval of the owner of the leasehold scheme.

90. Order dispensing with approval for structural alteration of lot

(1) The Tribunal may, on the application of an owner of a lot in a strata titles scheme, by order, exempt a particular structural alteration to the lot from the application of this Division.

(2) An order may be made under this section —

(a) whether or not the necessary approval for the alteration has been sought; and

(b) even if there has been a valid refusal to give the necessary approval.

(3) An order can only be made under this section if the Tribunal is satisfied —

(a) that the structural alteration of the lot is reasonable, having regard to the merits of the alteration and the interests of all of the owners

of the lots in the use and enjoyment of their lots and the common property; and

(b) to the extent that the structural alteration has already been carried out, it will not cause any significant inconvenience or detriment to the owners of other lots.

Part 8 — Strata company

Division 1 — Functions

Subdivision 1 — Property

92. Temporary common property

(1) A strata company may, by resolution without dissent, for the purpose of creating temporary common property —

(a) for a freehold scheme — accept a lease of a lot in the scheme or of land that is contiguous to the parcel or separated only by a road, railway or waterway; and

(b) for a leasehold scheme — accept a lease (that expires on or before the expiry day for the scheme) of a lot in the scheme or of land that is contiguous to the parcel or separated only by a road, railway or waterway.

(2) Except as provided in the regulations, the land that is leased must not be subject to a designated interest.

(3) A strata company may, by resolution without dissent (made with the concurrence of the lessor if required under the lease), surrender a lease accepted by it under this section.

(4) If a resolution is passed under this section, the strata company may enter into the necessary transaction in its own name.

93. Transactions affecting common property or parcel

(1) Subject to subsection (3), a strata company may enter into a transaction to which this section applies and execute documents related to the transaction in its own name, as if —

(a) for a freehold scheme — it were the owner of an estate in fee simple in the land; or

(b) for a leasehold scheme — it were the owner of a leasehold estate in the land under a registered lease that expires on the expiry day for the scheme.

(2) This section applies to the following transactions for a strata titles scheme —

(a) the acceptance of a transfer of land that —

(i) is contiguous to the parcel or separated only by a road, railway or waterway; and

(ii) is not subject to a mortgage or other encumbrance; and

(iii) is to be added to the common property in the scheme in connection with a subdivision that is to be given effect by registration of an amendment of the scheme;

(b) the disposal of land comprising common property (other than temporary common property) in the scheme in connection with a subdivision that is to be given effect by registration of an amendment of the scheme;

(c) a lease of common property in the scheme;

(d) the surrender of or re-entry under a lease of common property in the scheme;

(e) the execution, acceptance, discharge or surrender of an easement or restrictive covenant burdening or benefiting the parcel.

(3) The strata company may enter into a transaction to which this section applies if —

(a) the transaction is authorised by a resolution without dissent; or

(b) the transaction is required for completion of a stage of subdivision to which staged subdivision by-laws apply and the subdivision has been undertaken with sufficient compliance with the by-laws as determined in accordance with the regulations.

Note for this subsection:

Staged subdivision by-laws cannot apply to subdivision comprised of the removal, from the parcel, of land comprised of common property or the addition, to the parcel, of land from outside the parcel. Consequently, paragraph (b) can only apply in the context of a type 1 subdivision comprised of the conversion of a lot to common property or a type 3 or type 4 subdivision.

(4) This section does not affect the making of an exclusive use by-law by the strata company.

(5) The *Property Law Act 1969* section 121 does not apply to a right, arising from an instrument executed under this section, to access or to the use of light or air.

95. Power of strata company to enter any part of parcel

(1) A strata company may enter any part of the parcel for the purpose of —

(a) carrying out work that the strata company is required or permitted to carry out under this Act; or

(b) carrying out work that the strata company is required to carry out under an order of a court or tribunal; or

(c) carrying out work that the strata company is required to carry out under a notice issued, or other order made, under any other written law; or

(d) inspecting that part or any other part of the parcel; or

(e) ascertaining whether scheme by-laws or this Act has been, or is being, complied with.

(2) Sections 65 and 66 apply to entry to common property or a lot by a strata company under this section as if the strata company were exercising rights under a statutory easement.

(3) A person must not obstruct or hinder a person exercising a power under this section.

96. Recovery of records, keys and property

(1) A strata company may give written notice to a person requiring the person to deliver all records, keys or other property of the strata company in the person's possession or control to a specified person within a specified period (being a period that is reasonable in the circumstances).

(2) A person commits an offence if the person fails, without reasonable excuse to deliver property in the person's possession or control as required by the notice.

Penalty for this subsection: a fine of $3 000.

(3) A person cannot exercise any claim or lien against or on the property of a strata company that the person is

required, under this section, to deliver to the strata company.

Subdivision 2 — Insurance

97. Required insurance

(1) A strata company must ensure that the following insurance is in place for the strata titles scheme —

(a) all insurable assets of the scheme must be insured against fire, storm and tempest (excluding damage by sea, flood or erosion), lightning, explosion and earthquake —

(i) to replacement value; or

(ii) to replacement value up to, for an event of a specified kind, a maximum amount specified in the contract of insurance that is a reasonable limitation in the circumstances;

and

(b) the strata company must be insured against damage to property, death, bodily injury or illness for which the strata company could become liable in damages to an amount of not less than $10,000,000 or, if some other amount is determined under the regulations, that amount.

Note for this subsection:

1. The owner of a lot in a survey-strata scheme is responsible for insurance of the kind referred to in paragraph (a) for infrastructure on the lot.

2. The owner of a lot is responsible for insurance of the kind referred to in paragraph (b) for damages for which the owner could become liable.

(2) However, if a strata company has taken all reasonably practicable steps available to it to obtain the required

insurance but no insurer is willing to enter into a contract of insurance on reasonable terms that meets the requirements, the strata company must obtain whatever insurance it can obtain on reasonable terms that most closely meets the requirements.

(3) The Tribunal may, on application by a strata company, exempt it from compliance with this section subject to conditions specified in the exemption.

(4) A strata company may enter into a contract of insurance relating to the insurable assets of its strata titles scheme and execute documents relating to the contract in its own name, as if it were the owner of the assets.

(5) Subject to subsection (6), if a strata company receives money from an insurer in the event of damage to or destruction of an insurable asset of the strata titles scheme, that money must be applied by the strata company in rebuilding, replacing, repairing or restoring the insurable asset so far as that may lawfully be done.

(6) Subsection (5) does not apply if —

(a) the strata titles scheme is a survey-strata scheme; and

(b) the strata company passes a resolution without dissent —

(i) determining that a specified part or all of the money is not to be used for the purposes of rebuilding, replacing, repairing or restoring the insurable asset of the strata titles scheme; and

(ii) specifying how that money is to be distributed amongst members of the strata company or used;

and

(c) the insurable asset of the strata titles scheme or, if the insurable asset has been destroyed or removed, the area affected by the damage or destruction, is left in a safe condition.

(7) Nothing in this section derogates from —

(a) any other requirement imposed on a strata company to obtain insurance (for example, for workers' compensation or by resolution of the strata company); or

(b) the power of the strata company to obtain other insurance in its capacity as a body corporate.

Note for this section:

Schedule 2A contains special provisions for a single tier strata scheme for the required insurance.

98. Notice to member of strata company

(1) If it is reasonably necessary in order for a strata company to obtain the required insurance on reasonable terms, the strata company may give written notice to a member of the strata company requiring the member to do 1 or more of the following —

(a) to take specified action within a specified period;

(b) to refrain from taking specified action;

(c) to pay a specified amount to the strata company within a specified period, being an amount equal to that part of the premium payable by the strata company for the required insurance attributable solely to the risk associated with something within the member's control.

(2) A member of a strata company given such a notice may negotiate with the strata company to take some step other than that specified in the notice to enable the

required insurance to be obtained by the strata company on reasonable terms.

(3) The strata company must negotiate with the member with a view to achieving a fair and reasonable outcome.

99. Member may obtain required insurance

(1) If a strata company fails to comply with section 97, a member of the strata company may effect and maintain, in the name of the strata company, such insurance as the strata company ought to effect and maintain under that section.

(2) Costs incurred by a member of a strata company under subsection (1) may be recovered, on application to the Tribunal, as a debt owed to the member by the strata company.

(3) A member of a strata company may accept, at the option of the member, a credit against contributions or other amounts owed by the member to the strata company in full or partial satisfaction of the amount owed under subsection (2).

Subdivision 3 — Financial management

101. Accounting records and statement of accounts

(1) A strata company must keep proper accounting records of its income and expenditure.

(2) A strata company must prepare a statement of accounts for each financial year showing —

(a) the assets and liabilities of the strata company at the end of the financial year; and

(b) the income and expenditure of the strata company for the financial year.

102. Budget

(1) A strata company must prepare a budget for each financial year and submit it for approval to its annual general meeting.

(2) The budget must be prepared —

(a) taking into account, if applicable, the 10 year plan for the reserve fund; and

(b) in accordance with any requirements set out in the regulations and the scheme by-laws.

(3) The strata company may, by ordinary resolution at its annual general meeting or at a subsequent general meeting, approve a budget with or without modification.

(4) The strata company may, by ordinary resolution, vary its approved budget.

(5) If a budget or a variation of a budget provides for expenditure on common property under section 91(2) (other than expenditure on sustainability infrastructure) exceeding an amount determined under the regulations —

(a) information regarding that expenditure must be provided to the members of the strata company as required by the regulations; and

(b) the budget or variation must be approved by special resolution.

(6) A strata company must not make any expenditure that is not authorised by an approved budget except for expenditure as follows —

(a) expenditure of an amount not exceeding, in a financial year, for each lot in the strata titles scheme —

(i) the amount fixed by the strata company by special resolution; or

(ii) if the strata company has not fixed the amount by special resolution, the amount fixed by the regulations;

(b) expenditure (not being of the kind referred to in subsection (5)) made on the following conditions being met —

(i) notice in the approved form of the purpose and amount of a proposed expenditure is given to the owners and first mortgagees of all lots in the strata titles scheme; and

(ii) if the regulations so require, quotations or tenders for the expenditure are submitted to those owners and first mortgagees; and

(iii) within 14 days after the requirements in the preceding subparagraphs are met, objection to the proposed expenditure has not been notified in writing to the strata company by the owners or first mortgagees of —

(I) 25% or more of the lots in the scheme; or

(II) lots of which the total unit entitlement is 25% or more of the sum of the unit entitlements of all the lots in the scheme;

(c) expenditure required by a court or tribunal or by a notice or order given under a written law to the strata company.

(7) For subsection (6)(b), if an objection is notified under subsection (6)(b)(iii) by a first mortgagee of a lot, an

objection notified by the owner of that lot must be disregarded.

(8) This section has effect subject to any regulations or scheme by-laws that require a special resolution, resolution without dissent or unanimous resolution or other steps to be taken for expenditure of a particular class.

Subdivision 4 — Representation and judgment debts

Subdivision 5 — Records and correspondence

104. Records and correspondence

(1) A strata company must —

(a) keep a copy of each of the following —

(i) the current scheme documents;

(ii) any proposed amendments of the scheme documents of which it is aware and that remain current;

and

(b) make and keep for a period fixed by the regulations —

(i) minutes of its general meetings and meetings of its council; and

(ii) records of its resolutions and decisions of its council; and

(iii) such other records as are required by the regulations;

and

(c) keep for a period fixed by the regulations —

(i) records and statements of account made or kept under section 101; and

(i) notices of its general meetings and meetings of its council; and

(ii) notices of proposed resolutions and material submitted to members of the strata company in connection with proposed resolutions; and

(iii) notices of disclosures made under section 79, 145(2) or 147; and

(iv) all correspondence, other notices and orders it or its council sends or receives; and

(v) each lease accepted under section 92 and any instrument of surrender of such a lease; and

(vi) a copy of each contract entered into by the strata company and any variation, extension or termination of such a contract, including (without limitation) the following —

(I) a strata management contract;

(II) an insurance contract;

(III) an infrastructure contract for a common property (utility and sustainability infrastructure) easement;

(IV) a contract for services or amenities provided to the strata company or members of the strata company;

and

(vii) each lease, licence or other document granting a special privilege over the common property (other than exclusive use by-laws); and

(viii) each key document it has received; and

(ix) each document it has kept or received under section 63(8) or (9);

and

(d) keep the following in a manner that facilitates access to the information, in particular, for use by the members of the council and officers of the strata company —

(i) the terms of any current resolution about the use of the common seal of the strata company or authorising persons to execute documents on its behalf;

(ii) the current balance of the administrative fund and, if applicable, the reserve fund of the strata company;

(iii) the current budget (showing estimated income and expenditure) of the strata company;

(iv) the terms of the most recent resolution determining contributions, the period for which they are determined, the basis on which the contributions are apportioned amongst the members of the strata company and the date on which they fall due;

(v) the most recent 10 year plan, if applicable;

(vi) any termination proposal submitted to the strata company that remains current.

(2) The regulations may impose additional requirements for the making or keeping of records by a strata company or about the manner in which this section is to be complied with.

(3) A strata company must ensure that —

(a) a letterbox with the name of the strata company clearly shown on it is continuously available and suitably placed on the parcel; and

(b) a mechanism for corresponding with the strata company electronically is reasonably available to —

(i) members of the strata company; and

(ii) occupiers of lots in the strata titles scheme.

106. Address for service if no roll maintained in 2, 3, 4 or 5-lot scheme

(1) If, in accordance with section 140, a roll is not maintained by a strata company for a 2, 3, 4 or 5-lot scheme, the owner of a lot in the scheme must give written notice to the strata company and the owner of each other lot of the owner's address for service.

Penalty for this subsection: a fine of $3 000.

(2) If, on a change of ownership, the owner of a lot in a scheme for which a roll is not maintained notifies an address for service to the strata company and the owner of each other lot, each of the other owners must give written notice to the new owner of their respective addresses for service.

Penalty for this subsection: a fine of $3 000.

Subdivision 6 — Provision of information

107. Application by person with proper interest in information

(1) A person with a proper interest in information about a strata titles scheme, or a person authorised in writing

by such a person, may apply in writing to the strata company for the scheme for —

(a) information under section 108; or

(b) inspection of material under section 109; or

(c) a certificate under section 110.

(2) A person has a ***proper interest in information about a strata titles scheme*** if the person is —

(a) a member of the strata company for the scheme; or

(b) a buyer who has entered into a contract for the sale and purchase of a lot in the strata titles scheme; or

(c) a mortgagee of a lot in the strata titles scheme; or

(d) a person of a class specified in the regulations.

(3) A strata company may charge a fee for an application under this section.

(4) However, any fee that is charged must not exceed an amount fixed by the regulations.

108. Contact information

A strata company commits an offence if it does not, within 14 days after being given an application for contact information under section 107, provide the applicant with the following as stated in the application —

(a) the name and address for service of a member of the council of the strata company;

(b) the name and address for service of an officer of the strata company;

Penalty for this subsection: a fine of $3 000.

109. Inspection of material

(1) A strata company commits an offence if, on application for inspection under section 107, it does not make material to which this section applies available for inspection by the applicant at a place and time —

(a) agreed between the strata company and the person; or

(b) if agreement is not reached within 3 days after the strata company is given the application, specified in a written notice given by the strata company to the person.

Penalty for this subsection: a fine of $3 000.

(2) The time specified in a notice under subsection (1)(b) must be between 9am and 5pm on a day not more than 10 days after the strata company is given the application.

(3) The material may be made available in electronic or hard copy form.

(4) A person inspecting material under this section —

(a) may take extracts from, or make a copy of, the material, including by photographing it, subject to any limitations specified in the regulations; and

(b) must not, without the consent of the strata company, remove physical material from the custody of the strata company; and

(c) must not alter, damage, conceal or destroy any material or entry.

(5) The strata company may, but is not obliged to, provide a copy of any material at the request of the applicant, and, if it does so, it may charge a fee for the copy of an

amount not exceeding an amount fixed by the regulations.

(6) This section applies to the following —

(a) material kept under section 104;

(b) the roll kept under section 105;

(c) other documents in the possession or control of the strata company.

110. Certificates

(1) A strata company commits an offence if it does not, within 14 days after being given an application for a certificate under section 107, provide the applicant with a certificate certifying, as at the date of the certificate, the following matters as stated in the application —

(a) whether or not a strata management contract is in effect and, if so, when the contract starts and ends;

(b) details of any contracts of insurance maintained by the strata company, including the name of the insurer, the contract number, the type and amount of cover, and the expiry day;

(c) whether any transfer, lease or other disposition has been entered into or exclusive use by-laws have been made in favour of a person over the common property but not registered by the Registrar of Titles, and, if so, the name of the person and the nature and effect of the transaction or by-laws.

Penalty for this subsection: a fine of $3 000.

(2) A strata company commits an offence if it does not, within 14 days after being given an application for a certificate under section 107, provide the applicant with a certificate certifying, as at the date of the

certificate, the following matters as they relate to a lot specified in the application —

(a) the amount and due date of contributions determined for the lot —

(i) at the most recent annual general meeting of the strata company; and

(ii) at any time subsequent to that meeting; and

(iii) in the previous 12 months;

(b) any amount owed to the strata company by the owner or occupier of the lot that is outstanding, the date on which it became outstanding, and the nature of the payment;

Note for this paragraph:

For example, the amount may be an amount of —

- contributions; or
- an amount payable under exclusive use by-laws; or
- an amount payable for work undertaken on the part of the owner of the lot; or
- any penalty or other amount ordered to be paid by the Tribunal; or
- any amount payable for utility services or other services or amenities.

(c) the rate of interest payable in respect of the outstanding amount.

Penalty for this subsection: a fine of $3 000.

(3) A certificate under this section is conclusive evidence of the matters stated in the certificate, as at the date of the certificate, in favour of a person taking an estate or interest in a lot for valuable consideration.

111. Legal professional privilege and defamation

(1) Nothing in this Subdivision requires a strata company —

(a) to give or certify any information that is the subject of legal professional privilege; or

(b) to make available a document or a part of a document if that would disclose information that is the subject of legal professional privilege.

(2) It is a defence to an action for defamation if the defendant proves that —

(a) the defamatory matter was contained in information or a document mentioned in this Subdivision; and

(b) the publication consisted of giving or certifying the information, or making the document available, in accordance with this Subdivision.

Subdivision 7 — Miscellaneous powers

112. Compliance with scheme by-laws

A strata company has the function of complying with the scheme by-laws and monitoring compliance with those by-laws by others to whom they apply.

113. Enforcement of road laws

A strata company may enter into a contract or arrangement with a local government about the enforcement of laws relating to roads on the parcel.

114. Enforcement of local laws

A strata company may enter into a contract or arrangement with a local government about the enforcement of a local law on the parcel.

Subdivision 8 — Limitations

117. Limitations on exercise of powers

(1) A strata company must not —

(a) acquire or dispose of land, or an interest in land, except as authorised under section 92 or 93; or

(b) mortgage common property; or

(c) act as a guarantor; or

(d) establish a corporation or subsidiary of a corporation; or

(e) engage in an activity that a strata company must not engage in under the regulations.

(2) A strata company must not, except as authorised by resolution without dissent, perform or exercise a function that the regulations allow to be exercised only as authorised by resolution without dissent.

118. Common seal and execution of documents

(1) If a strata company has a common seal —

(a) the seal may be used only as authorised by ordinary resolution of the strata company; and

(b) its use must be attested by the signatures of 2 members of the council of the strata company.

(2) A strata company may, by ordinary resolution, authorise any of the following to execute documents on its behalf subject to any conditions or limitations specified in the resolution —

(a) a member of the council of the strata company; or

(b) members of the council of the strata company acting jointly; or

(c) a strata manager of the strata company.

(3) A document is duly executed by a strata company if —

(a) the common seal of the strata company is applied to it in accordance with this section; or

(b) the document is signed on behalf of the strata company by a person or persons in accordance with an authority conferred under this section.

(4) For a document in an electronic form that bears a facsimile of the common seal and a facsimile of the signatures required to attest its use, the sealed document as it appears electronically, or as it appears when printed on paper, has the same effect as if the common seal had been applied and attested in accordance with this section, unless there is evidence that the document was not executed by the strata company.

Division 2 — Objectives

119. Objectives

(1) In performing its functions, a strata company is to have the objective of implementing processes and achieving outcomes that are not, having regard to the use and enjoyment of lots and common property in the strata titles scheme —

(a) unfairly prejudicial to or discriminatory against a person; or

(b) oppressive or unreasonable.

(2) In achieving that objective, a strata company —

(a) must take into account any failure of a person to act consistently with this Act or the scheme by-laws; and

(b) must consider the merits of any proposal put to it and the options that are reasonably available in any particular circumstances; and

(c) must be aware that —

(i) a resolution or other conduct may be overturned for failure to meet that objective despite the fact that it reflects the will of the majority of members of the strata company as expressed through the exercise of their voting powers; and

(ii) the fact that a person has chosen to become the owner of a lot does not prevent the person challenging the performance of a function for failure to meet that objective.

(3) Without limitation, a strata company acts oppressively or unreasonably in passing or not passing a resolution if —

(a) the resolution would not have been passed, or not have been passed as a particular type of resolution, but for the fact that a person was improperly denied a vote on the resolution; or

(b) the resolution would have been passed, or would have been passed as a particular type of resolution, if a person had properly been given an opportunity to vote on the resolution.

Division 3 — Procedures

Subdivision 1 — Voting and resolutions

120. Voting

(1) The owner of each lot in a strata titles scheme is entitled to 1 vote on a proposed resolution of the strata company.

(2) However, the owner of a lot is not entitled to cast the vote attached to the lot if —

(a) the resolution is not required to be a unanimous resolution or a resolution without dissent and is not a resolution for postponing the expiry day for a leasehold scheme or a termination resolution; and

(b) there is an outstanding amount recoverable under this Act owed to the strata company by the owner of the lot.

(3) A proposed resolution can be put to the members of a strata company —

(a) at a general meeting; or

(b) outside of a general meeting.

(4) A resolution can be proposed only by a member of the strata company who is entitled to vote on the resolution.

(5) The vote attached to a lot can, and can only, be cast, if at the time it is cast, the person is entitled to cast the vote attached to the lot.

(6) The owner of a lot may cast the vote attached to the lot in person or by duly appointed proxy.

(7) However, if a vote is taken at a general meeting at which both the owner of a lot and a proxy entitled to cast the vote attached to the lot are present and the owner is not a co-owner of the lot, the owner of the lot must cast the vote.

(8) The voting system, whether it is electronic or by other means, must —

(a) enable votes to be cast in a manner designed to protect the integrity of the voting system; and

(b) comply with any requirements specified in the regulations.

121. Voting period

(1) If a resolution is required to be a unanimous resolution, resolution without dissent or special resolution, the period allowed for voting must be 28 days or, if the regulations specify some other period, that period.

