

Strata Titles Amendment Bill 2018

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

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:

1 **Part 1 — Preliminary**

2 **1. Short title**

3 This is the *Strata Titles Amendment Act 2018*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation,
9 and different days may be fixed for different provisions.

10 **3. Notes not part of Act**

11 A note in this Act is provided to assist understanding and does
12 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

Strata Titles Amendment Bill 2018

Part 2 Strata Titles Act 1985 amended

Division 2 Amendment of long title and Parts I to VIII

s. 7

1	<i>Commission</i>
2	<i>common property</i>
3	<i>council</i>
4	<i>licensed surveyor</i>
5	<i>licensed valuer</i>
6	<i>local government</i>
7	<i>occupier</i>
8	<i>open space</i>
9	<i>original proprietor</i>
10	<i>parcel</i>
11	<i>permitted boundary deviation</i>
12	<i>person concerned</i>
13	<i>prescribed</i>
14	<i>proprietor</i>
15	<i>Register</i>
16	<i>Registrar of Titles</i>
17	<i>resolution without dissent</i>
18	<i>re-subdivision</i>
19	<i>scheme</i>
20	<i>single tier strata scheme</i>
21	<i>special resolution</i>
22	<i>strata company</i>
23	<i>strata/survey-strata plan</i>
24	<i>strata plan</i>
25	<i>strata scheme</i>
26	<i>structural cubic space</i>
27	<i>survey-strata plan</i>
28	<i>survey-strata scheme</i>
29	<i>take, taken and taking</i>

1 **two-lot scheme**
2 **unanimous resolution**
3 **unit entitlement**

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

6 **2, 3, 4 or 5-lot scheme** means a strata titles scheme in
7 which there are, respectively, 2, 3, 4 or 5 lots;

8 **address for service** — see section 215;

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

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

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

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

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

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

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

28 **associate** — 2 persons are associates if —

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

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

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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

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- 1 into its administrative fund or reserve fund under
2 section 100;
- 3 **council** means the governing body of a strata company;
- 4 **cubic space** — see subsection (3);
- 5 **designated interest** means —
- 6 (a) a registered mortgage; or
- 7 (b) a registered lease; or
- 8 (c) a caveat recorded under the *Transfer of Land*
9 *Act 1893*; or
- 10 (d) the interest of a judgment creditor named in a
11 property seizure and sale order registered under
12 the *Transfer of Land Act 1893* section 133; or
- 13 (e) the interest of a person named in a memorial
14 registered under the *Transfer of Land Act 1893*
15 as having a statutory right requiring the consent
16 of the person to any dealing with the land; or
- 17 (f) a plantation interest registered under the
18 *Transfer of Land Act 1893*; or
- 19 (g) a carbon covenant registered under the *Transfer*
20 *of Land Act 1893*;
- 21 **development** has the meaning given in the *Planning*
22 *and Development Act 2005* section 4(1);
- 23 **disability** has the meaning given in the *Disability*
24 *Discrimination Act 1992* (Commonwealth)
25 section 4(1);
- 26 **disposition statement** — see section 222;
- 27 **electronic address** means —
- 28 (a) an email address; or
- 29 (b) anything included in this definition by the
30 regulations;
- 31 **encumbrance** has the meaning given in the *Transfer of*
32 *Land Act 1893* section 4(1);

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

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

4 **financial year** for a strata company means —

- 5 (a) if the scheme by-laws are silent on the matter,
6 the period of 12 months ending on 30 June; or
7 (b) if the scheme by-laws specify a period of
8 12 months ending on a different date as the
9 financial year for the scheme, the period
10 specified in the by-laws;

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

15 **freehold scheme** — see section 8(2);

16 Note for this definition:

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

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

22 **governance by-laws** for a strata titles scheme —

- 23 (a) means scheme by-laws dealing with —
24 (i) the governance of the scheme; or
25 (ii) the subdivision or development of the
26 land subdivided by the scheme (other
27 than a matter of landscaping); or
28 (iii) exclusive use of common property in
29 the scheme;

30 and

- 31 (b) includes the following —
32 (i) scheme by-laws set out in Schedule 1;
33 (ii) leasehold by-laws;

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- 1 (iii) staged subdivision by-laws;
2 (iv) exclusive use by-laws;
3 (v) scheme by-laws made under a planning
4 (scheme by-laws) condition;
5 (vi) scheme by-laws setting out architectural
6 requirements designed to control or
7 preserve the essence or theme of
8 development;
9 (vii) scheme by-laws that specify plot ratio
10 restrictions or open space requirements;
11 (viii) scheme by-laws affecting the provision
12 of, or payment for —
13 (I) internal fencing on the parcel;
14 or
15 (II) fencing to which the *Dividing*
16 *Fences Act 1961* applies;
17 (ix) scheme by-laws for a 3, 4 or 5-lot
18 scheme that exempt the strata company
19 from a designated function under
20 section 140;
21 (x) scheme by-laws that deal with —
22 (I) the constitution or procedures
23 of the council of the strata
24 company; or
25 (II) the officers of the strata
26 company; or
27 (III) the procedures of a general
28 meeting of the strata company;
29 or
30 (IV) the organisation of the affairs of
31 the strata company; or
32 (V) contributions, levies or money
33 payable by the owner of a lot in

- 1 the scheme to the strata
2 company; or
- 3 (VI) the carrying on of a business or
4 trading activity by the strata
5 company or the method of
6 distributing and sharing any
7 profit or loss;
- 8 (xi) scheme by-laws classified by the
9 regulations as governance by-laws;
- 10 **infrastructure** includes public or private access ways,
11 lifts, swimming pools, gymnasiums, shared carparks,
12 loading bays other recreational facilities, infrastructure
13 for utility services and other fixtures and, in each case,
14 associated equipment;
- 15 **infrastructure contract** — see section 64(1)(a);
- 16 **infrastructure owner** — see section 64(3);
- 17 **insurable asset** of a strata titles scheme —
- 18 (a) means —
- 19 (i) the common property of the scheme
20 (including the fixtures and
21 improvements on the common
22 property); or
- 23 (ii) the parts of scheme buildings that
24 comprise lots in the scheme (including
25 the paint and wallpaper); or
- 26 (iii) anything included in this definition by
27 the regulations;
- 28 but
- 29 (b) does not include —
- 30 (i) fixtures or improvements on the
31 common property that are not
32 themselves common property; or

- 1 (ii) carpet and temporary wall, floor and
2 ceiling coverings in a scheme building;
3 or
4 (iii) fixtures removable by a lessee at the
5 expiration of a tenancy; or
6 (iv) anything excluded from this definition
7 by the regulations;
- 8 ***interim development order*** has the meaning given in
9 the *Planning and Development Act 2005* section 4(1);
10 ***item registered or recorded*** for a strata titles scheme —
11 see section 58(5);
- 12 Note for this definition:
13 For example, an item may comprise an estate, interest,
14 right, encumbrance, notification, memorial or caveat.
- 15 ***judicial member*** has the meaning given in the *State*
16 *Administrative Tribunal Act 2004* section 3(1);
- 17 ***key document*** in relation to a subdivision of land by a
18 strata titles scheme (including a stage of subdivision)
19 means each of the following —
- 20 (a) the application for registration of the scheme or
21 amendment of the scheme to give effect to the
22 subdivision and everything that accompanies
23 the application;
- 24 (b) the scheme documents, or amendments of the
25 scheme documents, as registered for the
26 subdivision;
- 27 (c) planning approvals for the subdivision and
28 development associated with the scheme;
- 29 (d) occupancy permits and building approval
30 certificates under the *Building Act 2011* relating
31 to development associated with the subdivision;
- 32 (e) official notices relating to the subdivision or
33 development associated with the subdivision;

- 1 (f) specifications, diagrams and drawings relating
2 to the parcel or a building on the parcel
3 (including any specifications, diagrams and
4 drawings that show utility conduits, utility
5 infrastructure or sustainability infrastructure);
- 6 (g) warranty documents and operational and
7 servicing manuals for infrastructure that ought
8 reasonably to be given to the strata company;
- 9 (h) certificates and schedules relating to the
10 insurance required for, or relating to, the
11 scheme taken out or arranged by the scheme
12 developer of the subdivision;
- 13 (i) any contracts for the provision of services or
14 amenities to the strata company or to members
15 of the strata company entered into or arranged
16 by the scheme developer for the subdivision or
17 by the strata company;
- 18 (j) any leases or licences over the common
19 property of the scheme;
- 20 (k) accounting records and other documents that
21 ought reasonably to be given to the strata
22 company;
- 23 (l) anything included in this definition by the
24 regulations;

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

28 ***leasehold by-laws*** — see section 40;

29 ***leasehold scheme*** — see section 8(3);

30 Note for this definition:

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

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- 1 **legally qualified member** has the meaning given in the
2 *State Administrative Tribunal Act 2004* section 3(1);
- 3 **licensed surveyor** has the meaning given in the
4 *Licensed Surveyors Act 1909* section 3;
- 5 **licensed valuer** has the meaning given in the *Land*
6 *Valuers Licensing Act 1978* section 4;
- 7 **local government** means a local government, regional
8 local government or regional subsidiary;
- 9 **local planning scheme** has the meaning given in the
10 *Planning and Development Act 2005* section 4(1);
- 11 **member** of a strata company — see section 14(8);
- 12 **member** of the council of a strata company includes a
13 person appointed under scheme by-laws to act as a
14 member of the council;
- 15 **monetary order** has the meaning given in the *State*
16 *Administrative Tribunal Act 2004* section 3(1);
- 17 **mortgagee** of a lot in a leasehold scheme includes a
18 mortgagee or chargee of the strata leasehold estate in
19 the lot;
- 20 **notifiable variation** means —
- 21 (a) a type 1 notifiable variation; or
- 22 (b) a type 2 notifiable variation;
- 23 **occupier** of a lot means a person who occupies the lot
24 on a temporary or permanent basis (either solely or
25 jointly with other persons) and includes a person who
26 is unlawfully in occupation of a lot;
- 27 **officer** of a strata company means —
- 28 (a) the chairperson of the strata company; or
- 29 (b) if, under the scheme by-laws, the strata
30 company has a secretary, the secretary of the
31 strata company; or

- 1 (c) if, under the scheme by-laws, the strata
2 company has a treasurer, the treasurer of the
3 strata company;
- 4 **on common property** in relation to infrastructure
5 means situated in or on common property;
- 6 **open space** means the area of a lot that is not occupied
7 by a building, calculated in accordance with the
8 regulations;
- 9 **order to act** means an order of the Tribunal that —
- 10 (a) is not a monetary order; and
- 11 (b) requires a person to take specified action or to
12 refrain from taking specified action;
- 13 **ordinary resolution** of a strata company — see
14 section 123;
- 15 **original proprietor** of a strata titles scheme means the
16 person registered under the *Transfer of Land Act 1893*
17 as the proprietor of an estate in fee simple in a parcel
18 immediately before it is subdivided by a strata titles
19 scheme;
- 20 **owner** of a leasehold scheme means the person
21 registered under the *Transfer of Land Act 1893* as the
22 holder of the freehold reversion in the land that
23 comprises the parcel (being an interest that will revert
24 to an estate in fee simple on the expiry or termination
25 of the scheme);
- 26 **owner** of a lot means —
- 27 (a) for a lot in a freehold scheme —
- 28 (i) a person who is registered under the
29 *Transfer of Land Act 1893* as the
30 proprietor of an estate in fee simple in
31 the lot; or

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- 1 (ii) if the fee simple is divided into a life
2 estate with a remainder or reversionary
3 interest — a person who is registered as
4 the proprietor of a life estate in the lot to
5 the exclusion of the proprietor of the
6 remainder or reversionary interest in the
7 lot; or
- 8 (iii) if a mortgagee is in possession of the
9 lot — the mortgagee to the exclusion of
10 the persons referred to in the preceding
11 paragraphs;
- 12 or
- 13 (b) for a lot in a leasehold scheme —
- 14 (i) a person who is registered under the
15 *Transfer of Land Act 1893* as the
16 proprietor of a strata leasehold estate in
17 the lot; or
- 18 (ii) if a mortgagee is in possession of the
19 lot — the mortgagee to the exclusion of
20 a person referred to in the preceding
21 paragraph;
- 22 ***parcel*** means the land subdivided by a strata titles
23 scheme;
- 24 ***planning approval*** means an approval of the
25 subdivision of land or development required under this
26 Act or the *Planning and Development Act 2005*, and
27 includes the approval or endorsement of approval of
28 the Planning Commission on a scheme plan or
29 amendment of a scheme plan;
- 30 ***Planning Commission*** means the Western Australian
31 Planning Commission established under the *Planning*
32 *and Development Act 2005*;
- 33 ***planning (scheme by-laws) condition*** means a
34 condition of a planning approval requiring a strata titles

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

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

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

12 **proponent** of a termination proposal — see
13 section 173;

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

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

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

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

24 **replacement value** of an insurable asset means —

- 25 (a) the amount required to rebuild, replace, repair
26 or restore the asset so that, on completion of the
27 work, the asset is no less extensive and in no
28 worse condition than when the asset was new;
29 and
30 (b) the amount required for costs of demolition,
31 site clearance and the remuneration of
32 architects, surveyors, engineers and other
33 persons whose services are necessary for the

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1 rebuilding, replacement, repair or restoration of
2 the asset;

3 ***reserve fund*** — see section 100(2)(a);

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

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

7 Note for this definition:

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

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

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

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

20 Note for this definition:

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

23 ***scheme developer*** —

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

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

- 1 ***scheme dispute*** — see section 197;
- 2 ***scheme document*** — see section 12;
- 3 ***scheme function*** for a strata titles scheme means —
- 4 (a) a function of the strata company; or
- 5 (b) a function of the council of the strata company;
- 6 or
- 7 (c) a function of an officer of the strata company;
- 8 ***scheme notice*** for a strata titles scheme means the
- 9 scheme notice registered, or proposed to be registered,
- 10 scheme for the scheme as a scheme document;
- 11 ***scheme participant*** — see section 197(2);
- 12 ***scheme plan*** for a strata titles scheme means the strata
- 13 plan or survey-strata plan registered, or proposed to be
- 14 registered, for the strata titles scheme as a scheme
- 15 document;
- 16 ***settlement date*** for a contract for the purchase and sale
- 17 of a lot means —
- 18 (a) the date on which the purchase price, or the
- 19 balance of the purchase price, for the lot is paid
- 20 in exchange for documents that enable the
- 21 buyer to be registered as the owner of the lot; or
- 22 (b) if the contract for the lot is a terms contract
- 23 within the meaning given in the *Sale of Land*
- 24 Act 1970 section 5, the date on which the buyer
- 25 becomes entitled to possession or occupation of
- 26 the lot;
- 27 ***short form easement or restrictive covenant*** — see
- 28 section 33(1);
- 29 ***site value*** has the meaning given in the *Valuation of*
- 30 *Land Act 1978* section 4(1);
- 31 ***special common property*** — see section 43(1);
- 32 ***special lot*** — see section 43(1);

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- 1 *special resolution* of a strata company — see
2 section 123;
- 3 *staged subdivision by-laws* — see section 42;
- 4 *statutory easement* means an easement under Part 5
5 Division 3;
- 6 *strata company* means a body corporate established
7 under section 14 on registration of a strata titles
8 scheme;
- 9 *strata lease* for a lot in a leasehold scheme means the
10 lease registered, or proposed to be registered, for the lot
11 as a scheme document;
- 12 *strata leasehold estate* means a leasehold estate held
13 under a strata lease;
- 14 *strata management contract* — see section 144(1)(a);
- 15 *strata manager* — see section 143(1);
- 16 *strata plan* means a scheme plan for a strata scheme;
- 17 *strata scheme* — see section 9;
- 18 *strata title* — see section 13;
- 19 *strata titles scheme* means —
- 20 (a) a strata scheme; or
- 21 (b) a survey-strata scheme;
- 22 Note for this definition:
- 23 Section 7 describes the abstract concept of a strata titles
24 scheme and what such a scheme is designed to achieve.
25 Section 9 sets out how the boundaries of lots in a strata
26 titles scheme may be defined. If there is a scheme building
27 divided into lots, the scheme is a strata scheme. If the lots
28 are defined without reference to a building, the scheme is a
29 survey-strata scheme. No matter how the boundaries are
30 defined, the scheme may be either a freehold scheme or a
31 leasehold scheme reflecting the 2 types of tenure described
32 in section 8.
- 33 *structural cubic space* means —
- 34 (a) cubic space occupied by a vertical structural
35 member, not being a wall, of a building; or

- 1 (b) utility conduits in a building; or
2 (c) cubic space enclosed by a structure enclosing
3 utility conduits,
4 but does not include utility conduits that are for the
5 exclusive use or enjoyment of 1 lot;
6 Note for this definition:
7 Schedule 2A provides for a special rule about the definition
8 of structural cubic space for single tier strata schemes.
9 **subdivision** of land by a strata titles scheme — see
10 section 11;
11 **survey-strata plan** means a scheme plan for a
12 survey-strata scheme;
13 **survey-strata scheme** — see section 9;
14 **sustainability infrastructure** means infrastructure that
15 is designed or is likely to avoid, remedy or mitigate
16 adverse effects on the environment;
17 Examples for this definition:
18 Sustainability infrastructure includes solar panels, clothes
19 lines and rainwater tanks.
20 **take, taken** and **taking** have, in Part 11 Division 2, the
21 meanings given in the *Land Administration Act 1997*
22 Part 9;
23 **temporary common property** means land leased by a
24 strata company under section 92 and registered as
25 temporary common property in the strata titles scheme
26 as a result of inclusion in the description of temporary
27 common property in the scheme plan;
28 **termination infrastructure report** — see
29 section 179(2);
30 **termination proposal** — see section 174(1);
31 **termination resolution** — see section 182;
32 **termination valuation report** — see section 179(3);

- 1 ***Transfer of Land Act requirements*** means
2 requirements determined under the *Transfer of Land*
3 *Act 1893* section 182A;
- 4 ***Tribunal*** means the State Administrative Tribunal;
- 5 ***type 1 notifiable variation*** means any of the following
6 that occur after a contract for the sale and purchase of a
7 lot in a strata titles scheme is entered into but before
8 the settlement date for the contract —
- 9 (a) the area or size of the lot or proposed lot is
10 reduced by 5% or more from the area or size
11 notified to the buyer before the buyer entered
12 into the contract;
- 13 (b) the proportion that the unit entitlement, or a
14 reasonable estimate of the unit entitlement, of
15 the lot bears to the sum of the unit entitlements
16 of all the lots is increased by 5% or more, or
17 decreased by 5% or more, from the proportion
18 that the unit entitlement, or the estimate of the
19 unit entitlement, of the lot notified to the buyer
20 before the buyer entered into the contract bears
21 to the sum of the unit entitlements of all the lots
22 as so notified;
- 23 (c) anything relating to a proposal for the
24 termination of the strata titles scheme is served
25 on the seller by the strata company;
- 26 (d) any other event classified by the regulations as
27 a type 1 notifiable variation;
- 28 ***type 2 notifiable variation*** means any of the following
29 that occur after a contract for the sale and purchase of a
30 lot in a strata titles scheme is entered into but before
31 the settlement date for the contract and that do not give
32 rise to a type 1 notifiable variation —
- 33 (a) the scheme plan, or proposed scheme plan or
34 amendment of the scheme plan, for the strata

- 1 titles scheme is modified in a way that affects
2 the lot or the common property;
- 3 (b) the schedule of unit entitlements, or proposed
4 schedule of unit entitlements or amendment of
5 the schedule of unit entitlements, for the strata
6 titles scheme is modified in a way that affects
7 the lot;
- 8 (c) the scheme by-laws, or proposed scheme
9 by-laws, are modified;
- 10 (d) the strata company or a scheme developer —
11 (i) enters into a contract for the provision
12 of services or amenities to the strata
13 company or to members of the strata
14 company or a contract that is otherwise
15 likely to affect the rights of the buyer; or
16 (ii) varies an existing contract of that kind
17 in a way that is likely to affect the rights
18 of the buyer;
- 19 (e) a lease, licence, right or privilege over the
20 common property in the strata titles scheme is
21 granted or varied;
- 22 (f) any other event classified by the regulations as
23 a type 2 notifiable variation;

24 Note for this definition:

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

27 ***type 1 subdivision*** means —

- 28 (a) the addition of land from outside the parcel of a
29 strata titles scheme to common property in the
30 scheme (but not including temporary common
31 property); or
- 32 (b) the conversion of a lot in a strata titles scheme
33 to common property in the scheme;

- 1 **type 2 subdivision** means the removal from the parcel
2 of a strata titles scheme of land comprised of common
3 property;
- 4 **type 3 subdivision** means a consolidation of 2 or more
5 lots in a strata titles scheme into 1 lot in the scheme
6 (not affecting common property in the scheme);
- 7 **type 4 subdivision** means a subdivision that does not
8 involve the alteration of the boundaries of the parcel
9 and is not a type 1, type 2 or type 3 subdivision;
- 10 Note for the definitions of types of subdivision:
- 11 1. There are 4 types of amendment of a strata titles scheme
12 that give effect to a subdivision, with varying requirements
13 for resolutions and consents:
- 14 • A type 1 subdivision covers adding land from outside the
15 parcel to the common property (other than as temporary
16 common property) and what was formerly referred to as
17 conversion of lots into common property.
 - 18 • A type 2 subdivision covers the removal of common
19 property from the parcel of a strata titles scheme.
 - 20 • A type 3 subdivision covers what was formerly referred
21 to as consolidation of lots.
 - 22 • A type 4 subdivision covers what was formerly referred
23 to as re-subdivision.
- 24 2. Re-subdivision of a lot or common property was defined in
25 section 3(5) of the Act as in force immediately before the
26 *Strata Titles Amendment Act 2018* to include the alteration
27 of the boundaries of —
- 28 • 1 or more lots so as to create only 2 or more different
29 lots; or
 - 30 • 1 or more lots so as to create 1 or more different lots and
31 common property; or
 - 32 • 1 or more lots and common property so as to create 1 or
33 more different lots or 1 or more different lots and
34 common property; or
 - 35 • common property so as to create 1 or more lots or 1 or
36 more lots and common property.
- 37 **unanimous resolution** of a strata company — see
38 section 123;
- 39 **unit entitlement** of a lot — see section 37(1)(a);

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

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

7 **utility service** means —

- 8 (a) the collection and passage of stormwater; or
- 9 (b) the supply of water for drinking or any other
10 use; or
- 11 (c) a sewerage and drainage service; or
- 12 (d) a garbage collection service; or
- 13 (e) a gas, electricity or air service, including air
14 conditioning and heating; or
- 15 (f) a communication or data service, including
16 telephone, radio, television and internet; or
- 17 (g) a service classified by the regulations as a
18 utility service; or
- 19 (h) another like service;

20 **utility service easement** means an easement under
21 section 63;

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

25 **volunteer strata manager** means a strata manager of a
26 strata company who —

- 27 (a) is the owner of a lot in the strata titles scheme;
28 and
- 29 (b) does not receive any fee, reward or benefit for
30 work performed as a strata manager other than
31 an honorary fee or reward not exceeding, if an
32 amount is fixed by the regulations, that amount;
33 and

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

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

5

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

8

9 ***area of a cubic space***

10

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

12 (a) after “a plan” insert:

13

14 for a strata scheme

15

16 (b) delete “one” and insert”

17

18 1

19

20 (c) in paragraph (a) delete “proposed” (each occurrence);

21 (d) in paragraph (b)(ii) delete “where” and insert:

22

23 if

24

25 (e) in paragraph (b)(ii) delete “proposed” (each occurrence);

26 (f) in paragraph (c) delete “where proposed lots or parts
27 thereof” and insert:

28

29 if lots or parts of lots

30

1 (g) in paragraph (c) delete “proposed lots or parts thereof”
2 (each occurrence) and insert:

3
4 lots or parts of lots

5
6 (h) in paragraph (c)(i) delete “upon” and insert:

7
8 on

9
10 Note: At the end of the definition of ***floor plan*** the following note is to be
11 inserted:

12
13 Note for this definition:
14 Also see subsections (2) to (4).
15

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

17 (a) delete “***plan***, in relation to a strata plan,” and insert:

18
19 ***plan for a strata scheme***

20
21 (b) delete “one” and insert:

22
23 1

24
25 (c) delete “proposed” (each occurrence).

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

27 (a) delete “***lot***, in relation to a strata scheme,” and insert:

28
29 ***lot in a strata scheme***
30

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- 1 (b) delete “one” (each occurrence) and insert:
2
3 1
4
- 5 (c) delete “to which a strata scheme relates,” and insert:
6
7 subdivided by the strata scheme,
8
- 9 (d) delete “plan, plan of re-subdivision or plan of
10 consolidation to which that strata scheme relates, being
11 in each case, but subject to section 3AB,” and insert:
12
13 plan or an amendment of the strata plan being, in each
14 case,
15
- 16 (e) delete “where —” and insert:
17
18 if that structural cubic space —
19
- 20 (f) delete paragraphs (a) and (b) and insert:
21
22 (a) has boundaries described in accordance with
23 the regulations; and
24 (b) is shown in that floor plan as part of a lot;
25
- 26 Note: At the end of the definition of **lot** the following note is to be inserted:
27
28 Note for this definition:
29 Schedule 2A provides for a special rule about the definition
30 of lot in a single tier strata scheme.
31

- 1 (7) In section 3(1) in the definition of *lot* (2nd occurrence):
- 2 (a) delete “*lot*, in relation to a survey-strata scheme,” and
- 3 insert:
- 4
- 5 *lot in a survey-strata scheme*
- 6
- 7 (b) delete “one” and insert:
- 8
- 9 1
- 10
- 11 (c) delete “scheme, but does not include —” and insert:
- 12
- 13 scheme;
- 14
- 15 (d) delete paragraphs (a) and (b).
- 16 (8) In section 3(1) in the definition of *wall*:
- 17 (a) after “a lot” insert:
- 18
- 19 in a strata titles scheme
- 20
- 21 (b) delete “another lot.” and insert:
- 22
- 23 another lot in the scheme;
- 24
- 25 (9) In section 3(2):
- 26 (a) delete “Except where section 3AB applies, the
- 27 boundaries of any” and insert:
- 28
- 29 The boundaries of a
- 30

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- 1 (b) in paragraph (a)(i) delete “where the base of any” and
2 insert:
3
4 if the base of a
5
- 6 (c) in paragraph (a)(i) delete “any” and insert:
7
8 a
9
- 10 (d) in paragraph (a)(ii) delete “where any” and insert:
11
12 if a
13
- 14 (e) in paragraph (b) delete “prescribed manner” and insert:
15
16 manner required by the regulations
17
- 18 Note: At the end of subsection (2) the following note is to be inserted:
19
- 20 Note for this subsection:
21 Schedule 2A provides for a special rule about lot
22 boundaries for single tier strata schemes.
23
- 24 (10) In section 3(2a):
25 (a) delete “(2a) Notwithstanding subsection (2), where —
26 ” and insert:
27
28 (2A) Despite subsection (2), if —
29
- 30 (b) delete “prescribed circumstances” and insert:
31
32 circumstances specified in the regulations
33

- 1 (c) delete “prescribed manner,” and insert:
2
3 manner required by the regulations,
4
- 5 (11) Delete section 3(5).
6 (12) After section 3(6) insert:
7
- 8 (7) An amendment of a strata titles scheme affects the
9 common property or a lot in the scheme as follows —
10 (a) an amendment affects the common property to
11 the extent that it involves an amendment of the
12 scheme plan that —
13 (i) modifies the common property; or
14 (ii) creates or discharges an easement or
15 restrictive covenant that benefits or
16 burdens the common property;
17 (b) an amendment affects a lot to the extent that it
18 involves an amendment of the scheme plan
19 that —
20 (i) modifies the definition of boundaries of
21 the lot; or
22 (ii) creates or discharges an easement or
23 restrictive covenant that benefits or
24 burdens the lot;
25 (c) an amendment affects a lot to the extent that it
26 involves an amendment of the schedule of unit
27 entitlements for the scheme that modifies the
28 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

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

2

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

7

8 Note: The heading to amended section 3A is to read:

9 **Single tier strata schemes to which clause 3AB applies**

10 Note:

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

13 **9. Section 3AB amended**

14 (1) In section 3AB(1):

15 (a) delete “Where this section applies the boundaries of
16 any” and insert:

17

18 If this clause applies, the boundaries of a

19

20 (b) In paragraph (b) delete “where” and insert:

21

22 if

23

24 (2) In section 3AB(2):

25 (a) delete “subsection (1) —” and insert:

26

27 subclause (1) —

28

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- 1 (b) delete paragraph (b) and insert:
2
3 (b) the part is destroyed and is not reinstated within
4 1 year, or a longer period allowed under
5 clause 4, after the destruction,
6
7 (3) In section 3AB(3) delete “section” and insert:
8
9 clause
10
11 (4) In section 3AB(4):
12 (a) delete “Where this section” and insert:
13
14 If this clause
15
16 (b) in paragraph (b) delete “subsection (2)(b) of that
17 section.” and insert:
18
19 section 3(2)(b).
20
21 Note:
22 Section 3AB (as amended) is redesignated as clause 3AB and
23 relocated to Schedule 2A.
- 24 **10. Section 7 amended**
- 25 (1) Delete section 7(1), (2) and (3) and insert:
26
27 (1) The owner of a lot in a 2-lot scheme that is a strata
28 scheme must not cause or permit the structural
29 alteration of the lot except with the prior written
30 approval of —
31 (a) the owner of the other lot; and

- 1 (b) for a leasehold scheme, the owner of the
2 leasehold scheme.
- 3 (2) The owner of a lot in a strata scheme, other than a 2-lot
4 scheme, must not cause or permit the structural
5 alteration of the lot except —
- 6 (a) with the prior approval, expressed by resolution
7 without dissent, of the strata company and, for
8 a leasehold scheme, the prior written approval
9 of the owner of the leasehold scheme; or
- 10 (b) if —
- 11 (i) the prior written approval to the
12 structural alteration has been given by
13 the owner of each lot in the scheme,
14 and, for a leasehold scheme, the owner
15 of the leasehold scheme; and
- 16 (ii) all approvals are either unconditional or
17 are subject to the same conditions; and
- 18 (iii) a copy of each approval is served on the
19 strata company.
- 20 (3) If an application is made under this section for
21 approval for the structural alteration of a lot, the owner
22 of any other lot in the strata scheme or the owner of the
23 leasehold scheme may refuse to give approval on a
24 ground permitted by subsection (5), but not otherwise.
25
- 26 (2) In section 7(4):
- 27 (a) delete “Where an application is made to a strata
28 company in accordance with section 7B —” and insert:
- 29
- 30 If an application is made to a strata company under this
31 section —
32

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- 1 (b) delete paragraphs (a) and (b) and insert:
2
3 (a) notice of the proposed resolution on the
4 application must contain or be accompanied by
5 a statement, in the approved form, of the effect
6 of paragraphs (c) and (d); and
7 (b) if a vote on the resolution is taken at a general
8 meeting, the chairperson must, before the vote
9 is taken, read out the statement referred to in
10 paragraph (a); and
11
12 (c) in paragraph (c) delete “a proprietor may vote —” and
13 insert:
14
15 the vote for a lot may be cast —
16
17 (d) in paragraph (c) delete “any ground that is” and insert:
18
19 a ground
20
21 (e) in paragraph (d) delete “his vote one” and insert:
22
23 the person’s vote 1
24
25 (3) In section 7(5):
26 (a) in paragraph (a) delete “lot ascertained in accordance
27 with section 7A(3); or” and insert:
28
29 lot; or
30

- 1 (b) in paragraph (b)(iii) delete “any easement created by
2 section 11 or 12;” and insert:
3
4 a statutory easement;
5
6 (c) in paragraph (c) delete “that is prescribed.” and insert:
7
8 specified in the regulations.
9

10 (4) Delete section 7(6).