(2) If a vote on a resolution that is required to be a unanimous resolution, resolution without dissent or special resolution is taken at a general meeting —

(a) the voting period opens at the meeting and closes 28 days (or if the regulations specify some other period, that period) after the meeting; and

(b) if, for 1 or more lots, there was no-one present at the meeting in person or by proxy who could cast the vote attached to the lot — written notice of the outcome of the vote at the meeting is given to the owner of each such lot; and

(c) if the vote for a lot was not cast at a meeting, the vote may be cast by written notice to the strata company before the voting period closes.

122. Counting of votes

(1) Votes are to be counted (and recorded) as follows —

(a) for a unanimous resolution or a resolution without dissent, the votes must be counted by the number of votes cast;

(b) for a special resolution, the votes must be counted both by the number of votes cast and by the number of unit entitlements of the lots for which votes are cast;

(c) for an ordinary resolution, the votes must be counted by the number of votes cast unless any person entitled to cast a vote demands that they be counted by the number of unit entitlements of the lots for which votes are cast, in which case, they must be counted in that manner.

(2) A demand that a vote be counted by the number of unit entitlements of the lots for which votes are cast can be made —

(a) if the vote is being taken at a general meeting, orally or in writing before the resolution is put to the vote; and

(b) if the vote is being taken outside of a general meeting, when the vote is cast.

(3) Such a demand may only be withdrawn by the person who made the demand.

123. Resolutions

(1) A resolution of a strata company is a ***unanimous resolution*** if —

(a) 14 days' notice of the terms of the proposed resolution is given to each member of the strata company before voting on the resolution opens; and

(b) the vote attached to each lot in the scheme is cast in favour of the resolution.

(2) Subject to subsection (3), a resolution of a strata company is a ***resolution without dissent*** if —

(a) 14 days' notice of the terms of the proposed resolution is given to each member of the strata company before voting on the resolution opens; and

(b) no vote attached to a lot in the scheme is cast against the resolution.

(3) For a 2-lot scheme, a resolution is only to be regarded as a ***resolution without dissent*** if it is a unanimous resolution.

(4) Subject to subsections (5) and (6), a resolution of a strata company is a ***special resolution*** if —

(a) 14 days' notice of the terms of the proposed resolution is given to each member of the strata company before voting on the resolution opens; and

(b) the votes in favour of the resolution equal —

(i) when counted by number — not less than 50% of the number of lots in the scheme; and

(ii) when counted by unit entitlements — not less than 50% of the unit entitlements of the lots in the scheme;

and

(c) the votes against the resolution equal —

(i) when counted by number — less than 25% of the number of lots in the scheme; and

(ii) when counted by unit entitlements — less than 25% of the unit entitlements of the lots in the scheme.

(5) For a 2-lot scheme, a resolution is only to be regarded as a ***special resolution*** if it is a unanimous resolution.

(6) For a 3, 4 or 5-lot scheme, a resolution of the strata company is a ***special resolution*** if —

(a) 14 days' notice of the terms of the proposed resolution is given to each member of the strata

company before voting on the resolution opens; and

(b) the votes in favour of the resolution equal—

(i) when counted by number —

(I) for a 3-lot scheme — not less than 2; and

(II) for a 4-lot scheme — not less than 3; and

(III) for a 5-lot scheme — not less than 4;

and

(ii) when counted by unit entitlements — not less than 50% of the unit entitlements of the lots in the scheme.

(7) A resolution of a strata company is an ***ordinary resolution*** if —

(a) 14 days' notice of the terms of the proposed resolution is given to each member of the strata company before voting on the resolution opens; and

(b) it is passed when counted as required under section 122 (1)(c) —

(i) by number — by more than 50% of the number of lots for which votes are cast; or

(ii) by unit entitlements — by more than 50% of the sum of the unit entitlements of the lots in the scheme for which votes are cast.

Note for this subsection:

For an ordinary resolution, the question is determined against the resolution on an equal number of votes whether counted by number or by unit entitlements.

124. Voting by proxy

(1) An instrument appointing a proxy to cast a vote must be in writing and executed by the appointer or the appointer's attorney.

(2) Subject to any limitations expressed in the instrument of appointment, the appointment of a proxy is for all general meetings and for all purposes.

(3) The instrument of appointment of a proxy may limit the appointment —

(a) to a specified general meeting or to voting on a specified resolution; or

(b) to general meetings held, or votes taken, within a specified period; or

(c) to a specified purpose; or

(d) in any other specified way.

(4) A proxy may be, but is not required to be, a member of the strata company.

(5) The regulations may impose limitations on a strata manager being appointed as a proxy, including limitations as to the number of lot owners or unit entitlements of lots for which a strata manager may be appointed as a proxy.

125. Disqualification from voting as proxy

(1) If a member of a strata company who is an individual and sole owner of a lot is present at a general meeting of the strata company, the member must cast the vote for the lot personally rather than by proxy.

(2) A person must not vote as a proxy of another person on a resolution relating to the provision of goods, amenity or service to the strata company if the person so voting (the ***proxy***) has a direct or indirect pecuniary or other

interest in the provision of the goods, amenity or service.

(3) Subsection (2) does not apply if —

(a) notice of the proposed resolution included, if applicable, the particulars described in subsection (4); and

(b) the instrument appointing the proxy expressly authorises the proxy to vote on the resolution and specifies whether the proxy is to vote for or against it.

(4) If the resolution relates to the strata company making, varying or extending a strata management contract, the notice of the resolution must specify —

(a) the name of the strata manager; and

(b) when the proposed contract, or the contract as proposed to be varied or extended (as the case may require) is to start and end; and

(c) each proposed variation, if applicable; and

(d) the remuneration that is payable under the contract or the way in which the remuneration that is payable under the contract is to be calculated.

126. Exercise of voting power in certain cases

The entitlement of the owner of a lot to vote on a proposed resolution is subject to the following —

(a) if the lot is subject to a registered mortgage —

(i) the first mortgagee of the lot may, in person or by proxy, cast the vote on behalf of the owner of the lot; and

(ii) the owner may cast the vote if the first mortgagee does not do so;

and

(b) in any event —

(i) if the owner of the lot has not attained 18 years of age, the owner may not cast the vote but the owner's guardian may do so on behalf of the owner; and

(ii) if the owner of the lot is, for any reason, unable to control the owner's property, the person who is, for the time being, authorised by law to control the owner's property may cast the vote on behalf of the owner; and

(iii) if there are co-owners of the lot, the co-owners may only cast the vote through jointly appointing a single proxy (who may be 1 of the co-owners).

Subdivision 2 — Meetings of strata company

127. Annual general meetings of strata company

(1) A strata company must hold an annual general meeting once in each 12 month period and not more than 15 months after its previous annual general meeting.

(2) Subsection (1) does not apply to a strata company for a 2-lot scheme but a strata company for a 2-lot scheme may make by-laws having the same effect as subsection (1).

(3) The following matters must be included as an item of business on the agenda for each annual general meeting of a strata company (including the first annual general meeting) —

(a) election of council members;

(b) consideration of accounts;

(c) the presentation of copies of certificates and schedules for the insurance required under this Act, current as at the date of the meeting.

(4) All business transacted at an annual general meeting other than that referred to in subsection (3) is taken to be special business.

128. Extraordinary general meetings of strata company

(1) An extraordinary general meeting of a strata company is a general meeting of the strata company other than an annual general meeting.

(2) An extraordinary general meeting of a strata company —

(a) may be convened by the council of the strata company as the council thinks fit; and

(b) must be convened by the council of the strata company on the written request of owners entitled to 25% or more of the unit entitlements of the lots in the strata titles scheme.

(3) The owners making a request under subsection (2)(b), or any of them holding more than 50% of the unit entitlements of the lots in the strata titles scheme, may convene an extraordinary general meeting if the council does not, within 21 days after the request was made, take steps to convene the meeting.

(4) To the extent practicable, a meeting referred to in subsection (3) must be convened in the same manner as that in which meetings are to be convened by the council.

(5) A meeting convened under subsection (3) must not be held after the expiration of the period of 3 months starting on the day on which the request was made.

(6) All business transacted at an extraordinary general meeting is taken to be special business.

129. Notice requirements for all general meetings

(1) All owners of lots in a strata titles scheme and first mortgagees of those lots must be given at least 14 days' notice of every general meeting of the strata company for the scheme.

(2) The notice must include —

(a) the date, time and venue of the meeting; and

(b) for an annual general meeting, notice of each item of business referred to in section 127(3); and

(c) for special business, notice of the general nature of that business; and

(d) notice of each method of voting, whether by means of an electronic communication or otherwise, that is acceptable to the strata company.

(3) Accidental omission to give notice of a general meeting to the owner or first mortgagee of a lot or non-receipt of the notice by the owner or first mortgagee of a lot does not invalidate any proceedings at the meeting.

(4) The owner of a lot may give written notice to a member of the council of the strata company of an item of business that the owner requires to be included on the agenda for a general meeting of the strata company and that item must be included on the agenda for the meeting and notice must be given of that item as an item of special business under subsection (2)(c).

130. Quorum at general meetings

(1) No business may be transacted at a general meeting unless a quorum is present at the time when the meeting proceeds to business.

(2) At a general meeting of a strata company for a 2-lot scheme, a quorum is constituted if there are present persons who are entitled to cast the vote attached to each of the lots.

(3) At a general meeting of a strata company for a strata titles scheme other than a 2-lot scheme, a quorum is constituted if there are present persons who are entitled to cast the votes attached to 50% of the lots in the scheme.

(4) If a quorum is not present after 30 minutes has elapsed from the time appointed for a general meeting of a strata company for a strata titles scheme other than a 2-lot scheme, the persons entitled to vote who are present at the meeting are taken to constitute a quorum for the purposes of that meeting.

(5) A person who is a proxy of a person entitled to cast the vote attached to a lot is to be counted for the purposes of determining whether a quorum is present.

131. Holding meetings remotely

(1) A person (including a proxy of a member of a strata company) may, in accordance with any requirements of the scheme by-laws, attend, and vote, at a meeting of a strata company by telephone, video link, internet connection or similar means of remote communication (provided that provision of relevant facilities does not place an unreasonable burden on the strata company).

(2) A person attending a meeting by remote communication is taken to be present at the meeting.

132. Conducting business at general meetings

(1) A general meeting may be adjourned by the chairperson, with the consent of the meeting, from time to time and from place to place but no business may be transacted at an adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(2) A person is not entitled to move a motion at a general meeting or to nominate a candidate for election as a member of the council unless the person is entitled to vote on the motion or at the election.

133. Resolutions of general meetings

Resolutions passed at a general meeting may be ordinary resolutions unless this Act requires otherwise.

134. Performance of restricted council functions in general meeting

If, by ordinary resolution of a strata company, the council of the strata company is prohibited from performing a function, the function may be performed by the owners of lots in general meeting of the strata company.

Division 4 — Councils

137. Council members: general duties and conflicts of interest

(1) This section applies to a person who is —

(a) a member of the council of a strata company (including when acting as an officer of the strata company); or

(b) an individual authorised under section 136(2) by a corporation to perform the corporation's

functions as a member of the council, or an officer, of a strata company.

(2) A person to whom this section applies —

(a) must at all times act honestly, with loyalty and in good faith in the performance of functions as a member of the council or an officer of the strata company; and

(b) must at all times exercise the degree of care and diligence in the performance of those functions that a reasonable person in the person's position and the circumstances of the strata company would reasonably be expected to exercise; and

(c) must not make improper use of the person's position —

(i) to gain, directly or indirectly, an advantage for the person or any other person; or

(ii) to cause detriment to the strata company.

(3) A person to whom this section applies —

(a) must inform the council in writing of any direct or indirect pecuniary or other interest that the person has that conflicts or may conflict with the performance of a function as a member of the council or, if applicable, as an officer of the strata company; and

(b) must do so as soon as is practicable after the person becomes aware of the relevant facts; and

(c) in the case of a member of the council, must not vote on a matter in which the member has an interest required to be disclosed under paragraph (a).

(4) Subsection (3) does not apply to an interest arising solely from the fact that the member is the owner of a lot in the scheme.

Division 5 — Miscellaneous

138. Performance of council functions in general meeting if no council or quorum

If, at any time, there is no council of a strata company or there are insufficient members of the council to constitute a quorum in accordance with the scheme by-laws, the functions of the council may be performed by the owners of the lots in general meeting of the strata company.

140. Special rules for 2, 3, 4 or 5-lot schemes

(1) A strata company for a 2-lot scheme —

(a) may, but is not required to, perform a designated function; and

(b) cannot establish an administrative fund unless required to do so by scheme by-laws.

(2) The scheme by-laws for a 3, 4 or 5-lot scheme may exempt the strata company from a designated function.

(3) However, the Tribunal may, on application by a member of the strata company, require a strata company to perform a designated function despite this section.

(4) In this section —

designated function means a function conferred under any of the following sections or included in this definition by the regulations —

Section	Description for information only
Section 100(1)(a)	Administrative fund
Section 101	Accounting records and statement of account
Section 104(1)(b)	Minutes of meetings
Section 104(3)(a)	Letterbox
Section 105(1)	Roll to be kept by strata company.

141. Protection from liability

(1) This section applies to a person who is or has been —

(a) a member of the council of a strata company (including when acting as an officer of the strata company); or

(b) an individual authorised under section 136(2) by a corporation to perform the corporation's functions as a member of the council, or an officer, of a strata company.

(2) No civil liability attaches to a person to whom this section applies for anything that the person has, in good faith, done or omitted to be done —

(a) in the performance of a function under this Act or scheme by-laws; or

(b) in the reasonable belief that the act or omission was in the performance of a function under this Act or scheme by-laws.

(3) A liability that would, but for subsection (2), attach to a person attaches instead to the strata company.

142. Exclusion of Corporations Act

The following matters are declared to be excluded matters for the purposes of the *Corporations Act 2001* (Commonwealth) section 5F in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies —

(a) a strata company;

(b) an act or omission of a person, body or other entity in relation to a strata company.

Part 9 — Strata managers

143. Authorisation of functions of strata manager

(1) A strata company may, subject to this Part, authorise a person (a ***strata manager***) to perform a specified scheme function.

(2) An authorisation under this section —

(a) is subject to any conditions specified by the strata company; and

(b) may be varied or revoked by the strata company.

(3) If the performance of a function of a strata company requires a unanimous resolution, resolution without dissent, special resolution or ordinary resolution, the strata manager may perform the function only if a vote has been taken on a proposed resolution and it has been passed as a resolution of the relevant kind.

(4) An Australian legal practitioner does not act as a strata manager in providing services that can, under the *Legal Profession Act 2008*, be provided only by an Australian legal practitioner.

(5) A strata manager cannot be authorised to perform any of the following functions —

(a) authorising a person to perform a scheme function other than as an agent, employee or contractor of the strata manager;

(b) determining contributions;

(c) entering into a contract with another strata manager, varying, extending or terminating such a contract or making a decision relating to such a contract or the meaning of such a contract;

(d) terminating a contract for services or amenities under section 115;

(e) commencing proceedings on behalf of the strata company in the Tribunal or in a court or other tribunal;

(f) authorising the strata company's common seal to be applied to a document;

(g) authorising a person to sign documents on behalf of the strata company or on behalf of the council or an officer of the strata company;

(h) a scheme function declared by the regulations to be a scheme function that may not be performed by a strata manager.

(6) An act or thing done by a person under an authorisation under this section —

(a) has effect as if it were done by the strata company, council or officer of the strata company (as the case requires); and

(b) is taken to have been done by the strata company, council or officer of the strata company (as the case requires).

(7) The authority of a strata manager to perform a scheme function does not prevent the function from being performed by the strata company, council or officer (as the case requires).

(8) However, if the strata company, council or officer performs such a function, the strata company, council or officer must notify the strata manager authorised to perform the function of that fact.

144. Requirements to be met by strata manager

(1) Despite an authorisation under section 143, a person is not authorised to perform functions as a strata manager unless —

(a) a contract or volunteer agreement (a ***strata management contract***) is in force between the strata manager and the strata company; and

(b) the requirements of the regulations are met by the strata manager and each agent, employee or contractor of the strata manager for —

(i) the conduct of, and verification of the conduct of, criminal record checks; and

(ii) educational or other qualifications; and

(iii) any other matter relevant to the performance of functions as a strata manager;

and

(c) the strata manager maintains professional indemnity insurance as required by the regulations.

(2) Subsection (1)(c) does not apply to a volunteer strata manager.

(3) The regulations cannot require a volunteer strata manager to have particular educational or other qualifications.

145. Strata management contracts: minimum requirements

(1) A strata management contract must be in writing and must —

(a) state the strata manager's name and address for service; and

(b) state the strata company's name and address for service; and

(c) state the Australian Company Number or Australian Business Number of each party with such a number; and

(d) specify when the contract starts and ends; and

(e) specify each scheme function to be performed by the strata manager under the contract; and

(f) specify any conditions that are to apply to the performance of the functions; and

(g) provide that the strata manager must give the strata company written reports about the strata manager's performance of functions under the contract and set out the reporting requirements as to content and timing of the reports; and

(h) specify the remuneration that is payable under the contract or the manner in which the remuneration that is payable under the contract is to be calculated; and

(i) specify the accounts to be used under section 148(1); and

(j) set out the text of, or give notice drawing attention to, section 151; and

(k) provide for any other matter that is required by the regulations.

(2) Before entering into a strata management contract, the strata manager must disclose in writing to the strata company —

(a) any direct or indirect pecuniary or other interest that the strata manager has that conflicts or may conflict with the performance of the strata manager's functions; and

(b) the amount or value of any remuneration or other benefit that the strata manager has a reasonable expectation of receiving (other than from the strata company) in connection with the performance of the strata manager's functions.

(3) Any variation to, or extension or renewal of, a strata management contract must be in writing.

(4) This section does not limit the matters that may be included in a strata management contract.

(5) If the strata management contract is a volunteer agreement with a volunteer strata manager, it need not comply with subsection (1)(c) or (g).

146. General duties and conflict of interest

(1) A strata manager of a strata company —

(a) must at all times act honestly and in good faith in the performance of the strata manager's functions; and

(b) must at all times exercise a reasonable degree of skill, care and diligence in the performance of the strata manager's functions; and

(c) must have a good working knowledge of this Act; and

(d) must not make improper use of information acquired as the strata company's strata manager —

(i) to gain, directly or indirectly, an advantage for the strata manager or any other person; or

(ii) to cause detriment to the strata company or a member of the strata company;

and

(e) must not make improper use of the position of strata manager —

(i) to gain, directly or indirectly, an advantage for the strata manager or any other person; or

(ii) to cause detriment to the strata company or a member of the strata company;

and

(f) must take reasonable steps to ensure that the strata manager's agents, employees and contractors comply with this Act when performing the strata manager's functions.

(2) A strata manager of a strata company —

(a) must inform the strata company in writing of any direct or indirect pecuniary or other interest that the strata manager has that conflicts or may conflict with the performance of the strata manager's functions; and

(b) must do so as soon as is practicable after the strata manager becomes aware of the relevant facts.

147. Disclosure of remuneration and other benefits

(1) A strata manager of a strata company —

(a) must inform the strata company in writing of the amount or value of any remuneration or other benefit that the strata manager receives, or has a reasonable expectation of receiving (other than from the strata company) in connection with the performance of the strata manager's functions; and

(b) must do so as soon as is practicable after the strata manager becomes aware of the relevant facts.

(2) Subsection (1) does not apply to remuneration or any other benefit that is less than an amount or value specified in or calculated in accordance with the regulations.

148. Operation of accounts

(1) A strata manager (other than a volunteer strata manager) must pay all money received on behalf of a strata company into 1 of the following accounts —

(a) a separate ADI trust account for the strata company;

(b) a pooled ADI trust account solely for the strata companies for which the person is a strata manager;

(c) if the strata company has its own ADI account and has authorised the strata manager to use the account, that account.

(2) If a strata company has a volunteer strata manager, the strata company must have an ADI account and the volunteer strata manager must pay all money received on behalf of a strata company into an ADI account of the strata company.

(3) A strata manager must be able to account separately for money that the strata manager is paid or receives on behalf of a strata company.

(4) A strata manager may pay out of an account mentioned in subsection (1) an amount that is payable by the strata company on whose behalf money is received.

(5) Money paid into a trust account is not available for the payment of the debt of any creditor of the strata manager and cannot be attached or taken in execution under an order or process of any court at the instance of a creditor of the strata manager.

(6) The regulations may provide for other matters relating to the operation of trust accounts by strata managers.

149. Accounting information

(1) A strata company can, by written notice, require a strata manager to provide the following information to the strata company —

(a) the name and number of each account operated by the strata manager in performing scheme functions and the name and identifying number or code of the ADI with which each account is held;

(b) the balance in each such account standing to the credit of the strata company on a specified date;

(c) particulars of cheques drawn or amounts transferred out of an account by the strata manager on behalf of the strata company but for which amounts have not, as at a specified date, been paid out of the account;

(d) particulars relating to the payment of money to, or the receipt of money by, the strata manager on behalf of the strata company;

(e) particulars relating to the manner and time of disposal of money paid to, or received by, the strata manager on behalf of the strata company that is not still held by the strata manager;

(f) particulars relating to a specified transaction that has been entered into by the strata manager on behalf of the strata company.

(2) The strata manager must comply with the notice within a reasonable time but, in any event, within 7 days after the day the notice was given.

(3) However, a strata manager does not have to provide the strata company with information in relation to a matter as it was, or that occurred, more than 7 years before notice requiring the information is given.

150. Audits

(1) A strata manager who operates an account in performing scheme functions must, if the strata company has an auditor, give the auditor access to statements of the account, or otherwise authorise the auditor's access to statements of the account, if required by the auditor to do so.

(2) A strata manager of a strata company must provide such an auditor with —

(a) any document in the strata manager's possession or control relating to money paid to, or received by, the strata manager on behalf of the strata company that the auditor reasonably requires; and

(b) any other information relating to money paid to, or received by, the strata manager on behalf of the strata company that the auditor reasonably requires.

151. Termination of strata management contract

(1) There are proper grounds for termination of a strata management contract by a strata company if —

(a) the strata manager has contravened this Act; or

(b) the strata manager has contravened the contract; or

(c) the strata manager is, according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws; or

(d) the strata manager is a Chapter 5 body corporate within the meaning given in the *Corporations Act 2001* (Commonwealth) section 9; or

(e) the strata manager, or a director or chief executive officer of the strata manager, is convicted in this State of an offence punishable by imprisonment for 12 months or longer and the strata company is satisfied that the offence affects the strata manager's suitability to perform the strata manager's functions; or

(f) the strata manager, or a director or chief executive officer of the strata manager, is convicted outside this State, in Australia or elsewhere, of an offence that, if it had been committed in this State, would be punishable by imprisonment for 12 months or longer and the strata company is satisfied that the offence affects the strata manager's suitability to perform the strata manager's functions.

(2) If a strata company is satisfied that there are proper grounds for termination of a strata management contract, the strata company may terminate the contract

by giving the strata manager written notice of termination —

(a) specifying the date (being not less than 28 days after the date of the notice) on which the termination will take effect; and

(b) informing the strata manager of the right to apply to the Tribunal for review of the decision to terminate the contract.

(3) Before a strata company terminates a strata management contract under subsection (2), the strata company must give the strata manager a notice (a ***show cause notice***).

(4) A show cause notice must —

(a) be in writing; and

(b) state that the strata company proposes to terminate the strata management contract; and

(c) specify the grounds on which it is proposed to terminate the strata management contract; and

(d) set out particulars of the facts relied on as evidence of those grounds; and

(e) invite the strata manager to make written submissions to the strata company as to why the strata management contract should not be terminated; and

(f) specify the period (being at least 14 days after the date of the notice) within which the written submissions must be received by the strata company.

(5) A strata company must give proper consideration to any written submissions made by the strata manager within the period specified in the show cause notice.

(6) Nothing in this section affects the operation of section 115 in relation to a strata management contract or any other right that the strata company may have to terminate the contract.

152. Return of records and other property

(1) If a strata management contract is terminated, the strata manager must return to the strata company —

(a) all records of the strata company, including records of account, in the strata manager's possession or control; and

(b) all keys and other property of the strata company in the strata manager's possession or control.

(2) The property must be returned to the strata company within 28 days after the day on which the contract is terminated (even if the strata manager has made an application for review of the decision to terminate the contract).

(3) The strata company may agree to the property being made available for collection by another strata manager engaged by the strata company or being returned in some other manner.

(4) A strata manager cannot exercise any claim or lien against or on the property of a strata company that the strata manager is required, under this section, to return to the strata company.

153. Provision of information about industry

The regulations may require a strata manager (other than a volunteer strata manager) to lodge a periodic return at the office of the Authority containing aggregated information about strata titles schemes managed by the strata manager (being information

ordinarily kept by a strata manager and readily available) for the purposes of the Authority —

(a) publishing, if it chooses to do so, a list of strata managers; and

(b) using the information to develop policy and advise the Minister on matters related to strata managers.

154. Contracting out prohibited

(1) A contract or arrangement is of no effect to the extent that it purports to exclude or restrict the operation of this Part.

(2) A purported waiver of a right, remedy or benefit conferred on a person under this Part is of no effect.

155. Protection from liability

(1) No civil liability attaches to a volunteer strata manager for anything that the person has, in good faith, done or omitted to be done —

(a) in the performance of a function under this Act or scheme by-laws; or

(b) in the reasonable belief that the act or omission was in the performance of a function under this Act or scheme by-laws.

(2) A liability that would, but for subsection (1), attach to a person attaches instead to the strata company.

Part 10 — Protection of buyers

156. Information to be given before contract

(1) Before a buyer signs a contract for the sale and purchase of a lot in a strata titles scheme, the seller of the lot must give the buyer the following —

(a) the name and address of the seller;

(b) the following information relating to the strata titles scheme —

(i) the scheme notice, scheme plan, scheme by-laws and schedule of unit entitlements for the strata titles scheme;

(ii) scheme by-laws that have been made by the strata company but not yet registered as a scheme document;

(iii) for a leasehold scheme, the strata lease for the lot;

(iv) the name and address for service of the strata company;

(v) either —

(I) the minutes of the most recent annual general meeting and of any subsequent extraordinary general meetings of the strata company; or

(II) a statement that the strata company does not keep minutes of its meetings; or

(III) a statement of why the seller has been unable to obtain the minutes;

(vi) either —

(I) the statement of accounts last prepared by the strata company; or

(II) a statement that the strata company does not prepare a statement of accounts; or

(III) a statement of why the seller has been unable to obtain a statement of accounts;

(vii) a copy of any notice received by the seller from the strata company in relation to any current termination proposal for the strata titles scheme;

(c) the following information relating to the lot —

(i) its exact location shown on the scheme plan for the strata titles scheme;

(ii) its definition, as contained in the scheme plan for the strata titles scheme;

(iii) the unit entitlement of the lot (and the sum of the unit entitlements of all of the lots in the scheme);

(iv) if contributions have been determined by the strata company within the previous 12 months, the amount and due date of the contributions payable by the lot owner;

(v) if contributions have not been so determined, a reasonable estimate of the amount of the contributions likely to be payable for the 12 months following the proposed settlement date;

(vi) details of any debt owed by the owner of the lot to the strata company,

including how the debt arose, the date on which it arose and the amount outstanding;

(vii) if the lot is a special lot, details of the exclusive use by-laws that apply to the lot;

(d) any other information required by the regulations.

(2) If the lot has not yet been created, a reference in subsection (1) —

(a) to a scheme document is to be read as a reference to the latest version of the draft scheme document or amendment of a scheme document as relevant to the lot as proposed to be created; and

(b) to a unit entitlement of the lot or amount is to be read as a reference to a reasonable estimate of that unit entitlement or amount; and

(c) to any other matter (such as contributions payable) is to be read as a reference to a reasonable expectation about the matter as relevant to the lot as proposed to be created.

(3) Subsection (4) applies if —

(a) the strata titles scheme has not been registered; or

(b) the first annual general meeting of the strata company has not been held; or

(c) the scheme developer owns 50% or more of the lots in the strata titles scheme or lots with an aggregate unit entitlement of 50% or more of the sum of the unit entitlements of all the lots in the scheme.

(4) Before a buyer signs a contract for the sale and purchase of a lot in circumstances in which this subsection applies, if the scheme developer is the seller of the lot, the seller must also give the buyer —

(a) a statement of the estimated income and expenditure of the strata company for the 12 months after the proposed settlement date; and

(b) details of any disclosure that the scheme developer is required to make under section 79; and

(c) details of any contract (or proposed contract) for the provision of services or amenities to the strata company or to members of the strata company entered into or arranged by the scheme developer or by the strata company, including —

(i) its terms and conditions; and

(ii) the consideration and the estimated costs to the members of the strata company;

and

(d) details of the terms and conditions of any lease, licence, right of exclusive use and enjoyment or special privilege (or proposed lease, licence, right of exclusive use and enjoyment or special privilege) over common property.

(5) The seller must comply with this section either —

(a) by giving the buyer a notice in the approved form; or

(b) by including the information and statements in the contract to be signed by the buyer in the manner set out in the regulations.

(6) In any court or tribunal proceedings arising out of or connected with a contract for the sale and purchase of a lot, the onus of proving that the required information and statements were given in accordance with this section lies on the seller.

157. Information to be given after contract

(1) If a notifiable variation occurs after a buyer signs a contract for the sale and purchase of a lot, the seller must, by notice in writing, inform the buyer of particulars of the notifiable variation that a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether the buyer is materially prejudiced by the notifiable variation.

(2) The regulations may provide that if the notice contains specified particulars of a notifiable variation of a specified type it will be conclusively presumed to contain the particulars required by subsection (1).

(3) The seller must comply with subsection (1) —

(a) if the seller becomes aware of the notifiable variation less than 15 working days before the settlement date for the contract — as soon as practicable; and

(b) in any other case — not later than 10 working days after the seller becomes aware of the notifiable variation.

(4) Subsection (1) does not apply if —

(a) the seller has in the contract informed the buyer of any proposed action or matter that would be a notifiable variation; and

(b) the action or matter when completed does not differ from that described in the contract; and

(c) the seller gives the buyer written notice of completion of the action or matter within the time required by subsection (5), with particulars which a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether the action or matter as completed differs from that described in the contract.

(5) For subsection (4)(c), the time required for notice of completion is —

(a) if the seller becomes aware of the completion of the action or matter less than 15 working days before the settlement date for the contract — as soon as practicable; and

(b) in any other case — not later than 10 working days after the seller becomes aware of completion of the action or matter.

(6) In any court or tribunal proceedings arising out of or connected with a contract for the sale and purchase of a lot, the onus of proving that a notice required by subsection (1) or a notice referred to in subsection (4)(c) was given in accordance with this section lies on the seller.

158. Delay in settlement for failure to give information

(1) A buyer may, by written notice to the seller, postpone the settlement date for a contract for the sale and purchase of a lot if the seller has not complied with section 156 or 157.

(2) The settlement date may be postponed by no more than 15 working days after the latest date on which the seller complies with the relevant requirements (even though that may be after the contract has been entered into).

159. Avoidance of contract for failure to give information

(1) A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date for the contract —

(a) if the seller has not complied with section 156; and

(b) if the seller were now to comply with that section, the buyer would receive information or a document that would disclose material prejudice to the buyer (proof of which lies on the buyer).

(2) However, if the seller gives the buyer a notice substantially complying with section 156 before the buyer avoids the contract under this section, the buyer may avoid the contract under this section only if the buyer does so within 15 working days after the seller's notice is given to the buyer.

160. Avoidance of contract on notification of variation for material prejudice

A buyer may avoid a contract for the sale and purchase of a lot at any time within 15 working days after the seller gives the buyer a notice under section 157(1) if —

(a) the notifiable variation is not one to which section 157(4) applies; and

(b) the buyer is materially prejudiced by the information or document disclosed (proof of which lies on the buyer).

161. Avoidance of contract for failure to disclose type 1 notifiable variation

(1) A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date for the contract if —

(a) a type 1 notifiable variation occurs in relation to the contract; and

(b) the seller does not substantially comply with the requirement under section 157 to give notice of the variation to the buyer within the required time.

(2) However, if the seller gives a notice substantially complying with the requirement under section 157 before the buyer avoids the contract under this section, the buyer may not avoid the contract under this section more than 15 working days after the seller's notice is given.

162. Avoidance of contract for failure to disclose type 2 notifiable variation

(1) A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date for the contract —

(a) if —

(i) a type 2 notifiable variation occurs in relation to the contract; and

(ii) the seller does not substantially comply with the requirement under section 157 to give notice of the variation to the buyer within the required time;

and

(b) if the seller were now to comply with that section, the buyer would receive information or a document that would disclose material

prejudice to the buyer (proof of which lies on the buyer).

(2) However, if the seller gives a notice substantially complying with the requirement under section 157 before the buyer avoids the contract under this section, the buyer may not avoid the contract under this section more than 15 working days after the seller's notice is given.

163. Proposed lot contract

(1) This section applies to a contract for the sale and purchase of a lot in a strata titles scheme entered into before the lot is created on registration of the scheme or an amendment of the scheme.

(2) A contract to which this section applies must —

(a) require any deposit or other amount payable by the buyer prior to registration of the strata titles scheme or amendment of the strata titles scheme to be paid by the buyer to an Australian legal practitioner, real estate agent or settlement agent to be held on trust for the buyer until the scheme is registered; and

(b) specify the practitioner or agent to whom payment is to be made by the buyer and how the payment may be made.

(3) The buyer may, at any time before registration of the strata titles scheme or amendment of the strata titles scheme, avoid a contract to which this section applies if —

(a) the contract does not comply with subsection (2); or

(b) the scheme or amendment is not registered —

(i) within a period after the date of the contract agreed in writing by the buyer and seller; or

(ii) in the absence of such an agreement, within 6 months after that date.

(4) In this section —

date of the contract means the day on which the contract was signed or, if the parties signed it on different days, the last of those days;

real estate agent means a person licensed as a real estate agent under the *Real Estate and Business Agents Act 1978*;

settlement agent means a person licensed as a settlement agent under the *Settlement Agents Act 1981*.

164. Avoidance of contract — manner and effect

(1) A notice of avoidance of a contract for the sale and purchase of a lot must —

(a) be given by the buyer to the seller in writing; and

(b) specify the grounds on which the contract is avoided, including details of the material prejudice to the buyer if required as grounds for avoidance.

(2) On the avoidance under this Part of a contract for the sale and purchase of a lot —

(a) the buyer may recover from the seller as a debt all money paid by the buyer under the contract; and

(b) a person who is holding a deposit or other amount on behalf of the buyer for the contract must repay the deposit or other amount to the

buyer, minus any amount due to the seller as rent for any period during which the buyer was in occupation of the lot or entitled to receive the rents and profits of the lot.

165. Contracting out prohibited

(1) A contract or arrangement is of no effect to the extent that it purports to exclude or restrict the operation of this Part.

(2) No penalty is payable by a buyer under a contract or arrangement for exercising a right under this Part.

(3) A purported waiver of a right, remedy or benefit conferred on a buyer by this Part is of no effect.

Part 11 — Variation of strata titles scheme by Tribunal

Division 1 — On damage or destruction

Division 2 — On compulsory acquisition

Division 3 — Notice of applications

Part 12 — Termination of strata titles scheme

Division 1 — Introduction

171. Forms of termination

(1) A strata titles scheme terminates (as set out in Division 6) as follows —

(a) a leasehold scheme terminates on the expiry day for the scheme as referred to in Division 2;

(b) a leasehold or freehold scheme terminates —

(i) if there is a termination proposal and the process referred to in Division 3 is followed; or

(ii) if all lots in the scheme are owned by the same person and the process referred to in Division 4 is followed.

(2) Divisions 5 and 6 contain provisions relevant to the forms of termination of a strata titles scheme set out in Divisions 2, 3 and 4.

(3) A strata titles scheme also terminates as set out in Division 7 on the taking under the *Land Administration Act 1997* of all of the lots in a strata titles scheme and, for a leasehold scheme, the reversionary interest of the owner of the leasehold scheme.

Division 2 — Expiry of leasehold scheme

172. Notification of expiry

(1) The owner of a leasehold scheme must, at least 1 month before the expiry of the scheme, lodge with the Registrar of Titles notice, in the approved form, of the impending expiry of the leasehold scheme.

(2) If the owner of a leasehold scheme fails to give the necessary notice, it may be given by an owner of a lot in the scheme and the owner may recover the cost of doing so as a debt in a court of competent jurisdiction from the owner of the leasehold scheme.

Note for this section:

Expiry of a leasehold scheme does not require an approval of a subdivision of land as the expiry is approved as part of the process of initial subdivision by the scheme.

Division 3 — Termination proposal

173. Proponent

The termination of a strata titles scheme may be proposed by a person (the ***proponent***) who is —

(a) the owner of a lot in the strata titles scheme; or

(b) a person who has a contractual right to purchase a lot in the strata titles scheme; or

(c) a body corporate formed by 2 or more such persons.

174. Outline of termination proposal

(1) The proponent of a proposal to terminate a strata titles scheme (a ***termination proposal***) must submit an outline of the proposal to —

(a) the strata company for the scheme; and

(b) if it is a leasehold scheme, the owner of the leasehold scheme.

(2) However, an outline of a termination proposal cannot be submitted to a strata company or owner of a leasehold scheme —

(a) during any period commencing when an ordinary resolution has been passed by the strata company in support of an outline of another termination proposal and ending when that proposal cannot proceed further under this Division; or

(b) during any period (not exceeding 12 months) for which the strata company has, by ordinary resolution, prohibited termination proposals being submitted to it; or

(c) during any period for which the Tribunal has, on application by the strata company or the

owner of the leasehold scheme, prohibited termination proposals being submitted.

(3) A strata company to which an outline of a termination proposal is submitted in accordance with this section must, within 14 days after being given the proposal —

(a) serve it on each person who is —

(i) the owner of a lot in the strata titles scheme; or

(ii) a registered mortgagee of a lot in the strata titles scheme;

and

(b) lodge with the Registrar of Titles notice of receipt of the outline in the approved form.

(4) The strata company must, on completion of the requirements under subsection (3), give written notice of that fact to the proponent of the termination proposal.

(5) Any modification of an outline of a termination proposal proposed by the proponent of the proposal must be submitted and served in the same manner as for the outline.

175. Content of outline of termination proposal

(1) An outline of a termination proposal must —

(a) specify the name and address for service of the proponent of the proposal; and

(b) identify the strata titles scheme proposed to be terminated; and

(c) provide an explanation of the reasons for proposing termination of the strata titles scheme, including (without limitation), if the difficulty of raising sufficient contributions for repair of scheme buildings or infrastructure on

common property is a reason for the proposal, a statement of that reason; and

(d) describe, in general terms, any proposals for contracts to be offered to owners of lots in the strata titles scheme; and

(e) describe, in general terms, what is proposed in terms of subdivision and development of the land following termination of the strata titles scheme; and

(f) describe the planning approvals required for the proposal described under paragraph (e) and the extent to which the proposal does not comply with a relevant planning scheme or interim development order in force under the *Planning and Development Act 2005*; and

(g) indicate, in general terms, the stages and timeframes for progress of the proposal if it proceeds; and

(h) provide an explanation, in the approved form, of the process for, and consequences of, termination of a strata titles scheme under this Division; and

(i) if, under the regulations, the proponent of the proposal will be required to make arrangements for the obtaining of independent advice or representation for owners of lots affected by the proposal, provide details of the proposed arrangements; and

(j) include any other information required by the regulations.

(2) This section does not limit the matters that can be included in an outline of a termination proposal.

(3) An outline of a termination proposal must be in the approved form.

176. Ordinary resolution and support of owner of leasehold scheme required to proceed further

(1) A termination proposal can only proceed further if, within 3 months after an outline of the proposal has been submitted as required under section 175 —

(a) for a freehold scheme — the strata company passes an ordinary resolution supporting consideration of a full proposal; and

(b) for a leasehold scheme —

(i) the owner of the leasehold scheme gives written notice to the strata company supporting consideration of a full proposal; and

(ii) the strata company passes an ordinary resolution supporting consideration of a full proposal.

(2) For a 2-lot scheme, an ordinary resolution is taken to be passed supporting consideration of a full proposal if the vote attached to 1 of the lots is cast in favour of the resolution (regardless of the unit entitlement of the lot).

177. Approval of plan of subdivision

(1) If the requirements of section 176 are met and a termination proposal can proceed further —

(a) the proponent of the proposal can then make an application under the *Planning and Development Act 2005* Part 10 for approval of a plan of subdivision for the proposal (that is, for the parcel to cease being subdivided by a strata titles scheme); and

(b) the owner of the land is taken to have consented to the proponent making the application under the *Planning and Development Act 2005*.

(2) The *Planning and Development Act 2005* applies to the application subject to the following modifications —

(a) a reference to subdivision is to be read as including a reference to termination of a strata titles scheme;

(b) any other modifications set out in the regulations.

178. Full proposal

(1) If approval of a plan of subdivision is obtained as referred to in section 177, the proponent of the proposal can then submit a full proposal for the termination of the strata titles scheme to —

(a) the strata company for the scheme; and

(b) if it is a leasehold scheme, the owner of the leasehold scheme.

(2) However, a full proposal cannot be submitted to a strata company or owner of a leasehold scheme —

(a) if it is more than 12 months since the requirements of section 176 were met for the proposal; or

(b) during any period for which the Tribunal has, on application by the strata company or the owner of the leasehold scheme, prohibited termination proposals being so submitted.

(3) For a leasehold scheme, the proponent must give written notice to the owner of the leasehold scheme of the date on which the proponent submitted the full proposal to the strata company.

(4) A strata company to which a full proposal is submitted in accordance with this section must, within 14 days after being given the proposal —

(a) serve it on each person who is —

(i) the owner, occupier, registered mortgagee or caveator of a lot in the strata titles scheme; or

(ii) a person whose interest in a lot in the strata titles scheme as a lessee, tenant or mortgagee is recorded in the roll kept by the strata company; or

(iii) the occupier of common property in the strata titles scheme;

and

(b) lodge with the Registrar of Titles notice of receipt of the proposal in the approved form.

(5) Any modification of the full proposal proposed by the proponent must be submitted and served in the same manner as for the full proposal.

(6) However, a modification cannot be submitted within 14 days before voting on the termination proposal opens.

179. Content of full proposal

(1) A full proposal for the termination of a strata titles scheme must —

(a) include the material required to be included in an outline of a termination proposal; and

(b) be accompanied by the approved plan of subdivision for the proposal; and

(c) describe, in detail, what is proposed in terms of contracts to be offered to owners of lots, including —

(i) contracts for the sale and purchase of lots before termination of the strata titles scheme, including —

(I) the name and address of any buyer; and

(II) the purchase price or a description of how the purchase price is to be determined; and

(III) the terms and conditions of the contracts for sale and purchase, including proposed settlement dates, or a description of how those terms and conditions are to be determined; and

(IV) any deductions proposed to be made out of the purchase price or a description of how those deductions are to be determined;

and

(ii) contracts under which the owner of a lot acquires an interest in land in exchange for the lot, including —

(I) the choices available to owners or the basis for determining those choices; and

(II) the interests in land proposed to be acquired by the owners; and

(III) other terms and conditions of the exchange;

and

(iii) contracts under which the owner of a lot is to have an interest in the land on termination of the strata titles scheme or is to have a right or option for the acquisition of an interest in the land following its subdivision or development;

and

(d) describe, in detail, what is proposed to happen on termination of the strata titles scheme in terms of the discharge, withdrawal, removal or bringing forward of registered mortgages over the lots and other estates and interests in a lot or common property in the scheme that are registered or recorded in the Register; and

(e) describe, in detail, what is proposed to happen on termination of the strata titles scheme in terms of the contractual rights of occupiers of lots or common property in the scheme; and

(f) describe, in detail, what is proposed in terms of subdivision and development of the land following termination, including —

(i) plans for demolition; and

(ii) plans for subdivision; and

(iii) architectural plans for development;

and

(g) describe the planning approvals required for the proposal described under paragraph (f) and the extent to which the proposal does not comply with a relevant planning scheme or interim development order in force under the *Planning and Development Act 2005*; and

(h) indicate, in detail, the stages and timeframes proposed for progress of the proposal if it proceeds, including expectations for when vacant possession of lots and common property will be required; and

(i) describe any proposals for the temporary relocation of owners of lots, including any payments proposed to be made to owners to enable them to arrange temporary relocation; and

(j) include a statement obtained from the strata company of —

(i) its current assets and liabilities; and

(ii) any legal proceedings or pending legal proceedings to which the strata company is or proposes to become a party;

and

(k) specify the steps that will be taken to wind up the strata company, including for the realisation of assets and the discharge or transfer of liabilities for termination of the scheme; and

(l) any other information required by the regulations.

(2) A full proposal must incorporate a report (a ***termination infrastructure report***) comprised of —

(a) a report of a structural engineer on the state and condition of each scheme building and the infrastructure on the common property in the strata titles scheme; and

(b) a report of a person of a class specified in the regulations on the scope of works reasonably required to repair or replace the scheme

buildings or infrastructure taking into account the report of the structural engineer; and

(c) a report of a quantity surveyor estimating the cost of the works identified in the report under paragraph (b).

(3) A full proposal must incorporate a report (a ***termination valuation report***) prepared and certified by a licensed valuer setting out a valuation of the market value of each lot in the strata titles scheme.