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

12 **Structural alteration of lot in strata scheme**

13 Note:

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

16 **11. Section 7B amended**

17 (1) Delete section 7B(1), (2) and (3) and insert:
18

- 19 (1) An application for the approval of the structural
20 alteration of a lot must set out details of the proposal
21 and such other information as may be prescribed.
- 22 (2) If an application is made to a strata company under
23 subsection (1), voting on the application must open
24 within 35 days after the application is received (the
25 ***allowed period***).
- 26 (3) If voting on the application does not open as required
27 by subsection (2), the applicant may convene a general
28 meeting, in the same manner as nearly as possible as
29 that in which meetings are to be convened by the
30 council, and submit the application to that meeting.
31

- 1 (2) Delete section 7B(5), (6) and (7) and insert:
2
- 3 (5) The owner of a lot or the owner of a leasehold scheme
4 is taken to have approved the structural alteration of a
5 lot as set out in an application for approval served on
6 the owner if —
- 7 (a) the owner serves on the applicant written
8 consent to the alteration; or
- 9 (b) the owner has not, at the end of 42 days after
10 being given the application, made a written
11 objection to the alteration; or
- 12 (c) for a strata scheme, the owner has made such
13 an objection but the objection does not specify
14 the grounds of the objection or the grounds
15 specified are not grounds on which the owner
16 may object under section 87.
- 17 (6) A strata company is taken to have approved the
18 structural alteration of a lot as set out in an application
19 for approval served on the strata company if —
- 20 (a) the strata company serves on the applicant
21 written consent to the alteration expressed by
22 resolution without dissent; or
- 23 (b) despite section 87(2) —
- 24 (i) the strata company has not, at the end of
25 77 days after being given the
26 application, made a written objection to
27 the alteration; or

- 1 (ii) for a strata scheme, the strata company
2 has made such an objection but the
3 objection does not specify the grounds
4 of the objection or the grounds specified
5 are not grounds on which members of
6 the strata company may object under
7 section 87.
8

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

10 **Approvals and objections to structural alterations**

11 Note:

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

14 **12. Section 12A amended**

- 15 (1) Delete section 12A(1) and insert:
16

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

- 23 (a) inspect, maintain, repair, renew or replace the
24 part; and
25 (b) enter on the other lot, if necessary with
26 vehicles, equipment, materials and other items,
27 for the purpose of doing so.
28

- 29 (2) In section 12A(2) delete “subsection (1)” and insert:
30

31 subclause (1)
32

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

3

4 burdening the other lot.

5

6 Note: The heading to amended 12A is to read:

7 **Easement for access for certain work**

8 Note:

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

11 **13. Section 21A amended**

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

14

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

20

21 Note:

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

24 **14. Section 21C amended**

25 In section 21C delete “section” (each occurrence) and insert:

26

27 clause

28

29 Note:

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

1 **15. Section 21D amended**

2 (1) In section 21D:

3 (a) delete “re-subdivision” and insert:

4
5 subdivision

6
7 (b) delete “a plan of re-subdivision under section 8.” and
8 insert:

9
10 an amendment of the strata scheme.

11
12 Note:

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

15 **16. Section 21F amended**

16 (1) In section 21F(1):

17 (a) delete “in the prescribed form,” and insert:

18
19 by resolution in the approved form,

20
21 (b) delete “section” and insert:

22
23 clause

24
25 (2) Delete section 21F(2) and insert:

26
27 (2) A resolution is effective for the purposes of
28 subclause (1) only if it is a resolution without dissent.

29
30 Note:

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

1 **17. Section 21G amended**

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

3

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

7 (1A) The notice of resolution cannot be lodged before the
8 end of the period of 60 days after the day on which the
9 resolution was passed.

10

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

13

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

16

17 (3) Delete section 21G(3).

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

19 **Notice of resolution may be lodged for registration**

20 Note:

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

23 **18. Section 21I amended**

24 (1) In section 21I(1)(a) delete “section” and insert:

25

26 clause

27

1 (2) In section 21I(2) —

2 (a) delete “subsection (1) is to be” and insert:

3

4 subclause (1) is

5

6 (b) delete “that subsection.” and insert:

7

8 that subclause.

9

10 Note:

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

13 **19. Section 21J amended**

14 In section 21J delete “prescribed manner to give effect to
15 section 21I.” and insert:

16

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

18

19 Note:

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

22 **20. Section 21Q amended**

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

25

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

27

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

2

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

5

6 (3) In section 21Q(3) delete “subsection” and insert:

7

8 subclause

9

10 (4) In section 21Q(3) delete “section” and insert:

11

12 clause

13

14 (5) In section 21Q(4) delete “subsection” and insert:

15

16 subclause

17

18 Note:

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

21 **21. Section 21R amended**

22 (1) In section 21R(1):

23 (a) delete “section 21Q(1)(a) or (b)” and insert:

24

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

26

1 (b) in paragraph (b) delete “proprietors of lots in the
2 scheme.” and insert:

3
4 owners of lots in the strata scheme.
5

6 (2) In section 21R(2) delete “section” (each occurrence) and insert:
7

8 clause
9

10 Note:

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

13 **22. Section 21S amended**

14 (1) Delete section 21S(1) and insert:
15

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

19 (1A) The notice of resolution cannot be lodged before the
20 end of the period of 60 days after the day on which the
21 resolution was passed.
22

23 (2) In section 21S(2) delete the passage that begins with “company
24 or alternatively —” and ends with “one proprietor.” and insert:
25

26 company or, in the case of an existing small strata scheme, by
27 all of the owners of lots in the scheme.
28

1 (3) Delete section 21S(3).

2 Note:

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

5 **23. Section 21T amended**

6 (1) In section 21T(1):

7 (a) delete paragraph (a).

8 (b) in paragraph (b) delete “subsection (2) applies, a sketch
9 plan (the *sketch plan*) showing in the prescribed
10 manner” and insert:

11

12 subclause (2) applies, a plan (the *sketch plan*) showing
13 in the manner specified in the regulations
14

15 (c) in paragraph (b)(iv) delete “section” and insert:

16

17 clause
18

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

20

21 and

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

25 (d) if any unit entitlement is to be changed, an
26 amended schedule of unit entitlements; and
27

28 (e) in paragraph (e) delete “*pro rata*”.

29 (f) in paragraph (e) delete “his” and insert:

30

31 the person’s
32

1 (2) In section 21T(2) delete “he” and insert:

2

3 the Registrar

4

5 Note:

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

8 **24. Section 21U amended**

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

10

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

13 (a) this clause; and

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

17

18 (2) In section 21U(2):

19 (a) in paragraph (b)(ii) delete “proprietors of lots in the”
20 and insert:

21

22 owners of lots in the strata

23

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

25

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

31

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1 (3) In section 21U(3):

2 (a) delete “subsection” and insert:

3

4 subclause

5

6 (b) in paragraph (b) delete “section” and insert:

7

8 clause

9

10 (4) In section 21U(4)(a) delete “subsection” and insert:

11

12 subclause

13

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

16

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

18

19 Note:

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

22 **25. Section 21V amended**

23 (1) In section 21V(1) delete “subsection (2),” and insert:

24

25 subclause (2A),

26

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

3
4 (c) in which any certificate required by
5 clause 21T(1)(e) is set out.
6

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

8
9 (2A) Subclause (1) does not apply if a disposition statement
10 is lodged for registration with the notice of resolution.
11

12 Note:

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

15 **26. Section 21W amended**

16 (1) In section 21W(1):

17 (a) delete “section 21T(1)(b)” and insert:

18
19 clause 21T(1)(b)
20

21 (b) delete “under section 5D” and insert:

22
23 as a short form easement or restrictive covenant
24

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

26
27 (2) Section 33 also applies to the discharge of an easement
28 that is created under subclause (1).

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- 1 (3) If the sketch plan makes provision as mentioned in
2 subclause (1), section 33 applies for the purposes of
3 this Subdivision with the following modifications —
4 (a) any easement provided for is created on the
5 registration of the notice of resolution; and
6 (b) any discharge of an easement under section 33
7 is required to be approved by the local
8 government instead of the Planning
9 Commission (subject to review under the
10 *Planning and Development Act 2005* Part 14).
11

12 Note:

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

15 **27. Section 21Y amended**

- 16 (1) In section 21Y(1):
17 (a) delete paragraphs (a) and (b) and insert:
18
19 (a) the operation of a transfer, document or
20 disposition statement referred to in clause 21V;
21 and
22 (b) the creation of a short form easement or
23 restrictive covenant under section 33 as read
24 with clause 21W,
25
26 (b) delete “subsections” and insert:
27
28 subclauses
29
30 (2) Delete section 21Y(2)(b) and insert:
31
32 (b) exclusive use by-laws,
33

1 (3) In section 21Y(4) delete “proprietors” and insert:

2

3 owners of the lots

4

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

6

7 the owner of a lot

8

9 (5) In section 21Y(5) delete “his” and insert:

10

11 the

12

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

14

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

18

19 Note:

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

22 **28. Section 21Z amended**

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

24

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

28

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1 (2) In section 21Z(2) delete “subsection” and insert:

2

3 subclause

4

5 Note:

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

8 **29. Section 24 amended**

9 (1) In section 24(2):

10 (a) delete “Upon or at any time after” and insert:

11

12 On, or at any time after,

13

14 (b) in paragraph (a) delete “in force” and insert:

15

16 or interim development order

17

18 (c) in paragraph (b) delete “under the provisions of the
19 last-mentioned Act relating to any”

20

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

22

23 (2A) In making determinations of a kind provided for by this
24 section, a local government must have regard to
25 considerations specified in the regulations as being
26 relevant to determinations of that kind.

27

28 (3) In section 24(4) and (5) delete “shall” and insert:

29

30 must

31

1 (4) In section 24(6) delete “shall be” (each occurrence) and insert:

2

3 is

4

5 Note:

6

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

7 **30. Section 26 amended**

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

9

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

13

14 (2) In section 26(3) delete “shall —” and insert:

15

16 made to it under this Part must —

17

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

19

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

23

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

26

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

28

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

29

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

30

31

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- 1 (e) a decision to refuse to approve a lease or
2 licence under section 26.
- 3 (5) Part 13 does not apply to a proceeding under this
4 section (which is a proceeding within the Tribunal's
5 review jurisdiction).
6
- 7 (4) In section 26(6):
8 (a) delete “subsections (4) and (5),” and insert:
9
10 subsection (4),
11
12 (b) after “application” (1st occurrence) insert:
13
14 under this Part
15
16 (c) delete “40 days of receiving” and insert:
17
18 the prescribed period after being given
19
- 20 (5) In section 26(7):
21 (a) delete “of the day on which the applicant received” and
22 insert:
23
24 after the day on which the applicant is given
25
26 (b) delete “of the expiration of the period of 40 days” and
27 insert:
28
29 after the expiration of the prescribed period
30

1 (6) After section 26(7) insert:

2

3 (8) In this section —

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

6

7 Note:

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

10 **31. Section 28 amended**

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

12

13 (1A) An application for an order under this section for a
14 strata scheme can be made by —

15 (a) the strata company; or

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

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

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

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

26

27 (2) In section 28(2):

28 (a) after “on the” insert:

29

30 scheme

31

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- 1 (b) delete “District Court” and insert:
2
3 Tribunal
4
- 5 (3) In section 28(3):
6 (a) delete “the generality of”;
7 (b) delete “such directions for or with respect to any one”
8 and insert:
9
10 directions for any 1
11
- 12 (c) delete “matters as the District Court considers necessary
13 or expedient —” and insert:
14
15 matters —
16
- 17 (d) in paragraph (b) delete “proprietors” (1st occurrence) and
18 insert:
19
20 owners
21
- 22 (e) in paragraph (b) delete “proprietors” (2nd occurrence)
23 and insert:
24
25 owners of lots
26
- 27 (f) in paragraph (c) delete “entitlement of” and insert:
28
29 entitlements of
30

- 1 (g) in paragraph (c) delete “entitlement;” and insert:
2
3 entitlements;
4
- 5 (h) in paragraph (d) delete “moneys” and insert
6
7 money
8
- 9 (i) in paragraph (d) after “destruction of the” insert:
10
11 scheme
12
- 13 (j) delete paragraph (e) and insert:
14
15 (e) the payment of money to or by the strata
16 company, the owner of a lot or, for a leasehold
17 scheme, the owner of the leasehold scheme;
18
- 19 (k) in paragraph (f) delete “registered”;
20 (l) in paragraph (f) delete “District Court” and insert:
21
22 Tribunal
23
- 24 (m) in paragraph (g) after “insurer of the” insert:
25
26 scheme
27
- 28 (n) in paragraph (h) delete “District Court,” and insert:
29
30 Tribunal,
31

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1 (o) in paragraph (i) delete “District Court” and insert:

2

3 Tribunal

4

5 (4) In section 28(4) delete “District Court may from time to time
6 amend any” and insert:

7

8 Tribunal may amend an

9

10 (5) In section 28(5):

11 (a) delete “shall take effect —” and insert:

12

13 takes effect as follows —

14

15 (b) in paragraph (b) delete “section 29,” and insert:

16

17 section 167,

18

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

20 Note: The heading to amended section 28 is to read:

21 **Variation of strata scheme on damage or destruction of building**

22 Note:

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

25 **32. Section 29 amended**

26 In section 29:

27 (a) delete “28 shall apply and the District Court shall have”
28 and insert:

29

30 166 applies and the Tribunal has

31

1 (b) delete “that section applies and the District Court” and
2 insert:

3
4 section 166 applies and the Tribunal

5
6 (c) after “destruction of a” insert:

7
8 scheme

9
10 Note: The heading to amended section 29 is to read:

11 **Variation of strata scheme on taking**

12 Note:

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

15 **33. Section 29A amended**

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

17
18 (1A) An application for an order under this section for a
19 survey-strata scheme can be made by any of the
20 following —

- 21 (a) the strata company;
22 (b) the owner of a lot in the scheme;
23 (c) a registered mortgagee of a lot in the scheme;
24 (d) for a leasehold scheme, the owner of the
25 leasehold scheme.
26

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

5
6 If part of a parcel subdivided by a survey-strata scheme is taken,
7 the Tribunal may
8

9 (3) In section 29A(2):

10 (a) delete “the generality of”;

11 (b) delete “such directions for or with respect to any one”
12 and insert:

13
14 directions for any 1
15

16 (c) delete “matters as the District Court considers necessary
17 or expedient —” and insert:

18
19 matters —
20

21 (d) in paragraph (a) delete “entitlement of” and insert:

22
23 entitlements of
24

25 (e) in paragraph (a) delete “entitlement; and” and insert:

26
27 entitlements; and
28

29 (f) in paragraph (b) delete “moneys” and insert

30
31 money
32

- 1 (g) in paragraph (b) delete “any one or more of the
2 proprietors; and” and insert:
3
4 the owner of a lot or, in the case of a leasehold scheme,
5 the owner of the leasehold scheme; and
6
7 (h) in paragraph (c) delete “registered”;
8 (i) in paragraphs (c), (d) and (e) delete “District Court”
9 (each occurrence) and insert:
10
11 Tribunal
12
13 (4) In section 29A(3) delete “District Court may from time to time
14 amend any” and insert:
15
16 Tribunal may amend an
17
18 (5) Delete section 29A(4) and (5).
19 Note: The heading to amended 29A is to read:
20 **Variation of survey-strata scheme on taking**
21 Note:
22 Section 29A (as amended) is renumbered as section 168 and
23 relocated to Part 11 Division 2.
- 24 **34. Section 29B amended**
- 25 (1) In section 29B(1):
26 (a) delete “Where part of the land in a strata plan is taken
27 and the taking includes part but not the whole of any lot
28 in the scheme,” and insert:
29
30 If part of a parcel subdivided by a strata titles scheme is
31 taken,
32

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- 1 (b) delete “shall,” and insert:
2
3 must,
4
5 (c) delete “subsection (2).” and insert:
6
7 requirements specified in the regulations (the *redefining*
8 *plan*).
9
10 (2) Delete section 29B(2) and (3) and insert:
11
12 (2) On registration of the redefining plan —
13 (a) the redefining plan is taken to be part of the
14 scheme plan as previously registered; and
15 (b) the Registrar of Titles must amend the
16 registered scheme plan in the manner specified
17 in the regulations.
18
19 (3) In section 29B(4) in the definition of *acquiring authority*
20 paragraph (b) delete “where” and insert:
21
22 if
23
24 Note: The heading to amended 29B is to read:
25 **Acquiring authority to lodge redefining plan after partial taking**
26 Note:
27 Section 29B (as amended) is renumbered as section 169 and
28 relocated to Part 11 Division 2.

1 **35. Section 29C amended**

2 (1) In section 29C(1) after “that a” insert:

3

4 strata titles

5

6 (2) In section 29C(2):

7 (a) delete “Where” and insert:

8

9 If

10

11 (b) delete “shall” and insert:

12

13 must

14

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

16 **Termination on compulsory acquisition**

17 Note:

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

20 **36. Section 31B amended**

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

24

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

27

28 Note:

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

1 **37. Section 31C amended**

2 (1) In section 31C(1) delete “prescribed form” and insert:

3

4 approved form

5

6 (2) In section 31C(2) delete “section” and insert:

7

8 clause

9

10 (3) In section 31C(3):

11 (a) delete “subsection” and insert:

12

13 subclause

14

15 (b) delete “section” and insert:

16

17 clause

18

19 (4) Delete section 31C(4).

20 Note:

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

23 **38. Section 31D amended**

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

25

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

30

1 (2) In section 31D(2) delete “proprietors” and insert:

2

3 owners

4

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

6

7 (3) The notice of resolution —

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

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

12

13 Note:

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

16 **39. Section 31E amended**

17 (1) In section 31E(1):

18 (a) in paragraph (a)(i) delete “prescribed manner —” and
19 insert:

20

21 manner specified in the regulations —

22

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

24

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

30

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- 1 (c) delete paragraph (a)(v) and insert:
2
3 (v) containing such other features as may be
4 prescribed by the regulations relating to
5 the preparation of scheme plans by a
6 licensed surveyor;
7
8 (d) in paragraph (b) delete “section” and insert:
9
10 clause
11
12 (e) delete paragraph (c)(ii) and insert:
13
14 (ii) the sum of the unit entitlements of all
15 the lots in the strata titles scheme;
16
17 (f) delete paragraph (d) and insert:
18
19 (d) a certificate of a licensed valuer as required for
20 a schedule of unit entitlements; and
21
22 (g) in paragraph (e) delete “a proprietor,” and insert:
23
24 the owner of a lot,
25
26 (h) in paragraph (e) delete “his consent to the proposed
27 schedule of unit entitlement.” and insert:
28
29 the person’s consent to the proposed schedule of unit
30 entitlements.
31

- 1 (2) In section 31E(2):
2 (a) delete “section” and insert:

3
4 clause

- 5
6 (b) delete “subsection” and insert:

7
8 subclause

9
10 Note:

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

13 **40. Section 31F amended**

- 14 (1) In section 31F(1) delete “section 31E(1)(b)” and insert:

15
16 clause 31E(1)(b)

- 17
18 (2) In section 31F(1)(a) delete “section;” and insert:

19
20 clause;

- 21
22 (3) In section 31F(1)(b) delete “section.” and insert:

23
24 clause.

- 25
26 (4) In section 31F(2):

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

28
29 (a) that the requirements of the regulations and
30 Transfer of Land Act requirements for

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- 1 preparation and certification of amendments of
2 scheme plans by a licensed surveyor are
3 satisfied; and
4 (b) that there are not more lots on the survey-strata
5 plan than there are on the existing strata plan;
6 and
7
8 (b) in paragraph (d) delete “where” and insert:
9
10 if
11
12 (c) in paragraph (e) delete “subsection” and insert:
13
14 subclause
15
16 (d) in paragraph (e)(ii) delete “section” and insert:
17
18 clause
19
20 (5) In section 31F(3)(a) delete “subsection” and insert:
21
22 subclause
23
24 (6) In section 31F(4) delete “subsection” (each occurrence) and
25 insert:
26
27 subclause
28
29 Note:
30 Section 31F (as amended) is redesignated as clause 31F and
31 relocated to Schedule 2A.

1 **41. Section 31G amended**

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

4
5 clause 31E(1)(a) may provide for a short form easement or
6 restrictive covenant to be created under section 33,
7

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

9
10 (2) Section 33 also applies to the discharge of an easement
11 that is created under subclause (1).
12

13 Note:

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

16 **42. Section 31H amended**

17 (1) In section 31H(1) delete “subsection (2),” and insert:

18
19 subclause (2A),
20

21 (2) Delete section 31H(2)(c) and all the words after that paragraph
22 and insert:
23

24 (c) in which any certificate required by
25 clause 31E(1)(e) is set out.
26

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

2

3 (2A) Subclause (1) does not apply if a disposition statement
4 is lodged for registration with the notice of resolution.

5

6 Note:

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

9 **43. Section 31J amended**

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

11

12 (2) In addition to —

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

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

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

21

22 (2) In section 31J(3):

23 (a) delete “Where” and insert:

24

25 If

26

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

28

29 (ii) exclusive use by-laws,

30

1 (3) In section 31J(5) delete “proprietors” and insert:

2

3 owners of the lots

4

5 (4) In section 31J(6):

6 (a) delete “a proprietor” and insert:

7

8 the owner of a lot

9

10 (b) delete “his” and insert:

11

12 the

13

14 (5) In section 31J(7):

15 (a) delete “this section is to be” and insert:

16

17 this clause is

18

19 (b) delete “that section.” and insert:

20

21 that clause.

22

23 Note:

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

1 **44. Section 31K amended**

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

3

- 4 (a) the strata plan in the manner specified in the regulations
5 to give effect to clauses 31G, 31H and 31J; and
6

7 Note:

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

10 **45. Section 33 amended**

11 (1) In section 33(1):

- 12 (a) delete “Where the proprietors of the lots the subject of
13 a” and insert:

14

15 If the owners of the lots in a strata titles

16

- 17 (b) delete “any” (1st occurrence) and insert:

18

19 a

20

- 21 (c) delete “taken against them jointly (any such proceedings
22 being proceedings for or with respect to common
23 property),” and insert:

24

25 relating to common property taken against them jointly,

26

- 27 (d) delete “any such proceedings shall have” and insert:

28

29 the proceedings has

30

- 1 (e) delete “proprietors.” and insert:
2
3 owners.
4
- 5 (2) In section 33(2):
6 (a) delete “Where a proprietor” and insert:
7
8 If an owner of a lot
9
- 10 (b) delete “proprietor in respect of” and insert:
11
12 owner for
13
- 14 (c) delete “shall” and insert:
15
16 must
17
- 18 (d) delete “proprietor bears to the aggregate unit
19 entitlement.” and insert:
20
21 owner bears to the sum of the unit entitlements of all the
22 lots.
23
- 24 Note: The heading to amended section 33 is to read:
25 **Strata company is representative of owners in proceedings**
26
- 27 Note:
28 Section 33 (as amended) is renumbered as section 103 and relocated
 to Part 8 Division 1 Subdivision 4.

- 1 **46. Section 34 amended**
- 2 (1) In section 34(1):
- 3 (a) delete “varying or discharging” and insert:
- 4
- 5 varying, extending, discharging or terminating
- 6
- 7 (b) delete “vary or discharge” and insert:
- 8
- 9 vary, extend, discharge or terminate
- 10
- 11 (c) delete “varied or discharged” and insert:
- 12
- 13 varied, extended, discharged or terminated
- 14
- 15 (2) In section 34(2) delete “variation or discharge” and insert:
- 16
- 17 variation, extension, discharge or termination
- 18
- 19 (3) Delete section 34(3) and insert:
- 20
- 21 (3) This section does not affect —
- 22 (a) section 115; or
- 23 (b) section 151; or
- 24 (c) the operation of a law that requires some
- 25 consent or sanction to be obtained, or some
- 26 procedure to be complied with, in relation to
- 27 the making, variation, extension, discharge or
- 28 termination of a contract.
- 29
- 30 Note:
- 31 Section 34 (as amended) is renumbered as section 139 and relocated
- 32 to Part 8 Division 5.

1 **47. Section 35 amended**

2 (1) In section 35(1):

3 (a) delete “shall —” and insert:

4
5 must —

6
7 (b) delete paragraph (a);

8 (c) in paragraph (b) delete “proprietors; and” and insert:

9
10 owners of lots; and

11
12 (d) in paragraph (c) delete “where” and insert:

13
14 if

15
16 (e) in paragraph (c)(ii) delete “vested in” and insert:

17
18 owned by

19
20 (f) in paragraph (c) delete “cause; and” and insert:

21
22 cause.

23
24 (g) delete paragraphs (e) to (k).

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

2

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

6 Note for this subsection:

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

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

16

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

18 **General duty**

19 Note:

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

22 **48. Section 35A amended**

23 (1) In section 35A(1) delete “shall” and insert:

24

25 must

26

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

28

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

30

1 (3) In section 35A(3)(b) delete “a proprietor” and insert:

2

3 an owner

4

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

6

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

8

 (a) the name of the strata company; and

9

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

12

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

14

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

16

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

19

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

22

23 (5) In section 35A(5) delete “shall” and insert:

24

25 must

26

27 Note:

28

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

29

1 **49. Section 36 amended**

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

3
4 (1) A strata company must —

- 5 (a) establish a fund (an *administrative fund*) for
6 administrative expenses that is sufficient in the
7 opinion of the strata company for the control
8 and management of the common property, for
9 the payment of any premiums of insurance and
10 the discharge of any other obligation of the
11 strata company; and
- 12 (b) determine the amounts to be raised for payment
13 into the administrative fund; and
- 14 (c) raise amounts so determined by levying
15 contributions on owners of lots —
- 16 (i) in proportion to the unit entitlements of
17 their respective lots; or
- 18 (ii) if the scheme by-laws provide for a
19 different basis for levying contributions,
20 in accordance with that basis;
- 21 and
- 22 (d) recover from the owner of a lot, by action in a
23 court of competent jurisdiction if necessary,
24 any sum of money expended by the company
25 for repairs or work done by it or at its direction
26 in complying with a notice issued, or order
27 made, under a written law in respect of the lot.