(4) The regulations may prescribe matters relating to the determination of the market value of a lot for a termination valuation report.

(5) The valuation must be current as at a date that is not more than 21 days (or, if some other period is specified in the regulations, that period) before submission of the full proposal to the strata company.

(6) A person must, in preparing or certifying a termination infrastructure report or termination valuation report, comply with the requirements of the regulations.

(7) This section does not limit the matters that can be included in a full proposal.

(8) The terms of a termination proposal set out in the full proposal are in substitution for the terms set out in the outline of the termination proposal.

(9) A full proposal, including the termination infrastructure report and the termination valuation report must be in the approved form.

180. Support of owner of leasehold scheme required

(1) A termination proposal for a leasehold scheme cannot proceed further unless, within 3 months after the full proposal is submitted to the strata company, the owner

of the leasehold scheme gives written notice to the strata company that the owner supports the termination proposal.

(2) A strata company must, as soon as reasonably practicable, give written notice to the proponent of the termination proposal of the receipt of a notice under subsection (1).

181. Meetings and submissions

(1) After receipt of a full proposal, 1 or more general meetings of the strata company must be convened to consider the termination proposal (unless it is a proposal that cannot proceed further).

(2) The members of the strata company present at a meeting may, by ordinary resolution (for which notice is not required), require the proponent of the termination proposal to leave the meeting while the proposal is discussed or, if the proponent is not a member of the strata company, to be absent for the whole of the meeting.

(3) The persons on whom a full proposal for the termination of a strata titles scheme must be served by the strata company for the scheme must be given a reasonable opportunity to make submissions to the proponent of the proposal and the strata company.

(4) The council of the strata company may —

(a) discuss a termination proposal with the proponent; and

(b) inform the owners of lots in the strata titles scheme of those discussions and of any clarifications or additional information provided by the proponent; and

(c) make recommendations to the owners of the lots in the strata titles scheme regarding the proposal.

(5) The regulations may impose additional requirements about the process required for consideration of a termination proposal.

182. Vote

(1) A termination proposal must be put to the vote of the owners of the lots in the strata titles scheme (unless it is a proposal that cannot proceed further) and it can only proceed further if a termination resolution is passed.

Note for this subsection:

The terms of the termination proposal are as set out in the full proposal rather than the outline: see section 179(8).

(2) A termination resolution is only effective if the voting period opens at least 2 months after, and closes not more than 6 months after, the service of the full proposal by the strata company under this Division.

(3) A termination proposal may be modified and a further vote taken on the proposal, but no more than 3 such votes may be taken and each vote must be taken within the period referred to in subsection (2).

(4) A person who is independent of the strata company and the proponent of the termination proposal must be appointed to tally and count the votes on the proposal.

(5) The vote must be taken as follows —

(a) 1 vote may be cast for each lot in the strata titles scheme;

(b) the value of each vote is 1.

(6) A termination resolution is passed if the number of votes cast in favour of the termination proposal equals the number of lots in the strata titles scheme.

(7) A termination resolution is passed subject to confirmation of the Tribunal as follows —

(a) for a strata titles scheme with 2 lots — if at least 1 vote is cast in favour of the termination proposal;

(c) for a strata titles scheme with 3 lots — if at least 2 votes are cast in favour of the termination proposal;

(d) for a strata titles scheme with more than 3 lots — if the number of votes cast in favour of the termination proposal is at least 75% of the total number of lots in the scheme.

(8) Section 126(a) does not apply to voting on a termination resolution.

(9) A termination proposal must not be modified in a material particular by the proponent of the proposal after a termination resolution has been passed unless the modification is supported under the same voting arrangements as apply to the termination resolution.

(10) The independent person appointed to tally and count the votes must —

(a) make a record of each vote identifying the lot for which it is cast and the date on which it was cast, and the tally of the votes; and

(b) as soon as reasonably practicable, give written notice to the strata company of the number of votes cast in favour of and against the termination proposal and a statement of whether confirmation of the resolution by the Tribunal is required; and

(c) if confirmation of the resolution by the Tribunal is required, the independent person must provide the record made under paragraph (a) to the strata company in the manner required by

the regulations, but must not otherwise disclose information about who cast votes for or against the proposal or for which lots the votes were cast.

(11) A strata company must, as soon as practicable after a termination resolution is passed —

(a) lodge with the Registrar of Titles notice of that fact in the approved form; and

(b) give written notice of that fact to —

(i) the proponent of the termination proposal; and

(ii) for a leasehold scheme, the owner of the leasehold scheme.

(12) The notice must include a statement of whether or not confirmation of the termination resolution by the Tribunal is required.

(13) The regulations may impose additional requirements about the process required for voting on a termination proposal.

183. Confirmation of termination resolution by Tribunal

(1) If a termination proposal can proceed further only if the Tribunal confirms the termination resolution, the proponent of the proposal can apply to the Tribunal for that confirmation.

(2) The application must be made within 28 days after the date on which the termination resolution is passed or within an extension of that period given by the Tribunal.

(3) The application must be accompanied by —

(a) the full proposal for the termination of the strata titles scheme; and

(b) all written submissions made to the proponent about the termination proposal; and

(c) any other material specified in the regulations.

(4) For the *State Administrative Tribunal Act 2004* section 45(1)(b), the following persons are entitled to a copy of, or notice of, the application —

(a) the strata company for the strata titles scheme; and

(b) for a leasehold scheme, the owner of the leasehold scheme.

(5) The strata company and, for a leasehold scheme, the owner of the leasehold scheme, will be taken to be parties to the proceedings.

(6) The strata company must, within 14 days after being given notice of the application —

(a) serve notice of the application on each person who is —

(i) the owner, occupier or registered mortgagee of a lot in the strata titles scheme; or

(ii) the occupier of common property in the strata titles scheme; or

(iii) a person whom the Tribunal requires to be served with notice of the application;

and

(b) if the strata titles scheme constitutes or includes a retirement village within the meaning of the *Retirement Villages Act 1992* — serve notice of the application on the Commissioner within the meaning of that Act; and

(c) provide the following to the Tribunal (which may then be released by the Tribunal to any

person entitled to appear and be heard or to make submissions) —

(i) for a leasehold scheme, a copy of the notice of support for the termination resolution given by the owner of the leasehold scheme under section 180;

(ii) a record (as provided by the independent person who counted the votes) of each vote on the termination resolution, identifying the lot for which it was cast and the date on which it was cast, and a tally of the votes;

(iii) minutes of all meetings of the strata company or the council of the strata company at which the termination proposal was considered;

(iv) all written submissions made to the strata company about the termination proposal;

(v) the scheme plan, scheme by-laws and schedule of unit entitlements for the strata titles scheme;

(vi) anything else required by the regulations;

and

(d) lodge with the Registrar of Titles notice of the application in the approved form.

(7) A person who is required to be served with notice of the application is entitled to appear and be heard or make written submissions to the Tribunal (as the Tribunal determines).

(8) In proceedings for confirmation of a termination resolution of a strata company, the Tribunal may —

(a) make an order confirming the termination resolution (which may be subject to the termination proposal being modified in a specified manner as set out in subsection (13)); or

(b) make a decision not to make such an order.

(9) The Tribunal can only confirm a termination resolution if the proponent of the termination proposal satisfies the Tribunal that —

(a) the process required by this Division has been complied with; and

(b) under the termination proposal, the owner of a lot in the strata titles scheme who does not support the termination will receive fair market value for the lot or a like for like exchange for the lot; and

(c) the termination proposal is otherwise just and equitable having regard to —

(i) the interests of the owners of the lots in the strata titles scheme; and

(ii) if it is a leasehold scheme, the interests of the owner of the leasehold scheme; and

(iii) the interests of occupiers of the lots and the occupiers of the common property in the strata titles scheme; and

(iv) the interests of registered mortgagees of the lots in the strata titles scheme; and

(v) the interests of any other person with an estate or interest in, or right over, a lot or common property in the strata titles

scheme that is registered or recorded in the Register.

(10) In determining under subsection (9)(b) whether an owner of a lot will receive fair market value for the lot —

(a) the Tribunal must be satisfied that —

(i) the owner will receive an amount that is at least the amount of compensation that would be required to be paid by an acquiring authority under the *Land Administration Act 1997* for taking of the lot without agreement; and

(ii) the owner will not be disadvantaged in terms of the owner's financial position as a result of the termination of the strata titles scheme;

and

(b) in considering the amount of compensation that would be payable under the *Land Administration Act 1997* section 241 —

(i) that section is to be read as if the owner of the lot were the claimant and the proponent of the termination proposal were the acquiring authority; and

(ii) no regard is to be had to any reference to proposed public works nor to the undertaking of improvements after there is a notice of intention; and

(iii) an amount appropriate to compensate for the taking without agreement may be added to the award or offer (but it may not be more than 10% of the amount otherwise awarded or offered unless the

Tribunal is satisfied that exceptional circumstances justify a higher amount);

and

(c) without limitation, regard is to be had to the loss or damage, if any, sustained by the owner by reason of any of the following —

(i) removal expenses;

(ii) disruption and reinstatement of a business;

(iii) liability for capital gains tax, goods and services tax or other tax or duty;

(iv) conveyancing and legal costs and other costs associated with the creation or discharge of mortgages and other interests, including for the acquisition of a replacement property.

(11) In determining under subsection (9)(b) whether an owner of a lot will receive a like for like exchange for the lot, the Tribunal must consider —

(a) whether the value of what is offered in exchange is equivalent to the fair market value of the lot (as set out in subsection (10)); and

(b) how the location, facilities and amenity of what is offered in exchange compares to that of the lot.

(12) Without limiting the factors that the Tribunal can take into account under subsection (9)(c), the Tribunal must consider the following —

(a) any evidence of impropriety in the termination process, including, for example —

(i) evidence of proxy votes being exercised invalidly or votes being affected by

undue influence in connection with the termination resolution; and

(ii) evidence of false or misleading information (whether by inclusion or omission) having been included in the outline of or the full proposal for the termination of the strata titles scheme;

(b) the proportion of owners of lots in favour of and against the termination proposal in terms of numbers of lots and in terms of unit entitlements of lots;

(c) the termination infrastructure report and options reasonably available to address problems identified in the report (including the extent to which contributions would need to be increased for implementation of an option);

(d) any arrangements for the owner of a lot in the strata titles scheme to buy back into the subdivided land following redevelopment;

(e) the benefits and detriments of the termination proposal proceeding or not proceeding for all those whose interests must be taken into account.

(13) If the Tribunal is not satisfied of the matters set out in subsection (9)(b) or (c) but would be satisfied of those matters if the termination proposal were modified in a specified manner, the Tribunal may confirm the termination resolution subject to the termination proposal being modified in the specified manner.

(14) Without limitation, the modifications may include a requirement for the proponent to make a payment to a party to a lease or tenancy agreement over a lot or common property in the strata titles scheme that will

terminate as a consequence of the termination of the scheme.

(15) The modifications must not have the effect of being less advantageous to any owner of a lot in the strata titles scheme, or, if it is a leasehold scheme, the owner of the leasehold scheme, than the termination proposal without modification.

(16) Subsection (15) does not apply to an owner in the capacity of a proponent of the termination proposal.

(17) Without limiting other powers of the Tribunal to make ancillary orders, if the Tribunal makes an order confirming a termination resolution, it may also order that, on specified conditions connected with the termination being met —

(a) the owner of a lot in the strata titles scheme must execute a transfer of ownership of the lot; or

(b) if there is a duplicate certificate of title for a lot in the strata titles scheme, the owner of the lot must deliver the duplicate certificate of title to the Registrar of Titles; or

(c) a person with an estate or interest in, or right over, the whole or a part of the strata titles scheme parcel that is registered or recorded in the Register must take steps necessary for the discharge, withdrawal or other removal, or for the bringing forward, of the estate, interest or right; or

(d) the occupier of a lot or the common property in the strata titles scheme must vacate the lot or common property.

(18) The Tribunal's powers under this section are exercisable only by a judicial member (or by the

Tribunal constituted of a judicial member and other members).

(19) A strata company must, as soon as practicable after being given notice of the decision of the Tribunal on an application under this section —

(a) lodge with the Registrar of Titles notice of the decision in the approved form; and

(b) give written notice of the decision to each person entitled to receive notice of the application.

184. Endorsement of subdivision approval on plan

(1) If a termination proposal can proceed further under section 182 (including, if required, because the Tribunal confirms the termination resolution under section 183) —

(a) the proponent of the proposal can then make a request to the Planning Commission to approve a diagram or plan of survey under the *Planning and Development Act 2005* section 145 and to endorse the approval of the plan of subdivision for the proposal obtained under section 177 on the diagram or plan of survey; and

(b) the owner of the land is taken to have consented to the proponent making the request under the *Planning and Development Act 2005*.

(2) The *Planning and Development Act 2005* applies to a request under subsection (1) subject to any modifications set out in the regulations.

185. Application for termination of scheme

(1) The proponent of a termination proposal can make an application for termination of a strata titles scheme if —

(a) the relevant approval has been obtained as set out in section 184; and

(b) the steps required to be taken before termination of the scheme for winding up the strata company under the termination proposal or an order under section 192 have been taken.

(2) The application must be made within 12 months after the termination resolution has been passed or, if the proposal can only proceed if the Tribunal confirms the termination resolution, after the Tribunal has made an order under section 183 confirming the termination resolution.

186. Withdrawal of termination proposal

(1) If the proponent of a termination proposal makes a decision not to proceed with the proposal, the proponent must, as soon as reasonably practicable, withdraw the proposal by written notice to the strata company and, if it is a leasehold scheme, the owner of the leasehold scheme.

(2) A strata company that is given written notice of the withdrawal of a termination proposal from the proponent of the proposal must, within 14 days after being given the notice —

(a) serve the notice on each person who is —

(i) the owner of a lot in the strata titles scheme; or

(ii) if the full proposal for the termination of the strata titles scheme has been served by the strata company — the occupier

of a lot or the common property in the strata titles scheme; or

(iii) a registered mortgagee of a lot in the strata titles scheme;

and

(b) lodge with the Registrar of Titles notice of the withdrawal of the proposal in the approved form.

187. Notice that termination proposal cannot proceed further

(1) This section applies if a termination proposal cannot proceed further for any of the following reasons —

(a) at the end of 3 months after the outline of the termination proposal has been submitted to the strata company, the requirements of section 176 have not been met;

(b) at the end of 3 months after the full proposal has been submitted to the strata company, the requirements of section 180 have not been met;

(c) at the end of 6 months after service of the full proposal by the strata company, a termination resolution has not been passed;

(d) at the end of 12 months after a termination resolution that does not require the confirmation of the Tribunal has been passed, no application for termination of the strata titles scheme has been made;

(e) the termination resolution requires confirmation of the Tribunal and —

(i) the Tribunal makes a decision not to confirm the resolution; or

(ii) at the end of 12 months after the making of an order under section 183

confirming the termination resolution, no application for termination of the strata titles scheme has been made.

(2) If this section applies, the strata company must —

(a) lodge with the Registrar of Titles notice, in the approved form, that the termination proposal cannot proceed further; and

(b) give written notice confirming that fact to —

(i) the proponent of the termination proposal; and

(ii) for a leasehold scheme, the owner of the leasehold scheme; and

(iii) each member of the strata company.

188. Notices received by Registrar of Titles

If a notice is lodged with the Registrar of Titles under this Division, the Registrar of Titles must —

(a) record a notification in the Register; and

(b) for a notice of withdrawal of a termination proposal or a notice that a termination proposal cannot proceed further, record the notice as a withdrawal of all earlier notifications recorded in the Register about the termination proposal.

189. Costs of process

(1) A strata company may charge the proponent of a termination proposal reasonable fees to cover costs associated with undertaking an activity under this Division.

(2) The fees must not exceed any limits imposed by the regulations.

(3) A strata company need not undertake the relevant activity until the fees have been paid.

(4) If the strata company undertakes the relevant activity before receiving payment for the activity, the strata company can recover, in a court of competent jurisdiction, the fees for the activity as a debt owed to it by the proponent of the termination proposal.

190. Arrangements for independent advice or representation for owners

(1) The regulations may require the proponent of a termination proposal to enter into specified arrangements for the owners of lots in the strata titles scheme proposed to be terminated to obtain independent advice or representation in connection with the proposal.

(2) Without limitation, the arrangements may include a requirement for the proponent of a termination proposal to pay an amount to a trustee to be held in trust for owners of lots who meet specified criteria to obtain independent legal advice or representation, valuation advice or reports or financial or taxation advice in connection with the proposal.

Note for this section:

The main purpose of the arrangements is to ensure that vulnerable owners have access to independent advice about a termination proposal.

Division 4 — Termination by single owner

191. Application for termination by single owner

(1) If all the lots in a strata titles scheme are owned by the same person, that person can make an application for termination of the scheme if, under the *Planning and Development Act 2005* Part 10 —

(a) a plan of subdivision for the termination of the scheme has been approved (that is, for the

parcel to cease being subdivided by a strata titles scheme); and

(b) a diagram or plan of survey has been endorsed with that approval.

(2) The *Planning and Development Act 2005* applies to the required approval subject to the following modifications —

(a) a reference to subdivision is to be read as including a reference to termination of a strata titles scheme;

(b) any other modifications set out in the regulations.

(3) For a leasehold scheme, if the applicant for cancellation of registration of the scheme is not the owner of the leasehold scheme, the application can only be made if the owner of the leasehold scheme has given written consent to the application.

Division 5 — Directions for winding up of strata company

192. Order for directions about winding up of strata company

(1) Before a strata titles scheme is terminated, an application may be made to the Tribunal for an order for directions about winding up the strata company by —

(a) an owner of a lot in the scheme; or

(b) a registered mortgagee of a lot in the scheme; or

(c) the strata company; or

(d) a judgement creditor of the strata company; or

(e) for a leasehold scheme, the owner of the leasehold scheme.

(2) If proceedings are before the Tribunal under section 183, the application may be made in those proceedings.

(3) Without limitation, an order under this section may include directions for —

(a) the sale or disposition of property of the strata company (including to whom and how proceeds must be disbursed); or

(b) the discharge of the liabilities of the strata company; or

(c) the administration and functions of the strata company.

(4) The applicant and any person to whom a copy of the application has been given under the *State Administrative Tribunal Act 2004* section 45, is entitled to appear and be heard on the hearing of the application.

(5) The Tribunal may vary an order made under this section on the application of any person who was entitled to appear and be heard on the hearing of the application for the order.

(6) An order under this section prevails over steps specified in a termination proposal for winding up of the strata company to the extent of any inconsistency.

Division 6 — Notice, application and registration process

193. Notice of expiry or application for termination of scheme

(1) A notice of the expiry of a leasehold scheme or an application for termination of a strata titles scheme must —

(a) be made to the Registrar of Titles; and

(b) be in the approved form; and

(c) for termination, be accompanied by the diagram or plan of survey endorsed with the approval of the Planning Commission under the *Planning and Development Act 2005*; and

(d) be accompanied by evidence in the approved form that the requirements of this Act for the termination of the scheme have been complied with; and

(e) be accompanied, if applicable, by —

(i) a statement (in the approved form) of how each item registered or recorded for the scheme in the Register is to be dealt with; and

(ii) disposition statements, instruments or documents necessary for that purpose;

and

(f) be accompanied by the fee fixed by the regulations.

(2) An application for termination of a strata titles scheme can be made before the diagram or plan of survey required for termination of the scheme is endorsed with the approval of the Planning Commission but the

registration of the scheme cannot be cancelled until the diagram or plan of survey is so endorsed.

194. Registration process for termination of scheme

(1) The Registrar of Titles must, to give effect to the termination of a strata titles scheme on an application for termination made in accordance with section 193 —

(a) cancel the registration of the strata titles scheme; and

(b) cancel the certificates of title for the lots in the strata titles scheme; and

(c) for a leasehold scheme, record on or in connection with the certificate of title for the parcel the fact that the scheme is terminated.

(2) The Registrar of Titles must, to give effect to the termination of a leasehold scheme with effect from the end of the expiry day for the scheme on a notice of expiry given in accordance with section 193 —

(a) cancel the registration of the strata titles scheme; and

(b) cancel the certificates of title for the lots in the strata titles scheme; and

(c) record on or in connection with the certificate of title for the parcel the fact that the scheme is terminated.

(3) The Registrar of Titles must take the action required under this section in the manner that the Registrar of Titles considers appropriate for incorporation in the Register under the *Transfer of Land Act 1893*.

195. Effect of termination of scheme

(1) A strata titles scheme is terminated —

(a) for a leasehold scheme —

(i) at the end of the expiry day for the scheme; or

(ii) if the registration of the scheme is cancelled before that day, when the cancellation of the registration of the scheme is registered or recorded by the Registrar of Titles;

or

(b) for a freehold scheme, when cancellation of the registration of the scheme is registered or recorded by the Registrar of Titles.

(2) On termination of a strata titles scheme, the following occur —

(a) the scheme documents cease to have any effect;

(b) the lots and common property cease to exist;

(c) the land becomes a parcel of land that is not subdivided by a strata titles scheme;

(d) for a leasehold scheme —

(i) the person who was the owner of the leasehold scheme immediately before termination becomes the owner of the parcel of land and is entitled to vacant possession of the land; and

(ii) if the leasehold by-laws (as in force immediately before termination of the scheme) provided for the payment of compensation on the expiry of the scheme — the owner of the parcel of land (from time to time) is liable to pay compensation to the persons who were

owners of lots in the scheme immediately before its termination as required under those by-laws;

(e) for a freehold scheme — the persons who were owners of the lots immediately before termination of the strata titles scheme become the owners of the parcel of land as tenants in common in shares proportional to the unit entitlements of their respective lots immediately before termination of the scheme (or, if there was only 1 such owner, the person becomes the owner of the parcel of land);

(f) the strata company ceases to exist;

(g) all rights vested in the strata company immediately before it ceased to exist are vested in the persons who become the owners of the parcel of land on termination of the scheme;

(h) the persons who become the owners of the parcel of land on termination of the scheme become jointly and severally liable for all of the liabilities of the strata company subsisting immediately before it ceased to exist (and those persons are liable to contribute amongst themselves in shares proportional to the unit entitlements of their respective lots immediately before termination of the scheme);

(i) legal proceedings begun by or against the strata company may be completed by or against the persons who were owners of lots in the scheme immediately before its termination.

(3) If 2 or more persons own a lot in a strata titles scheme, or are the owners of a leasehold scheme, that is terminated, the owners hold their share in the new parcel of land as tenants in common or as joint tenants in the same manner as they owned the lot or scheme

and, if they owned it as tenants in common, in the same proportions as they owned the lot or scheme.

Division 7 — Termination on compulsory acquisition

Part 13 — Tribunal proceedings

197. Scheme disputes

(1) This Part provides for resolution by the Tribunal of the following disputes (***scheme disputes***) —

(a) a dispute between scheme participants about —

(i) the scheme documents, including the validity of scheme by-laws; or

(ii) the performance of, or the failure to perform, a function conferred or imposed on a person by this Act or the scheme by-laws; or

(iii) an alleged contravention of this Act (other than an offence); or

(iv) a resolution or decision of a strata company or the council of a strata company, including its validity; or

(v) the appointment or election of a member of the council or an officer of a strata company, including its validity; or

(vi) any other matter arising under this Act or the scheme by-laws;

(b) a dispute between an applicant for the registration of a strata titles scheme or amendment of a strata titles scheme and a person whose consent to the application is required, or who may object to the application, relating to the consent or objection;

(c) if the scheme by-laws (other than leasehold by-laws, staged subdivision by-laws and exclusive use by-laws) require the approval or consent of a person, other than the Planning Commission or a local government, to the amendment or repeal of certain scheme by-laws, a dispute between that person and the strata company about a refusal to give an approval or consent;

(d) a dispute between an infrastructure owner and a strata company about a matter connected with a common property (utility and sustainability infrastructure) easement;

(e) a dispute between the scheme developer of a subdivision of land by a strata titles scheme and a strata company about a matter arising under Part 6;

(f) a dispute between an applicant under section 107 and the strata company about a matter arising under Part 8 Division 1 Subdivision 6;

(g) a dispute between a strata manager, or former strata manager, of a strata company and the strata company about —

(i) a matter arising under Part 9; or

(ii) the strata management contract; or

(iii) the performance of, or the failure to perform, a function conferred or imposed on the strata manager;

(h) a dispute between a buyer or prospective buyer of a lot in a strata titles scheme and the seller of the lot about a matter arising under Part 10;

(i) a dispute of a class specified in the regulations.

(2) The following are ***scheme participants*** —

(a) the strata company for the strata titles scheme;

(b) for a leasehold scheme, the owner of the leasehold scheme;

(c) a person who is appointed as an administrator of a strata company for the strata titles scheme;

(d) a member of the strata company for the strata titles scheme;

(e) the occupier of a lot in the strata titles scheme;

(f) the registered mortgagee of a lot in the strata titles scheme;

(g) a member of the council of a strata company, or an officer of the strata company, for the strata titles scheme, who is not a member of the strata company.

(3) The following are not ***scheme disputes*** —

(a) a dispute with the Planning Commission or some other planning authority or a dispute that can be the subject of a review under the *Planning and Development Act 2005* Part 14;

(b) a dispute with the Registrar of Titles;

(c) a dispute with the Valuer-General or a rating or taxing authority;

(d) a dispute about a contract of mortgage insurance under section 84;

(e) a contractual dispute, or a dispute about an estate or interest in land, between —

(i) a scheme participant and a person who is not a scheme participant (other than a dispute arising out of termination of a contract under section 115); or

(ii) the owner of a lot and a buyer, mortgagee or prospective buyer or mortgagee of the lot (other than a

dispute of a kind referred to in subsection (1)(f) or (h));

(f) a dispute about an amount owed as a debt (other than a debt owed under section 99(2) or clause 53E);

(g) a dispute of a kind declared by the regulations not to be a scheme dispute.

(4) An application for resolution of a scheme dispute can be made to the Tribunal by a party to the dispute.

(5) However, the occupier of a lot in a strata titles scheme can only apply for resolution of a scheme dispute under subsection (1)(a) if the dispute is about —

(a) the scheme by-laws; or

(b) a resolution or decision of the strata company that directly affects the occupier; or

(c) an obligation or right of the occupier under this Act or the scheme by-laws.

198. Procedure

(1) The Tribunal may, on application by a member of a strata company, if it is satisfied that a strata company has unreasonably refused to make an application to the Tribunal under this Act —

(a) authorise the member to make the application on behalf of the strata company; and

(b) authorise expenditure up to a specified amount from a fund of the strata company for legal advice and legal action for the proceeding.

(2) For the *State Administrative Tribunal Act 2004* section 45(1)(b), the following persons are entitled to a copy of, or notice of, an application to the Tribunal under this Act to which a strata company is a party —

(a) each member of the strata company;

(b) each mortgagee of a lot who has given written notice of the mortgagee's interest to the strata company;

(c) the occupier of each lot in the strata titles scheme that would be affected if the order sought were made.

(3) For the *State Administrative Tribunal Act 2004* section 45(1)(b), each mortgagee of a lot is entitled to a copy of, or notice of, an application to the Tribunal under this Act to which the owner of a leasehold scheme is a party.

(4) Despite the *State Administrative Tribunal Act 2004* section 45 —

(a) the entitlement is to a copy of the application unless there is an approved form for the purpose, in which case, the entitlement is to notice in the approved form; and

(b) if the applicant is not the strata company —

(i) the obligation to give a copy of, or notice of, the application to the persons entitled under subsection (2) falls on the strata company rather than on the applicant; and

(ii) section 45(3) of that Act applies as if the strata company were the applicant.

(5) In addition to the circumstances in which the *State Administrative Tribunal Act 2004* section 47 applies, that section applies to a scheme dispute if the Tribunal —

(a) is not satisfied that the nature of the dispute is more than trivial; or

(b) is not satisfied that the applicant has an interest in the matter that is more than trivial and

warrants recourse by the applicant to the Tribunal; or

(c) is satisfied that the purpose of the application is to harass or annoy, or to cause delay or detriment, or is otherwise wrongful; or

(d) is satisfied that the nature and gravity of the dispute is such that it is reasonable to expect the parties to resolve the dispute without recourse to the Tribunal.

(6) The Tribunal may make a final decision in proceedings under this Act at a directions hearing if the Tribunal considers that appropriate.

Note for this section:

Under the *State Administrative Tribunal Act 2004* Part 4 Division 2 the Tribunal may, amongst other things —

- strike out all, or any part, of a proceeding if it considers that the matter, or any aspect of it, would be more appropriately dealt with by another tribunal, a court or any other person; or
- dismiss or strike out a proceeding if it believes that it is frivolous, vexatious, misconceived or lacking in substance, is being used for an improper purpose or is otherwise an abuse of process; or
- direct that proceedings be consolidated or split.

Under section 38 of that Act, the Tribunal may order that a person be joined as a party to a proceeding.

199. Declarations

(1) In a proceeding under this Act, the Tribunal may make a declaration concerning a matter in the proceeding instead of any order the Tribunal could make, or in addition to any order the Tribunal makes, in the proceeding.

(2) The Tribunal's power to make a declaration is exercisable only by a legally qualified member (or by

the Tribunal constituted of a legally qualified member and other members).

(3) Without limitation, a declaration may be made that —

(a) a specified person has or has not contravened a specified provision of this Act, the scheme by-laws or a strata lease; or

(b) a specified clause of a strata lease is or is not invalid; or

(c) a specified scheme by-law is or is not invalid; or

(d) a specified decision or resolution of a strata company is or is not invalid; or

(e) a specified appointment or election of a member of a council of a strata company or an officer of a strata company is or is not invalid; or

(f) a settlement date for a contract for the sale and purchase of a lot was or was not validly postponed under this Act; or

(g) a contract for the sale and purchase of a lot was or was not validly avoided under this Act.

200. Orders

(1) In a proceeding under this Act, the Tribunal may make any order it considers appropriate to resolve the dispute or proceeding.

(2) Without limitation, the orders that may be made by the Tribunal on an application under this Act include the following —

(a) an order requiring a scheme document to be amended in a specified manner (including in a manner that effects a subdivision);

(b) an order requiring a structural element by reference to which a lot in a strata scheme is defined to be reinstated following its damage, destruction or removal;

(c) an order determining the form and location of utility conduits to provide specified utility services subject to a utility service easement;

(d) an order requiring the scheme developer of a subdivision of land by a strata titles scheme to pay a specified amount to a strata company, being the whole or a part of the remuneration or the value of a benefit that the scheme developer failed to disclose as required under section 79;

(e) an order determining action that must be taken or refrained from being taken by a member of a strata company under section 98;

(f) an order authorising a specified person to convene and preside at a general meeting of a strata company —

(i) as the first annual general meeting; or

(ii) to appoint or elect members of the council or officers of the strata company; or

(iii) for some other specified purpose;

(g) an order authorising a specified person to convene and preside at a meeting of the council of a strata company —

(i) to appoint or elect officers of the strata company; or

(ii) for some other specified purpose;

Note for paragraphs (f) and (g):

The order may require the meeting to be held within a specified period or require notice of the meeting to be given in a specified manner.

(h) an order removing a specified person from office as a member of the council of a strata company or as an officer of a strata company;

(i) an order appointing a specified person as a member of the council of a strata company or as an officer of a strata company to replace a person removed from office;

(j) an order varying or terminating a strata management contract;

(k) an order requiring a strata manager to pay a specified amount to a strata company, being the whole or a part of the remuneration or the value of a benefit that the strata manager failed to disclose as required under section 145(2)(b) or section 147;

(l) an order requiring a strata company to take specified action or to refrain from taking specified action in the performance or exercise of its functions, including the following —

(i) an order to sell or acquire real or personal property;

(ii) an order to enter into, vary or terminate a contract, including a contract for services or amenities to the strata company or the members of the strata company;

(iii) an order that a particular insurance claim be pursued;

(iv) an order that the amount of insurance cover be varied;

(v) an order to allow the keeping of an animal on specified conditions or prohibit the keeping of an animal on a lot or common property;

(m) an order requiring a person to take specified action or to refrain from taking specified action to remedy a contravention or prevent further contraventions of this Act, scheme by-laws or a strata management contract;

(n) an order that the strata company is to be taken to have passed or not to have passed a specified resolution required under this Act or the scheme by-laws as an ordinary resolution, special resolution, resolution without dissent or unanimous resolution;

(o) an order requiring a party to the proceeding before it to pay money to —

(i) a person specified in the order by way of compensation for any pecuniary loss or damage suffered; or

(ii) another party to a contract for the purpose of adjusting the position or rights of the parties consequentially on the termination or variation of the contract under the order;

(p) if a declaration is made that a contract for the sale and purchase of a lot was validly avoided under this Act, an order requiring a person who is holding a deposit or other moneys in trust to pay the deposit or other moneys to the former buyer;

(q) an order appointing an administrator of a strata company (being a person who has given written consent to the appointment) to perform some or all scheme functions.

(3) If the Tribunal makes an order requiring the payment of money by a strata manager or scheme developer of a subdivision of land by a strata titles scheme, it may, on the application of a party to the proceeding or on its

own initiative, by order, prohibit the strata manager or scheme developer from seeking or enforcing an indemnity from the strata company or any other party for the required payment.

(4) An order may specify that it is to be taken to have come into effect on a date earlier than the date of the order.

(5) An order may be made to take effect on default being made in complying with some other order made by it.

(6) An order requiring amendment of a scheme document —

(a) must specify the extent to which the amendment is subject to the obtaining of the approvals and consents that would otherwise be required under this Act; and

(b) does not take effect until the Registrar of Titles registers the amendment of the scheme document.

(7) An order may be expressed to remain in force for a specified period, until a specified event or until further order.

201. Interim orders

(1) In a proceeding under this Act, the Tribunal may make an order on an interim basis (an ***interim order***) if satisfied that by reason of the urgent circumstances of the case it should do so.

(2) An interim order remains in force for the period (not exceeding 3 months) specified in the order and may be renewed by further order of the Tribunal for subsequent periods (not exceeding, in any case, 3 months).

(3) An interim order may be made or renewed even if the period for parties to make written submissions has not expired.

(4) An interim order is subject to variation or revocation by further order of the Tribunal.

202. Decision not to make order or declaration

In a proceeding under this Act, the Tribunal may make a decision not to make an order or declaration.

203. Certain powers only exercisable by judicial member or legally qualified member

(1) The Tribunal's power to make an order under this Act is exercisable only by a judicial member (or by the Tribunal constituted of a judicial member and other members) if —

(a) the order affects a title to land (including through re-entry of a strata lease); or

(b) the order is an order confirming a termination resolution (as set out in section 183(18)); or

(c) the order is of a class required by the regulations to be made by a judicial member.

(2) The Tribunal's power to make an order under this Act is exercisable only by a legally qualified member (or by the Tribunal constituted of a legally qualified member and other members) if the order is of a class required by the regulations to be made by a legally qualified member.

204. Limitations on orders

In a proceeding under this Act, the Tribunal cannot —

(a) make an order requiring a schedule of unit entitlements for a strata titles scheme to be amended unless it is satisfied that, if unit

entitlements were to be allocated at the time of the order, the schedule of unit entitlements would require amendment; or

(b) make an order that the strata company is to be taken to have passed —

(i) a termination resolution; or

(ii) a resolution required for postponement of the expiry day for a leasehold scheme; or

(iii) a resolution fixing or varying contributions unless the Tribunal is satisfied that the contributions fixed by the strata company are inadequate or excessive; or

(iv) a resolution fixing or varying the interest rate applicable to contributions unless the Tribunal is satisfied that the interest rate fixed by the strata company is unreasonable; or

(v) a resolution determining arrangements for payment of contributions in instalments unless the Tribunal is satisfied that the arrangements allowed by the strata company are unreasonable;

or

(c) make an order that the amount of insurance cover be varied unless satisfied that the amount for which the strata company has insurance as required by this Act is inadequate or excessive; or

(d) make an order to allow the keeping of an animal on specified conditions or prohibit the keeping of an animal on a lot or common

property unless satisfied that the strata company has acted unreasonably; or

(e) make an order by way of compensation for personal injury or death; or

(f) make an order for the payment of money to resolve a dispute between a buyer or prospective buyer of a lot in a strata titles scheme and the seller of the lot about a matter arising under Part 10 (other than to order repayment of a deposit or other money); or

(g) make an order in circumstances prohibited under the regulations.

205. Administrator of strata company

(1) An order of the Tribunal appointing an administrator of a strata company may specify conditions of appointment of the administrator.

(2) If the Tribunal makes an order appointing an administrator of a strata company —

(a) no person other than the administrator may, while the order remains in force, perform a function that the administrator is authorised to perform under the order; and

(b) any act or thing done or suffered by the administrator in the performance of a function under the order has the same effect as it would have had if the order had not been made and it had been done or suffered by the person or body who, but for the order, would have been entitled or required to perform the function; and

(c) the Tribunal may, by further order, vary or revoke the appointment.

(3) An administrator of a strata company appointed by the Tribunal must, after performing a function under the order —

(a) make a written record specifying the function and the manner of its performance; and

(b) serve the record on the strata company.

206. Contributions for money payable by strata company

If the Tribunal makes an order that requires the payment of money by a strata company, the Tribunal may, on the application of a party to the proceeding or on its own initiative, by order —

(a) direct that the money (and any expenses and costs of making the payment) must be paid out of contributions levied in relation to the lots in the strata titles scheme, and in the proportions, specified in the order; and

(b) direct the strata company to levy contributions in accordance with the order; and

(c) prohibit the strata company from levying a contribution that would be payable by another party to the dispute.

207. Enforcement of order to act

(1) An application for an order under this section can be made by a person who was the applicant in a proceeding under this Act in which an order to act was made.

(2) If the Tribunal is satisfied that an order to act has not been complied with, or has been complied with in part only, by the person to whom it was given, the Tribunal may —

(a) vary, revoke or substitute the order to act; and

(b) make an order that the person to whom the order to act was given pay to the applicant a specified amount by way of compensation for the failure to act or to refrain from acting.

(3) Subsection (2) applies whether or not the person to whom the order to act was given has been convicted of an offence under the *State Administrative Tribunal Act 2004* section 95 before the revocation of the order.

(4) The variation, revocation or substitution of an order does not affect —

(a) anything done under the order before the revocation; or

(b) a penalty that has been or may be imposed under the *State Administrative Tribunal Act 2004* section 95 for the failure to comply with the order.

208. Order overrides existing scheme by-laws

If an order of the Tribunal under this Act is inconsistent with scheme by-laws as in force when the order is made, the order prevails over the by-laws to the extent of the inconsistency.

Note for this section:

If scheme by-laws are inconsistent, the Tribunal may make an order requiring by-laws to be amended in a specified manner.

209. Original jurisdiction

Unless otherwise provided in this Act, a proceeding before the Tribunal under this Act comes within the Tribunal's original jurisdiction.

210. Internal review of order or declaration

(1) If, in a proceeding before the Tribunal under this Act, the Tribunal is constituted without a judicial member and the Tribunal makes an order, or declaration, of a kind specified in the regulations, a party to the proceeding may apply for internal review of the order or declaration.

(2) However, an application for internal review of an order or declaration can be made only if —

(a) leave is given by the Tribunal (constituted as required for an internal review under this section); and

(b) the application is made within 28 days after the order or declaration is made or within an extension of that period given by the President.

(3) For an internal review of an order or declaration, the Tribunal must be constituted of —

(a) a judicial member or a senior member who is a legally qualified member; and

(b) such other members, if any, as the President considers appropriate.

(4) On an internal review of an order or declaration, the Tribunal may —

(a) affirm the order or declaration; or

(b) vary the order or declaration; or

(c) set aside the order or declaration and substitute another order or declaration.

(5) Unless otherwise provided by the regulations, the *State Administrative Tribunal Act 2004* Part 3 Division 3 Subdivision 3 applies in relation to an internal review of an order or declaration.

(6) The regulations may modify the operation of the *State Administrative Tribunal Act 2004* for an internal review of an order or declaration.

Part 14 — Miscellaneous

215. Address for service

(1) An address for service provided under this Act must be an address of a place within Australia.

(2) An electronic address may be provided as an additional address for service under this Act.

216. Service of documents on strata company, owners and others

(1) A document required or authorised by this Act, another written law or scheme by-laws to be served on a strata company or on all owners of lots in a strata titles scheme may be served —

(a) by serving it on a member of the council of the strata company; or

(b) by sending it to the strata company's address for service (by post if it is a postal address or by electronic transmission if it is an electronic address); or

(c) by leaving it in the letterbox provided by the strata company under section 104(3)(a).

(2) Subsection (1) applies even if the document is required to be served personally on a strata company.

(3) A document required or authorised by this Act or scheme by-laws to be served on the owner of a leasehold scheme may be served —

(a) by serving it on the owner personally; or

(b) by sending it to the owner's address for service as appearing on the roll maintained under section 105 (by post if it is a postal address or by electronic transmission if it is an electronic address).

(4) A document required or authorised by this Act or scheme by-laws to be served on the owner of a lot in a strata titles scheme may be served —

(a) by serving it on the owner personally; or

(b) by sending it to the owner's address for service as appearing on the roll maintained under section 105 or as last notified in writing under section 106 (by post if it is a postal address or by electronic transmission if it is an electronic address); or

(c) if there is no such address for service, by sending it by post to the owner to the address of the lot; or

(d) by serving it in a manner authorised for service on the owner of a lot by the scheme by-laws.

(5) If there are 2 or more persons who are co-owners of a lot, a document will be taken to be served on the owner of the lot when it has been served on each of those persons.

(6) A document required or authorised by this Act or scheme by-laws to be served on the occupier of a lot may be served —

(a) by serving it on the occupier personally; or

(b) by leaving it with some person apparently of or over the age of 16 years at the address of the lot; or

(c) by sending it by post to the occupier at the address of the lot; or

(d) by serving it in a manner authorised for service on an occupier of a lot by the by-laws of the strata company.

(7) A document required or authorised by this Act or scheme by-laws to be served on a person other than a person who may be served as set out under a preceding subsection may be served —

(a) by serving it on the person personally or by post; or

(b) by leaving it with a person apparently of or over the age of 16 years at the place of residence or place of business of the first-mentioned person; or

(c) if the person has an address for service on the roll maintained by the strata company under section 105, by sending it to that address (by post if it is a postal address or by electronic transmission if it is an electronic address); or

(d) if the person has an interest in the parcel that is registered or recorded in the Register, by sending it by post to the person's address as it appears in the Register; or

(e) by sending it to an electronic address notified to the sender by the first-mentioned person as an address at which service of such notices will be accepted.

(8) For the purposes of this section, service by post must be by pre-paid post.

(9) This section is in addition to the *Interpretation Act 1984* sections 75 and 76.

218. Correction of errors by Registrar of Titles

(1) The Commissioner of Titles may direct the Registrar of Titles to correct errors in the Register.

(2) The Registrar of Titles may correct errors in a scheme document or other document lodged for registration or approval.

(3) A correction of an error under this section may require the deletion of material or the insertion of material.

(4) When correcting an error under this section, the Registrar of Titles must —

(a) for a paper medium, not erase or render illegible the original writing and include the date on which the correction was made together with the Registrar's initials; and

(b) for a digital medium, keep a permanent record of any words or lines deleted and the date on which the correction was made.

(5) A scheme document or other document corrected under this section has the same validity and effect as if the error had not been made except as regards any entry made in the Register before the time of correcting the error.

222. Disposition statement

The regulations may provide for the registration of an instrument (a ***disposition statement***) in conjunction with the registration of a strata titles scheme, an amendment of a strata titles scheme, or the cancellation of the registration of a strata titles scheme, by which —

(a) items registered or recorded for the scheme in the Register are discharged, withdrawn or otherwise removed, or brought forward, under the *Transfer of Land Act 1893*; or

(b) evidence required under this Act is provided.

223. Requirements under Transfer of Land Act

Requirements determined under the *Transfer of Land Act 1893* section 182A may relate to matters arising under this Act.

227. Review of this Act

(1) The Minister must review the operation and effectiveness of this Act as soon as practicable after the expiry of 5 years from the day on which the *Strata Titles Amendment Act 2018* section 4 comes into operation.

(2) The Minister must, as soon as practicable —

(a) prepare a report about the outcome of the review; and

(b) cause a copy of the report to be laid before each House of Parliament.

228. Transitionals and savings: Schedules 3, 4 and 5

(1) Schedules 3, 4 and 5, and any transitional regulations made under section 224 or Schedule 3 clause 26, are additional to and do not prejudice or affect the application of any relevant provisions of the *Interpretation Act 1984*, except where the contrary intention appears.

(2) The purpose of —

(a) Schedule 3 is to effect the transition from the *Strata Titles Act 1966* to this Act as enacted in 1985; and

(b) Schedule 4 is to effect the transition to the *Strata Titles Amendment Act 1995*.

(3) Except where the contrary intention appears, Schedules 3 and 4 are to be construed in accordance

with the purpose set out in subsection (2) and in particular —

(a) a reference in Schedule 3 to a section of this Act is to be construed as a reference to the section as in force immediately after the commencement of the *Strata Titles Act 1985* section 132; and

(b) a reference in Schedule 4 to a section of this Act is to be construed as a reference to the section as in force immediately after the commencement of the *Strata Titles Amendment Act 1995* section 91.