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

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

- 1 routine nature, and other major expenses of the
2 strata company likely to arise in the future; and
3 (b) determine the amounts to be raised for payment
4 into the reserve fund; and
5 (c) may raise amounts so determined by levying
6 contributions on the owners in proportion to the
7 unit entitlements of their respective lots.
- 8 (2A) A designated strata company must ensure —
9 (a) that there is a 10 year plan that sets out —
10 (i) the common property and the personal
11 property of the strata company that is
12 anticipated to require maintenance,
13 repair, renewal or replacement (other
14 than of a routine nature) in the period
15 covered by the plan; and
16 (ii) the estimated costs for the maintenance,
17 repairs, renewal or replacement; and
18 (iii) other information required to be
19 included by the regulations;
20 and
21 (b) that the 10 year plan is revised at least once in
22 each 5 years and that, when revised, the plan is
23 extended to cover the 10 years following the
24 revision.
25
- 26 (2) In section 36(3):
27 (a) delete “by-laws of a strata company” and insert:
28
29 scheme by-laws
30

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- 1 (b) delete “shall” and insert;
2
3 must
4
5 (c) delete “of proprietors passed at a general meeting of” and
6 insert:
7
8 passed by
9
10 (3) In section 36(4):
11 (a) in paragraph (b) delete “prescribed,” and insert:
12
13 specified in the regulations,
14
15 (b) in paragraph (b) delete “shall bear” and insert:
16
17 bears
18
19 (4) In section 36(5) delete “shall form” and insert:
20
21 forms
22
23 (5) In section 36(6):
24 (a) delete “Subject to section 43(4), a proprietor” and insert:
25
26 The owner
27
28 (b) delete “thereon,” and insert:
29
30 on the contribution,
31

- 1 (c) delete “proprietor” (each occurrence) and insert:
2
3 owner
4
5 (d) delete “he” and insert:
6
7 the owner
8
9 (6) After section 36(6) insert:
10
11 (7) In this section —
12 *designated strata company* means —
13 (a) a strata company for a scheme with 10 or more
14 lots; or
15 (b) a strata company included in this definition by
16 the regulations.
17

18 Note: The heading to amended section 36 is to read:

19 **Administrative and reserve funds and contributions**

20 Note:

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

23 **50. Section 37 amended**

- 24 (1) In section 37(1):
25 (a) delete “A” and insert:
26
27 Without limiting the powers of a strata company to
28 perform its functions, a
29

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- 1 (b) in paragraph (a) delete “proprietors” and insert:
2
3 owners of lots
4
- 5 (c) in paragraph (c) delete “moneys” and insert:
6
7 money
8
- 9 (d) in paragraph (d) delete “moneys” and insert:
10
11 money
12
- 13 (e) in paragraph (d) delete “thereon,” and insert:
14
15 on that money,
16
- 17 (f) in paragraph (d) delete “vested in” and insert:
18
19 owned by
20
- 21 (g) in paragraph (e) delete “any moneys” and insert:
22
23 money
24
- 25 (h) in paragraph (e) delete “any” (1st occurrence) and insert:
26
27 the
28
- 29 (i) in paragraph (e) delete “in any investment prescribed;
30 and” and insert:
31
32 by the regulations; and
33

- 1 (j) in paragraph (f) delete “where” and insert:
2
3 if
4
- 5 (k) in paragraph (f) delete “any” and insert:
6
7 an
8
- 9 (l) in paragraph (g) delete “make an agreement with any
10 proprietor” and insert:
11
12 make a contract with the owner
13
- 14 (m) in paragraph (g) delete “that lot or to the proprietor or
15 occupier of that lot; and” and insert:
16
17 the lot or to the owner or occupier; and
18
- 19 (n) in paragraph (h) delete “vessels.” and insert:
20
21 vessels; and
22
- 23 (o) after paragraph (h) insert:
24
- 25 (i) grant a lease, licence or other rights over
26 common property for the purpose of utility
27 infrastructure or sustainability infrastructure;
28 and
- 29 (j) for the purpose of performing any of its
30 functions, develop and turn to account any
31 technology, software, or intellectual property
32 that relates to the function and, for that purpose,
33 apply for, hold, exploit, and dispose of any

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- 1 patent, patent rights, copyright, or similar
2 rights; and
3 (k) arrange for the auditing of any accounting
4 records.
5

6 (2) In section 37(2) delete “shall form” and insert:
7

8 forms
9

10 Note: The heading to amended section 37 is to read:

11 **Powers of strata company generally**

12 Note:

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

15 **51. Section 38 amended**

16 (1) Delete section 38(1) and (2) and insert:
17

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

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

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

28 (b) necessary to remedy a contravention of a duty
29 that the person has under a statutory easement.
30

- 1 (2) In section 38(3):
2 (a) delete “Where a proprietor, mortgagee in possession,”
3 and insert:
4
5 If an owner
6
7 (b) delete “ any”.
- 8 (3) Delete section 38(4) and insert:
9
10 (4) If the strata company carries out work under
11 subsection (1), other than work performed for the
12 benefit of the scheme building generally, or under
13 subsection (2), it may recover the cost of so doing, as a
14 debt in a court of competent jurisdiction —
15 (a) from the owner or occupier referred to in
16 subsection (1) or (2); or
17 (b) if the work is carried out under —
18 (i) subsection (1), from a person who, after
19 the work is carried out, becomes the
20 owner of the lot on or in relation to
21 which the work was carried out; or
22 (ii) subsection (2), from a person who, after
23 the work is carried out, becomes the
24 owner of the lot referred to in
25 subsection (2).
26
- 27 (4) In section 38(5) delete “Where” and insert:
28
29 If
30

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

2

3 (6) If any part of a scheme building comprised in a lot
4 contains a structural defect which affects or is likely to
5 affect the support or shelter provided by that lot for
6 another lot in that building or the common property and
7 the defect is not due to any contravention of a duty that
8 a person has under a statutory easement, the strata
9 company may, at its own expense, carry out such work
10 as is necessary to rectify the defect.
11

12 Note:

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

15 **52. Section 39A amended**

16 (1) In section 39A(1):

17 (a) delete “agreement” (1st occurrence) and insert:

18

19 contract

20

21 (b) delete “agreement, by notice in writing to every other
22 party to the agreement,” and insert:

23

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

26

27 (c) delete “agreement was entered into.” and insert:

28

29 contract was made.
30

- 1 (2) In section 39A(3) delete “An agreement shall” and insert:
2
3 A contract or any other agreement or arrangement must
4
5 (3) In section 39A(4):
6 (a) delete “an agreement if —” and insert:
7
8 a contract if —
9 (b) delete paragraph (a) and insert:
10
11 (a) it relates to the provision of amenities or
12 services to the strata company or the owners of
13 lots; and
14
15 (c) delete paragraph (c) and insert:
16
17 (c) it was made before registration of the strata
18 titles scheme or when any owner held 50% or
19 more of the unit entitlement of the lots.
20
21 (4) Delete section 39A(5) and insert:
22
23 (5) The Tribunal may, on the application of a person made
24 in respect of a contract, by order extend the period of
25 5 years provided for by subsection (1), so far as it
26 applies to that contract, if satisfied that the contract —
27 (a) is fair to all owners of lots in the strata titles
28 scheme; and
29 (b) will remain fair to all those owners during the
30 extended period.
31

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1 (5) In section 39A(6):

2 (a) delete “agreement” (1st occurrence) and insert:

3

4 contract

5

6 (b) delete “agreement was entered into,” and insert:

7

8 contract was made,

9

10 (6) Delete section 39A(7).

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

12 **Power to terminate certain contracts for amenities or services**

13 Note:

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

16 **53. Section 44 amended**

17 (1) In section 44(1):

18 (a) delete “ company shall,” and insert:

19

20 company,

21

22 (b) delete “at a general meeting, be” and insert:

23

24 by ordinary resolution, are to be

25

26 (2) In section 44(2):

27 (a) delete “shall” (1st occurrence) and insert:

28

29 must

30

31 (b) delete “shall” (2nd occurrence);

1 (c) delete “and in the manner provided by the by-laws of the
2 strata company.” and insert:

3
4 this Act and the scheme by-laws.
5

6 (3) After section 44(2) insert:
7

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

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

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

17 (4) 1 of the members of the council of a strata company
18 must hold office as the chairperson of the strata
19 company.

20 Note for this section:

21 Section 143 provides that the functions of a strata company
22 or the council or an officer of a strata company may be
23 performed by a strata manager.
24

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

26 **Functions and constitution of councils**

27 Note:

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

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

(2) In section 45(2):

the

If

1 (b) delete “shall be deemed” and insert:

2

3 is taken

4

5 Note: The heading to amended section 45 is to read:

6 **Corporate body may be officer or council member**

7 Note:

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

10 **55. Section 53A amended**

11 In section 53A:

12 (a) delete “Subdivision —” and insert:

13

14 Part —

15

16 (b) in paragraph (c) delete “*proprietor* are to a proprietor”
17 and insert:

18

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

20

21 Note: The heading to amended section 53A is to read:

22 **References in this Part**

23 Note:

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

26 **56. Section 53B amended**

27 (1) In section 53B(1):

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

29

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

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- 1 (ii) damage to property, death, bodily injury
2 or illness for which the owner of a lot in
3 a scheme could become liable in
4 damages;
5
- 6 (b) in paragraph (b) delete “proprietor” and insert:
7
8 owner of the lot
9
- 10 (c) in paragraph (c) delete “any”;
11 (d) delete “section, at the discretion of the proprietor” and
12 insert:
13
14 clause, at the discretion of the owner
15
- 16 (2) Delete section 53B(2) and (3) and insert:
17
- 18 (2) A strata company for a scheme may determine, by
19 ordinary resolution, that it is a function of the strata
20 company to insure in respect of the matters referred to
21 in subclause (1), and may at any time, by ordinary
22 resolution, revoke that determination.
- 23 (3) While such a resolution is in force, the strata company
24 must comply with clause 53D.
- 25 (4) If insurable assets are wholly within common property,
26 whether there is insurance in respect of the assets is not
27 at the discretion of the owner of a lot.
28
- 29 Note:
30 Section 53B (as amended) is redesignated as clause 53B and
31 relocated to Schedule 2A.

1 **57. Section 53C amended**

2 (1) In section 53C(1):

3 (a) delete “shall —” and insert:

4
5 must —

6
7 (b) in paragraph (a) delete “any building, or part of a
8 building, or improvement on the parcel that is” and
9 insert:

10
11 insurable assets that are within the

12
13 (c) in paragraph (b) delete “death or bodily injury for which
14 the proprietors” and insert:

15
16 death, bodily injury or illness for which the owners

17
18 (2) In section 53C(2):

19 (a) delete “subsection” and insert:

20
21 subclause

22
23 (b) in paragraph (a)(i) delete “is no building or
24 improvement” and insert:

25
26 are no insurable assets

27
28 (c) in paragraph (a)(ii) delete “lot;” and insert:

29
30 lot or on the boundary of temporary common property;

31

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- 1 (d) in paragraph (b) delete “(or unanimous resolution in the
2 case of a two-lot scheme) determined that subsection”
3 and insert:
4
5 determined that subclause
6
- 7 (3) Delete section 53C(3) to (5) and insert:
8
9 (3) A resolution under subclause (2)(b) remains in force
10 until —
11 (a) it is revoked; or
12 (b) it ceases to have effect under subclause (5).
- 13 (4) The owner of a lot may, at any time after the passing of
14 the resolution, serve written notice on the strata
15 company or, in the case of a 2-lot scheme, on the
16 owner of the other lot, that the owner requires that
17 subclause (1) apply to the scheme.
- 18 (5) If the owner of a lot serves a notice under
19 subclause (4), the resolution under subclause (2)(b)
20 ceases to have effect at the end of the period of
21 1 month beginning on the day on which the notice was
22 served.
- 23 (6) While a resolution under subclause (2)(b) is in force,
24 the following are at the discretion of the owner of the
25 lot —
26 (a) whether there is insurance in respect of —
27 (i) the share of the owner of a lot in
28 insurable assets in the scheme that are
29 within the common property; or
30 (ii) damage to property, death, bodily injury
31 or illness for which an owner of a lot in
32 the scheme could become liable in
33 damages as the holder of a share in the
34 common property;

- 1 (b) the occurrences to be insured against by the
2 owner of a lot in relation to those matters;
3 (c) the terms on which insurance is obtained.
4

5 Note:

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

8 **58. Section 53D amended**

9 (1) Delete section 53D(1) and (2) and insert:
10

11 (1) This clause applies if —

- 12 (a) a resolution is in force under clause 53B(2); or
13 (b) in accordance with clause 53C, a strata
14 company has the obligations described in
15 subclause (1) of that clause.

16 (2) This clause also applies if a strata company passes an
17 ordinary resolution to insure common property that it is
18 not obliged to insure by reason of clause 53C(2)(a).
19

20 (2) In section 53D(3):

21 (a) delete “shall —” and insert:
22

23 must —
24

25 (b) delete paragraph (a) and insert:
26

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

32 (i) to replacement value; or

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- 1 (ii) to replacement value, up to, for an event
2 of a specified kind, a maximum amount
3 specified in the contract of insurance
4 that is a reasonable limitation in the
5 circumstances;
6 and
7
- 8 (c) in paragraph (b) delete “or bodily injury for not less than
9 \$5 000 000 or such other amount as may be prescribed”
10 and insert:
11
12 bodily injury or illness for not less than \$10 000 000 or
13 such other amount as may be specified in the regulations
14
- 15 (3) In section 53D(3) delete the penalty and insert:
16
17 Penalty for this subclause: a fine of \$3 000.
18
- 19 (4) Delete section 53D(4) and insert:
20
- 21 (4) It is a defence to a charge of an offence against
22 subclause (3) for a strata company to prove that,
23 despite having taken all reasonably practicable steps
24 available to it to comply with that subclause, no insurer
25 is willing to enter into a contract of insurance, on
26 reasonable terms, that meets the obligation imposed by
27 that subclause.
28
- 29 Note: The heading to amended section 53D is to read:
30 **Strata company’s obligations if it has insurance function in single**
31 **tier strata scheme**
- 32 Note:
33 Section 53D (as amended) is redesignated as clause 53D and
34 relocated to Schedule 2A.

1 **59. Section 53E amended**

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

3

4 (1) If —

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

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

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

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

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

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

23

24 (2) In section 53E(3):

25 (a) delete “Where —” and insert:

26

27 If —

28

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- 1 (b) delete paragraph (a) and insert:
2
3 (a) notice has been given to the owner of a lot
4 under subclause (1); and
5
6 (c) in paragraph (b) delete “proprietor’s” and insert:
7
8 owner’s
9
10 (d) delete “proprietor” and insert:
11
12 owner
13
14 (3) Delete section 53E(4) and insert:
15
16 (4) If the amount of an owner’s share has become due to
17 the strata company but has not been paid, the owner of
18 another lot may —
19 (a) pay the amount; and
20 (b) recover the amount as a debt on application to
21 the Tribunal.
22
23 Note: The heading to amended section 53E is to read:
24 **Recovery of premium by strata company or owner if no**
25 **administrative fund in single tier strata schemes**
26 Note:
27 Section 53E (as amended) is redesignated as clause 53E and
28 relocated to Schedule 2A.

1 **60. Section 57 amended**

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

3

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

10

11 (2) In section 57(2):

12 (a) delete “Where any contract of insurance of the kind
13 authorised by subsection (1)” and insert:

14

15 If a contract of mortgage insurance

16

17 (b) in paragraph (a) delete “shall” and insert:

18

19 must

20

21 (c) in paragraph (a) delete “thereon” and insert:

22

23 in the contract

24

25 (d) in paragraph (b) delete “thereunder —” and insert:

26

27 the lesser of the following —

28

29 (e) in paragraph (b)(iii) delete “charged upon the lot,” and
30 insert:

31

32 of the lot;

33

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- 1 (f) in paragraph (b) delete “whichever is the least amount;”;
2 (g) in paragraph (c) delete “where” and insert:
3
4 if
5
6 (h) in paragraph (c) delete “charged upon” and insert
7
8 of
9
10 (i) in paragraph (d) delete “where” and insert:
11
12 if
13
14 (j) in paragraph (d) delete “shall be” and insert:
15
16 is
17
18 (3) In section 57(2) after each of paragraphs (a), (b) and (c) insert:
19
20 and
21
22 (4) Delete section 57(3), (4) and (5) and insert:
23
24 (3) A contract of mortgage insurance is not liable to be
25 brought into contribution with any other such contract
26 of mortgage insurance unless both contracts cover the
27 same lot and relate to the same mortgage debt.

- 1 (4) Nothing in this Act limits the right of the owner of a lot
2 to effect insurance for the lot.
3

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

5 **Insurance for lot**

6 Note:

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

9 **61. Section 60 amended**

10 (1) In section 60(1):

11 (a) delete “any plan” and insert:

12 a scheme plan or an amendment of a scheme plan
13
14

15 (b) delete “shall” and insert:

16 must
17
18

19 (2) Delete section 60(2).

20 (3) In section 60(3):

21 (a) after “plan” insert:

22 or amended plan
23
24

25 (b) delete “shall” and insert:

26 must
27
28

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

30 **Registrar of Titles to deliver copies of plans**

31 Note:

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

1 **62. Section 61 amended**

2 In section 61:

- 3 (a) delete “all purposes in relation to”;
- 4 (b) delete “the parcel or any part of the” and insert:

5

6 a parcel or part of a

7

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

11

12 copy of the scheme plan or amended plan

13

- 14 (d) in paragraph (a) delete “section 60,” and insert:

15

16 section 67,

17

- 18 (e) in paragraph (b) delete “certified” (each occurrence);

- 19 (f) in paragraph (b) delete “transfer” and insert:

20

21 amended plan

22

23 Note:

24 Section 61 (as amended) is renumbered as section 68 and relocated to

25 Part 5 Division 4.

26 **63. Section 62 amended**

27 (1) In section 62(1):

- 28 (a) delete “Where” and insert:

29

30 If

31

- 1 (b) delete “in a strata plan” and insert:
2
3 subdivided by a strata scheme
4
5 (c) delete “shall, notwithstanding” and insert:
6
7 must, despite
8
9 (2) In section 62(2):
10 (a) delete “thereto,” and insert:
11
12 to the valuation,
13
14 (b) delete “thereon shall be deemed” and insert:
15
16 on the parcel are taken
17
18 (3) In section 62(3):
19 (a) delete “strata/survey-strata plan” and insert:
20
21 strata scheme
22
23 (b) delete “shall for the purposes of this section be deemed”
24 and insert:
25
26 is taken, for the purposes of this section,
27
28 (4) In section 62(4):
29 (a) delete “where” and insert:
30
31 if
32

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- 1 (b) delete “in this section called”.
- 2 (c) in paragraph (a) delete “shall” and insert:
- 3
- 4 must
- 5
- 6 (d) in paragraph (a) delete “as shown on the registered strata
- 7 plan;” and insert:
- 8
- 9 in the strata scheme;
- 10
- 11 (e) in paragraph (c) delete “proprietor” and insert:
- 12
- 13 owner
- 14
- 15 (f) in paragraph (c) delete “deemed” and insert:
- 16
- 17 taken
- 18
- 19 (5) In section 62(5):
- 20 (a) delete “Where —” and insert:
- 21
- 22 If —
- 23
- 24 (b) in paragraph (a) delete “shall” and insert:
- 25
- 26 must
- 27
- 28 (c) in paragraph (a) delete “upon” and insert:
- 29
- 30 on
- 31

1 (d) in paragraph (b) delete “shall” and insert:

2

3 is to

4

5 (e) in paragraph (b) delete “therefrom”;

6 (f) in paragraph (b) delete “such” and insert:

7

8 the

9

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

11 **Rating for strata schemes**

12 Note:

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

15 **64. Section 62A amended**

16 (1) In section 62A(2):

17 (a) delete “shall” and insert:

18

19 must

20

21 (b) delete “any” and insert:

22

23 a

24

25 (2) In section 62A(3):

26 (a) delete “shall” and insert:

27

28 must

29

30 (b) delete “any”.

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1 (3) In section 62A(4):

2 (a) delete “Where” and insert:

3

4 If

5

6 (b) delete “any” and insert:

7

8 a

9

10 (c) delete “shall” and insert:

11

12 must

13

14 (d) delete “upon” and insert:

15

16 on

17

18 Note:

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

21 **65. Section 63 amended**

22 (1) In section 63(1):

23 (a) delete “Where” and insert:

24

25 If

26

27 (b) delete “shall, notwithstanding” and insert:

28

29 must, despite

30

- 1 (2) In section 63(2):
2 (a) delete “where” and insert:
3
4 if
5
6 (b) delete “in this subsection called”.
7 (c) in paragraph (a) delete “of the parcel for any” and insert:
8
9 for a
10
11 (d) in paragraph (b) delete “proprietor” and insert:
12
13 owner
14
15 (e) in paragraph (b) delete “any rate” and insert:
16
17 a rate
18
19 (3) In section 63(3):
20 (a) delete “Where” and insert:
21
22 If
23
24 (b) delete “any” and insert:
25
26 a
27
28 (c) delete “shall” and insert:
29
30 must
31

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1 (d) delete “upon” and insert:

2

3 on

4

5 Note:

6 Section 63 (as amended) is renumbered as section 71 and relocated to
7 Part 5 Division 4.

8 **66. Section 64 amended**

9 (1) In section 64(1):

10 (a) delete “Notwithstanding section 62(2)” and insert:

11

12 Despite section 69(2)

13

14 (b) delete “where” and insert:

15

16 if

17

18 (c) delete “proprietor” (each occurrence) and insert:

19

20 owner

21

22 (d) delete “shall be” and insert:

23

24 is

25

26 (2) In section 64(2):

27 (a) delete “Upon” and insert:

28

29 On

30

- 1 (b) delete “a proprietor” and insert:
2
3 the owner
4
5 (c) delete “pursuant to” and insert:
6
7 under
8
9 (d) in paragraph (a) delete “shall” and insert:
10
11 must
12
13 (e) in paragraph (a) delete “upon” and insert:
14
15 on
16
17 (f) in paragraph (b) delete “such” and insert:
18
19 the
20

21 Note: The heading to amended section 64 is to read:

22 **Owner may seek a review of unimproved value of parcel**

23 Note:

24 Section 64 (as amended) is renumbered as section 72 and relocated to
25 Part 5 Division 4.

26 **67. Section 65 amended**

- 27 (1) In section 65(1):
28 (a) delete “(1) For all” and insert:
29
30 For all
31

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- 1 (b) delete “the parcel in a strata plan,” and insert:
2
3 a parcel subdivided by a strata scheme,
4
5 (c) in paragraph (a) delete “shall” and insert:
6
7 must
8
9 (d) in paragraph (a) delete “lots as shown on the registered
10 strata plan; and” and insert:
11
12 lots;
13
14 (e) in paragraph (b) delete “improvement tax; and” and
15 insert:
16
17 improvement tax;
18
19 (f) in paragraph (c) delete “shall be deemed” and insert:
20
21 is taken
22
23 (2) Delete section 65(2).
24 Note: The heading to amended section 65 is to read:
25 **Land tax and metropolitan region improvement tax: strata**
26 **schemes**
27 Note:
28 Section 65 (as amended) is renumbered as section 73 and relocated to
29 Part 5 Division 4.

1 **68. Section 65A amended**

2 In section 65A(2):

3 (a) in paragraph (a) delete “shall” and insert:

4

5 must

6

7 (b) in paragraph (a) delete “section 62A,” and insert:

8

9 section 70,

10

11 (c) in paragraph (b) delete “lot; and” and insert:

12

13 lot.

14

15 (d) delete paragraph (c).

16 Note: The heading to amended section 65A is to read:

17 **Land tax and metropolitan region improvement tax: survey-strata**
18 **schemes**

19 Note:

20 Section 65A (as amended) is renumbered as section 74 and relocated
21 to Part 5 Division 4.

22 **69. Section 66 amended**

23 In section 66:

24 (a) delete “Where in relation to a scheme” and insert:

25

26 If, in relation to a strata titles scheme,

27

28 (b) delete “as defined” and insert:

29

30 within the meaning given

31

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1 (c) delete “one” and insert:

2

3 1

4

5 (d) delete “all the proprietors” and insert:

6

7 the parcel

8

9 (e) delete “proprietor” and insert:

10

11 lot

12

13 (f) delete “any” and insert:

14

15 the

16

17 (g) delete “shall be” and insert:

18

19 are

20

21 Note:

22 Section 66 (as amended) is renumbered as section 75 and relocated to
23 Part 5 Division 4.

24 **70. Section 67 amended**

25 In section 67:

26 (a) in paragraph (a) delete “as defined” and insert:

27

28 within the meaning given

29

1 (b) in paragraph (a) and (b) delete “to be taken” and insert:

2

3 taken

4

5 Note:

6 Section 67 (as amended) is renumbered as section 76 and relocated to
7 Part 5 Division 4.

8 **71. Section 122 amended**

9 (1) In section 122(1):

10 (a) delete “any rights or remedies that a strata company, a
11 proprietor” and insert:

12

13 rights or remedies that a strata company, an owner

14

15 (b) delete “or an occupier may have in relation to any” and
16 insert:

17

18 or, an owner of a leasehold scheme or an occupier may
19 have in relation to a

20

21 (2) In section 122(2):

22 (a) delete “Where a court in which any proceedings to
23 enforce any” and insert:

24

25 If a court in which proceedings to enforce

26

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1 (b) delete “Part VI makes adequate provision for the
2 enforcement of those rights or remedies, the court shall”
3 and insert:

4
5 proceedings under this Act make adequate provision for
6 the enforcement of those rights or remedies, the court
7 must
8

9 Note:

10 Section 122 (as amended) is renumbered as section 211 and relocated
11 to Part 14.

12 **72. Section 122A amended**

13 (1) In section 122A(1) delete the passage that begins with “or
14 re-subdivided under this Act” and continues until the end of the
15 subsection and insert:

16
17 by a strata titles scheme if that subdivision would result in there
18 being a caravan park on more than 1 lot, a camping ground on
19 more than 1 lot or a caravan park and camping ground on more
20 than 1 lot.
21

22 (2) In section 122A(2) delete “re-subdivided where that
23 re-subdivision would not result in the land being re-subdivided”
24 and insert:

25
26 subdivided by registration of a strata titles scheme if that
27 subdivision would not result in the land being subdivided
28

1 (3) In section 122A(3) delete “meaning as they have for the
2 purposes of the *Caravan Parks and Camping Grounds*
3 *Act 1995*.” and insert:

4
5 meanings as they have in the *Caravan Parks and Camping*
6 *Grounds Act 1995* section 5.

7
8 Note:

9 Section 122A (as amended) is renumbered as section 212 and
10 relocated to Part 14.

11 **73. Section 123 amended**

12 (1) In section 123(1) after “land in a” insert:

13
14 strata titles
15

16 (2) Delete section 123(2) to (4) and insert:

17
18 (2) Subject to subsection (3), the strata company for a
19 strata titles scheme is taken to be the owner of the
20 parcel that is the subject of that scheme.

21 (3) In a survey-strata scheme, the owner of land in the
22 scheme that adjoins land outside the scheme is taken to
23 be —

- 24 (a) in the case of a lot, the owner of the lot; and
25 (b) in the case of common property, the strata
26 company.

27 (4) However, if a notice given under repealed
28 section 123A (as in force immediately before its
29 repeal) is recorded on the scheme plan, subsection (2)
30 continues to apply to the scheme and subsection (3)
31 does not apply to the scheme.

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- 1 (5) If scheme by-laws for a survey-strata scheme,
2 determine who is to be regarded as the owner of land in
3 the scheme for the purposes of the *Dividing Fences*
4 Act 1961, those by-laws have effect despite that Act or
5 this section.
6

7 Note:

8 Section 123 (as amended) is renumbered as section 213 and relocated
9 to Part 14.

10 **74. Section 123B amended**

11 (1) In section 123B(1):

- 12 (a) delete “and a single tier strata scheme”;
13 (b) in paragraph (b) delete “a proprietor” and insert:
14
15 an owner
16

17 (2) Delete section 123B(2) and insert:
18

19 (2) However, if a notice given under repealed section 123C
20 (as in force immediately before its repeal) is recorded
21 on the scheme plan, liability for fencing between lots in
22 the scheme is to be determined as if this section had not
23 been enacted.

24 (3) This section has effect subject to the scheme by-laws.
25

26 Note:

27 Section 123B (as amended) is renumbered as section 214 and
28 relocated to Part 14.

1 **75. Section 124 amended**

2 (1) In section 124(1) delete “District Court may, in respect of any
3 proceedings on an application for an order under section 28, 29
4 or 31,” and insert:

5

6 Tribunal may, in proceedings on an application for an order
7 under section 166, 167 or 168,
8

8

9 (2) In section 124(2):

10 (a) delete “rules of court, the District Court shall not make
11 an order referred to in subsection (1)(b) in respect of any
12 person unless the District Court” and insert:

13

14 the rules of the Tribunal, the Tribunal must not make an
15 order referred to in subsection (1)(b) in respect of a
16 person unless the Tribunal
17

17

18 (b) in paragraph (c) delete “upon” and insert:

19

20 on
21

21

22 (c) in paragraph (c) delete “his” and insert:

23

24 the person’s
25

25

26 Note: The heading to amended section 124 is to read:

27 **Notice of application for order under section 166, 167 or 168**

28 Note:

29 Section 124 (as amended) is renumbered as section 170 and relocated
30 to Part 11 Division 3.

30

1 **76. Section 126 amended**

2 In section 126 delete “public authority or local government
3 which is authorised by any Act to enter upon part of a parcel for
4 the purpose of exercising any power conferred on it may enter
5 upon” and insert:

6

7 person who is authorised under a written law to enter on part of
8 a parcel for the purpose of exercising a power conferred on the
9 person may enter on

10

11 Note: The heading to amended 126 is to read:

12 **Powers of entry under written laws**

13 Note:

14 Section 126 (as amended) is renumbered as section 217 and relocated
15 to Part 14.

16 **77. Section 129B amended**

17 (1) In section 129B(1) delete “power that section 129A gives the
18 Commissioner to any other” and insert:

19

20 Commissioner’s functions under section 218 to a

21

22 (2) In section 129B(2) delete “Commissioner.” insert:

23

24 Commissioner of Titles.

25

26 (3) In section 129B(3):

27 (a) delete “power or duty” and insert:

28

29 function

30

1 (b) delete “power or duty.” and insert:

2

3 function.

4

5 (4) In section 129B(4) delete “exercising or performing a power or
6 duty that has been delegated to the person under this section is
7 to be” and insert:

8

9 performing a function that has been delegated to the person
10 under this section is

11

12 (5) In section 129B(5) after “Commissioner” insert:

13

14 of Titles

15

16 (6) Delete section 129B(6).