Division 4 — Sections relocated to Parts 2 to 14

84. Sections relocated to Parts 2 to 14

The sections listed in column 1 of the Table below are, after their amendment as set out in Part 2 Division 2 of this Act, renumbered (if relevant) and relocated (in the order set out in the Table) to the Parts, Divisions and Subdivisions inserted by section 83 of this Act as set out in columns 2 and 4 of the Table.

Table

Section number	Renumbered section number	Section heading	Relocation of section
s. 7	s. 87	**Structural alteration of lot in strata scheme**	Part 7 Division 2
s. 7B	s. 89	**Approvals and objections to structural alterations**	Part 7 Division 2

Section number	Renumbered section number	Section heading	Relocation of section
s. 24		**Preliminary determinations by local government**	Part 3 Division 2
s. 26	s. 28	**Review of local government decision**	Part 3 Division 4
s. 28	s. 166	**Variation of strata scheme on damage or destruction of building**	Part 11 Division 1
s. 29	s. 167	**Variation of strata scheme on taking**	Part 11 Division 2
s. 29A	s. 168	**Variation of survey- strata scheme on taking**	Part 11 Division 2
s. 29B	s. 169	**Acquiring authority to lodge redefining plan after partial taking**	Part 11 Division 2
s. 29C	s. 196	**Termination on compulsory acquisition**	Part 12 Division 7
s. 33	s. 103	**Strata company is representative of owners in proceedings**	Part 8 Division 1 Subdivision 4
s. 34	s. 139	**Contract formalities**	Part 8 Division 5
s. 35	s. 91	**General duty**	Part 8 Division 1 Subdivision 1
s. 35A	s. 105	**Roll to be kept by strata company**	Part 8 Division 1 Subdivision 5
s. 36	s. 100	**Administrative and reserve funds and contributions**	Part 8 Division 1 Subdivision 3

Section number	Renumbered section number	Section heading	Relocation of section
s. 37	s. 116	**Powers of strata company generally**	Part 8 Division 1 Subdivision 7
s. 38	s. 94	**Power of strata company to carry out work**	Part 8 Division 1 Subdivision 1
s. 39A	s. 115	**Power to terminate certain contracts for amenities or services**	Part 8 Division 1 Subdivision 7
s. 44	s. 135	**Functions and constitution of councils**	Part 8 Division 4
s. 45	s. 136	**Corporate body may be officer or council member**	Part 8 Division 4
s. 57	s. 84	**Insurance for lot**	Part 7 Division 1
s. 60	s. 67	**Registrar of Titles to deliver copies of plans**	Part 5 Division 4
s. 61	s. 68	**Particulars on plan to be conclusive for rating and taxing purposes**	Part 5 Division 4
s. 62	s. 69	**Rating for strata schemes**	Part 5 Division 4
s. 62A	s. 70	**Rating for survey-strata schemes**	Part 5 Division 4
s. 63	s. 71	**Rating on gross rental value**	Part 5 Division 4
s. 64	s. 72	**Owner may seek a review of unimproved value of parcel**	Part 5 Division 4

Section number	Renumbered section number	Section heading	Relocation of section
s. 65	s. 73	**Land tax and metropolitan region improvement tax: strata schemes**	Part 5 Division 4
s. 65A	s. 74	**Land tax and metropolitan region improvement tax: survey-strata schemes**	Part 5 Division 4
s. 66	s. 75	**Charges for water supplied**	Part 5 Division 4
s. 67	s. 76	**Water service charges under the *Water Services Act 2012***	Part 5 Division 4
s. 122	s. 211	**Other rights and remedies not affected by this Act**	Part 14
s. 122A	s. 212	**Caravan and camping areas not to be subdivided**	Part 14
s. 123	s. 213	**Dividing fences**	Part 14
s. 123B	s. 214	**Internal fencing**	Part 14
s. 124	s. 170	**Notice of application for order under section 166, 167 or 168**	Part 11 Division 3
s. 126	s. 217	**Powers of entry under written laws**	Part 14
s. 129B	s. 219	**Delegation by Commissioner of Titles**	Part 14

Section number	Renumbered section number	Section heading	Relocation of section
s. 129C	s. 220	**Delegation by Registrar of Titles**	Part 14
s. 129D	s. 221	**Money received by Registrar of Titles**	Part 14
s. 130	s. 224	**Regulations**	Part 14
s. 131A	s. 225	**Certain prescribed fees may exceed cost recovery**	Part 14
s. 131B	s. 226	**Expiry of section 225**	Part 14

Note: The heading to section 129D is to read:

Money received by Registrar of Titles

85. References to renumbered provisions in other laws or other documents

A reference in another law or another document to a provision renumbered under this Division is a reference to the provision as renumbered unless the contrary intention appears.

Division 5 — Amendment of Schedules

86. Schedule 1 heading replaced

Delete the heading to Schedule 1 and the reference after it and insert:

Schedule 1 — Governance by-laws

87. Schedule 1 by-law 1 amended

(1) In Schedule 1 by-law 1(1):

(a) delete "A proprietor shall —" and insert:

The owner of a lot must —

(b) in paragraph (a) delete "forthwith" and insert:

immediately

(c) in paragraph (a) delete "by any competent public authority or local government" and insert:

under a written law

(d) in paragraph (a) delete "his" (each occurrence) and insert:

the

(e) in paragraph (b) delete "repair and maintain his" and insert:

maintain and repair the

(f) in paragraph (b) delete "repair," and insert:

condition,

(2) In Schedule 1 by-law 1(1a):

(a) renumber sub-bylaw (1a) as sub-bylaw (1A);

(b) delete "A proprietor shall —" and insert:

The owner of a lot must —

(c) delete paragraph (a) and insert:

(a) notify in writing the strata company immediately on becoming the owner of the lot, including in the notice the owner's address for service for the purposes of this Act; and

(d) in paragraph (b) delete "his" and insert:

the

(3) Delete Schedule 1 by-law 1(2).

Note: The heading to amended by-law 1 is to read:
Duties of owner

88. Schedule 1 by-law 2 deleted

Delete Schedule 1 by-law 2.

89. Schedule 1 by-law 3 amended

(1) In Schedule 1 by-law 3(1):

(a) delete "Where" and insert:

If

(b) delete "proprietor or other" and insert:

owner or

(c) delete "sub-bylaw (2)," and insert:

sub-bylaw (3),

(2) In Schedule 1 by-law 3(2):

(a) delete "shall" and insert:

must

(b) delete "account with an ADI (authorised deposit-taking institution) as defined in section 5 of the *Banking Act 1959* of the Commonwealth" and insert:

ADI account

(c) delete "shall," and insert:

must,

(d) delete "proprietor" and insert:

owner

(3) In Schedule 1 by-law 3(3):

(a) delete "proprietor or other" and insert:

owner or

(b) delete "proprietor" and insert;

owner

(4) In Schedule 1 by-law 3(4):

(a) delete "Where" and insert:

If

(b) delete "he is no longer the proprietor" and insert:

the person is no longer the owner

(c) delete "a proprietor" and insert;

an owner

(d) delete "shall" and insert:

must

(e) delete "his" and insert:

the person's

90. Schedule 1 by-law 4 amended

(1) In Schedule 1 by-law 4(1):

(a) delete "shall," and insert:

must,

(b) delete "shall be" and insert:

is

(2) In Schedule 1 by-law 4(2) delete "proprietor of all the lots shall" and insert:

owners of all the lots

(3) Delete Schedule 1 by-law 4(3) and insert:

(3) If there are not more than 3 lots in the scheme, the council consists of all of the owners of the lots and, if there are more than 3 lots in the scheme, the council consists of not less than 3 nor more than 7 of the owners of the lots, as is determined by the strata company.

(4) In Schedule 1 by-law 4(4):

(a) delete "Where" and insert:

If

(b) delete "proprietors" and insert:

lots in the scheme,

(c) delete "shall" and insert:

must

(d) delete "proprietors" and insert:

lots in the scheme

(5) Delete Schedule 1 by-law 4(5), (6) and (7) and insert:

(6) If there are co-owners of a lot, 1 only of the co-owners is eligible to be, or to be elected to be, a member of the council and the co-owner who is so eligible must be nominated by the co-owners, but, if the co-owners fail to agree on a nominee, the co-owner who owns the largest share of the lot is the nominee or, if there is no co-owner who owns the largest share of the lot, the co-owner whose name appears first in the certificate of title for the lot is the nominee.

(6) In Schedule 1 by-law 4(8):

(a) delete "where" and insert:

if

(b) delete "proprietors," and insert:

owners of lots in the scheme,

(c) delete "his" and insert:

the member's

(7) In Schedule 1 by-law 4(9):

(a) delete "his";

(b) delete paragraphs (a) and (b) and insert:

(a) if the member dies or ceases to be an owner or co-owner of a lot; or

(b) on receipt by the strata company of a written notice of the member's resignation from the office of member; or

(c) in paragraph (c) delete "he" and insert:

the member

(d) delete paragraph (d) and insert:

(d) in a case where the member is a member of the council by reason of there being not more than 3 owners of lots in the scheme, on an election of members of the council (as a result of there being an increase in the number of owners to more than 3) at which the member is not elected; or

(e) in paragraph (e) delete "where he" and insert:

if the member

(f) in paragraph (e) delete "sub-bylaw (8)." and insert:

sub-bylaw (8); or

(g) after paragraph (e) insert:

(f) if the Tribunal orders that the member's appointment is revoked and the member is removed from office.

(8) Delete Schedule 1 by-law 4(10) and (11) and insert:

(10) The remaining members of the council may appoint a person eligible for election to the council to fill a vacancy in the office of a member of the council, other than a vacancy arising under sub-bylaw (9)(c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.

Note for this sub-bylaw:

By-law 6(3A) provides for the filling of vacancies in the offices of chairperson, secretary and treasurer.

(11) Except if 1 person is the owner of all of the lots in the scheme, a quorum of the council is 2 if the council consists of 3 or 4 members; 3, if it consists of 5 or 6 members; and 4, if it consists of 7 members.

(9) In Schedule 1 by-law 4(12) delete "notwithstanding any" and insert:

even if there is a

(10) In Schedule 1 by-law 4(13):

(a) delete "council shall, notwithstanding that" and insert:

council, even if

(b) delete "be" and insert:

are

91. Schedule 1 by-law 5 amended

(1) In Schedule 1 by-law 5 delete "shall" and insert:

must

(2) In Schedule 1 by-law 5(1):

(a) delete "shall determine," and insert:

must determine,

(b) delete "shall consist." and insert:

is to consist.

(3) In Schedule 1 by-law 5(2) delete "chairman shall call upon those persons present" and insert:

chairperson must call on those persons who are present at the meeting in person or by proxy

(4) In Schedule 1 by-law 5(3):

(a) delete "his" and insert:

the

(b) in paragraph (a) delete "chairman" and insert:

chairperson

(c) in paragraph (b) delete "meeting." and insert:

meeting in person or by proxy.

(5) In Schedule 1 by-law 5(4):

(a) delete "chairman — " and insert:

chairperson —

(b) in paragraph (a) delete "where" and insert:

if

(c) in paragraph (a) delete "shall" and insert:

must

(d) in paragraph (b) delete "where" and insert:

if

(e) in paragraph (b) delete "shall" and insert:

must

(6) In Schedule 1 by-law 5(5):

(a) delete "chairman shall —" and insert:

chairperson must —

(b) in paragraph (b) delete "present and entitled to vote a blank paper" and insert:

entitled to vote and present in person or by proxy, a blank form

(c) in paragraph (b) delete "he" and insert:

the person

(d) in paragraph (b) delete "ballot-paper." and insert:

ballot form.

(7) In Schedule 1 by-law 5(6):

(a) delete "shall complete a valid ballot-paper" and insert:

must complete a valid ballot form

(b) in paragraphs (a) and (b) delete "thereon" and insert:

on the form

(c) in paragraph (b) delete "his" and insert:

the person's

(d) in paragraph (b) delete "he" and insert:

the person

(e) in paragraph (b) delete "proprietor" (each occurrence) and insert;

owner

(f) in paragraph (c) delete "ballot-paper; and" and insert:

ballot form; and

(g) in paragraph (d) delete "chairman." and insert:

chairperson.

(8) Delete Schedule 1 by-law 5(7) and insert:

(7) The chairperson, or a person appointed by the chairperson, must count the votes recorded on valid ballot forms in favour of each candidate.

(9) In Schedule 1 by-law 5(8) delete "numbers of votes shall" and insert:

numbers (in terms of lots or unit entitlements as required under the *Strata Titles Act 1985* section 122) of votes are to

(10) In Schedule 1 by-law 5(9):

(a) delete "Where the number" and insert:

If the number (in terms of lots or unit entitlements as required under the *Strata Titles Act 1985* section 122)

(b) delete "shall" and insert:

must

(c) delete "present and entitled to vote." and insert:

entitled to vote and present in person or by proxy.

Note: The heading to amended by-law 5 is to read:
Election of council at general meeting

92. Schedule 1 by-law 6 amended

(1) In Schedule 1 by-law 6(1):

(a) delete "shall" and insert:

must

(b) delete "chairman," and insert:

chairperson,

(2) In Schedule 1 by-law 6(2):

(a) in paragraph (a) delete "shall" and insert:

must

(b) in paragraph (a) delete "he" and insert:

the person

(c) in paragraph (b) delete "one" and insert:

1

(3) Delete sub-bylaw (3) and (4) and insert:

(3) A person appointed to an office referred to in sub-bylaw (1) holds office until the first of the following events happens —

(a) the person ceases to be a member of the council under by-law 4(9);

(b) receipt by the strata company of a written notice of the person's resignation from that office;

(c) another person is appointed by the council to hold that office.

(3A) The remaining members of the council must appoint a member of the council to fill a vacancy in an office referred to in sub-bylaw (1), other than a vacancy arising under by-law 4(9)(c) or (d), and any person so appointed holds office, subject to this by-law, for the balance of the predecessor's term of office.

(4) The chairperson is to preside at all meetings of the council but, if the chairperson is absent from, or is unwilling or unable to preside at, a meeting, the members of the council present at that meeting can appoint 1 of their number to preside at that meeting during the absence of the chairperson.

Note: The heading to amended by-law 6 is to read:

Chairperson, secretary and treasurer of council

93. Schedule 1 by-law 7 amended

(1) In Schedule 1 by-law 7(1) delete "chairman," (each occurrence) and insert:

chairperson,

(2) In Schedule 1 by-law 7(2) delete "a proprietor to act as the chairman" and insert:

an owner of a lot to act as the chairperson

(3) In Schedule 1 by-law 7(3) delete "he" and insert:

the person

Note: The heading to amended by-law 7 is to read:
Chairperson, secretary and treasurer of strata company

94. Schedule 1 by-law 8 amended

(1) In Schedule 1 by-law 8(1) delete "shall" and insert:

must

(2) In Schedule 1 by-law 8(2):

(a) in paragraph (a) delete "shall" and insert:

must

(b) in paragraph (a) delete "him," and insert:

the member

(c) in paragraph (a) delete "meeting;" and insert:

meeting; or

(d) delete paragraph (b) and insert:

(b) employ or engage, on behalf of the strata company, any person as it thinks is necessary to provide any goods, amenity or service to the strata company; or

(e) in paragraph (c) delete "one" and insert:

1

(3) Delete Schedule 1 by-law 8(3) and insert:

(3) A member of a council may appoint an owner of a lot, or an individual authorised under the *Strata Titles Act 1985* section 136 by a corporation which is an owner of a lot, to act in the member's place as a member of the council at any meeting of the council.

(4) In Schedule 1 by-law 8(4):

(a) delete "A proprietor" and insert:

An owner of a lot

(b) delete "he" and insert:

that person

(5) In Schedule 1 by-law 8(5):

(a) delete "he" (each occurrence) and insert:

the person

(b) delete "his" and insert:

the person's

(6) Delete Schedule 1 by-law 8(6).

95. Schedule 1 by-law 9 amended

In Schedule 1 by-law 9:

(a) delete paragraph (c) and insert:

> (c) the supply of information on behalf of the strata company in accordance with the *Strata Titles Act 1985* sections 108 and 109; and

(b) delete paragraph (f) and insert:

> (f) subject to the *Strata Titles Act 1985* sections 127, 128, 129, 200(2)(f) and 200(2)(g) the convening of meetings of the strata company and of the council.

96. Schedule 1 by-law 10 amended

In Schedule 1 by-law 10:

(a) in paragraph (a) delete "proprietors" and insert:

> owners of lots

(b) in paragraph (a) delete "pursuant to the Act; and" and insert:

> under the *Strata Titles Act 1985*; and

(c) in paragraph (c) delete "section 43 of the Act; and" and insert:

> the *Strata Titles Act 1985* section 110; and

(d) delete paragraph (d) and insert:

(d) the keeping of the records of account referred to in the *Strata Titles Act 1985* section 101 and the preparation of the statement of accounts referred to in the *Strata Titles Act 1985* section 101.

97. Schedule 1 by-laws 11 to 15 deleted

Delete Schedule 1 by-laws 11 to 15.

98. Schedule 2 heading replaced

Delete the heading to Schedule 2 and the reference after it and insert:

Schedule 2 — Conduct by-laws

99. Schedule 2 by-law 1 replaced

Delete Schedule 1 by-law 1 and insert:

1. Vehicles and parking

(1) An owner or occupier of a lot must take all reasonable steps to ensure that the owner's or occupier's visitors comply with the scheme by-laws relating to the parking of motor vehicles.

(2) An owner or occupier of a lot must not park or stand any motor or other vehicle on common property except with the written approval of the strata company.

100. Schedule 2 by-law 2 replaced

Delete Schedule 1 by-law 2 and insert:

2. Use of common property

An owner or occupier of a lot must —

(a) use and enjoy the common property in such a manner as not unreasonably to interfere with the use and enjoyment of the common property by other owners or occupiers of lots or of their visitors; and

(b) not use the lot or permit it to be used in such manner or for such purpose as causes a nuisance to an occupier of another lot (whether an owner or not) or the family of such an occupier; and

(c) take all reasonable steps to ensure that the owner's or occupier's visitors do not behave in a manner likely to interfere with the peaceful enjoyment of an owner or occupier of another lot or of a person lawfully using common property; and

(d) not obstruct lawful use of common property by any person.

101. Schedule 2 by-law 3 amended

In Schedule 2 by-law 3:

(a) delete "a proprietor, occupier, or other resident of a lot shall" and insert:

an owner or occupier of a lot must

(b) in paragraph (a) delete "upon" and insert:

on

(c) in paragraph (b) delete "his" and insert:

the owner's or occupier's

102. Schedule 2 by-law 4 amended

In Schedule 2 by-law 4:

(a) delete "A proprietor, occupier, or other resident of a lot shall" and insert:

An owner or occupier of a lot must

(b) delete "upon" and insert:

on

(c) delete "shall" and insert:

must

(d) delete "the proprietor, occupier, or other resident" and insert:

an owner or occupier

Note: The heading to amended by-law 4 is to read:
Behaviour of owners and occupiers

103. Schedule 2 by-law 5 deleted

Delete Schedule 2 by-law 5

104. Schedule 2 by-law 6 amended

In Schedule 2 by-law 6:

(a) delete "A proprietor, occupier, or other resident of a lot shall" and insert:

An owner or occupier of a lot must

(b) delete "upon" and insert:

on

(c) delete "another proprietor, occupier or resident" and insert:

an owner or occupier of another lot

105. Schedule 2 by-law 7 amended

In Schedule 2 by-law 7:

(a) delete "A proprietor, occupier, or other resident of a lot shall" and insert:

An owner or occupier of a lot must

(b) in paragraph (b) delete "his" and insert:

their

Note: The heading to amended by-law 7 is to read:
Drying of laundry items and signage

106. Schedule 2 by-law 8 amended

In Schedule 2 by-law 8:

(a) delete "A proprietor, occupier, or other resident of a lot shall" and insert:

An owner or occupier of a lot must

(b) delete "approval in writing" and insert:

written approval

(c) delete "upon" (each occurrence) and insert:

on

107. Schedule 2 by-law 9 amended

In Schedule 2 by-law 9:

(a) delete "A proprietor, occupier, or other resident of a lot shall" and insert:

An owner or occupier of a lot must

(b) delete "upon" and insert:

on

(c) delete "he" (each occurrence) and insert:

that person

(d) delete "his" and insert:

their

108. Schedule 2 by-law 10 amended

In Schedule 2 by-law 10:

(a) delete "A proprietor of a lot shall" and insert:

An owner of a lot must

(b) delete "the proprietor, occupier, or other resident" and insert:

an owner or occupier

109. Schedule 2 by-law 11 amended

In Schedule 2 by-law 11:

(a) delete "A proprietor" and insert:

An owner

(b) after "lot" insert:

must

(c) in paragraph (a) delete "shall maintain within his" and insert:

maintain within their

(d) in paragraph (c) delete "the proprietor, occupier or other resident" and insert:

an owner or occupier

(e) delete "his" and insert:

their

110. Schedule 2 by-law 12 amended

In Schedule 2 by-law 12:

(a) delete "A proprietor, occupier or other resident shall" and insert:

An owner or occupier of a lot must

(b) in paragraph (a) delete "that he owns, occupies or resides in for any" and insert:

for a

(c) in paragraph (b) delete "any" and insert:

the

(d) in paragraph (c) delete "subject to section 42(15) of the Act, keep any" and insert:

keep

(e) in paragraph (c) after "lot" delete "that he owns, occupies or resides in";

(f) in paragraph (c) delete "him" and insert:

that person

Note: The heading to amended by-law 12 is to read:
Additional duties of owners and occupiers

111. Schedule 2 by-law 13 amended

In Schedule 2 by-law 13:

(a) delete "A proprietor of a lot shall not alter" and insert:

An owner of a lot must not alter or permit the alteration of

(b) delete "shall" and insert:

must

112. Schedule 2 by-law 14 amended

In Schedule 2 by-law 14 "A proprietor, occupier or other resident of a lot shall" and insert:

An owner or occupier of a lot must

113. Schedule 2 by-law 15 inserted

After Schedule 2 by-law 14 insert:

15. Decoration of, and affixing items to, inner surface of lot

An owner or occupier of a lot must not, without the written consent of the strata company, paint, wallpaper or otherwise decorate a structure which forms the inner surface of the boundary of the lot or affix locking devices, flyscreens,

furnishings, furniture, carpets and other similar things to that surface, if that action will unreasonably damage the common property.

114. Schedule 2A replaced

Delete Schedule 2A and insert:

Schedule 2A — Special provisions for single tier strata schemes

Part 1 — Introduction

1. Application of Schedule

(1) This Schedule contains special provisions that apply to a single tier strata scheme.

(2) To the extent of any inconsistency between this Schedule and other provisions of this Act, this Schedule prevails.