17 Note:

18 Section 129B (as amended) is renumbered as section 219 and
19 relocated to Part 14.

20 **78. Section 129C amended**

21 (1) In section 129C(1) delete “any power or duty of the Registrar
22 under another provision of” and insert:

23

24 a function of the Registrar under

25

26 (2) In section 129C(2) delete “Registrar.” insert:

27

28 Registrar of Titles.

29

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- 1 (b) necessary or convenient to be prescribed for
2 giving effect to this Act.
3
- 4 (2) In section 130:
- 5 (a) delete the passage that begins with “The Governor” and
6 ends with “to —” and insert:
7
- 8 (2) Without limiting subsection (1), the regulations may
9 provide for —
10
- 11 (b) in paragraph (b) delete “to be payable in respect of
12 applications to the State Administrative Tribunal; and”
13 and insert:
14
- 15 for applications to the Tribunal; and
16
- 17 (c) in paragraph (c) delete “prescribing forms under this Act
18 and the respective purposes for which those forms are to
19 be used and providing that in such cases as may be
20 prescribed, forms or other documents required by or”
21 and insert:
22
- 23 circumstances in which forms or other documents
24 required
25
- 26 (d) in paragraph (c) delete “shall” and insert:
27
- 28 must
29
- 30 (e) in paragraph (f) delete “prescribing”;

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- 1 (b) to impose liabilities on any person (other than
2 the State) in respect of anything done or
3 omitted to be done before the date of its
4 publication.
5

6 Note:

7 Section 130 (as amended) is renumbered as section 224 and relocated
8 to Part 14.

9 **80. Section 131A amended**

- 10 (1) In section 131A(1) delete “section 130” and insert:
11

12 section 224
13

- 14 (2) Delete section 131A(2).

15 Note:

16 Section 131A (as amended) is renumbered as section 225 and
17 relocated to Part 14.

18 **81. Section 131B amended**

- 19 (1) In section 131B delete “131A” (each occurrence) and insert:
20

21 225
22

- 23 (2) In section 131B(6) delete “130” and insert:
24

25 224
26

27 Note: The heading to amended 131B is to read:

28 **Expiry of section 225**

29 Note:

30 Section 131B (as amended) is renumbered as section 226 and
31 relocated to Part 14.

1 **Division 3 — Deletion and insertion of provisions in body of Act**

2 **82. Deletion of headings and provisions**

3 In the body of the Act delete —

- 4 (a) all Part, Division and Subdivision headings except the
5 heading to Part 1 (as inserted by section 6 of this Act);
6 and
7 (b) all provisions except —
8 (i) the provisions amended by Part 2 Division 2 of
9 this Act; and
10 (ii) the provisions relocated without amendment to
11 Parts 2 to 14 (as inserted by section 83 of this
12 Act) by Part 2 Division 4 of this Act; and
13 (iii) the provisions relocated without amendment to
14 Schedule 2A (as replaced by section 114 of this
15 Act) by Part 2 Division 6 of this Act.

16 **83. Insertion of sections 4 and 5 and Parts 2 to 14**

17 Note for this section:

18 The gaps in the Parts inserted by this section are filled by the
19 relocation of provisions by Division 4.

20 After section 3 (as amended by section 7 of this Act) insert:
21

22 **4. Notes and examples not part of Act**

23 A note or example set out at the foot of a provision of
24 this Act is provided to assist understanding and does
25 not form part of this Act.

26 **5. Act binds Crown**

27 This Act binds the Crown in right of Western Australia
28 and, so far as the legislative power of the Parliament
29 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

- 1 (c) require the common property to be
2 administered by a strata company that comes
3 into existence under this Act on registration of
4 the strata titles scheme; and
5 (d) limit how the common property may be dealt
6 with.

7 **8. Freehold schemes and leasehold schemes**

- 8 (1) A strata titles scheme may be —
9 (a) a freehold scheme; or
10 (b) a leasehold scheme.

11 Note for this section:

12 All schemes created under this Act before the
13 commencement of the *Strata Titles Amendment Act 2018*
14 are freehold schemes.

- 15 (2) In a *freehold scheme* —
16 (a) there is no separate title for the parcel
17 subdivided by the scheme; and
18 (b) each lot is a freehold lot; and
19 (c) the parcel cannot be dealt with (including by
20 registration of a mortgage) or disposed of under
21 the *Transfer of Land Act 1893*.
22 (3) In a *leasehold scheme* —
23 (a) there is a separate title for the parcel subdivided
24 by the scheme; and
25 (b) each lot in the scheme is a leasehold lot subject
26 to a strata lease; and
27 (c) the scheme expires on a specified day (the
28 expiry day for the scheme); and
29 (d) the expiry day must be a day that is —
30 (i) at least 20 years (or, if some other
31 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

- 1 (m) the owner of the leasehold scheme cannot
2 separately deal with or dispose of the reversion
3 in a lot or the common property of the strata
4 titles scheme; and
- 5 (n) the reversion in the parcel can be transferred,
6 disposed of or mortgaged as a whole, and a
7 memorial or property seizure sale order can be
8 made in relation to the reversion of the parcel
9 as a whole under the *Transfer of Land*
10 *Act 1893*, but no other dealings can be
11 registered under that Act against the reversion
12 in the parcel.

13 Note for this subsection:

14 For the scheme notice, see section 29. For leasehold
15 by-laws, see section 40.

16 **9. Lots — strata schemes and survey-strata schemes**

- 17 (1) The boundaries of lots in a strata titles scheme are
18 defined on the scheme plan for the strata titles scheme.
- 19 (2) A lot can be comprised of non-contiguous parts defined
20 on the scheme plan for the strata titles scheme.

21 Example for this subsection:

22 The non-contiguous parts may be to allow for a separate
23 car parking space or shed to be part of the lot.

- 24 (3) The way in which the boundaries of lots are defined on
25 the scheme plan for a strata titles scheme determines
26 whether the scheme is a *strata scheme* or a
27 *survey-strata scheme*.

- 1 (4) The way in which the boundaries of a lot in a strata
2 scheme are defined on the scheme plan must be as set
3 out in the definition of lot in a strata scheme in
4 section 3(1) and in section 3(2) to (4).
- 5 Note for this subsection:
6 Schedule 2A provides for a special rule for how lots may be
7 defined in a single tier strata scheme.
- 8 (5) The way in which the boundaries of a lot in a
9 survey-strata scheme are defined on the scheme plan
10 must be as set out in the definition of *lot* in a
11 survey-strata scheme in section 3(1).
- 12 (6) A change in the definition of the boundaries of a lot
13 does not, even if the lot is assigned a new identifying
14 number, of itself affect —
- 15 (a) for a leasehold scheme — the strata lease for
16 the lot; or
- 17 (b) for a leasehold or freehold scheme — any other
18 item registered or recorded for the scheme in
19 the Register.
- 20 (7) Damage to, or destruction or removal of a wall, floor,
21 ceiling or other structural element by reference to
22 which a lot in a strata scheme is defined does not of
23 itself affect the definition of the boundaries of the lot
24 (which remain as defined on the scheme plan).

25 **10. Common property**

- 26 (1) The *common property* in a strata titles scheme is —
- 27 (a) that part of the parcel of land subdivided by the
28 strata titles scheme that does not form part of a
29 lot in the strata titles scheme; and
- 30 (b) temporary common property.

- 1 (2) The **common property** includes, for a strata scheme,
2 those parts of a scheme building that do not form part
3 of a lot.
- 4 (3) The **common property** does not include —
5 (a) any land vested in the Crown under the
6 *Planning and Development Act 2005*
7 section 152; or
8 (b) any dedicated road under the *Planning and*
9 *Development Act 2005* section 168.
- 10 (4) If a strata plan identifies an encroachment outside the
11 parcel that is to be controlled and managed as common
12 property, the encroachment is to be regarded, for this
13 Act, as if it were common property.

14 **11. Subdivision of land by strata titles scheme**

- 15 (1) Land is **subdivided** by a strata titles scheme —
16 (a) by registration of the scheme; or
17 (b) by registration of an amendment of the scheme.
- 18 (2) Registration of an amendment of a strata titles scheme
19 gives effect to a **subdivision** if it —
20 (a) effects a change to the definition of a lot in the
21 scheme; or
22 (b) effects a change to the boundary of the parcel
23 of land subdivided by the scheme.

24 Note for this section:

- 25 1. There are 4 types of amendment of a strata titles scheme
26 that give effect to a subdivision, with varying requirements
27 for resolutions and consents:
- 28 • A type 1 subdivision covers adding land from outside the
29 parcel to the common property (other than as temporary
30 common property) and what was formerly referred to as
31 conversion of lots into common property.
 - 32 • A type 2 subdivision covers the removal of common
33 property from the parcel of a strata titles scheme.

- 1 • A type 3 subdivision covers what was formerly referred to
2 as consolidation of lots.
- 3 • A type 4 subdivision covers what was formerly referred to
4 as re-subdivision.
- 5 2. Re-subdivision of a lot or common property was defined in
6 section 3(5) of the Act as in force immediately before the
7 *Strata Titles Amendment Act 2018* to include the alteration
8 of the boundaries of —
- 9 • 1 or more lots so as to create only 2 or more different
10 lots; or
- 11 • 1 or more lots so as to create 1 or more different lots and
12 common property; or
- 13 • 1 or more lots and common property so as to create 1 or
14 more different lots or 1 or more different lots and
15 common property; or
- 16 • common property so as to create 1 or more lots or 1 or
17 more lots and common property.
- 18 3. Schedule 2A provides special provisions relating to
19 subdivision in a single tier strata scheme.

20 **12. Registration of strata titles scheme**

- 21 (1) A strata titles scheme is registered when the following
22 documents (the ***scheme documents***) are registered and
23 incorporated in the Register —
- 24 (a) for a freehold scheme —
- 25 (i) a scheme notice;
- 26 (ii) a scheme plan;
- 27 (iii) a schedule of unit entitlements;
- 28 (iv) scheme by-laws;
- 29 (b) for a leasehold scheme —
- 30 (i) a scheme notice (which must specify the
31 expiry day for the scheme);
- 32 (ii) a scheme plan;
- 33 (iii) a schedule of unit entitlements;

- 1 (iv) scheme by-laws;
2 (v) a strata lease for each lot.

3 Note for this subsection:

4 If the scheme by-laws comprise the by-laws set out in
5 Schedules 1 and 2 without amendment, the scheme
6 by-laws will be taken to be registered without the need for
7 submission of the by-laws to the Registrar of Titles.

- 8 (2) A registered strata titles scheme is amended when
9 amendments of the relevant scheme documents, or
10 replacements of the relevant scheme documents, are
11 registered or recorded and incorporated in the Register.

12 Note for this subsection:

13 The amendment may be necessary to give effect to a
14 subdivision of land as referred to in section 11(2) or it may
15 be unrelated to a subdivision of land, comprising, for
16 example —

- 17 • the amendment of the scheme notice so as to amend
18 the name or address for service of the strata company;
19 or
20 • the amendment or replacement of the scheme plan for
21 the strata titles scheme for a purpose related to an
22 easement or restrictive covenant or a restricted use
23 condition; or
24 • the amendment or replacement of the schedule of unit
25 entitlements for the strata titles scheme because of a
26 new valuation of lots; or
27 • the amendment or replacement of scheme by-laws.

- 28 (3) If a registered leasehold scheme is amended to give
29 effect to a subdivision involving the creation of new
30 lots, a strata lease must be registered as a scheme
31 document for each new lot.

32 **13. Strata titles**

- 33 (1) The title to the land comprised in a lot is referred to as
34 a ***strata title***.

- 1 (2) A certificate of title must be created and registered for
2 each strata title under the *Transfer of Land Act 1893*.
- 3 Note for this subsection:
4 A separate certificate of title is not created for common
5 property.
- 6 (3) For a leasehold scheme, the existence of the scheme
7 and its expiry day must be endorsed on the certificate
8 of title for each strata title for a lot in the scheme.
- 9 (4) On registration of a strata titles scheme or an
10 amendment of a strata titles scheme to give effect to a
11 subdivision of land, strata titles come into existence,
12 cease to exist or are varied as necessary to ensure
13 that —
- 14 (a) there is 1 strata title registered for each lot in
15 the scheme or the scheme as amended; and
- 16 (b) the strata title for a lot confers the rights on the
17 owner of the lot as set out in this section.
- 18 (5) When a new lot is created and a strata title comes into
19 existence, it vests as follows —
- 20 (a) in the case of a parcel of land that is being
21 subdivided, in the person who is, immediately
22 before the new lot is created, the registered
23 proprietor of the land under the *Transfer of*
24 *Land Act 1893*;
- 25 (b) in the case of a lot that is being subdivided, in
26 the person who is, immediately before the new
27 lot is created, the owner of that lot;
- 28 (c) in the case of common property that is being
29 subdivided, in the persons who are,
30 immediately before the new lot is created, the
31 owners of lots in the strata titles scheme as
32 tenants in common in shares proportional to the
33 unit entitlements of their respective lots.

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- 1 (6) If a lot that is created vests in 2 or more persons, they
2 hold their share in the lot as tenants in common or as
3 joint tenants in the same manner as they owned the
4 land or lot and, if they owned it as tenants in common,
5 in the same proportions as they owned the land or lot.
- 6 (7) A strata title for a lot in a freehold scheme confers on
7 the owner of the lot —
- 8 (a) rights as the proprietor of a fee simple estate in
9 the lot under the *Transfer of Land Act 1893*;
10 and
- 11 (b) an undivided share of the fee simple estate in
12 the common property (other than temporary
13 common property) as a tenant in common with
14 the other owners of lots in the scheme,
15 proportional to the unit entitlements of their
16 respective lots; and
- 17 (c) an undivided share of the temporary common
18 property as a tenant in common with the other
19 owners of lots in the scheme, proportional to
20 the unit entitlements of their respective lots.
- 21 (8) A strata title for a lot in a leasehold scheme confers on
22 the owner of the lot, subject to Part 4 Division 5 —
- 23 (a) rights as the proprietor of a strata leasehold
24 estate in the lot under the *Transfer of Land*
25 *Act 1893*; and
- 26 (b) an undivided share of the strata leasehold estate
27 in the common property as a tenant in common
28 with the other owners of lots in the scheme,
29 proportional to the unit entitlements of their
30 respective lots; and
- 31 (c) an undivided share of the temporary common
32 property as a tenant in common with the other
33 owners of lots in the scheme, proportional to
34 the unit entitlements of their respective lots.

- 1 (9) The owner of a lot cannot separately deal with or
2 dispose of the owner's share in the common property
3 of the strata titles scheme.
- 4 (10) A dealing under the *Transfer of Land Act 1893*
5 affecting the owner's interest in a lot affects, without
6 express reference, the owner's interest in the common
7 property in the same manner and to the same extent.
- 8 (11) A strata title is subject to interests registered or
9 recorded under the *Transfer of Land Act 1893* to the
10 extent that they affect the lot or common property to
11 which the strata title relates.
- 12 (12) The owner of a lot in a leasehold scheme cannot deal
13 with the strata lease separately from the strata title.
- 14 **14. Strata company**
- 15 (1) On registration of a strata titles scheme, a strata
16 company is established for the strata titles scheme.
- 17 (2) The name of the strata company is "The Owners of [*the*
18 *name of the scheme*] (survey-strata scheme/strata
19 scheme [*according to the type of strata titles scheme*]
20 [*the reference number allocated to the scheme by the*
21 *Registrar of Titles*])".
- 22 (3) The name of the strata titles scheme is the name stated
23 in the scheme notice.
- 24 (4) The address for service of the strata company is the
25 address for service stated in the scheme notice.
- 26 (5) A strata company —
27 (a) is a body corporate; and
28 (b) has perpetual succession; and
29 (c) is capable of suing and being sued in its own
30 name; and

- 1 (d) has, subject to this Act, all the powers of a
2 natural person that are capable of being
3 exercised by a body corporate.
- 4 (6) The governing body of a strata company is the council
5 of the strata company.
- 6 (7) A strata company may have a common seal, but it does
7 not have to do so.
- 8 (8) A strata company is comprised of the owners for the
9 time being of the lots in the strata titles scheme (who
10 are the members of the strata company).

11 **Part 3 — Planning and development**

12 **Division 1 — Planning approvals**

13 **Subdivision 1 — Strata schemes**

14 **15. Subdivision approval of strata scheme**

- 15 (1) An application may be made under this section to the
16 Planning Commission for approval of a strata plan or
17 an amendment of a strata plan to give effect to a
18 subdivision of land by a strata scheme.
- 19 (2) The Planning Commission's approval of a strata plan
20 or an amendment of a strata plan under this section
21 may be subject to conditions in the same way as if the
22 approval were an approval of a plan of subdivision
23 given under the *Planning and Development Act 2005*.
- 24 (3) The *Planning and Development Act 2005* applies to the
25 conditions as if the approval were an approval of a plan
26 of subdivision given under that Act.
- 27 (4) Before a strata plan or an amendment of a strata plan
28 can be registered under this Act, the Planning
29 Commission must issue a certificate endorsing the

- 1 strata plan or amendment with its unconditional
2 approval of the subdivision.
- 3 (5) An application under this section must —
4 (a) be in the approved form; and
5 (b) be accompanied by the fee fixed by the
6 regulations.
- 7 (6) The regulations may provide for exemptions from the
8 requirement for a strata plan or amendment of a strata
9 plan to be approved by the Planning Commission for
10 registration of a subdivision of land by a strata scheme.
- 11 **16. Application of Planning and Development Act**
- 12 (1) The *Planning and Development Act 2005* sections 135,
13 146 and 147 do not apply to a subdivision of land by a
14 strata scheme.
- 15 (2) If a strata plan, or an amendment of a strata plan, contains
16 any vacant lot, the Planning Commission must comply
17 with the *Planning and Development Act 2005*
18 sections 142, 143 and 144, and section 151 of that Act
19 applies, as if the plan were a plan of subdivision which
20 required the approval of the Planning Commission under
21 that Act.
- 22 **Subdivision 2 — Survey-strata schemes**
- 23 **17. Subdivision approval of survey-strata scheme**
- 24 (1) The *Planning and Development Act 2005* Divisions 1,
25 2 (other than section 141) and 3 of Part 10 and
26 section 166 apply to the subdivision of land by a
27 survey-strata scheme.
- 28 (2) For subdivision of land by a survey-strata scheme, the
29 diagram or plan of survey of the subdivision under
30 section 145 of that Act must be the scheme plan or an
31 amendment of the scheme plan.

- 1 (3) The unconditional approval of the Planning
2 Commission of the scheme plan or amendment of the
3 scheme plan is required to enable the plan or
4 amendment to be registered under this Act.

5 **Subdivision 3 — General provisions**

6 **18. Planning (scheme by-laws) condition**

7 The conditions of a planning approval applying to a
8 strata titles scheme may include a planning (scheme
9 by-laws) condition.

10 **19. Planning approval of scheme plan or amendment of**
11 **scheme plan**

- 12 (1) An application for the required unconditional approval
13 of the Planning Commission of a scheme plan or an
14 amendment of a scheme plan to give effect to a
15 subdivision of land by a strata titles scheme must be in
16 an approved form and accompanied by —
- 17 (a) the scheme notice or any amendment of the
18 scheme notice proposed to be submitted for
19 registration with the scheme plan or
20 amendment of the scheme plan; and
- 21 (b) any existing scheme by-laws made under a
22 planning (scheme by-laws) condition; and
- 23 (c) for a leasehold scheme, any existing or
24 proposed leasehold by-laws providing for
25 postponement of the expiry day for the scheme;
26 and
- 27 (d) for a strata scheme, an occupancy permit or
28 building approval certificate granted under the
29 *Building Act 2011* Part 4 Division 3 for each
30 scheme building shown on the scheme plan or
31 amendment of the scheme plan (as the case
32 requires).

- 1 (2) An application for the required unconditional approval
2 of the Planning Commission of a scheme plan or an
3 amendment of a scheme plan to give effect to a
4 subdivision of land by a strata titles scheme may be
5 refused unless the Planning Commission is satisfied
6 that —
- 7 (a) the scheme plan or amendment of the scheme
8 plan is an accurate depiction of the subdivision
9 that has been prepared after completion of the
10 works necessary for the subdivision and, for a
11 strata scheme, the construction or modification
12 of the scheme buildings necessary for the
13 subdivision; and
- 14 (b) the subdivision and development has been
15 undertaken consistently with —
- 16 (i) the approval of the Planning
17 Commission under this Act or the
18 *Planning and Development Act 2005*
19 (including the conditions of approval);
20 and
- 21 (ii) any relevant approval of development
22 under the *Planning and Development*
23 *Act 2005* (including the conditions of
24 approval);
- 25 and
- 26 (c) the requirements of the *Building Act 2011* have
27 been complied with for the development; and
- 28 (d) any restricted use condition proposed to be
29 imposed by the scheme plan or amendment of
30 the scheme plan is suitable for the scheme; and
- 31 (e) scheme by-laws have been or are proposed to
32 be made in accordance with any planning
33 (scheme by-laws) condition.

1 **20. Approval for postponement of expiry day for**
2 **leasehold scheme**

- 3 (1) For a leasehold scheme, the approval of the Planning
4 Commission is required for the making, amendment or
5 repeal of leasehold by-laws providing for
6 postponement of the expiry day for the scheme
7 (including for leasehold by-laws registered when the
8 strata titles scheme is registered and not made by the
9 strata company).
- 10 (2) The approval may be applied for and given in conjunction
11 with an approval of a plan of subdivision.
- 12 (3) If a separate application is made, an application for
13 approval under this section must —
- 14 (a) be in the approved form; and
15 (b) be accompanied by the fee fixed by the
16 regulations.

17 Note for this section:

18 See section 8(3) and sections 40 and 41.

19 **21. Approval for modification of restricted use**
20 **condition**

- 21 (1) The approval of the Planning Commission is required for
22 the amendment of a scheme plan so as to impose, vary or
23 revoke a restricted use condition.
- 24 (2) The approval may be applied for and given in conjunction
25 with an approval of a plan of subdivision.
- 26 (3) If a separate application is made, an application for
27 approval under this section must —
- 28 (a) be in the approved form; and
29 (b) be accompanied by the fee fixed by the
30 regulations.

1 **22. Approval under planning (scheme by-laws)**
2 **condition**

- 3 (1) If, in accordance with scheme by-laws required under a
4 planning (scheme by-laws) condition, the amendment
5 or repeal of scheme by-laws requires the approval of
6 the Planning Commission or a local government, an
7 application for that approval can be made under this
8 section.
- 9 (2) The approval may be applied for and given in conjunction
10 with an application for a planning approval or by separate
11 application.
- 12 (3) If a separate application is made, an application for
13 approval under this section must —
- 14 (a) be in the approved form; and
15 (b) be accompanied by the fee fixed by the
16 regulations.

17 **23. Requirement for local government approval**

- 18 (1) In addition to approval of the Planning Commission, a
19 subdivision must be approved by each local
20 government in whose district the parcel is situated if
21 the subdivision involves —
- 22 (a) 2 or more lots being consolidated into 1 lot; or
23 (b) 1 or more lots being converted into common
24 property; or
25 (c) the removal, from the parcel, of land comprised
26 of common property.
- 27 (2) If the subdivision is approved, it is subject to any
28 planning (scheme by-laws) condition attached to the
29 local government approval.

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Division 2 — Preliminary determinations

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Division 3 — Common property

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25. Long term lease of temporary common property

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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.

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26. Long term lease or licence over common property

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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.

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Division 4 — Review of decisions

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27. Review of Planning Commission decision

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- (1) The Planning Commission must give written notice of its decision on an application made to it under this Part to the applicant.

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- (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 —

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- (a) to refuse to approve an application under section 15; or

- 1 (b) to impose a condition of an approval under
2 section 15; or
- 3 (c) to refuse to vary or revoke a condition of an
4 approval under section 15; or
- 5 (d) to refuse to approve an application for approval
6 of the making, amendment or repeal of leasehold
7 by-laws under section 20; or
- 8 (e) to refuse to approve an amendment of a scheme
9 plan under section 21;
- 10 (f) to refuse to approve an amendment or repeal of
11 scheme by-laws under section 22.
- 12 (3) The Tribunal has jurisdiction to carry out the review in
13 accordance with the *Planning and Development*
14 *Act 2005* Part 14.
- 15 (4) Part 13 does not apply to a proceeding under this
16 section (which is a proceeding within the Tribunal's
17 review jurisdiction).
- 18 (5) If at the end of the prescribed period after an
19 application is made under this Part (or any longer
20 period agreed with an applicant), the Planning
21 Commission has not made a decision, the applicant
22 may give written notice of default to the Planning
23 Commission.
- 24 (6) If a notice of default is given to the Planning
25 Commission, the applicant may apply to the Tribunal
26 for a review, in accordance with the *Planning and*
27 *Development Act 2005* Part 14, as if the Planning
28 Commission had refused to approve the application on
29 the day on which the notice of default was given to the
30 Planning Commission.
- 31 (7) In this section —
32 ***prescribed period*** means 40 days or, if some other
33 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

- 1 (j) if it is a strata scheme, identify the nature and
2 extent of any part of a wall or building or
3 material attached to a wall or building that
4 encroaches on land outside the parcel and —
- 5 (i) if an encroachment is to be controlled
6 and managed as if it were common
7 property, specify that fact; and
- 8 (ii) if an encroachment is to be subject to an
9 easement, specify that easement.
- 10 (2) A scheme plan, or an amendment of a scheme plan, for
11 a strata titles scheme may also —
- 12 (a) restrict the purposes for which the whole or a
13 part of the parcel may be used (a ***restricted use***
14 ***condition***); and
- 15 (b) in the case of an amendment —
- 16 (i) describe, by reference to a lease
17 accepted by the strata company under
18 section 92, land that is temporary
19 common property in the scheme; and
- 20 (ii) delete land from the description of
21 temporary common property by
22 referring to the surrender by the strata
23 company of the lease of the land under
24 section 92;
- 25 and
- 26 (c) delineate or record easements (other than
27 statutory easements) and restrictive covenants
28 over the land subdivided by the scheme,
29 including —
- 30 (i) short form easements or restrictive
31 covenants; and
- 32 (ii) easements created under the *Planning*
33 *and Development Act 2005* section 167;
34 and

- 1 (iii) easements and restrictive covenants
2 created under the *Transfer of Land*
3 *Act 1893* Part IVA;
4 and
5 (d) for a survey-strata scheme, delineate different
6 areas of common property and allocate a
7 reference number (being a unique series of
8 numbers or letters or both numbers and letters)
9 to those areas.
- 10 (3) A scheme plan, or an amendment of a scheme plan, for
11 a strata titles scheme —
12 (a) may consist of multiple plans, drawings and
13 documents containing descriptions or other
14 matters; and
15 (b) must be in the approved form; and
16 (c) must be prepared and certified by a licensed
17 surveyor (except for an amendment that relates
18 only to a restricted use condition or temporary
19 common property and does not involve any
20 aspect of survey).
- 21 (4) A licensed surveyor must comply with the regulations
22 and Transfer of Land Act requirements in preparing
23 and certifying a scheme plan, or an amendment of a
24 scheme plan, for a strata titles scheme.
- 25 **33. Short form easements or restrictive covenants**
- 26 (1) A scheme plan for a strata titles scheme may contain an
27 easement or restrictive covenant of a class specified in
28 the regulations (a ***short form easement or restrictive***
29 ***covenant***) that benefits or burdens land in the parcel as
30 follows —
31 (a) the type of easement or restrictive covenant
32 must be identified using the description
33 specified in the regulations;

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- 1 (b) for an easement, its location must be delineated
2 in the manner specified in the regulations;
- 3 (c) the lots and common property benefited and
4 burdened by the easement or restrictive
5 covenant must be identified in the manner
6 specified in the regulations;
- 7 (d) any other requirements specified in the
8 regulations must be complied with.
- 9 (2) The nature of a short form easement or restrictive
10 covenant and the rights and liabilities under the
11 easement or restrictive covenant are as specified in the
12 regulations.
- 13 (3) The liabilities specified in the regulations may include
14 positive obligations.
- 15 (4) A short form easement or restrictive covenant runs
16 with the land and is binding on the owners, from time
17 to time, of lots in the strata titles scheme.
- 18 (5) A short form easement or restrictive covenant comes
19 into force when the scheme plan, or an amendment of
20 the scheme plan, for the strata titles scheme containing
21 the easement or the restrictive covenant is registered.
- 22 (6) A short form easement or restrictive covenant is
23 discharged by —
- 24 (a) registration of an amendment of the scheme
25 plan to give effect to the discharge; or
- 26 (b) termination of the strata titles scheme.
- 27 (7) A short form easement or restrictive covenant has
28 effect even if the lot benefited and the lot burdened
29 have the same owner.
- 30 (8) The *Property Law Act 1969* section 121 does not apply
31 to a short form easement or restrictive covenant.

- 1 (9) This section does not derogate from any other method
2 by which an easement or restrictive covenant may be
3 created over a parcel.

4 **34. Requirements for registration of scheme plan**

5 A scheme plan for a strata titles scheme must not be
6 registered unless —

- 7 (a) the owner of the parcel is the applicant for
8 registration or has given written consent to the
9 subdivision of the parcel by the strata titles
10 scheme; and
11 (b) the holder of each designated interest over the
12 whole or a part of the parcel to be subdivided
13 by registration of the scheme —
14 (i) has been given notice in the approved
15 form of the subdivision and the schedule
16 of unit entitlements; and
17 (ii) has given written consent to the
18 subdivision;

19 and

- 20 (c) the scheme plan is approved by the Planning
21 Commission (subject to any exemption in
22 regulations under section 15(6)); and
23 (d) for a strata scheme —
24 (i) the scheme plan is accompanied by an
25 occupancy permit or building approval
26 certificate under the *Building Act 2011*
27 Part 4 Division 3 for each scheme
28 building; and
29 (ii) if the scheme plan identifies an
30 encroachment that is not on to a public
31 road, street or way and is to be managed
32 and controlled as if it were common
33 property, an appropriate easement has

1 been granted and lodged with the
2 Registrar of Titles.

3 **35. Requirements for registration of amendment of**
4 **scheme plan**

- 5 (1) An amendment of a scheme plan for a strata titles
6 scheme must not be registered unless —
- 7 (a) for a leasehold scheme, the owner of the
8 leasehold scheme is the applicant for
9 registration or has given written consent to the
10 amendment; and
- 11 (b) to the extent that the amendment gives effect to
12 a type 1 subdivision —
- 13 (i) the subdivision is authorised by
14 resolution without dissent of the strata
15 company; and
- 16 (ii) each owner of a lot affected by the
17 amendment who is not an applicant for
18 registration of the amendment —
- 19 (I) has been given notice in the
20 approved form of the
21 subdivision and any associated
22 amendment of the schedule of
23 unit entitlements; and
- 24 (II) has given written consent to the
25 amendment;
- 26 and
- 27 (iii) if the owner of a lot affected by the
28 amendment holds a life estate in the
29 land, the person who holds the
30 remainder or reversionary interest in the
31 land —
- 32 (I) has been given notice in the
33 approved form of the

- 1 subdivision and any associated
2 amendment of the schedule of
3 unit entitlements; and
4 (II) has given written consent to the
5 amendment;
6 and
7 (iv) each designated interest in land that is to
8 become common property has been
9 discharged, surrendered, withdrawn or
10 otherwise extinguished;
11 and
12 (c) to the extent that the amendment gives effect to
13 a type 2 subdivision —
14 (i) the subdivision is authorised by
15 resolution without dissent of the strata
16 company; and
17 (ii) the holder of each designated interest
18 over the whole or a part of the parcel
19 has been given notice in the approved
20 form of the subdivision and any
21 associated amendment of the schedule
22 of unit entitlements and —
23 (I) has given written consent to the
24 subdivision; or
25 (II) has not, at the end of 60 days
26 after being given notice, made
27 a written objection to the
28 subdivision setting out the
29 reasons for the objection;
30 and

- 1 (d) to the extent that the amendment gives effect to
2 a type 3 subdivision —
- 3 (i) each owner of a lot affected by the
4 amendment who is not an applicant for
5 registration of the amendment —
- 6 (I) has been given notice in the
7 approved form of the
8 subdivision and any associated
9 amendment of the schedule of
10 unit entitlements; and
- 11 (II) has given written consent to the
12 amendment;
- 13 and
- 14 (ii) if the owner of a lot affected by the
15 amendment holds a life estate in the
16 land, the person who holds the
17 remainder or reversionary interest in the
18 land —
- 19 (I) has been given notice in the
20 approved form of the
21 subdivision and any associated
22 amendment of the schedule of
23 unit entitlements; and
- 24 (II) has given written consent to the
25 amendment;
- 26 and
- 27 (iii) the holder of each designated interest
28 over the whole or a part of a lot affected
29 by the amendment has been given notice
30 in the approved form of the subdivision
31 and any associated amendment of the
32 schedule of unit entitlements and —
- 33 (I) has given written consent to the
34 amendment; or

- 1 (II) has not, at the end of 60 days
2 after being given notice, made
3 a written objection to the
4 amendment setting out the
5 reasons for the objection;
6 and
7 (e) to the extent that the amendment gives effect to
8 a type 4 subdivision —
9 (i) the amendment is authorised by
10 unanimous resolution of the strata
11 company; and
12 (ii) the holder of each designated interest
13 over the whole or a part of the parcel
14 has been given notice in the approved
15 form of the subdivision and any
16 associated amendment of the schedule
17 of unit entitlements and —
18 (I) has given written consent to the
19 subdivision; or
20 (II) has not, at the end of 60 days
21 after being given notice, made
22 a written objection to the
23 subdivision setting out the
24 reasons for the objection;
25 and
26 (f) to the extent that the amendment gives effect to
27 any type of subdivision — the amendment is
28 approved by the Planning Commission (subject
29 to any exemption in regulations under
30 section 15(6)); and

- 1 (g) to the extent that the amendment imposes,
2 varies or revokes a restricted use condition, the
3 imposition, variation or revocation —
4 (i) has been approved by the Planning
5 Commission under section 21; and
6 (ii) is authorised by resolution without
7 dissent of the strata company;
8 and
9 (h) to the extent that the amendment describes land
10 as temporary common property in the scheme
11 or deletes land from such a description — the
12 acceptance or surrender of the lease of the
13 temporary common property under section 92
14 is authorised by resolution without dissent of
15 the strata company; and
16 (i) to the extent that the amendment creates or
17 discharges an easement or restrictive
18 covenant —
19 (i) for a short form easement or restrictive
20 covenant — the amendment of the
21 scheme plan is approved by the
22 Planning Commission;
23 (ii) in the case of an amendment affecting
24 the common property — the amendment
25 is authorised by resolution without
26 dissent of the strata company; and
27 (iii) in the case of an amendment affecting a
28 lot — the owner of the lot has given
29 written consent to the amendment; and
30 (iv) in any case — the holder of each
31 designated interest over the common
32 property or a lot affected by the
33 amendment has been given notice in the

- 1 approved form of the amendment
2 and —
- 3 (I) has given written consent to the
4 subdivision; or
- 5 (II) has not, at the end of 60 days
6 after being given notice, made
7 a written objection to the
8 creation or discharge setting
9 out the reasons for the
10 objection;
- 11 and
- 12 (j) for a strata scheme —
- 13 (i) the amendment of the scheme plan is
14 accompanied by an occupancy permit or
15 building approval certificate under the
16 *Building Act 2011* Part 4 Division 3 for
17 each scheme building constructed or
18 modified in the course of a subdivision
19 to be given effect by registration of the
20 amendment of the scheme; and
- 21 (ii) if the amendment of the scheme plan
22 identifies an encroachment that is not on
23 to a public road, street or way and is to
24 be managed or controlled as if it were
25 common property, an appropriate
26 easement has been granted and will be
27 lodged with the Registrar of Titles.
- 28 (2) The Tribunal may, on the application of an applicant
29 for registration of an amendment of a strata titles
30 scheme, order that an objection to the amendment of a
31 person with a designated interest be disregarded on the
32 grounds that the objection is unreasonable.

- 1 (3) In considering whether an objection is unreasonable,
2 the Tribunal may consider —
3 (a) the merits of the proposed amendment of the
4 strata titles scheme; and
5 (b) the grounds for the objection; and
6 (c) any other factor the Tribunal considers relevant.
7 (4) If the Tribunal makes such an order, the applicant must
8 lodge a copy of the order certified by the Tribunal with
9 the Registrar of Titles.
10 (5) The notice of a resolution for an amendment of a
11 scheme plan must include details of the proposed
12 amendment, and any associated amendment of the
13 schedule of unit entitlements, in the approved form.

14 Note for this section:

15 For when an amendment of a scheme plan affects the
16 common property or a lot, see section 3(7).

17 **36. Exemption for staged subdivision**

18 If the amendment of a scheme plan is required as a
19 consequence of completion of a stage of subdivision to
20 which staged subdivision by-laws apply and the
21 subdivision has been undertaken with sufficient
22 compliance with the by-laws as determined in
23 accordance with the regulations —

- 24 (a) section 35(1)(a) to (e) do not apply; and
25 (b) to the extent that the by-laws contemplate the
26 creation or discharge of a particular easement
27 or restrictive covenant on the completion of the
28 stage of subdivision, section 35(1)(i) does not
29 apply to that easement or restrictive covenant.

30 Note for this section:

31 Because staged subdivision by-laws cannot apply to
32 subdivision comprised of the removal, from the parcel, of
33 land comprised of common property or the addition, to the

1 parcel, of land from outside the parcel, the question of an
2 exemption can arise in the context of a type 1 subdivision
3 comprised of the conversion of a lot to common property or
4 a type 3 or type 4 subdivision. The question cannot arise in
5 the context of a type 2 subdivision.

6 **Division 3 — Schedule of unit entitlements**

7 **37. Schedule of unit entitlements**

- 8 (1) The schedule of unit entitlements for a strata titles
9 scheme must —
10 (a) allocate a whole number (a *unit entitlement*) to
11 each lot in the strata titles scheme; and
12 (b) state the number that is the sum of the unit
13 entitlements of all the lots in the strata titles
14 scheme.

15 Note for this subsection:

16 The unit entitlement of a lot determines —

- 17 • the interest of the owner of the lot in the common
18 property in the strata titles scheme: see section 13; and
19 • subject to the scheme by-laws, the contributions payable
20 by the owner of a lot in the scheme: see section 100;
21 and
22 • the voting rights that attach to the lot: see section 120.

- 23 (2) When allocated, the proportion that a unit entitlement
24 of a lot bears to the sum of the unit entitlements of all
25 the lots in the strata titles scheme must not be greater
26 than 5% more, or 5% less, than the proportion that the
27 value of the lot bears to the sum of the value of all the
28 lots in the strata titles scheme.

- 29 (3) The value of a lot is —
30 (a) in a strata scheme — the capital value; and
31 (b) in a survey-strata scheme — the site value.

- 1 (4) Without limitation, the regulations may prescribe
2 matters relating to the determination of the value of a
3 lot.
- 4 (5) A schedule of unit entitlements, or an amendment of a
5 schedule of unit entitlements, for a strata titles scheme
6 must —
7 (a) be in the approved form; and
8 (b) be prepared and certified by a licensed valuer.
- 9 (6) A licensed valuer must comply with the regulations
10 and Transfer of Land Act requirements in preparing
11 and certifying a schedule of unit entitlements, or an
12 amendment of a schedule of unit entitlements, for a
13 strata titles scheme.
- 14 (7) A schedule of unit entitlements, or an amendment of a
15 schedule of unit entitlements, must not be registered
16 unless it is certified by a licensed valuer within a
17 period specified in the regulations before an application
18 is made for registration of the schedule or amendment.
- 19 **38. Requirements for registration of amendment of**
20 **schedule of unit entitlements**
- 21 (1) An amendment of a schedule of unit entitlements may
22 only be registered —
23 (a) in conjunction with an amendment of the
24 scheme plan to give effect to a subdivision; or
25 (b) if the amendment is authorised by resolution
26 without dissent of the strata company; or
27 (c) if the amendment is authorised by order of the
28 Tribunal.

- 1 (2) An amendment under subsection (1)(b) must not be
2 registered unless the holder of each designated interest
3 over the whole or a part of the parcel —
- 4 (a) has been given notice in the approved form of
5 the amendment; and
- 6 (b) either —
- 7 (i) has given written consent to the
8 amendment; or
- 9 (ii) has not, at the end of 60 days after being
10 given notice, made a written objection
11 to the amendment.
- 12 (3) The Tribunal may, on the application of an applicant
13 for registration of an amendment of a strata titles
14 scheme involving the amendment of the schedule of
15 unit entitlements, order that an objection to the
16 amendment of a person with a designated interest be
17 disregarded on the grounds that the objection is
18 unreasonable.
- 19 (4) In considering whether an objection is unreasonable,
20 the Tribunal may consider —
- 21 (a) the merits of the proposed amendment of the
22 strata titles scheme; and
- 23 (b) the grounds for the objection; and
- 24 (c) any other factor the Tribunal considers relevant.
- 25 (5) The Tribunal may, on the application of a strata
26 company or the owner or registered mortgagee of a lot
27 in a strata titles scheme, authorise the amendment of
28 the schedule of unit entitlements for the scheme if
29 satisfied that, if unit entitlements were to be allocated
30 at the time of the application, the schedule of unit
31 entitlements would require amendment for compliance
32 with section 37(2).

- 1 (6) If the Tribunal makes an order under this section, the
2 applicant for the order must lodge a copy of the order
3 certified by the Tribunal with the Registrar of Titles for
4 registration of the amendment of the schedule of unit
5 entitlements.

6 **Division 4 — Scheme by-laws**

7 **39. Scheme by-laws on registration**

8 On registration of a strata titles scheme —

- 9 (a) subject to paragraph (b), the governance
10 by-laws set out in Schedule 1 and the conduct
11 by-laws set out in Schedule 2 are taken to be
12 registered for the scheme; and
13 (b) if other scheme by-laws are registered for the
14 scheme, the strata company is taken to have
15 made those by-laws and the by-laws referred to
16 in paragraph (a) are amended or repealed
17 accordingly.

18 **40. Leasehold by-laws**

- 19 (1) ***Leasehold by-laws*** of a leasehold scheme are by-laws
20 that provide —
21 (a) for postponement of the expiry day for the
22 scheme; or
23 (b) for compensation payable on the expiry of the
24 scheme.
25 (2) If a leasehold scheme does not have leasehold by-laws,
26 the expiry day for the scheme cannot be postponed.
27 (3) The expiry day for a leasehold scheme —
28 (a) cannot be postponed to a day that is more than
29 99 years after registration of the scheme; and

- 1 (b) cannot be postponed unless the postponement is
2 supported by resolution of the strata company
3 as set out in section 41.
- 4 (4) Leasehold by-laws —
- 5 (a) may provide that the owner of the leasehold
6 scheme is to be paid an amount for the
7 postponement of the expiry day for the scheme
8 by the owner of each lot in the scheme and, if
9 they do so —
- 10 (i) the amount paid by the owners of the
11 lots must be proportional to the unit
12 entitlements of their respective lots; and
- 13 (ii) the by-laws —
- 14 (I) must set out how the amount is
15 to be calculated; and
- 16 (II) must set out when and how the
17 amount is to be paid (which
18 must be at least 4 months
19 before the expiry day); and
- 20 (III) must provide that, if the
21 amount is not paid as required
22 under the by-laws, the owner of
23 the leasehold scheme is entitled
24 to re-enter the lot from the end
25 of the expiry day for the
26 scheme that applied before the
27 postponement;
- 28 and
- 29 (b) may provide for compensation to be payable to
30 the owner of a lot on the expiry of the scheme
31 for improvements to the lot effected by the
32 owner or a former owner of the lot; and
- 33 (c) must comply with requirements set out in the
34 regulations.

- 1 (4) The strata company must, as soon as reasonably
2 practicable after the passing of a resolution under this
3 section —
- 4 (a) serve notice of the resolution, in the approved
5 form, on the owner of the leasehold scheme;
6 and
- 7 (b) apply for registration of an amendment of the
8 scheme notice to give effect to the
9 postponement of the expiry day.

10 **42. Staged subdivision by-laws**

- 11 (1) ***Staged subdivision by-laws*** of a strata titles scheme are
12 by-laws that apply as if they were an agreement by the
13 strata company with a person about subdivision of the
14 strata titles scheme in stages.

15 Note for this subsection:

16 Under section 36, compliance with a stage of subdivision as
17 set out in staged subdivision by-laws removes the need for
18 resolutions and consents for registration of an amendment
19 of the strata titles scheme to give effect to the subdivision.

- 20 (2) Staged subdivision by-laws must—
- 21 (a) describe in detail —
- 22 (i) the stages of subdivision that are agreed;
23 and
- 24 (ii) any amendments to the scheme plan and
25 schedule of unit entitlements that will be
26 made on completion of each stage of
27 subdivision;
- 28 and
- 29 (b) identify the lots or common property affected
30 by each stage of subdivision; and
- 31 (c) comply with requirements set out in the
32 regulations.

- 1 (3) Staged subdivision by-laws cannot apply to subdivision
2 comprised of the removal, from the parcel, of land
3 comprised of common property or the addition, to the
4 parcel, of land from outside the parcel.
- 5 (4) Staged subdivision by-laws do not bind the Planning
6 Commission or a local government to give a planning
7 approval for an agreed stage of subdivision.
- 8 (5) Staged subdivision by-laws do not bind the scheme
9 developer of a stage of subdivision to undertake the
10 subdivision.
- 11 (6) Staged subdivision by-laws can only be made,
12 amended or repealed if —
- 13 (a) for a leasehold scheme, the owner of the
14 leasehold scheme —
- 15 (i) has been given notice in the approved
16 form of the by-laws; and
- 17 (ii) has given written consent to the
18 by-laws;
- 19 and
- 20 (b) in any case, the holder of each designated
21 interest over the whole or a part of the parcel —
- 22 (i) has been given notice in the approved
23 form of the by-laws; and
- 24 (ii) either —
- 25 (I) has given written consent to the
26 application; or
- 27 (II) has not, at the end of 60 days
28 after being given notice, made
29 a written objection to the
30 proposed by-laws.
- 31 (7) The Tribunal may, on the application of an applicant
32 for registration of staged subdivision by-laws or an

1 amendment of staged subdivision by-laws, order that
2 an objection to the by-laws of a person with a
3 designated interest be disregarded on the grounds that
4 the objection is unreasonable.

- 5 (8) In considering whether an objection is unreasonable,
6 the Tribunal may consider —
7 (a) the merits of the proposed by-laws; and
8 (b) the grounds for the objection; and
9 (c) any other factor the Tribunal considers relevant.
- 10 (9) If the Tribunal makes such an order, the applicant must
11 lodge a copy of the order certified by the Tribunal with
12 the Registrar of Titles.

13 **43. Exclusive use by-laws**

- 14 (1) ***Exclusive use by-laws*** of a strata titles scheme are
15 scheme by-laws that confer exclusive use and
16 enjoyment of, or special privileges over, the common
17 property in the strata titles scheme or specified
18 common property in the strata titles scheme (the
19 ***special common property***) on the occupiers, for the
20 time being, of a specified lot or lots in the strata titles
21 scheme (the ***special lots***).
- 22 (2) Exclusive use by-laws may include the following —
23 (a) terms and conditions on which the occupiers of
24 special lots may use the special common
25 property;
26 (b) particulars relating to access to the special
27 common property and the provision and
28 keeping of any key necessary;
29 (c) particulars of the hours during which the
30 special common property may be used;

- 1 (d) provisions relating to the condition,
2 maintenance, repair, renewal or replacement of
3 the special common property;
- 4 (e) provisions relating to insurance of the special
5 common property to be maintained by the
6 owners of special lots;
- 7 (f) matters relating to the determination of
8 amounts payable to the strata company by the
9 owners of special lots and the imposition and
10 collection of the amounts.
- 11 (3) Subject to the terms of exclusive use by-laws, the
12 obligations that would, apart from this subsection, fall
13 on the strata company under its function of managing
14 and controlling the special common property fall
15 instead on the owners of the special lots.
- 16 (4) An amount payable by a person to a strata company
17 under exclusive use by-laws must be paid (together
18 with interest on any outstanding amount) and may be
19 recovered by the strata company, as if the amount
20 payable were an unpaid contribution levied on the
21 person as a member of the strata company.
- 22 (5) Exclusive use by-laws can only be made, amended or
23 repealed if the owner of each lot that is or is proposed
24 to be a special lot has given written consent to the
25 by-laws.
- 26 **44. Making of scheme by-laws**
- 27 (1) Subject to this Act, a strata company may, by
28 resolution of the strata company, make governance
29 by-laws or conduct by-laws for the strata titles scheme
30 (including by-laws that amend or repeal the by-laws it
31 is taken to have made on registration of the scheme).

- 1 (2) The resolution to make by-laws must be —
2 (a) for governance by-laws — a resolution without
3 dissent; and
4 (b) for conduct by-laws — a special resolution.
- 5 (3) The power to make by-laws includes power to amend
6 or repeal by-laws in the same manner and on the same
7 conditions as they are made.
- 8 (4) If by-laws purport to be made in exercise of a
9 particular power or powers, they are also taken to be
10 made in exercise of all powers under which they can be
11 made.
- 12 (5) Scheme by-laws must be in the approved form.
- 13 **45. Application of scheme by-laws**
- 14 (1) Scheme by-laws may apply to the following —
15 (a) the strata company for the strata titles scheme;
16 (b) a member, for the time being, of the strata
17 company for the strata titles scheme;
18 (c) an occupier or lessee, for the time being, of a
19 lot, or the common property, in the strata titles
20 scheme;
21 (d) in the case of leasehold by-laws — the owner
22 of the leasehold scheme;
23 (e) in the case of exclusive use by-laws — the
24 owners and occupiers, for the time being, of
25 special lots.
- 26 (2) Each person to whom scheme by-laws apply must
27 comply with the by-laws as if the by-laws were a deed
28 (signed and sealed by each person to whom they apply)
29 containing mutual covenants to observe and perform
30 the matters set out in the by-laws.

- 1 (3) A lease of a lot or common property in a strata titles
2 scheme is taken to contain an agreement by the lessee
3 that the lessee will comply with the scheme by-laws.
- 4 (4) The owner, occupier or lessee of a lot or common
5 property in a strata titles scheme must take all steps
6 that are reasonable in the circumstances to ensure that
7 every person who they permit to use or who they invite
8 on to the lot or common property complies with
9 by-laws that apply to the owner, occupier or lessee.
- 10 (5) Scheme by-laws are not by-laws or subsidiary
11 legislation within the meaning of the *Interpretation*
12 *Act 1984*.
- 13 (6) An interest created under scheme by-laws does not
14 have effect as an interest registered under the *Transfer*
15 *of Land Act 1893*.
- 16 (7) Nothing in subsection (6) derogates from the operation
17 of leasehold by-laws.

18 **46. Invalidity of scheme by-laws**

19 Scheme by-laws are invalid as follows —

- 20 (a) to the extent that there is no power to make the
21 by-laws;
- 22 (b) to the extent that they are inconsistent with this
23 Act or any other written law;
- 24 (c) to the extent that they are inconsistent with a
25 restricted use condition;
- 26 (d) for a leasehold scheme — to the extent that
27 they are inconsistent with the covenants or
28 conditions of a strata lease over a lot in the
29 scheme;
- 30 (e) to the extent that they purport to deny or limit
31 the right of a member of the strata company to

- 1 vote on a proposed resolution of the strata
2 company (except as set out in this Act);
- 3 (f) to the extent that they prohibit or restrict the
4 devolution of a lot or a transfer, lease, mortgage
5 or other dealing with a lot;
- 6 (g) to the extent that they purport to discharge or
7 modify an easement or restrictive covenant;
- 8 (h) to the extent that they prohibit or restrict the
9 keeping on a lot of an animal that is used as an
10 assistance animal by a person with a disability
11 who is an owner or occupier of a lot;
- 12 (i) to the extent that they prohibit or restrict the use
13 on the parcel of an assistance animal by a
14 person with a disability;
- 15 (j) to the extent that, having regard to the interests
16 of all of the owners of lots in the strata titles
17 scheme in the use and enjoyment of their lots
18 and the common property —
- 19 (i) they are unfairly prejudicial to, or
20 unfairly discriminatory against, 1 or
21 more of the owners of lots; or
- 22 (ii) they are oppressive or unreasonable.

23 **47. Enforcement of scheme by-laws**

- 24 (1) A strata company may —
- 25 (a) give a written notice to a person alleged to have
26 contravened the scheme by-laws; or
- 27 (b) apply to the Tribunal under this section for an
28 order enforcing scheme by-laws if —
- 29 (i) the contravention has had serious
30 adverse consequences for a person other
31 than the person alleged to have
32 contravened the scheme by-laws; or

- 1 (ii) the person has contravened the
2 particular scheme by-law on at least 3
3 separate occasions; or
4 (iii) the person has been given notice under
5 paragraph (a) and has contravened the
6 notice.
- 7 (2) A written notice given by a strata company to a person
8 alleged to have contravened the scheme
9 by-laws must —
10 (a) specify the particular scheme by-law that is
11 alleged to have been contravened; and
12 (b) specify the particular facts relied on as evidence
13 of the contravention; and
14 (c) specify the action that must be taken or
15 refrained from being taken in order to avoid a
16 continuing or further contravention of the
17 particular scheme by-law; and
18 (d) contain an explanation of the effect of this
19 section in terms set out in the regulations.
- 20 (3) An application may also be made to the Tribunal for
21 enforcement of scheme by-laws by —
22 (a) the owner of a lot in the strata titles scheme; or
23 (b) if the scheme is a leasehold scheme — the
24 owner of the leasehold scheme; or
25 (c) a mortgagee of a lot in the strata titles scheme;
26 or
27 (d) an occupier of a lot in the strata titles scheme.
- 28 (4) An application can only be made under subsection (3)
29 on the grounds that —
30 (a) if a person other than the strata company is
31 alleged to have contravened the scheme
32 by-laws — the person has been given notice

- 1 under subsection (1)(a) and has contravened the
2 notice; or
- 3 (b) the contravention has had serious adverse
4 consequences for a person other than the person
5 alleged to have contravened the scheme
6 by-laws; or
- 7 (c) the person has contravened the particular
8 scheme by-law on at least 3 separate occasions.
- 9 (5) The Tribunal may, if satisfied that a person has
10 contravened the scheme by-laws, by order require the
11 person to do 1 or more of the following —
- 12 (a) pay a specified amount to the strata company
13 by way of penalty for the contravention;
- 14 (b) take specified action within a period stated in
15 the order to remedy the contravention or
16 prevent further contraventions;
- 17 (c) refrain from taking specified action to prevent
18 further contraventions.
- 19 (6) The Tribunal's power to impose a penalty is subject to
20 the following limitations —
- 21 (a) a penalty must not be imposed on the strata
22 company;
- 23 (b) a penalty may only be imposed if the Tribunal
24 is satisfied of the matters set out in
25 subsection (1)(b) or (4) as the case requires;
- 26 (c) the penalty must not exceed an amount fixed by
27 the regulations;
- 28 (d) a daily penalty may be imposed for a
29 continuing contravention only if that is
30 authorised by the regulations.

- 1 (7) The regulations may —
- 2 (a) specify a maximum amount that may be
- 3 imposed by the Tribunal by way of penalty for
- 4 contravention of scheme by-laws; and
- 5 (b) specify circumstances in which a daily penalty
- 6 may be imposed for a continuing contravention
- 7 and a maximum amount that may be imposed
- 8 as a daily penalty.
- 9 (8) If an order is made under this section requiring a
- 10 member of a strata company to pay an amount to a
- 11 strata company, the amount may be recovered by the
- 12 strata company, and interest is payable on any
- 13 outstanding amount, as if the amount payable were an
- 14 unpaid contribution levied on the member as a member
- 15 of the strata company.
- 16 (9) An amount otherwise ordered to be paid by way of
- 17 penalty under this section is recoverable as a debt in a
- 18 court of competent jurisdiction.
- 19 **48. Requirements for registration of amendment to give**
- 20 **effect to scheme by-laws**
- 21 (1) A strata company must apply for registration of an
- 22 amendment of the strata titles scheme to register
- 23 scheme by-laws as soon as reasonably practicable and,
- 24 in any event, within 3 months, after they are made,
- 25 amended or repealed.
- 26 (2) An amendment of a strata titles scheme to give effect
- 27 to scheme by-laws may only be registered if the
- 28 scheme by-laws have been made, amended or repealed
- 29 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.

1 (4) The fact that the expiry day may be postponed does not
2 render a strata lease invalid for being of uncertain
3 duration or for any other reason.

4 (5) A strata lease is not subject to forfeiture.

5 **51. Limitations on powers of owner of leasehold scheme**

6 (1) The owner of a leasehold scheme must not interfere
7 with the use and enjoyment of a lot or common
8 property in the leasehold scheme by the owner of a lot
9 in the scheme.

10 (2) Subject to subsection (3), the consent of the owner of
11 the leasehold scheme is not required by the owner of a
12 lot in the scheme to deal with or dispose of the strata
13 title for the lot.

14 (3) The regulations may specify circumstances in which
15 the consent of the owner of the leasehold scheme may
16 be required despite subsection (2).

17 (4) The owner of a leasehold scheme cannot re-enter a lot
18 in the scheme except if that is authorised by order of
19 the Tribunal or under the leasehold by-laws (for
20 non-payment of an amount for postponement of the
21 expiry day) or if the owner of the lot surrenders the
22 strata lease.

23 **52. Content and form of strata lease**

24 (1) A strata lease —
25 (a) can only contain covenants or conditions
26 allowed by the regulations; and
27 (b) if breach of a covenant or condition may lead to
28 an order of the Tribunal for re-entry, the strata
29 lease must identify the covenant or condition as
30 a *fundamental covenant or condition*; and

- 1 (c) cannot grant the owner of the leasehold scheme
2 a right of re-entry of the lot for breach of a
3 covenant or condition (express or implied); and
4 (d) must be in the approved form.
- 5 (2) The covenants or conditions allowed by the regulations
6 cannot include covenants or conditions for the
7 following —
- 8 (a) a matter that could be included in leasehold
9 by-laws;
10 (b) refurbishment of the lot or improvements on the
11 lot;
12 (c) a matter that is dealt with under this Act
13 including —
- 14 (i) financial contributions towards the
15 maintenance, repair, renewal or
16 replacement of common property in the
17 leasehold scheme or property of the
18 strata company; and
19 (ii) the insurance required for the leasehold
20 scheme;
- 21 (d) the acquisition of the owner of a leasehold
22 scheme's freehold reversion in the lot and the
23 common property appurtenant to the lot;
24 (e) compensation for the value of improvements to
25 the lot;
26 (f) any other matter specified in the regulations.
- 27 (3) If a strata lease cannot provide for, or relate to,
28 something under this section, then it cannot be
29 provided for in any other way, other than under scheme
30 by-laws (if the thing may be the subject of scheme
31 by-laws).