2. Meaning of lot and structural cubic space

A reference in this Act to a lot in a strata scheme that is a single tier strata scheme is to be read as if the definitions of ***lot*** and ***structural cubic space*** in section 3(1) read as follows —

lot, in a strata scheme, means 1 or more cubic spaces forming part of the parcel subdivided by the strata scheme, the base of each such cubic space being designated as 1 lot or part of 1 lot on the floor plan forming part of the scheme plan, being in each case, but subject to clause 3AB, cubic space the base of whose vertical boundaries is as delineated on a sheet of that floor plan and which has horizontal boundaries as ascertained under subsection (2), but does not include any structural cubic space except if —

(a) the boundaries of the cubic space are fixed under clause 3AB; or

(b) the boundaries are not so fixed and that structural cubic space —

(i) has boundaries described in accordance with the regulations; and

(ii) is shown in that floor plan as part of a lot;

structural cubic space means —

(a) cubic space occupied by a vertical structural member, not being a wall, of a building; and

(b) utility conduits in a building; and

(c) cubic space enclosed by a structure enclosing utility conduits,

but, except if clause 3AB applies, does not include utility conduits that are for the exclusive use or enjoyment of 1 lot.

2A. Dividing fences

Sections 213 and 214 apply to a single tier strata scheme as if it were a survey-strata scheme.

3. Terms used

In this Schedule —

permitted boundary deviation means a part of a lot that is above or below another lot in a single tier strata scheme in circumstances allowed by the regulations;

single tier strata scheme means a strata scheme —

(a) in which no lot or part of a lot is above or below another lot; or

(b) that would come within paragraph (a) except for any lot that has a permitted boundary deviation.

Part 2 — Lot boundaries

4. Order for extension of period for reinstatement of building without affecting boundary

(1) This clause applies if a part of a building on a lot that constitutes a permitted boundary deviation has been destroyed as mentioned in clause 3AB(2).

(2) An application to the Tribunal for an order under this clause can be made by —

(a) the owner of the lot; or

(b) a registered mortgagee of the lot.

(3) The application must be made within 1 year from the time when the destruction occurred.

(4) An order under this clause is an order extending the period within which the destroyed part of the building may be reinstated.

(5) The period is not to be extended so that the period is more than 5 years from the time the destruction occurred.

(6) An order can only be made under this clause if the Tribunal is satisfied that there are reasonable grounds for the delay in completing the reinstatement.

Part 3 — Statutory easement

Part 4 — Subdivision

Division 1 — Merger of common property into lots in certain strata schemes

Subdivision 1 — Preliminary

Subdivision 2 — Merger by resolution of buildings that are common property

Subdivision 3 — Merger by resolution of land that is common property

Division 2 — Conversion of strata schemes to survey-strata schemes

Part 5 — Insurance

Note:

Clauses are inserted into Schedule 2A through renumbering and relocation of provisions by Division 6.

115. Schedule 3 heading amended

(1) In the heading to Schedule 3 after "**provisions**" insert:

for transition from *Strata Titles Act 1966* to this Act

(2) Delete the reference after the heading to Schedule 3.

116. Schedule 4 heading amended

(1) In the heading to Schedule 4 after "**provisions**" insert:

for the *Strata Titles Amendment Act 1995*

(2) Delete the reference after the heading to Schedule 4.

Division 6 — Sections relocated to Schedule 2A

117. Sections relocated to Schedule 2A

The sections listed in column 1 of the Table below are, after their amendment by Part 2 Division 2 of this Act (if relevant), redesignated as clauses of Schedule 2A (as inserted by section 114 of this Act) and relocated (in the order in which they appear in the Table) to the Parts, Divisions and Subdivisions of that Schedule as set out in columns 2 and 4 of the Table.

Table

Section number	Redesignated clause number	Clause heading	Relocation of clause
s. 3A	cl. 3A	**Single tier strata schemes to which clause 3AB applies**	Schedule 2A Part 2

Section number	Redesignated clause number	Clause heading	Relocation of clause
s. 3AB	cl. 3AB	**Alternative boundaries for lots in single tier strata schemes**	Schedule 2A Part 2
s. 12A	cl. 12A	**Easement for access for certain work**	Schedule 2A Part 3
s. 21A	cl. 21A	**Term used: existing small strata scheme**	Schedule 2A Part 4 Division 1 Subdivision 1
s. 21B	cl. 21B	**Division only applies to single tier strata schemes**	Schedule 2APart 4 Division 1 Subdivision 1
s. 21C	cl. 21C	**Procedures cannot be invoked more than once**	Schedule 2A Part 4 Division 1 Subdivision 1
s. 21D	cl. 21D	**Saving**	Schedule 2A Part 4 Division 1 Subdivision 1
s. 21E	cl. 21E	**Application of this Subdivision**	Schedule 2A Part 4 Division 1 Subdivision 2
s. 21F	cl. 21F	**Resolution by strata company**	Schedule 2A Part 4 Division 1 Subdivision 2

Section number	Redesignated clause number	Clause heading	Relocation of clause
s. 21G	cl. 21G	**Notice of resolution may be lodged for registration**	Schedule 2A Part 4 Division 1 Subdivision 2
s. 21H	cl. 21H	**Registration of notice of resolution**	Schedule 2A Part 4 Division 1 Subdivision 2
s. 21I	cl. 21I	**Effect of registration**	Schedule 2A Part 4 Division 1 Subdivision 2
s. 21J	cl. 21J	**Registrar of Titles to amend strata plan**	Schedule 2A Part 4 Division 1 Subdivision 2
s. 21P	cl. 21P	**Application of this Subdivision**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21Q	cl. 21Q	**Resolution by strata company**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21R	cl. 21R	**Further provisions as to contents of resolution**	Schedule 2A Part 4 Division 1 Subdivision 3

Section number	Redesignated clause number	Clause heading	Relocation of clause
s. 21S	cl. 21S	**Notice of resolution may be lodged for registration**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21T	cl. 21T	**Documents to accompany notice**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21U	cl. 21U	**Certificate of licensed surveyor**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21V	cl. 21V	**Transfers etc. to give effect to notice of resolution**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21W	cl. 21W	**Creation of easements for parking etc.**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21X	cl. 21X	**Registration of notice of resolution**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 21Y	cl. 21Y	**Effect of registration**	Schedule 2A Part 4 Division 1 Subdivision 3

Section number	Redesignated clause number	Clause heading	Relocation of clause
s. 21Z	cl. 21Z	**Registrar of Titles to make necessary amendments**	Schedule 2A Part 4 Division 1 Subdivision 3
s. 31A	cl. 31A	**Division only applies to single tier strata schemes registered before 1 January 1998**	Schedule 2A Part 4 Division 2
s. 31B	cl. 31B	**Saving**	Schedule 2A Part 4 Division 2
s. 31C	cl. 31C	**Resolution by strata company**	Schedule 2A Part 4 Division 2
s. 31D	cl. 31D	**Notice of resolution may be lodged for registration**	Schedule 2A Part 4 Division 2
s. 31E	cl. 31E	**Documents to accompany notice**	Schedule 2A Part 4 Division 2
s. 31F	cl. 31F	**Certificate of licensed surveyor**	Schedule 2A Part 4 Division 2
s. 31G	cl. 31G	**Creation of easements**	Schedule 2A Part 4 Division 2
s. 31H	cl. 31H	**Transfers etc. to give effect to resolution**	Schedule 2A Part 4 Division 2
s. 31I	cl. 31I	**Registration of notice of resolution**	Schedule 2A Part 4 Division 2

Section number	Redesignated clause number	Clause heading	Relocation of clause
s. 31J	cl. 31J	**Effect of registration**	Schedule 2A Part 4 Division 2
s. 31K	cl. 31K	**Registrar of Titles to make necessary amendments**	Schedule 2A Part 4 Division 2
s. 53A	cl. 53A	**References in this Part**	Schedule 2A Part 5
s. 53B	cl. 53B	**Insurance for lots in single tier strata schemes**	Schedule 2A Part 5
s. 53C	cl. 53C	**Insurance for common property in single tier strata schemes**	Schedule 2A Part 5
s. 53D	cl. 53D	**Strata company's obligations if it has insurance function in single tier strata scheme**	Schedule 2A Part 5
s. 53E	cl. 53E	**Recovery of premium by strata company or owner if no administrative fund in single tier strata schemes**	Schedule 2A Part 5

118. References to redesignated provisions in other laws or other documents

A reference in another law or another document to a provision redesignated under this Division is a reference to the provision as redesignated unless the contrary intention appears.

Division 7 — Insertion of transitional provisions

119. Schedule 5 inserted

After Schedule 4 insert:

Schedule 5 — Transitional provisions for *Strata Titles Amendment Act 2018*

1. Terms used

In this Schedule —

amending Act means the *Strata Titles Amendment Act 2018;*

commencement day means the day on which section 4 of the amending Act comes into operation.

2. Continuance of strata titles schemes

(1) The coming into operation of the amending Act does not affect the continued existence of the following —

(a) a strata scheme or survey-strata scheme;

(b) a lot or common property in a strata scheme or survey-strata scheme;

(c) an estate or interest in a lot or common property in a strata scheme or survey-strata scheme;

(d) a strata company, its council or its officers.

(2) Each strata scheme for which a strata plan, and each survey-strata scheme for which a survey-strata plan, is registered immediately before commencement day is taken to be registered as a strata titles scheme.

(3) The strata plan or survey-strata plan, the by-laws of the strata company, and the schedule of unit entitlement for a strata scheme or survey-strata scheme, as registered immediately before commencement day, continue to be registered as scheme documents and can be amended as scheme documents.

3. Scheme notice

The name of a strata titles scheme and the address for service of a strata company remains as it is immediately before commencement day and may be amended as if specified in a scheme notice.

4. Scheme by-laws

(1) The by-laws (including any management statement) of a strata company as in force immediately before commencement day continue in force, subject to this Act, as scheme by-laws and as if they had been made as governance by-laws or as conduct by-laws according to the classification into which they would fall if they had been made on commencement day.

(2) However, all by-laws that are in force immediately before commencement day in the terms set out in Schedule 1 clauses 11 to 15, or Schedule 2 clause 5, as then in force are taken to be repealed on commencement day.

(3) A by-law under section 42(8) as in force immediately before commencement day is taken to be an exclusive use by-law subject to this Act.

(4) A by-law in force immediately before commencement day that could have been made as a staged subdivision by-law if made on the commencement day is taken to be a staged subdivision by-law.

(5) By-laws made by a strata company before commencement day in accordance with the Act as in force when the by-laws were made —

(a) may be registered on or after commencement day even if they could not have been made on or after that day, provided an application for registration is made within 3 months after the making of the by-laws; and

(b) if registered, are taken to have been made as governance by-laws or as conduct by-laws according to the classification into which they

would fall if they had been made on commencement day.

(6) By-laws in force immediately before commencement day that can only be amended or repealed with the consent or approval of the Planning Commission or local government are taken to have been made subject to a planning (scheme by-laws) condition.

(7) Sections 46 and 47 apply to scheme by-laws whether made or registered before, on or after commencement day and a penalty may be imposed by the Tribunal under section 47 whether or not the particular scheme by-law provides for a penalty as set out in section 42A as in force immediately before commencement day.

5. Schedule of unit entitlements

The schedule of unit entitlement registered for a strata scheme or survey-strata scheme immediately before commencement day continues to be registered as the schedule of unit entitlements for the scheme.

6. Council members and officers

(1) A member of the council or officer of a strata company who continues in that capacity on commencement day —

(a) must inform the council in writing, as soon as practicable after that day, of any direct or indirect pecuniary or other interest that the person has that conflicts or may conflict with the performance of a function as a member of the council or, if applicable, an officer of the strata company; and

(b) in the case of a member of the council, must not vote on a matter in which the member has an interest required to be disclosed under paragraph (a).

(2) Subclause (1) does not apply to an interest arising solely from the fact that the member or officer is the owner of a lot in the strata titles scheme.

(3) Subclause (1)(a) does not apply to matters of which the member or officer has already informed the council in writing but subclause (1)(b) does apply to such matters.

7. Applications lodged with Registrar of Titles before commencement day

(1) An application lodged with the Registrar of Titles but not finally dealt with before commencement day of a kind listed below is taken to have been lodged under section 56 as an application for registration of amendment of a scheme plan —

(a) application for registration of plan of re-subdivision under section 8A as in force immediately before commencement day;

(b) application for registration of strata/survey-strata plan of consolidation under section 9 as in force immediately before commencement day;

(c) application for registration of conversion of 1 or more lots into common property under section 10 as in force immediately before commencement day;

(d) application for registration of a transfer of land under section 18 as in force immediately before commencement day;

(e) an application for registration of a lease, transfer of a lease or sub-lease, or the surrender of a lease, under section 18 as in force immediately before commencement day (being an amendment relating to temporary common property);

(f) an application for registration of a transfer of common property under section 19 as in force immediately before commencement day;

(g) an application for registration of the creation or surrendering of an easement or restrictive covenant under section 20 as in force immediately before commencement day.

(2) An application lodged with the Registrar of Titles but not finally dealt with before commencement day for registration

of an amended schedule of unit entitlement under section 15 as in force immediately before commencement day is taken to have been lodged under section 56 as an application for registration of an amendment of the schedule of unit entitlements.

8. Approvals and certificates

(1) For the purposes of an application to the Registrar of Titles involving registration of scheme documents or amendments of scheme documents prepared before commencement day —

(a) a certificate of a licensed surveyor or licensed valuer given in relation to a strata plan, survey-strata plan or schedule of unit entitlement before commencement day in accordance with the Act as then in force is taken to comply with the requirements of the Act as amended by the amending Act; and

(b) an approval of the Planning Commission or local government given under a provision of the Act as in force immediately before commencement day is taken to be an approval under the corresponding provision of the Act as amended by the amending Act.

(2) The regulations may impose time limits within which an application to the Registrar of Titles must be made if it involves registration of scheme documents or amendments of scheme documents prepared before commencement day.

9. Utility service easement

A utility service easement applies to utility conduits whether installed before, on or after commencement day.

10. Scheme developers

(1) Section 79 applies to contracts, leases and licences whether entered into or granted before, on or after commencement day in connection with a subdivision given effect by

registration of a strata titles scheme or an amendment of a strata titles scheme on or after commencement day.

(2) A person who is a scheme developer of a subdivision immediately before commencement day must inform the strata company in writing, as soon as practicable on or after commencement day, of the following for each contract, lease or licence to which section 79 applies —

(a) details of any remuneration or other benefit (including savings connected with installation or commissioning of infrastructure for the provision of services under the contract) that the scheme developer or an associate of the scheme developer has received arising out of the contract, lease or licence;

(b) details of any other direct or indirect pecuniary interest that the scheme developer or an associate of the scheme developer has in the contract, lease or licence, other than as a member of the strata company.

(3) Subclause (2) does not apply to —

(a) matters of which the scheme developer has already informed the strata company in writing; or

(b) a contract, lease or licence relating to a subdivision given effect by registration of a strata titles scheme or an amendment of a strata titles scheme before commencement day.

11. Structural alteration of lot

An application to the Tribunal under section 90 may relate to a structural alteration made before commencement day.

12. Records and correspondence

Section 104(1) extends to records and correspondence made or kept under the Act as in force immediately before commencement day and to records and correspondence in the possession or control of a strata company immediately before commencement day.

13. Strata managers

(1) A person (a ***strata manager***) may continue to perform scheme functions under a contract or volunteer agreement with a strata company that is in force immediately before commencement day for 6 months after that day and this Act applies, for that period, as if those functions were authorised to be performed by the strata manager under section 143 and as if the contract or volunteer agreement were a strata management contract.

(2) Subclause (1) —

(a) applies even if the functions could not be authorised under a strata management contract and even if the strata manager does not meet the requirements set out in section 144; and

(b) is subject to the variation or termination of the contract or volunteer agreement.

(3) A contract or volunteer agreement referred to in subclause (1) ceases to have effect 6 months after commencement day unless the strata manager then meets the requirements set out in section 144 and the contract or volunteer agreement then meets the requirements set out in section 145.

(4) Subject to any direction or resolution of the strata company to the contrary, a volunteer strata manager may continue to perform scheme functions performed by the strata manager immediately before commencement day for 6 months after commencement day even if the functions could not be authorised under a strata management contract and even if the strata manager does not meet the requirements set out in section 144.

(5) A strata manager to whom this clause applies must inform the strata company in writing, as soon as practicable on or after commencement day, of —

(a) any direct or indirect pecuniary or other interest that the strata manager has that conflicts or may conflict

with the performance of the strata manager's functions; and

(b) the amount or value of any remuneration or other benefit that the strata manager receives, or has a reasonable expectation of receiving (other than from the strata company) in connection with the performance of the strata manager's functions.

(6) Subclause (5) does not apply to —

(a) remuneration or any other benefit that is less than an amount or value specified in or calculated in accordance with the regulations; or

(b) matters of which the strata manager has already informed the strata company in writing.

14. Scheme disputes

(1) A scheme dispute may involve an event that occurred, or a matter that arose, before commencement day.

(2) In determining a scheme dispute, the Tribunal may apply the objectives set out in section 119 as if that section had been in force when the event occurred or the matter arose.

15. Administrators

A person who holds office as an administrator of a strata company under this Act immediately before commencement day continues to hold that office on the same terms and conditions and section 205 applies as if the administrator had been appointed under the Act as amended by the amending Act.

16. Schedule 2A

The clauses in Schedule 2A (except those in Part 1) are numbered as they were as sections in the body of the Act immediately before commencement day and anything done under any of those sections that may have effect after that day is taken to have been done under the corresponding clause.

17. Short form easements and restrictive covenants

(1) If the regulations declare that an easement of a specified class created under section 5D as in force immediately before commencement day corresponds to a specified short form easement or restrictive covenant —

(a) an easement of that class that is in force immediately before commencement day is taken to be a short form easement or restrictive covenant of the specified kind; and

(b) the rights and obligations under the easement are those applicable to the specified short form easement or restrictive covenant.

(2) An easement created under section 5D to which subclause (1) does not apply and in force immediately before commencement day —

(a) continues in force on the same terms and conditions as if the amending Act had not been enacted; but

(b) may be discharged by amendment to the scheme plan as if it were a short form easement or restrictive covenant.

18. Restricted use conditions

(1) A restriction on the use to which a parcel or part of a parcel may be put under section 6 as in force immediately before commencement day is taken to be a restricted use condition.

(2) A reference to a retired person in such a restricted use condition is a reference to that term within the meaning of section 6A as in force immediately before commencement day.

19. Approvals for structural alterations

An approval under section 7 or 7A as in force immediately before commencement day is taken to be an approval under section 87 or 88 respectively.

20. Temporary common property

(1) Land leased under section 18 as in force immediately before commencement day is taken to be leased under section 92.

(2) Land noted on a strata plan or survey-strata plan under section 18(4) as in force immediately before commencement day that is leased by the strata company is taken to be temporary common property for the strata titles scheme as if the lease had been accepted under section 92.

21. Termination of strata scheme by unanimous resolution

If the documents required for termination of a strata titles scheme under section 30 or 30A as in force immediately before commencement day are lodged with the Registrar of Titles before commencement day, the Registrar of Titles must take the steps required under that section to terminate the scheme as if the amending Act had not been enacted.

22. Roll

A roll kept by a strata company under section 35A as in force immediately before commencement day is taken to be a roll kept under section 105.

23. Financial management

(1) An administrative fund of a strata company established under section 36 as in force immediately before commencement day is taken to be an administrative fund established under section 100.

(2) A reserve fund of a strata company established under section 36 as in force immediately before commencement day is taken to be a reserve fund established under section 100.

(3) Contributions or other arrangements determined under section 36 as in force immediately before commencement day for any period that continues on or after commencement day are taken to be contributions or arrangements determined under section 100.

(4) Expenditure of a strata company already authorised for the current financial year under section 47 as in force immediately before commencement day but not expended before that day is taken to be authorised under section 102.

24. Extension of contract termination period

Any extension of a period applying to a contract under section 39A as in force immediately before commencement day is taken to have been made under section 115.

25. Provision of information

If an application has been made to a strata company under section 43 as in force immediately before commencement day but not complied with before that day, the strata company must deal with the application as if it had been made under section 107.

26. Authorisation of body corporate

An authorisation of an individual under section 45 as in force immediately before commencement day is taken to have been given under section 136.

27. Restrictions on powers of expenditure

A special resolution under section 47(1)(a) as in force immediately before commencement day is taken to be a special resolution under section 102(6)(a)(i).

28. Insurance in transitional period

For 12 months after commencement day, a strata company is not required to comply with Part 8 Division 1 Subdivision 2 or Schedule 2A Part 5 (as applicable to the strata company) if it complies with Part IV Division 4 of the Act as in force immediately before commencement day.

29. Protection of buyers

Part 5 of the Act as in force immediately before commencement day continues to apply, as if the amending Act had not been enacted, to —

(a) a contract for the sale and purchase of a lot in a strata titles scheme entered into before commencement day; and

(b) the buyer and seller for the contract; and

(c) any person who has been paid money in relation to that contract.

30. Proceedings

(1) A proceeding in the District Court or Tribunal under this Act commenced before commencement day must be dealt with as if the amending Act had not been enacted.

(2) A proceeding under this Act that could have been, before commencement day, commenced in the District Court must instead be commenced in the Tribunal and the Tribunal has jurisdiction to hear and determine the matter.

Part 3 — Other Acts amended

Division 1 — *Building Act 2011* amended

120. Act amended

This Division amends the *Building Act 2011.*

121. Section 3 amended

In section 3 insert in alphabetical order:

strata lease has the meaning given in the *Strata Titles Act 1985*;

122. Section 5 amended

Section 5(1) is amended in the definition of ***owner*** by deleting "freehold," and inserting:

freehold or held in leasehold under a strata lease,

123. Section 50 deleted

Delete section 50.

Division 2 — *Caravan Parks and Camping Grounds Act 1995* amended

124. Act amended

This Division amends the *Caravan Parks and Camping Grounds Act 1995.*

125. Section 5 amended

In section 5(1) in the definition of ***site*** delete paragraph (b) and insert:

(b) that is a lot in a freehold scheme under the *Strata Titles Act 1985*;

Division 3 — *Credit (Administration) Act 1984* amended

126. Act amended

This Division amends the *Credit (Administration) Act 1984*.

127. Section 4 amended

In section 4 in the definition of ***body corporate*** delete paragraph (a) and insert:

(a) a strata company under the *Strata Titles Act 1985*; or

Division 4 — *Credit Act 1984* amended

128. Act amended

This Division amends the *Credit Act 1984.*

129. Section 5 amended

In section 5(1) in the definition of ***body corporate*** delete paragraph (a) and insert:

(a) a strata company under the *Strata Titles Act 1985*; or

Division 5 — *Duties Act 2008* amended

130. Act amended

This Division amends the *Duties Act 2008*.