32 Note for this subsection:

33 For example, the thing cannot be made the subject of a
34 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

- 1 capable of remedy, and to make reasonable
2 compensation in money, to the satisfaction of
3 the owner of the leasehold scheme, for the
4 breach.
- 5 (3) The Tribunal may, if satisfied that the owner of a lot in
6 a leasehold scheme has breached a covenant or
7 condition in the strata lease, by order do 1 or more of
8 the following —
- 9 (a) require the owner of the lot to pay
10 compensation to the owner of the leasehold
11 scheme for any pecuniary loss or damage
12 caused by the breach of the strata lease;
- 13 (b) require the owner of the lot to do, or refrain
14 from doing, a specified act to remedy the
15 breach;
- 16 (c) vest, for the remaining term of the strata lease,
17 or for a shorter term, the strata lease for the lot
18 in a mortgagee of the lot on conditions that the
19 Tribunal is satisfied are just and equitable,
20 including, for example, conditions relating
21 to —
- 22 (i) the execution of a dealing or other
23 document; or
- 24 (ii) the payment of costs, expenses,
25 damages or compensation; or
- 26 (iii) the giving of security;
- 27 (d) if the covenant or condition is a fundamental
28 covenant or condition and the Tribunal is
29 satisfied that the owner of the leasehold scheme
30 cannot be reasonably compensated by an order
31 under a preceding paragraph, authorise the
32 owner of the leasehold scheme to re-enter the
33 lot.

- 1 (4) The Tribunal may, if satisfied that the owner of a
2 leasehold scheme has breached a covenant or condition
3 in the strata lease or has contravened this Act, by order
4 do 1 or more of the following —
- 5 (a) require the owner of the leasehold scheme to
6 pay compensation to the owner of a lot in the
7 scheme for any pecuniary loss or damage
8 caused by the owner of the leasehold scheme,
9 including by purporting to exercise a right to
10 re-enter the lot in circumstances in which the
11 owner does not have that right;
- 12 (b) require the owner of the leasehold scheme to
13 return possession of a lot in the scheme to the
14 owner of the lot.

15 **55. Contracting out prohibited**

- 16 (1) A contract or any other agreement or arrangement is of
17 no effect to the extent that it purports to exclude or
18 restrict the operation of this Division.
- 19 (2) A purported waiver of a right, remedy or benefit
20 conferred on a person under this Division is of no
21 effect.

22 **Part 5 — Registration and land titles**

23 **Division 1 — Schemes and amendment of schemes**

24 **56. Application for registration**

- 25 (1) An application for registration of a strata titles scheme
26 or an amendment of a strata titles scheme can be
27 made —
- 28 (a) for registration to give effect to a subdivision,
29 by the scheme developer for the subdivision; or

- 1 (b) for registration of an amendment of a strata
2 titles scheme, by —
- 3 (i) the strata company for the scheme; or
4 (ii) an owner of a lot in the scheme; or
5 (iii) if the scheme is a leasehold scheme, the
6 owner of the leasehold scheme.
- 7 (2) An application for registration of a strata titles scheme
8 or an amendment of a strata titles scheme must —
- 9 (a) be lodged with the Registrar of Titles; and
10 (b) be in the approved form; and
11 (c) be accompanied by —
- 12 (i) for registration of a scheme — the
13 scheme documents; or
14 (ii) for an amendment of a scheme —
15 amendments or replacements of the
16 scheme documents that require
17 modification as a consequence of the
18 amendment of the scheme;
- 19 and
- 20 (d) be accompanied by evidence, in the approved
21 form, that the requirements of this Act for the
22 making and registration of the scheme
23 documents or amendments of the scheme
24 documents have been complied with; and
- 25 Note for this paragraph:
- 26 See especially the requirements set out in sections 30 and
27 31 for the scheme notice, sections 34 and 35 (but subject to
28 section 36) for the scheme plan, section 38 for the schedule
29 of unit entitlements, section 48 for scheme by-laws and
30 section 53 for strata leases.
- 31 (e) must be accompanied, if applicable, by —
- 32 (i) a statement (in the approved form) of
33 how each item registered or recorded for

- 1 the scheme in the Register is to be dealt
2 with; and
3 (ii) disposition statements, instruments or
4 documents necessary for that purpose;
5 and
6 (f) be accompanied by the fee fixed by the
7 regulations.

8 (3) The Registrar of Titles may accept an application for
9 registration of a scheme plan or amendment of a
10 scheme plan, or a scheme plan or amendment of a
11 scheme plan for lodgement, before the plan or
12 amendment is endorsed with the approval of the
13 Planning Commission as required under Part 3
14 Division 1, but the plan or amendment cannot be
15 registered until it is so endorsed.

16 (4) The regulations may impose time limits within which
17 an application for registration must be made.

18 Note for this subsection:

19 For example, an application involving an amendment of a
20 scheme plan may be required to be made within a specified
21 period after endorsement of the scheme plan by the
22 Planning Commission.

23 **57. Effect of registration**

- 24 (1) On registration of a freehold scheme —
25 (a) the title to the parcel of land that existed
26 immediately before registration of the scheme
27 ceases to exist; and
28 (b) the certificate of title for the parcel must be
29 cancelled under the *Transfer of Land Act 1893*.
30 (2) On registration of a leasehold scheme —
31 (a) the fee simple of the parcel of land subdivided
32 by the scheme is divided into the strata leases
33 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

- 1 (c) as appropriate in the circumstances, register or
2 record a disposition statement, transfers or
3 other documents lodged with the application for
4 registration in the manner that the Registrar
5 considers appropriate for incorporation in the
6 Register under the *Transfer of Land Act 1893*;
7 and
- 8 (d) on registration of a strata titles scheme or an
9 amendment of a strata titles scheme to give
10 effect to a subdivision of land —
- 11 (i) ensure that there is a separate certificate
12 of title registered under the *Transfer of*
13 *Land Act 1893* for each lot in the strata
14 titles scheme; and
- 15 (ii) for a leasehold scheme, ensure that there
16 is —
- 17 (I) a strata lease registered for
18 each lot in the scheme; and
- 19 (II) a separate certificate of title
20 registered under the *Transfer of*
21 *Land Act 1893* for the parcel;
- 22 and
- 23 (iii) create and register or cancel, or enter a
24 memorial on, certificates of title as
25 necessary for those purposes.
- 26 (2) A separate certificate of title is not to be created for
27 common property or for a parcel subdivided by a
28 freehold scheme.
- 29 (3) The *Transfer of Land Act 1893* section 48B does not
30 apply to a certificate of title for a lot in a leasehold
31 scheme.
- 32 (4) The *Transfer of Land Act 1893* section 166 does not
33 apply to a subdivision of land by a strata titles scheme.

- 1 (5) Without limiting how the Registrar of Titles
2 incorporates material into the Register, an item will be
3 taken to be registered or recorded for a strata titles
4 scheme in the Register if it is registered or recorded on
5 the scheme plan, a certificate of title for a lot in the
6 scheme, a certificate of title for the parcel in a
7 leasehold scheme, or on a separate record of
8 information relating to the scheme.

9 Note for this subsection:

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

12 **59. No presumption of validity of scheme by-laws**

- 13 (1) The Registrar of Titles may, but is not obliged to,
14 examine scheme by-laws lodged for registration for
15 compliance with this Act.
- 16 (2) It must not be presumed that, because the Registrar of
17 Titles has registered scheme by-laws, the by-laws are
18 valid or enforceable.
- 19 (3) The State does not guarantee the validity or
20 enforceability of scheme by-laws.

21 **Division 2 — Re-entry or surrender of strata leases**

22 **60. Notice and registration**

23 If a strata lease is re-entered by order of the Tribunal or
24 under the leasehold by-laws (for non-payment of an
25 amount for postponement of the expiry day) or a strata
26 lease is otherwise surrendered to the owner of the
27 leasehold scheme —

- 28 (a) the owner of the leasehold scheme must lodge
29 with the Registrar of Titles notice in the
30 approved form of that fact, together with, for
31 re-entry, evidence in the approved form that the
32 requirements of this Act have been met; and

- 1 (b) the Registrar of Titles must register the notice;
2 and
3 (c) on registration of the notice —
4 (i) the Registrar must register the owner of
5 the leasehold scheme as the owner of
6 the lot; and
7 (ii) the owner of the leasehold scheme is
8 entitled to vacant possession of the lot;
9 and
10 (iii) the strata lease is otherwise unaffected.

11 **Division 3 — Statutory easements**

12 **61. Easement for support, shelter and projections — lot**

- 13 (1) For each lot in a strata titles scheme there is an
14 easement benefiting the lot —
15 (a) for the subjacent and lateral support of the
16 lot —
17 (i) by every other lot in the scheme capable
18 of affording support; and
19 (ii) by all the common property in the
20 scheme capable of affording support;
21 and
22 (b) if the scheme is a strata scheme —
23 (i) for the support and shelter of the parts
24 of a scheme building within the lot by
25 every other part of the scheme building
26 capable of affording support or shelter;
27 and
28 (ii) for the projection of window sills,
29 windows, window awnings, eaves,
30 guttering and other minor parts of a
31 scheme building within the lot.

- 1 (2) The easement entitles the owner of a lot benefited by
2 the easement to examine, maintain, repair, modify and
3 replace the support, shelter or projection to which the
4 easement relates.
- 5 (3) The rights conferred by the easement must be exercised
6 so as to minimise, as far as reasonably practicable,
7 interference with the use and enjoyment of lots and
8 common property in the strata titles scheme.
- 9 (4) For each lot in a strata titles scheme there is an
10 easement burdening the lot —
- 11 (a) for the subjacent and lateral support of —
- 12 (i) every other lot in the scheme capable of
13 enjoying support; and
- 14 (ii) all the common property in the scheme
15 capable of enjoying support;
- 16 and
- 17 (b) if the scheme is a strata scheme —
- 18 (i) for the support and shelter by the parts
19 of a scheme building within the lot of all
20 other parts of the scheme building
21 capable of enjoying support or shelter;
22 and
- 23 (ii) for the projection over the lot by
24 window sills, windows, window
25 awnings, eaves, guttering and other
26 minor parts of a scheme building within
27 another lot or the common property.
- 28 (5) An owner or occupier of a lot must not do anything or
29 permit anything to be done that would interfere with
30 rights under the easement burdening the lot under this
31 section.

- 1 (6) An easement under this section has effect even if the
2 lot benefited and the lot burdened have the same
3 owner.
- 4 **62. Easement for support, shelter and projections —**
5 **common property**
- 6 (1) For common property in a strata titles scheme there is
7 an easement benefiting the common property —
- 8 (a) for the subjacent and lateral support of the
9 common property, by every lot in the strata
10 titles scheme capable of affording support; and
11 (b) if the scheme is a strata scheme —
- 12 (i) for the support and shelter of the parts
13 of a scheme building within the
14 common property by every other part of
15 the scheme building capable of
16 affording support or shelter; and
17 (ii) for the projection of window sills,
18 windows, window awnings, eaves,
19 guttering and other minor parts of a
20 scheme building within the common
21 property.
- 22 (2) The easement entitles the strata company to examine,
23 maintain, repair, modify and replace the support,
24 shelter or projection to which the easement relates.
- 25 (3) The rights conferred by the easement must be exercised
26 so as to minimise, as far as reasonably practicable,
27 interference with the use and enjoyment of lots and
28 common property in the strata titles scheme.
- 29 (4) For common property in a strata titles scheme there is
30 an easement burdening the common property —
- 31 (a) for the subjacent and lateral support of every lot
32 in the strata titles scheme capable of enjoying
33 support; and

- 1 (b) if the scheme is a strata scheme —
2 (i) for the support and shelter by the parts
3 of a scheme building within the
4 common property of all other parts of
5 the scheme building capable of enjoying
6 support or shelter; and
7 (ii) for the projection over the common
8 property by window sills, windows,
9 window awnings, eaves, guttering and
10 other minor parts of a scheme building
11 within a lot.
- 12 (5) A strata company must not do anything or permit
13 anything to be done that would interfere with rights
14 under the easement burdening the common property
15 under this section.
- 16 **63. Utility service easement**
- 17 (1) An easement (a ***utility service easement***) exists for the
18 benefit and burden of each lot and the common
19 property in a strata titles scheme to the extent
20 reasonably required for the provision of utility services
21 to each lot and the common property.
- 22 (2) A utility service easement entitles the strata company,
23 and the owner of a lot, in the strata titles scheme —
24 (a) to install and remove utility conduits; and
25 (b) to examine, maintain, repair, modify and
26 replace utility conduits.
- 27 (3) The rights conferred by a utility service easement must
28 be exercised so as to minimise, as far as reasonably
29 practicable, interference with the use and enjoyment of
30 lots and common property in the strata titles scheme.
- 31 (4) A strata company must not interfere or permit
32 interference with utility conduits or a utility service

- 1 provided by means of utility conduits in a way that
2 may prejudice the use or enjoyment of a lot or the
3 common property, other than —
- 4 (a) in the reasonable exercise of rights under a
5 utility service easement of which it has the
6 benefit; or
- 7 (b) in the performance of its function of controlling
8 and managing common property in the scheme.
- 9 (5) An owner or occupier of a lot must not, either within or
10 outside the lot, interfere or permit interference with
11 utility conduits or a utility service provided by means
12 of utility conduits in a way that may prejudice the use
13 or enjoyment of another lot or the common property in
14 the strata titles scheme, other than in the reasonable
15 exercise of rights under a utility service easement.
- 16 (6) A utility service easement has effect even if the lot
17 benefited and the lot burdened have the same owner.
- 18 (7) In any dispute about the location of utility conduits
19 under a utility service easement, the objective must be
20 to resolve the matter fairly taking into account the
21 options that are reasonably available to give effect to
22 the easement.
- 23 (8) If, in the course of exercising rights under a utility
24 service easement, the owner of a lot comes into
25 possession of documents specifying the location of
26 utility conduits or other information relating to utility
27 conduits that ought reasonably to be kept by the strata
28 company, the owner of the lot must ensure that the
29 documents are provided to the strata company.
- 30 (9) If, in the course of exercising rights under a utility
31 service easement, the strata company comes into
32 possession of documents specifying the location of
33 utility conduits or other information relating to utility
34 conduits that ought reasonably to be kept by the strata

- 1 company, the strata company must keep the
2 documents.
- 3 **64. Common property (utility and sustainability**
4 **infrastructure) easement**
- 5 (1) This section applies if —
- 6 (a) a strata company has entered into a contract (an
7 ***infrastructure contract***) with a person under
8 which the person owns and operates utility
9 infrastructure or sustainability infrastructure on
10 common property in the strata titles scheme;
11 and
- 12 (b) this section is applied to the infrastructure
13 contract by ordinary resolution of the strata
14 company.
- 15 (2) An infrastructure contract must —
- 16 (a) specify the common property over which there
17 is an easement under this section; and
- 18 (b) specify the infrastructure to which the easement
19 applies.
- 20 (3) The person (the ***infrastructure owner***) who, from time
21 to time, owns the infrastructure the subject of an
22 infrastructure contract has an easement over the
23 common property specified in the infrastructure
24 contract that entitles the infrastructure owner —
- 25 (a) to install and remove the infrastructure
26 specified in the contract; and
- 27 (b) to operate that infrastructure; and
- 28 (c) to examine, maintain, repair, modify and
29 replace that infrastructure.
- 30 (4) The easement is subject to any conditions set out in the
31 infrastructure contract (as in force from time to time).

- 1 (5) The infrastructure contract may be varied by agreement
2 between the strata company and the person who is the
3 infrastructure owner from time to time.
- 4 (6) The easement ceases to exist if the infrastructure
5 contract is terminated or otherwise ceases to have
6 effect.
- 7 (7) The rights conferred by the easement must be exercised
8 so as to minimise, as far as reasonably practicable,
9 interference with the enjoyment and use of the
10 common property.
- 11 (8) The regulations may —
- 12 (a) specify special procedures for notice or voting
13 on the resolution required for the application of
14 this section; and
- 15 (b) set out terms and conditions that are to be taken
16 to be implied in an infrastructure contract; and
- 17 (c) otherwise regulate the rights and obligations of
18 the strata company and the infrastructure
19 owner.

20 **65. Entry under statutory easement**

- 21 (1) A strata company has a right to enter the common
22 property of its strata titles scheme to exercise its rights
23 under a statutory easement without notice to any
24 person.
- 25 (2) If a person needs to enter a lot or common property in
26 order to exercise rights under a statutory easement
27 (other than as set out in subsection (1)), the person
28 must give notice —
- 29 (a) for entry to a lot — to the occupier of the lot;
30 and

- 1 (b) for entry to common property other than special
2 common property — to the strata company for
3 the strata titles scheme; and
- 4 (c) for special common property — to the
5 occupiers of the special lots who have exclusive
6 use and enjoyment of, or special privileges
7 over, the special common property under
8 exclusive use by-laws.
- 9 (3) Notice is unnecessary—
- 10 (a) in an emergency if there is insufficient time to
11 give notice; or
- 12 (b) for entry to a lot, if the occupier of the lot
13 dispenses with the requirement for notice; or
- 14 (c) for entry to common property other than special
15 common property if —
- 16 (i) the person has the right to enter and
17 enters only for the purposes of
18 inspection; or
- 19 (ii) the strata company dispenses with the
20 requirement for notice;
- 21 or
- 22 (d) for entry to special common property — if the
23 requirement for notice is dispensed with by the
24 occupiers of the special lots.
- 25 (4) Notice must be given in the approved form.
- 26 (5) The length of the notice must be at least —
- 27 (a) for entry by a strata company — 7 days unless
28 a shorter period is agreed to by the occupier of
29 the lot; and
- 30 (b) in any other case — 28 days unless a shorter
31 period is agreed to by the occupier of the lot or
32 strata company, as the case requires.

1 (6) If notice is not given (in an emergency) or the period of
2 the notice has expired and it is not possible for the
3 person, or a person acting on behalf of the person, to
4 gain entry without using force, the person wishing to
5 enter may use such force as is reasonable in the
6 circumstances.

7 (7) Rights of entry under a statutory easement include
8 rights of entry by the person's agents, employees and
9 contractors, with vehicles, equipment, materials and
10 other items as reasonably necessary for the purpose of
11 exercising rights under the easement.

12 **66. Rectification of damage**

13 (1) Any damage caused to a lot or common property in the
14 course of exercising rights under a statutory easement
15 must be repaired and made good as soon as practicable
16 by the person exercising those rights.

17 (2) Subsection (1) does not apply to the extent that the
18 damage was the result of an unreasonable act or
19 omission on the part of the owner of the lot damaged
20 or, in the case of damage to the common property, on
21 the part of the strata company.

22 Note for this Division:

23 Schedule 2A sets out an additional statutory easement for
24 single tier strata schemes.

25 **Division 4 — Rates, taxes and charges**

26 **Part 6 — Scheme developer**

27 **77. First statutory general meeting**

28 (1) The scheme developer of the initial subdivision of land
29 by registration of a strata titles scheme must, within
30 3 months after registration of the scheme, convene a
31 general meeting of the strata company for the scheme.

- 1 (2) The scheme developer must do so even if the scheme
2 developer is no longer a member of the strata company
3 and even if there are no other members of the strata
4 company.
- 5 (3) If there is another member of the strata company, a
6 member of the strata company may convene the
7 meeting if the scheme developer fails to do so.
- 8 (4) The first statutory general meeting is to be conducted
9 as an annual general meeting of the strata company and
10 the obligations that would usually fall on the strata
11 company fall instead on the scheme developer.
- 12 (5) The person who convenes the meeting is to preside at
13 the meeting or nominate someone to preside at the
14 meeting.

15 **78. Key documents**

- 16 (1) The scheme developer of a subdivision of land by a
17 strata titles scheme must ensure that —
- 18 (a) all the key documents for the subdivision that
19 come into the possession or control of the
20 scheme developer are retained; and
- 21 (b) all the key documents for the subdivision that
22 the scheme developer possesses or controls are
23 given to the strata company —
- 24 (i) at the first general meeting of the strata
25 company following the subdivision; or
- 26 (ii) if the key document comes into the
27 possession or control of the scheme
28 developer after that meeting — as soon
29 as reasonably practicable after it comes
30 into the possession or control of the
31 scheme developer.

- 1 (2) The scheme developer is bound by this section whether
2 or not the scheme developer is the owner of a lot in the
3 strata titles scheme when the general meeting is held.

4 **79. Disclosure of remuneration and other benefits**

- 5 (1) This section applies to the following —
- 6 (a) a contract for the provision of services or
7 amenities to the strata company or to members
8 of the strata company entered into or arranged
9 by a scheme developer for the subdivision or by
10 the strata company;
- 11 (b) any other contract that binds the strata
12 company;
- 13 (c) a lease or licence of the common property of
14 the strata titles scheme.
- 15 (2) A scheme developer of a subdivision of land by a strata
16 titles scheme must disclose in writing to the strata
17 company for the scheme the following for each
18 contract, lease or licence to which this section
19 applies —
- 20 (a) details of any remuneration or other benefit
21 (including savings connected with installation
22 or commissioning of infrastructure for the
23 provision of services under the contract) that
24 the scheme developer or an associate of the
25 scheme developer has received or has a
26 reasonable expectation of receiving arising out
27 of the contract, lease or licence;
- 28 (b) details of any other direct or indirect pecuniary
29 interest that the scheme developer or an
30 associate of the scheme developer has in the
31 contract, lease or licence, other than as a
32 member of the strata company.

- 1 (3) The disclosure —
2 (a) must be made as soon as reasonably practicable
3 after the scheme developer becomes aware of
4 the facts giving rise to the requirement to
5 disclose; and
6 (b) must include information as to the value of the
7 remuneration or other benefit.

8 **80. Defects in scheme buildings or infrastructure**

- 9 (1) On establishment of a strata company for a strata
10 scheme, the strata company is subrogated to all the
11 rights and remedies of the scheme developer in respect
12 of —
13 (a) in a strata scheme — each scheme building;
14 and
15 (b) in a strata scheme or survey-strata scheme —
16 infrastructure comprising common property of
17 the scheme.
18 (2) If, within 10 years after completion of a scheme
19 building or infrastructure comprising common property
20 of a strata titles scheme, a proposed resolution is put to
21 a strata company about a defect in the scheme building
22 or infrastructure, a member of the strata company must
23 be excluded from voting on the resolution if the
24 member is —
25 (a) the scheme developer of a subdivision of land
26 by the strata titles scheme in which the building
27 was constructed or modified; or
28 (b) an associate of such a person.
29 (3) If a member is excluded under subsection (2), the unit
30 entitlement of the lot of the member must be
31 disregarded in determining whether the proposed
32 resolution is passed as a resolution of the strata
33 company.

1 capacity to vote or consent to a matter under this Act,
2 an application for an order under this section may be
3 made to the Tribunal by the strata company or a person
4 who the Tribunal considers has a proper interest in the
5 matter.

6 (2) The Tribunal may, on an application under this section,
7 by order —

8 (a) dispense with the requirement for the owner to
9 vote or consent on a particular matter; or

10 (b) authorise the Public Trustee under the *Public*
11 *Trustee Act 1941* or another specified person
12 (with that person's consent) to exercise all or
13 specified powers of the person under this Act as
14 the owner of a lot.

15 **Division 2 — Structural alteration of lots**

16 Note for this Division:

17 This Division does not derogate from the requirement for
18 subdivision approval if the definition of a lot is modified.

19 **86. Terms used in this Division**

20 In this Division —

21 ***structural alteration of a lot*** means —

22 (a) the erection of a structure within the lot; or

23 (b) an alteration of a structural kind to, or extension
24 of, a structure within the lot;

25 ***structure*** includes anything classified as a structure by
26 the regulations.

27 **88. Structural alteration of lot in survey-strata scheme**

28 (1) The owner of a lot in a 2-lot scheme that is a
29 survey-strata scheme must not cause or permit the
30 structural alteration of the lot if, on completion of the
31 work, the structures on the lot will not conform to plot

- 1 ratio restrictions or open space requirements for the lot,
2 except with the prior written approval of —
- 3 (a) the owner of the other lot; and
4 (b) for a leasehold scheme, the owner of the
5 leasehold scheme.
- 6 (2) The owner of a lot in a survey-strata scheme, other than
7 a 2-lot scheme, must not cause or permit the structural
8 alteration of the lot if, on completion of the work, the
9 structures on the lot will not conform to plot ratio
10 restrictions or open space requirements for the lot,
11 except with —
- 12 (a) the prior approval of the strata company,
13 expressed by resolution without dissent; and
14 (b) for a leasehold scheme, the prior written
15 approval of the owner of the leasehold scheme.
- 16 **90. Order dispensing with approval for structural**
17 **alteration of lot**
- 18 (1) The Tribunal may, on the application of an owner of a
19 lot in a strata titles scheme, by order, exempt a
20 particular structural alteration to the lot from the
21 application of this Division.
- 22 (2) An order may be made under this section —
- 23 (a) whether or not the necessary approval for the
24 alteration has been sought; and
25 (b) even if there has been a valid refusal to give the
26 necessary approval.
- 27 (3) An order can only be made under this section if the
28 Tribunal is satisfied —
- 29 (a) that the structural alteration of the lot is
30 reasonable, having regard to the merits of the
31 alteration and the interests of all of the owners

- 1 of the lots in the use and enjoyment of their lots
2 and the common property; and
3 (b) to the extent that the structural alteration has
4 already been carried out, it will not cause any
5 significant inconvenience or detriment to the
6 owners of other lots.

7 **Part 8 — Strata company**

8 **Division 1 — Functions**

9 **Subdivision 1 — Property**

10 **92. Temporary common property**

- 11 (1) A strata company may, by resolution without dissent,
12 for the purpose of creating temporary common
13 property —
14 (a) for a freehold scheme — accept a lease of a lot
15 in the scheme or of land that is contiguous to
16 the parcel or separated only by a road, railway
17 or waterway; and
18 (b) for a leasehold scheme — accept a lease (that
19 expires on or before the expiry day for the
20 scheme) of a lot in the scheme or of land that is
21 contiguous to the parcel or separated only by a
22 road, railway or waterway.
23 (2) Except as provided in the regulations, the land that is
24 leased must not be subject to a designated interest.
25 (3) A strata company may, by resolution without dissent
26 (made with the concurrence of the lessor if required
27 under the lease), surrender a lease accepted by it under
28 this section.

- 1 (4) If a resolution is passed under this section, the strata
2 company may enter into the necessary transaction in its
3 own name.

4 **93. Transactions affecting common property or parcel**

- 5 (1) Subject to subsection (3), a strata company may enter
6 into a transaction to which this section applies and
7 execute documents related to the transaction in its own
8 name, as if —

- 9 (a) for a freehold scheme — it were the owner of
10 an estate in fee simple in the land; or
11 (b) for a leasehold scheme — it were the owner of
12 a leasehold estate in the land under a registered
13 lease that expires on the expiry day for the
14 scheme.

- 15 (2) This section applies to the following transactions for a
16 strata titles scheme —

- 17 (a) the acceptance of a transfer of land that —
18 (i) is contiguous to the parcel or separated
19 only by a road, railway or waterway;
20 and
21 (ii) is not subject to a mortgage or other
22 encumbrance; and
23 (iii) is to be added to the common property
24 in the scheme in connection with a
25 subdivision that is to be given effect by
26 registration of an amendment of the
27 scheme;
28 (b) the disposal of land comprising common
29 property (other than temporary common
30 property) in the scheme in connection with a
31 subdivision that is to be given effect by
32 registration of an amendment of the scheme;
33 (c) a lease of common property in the scheme;

- 1 (d) the surrender of or re-entry under a lease of
2 common property in the scheme;
3 (e) the execution, acceptance, discharge or
4 surrender of an easement or restrictive covenant
5 burdening or benefiting the parcel.

6 (3) The strata company may enter into a transaction to
7 which this section applies if —

- 8 (a) the transaction is authorised by a resolution
9 without dissent; or
10 (b) the transaction is required for completion of a
11 stage of subdivision to which staged
12 subdivision by-laws apply and the subdivision
13 has been undertaken with sufficient compliance
14 with the by-laws as determined in accordance
15 with the regulations.

16 Note for this subsection:

17 Staged subdivision by-laws cannot apply to subdivision
18 comprised of the removal, from the parcel, of land
19 comprised of common property or the addition, to the
20 parcel, of land from outside the parcel. Consequently,
21 paragraph (b) can only apply in the context of a type 1
22 subdivision comprised of the conversion of a lot to common
23 property or a type 3 or type 4 subdivision.

24 (4) This section does not affect the making of an exclusive
25 use by-law by the strata company.

26 (5) The *Property Law Act 1969* section 121 does not apply
27 to a right, arising from an instrument executed under
28 this section, to access or to the use of light or air.

29 **95. Power of strata company to enter any part of parcel**

30 (1) A strata company may enter any part of the parcel for
31 the purpose of —

- 32 (a) carrying out work that the strata company is
33 required or permitted to carry out under this
34 Act; or

- 1 (b) carrying out work that the strata company is
2 required to carry out under an order of a court
3 or tribunal; or
- 4 (c) carrying out work that the strata company is
5 required to carry out under a notice issued, or
6 other order made, under any other written law;
7 or
- 8 (d) inspecting that part or any other part of the
9 parcel; or
- 10 (e) ascertaining whether scheme by-laws or this
11 Act has been, or is being, complied with.
- 12 (2) Sections 65 and 66 apply to entry to common property
13 or a lot by a strata company under this section as if the
14 strata company were exercising rights under a statutory
15 easement.
- 16 (3) A person must not obstruct or hinder a person
17 exercising a power under this section.
- 18 **96. Recovery of records, keys and property**
- 19 (1) A strata company may give written notice to a person
20 requiring the person to deliver all records, keys or other
21 property of the strata company in the person's
22 possession or control to a specified person within a
23 specified period (being a period that is reasonable in
24 the circumstances).
- 25 (2) A person commits an offence if the person fails,
26 without reasonable excuse to deliver property in the
27 person's possession or control as required by the
28 notice.
- 29 Penalty for this subsection: a fine of \$3 000.
- 30 (3) A person cannot exercise any claim or lien against or
31 on the property of a strata company that the person is

1 required, under this section, to deliver to the strata
2 company.

3 **Subdivision 2 — Insurance**

4 **97. Required insurance**

5 (1) A strata company must ensure that the following
6 insurance is in place for the strata titles scheme —

7 (a) all insurable assets of the scheme must be
8 insured against fire, storm and tempest
9 (excluding damage by sea, flood or erosion),
10 lightning, explosion and earthquake —

11 (i) to replacement value; or

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

17 and

18 (b) the strata company must be insured against
19 damage to property, death, bodily injury or
20 illness for which the strata company could
21 become liable in damages to an amount of not
22 less than \$10,000,000 or, if some other amount
23 is determined under the regulations, that
24 amount.

25 Note for this subsection:

26 1. The owner of a lot in a survey-strata scheme is responsible
27 for insurance of the kind referred to in paragraph (a) for
28 infrastructure on the lot.

29 2. The owner of a lot is responsible for insurance of the kind
30 referred to in paragraph (b) for damages for which the
31 owner could become liable.

32 (2) However, if a strata company has taken all reasonably
33 practicable steps available to it to obtain the required

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- 1 insurance but no insurer is willing to enter into a
2 contract of insurance on reasonable terms that meets
3 the requirements, the strata company must obtain
4 whatever insurance it can obtain on reasonable terms
5 that most closely meets the requirements.
- 6 (3) The Tribunal may, on application by a strata company,
7 exempt it from compliance with this section subject to
8 conditions specified in the exemption.
- 9 (4) A strata company may enter into a contract of
10 insurance relating to the insurable assets of its strata
11 titles scheme and execute documents relating to the
12 contract in its own name, as if it were the owner of the
13 assets.
- 14 (5) Subject to subsection (6), if a strata company receives
15 money from an insurer in the event of damage to or
16 destruction of an insurable asset of the strata titles
17 scheme, that money must be applied by the strata
18 company in rebuilding, replacing, repairing or restoring
19 the insurable asset so far as that may lawfully be done.
- 20 (6) Subsection (5) does not apply if —
- 21 (a) the strata titles scheme is a survey-strata
22 scheme; and
- 23 (b) the strata company passes a resolution without
24 dissent —
- 25 (i) determining that a specified part or all
26 of the money is not to be used for the
27 purposes of rebuilding, replacing,
28 repairing or restoring the insurable asset
29 of the strata titles scheme; and
- 30 (ii) specifying how that money is to be
31 distributed amongst members of the
32 strata company or used;
- 33 and

- 1 (c) the insurable asset of the strata titles scheme or,
2 if the insurable asset has been destroyed or
3 removed, the area affected by the damage or
4 destruction, is left in a safe condition.

5 (7) Nothing in this section derogates from —

- 6 (a) any other requirement imposed on a strata
7 company to obtain insurance (for example, for
8 workers' compensation or by resolution of the
9 strata company); or
10 (b) the power of the strata company to obtain other
11 insurance in its capacity as a body corporate.

12 Note for this section:

13 Schedule 2A contains special provisions for a single tier
14 strata scheme for the required insurance.

15 **98. Notice to member of strata company**

- 16 (1) If it is reasonably necessary in order for a strata
17 company to obtain the required insurance on
18 reasonable terms, the strata company may give written
19 notice to a member of the strata company requiring the
20 member to do 1 or more of the following —
21 (a) to take specified action within a specified
22 period;
23 (b) to refrain from taking specified action;
24 (c) to pay a specified amount to the strata company
25 within a specified period, being an amount
26 equal to that part of the premium payable by the
27 strata company for the required insurance
28 attributable solely to the risk associated with
29 something within the member's control.
30 (2) A member of a strata company given such a notice may
31 negotiate with the strata company to take some step
32 other than that specified in the notice to enable the

1 required insurance to be obtained by the strata
2 company on reasonable terms.

3 (3) The strata company must negotiate with the member
4 with a view to achieving a fair and reasonable
5 outcome.

6 **99. Member may obtain required insurance**

7 (1) If a strata company fails to comply with section 97, a
8 member of the strata company may effect and
9 maintain, in the name of the strata company, such
10 insurance as the strata company ought to effect and
11 maintain under that section.

12 (2) Costs incurred by a member of a strata company under
13 subsection (1) may be recovered, on application to the
14 Tribunal, as a debt owed to the member by the strata
15 company.

16 (3) A member of a strata company may accept, at the
17 option of the member, a credit against contributions or
18 other amounts owed by the member to the strata
19 company in full or partial satisfaction of the amount
20 owed under subsection (2).

21 **Subdivision 3 — Financial management**

22 **101. Accounting records and statement of accounts**

23 (1) A strata company must keep proper accounting records
24 of its income and expenditure.

25 (2) A strata company must prepare a statement of accounts
26 for each financial year showing —

- 27 (a) the assets and liabilities of the strata company
28 at the end of the financial year; and
29 (b) the income and expenditure of the strata
30 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 —

- 1 (i) the amount fixed by the strata company
2 by special resolution; or
- 3 (ii) if the strata company has not fixed the
4 amount by special resolution, the
5 amount fixed by the regulations;
- 6 (b) expenditure (not being of the kind referred to in
7 subsection (5)) made on the following
8 conditions being met —
- 9 (i) notice in the approved form of the
10 purpose and amount of a proposed
11 expenditure is given to the owners and
12 first mortgagees of all lots in the strata
13 titles scheme; and
- 14 (ii) if the regulations so require, quotations
15 or tenders for the expenditure are
16 submitted to those owners and first
17 mortgagees; and
- 18 (iii) within 14 days after the requirements in
19 the preceding subparagraphs are met,
20 objection to the proposed expenditure
21 has not been notified in writing to the
22 strata company by the owners or first
23 mortgagees of —
- 24 (I) 25% or more of the lots in the
25 scheme; or
- 26 (II) lots of which the total unit
27 entitlement is 25% or more of
28 the sum of the unit entitlements
29 of all the lots in the scheme;
- 30 (c) expenditure required by a court or tribunal or
31 by a notice or order given under a written law
32 to the strata company.
- 33 (7) For subsection (6)(b), if an objection is notified under
34 subsection (6)(b)(iii) by a first mortgagee of a lot, an

1 objection notified by the owner of that lot must be
2 disregarded.

- 3 (8) This section has effect subject to any regulations or
4 scheme by-laws that require a special resolution,
5 resolution without dissent or unanimous resolution or
6 other steps to be taken for expenditure of a particular
7 class.

8 **Subdivision 4 — Representation and judgment debts**

9 **Subdivision 5 — Records and correspondence**

10 **104. Records and correspondence**

- 11 (1) A strata company must —
12 (a) keep a copy of each of the following —
13 (i) the current scheme documents;
14 (ii) any proposed amendments of the
15 scheme documents of which it is aware
16 and that remain current;
17 and
18 (b) make and keep for a period fixed by the
19 regulations —
20 (i) minutes of its general meetings and
21 meetings of its council; and
22 (ii) records of its resolutions and decisions
23 of its council; and
24 (iii) such other records as are required by the
25 regulations;
26 and
27 (c) keep for a period fixed by the regulations —
28 (i) records and statements of account made
29 or kept under section 101; and

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- 1 (ii) notices of its general meetings and
2 meetings of its council; and
- 3 (iii) notices of proposed resolutions and
4 material submitted to members of the
5 strata company in connection with
6 proposed resolutions; and
- 7 (iv) notices of disclosures made under
8 section 79, 145(2) or 147; and
- 9 (v) all correspondence, other notices and
10 orders it or its council sends or receives;
11 and
- 12 (vi) each lease accepted under section 92
13 and any instrument of surrender of such
14 a lease; and
- 15 (vii) a copy of each contract entered into by
16 the strata company and any variation,
17 extension or termination of such a
18 contract, including (without limitation)
19 the following —
- 20 (I) a strata management contract;
21 (II) an insurance contract;
22 (III) an infrastructure contract for a
23 common property (utility and
24 sustainability infrastructure)
25 easement;
- 26 (IV) a contract for services or
27 amenities provided to the strata
28 company or members of the
29 strata company;
- 30 and
- 31 (viii) each lease, licence or other document
32 granting a special privilege over the
33 common property (other than exclusive
34 use by-laws); and

- 1 (ix) each key document it has received; and
2 (x) each document it has kept or received
3 under section 63(8) or (9);
4 and
5 (d) keep the following in a manner that facilitates
6 access to the information, in particular, for use
7 by the members of the council and officers of
8 the strata company —
9 (i) the terms of any current resolution about
10 the use of the common seal of the strata
11 company or authorising persons to
12 execute documents on its behalf;
13 (ii) the current balance of the administrative
14 fund and, if applicable, the reserve fund
15 of the strata company;
16 (iii) the current budget (showing estimated
17 income and expenditure) of the strata
18 company;
19 (iv) the terms of the most recent resolution
20 determining contributions, the period
21 for which they are determined, the basis
22 on which the contributions are
23 apportioned amongst the members of
24 the strata company and the date on
25 which they fall due;
26 (v) the most recent 10 year plan, if
27 applicable;
28 (vi) any termination proposal submitted to
29 the strata company that remains current.
30 (2) The regulations may impose additional requirements
31 for the making or keeping of records by a strata
32 company or about the manner in which this section is
33 to be complied with.

- 1 (3) A strata company must ensure that —
- 2 (a) a letterbox with the name of the strata company
- 3 clearly shown on it is continuously available
- 4 and suitably placed on the parcel; and
- 5 (b) a mechanism for corresponding with the strata
- 6 company electronically is reasonably available
- 7 to —
- 8 (i) members of the strata company; and
- 9 (ii) occupiers of lots in the strata titles
- 10 scheme.

11 **106. Address for service if no roll maintained in 2, 3, 4 or**

12 **5-lot scheme**

- 13 (1) If, in accordance with section 140, a roll is not
- 14 maintained by a strata company for a 2, 3, 4 or 5-lot
- 15 scheme, the owner of a lot in the scheme must give
- 16 written notice to the strata company and the owner of
- 17 each other lot of the owner's address for service.
- 18 Penalty for this subsection: a fine of \$3 000.
- 19 (2) If, on a change of ownership, the owner of a lot in a
- 20 scheme for which a roll is not maintained notifies an
- 21 address for service to the strata company and the owner
- 22 of each other lot, each of the other owners must give
- 23 written notice to the new owner of their respective
- 24 addresses for service.
- 25 Penalty for this subsection: a fine of \$3 000.

26 **Subdivision 6 — Provision of information**

27 **107. Application by person with proper interest in**

28 **information**

- 29 (1) A person with a proper interest in information about a
- 30 strata titles scheme, or a person authorised in writing

1 by such a person, may apply in writing to the strata
2 company for the scheme for —

- 3 (a) information under section 108; or
4 (b) inspection of material under section 109; or
5 (c) a certificate under section 110.

6 (2) A person has a *proper interest in information about a*
7 *strata titles scheme* if the person is —

- 8 (a) a member of the strata company for the
9 scheme; or
10 (b) a buyer who has entered into a contract for the
11 sale and purchase of a lot in the strata titles
12 scheme; or
13 (c) a mortgagee of a lot in the strata titles scheme;
14 or
15 (d) a person of a class specified in the regulations.

16 (3) A strata company may charge a fee for an application
17 under this section.

18 (4) However, any fee that is charged must not exceed an
19 amount fixed by the regulations.

20 **108. Contact information**

21 A strata company commits an offence if it does not,
22 within 14 days after being given an application for
23 contact information under section 107, provide the
24 applicant with the following as stated in the
25 application —

- 26 (a) the name and address for service of a member
27 of the council of the strata company;
28 (b) the name and address for service of an officer
29 of the strata company;

30 Penalty: 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

1 amount not exceeding an amount fixed by the
2 regulations.

3 (6) This section applies to the following —

- 4 (a) material kept under section 104;
5 (b) the roll kept under section 105;
6 (c) other documents in the possession or control of
7 the strata company.

8 **110. Certificates**

9 (1) A strata company commits an offence if it does not,
10 within 14 days after being given an application for a
11 certificate under section 107, provide the applicant
12 with a certificate certifying, as at the date of the
13 certificate, the following matters as stated in the
14 application —

- 15 (a) whether or not a strata management contract is
16 in effect and, if so, when the contract starts and
17 ends;
18 (b) details of any contracts of insurance maintained
19 by the strata company, including the name of
20 the insurer, the contract number, the type and
21 amount of cover, and the expiry day;
22 (c) whether any transfer, lease or other disposition
23 has been entered into or exclusive use by-laws
24 have been made in favour of a person over the
25 common property but not registered by the
26 Registrar of Titles, and, if so, the name of the
27 person and the nature and effect of the
28 transaction or by-laws.

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

30 (2) A strata company commits an offence if it does not,
31 within 14 days after being given an application for a
32 certificate under section 107, provide the applicant
33 with a certificate certifying, as at the date of the

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- 1 certificate, the following matters as they relate to a lot
2 specified in the application —
- 3 (a) the amount and due date of contributions
4 determined for the lot —
- 5 (i) at the most recent annual general
6 meeting of the strata company; and
- 7 (ii) at any time subsequent to that meeting;
8 and
- 9 (iii) in the previous 12 months;
- 10 (b) any amount owed to the strata company by the
11 owner or occupier of the lot that is outstanding,
12 the date on which it became outstanding, and
13 the nature of the payment;
- 14 Note for this paragraph:
- 15 For example, the amount may be an amount of —
- 16 • contributions; or
- 17 • an amount payable under exclusive use by-laws; or
- 18 • an amount payable for work undertaken on the part of
19 the owner of the lot; or
- 20 • any penalty or other amount ordered to be paid by the
21 Tribunal; or
- 22 • any amount payable for utility services or other services
23 or amenities.
- 24 (c) the rate of interest payable in respect of the
25 outstanding amount.
- 26 Penalty for this subsection: a fine of \$3 000.
- 27 (3) A certificate under this section is conclusive evidence
28 of the matters stated in the certificate, as at the date of
29 the certificate, in favour of a person taking an estate or
30 interest in a lot for valuable consideration.

1 **111. Legal professional privilege and defamation**

- 2 (1) Nothing in this Subdivision requires a strata
3 company —
- 4 (a) to give or certify any information that is the
5 subject of legal professional privilege; or
- 6 (b) to make available a document or a part of a
7 document if that would disclose information
8 that is the subject of legal professional
9 privilege.
- 10 (2) It is a defence to an action for defamation if the
11 defendant proves that —
- 12 (a) the defamatory matter was contained in
13 information or a document mentioned in this
14 Subdivision; and
- 15 (b) the publication consisted of giving or certifying
16 the information, or making the document
17 available, in accordance with this Subdivision.

18 **Subdivision 7 — Miscellaneous powers**

19 **112. Compliance with scheme by-laws**

20 A strata company has the function of complying with
21 the scheme by-laws and monitoring compliance with
22 those by-laws by others to whom they apply.

23 **113. Enforcement of road laws**

24 A strata company may enter into a contract or
25 arrangement with a local government about the
26 enforcement of laws relating to roads on the parcel.

27 **114. Enforcement of local laws**

28 A strata company may enter into a contract or
29 arrangement with a local government about the
30 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

- 1 (c) a strata manager of the strata company.
- 2 (3) A document is duly executed by a strata company if —
- 3 (a) the common seal of the strata company is
- 4 applied to it in accordance with this section; or
- 5 (b) the document is signed on behalf of the strata
- 6 company by a person or persons in accordance
- 7 with an authority conferred under this section.
- 8 (4) For a document in an electronic form that bears a
- 9 facsimile of the common seal and a facsimile of the
- 10 signatures required to attest its use, the sealed
- 11 document as it appears electronically, or as it appears
- 12 when printed on paper, has the same effect as if the
- 13 common seal had been applied and attested in
- 14 accordance with this section, unless there is evidence
- 15 that the document was not executed by the strata
- 16 company.

17 **Division 2 — Objectives**

18 **119. Objectives**

- 19 (1) In performing its functions, a strata company is to have
- 20 the objective of implementing processes and achieving
- 21 outcomes that are not, having regard to the use and
- 22 enjoyment of lots and common property in the strata
- 23 titles scheme —
- 24 (a) unfairly prejudicial to or discriminatory against
- 25 a person; or
- 26 (b) oppressive or unreasonable.
- 27 (2) In achieving that objective, a strata company —
- 28 (a) must take into account any failure of a person
- 29 to act consistently with this Act or the scheme
- 30 by-laws; and

- 1 (b) must consider the merits of any proposal put to
2 it and the options that are reasonably available
3 in any particular circumstances; and
4 (c) must be aware that —
5 (i) a resolution or other conduct may be
6 overturned for failure to meet that
7 objective despite the fact that it reflects
8 the will of the majority of members of
9 the strata company as expressed through
10 the exercise of their voting powers; and
11 (ii) the fact that a person has chosen to
12 become the owner of a lot does not
13 prevent the person challenging the
14 performance of a function for failure to
15 meet that objective.
- 16 (3) Without limitation, a strata company acts oppressively
17 or unreasonably in passing or not passing a resolution
18 if —
19 (a) the resolution would not have been passed, or
20 not have been passed as a particular type of
21 resolution, but for the fact that a person was
22 improperly denied a vote on the resolution; or
23 (b) the resolution would have been passed, or
24 would have been passed as a particular type of
25 resolution, if a person had properly been given
26 an opportunity to vote on the resolution.

27 **Division 3 — Procedures**

28 **Subdivision 1 — Voting and resolutions**

29 **120. Voting**

- 30 (1) The owner of each lot in a strata titles scheme is
31 entitled to 1 vote on a proposed resolution of the strata
32 company.

- 1 (2) However, the owner of a lot is not entitled to cast the
2 vote attached to the lot if —
- 3 (a) the resolution is not required to be a unanimous
4 resolution or a resolution without dissent and is
5 not a resolution for postponing the expiry day
6 for a leasehold scheme or a termination
7 resolution; and
- 8 (b) there is an outstanding amount recoverable
9 under this Act owed to the strata company by
10 the owner of the lot.
- 11 (3) A proposed resolution can be put to the members of a
12 strata company —
- 13 (a) at a general meeting; or
14 (b) outside of a general meeting.
- 15 (4) A resolution can be proposed only by a member of the
16 strata company who is entitled to vote on the
17 resolution.
- 18 (5) The vote attached to a lot can, and can only, be cast, if
19 at the time it is cast, the person is entitled to cast the
20 vote attached to the lot.
- 21 (6) The owner of a lot may cast the vote attached to the lot
22 in person or by duly appointed proxy.
- 23 (7) However, if a vote is taken at a general meeting at
24 which both the owner of a lot and a proxy entitled to
25 cast the vote attached to the lot are present and the
26 owner is not a co-owner of the lot, the owner of the lot
27 must cast the vote.
- 28 (8) The voting system, whether it is electronic or by other
29 means, must —
- 30 (a) enable votes to be cast in a manner designed to
31 protect the integrity of the voting system; and

- 1 (b) comply with any requirements specified in the
2 regulations.

3 **121. Voting period**

- 4 (1) If a resolution is required to be a unanimous resolution,
5 resolution without dissent or special resolution, the
6 period allowed for voting must be 28 days or, if the
7 regulations specify some other period, that period.

- 8 (2) If a vote on a resolution that is required to be a
9 unanimous resolution, resolution without dissent or
10 special resolution is taken at a general meeting —

- 11 (a) the voting period opens at the meeting and
12 closes 28 days (or if the regulations specify
13 some other period, that period) after the
14 meeting; and
15 (b) if, for 1 or more lots, there was no-one present
16 at the meeting in person or by proxy who could
17 cast the vote attached to the lot — written
18 notice of the outcome of the vote at the meeting
19 is given to the owner of each such lot; and
20 (c) if the vote for a lot was not cast at a meeting,
21 the vote may be cast by written notice to the
22 strata company before the voting period closes.

23 **122. Counting of votes**

- 24 (1) Votes are to be counted (and recorded) as follows —
25 (a) for a unanimous resolution or a resolution
26 without dissent, the votes must be counted by
27 the number of votes cast;
28 (b) for a special resolution, the votes must be
29 counted both by the number of votes cast and
30 by the number of unit entitlements of the lots
31 for which votes are cast;

- 1 (c) for an ordinary resolution, the votes must be
2 counted by the number of votes cast unless any
3 person entitled to cast a vote demands that they
4 be counted by the number of unit entitlements
5 of the lots for which votes are cast, in which
6 case, they must be counted in that manner.
- 7 (2) A demand that a vote be counted by the number of unit
8 entitlements of the lots for which votes are cast can be
9 made —
- 10 (a) if the vote is being taken at a general meeting,
11 orally or in writing before the resolution is put
12 to the vote; and
- 13 (b) if the vote is being taken outside of a general
14 meeting, when the vote is cast.
- 15 (3) Such a demand may only be withdrawn by the person
16 who made the demand.

17 **123. Resolutions**

- 18 (1) A resolution of a strata company is a ***unanimous***
19 ***resolution*** if —
- 20 (a) 14 days' notice of the terms of the proposed
21 resolution is given to each member of the strata
22 company before voting on the resolution opens;
23 and
- 24 (b) the vote attached to each lot in the scheme is
25 cast in favour of the resolution.
- 26 (2) Subject to subsection (3), a resolution of a strata
27 company is a ***resolution without dissent*** if —
- 28 (a) 14 days' notice of the terms of the proposed
29 resolution is given to each member of the strata
30 company before voting on the resolution opens;
31 and

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- 1 (b) no vote attached to a lot in the scheme is cast
2 against the resolution.
- 3 (3) For a 2-lot scheme, a resolution is only to be regarded
4 as a **resolution without dissent** if it is a unanimous
5 resolution.
- 6 (4) Subject to subsections (5) and (6), a resolution of a
7 strata company is a **special resolution** if —
- 8 (a) 14 days' notice of the terms of the proposed
9 resolution is given to each member of the strata
10 company before voting on the resolution opens;
11 and
- 12 (b) the votes in favour of the resolution equal —
- 13 (i) when counted by number — not less
14 than 50% of the number of lots in the
15 scheme; and
- 16 (ii) when counted by unit entitlements —
17 not less than 50% of the unit
18 entitlements of the lots in the scheme;
- 19 and
- 20 (c) the votes against the resolution equal —
- 21 (i) when counted by number — less than
22 25% of the number of lots in the
23 scheme; and
- 24 (ii) when counted by unit entitlements —
25 less than 25% of the unit entitlements of
26 the lots in the scheme.
- 27 (5) For a 2-lot scheme, a resolution is only to be regarded
28 as a **special resolution** if it is a unanimous resolution.
- 29 (6) For a 3, 4 or 5-lot scheme, a resolution of the strata
30 company is a **special resolution** if —
- 31 (a) 14 days' notice of the terms of the proposed
32 resolution is given to each member of the strata

- 1 company before voting on the resolution opens;
2 and
3 (b) the votes in favour of the resolution equal—
4 (i) when counted by number —
5 (I) for a 3-lot scheme — not less
6 than 2; and
7 (II) for a 4-lot scheme — not less
8 than 3; and
9 (III) for a 5-lot scheme — not less
10 than 4;
11 and
12 (ii) when counted by unit entitlements —
13 not less than 50% of the unit
14 entitlements of the lots in the scheme.
- 15 (7) A resolution of a strata company is an **ordinary**
16 **resolution** if —
17 (a) 14 days' notice of the terms of the proposed
18 resolution is given to each member of the strata
19 company before voting on the resolution opens;
20 and
21 (b) it is passed when counted as required under
22 section 122 (1)(c) —
23 (i) by number — by more than 50% of the
24 number of lots for which votes are cast;
25 or
26 (ii) by unit entitlements — by more than
27 50% of the sum of the unit entitlements
28 of the lots in the scheme for which votes
29 are cast.

30 Note for this subsection:

31 For an ordinary resolution, the question is determined
32 against the resolution on an equal number of votes whether
33 counted by number or by unit entitlements.

1 **124. Voting by proxy**

- 2 (1) An instrument appointing a proxy to cast a vote must
3 be in writing and executed by the appointer or the
4 appointer's attorney.
- 5 (2) Subject to any limitations expressed in the instrument
6 of appointment, the appointment of a proxy is for all
7 general meetings and for all purposes.
- 8 (3) The instrument of appointment of a proxy may limit
9 the appointment —
- 10 (a) to a specified general meeting or to voting on a
11 specified resolution; or
- 12 (b) to general meetings held, or votes taken, within
13 a specified period; or
- 14 (c) to a specified purpose; or
- 15 (d) in any other specified way.
- 16 (4) A proxy may be, but is not required to be, a member of
17 the strata company.
- 18 (5) The regulations may impose limitations on a strata
19 manager being appointed as a proxy, including
20 limitations as to the number of lot owners or unit
21 entitlements of lots for which a strata manager may be
22 appointed as a proxy.

23 **125. Disqualification from voting as proxy**

- 24 (1) If a member of a strata company who is an individual
25 and sole owner of a lot is present at a general meeting
26 of the strata company, the member must cast the vote
27 for the lot personally rather than by proxy.
- 28 (2) A person must not vote as a proxy of another person on
29 a resolution relating to the provision of goods, amenity
30 or service to the strata company if the person so voting
31 (the *proxy*) has a direct or indirect pecuniary or other

- 1 interest in the provision of the goods, amenity or
2 service.
- 3 (3) Subsection (2) does not apply if —
- 4 (a) notice of the proposed resolution included, if
5 applicable, the particulars described in
6 subsection (4); and
- 7 (b) the instrument appointing the proxy expressly
8 authorises the proxy to vote on the resolution
9 and specifies whether the proxy is to vote for or
10 against it.
- 11 (4) If the resolution relates to the strata company making,
12 varying or extending a strata management contract, the
13 notice of the resolution must specify —
- 14 (a) the name of the strata manager; and
- 15 (b) when the proposed contract, or the contract as
16 proposed to be varied or extended (as the case
17 may require) is to start and end; and
- 18 (c) each proposed variation, if applicable; and
- 19 (d) the remuneration that is payable under the
20 contract or the way in which the remuneration
21 that is payable under the contract is to be
22 calculated.

23 **126. Exercise of voting power in certain cases**

- 24 The entitlement of the owner of a lot to vote on a
25 proposed resolution is subject to the following —
- 26 (a) if the lot is subject to a registered mortgage —
- 27 (i) the first mortgagee of the lot may, in
28 person or by proxy, cast the vote on
29 behalf of the owner of the lot; and
- 30 (ii) the owner may cast the vote if the first
31 mortgagee does not do so;
- 32 and

- 1 (b) in any event —
- 2 (i) if the owner of the lot has not attained
- 3 18 years of age, the owner may not cast
- 4 the vote but the owner's guardian may
- 5 do so on behalf of the owner; and
- 6 (ii) if the owner of the lot is, for any reason,
- 7 unable to control the owner's property,
- 8 the person who is, for the time being,
- 9 authorised by law to control the owner's
- 10 property may cast the vote on behalf of
- 11 the owner; and
- 12 (iii) if there are co-owners of the lot, the
- 13 co-owners may only cast the vote
- 14 through jointly appointing a single
- 15 proxy (who may be 1 of the co-owners).

16 **Subdivision 2 — Meetings of strata company**

17 **127. Annual general meetings of strata company**

- 18 (1) A strata company must hold an annual general meeting
- 19 once in each 12 month period and not more than
- 20 15 months after its previous annual general meeting.
- 21 (2) Subsection (1) does not apply to a strata company for a
- 22 2-lot scheme but a strata company for a 2-lot scheme
- 23 may make by-laws having the same effect as
- 24 subsection (1).
- 25 (3) The following matters must be included as an item of
- 26 business on the agenda for each annual general meeting
- 27 of a strata company (including the first annual general
- 28 meeting) —
- 29 (a) election of council members;
- 30 (b) consideration of accounts;

1 (c) the presentation of copies of certificates and
2 schedules for the insurance required under this
3 Act, current as at the date of the meeting.

4 (4) All business transacted at an annual general meeting
5 other than that referred to in subsection (3) is taken to
6 be special business.

7 **128. Extraordinary general meetings of strata company**

8 (1) An extraordinary general meeting of a strata company
9 is a general meeting of the strata company other than
10 an annual general meeting.

11 (2) An extraordinary general meeting of a strata
12 company —

13 (a) may be convened by the council of the strata
14 company as the council thinks fit; and

15 (b) must be convened by the council of the strata
16 company on the written request of owners
17 entitled to 25% or more of the unit entitlements
18 of the lots in the strata titles scheme.

19 (3) The owners making a request under subsection (2)(b),
20 or any of them holding more than 50% of the unit
21 entitlements of the lots in the strata titles scheme, may
22 convene an extraordinary general meeting if the
23 council does not, within 21 days after the request was
24 made, take steps to convene the meeting.

25 (4) To the extent practicable, a meeting referred to in
26 subsection (3) must be convened in the same manner as
27 that in which meetings are to be convened by the
28 council.

29 (5) A meeting convened under subsection (3) must not be
30 held after the expiration of the period of 3 months
31 starting on the day on which the request was made.

- 1 (6) All business transacted at an extraordinary general
2 meeting is taken to be special business.