131. Section 3 amended

In section 3 insert in alphabetical order:

lease does not include a strata lease;

strata lease has the meaning given in the *Strata Titles Act 1985* section 3(1);

132. Section 17 amended

(1) Before section 17(2)(b) insert:

(ac) an estate in land created as a strata lot in a freehold or a leasehold scheme on the registration of the strata titles scheme or an amendment of the strata titles scheme under the *Strata Titles Act 1985*;

Note for this paragraph:

Common property created on the registration or amendment of a strata titles scheme is also not new dutiable property.

(ad) an estate in land created on termination of a strata titles scheme under the *Strata Titles Act 1985*;

(2) After section 17(2) insert:

(3) Without limiting section 11(1)(f), new dutiable property that is land in Western Australia includes an extension of the term of a strata lease for a lot in a leasehold scheme by the postponement of the expiry day for the scheme as referred to in the *Strata Titles Act 2018* section 50(3).

133. Section 18 amended

After section 18(c) insert:

(ca) a strata lease;

134. Section 87 amended

In section 87(2)(j)(ii) delete "strata/survey-strata plan" and insert:

strata titles scheme or an amendment of a strata titles scheme

135. Section 90 amended

(1) In section 90(b)(i) delete "strata lot; and" and insert:

lot in a strata scheme (within the meaning of the *Strata Titles Act 1985*); and

(2) In section 90(b)(ii) delete "strata".

136. Section 112 amended

(1) In section 112(6):

(a) in paragraph (a) delete "section 21I or 21M or an order under section 103P of that Act; or" and insert:

Schedule 2A clause 21I; or

(b) delete paragraphs (b) and (c);

(c) in paragraph (d) delete "Part II Division 2A or Part III Division 3," and insert:

Schedule 2A Part 4 Division 1 or 2,

Division 6 — *Environmental Protection Act 1986* amended

137. Act amended

This Division amends the *Environmental Protection Act 1986*.

138. Section 3 amended

(1) In section 3(1) in the definition of ***responsible authority*** paragraph (b)(ii) delete "a strata plan, strata plan of subdivision or strata plan of consolidation required to be accompanied by a certificate issued under section 23 of" and insert:

a subdivision of land by a strata scheme under

(2) Delete section 3(2a)(b) and insert:

(b) a subdivision of land by a strata scheme under the *Strata Titles Act 1985*.

Division 7 — *First Home Owner Grant Act 2000* amended

139. Act amended

This Division amends the *First Home Owner Grant Act 2000*.

140. Section 6 amended

After section 6(1)(b) insert:

(ba) a strata lease of the land, as defined in the *Strata Titles Act 1985* section 3(1);

141. Section 14B amended

In section 14B(6)(a) delete "a proposed strata plan or survey-strata plan within the meaning of" and insert:

for a strata titles scheme or amendment of a strata titles scheme under

Division 8 — *Heritage of Western Australia Act 1990 amended*

142. Act amended

This Division amends the *Heritage of Western Australia Act 1990*.

143. Section 78 amended

In section 78(1)(d) delete "approval under section 25 of the *Strata Titles Act 1985*; and" and insert:

endorsing a strata plan with unconditional approval of a subdivision under the *Strata Titles Act 1985* section 15(4); and

Division 9 — *Land Administration Act 1997* amended

144. Act amended

This Division amends the *Land Administration Act 1997*.

145. Section 3 amended

In section 3(1) insert in alphabetical order:

leasehold scheme has the meaning given in the *Strata Titles Act 1985* section 3(1);

146. Section 16 amended

After section 16(2) insert:

(2A) If the charge secures the due performance of conditions concerning a specified use under section 75(1) and those conditions are varied under that section, the charge is to be taken to secure the performance of the conditions as so varied.

147. Section 35 amended

(1) In section 35(4):

(a) in paragraph (a)(ii) delete "if a sublease or caveat" and insert:

if a sublease, caveat or other interest

(b) in paragraph (a)(ii) delete "Crown land;" and insert:

Crown land; or

(c) after paragraph (a)(ii) insert:

(iii) if it is land referred to in subsection (1)(b) subdivided by a leasehold scheme, remains so subdivided and the freehold reversion in the land is held by the Minister until the termination of the leasehold scheme, when the land becomes Crown land;

(2) In section 35(5)(a)(i) delete "sublease or caveat" and insert:

sublease, caveat or other interest

(3) In section 35(6) after "sublease" insert:

or other interest

(4) In section 35(7):

(a) after "sublease" insert:

or other interest

(b) delete "sublessee," and insert:

sublessee or interest holder,

(c) delete "sublease." and insert:

sublease or other interest.

(5) In section 35(10) delete "any sublease or caveat" and insert:

it is subdivided by a leasehold scheme or any sublease, caveat or other interest that

(6) After section 35(10) insert:

(10A) If the freehold reversion in land forfeited under this section is held by the Minister, as referred to in subsection (4)(a)(iii), then nothing in this Act, or any

other law, affects the capacity of the Minister under the *Strata Titles Act 1985* to be, and to exercise all rights and functions as —

(a) the owner of a leasehold scheme; and

(b) if the Minister, as owner of a leasehold scheme, re-enters a lot in a leasehold scheme under the *Strata Titles Act 1985* — the owner of a lot in a leasehold scheme.

148. Section 72 amended

(1) In section 72 insert in alphabetical order:

owner of a leasehold scheme has the meaning given in the *Strata Titles Act 1985* section 3(1);

resolution without dissent has the meaning given in the *Strata Titles Act 1985* section 3(1);

scheme by-laws has the meaning given in the *Strata Titles Act 1985* section 3(1);

strata company has the meaning given in the *Strata Titles Act 1985* section 3(1);

strata lease has the meaning given in the *Strata Titles Act 1985* section 3(1).

(2) In section 72 in the definition of ***employee*** delete "*1994*." and insert:

1994;

149. Section 75 amended

(1) After section 75(3) insert:

(3A) Conditional tenure land cannot be subdivided except by a leasehold scheme and with the written permission of the Minister.

(3B) If conditional tenure land is subdivided by a leasehold scheme –

(a) strata leases of lots in the scheme, and the scheme by-laws, are invalid to the extent that they are inconsistent with the conditions concerning the specified use; and

(b) a strata lease of a lot in the scheme is taken to contain a condition (contravention of which may lead to forfeiture of the lot to the owner of the leasehold scheme) that the lot must not be used for a purpose that is inconsistent with the conditions concerning the specified use; and

(c) if the owner of the leasehold scheme or the strata company refuses or fails to take action to enforce a strata lease or the scheme by-laws after being given a reasonable opportunity to do so, the Minister may take that action as if the Minister were the owner of the leasehold scheme or the strata company, as the case requires.

(2) In section 75(4) delete "When conditional tenure land is used in breach of any condition concerning the specified use —" and insert:

If there is a breach of the conditions concerning the specified use of conditional tenure land —

(3) In section 75(6) before "licence" insert:

lease,

(4) After section 75(6) insert:

(6A) Subsection (6) does not apply -

(a) to an individual lot in a leasehold scheme (rather than to the parcel of land subdivided by the scheme); or

(b) in circumstances prescribed in the regulations.

(6B) The Minister may, by order, on the application of the holder of the freehold in conditional tenure land, vary the conditions concerning the specified use.

(6C) The Minister may charge the holder an amount for variation of the conditions concerning the specified use, being the difference between the unimproved value of the conditional tenure land, as determined by the Minister on the advice of the Valuer-General, if it were transferred at the time of the variation subject to the conditions as varied and the price that was paid for the conditional tenure land when it was transferred to the holder or a predecessor of the holder under subsection (1).

(6D) Subject to the regulations, an application for variation of the conditions concerning the specified use must be accompanied by —

(a) the written consent of each person with a lease, licence, mortgage, charge, security or other encumbrance over the conditional tenure land (disregarding any such lease, licence, mortgage, charge, security or encumbrance over an individual lot in a leasehold scheme rather than

over the parcel of land subdivided by the scheme); and

(b) if the land is subdivided by a leasehold scheme, evidence to the satisfaction of the Minister that the strata company has passed a resolution without dissent in favour of the variation.

(5) In section 75(4) after paragraph (a) delete "and" and insert:

or

Division 10 — *Land Information Authority Act 2006* amended

150. Act amended

This Division amends the *Land Information Authority Act 2006*.

151. Section 94A amended

In section 94A(5)(b) delete "section 131A;" and insert:

section 225;

Division 11 — *Land Tax Assessment Act 2002* amended

152. Act amended

This Division amends the *Land Tax Assessment Act 2002.*

153. Section 43A amended

Delete section 43A(1)(a) and insert:

(a) the new lot is not a lot in a strata scheme as defined in the *Strata Titles Act 1985* section 3(1); and

154. Section 43B inserted

At the end of Part 3 Division 5 insert:

43B. Freehold reversion in parcel subdivided by leasehold scheme, exemption for

(1) In this section —

parcel has the same meaning as in the *Strata Titles Act 1985* section 3(1).

(2) Land is exempt for an assessment year if at midnight on 30 June in the previous financial year the land is —

(a) freehold reversion in a parcel that has been subdivided under the *Strata Titles Act 1985* by a leasehold scheme registered under that Act; or

(b) freehold in possession in a parcel that has been subdivided, as referred to in clause 3(1)(d), by a leasehold scheme to be registered under the *Strata Titles Act 1985*.

155. Glossary amended

(1) In the Glossary clause 1 delete the definitions of:

strata plan

strata scheme

strata title home unit

survey-strata plan

survey-strata scheme

(2) In the Glossary clause 1 in the definition of ***home unit*** delete paragraph (a) and insert:

(a) a lot as defined in the *Strata Titles Act 1985* section 3(1); or

(3) In the Glossary clause 1 in the definition of ***owner*** delete paragraph (b) and insert:

(b) in relation to a lot as defined in the *Strata Titles Act 1985* section 3(1), means the owner of the lot within the meaning of that Act; or

(4) In the Glossary clause 2(1) in the definition of ***lot*** delete paragraph (a)(vii) and insert:

(vii) a lot defined in a scheme plan or amendment of a scheme plan under the *Strata Titles Act 1985* where the land the subject of the scheme plan is subdivided as referred to in clause 3(1)(d); or

(5) In the Glossary delete clause 3(1)(d) and (e) and insert:

> (d) in the case of land the subject of a scheme plan or amendment of a scheme plan under the *Strata Titles Act 1985* —
>
> (i) if the plan or amendment of the plan is required to be endorsed with the unconditional approval of the Western Australian Planning Commission of the subdivision under the *Strata Titles Act 1985* section 15(4) or 17(3) — the plan or amendment of the plan is so endorsed; or
>
> (ii) if not — an occupancy permit or a building approval certificate is granted under the *Building Act 2011* Part 4 Division 3, as required under the *Strata Titles Act 1985* section 34(d)(i) or 35(1)(j)(i).

Division 12 — *Local Government Act 1995 amended*

156. Act amended

This Division amends the *Local Government Act 1995.*

157. Section 1.4 amended

In section 1.4 in the definition of ***owner*** after paragraph (a)(i) insert:

> (ia) the owner of a lot in a leasehold scheme as defined in the *Strata Titles Act 1985* section 3(1); and

Division 13 — *Perth Parking Management Act 1999* amended

158. Act amended

This Division amends the *Perth Parking Management Act 1999*.

159. Section 4 amended

In section 4 in the definition of ***owner*** delete paragraph (a) insert:

> (a) if the land or building is part or all of the common property or a lot in a strata titles scheme within the meaning of the *Strata Titles Act 1985* section 3(1) — the strata company for that scheme, within the meaning of that Act; or

Division 14 — *Planning and Development Act 2005* amended

160. Act amended

This Division amends the *Planning and Development Act 2005*.

161. Section 4 amended

In section 4(1) in the definition of ***lot*** delete "in relation to a strata scheme, a lot in relation to a survey-strata scheme, or a lot shown as common property on a survey-strata plan, as those terms are defined in the *Strata Titles Act 1985*;" and insert:

> as defined in the *Strata Titles Act 1985* section 3(1);

162. Section 136 amended

(1) Delete section 136(3A) and insert:

(2D) Subsection (1) applies to land comprised of common property or a lot in a strata titles scheme and a reference in that subsection to a lot includes a reference to a lot in a strata titles scheme.

(2E) However, subsection (1) does not apply to the sale of common property or part of a lot, an agreement to sell common property or part of a lot or the grant of an option of purchase of common property or part of a lot if the transaction is associated with a subdivision by registration of an amendment of a strata titles scheme.

(2F) Words in subsections (2D) and (2E) have the meanings given in the *Strata Titles Act 1985* section 3(1) (and references to those words in sections 139 and 140 are to be read accordingly).

(2) In section 136(3) in the definition of ***licence to use or occupy*** delete "easement;" and insert:

easement.

(3) In section 136(3) delete the definition of ***lot***.

163. Section 148 deleted

Delete section 148.

164. Section 150 amended

In section 150(3)(a) and (c) delete "plan lodged" and insert:

scheme plan lodged

165. Section 152 amended

(1) In section 152(1) delete "plan under" and insert:

scheme plan under

(2) In section 152(2)(a) delete "plan lodged" and insert:

scheme plan lodged

(3) In section 152(3)(b) delete "plan" and insert:

scheme plan

166. Part 10 Division 5A inserted

After section 164 insert:

Division 5A — Integration of subdivision and development

164A. Integration of subdivision and development

(1) This section applies if, on an application for subdivision approval or development approval, the Commission or responsible authority forms the opinion

that the integration of subdivision and development approvals or multiple subdivision or development approvals is necessary or desirable —

(a) due to the size of the lots and potential impact on the amenity of the locality; or

(b) for other reasons associated with the achievement of orderly and proper planning, and the preservation of the amenity, of the locality.

(2) The main purposes of integrating subdivision and development approvals are —

(a) to facilitate a cohesive approach to planning and development in circumstances where subdivision and development should only be undertaken in conjunction with each other; and

(b) to ensure that, in those circumstances, appropriate conditions for both the subdivision and development of land are determined as early as is practicable.

(3) Without limitation, integration of subdivision and development approvals will generally be necessary or desirable in the context of a strata scheme within the meaning of the *Strata Titles Act 1985*.

(4) If this section applies —

(a) the Commission may, in order to achieve the necessary or desirable integration of subdivision and development approvals, refuse to determine an application for subdivision approval until other applications for subdivision or development approvals are made or are made and determined; and

(b) the Commission may refuse to unconditionally endorse a diagram or plan of survey with a

subdivision approval in order for the plan to be registered in the Register under the *Transfer of Land Act 1893* unless satisfied that —

(i) the diagram or plan of survey is an accurate depiction of the subdivision that has been prepared after completion of the works necessary for the subdivision and the construction or modification of the buildings necessary for the development, the approvals of which have been required to be integrated; and

(ii) the subdivision and development has been undertaken consistently with the relevant approvals, including their conditions; and

(iii) the requirements of the *Building Act 2011* have been complied with for the development.

(5) Regulations may be made —

(a) requiring the Commission or a responsible authority to inform each other and share information about an application for subdivision approval or development approval; or

(b) requiring an applicant to provide additional documents or information reasonably required to determine whether subdivision and development approvals should be integrated under this section and to give effect to any such integration; or

(c) establishing processes for the concurrent or separate consideration of subdivision and development approvals to which this section

applies and for the imposition of conditions of approvals to which this section applies; or

(d) otherwise facilitating the integration of subdivision and development approvals.

167. Section 165 amended

Delete section 165(1)(b) and insert:

(b) a strata titles scheme as defined in the *Strata Titles Act 1985* section 3(1), registered, or lodged for registration, under that Act,

168. Section 167 amended

In section 167(1)(a) and (c) delete "plan lodged" and insert:

scheme plan lodged

169. Section 168 amended

(1) In section 168(1), (3), (4)(a) and (8)(a) delete "plan lodged" and insert:

scheme plan lodged

(2) In section 168(9) delete "plan that" and insert:

scheme plan that

170. Schedule 2 amended

In schedule 2 clause 4(4) and (5) delete "Part II" and insert:

Part 3

Division 15 — *Property Law Act 1969* amended

171. Act amended

This Division amends the *Property Law Act 1969*.

172. Section 68A amended

In section 68A delete "*1987*." and insert:

1987 and the *Strata Titles Act 1985*.

Division 16 — *Rates and Charges (Rebates and Deferments) Act 1992* amended

173. Act amended

This Division amends the *Rates and Charges (Rebates and Deferments) Act 1992.*

174. Section 27 amended

In section 27(1) delete "possession in land" and insert:

possession in land, a strata lease as defined in the *Strata Titles Act 1985*

175. Section 28 amended

Delete section 28(1)(a)(ii) and insert:

(ii) made under the *Strata Titles Act 1985* Part 5 Division 4;

176. Section 33 amended

In section 33(1) delete "possession in land" and insert:

possession in land, a strata lease as defined in the *Strata Titles Act 1985*

177. Section 43 amended

In section 43(2)(a) delete "land; or" and insert:

land or as the sole owner of a lot in a leasehold scheme, as defined in the *Strata Titles Act 1985* section 3(1); or

Division 17 — *Real Estate and Business Agents Act 1978* amended

178. Act amended

This Division amends the *Real Estate and Business Agents Act 1978*.

179. Section 61 amended

In section 61(4a) in the definition of ***prescribed transaction*** delete paragraph (a) and insert:

(a) the sale of a proposed lot under the *Strata Titles Act 1985* before the lot is created;

180. Section 131A amended

In section 131A in the definition of ***dwelling*** delete paragraph (a) and insert:

(a) a lot within the meaning of the *Strata Titles Act 1985*; and

Division 18 — *Residential Tenancies Act 1987* amended

181. Act amended

This Division amends the *Residential Tenancies Act 1987.*

182. Section 5 amended

After section 5(1) insert:

(1A) This Act does not apply to a residential tenancy agreement that is a strata lease, within the meaning of the *Strata Titles Act 1985*.

Note for this subsection:

This subsection does not affect the application of this Act to a residential tenancy agreement that is a sublease of a strata lease.

Division 19 — *Retirement Villages Act 1992* amended

183. Act amended

This Division amends the *Retirement Villages Act 1992.*

184. Section 54B inserted

Before section 55 insert:

54B. Jurisdiction of Tribunal under *Strata Titles Act 1985*

Section 54 does not derogate from the jurisdiction of the Tribunal under the *Strata Titles Act 1985* in respect of a retirement village that is also a strata titles scheme.

Division 20 — *Sale of Land Act 1970* amended

185. Act amended

This Division amends the *Sale of Land Act 1970.*

186. Section 11 amended

In section 11 in the definition of ***lot*** delete paragraphs (a) and (b) and insert:

(a) a lot as defined in the *Strata Titles Act 1985* section 3(1); and

Division 21 — *Settlement Agents Act 1981* amended

187. Act amended

This Division amends the *Settlement Agents Act 1981.*

188. Section 46 amended

(1) In section 46(2):

(a) in paragraph (a) delete "*2005*; or" and insert:

2005 or the *Strata Titles Act 1985*; or

(b) in paragraph (b) after "land" insert:

the subject of a strata lease as defined in the *Strata Titles Act 1985* section 3(1) or land

189. Section 47 amended

In section 47(2)(a) after "except":

a strata lease as defined in the *Strata Titles Act 1985* section 3(1) or

Division 22 — *Swan and Canning Rivers Management Act 2006* amended

190. Act amended

This Division amends the *Swan and Canning Rivers Management Act 2006*.

191. Section 3 amended

In section 3(1) in the definition of ***owner*** after paragraph (b) insert:

(c) in relation to a strata lease as defined in the *Strata Titles Act 1985* section 3(1) — the owner

of the lot to which the strata lease relates, within the meaning of that Act;

192. Section 28 amended

In section 28(1)(b) after "lease" insert:

(including a strata lease as defined in the *Strata Titles Act 1985* section 3(1))

Division 23 — *Transfer of Land Act 1893* amended

193. Act amended

This Division amends the *Transfer of Land Act 1893*.

194. Section 3 amended

At the end of section 3 insert:

(4) If a provision of this Act is inconsistent with a provision of the *Strata Titles Act 1985* that relates to strata leases, the provision of that Act prevails to the extent of the inconsistency.

195. Section 4 amended

In section 4(1) delete the definition of ***strata/survey-strata plan***.

196. Section 11 amended

In section 11 after "by this" insert:

or any other

197. Section 48B amended

(1) In section 48B(1) after "unless" insert:

subsection (1A) applies or

(2) After section 48B(1) insert:

(1A) A duplicate certificate of title is not to be issued to the proprietor of a strata leasehold estate in land as defined in the *Strata Titles Act 1985* section 3(1).

(3) In section 48B(3) delete "proprietor of land that is the subject of a certificate of title has requested that a duplicate certificate of title not be" and insert:

duplicate certificate of title is not

(4) In section 48B(5) delete "Nothing" and insert:

Subject to subsection (1A), nothing

198. Section 65A amended

Delete section 65A(2) and insert:

(2) If an easement is created under Part IVA by notation on a scheme plan as defined in the *Strata Titles Act 1985* section 3(1) or as a short form easement or restrictive covenant under that Act, it is not necessary for a memorandum of the easement to be entered on the certificates of title for the dominant and servient tenements that are also a subject of that plan.

199. Section 129A amended

Delete section 129A(6) and insert:

(6) If a restrictive covenant is created under Part IVA by notation on a scheme plan as defined in the *Strata Titles Act 1985* section 3(1) or as a short form easement or restrictive covenant under that Act, it is not necessary for a memorandum of the restrictive covenant to be entered on the certificates of title for the dominant and servient tenements that are also a subject of that plan.

200. Section 129C amended

In section 129C(1d) in the definition of ***lot*** delete "lot, other than a common property lot on a survey-strata plan;" and insert:

lot;

201. Section 136A amended

In 136A(b) delete "strata/survey-strata" and insert:

scheme

202. Section 136F amended

In 136F(1)(a) before "plan" insert:

scheme

203. Section 198 amended

In section 198 after "this Act" insert:

or the *Strata Titles Act 1985*

204. Section 239 amended

(1) In section 239(1):

(a) in paragraph (b) delete "graphic or a strata/survey-strata plan;" and insert:

graphic;

(b) before paragraph (c) insert:

(bb) a scheme document or any item registered or recorded for a strata titles scheme under the *Strata Titles Act 1985;*

Division 24 — *Valuation of Land Act 1978* amended

205. Act amended

This Division amends the *Valuation of Land Act 1978*.

206. Section 24 amended

In section 24(1) delete "sections 62 and 63 of".

207. Section 37 amended

In section 37(c) delete "section 60 of".

Division 25 — *Water Services Act 2012* amended

208. Act amended

This Division amends the *Water Services Act 2012*.

209. Section 71 amended

In section 71(2)(b) delete "a proprietor" and insert:

an owner

210. Section 124 amended

In section 124(4) delete "Part IV Division 5." and insert:

Part 5 Division 4.

211. Section 125 amended

In section 125(2) delete "section 66." and insert:

section 75.