3 **129. Notice requirements for all general meetings**

- 4 (1) All owners of lots in a strata titles scheme and first
5 mortgagees of those lots must be given at least
6 14 days' notice of every general meeting of the strata
7 company for the scheme.
- 8 (2) The notice must include —
- 9 (a) the date, time and venue of the meeting; and
- 10 (b) for an annual general meeting, notice of each
11 item of business referred to in section 127(3);
12 and
- 13 (c) for special business, notice of the general
14 nature of that business; and
- 15 (d) notice of each method of voting, whether by
16 means of an electronic communication or
17 otherwise, that is acceptable to the strata
18 company.
- 19 (3) Accidental omission to give notice of a general
20 meeting to the owner or first mortgagee of a lot or
21 non-receipt of the notice by the owner or first
22 mortgagee of a lot does not invalidate any proceedings
23 at the meeting.
- 24 (4) The owner of a lot may give written notice to a
25 member of the council of the strata company of an item
26 of business that the owner requires to be included on
27 the agenda for a general meeting of the strata company
28 and that item must be included on the agenda for the
29 meeting and notice must be given of that item as an
30 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

- 1 functions as a member of the council, or an
2 officer, of a strata company.
- 3 (2) A person to whom this section applies —
- 4 (a) must at all times act honestly, with loyalty and
5 in good faith in the performance of functions as
6 a member of the council or an officer of the
7 strata company; and
- 8 (b) must at all times exercise the degree of care and
9 diligence in the performance of those functions
10 that a reasonable person in the person's position
11 and the circumstances of the strata company
12 would reasonably be expected to exercise; and
- 13 (c) must not make improper use of the person's
14 position —
- 15 (i) to gain, directly or indirectly, an
16 advantage for the person or any other
17 person; or
- 18 (ii) to cause detriment to the strata
19 company.
- 20 (3) A person to whom this section applies —
- 21 (a) must inform the council in writing of any direct
22 or indirect pecuniary or other interest that the
23 person has that conflicts or may conflict with
24 the performance of a function as a member of
25 the council or, if applicable, as an officer of the
26 strata company; and
- 27 (b) must do so as soon as is practicable after the
28 person becomes aware of the relevant facts; and
- 29 (c) in the case of a member of the council, must not
30 vote on a matter in which the member has an
31 interest required to be disclosed under
32 paragraph (a).

- 1 (4) Subsection (3) does not apply to an interest arising
2 solely from the fact that the member is the owner of a
3 lot in the scheme.

4 **Division 5 — Miscellaneous**

5 **138. Performance of council functions in general meeting**
6 **if no council or quorum**

7 If, at any time, there is no council of a strata company
8 or there are insufficient members of the council to
9 constitute a quorum in accordance with the scheme
10 by-laws, the functions of the council may be performed
11 by the owners of the lots in general meeting of the
12 strata company.

13 **140. Special rules for 2, 3, 4 or 5-lot schemes**

- 14 (1) A strata company for a 2-lot scheme —
15 (a) may, but is not required to, perform a
16 designated function; and
17 (b) cannot establish an administrative fund unless
18 required to do so by scheme by-laws.
- 19 (2) The scheme by-laws for a 3, 4 or 5-lot scheme may
20 exempt the strata company from a designated function.
- 21 (3) However, the Tribunal may, on application by a
22 member of the strata company, require a strata
23 company to perform a designated function despite this
24 section.

- 1 (4) In this section —
 2 *designated function* means a function conferred under
 3 any of the following sections or included in this
 4 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.

5 **141. Protection from liability**

- 6 (1) This section applies to a person who is or has been —
 7 (a) a member of the council of a strata company
 8 (including when acting as an officer of the
 9 strata company); or
 10 (b) an individual authorised under section 136(2)
 11 by a corporation to perform the corporation's
 12 functions as a member of the council, or an
 13 officer, of a strata company.
- 14 (2) No civil liability attaches to a person to whom this
 15 section applies for anything that the person has, in
 16 good faith, done or omitted to be done —
 17 (a) in the performance of a function under this Act
 18 or scheme by-laws; or
 19 (b) in the reasonable belief that the act or omission
 20 was in the performance of a function under this
 21 Act or scheme by-laws.
- 22 (3) A liability that would, but for subsection (2), attach to a
 23 person attaches instead to the strata company.

1 **142. Exclusion of Corporations Act**

2 The following matters are declared to be excluded
3 matters for the purposes of the *Corporations Act 2001*
4 (Commonwealth) section 5F in relation to the whole of
5 the Corporations legislation to which Part 1.1A of that
6 Act applies —

- 7 (a) a strata company;
8 (b) an act or omission of a person, body or other
9 entity in relation to a strata company.

10 **Part 9 — Strata managers**

11 **143. Authorisation of functions of strata manager**

- 12 (1) A strata company may, subject to this Part, authorise a
13 person (a ***strata manager***) to perform a specified
14 scheme function.
- 15 (2) An authorisation under this section —
16 (a) is subject to any conditions specified by the
17 strata company; and
18 (b) may be varied or revoked by the strata
19 company.
- 20 (3) If the performance of a function of a strata company
21 requires a unanimous resolution, resolution without
22 dissent, special resolution or ordinary resolution, the
23 strata manager may perform the function only if a vote
24 has been taken on a proposed resolution and it has been
25 passed as a resolution of the relevant kind.
- 26 (4) An Australian legal practitioner does not act as a strata
27 manager in providing services that can, under the *Legal*
28 *Profession Act 2008*, be provided only by an Australian
29 legal practitioner.

- 1 (5) A strata manager cannot be authorised to perform any
2 of the following functions —
- 3 (a) authorising a person to perform a scheme
4 function other than as an agent, employee or
5 contractor of the strata manager;
- 6 (b) determining contributions;
- 7 (c) entering into a contract with another strata
8 manager, varying, extending or terminating
9 such a contract or making a decision relating to
10 such a contract or the meaning of such a
11 contract;
- 12 (d) terminating a contract for services or amenities
13 under section 115;
- 14 (e) commencing proceedings on behalf of the strata
15 company in the Tribunal or in a court or other
16 tribunal;
- 17 (f) authorising the strata company's common seal
18 to be applied to a document;
- 19 (g) authorising a person to sign documents on
20 behalf of the strata company or on behalf of the
21 council or an officer of the strata company;
- 22 (h) a scheme function declared by the regulations
23 to be a scheme function that may not be
24 performed by a strata manager.
- 25 (6) An act or thing done by a person under an authorisation
26 under this section —
- 27 (a) has effect as if it were done by the strata
28 company, council or officer of the strata
29 company (as the case requires); and
- 30 (b) is taken to have been done by the strata
31 company, council or officer of the strata
32 company (as the case requires).

1 (7) The authority of a strata manager to perform a scheme
2 function does not prevent the function from being
3 performed by the strata company, council or officer (as
4 the case requires).

5 (8) However, if the strata company, council or officer
6 performs such a function, the strata company, council
7 or officer must notify the strata manager authorised to
8 perform the function of that fact.

9 **144. Requirements to be met by strata manager**

10 (1) Despite an authorisation under section 143, a person is
11 not authorised to perform functions as a strata manager
12 unless —

13 (a) a contract or volunteer agreement (a ***strata***
14 ***management contract***) is in force between the
15 strata manager and the strata company; and

16 (b) the requirements of the regulations are met by
17 the strata manager and each agent, employee or
18 contractor of the strata manager for —

19 (i) the conduct of, and verification of the
20 conduct of, criminal record checks; and

21 (ii) educational or other qualifications; and

22 (iii) any other matter relevant to the
23 performance of functions as a strata
24 manager;

25 and

26 (c) the strata manager maintains professional
27 indemnity insurance as required by the
28 regulations.

29 (2) Subsection (1)(c) does not apply to a volunteer strata
30 manager.

- 1 (3) The regulations cannot require a volunteer strata
2 manager to have particular educational or other
3 qualifications.

4 **145. Strata management contracts: minimum**
5 **requirements**

- 6 (1) A strata management contract must be in writing
7 and must —
- 8 (a) state the strata manager's name and address for
9 service; and
- 10 (b) state the strata company's name and address for
11 service; and
- 12 (c) state the Australian Company Number or
13 Australian Business Number of each party with
14 such a number; and
- 15 (d) specify when the contract starts and ends; and
- 16 (e) specify each scheme function to be performed
17 by the strata manager under the contract; and
- 18 (f) specify any conditions that are to apply to the
19 performance of the functions; and
- 20 (g) provide that the strata manager must give the
21 strata company written reports about the strata
22 manager's performance of functions under the
23 contract and set out the reporting requirements
24 as to content and timing of the reports; and
- 25 (h) specify the remuneration that is payable under
26 the contract or the manner in which the
27 remuneration that is payable under the contract
28 is to be calculated; and
- 29 (i) specify the accounts to be used under
30 section 148(1); and
- 31 (j) set out the text of, or give notice drawing
32 attention to, section 151; and

- 1 (k) provide for any other matter that is required by
2 the regulations.
- 3 (2) Before entering into a strata management contract, the
4 strata manager must disclose in writing to the strata
5 company —
- 6 (a) any direct or indirect pecuniary or other interest
7 that the strata manager has that conflicts or may
8 conflict with the performance of the strata
9 manager's functions; and
- 10 (b) the amount or value of any remuneration or
11 other benefit that the strata manager has a
12 reasonable expectation of receiving (other than
13 from the strata company) in connection with the
14 performance of the strata manager's functions.
- 15 (3) Any variation to, or extension or renewal of, a strata
16 management contract must be in writing.
- 17 (4) This section does not limit the matters that may be
18 included in a strata management contract.
- 19 (5) If the strata management contract is a volunteer
20 agreement with a volunteer strata manager, it need not
21 comply with subsection (1)(c) or (g).

22 **146. General duties and conflict of interest**

- 23 (1) A strata manager of a strata company —
- 24 (a) must at all times act honestly and in good faith
25 in the performance of the strata manager's
26 functions; and
- 27 (b) must at all times exercise a reasonable degree
28 of skill, care and diligence in the performance
29 of the strata manager's functions; and
- 30 (c) must have a good working knowledge of this
31 Act; and

- 1 (d) must not make improper use of information
2 acquired as the strata company's strata
3 manager —
4 (i) to gain, directly or indirectly, an
5 advantage for the strata manager or any
6 other person; or
7 (ii) to cause detriment to the strata company
8 or a member of the strata company;
9 and
10 (e) must not make improper use of the position of
11 strata manager —
12 (i) to gain, directly or indirectly, an
13 advantage for the strata manager or any
14 other person; or
15 (ii) to cause detriment to the strata company
16 or a member of the strata company;
17 and
18 (f) must take reasonable steps to ensure that the
19 strata manager's agents, employees and
20 contractors comply with this Act when
21 performing the strata manager's functions.
- 22 (2) A strata manager of a strata company —
23 (a) must inform the strata company in writing of
24 any direct or indirect pecuniary or other interest
25 that the strata manager has that conflicts or may
26 conflict with the performance of the strata
27 manager's functions; and
28 (b) must do so as soon as is practicable after the
29 strata manager becomes aware of the relevant
30 facts.

1 **147. Disclosure of remuneration and other benefits**

- 2 (1) A strata manager of a strata company —
- 3 (a) must inform the strata company in writing of
- 4 the amount or value of any remuneration or
- 5 other benefit that the strata manager receives,
- 6 or has a reasonable expectation of receiving
- 7 (other than from the strata company) in
- 8 connection with the performance of the strata
- 9 manager's functions; and
- 10 (b) must do so as soon as is practicable after the
- 11 strata manager becomes aware of the relevant
- 12 facts.
- 13 (2) Subsection (1) does not apply to remuneration or any
- 14 other benefit that is less than an amount or value
- 15 specified in or calculated in accordance with the
- 16 regulations.

17 **148. Operation of accounts**

- 18 (1) A strata manager (other than a volunteer strata
- 19 manager) must pay all money received on behalf of a
- 20 strata company into 1 of the following accounts —
- 21 (a) a separate ADI trust account for the strata
- 22 company;
- 23 (b) a pooled ADI trust account solely for the strata
- 24 companies for which the person is a strata
- 25 manager;
- 26 (c) if the strata company has its own ADI account
- 27 and has authorised the strata manager to use the
- 28 account, that account.
- 29 (2) If a strata company has a volunteer strata manager, the
- 30 strata company must have an ADI account and the
- 31 volunteer strata manager must pay all money received
- 32 on behalf of a strata company into an ADI account of
- 33 the strata company.

- 1 (3) A strata manager must be able to account separately for
2 money that the strata manager is paid or receives on
3 behalf of a strata company.
- 4 (4) A strata manager may pay out of an account mentioned
5 in subsection (1) an amount that is payable by the strata
6 company on whose behalf money is received.
- 7 (5) Money paid into a trust account is not available for the
8 payment of the debt of any creditor of the strata
9 manager and cannot be attached or taken in execution
10 under an order or process of any court at the instance of
11 a creditor of the strata manager.
- 12 (6) The regulations may provide for other matters relating
13 to the operation of trust accounts by strata managers.

14 **149. Accounting information**

- 15 (1) A strata company can, by written notice, require a
16 strata manager to provide the following information to
17 the strata company —
- 18 (a) the name and number of each account operated
19 by the strata manager in performing scheme
20 functions and the name and identifying number
21 or code of the ADI with which each account is
22 held;
- 23 (b) the balance in each such account standing to the
24 credit of the strata company on a specified date;
- 25 (c) particulars of cheques drawn or amounts
26 transferred out of an account by the strata
27 manager on behalf of the strata company but
28 for which amounts have not, as at a specified
29 date, been paid out of the account;
- 30 (d) particulars relating to the payment of money to,
31 or the receipt of money by, the strata manager
32 on behalf of the strata company;

- 1 (e) particulars relating to the manner and time of
2 disposal of money paid to, or received by, the
3 strata manager on behalf of the strata company
4 that is not still held by the strata manager;
- 5 (f) particulars relating to a specified transaction
6 that has been entered into by the strata manager
7 on behalf of the strata company.
- 8 (2) The strata manager must comply with the notice within
9 a reasonable time but, in any event, within 7 days after
10 the day the notice was given.
- 11 (3) However, a strata manager does not have to provide the
12 strata company with information in relation to a matter
13 as it was, or that occurred, more than 7 years before
14 notice requiring the information is given.
- 15 **150. Audits**
- 16 (1) A strata manager who operates an account in
17 performing scheme functions must, if the strata
18 company has an auditor, give the auditor access to
19 statements of the account, or otherwise authorise the
20 auditor's access to statements of the account, if
21 required by the auditor to do so.
- 22 (2) A strata manager of a strata company must provide
23 such an auditor with —
- 24 (a) any document in the strata manager's
25 possession or control relating to money paid to,
26 or received by, the strata manager on behalf of
27 the strata company that the auditor reasonably
28 requires; and
- 29 (b) any other information relating to money paid
30 to, or received by, the strata manager on behalf
31 of the strata company that the auditor
32 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

- 1 by giving the strata manager written notice of
2 termination —
- 3 (a) specifying the date (being not less than 28 days
4 after the date of the notice) on which the
5 termination will take effect; and
- 6 (b) informing the strata manager of the right to
7 apply to the Tribunal for review of the decision
8 to terminate the contract.
- 9 (3) Before a strata company terminates a strata
10 management contract under subsection (2), the strata
11 company must give the strata manager a notice (a ***show***
12 ***cause notice***).
- 13 (4) A show cause notice must —
- 14 (a) be in writing; and
- 15 (b) state that the strata company proposes to
16 terminate the strata management contract; and
- 17 (c) specify the grounds on which it is proposed to
18 terminate the strata management contract; and
- 19 (d) set out particulars of the facts relied on as
20 evidence of those grounds; and
- 21 (e) invite the strata manager to make written
22 submissions to the strata company as to why
23 the strata management contract should not be
24 terminated; and
- 25 (f) specify the period (being at least 14 days after
26 the date of the notice) within which the written
27 submissions must be received by the strata
28 company.
- 29 (5) A strata company must give proper consideration to
30 any written submissions made by the strata manager
31 within the period specified in the show cause notice.

- 1 (6) Nothing in this section affects the operation of
2 section 115 in relation to a strata management contract
3 or any other right that the strata company may have to
4 terminate the contract.

5 **152. Return of records and other property**

- 6 (1) If a strata management contract is terminated, the strata
7 manager must return to the strata company —
8 (a) all records of the strata company, including
9 records of account, in the strata manager's
10 possession or control; and
11 (b) all keys and other property of the strata
12 company in the strata manager's possession or
13 control.
14 (2) The property must be returned to the strata company
15 within 28 days after the day on which the contract is
16 terminated (even if the strata manager has made an
17 application for review of the decision to terminate the
18 contract).
19 (3) The strata company may agree to the property being
20 made available for collection by another strata manager
21 engaged by the strata company or being returned in
22 some other manner.
23 (4) A strata manager cannot exercise any claim or lien
24 against or on the property of a strata company that the
25 strata manager is required, under this section, to return
26 to the strata company.

27 **153. Provision of information about industry**

28 The regulations may require a strata manager (other
29 than a volunteer strata manager) to lodge a periodic
30 return at the office of the Authority containing
31 aggregated information about strata titles schemes
32 managed by the strata manager (being information

- 1 ordinarily kept by a strata manager and readily
2 available) for the purposes of the Authority —
- 3 (a) publishing, if it chooses to do so, a list of strata
4 managers; and
- 5 (b) using the information to develop policy and
6 advise the Minister on matters related to strata
7 managers.
- 8 **154. Contracting out prohibited**
- 9 (1) A contract or arrangement is of no effect to the extent
10 that it purports to exclude or restrict the operation of
11 this Part.
- 12 (2) A purported waiver of a right, remedy or benefit
13 conferred on a person under this Part is of no effect.
- 14 **155. Protection from liability**
- 15 (1) No civil liability attaches to a volunteer strata manager
16 for anything that the person has, in good faith, done or
17 omitted to be done —
- 18 (a) in the performance of a function under this Act
19 or scheme by-laws; or
- 20 (b) in the reasonable belief that the act or omission
21 was in the performance of a function under this
22 Act or scheme by-laws.
- 23 (2) A liability that would, but for subsection (1), attach to a
24 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;

- 1 (vi) either —
2 (I) the statement of accounts last
3 prepared by the strata
4 company; or
5 (II) a statement that the strata
6 company does not prepare a
7 statement of accounts; or
8 (III) a statement of why the seller
9 has been unable to obtain a
10 statement of accounts;
11 (vii) a copy of any notice received by the
12 seller from the strata company in
13 relation to any current termination
14 proposal for the strata titles scheme;
15 (c) the following information relating to the lot —
16 (i) its exact location shown on the scheme
17 plan for the strata titles scheme;
18 (ii) its definition, as contained in the
19 scheme plan for the strata titles scheme;
20 (iii) the unit entitlement of the lot (and the
21 sum of the unit entitlements of all of the
22 lots in the scheme);
23 (iv) if contributions have been determined
24 by the strata company within the
25 previous 12 months, the amount and due
26 date of the contributions payable by the
27 lot owner;
28 (v) if contributions have not been so
29 determined, a reasonable estimate of the
30 amount of the contributions likely to be
31 payable for the 12 months following the
32 proposed settlement date;
33 (vi) details of any debt owed by the owner
34 of the lot to the strata company,

- 1 including how the debt arose, the date
2 on which it arose and the amount
3 outstanding;
- 4 (vii) if the lot is a special lot, details of the
5 exclusive use by-laws that apply to the
6 lot;
- 7 (d) any other information required by the
8 regulations.
- 9 (2) If the lot has not yet been created, a reference in
10 subsection (1) —
- 11 (a) to a scheme document is to be read as a
12 reference to the latest version of the draft
13 scheme document or amendment of a scheme
14 document as relevant to the lot as proposed to
15 be created; and
- 16 (b) to a unit entitlement of the lot or amount is to
17 be read as a reference to a reasonable estimate
18 of that unit entitlement or amount; and
- 19 (c) to any other matter (such as contributions
20 payable) is to be read as a reference to a
21 reasonable expectation about the matter as
22 relevant to the lot as proposed to be created.
- 23 (3) Subsection (4) applies if —
- 24 (a) the strata titles scheme has not been registered;
25 or
- 26 (b) the first annual general meeting of the strata
27 company has not been held; or
- 28 (c) the scheme developer owns 50% or more of the
29 lots in the strata titles scheme or lots with an
30 aggregate unit entitlement of 50% or more of
31 the sum of the unit entitlements of all the lots in
32 the scheme.

- 1 (4) Before a buyer signs a contract for the sale and
2 purchase of a lot in circumstances in which this
3 subsection applies, if the scheme developer is the seller
4 of the lot, the seller must also give the buyer —
- 5 (a) a statement of the estimated income and
6 expenditure of the strata company for the
7 12 months after the proposed settlement date;
8 and
- 9 (b) details of any disclosure that the scheme
10 developer is required to make under section 79;
11 and
- 12 (c) details of any contract (or proposed contract)
13 for the provision of services or amenities to the
14 strata company or to members of the strata
15 company entered into or arranged by the
16 scheme developer or by the strata company,
17 including —
- 18 (i) its terms and conditions; and
19 (ii) the consideration and the estimated
20 costs to the members of the strata
21 company;
- 22 and
- 23 (d) details of the terms and conditions of any lease,
24 licence, right of exclusive use and enjoyment or
25 special privilege (or proposed lease, licence,
26 right of exclusive use and enjoyment or special
27 privilege) over common property.
- 28 (5) The seller must comply with this section either —
- 29 (a) by giving the buyer a notice in the approved
30 form; or
- 31 (b) by including the information and statements in
32 the contract to be signed by the buyer in the
33 manner set out in the regulations.

- 1 (6) In any court or tribunal proceedings arising out of or
2 connected with a contract for the sale and purchase of a
3 lot, the onus of proving that the required information
4 and statements were given in accordance with this
5 section lies on the seller.

6 **157. Information to be given after contract**

- 7 (1) If a notifiable variation occurs after a buyer signs a
8 contract for the sale and purchase of a lot, the seller
9 must, by notice in writing, inform the buyer
10 of particulars of the notifiable variation that a
11 reasonable person would consider sufficient to enable
12 the buyer to make an adequately informed assessment
13 as to whether the buyer is materially prejudiced by the
14 notifiable variation.
- 15 (2) The regulations may provide that if the notice contains
16 specified particulars of a notifiable variation of a
17 specified type it will be conclusively presumed to
18 contain the particulars required by subsection (1).
- 19 (3) The seller must comply with subsection (1) —
20 (a) if the seller becomes aware of the notifiable
21 variation less than 15 working days before the
22 settlement date for the contract — as soon as
23 practicable; and
24 (b) in any other case — not later than 10 working
25 days after the seller becomes aware of the
26 notifiable variation.
- 27 (4) Subsection (1) does not apply if —
28 (a) the seller has in the contract informed the buyer
29 of any proposed action or matter that would be
30 a notifiable variation; and
31 (b) the action or matter when completed does not
32 differ from that described in the contract; and

1 **159. Avoidance of contract for failure to give**
2 **information**

3 (1) A buyer may avoid a contract for the sale and purchase
4 of a lot at any time before the settlement date for the
5 contract —

6 (a) if the seller has not complied with section 156;
7 and

8 (b) if the seller were now to comply with that
9 section, the buyer would receive information or
10 a document that would disclose material
11 prejudice to the buyer (proof of which lies on
12 the buyer).

13 (2) However, if the seller gives the buyer a notice
14 substantially complying with section 156 before the
15 buyer avoids the contract under this section, the buyer
16 may avoid the contract under this section only if the
17 buyer does so within 15 working days after the seller's
18 notice is given to the buyer.

19 **160. Avoidance of contract on notification of variation**
20 **for material prejudice**

21 A buyer may avoid a contract for the sale and purchase
22 of a lot at any time within 15 working days after the
23 seller gives the buyer a notice under section 157(1)
24 if —

25 (a) the notifiable variation is not one to which
26 section 157(4) applies; and

27 (b) the buyer is materially prejudiced by the
28 information or document disclosed (proof of
29 which lies on the buyer).

1 prejudice to the buyer (proof of which lies on
2 the buyer).

3 (2) However, if the seller gives a notice substantially
4 complying with the requirement under section 157
5 before the buyer avoids the contract under this section,
6 the buyer may not avoid the contract under this section
7 more than 15 working days after the seller's notice is
8 given.

9 **163. Proposed lot contract**

10 (1) This section applies to a contract for the sale and
11 purchase of a lot in a strata titles scheme entered into
12 before the lot is created on registration of the scheme
13 or an amendment of the scheme.

14 (2) A contract to which this section applies must —
15 (a) require any deposit or other amount payable by
16 the buyer prior to registration of the strata titles
17 scheme or amendment of the strata titles
18 scheme to be paid by the buyer to an Australian
19 legal practitioner, real estate agent or settlement
20 agent to be held on trust for the buyer until the
21 scheme is registered; and
22 (b) specify the practitioner or agent to whom
23 payment is to be made by the buyer and how
24 the payment may be made.

25 (3) The buyer may, at any time before registration of the
26 strata titles scheme or amendment of the strata titles
27 scheme, avoid a contract to which this section applies
28 if —
29 (a) the contract does not comply with
30 subsection (2); or

- 1 (b) the scheme or amendment is not registered —
2 (i) within a period after the date of the
3 contract agreed in writing by the buyer
4 and seller; or
5 (ii) in the absence of such an agreement,
6 within 6 months after that date.
- 7 (4) In this section —
8 ***date of the contract*** means the day on which the
9 contract was signed or, if the parties signed it on
10 different days, the last of those days;
11 ***real estate agent*** means a person licensed as a real
12 estate agent under the *Real Estate and Business Agents*
13 *Act 1978*;
14 ***settlement agent*** means a person licensed as a
15 settlement agent under the *Settlement Agents Act 1981*.
- 16 **164. Avoidance of contract — manner and effect**
- 17 (1) A notice of avoidance of a contract for the sale and
18 purchase of a lot must —
19 (a) be given by the buyer to the seller in writing;
20 and
21 (b) specify the grounds on which the contract is
22 avoided, including details of the material
23 prejudice to the buyer if required as grounds for
24 avoidance.
- 25 (2) On the avoidance under this Part of a contract for the
26 sale and purchase of a lot —
27 (a) the buyer may recover from the seller as a debt
28 all money paid by the buyer under the contract;
29 and
30 (b) a person who is holding a deposit or other
31 amount on behalf of the buyer for the contract
32 must repay the deposit or other amount to the

1 buyer, minus any amount due to the seller as
2 rent for any period during which the buyer was
3 in occupation of the lot or entitled to receive the
4 rents and profits of the lot.

5 **165. Contracting out prohibited**

- 6 (1) A contract or arrangement is of no effect to the extent
7 that it purports to exclude or restrict the operation of
8 this Part.
- 9 (2) No penalty is payable by a buyer under a contract or
10 arrangement for exercising a right under this Part.
- 11 (3) A purported waiver of a right, remedy or benefit
12 conferred on a buyer by this Part is of no effect.

13 **Part 11 — Variation of strata titles scheme**
14 **by Tribunal**

15 **Division 1 — On damage or destruction**

16 **Division 2 — On compulsory acquisition**

17 **Division 3 — Notice of applications**

18 **Part 12 — Termination of strata titles scheme**

19 **Division 1 — Introduction**

20 **171. Forms of termination**

- 21 (1) A strata titles scheme terminates (as set out in
22 Division 6) as follows —
- 23 (a) a leasehold scheme terminates on the expiry
24 day for the scheme as referred to in Division 2;

- 1 (b) a leasehold or freehold scheme terminates —
2 (i) if there is a termination proposal and the
3 process referred to in Division 3 is
4 followed; or
5 (ii) if all lots in the scheme are owned by
6 the same person and the process referred
7 to in Division 4 is followed.
- 8 (2) Divisions 5 and 6 contain provisions relevant to the
9 forms of termination of a strata titles scheme set out in
10 Divisions 2, 3 and 4.
- 11 (3) A strata titles scheme also terminates as set out in
12 Division 7 on the taking under the *Land Administration*
13 *Act 1997* of all of the lots in a strata titles scheme and,
14 for a leasehold scheme, the reversionary interest of the
15 owner of the leasehold scheme.

16 **Division 2 — Expiry of leasehold scheme**

17 **172. Notification of expiry**

- 18 (1) The owner of a leasehold scheme must, at least
19 1 month before the expiry of the scheme, lodge with
20 the Registrar of Titles notice, in the approved form, of
21 the impending expiry of the leasehold scheme.
- 22 (2) If the owner of a leasehold scheme fails to give the
23 necessary notice, it may be given by an owner of a lot
24 in the scheme and the owner may recover the cost of
25 doing so as a debt in a court of competent jurisdiction
26 from the owner of the leasehold scheme.

27 Note for this section:

28 Expiry of a leasehold scheme does not require an approval
29 of a subdivision of land as the expiry is approved as part of
30 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

- 1 owner of the leasehold scheme, prohibited
2 termination proposals being submitted.
- 3 (3) A strata company to which an outline of a termination
4 proposal is submitted in accordance with this section
5 must, within 14 days after being given the proposal —
- 6 (a) serve it on each person who is —
- 7 (i) the owner of a lot in the strata titles
8 scheme; or
- 9 (ii) a registered mortgagee of a lot in the
10 strata titles scheme;
- 11 and
- 12 (b) lodge with the Registrar of Titles notice of
13 receipt of the outline in the approved form.
- 14 (4) The strata company must, on completion of the
15 requirements under subsection (3), give written notice
16 of that fact to the proponent of the termination
17 proposal.
- 18 (5) Any modification of an outline of a termination
19 proposal proposed by the proponent of the proposal
20 must be submitted and served in the same manner as
21 for the outline.
- 22 **175. Content of outline of termination proposal**
- 23 (1) An outline of a termination proposal must —
- 24 (a) specify the name and address for service of the
25 proponent of the proposal; and
- 26 (b) identify the strata titles scheme proposed to be
27 terminated; and
- 28 (c) provide an explanation of the reasons for
29 proposing termination of the strata titles
30 scheme, including (without limitation), if the
31 difficulty of raising sufficient contributions for
32 repair of scheme buildings or infrastructure on

- 1 common property is a reason for the proposal, a
2 statement of that reason; and
- 3 (d) describe, in general terms, any proposals for
4 contracts to be offered to owners of lots in the
5 strata titles scheme; and
- 6 (e) describe, in general terms, what is proposed in
7 terms of subdivision and development of the
8 land following termination of the strata titles
9 scheme; and
- 10 (f) describe the planning approvals required for the
11 proposal described under paragraph (e) and the
12 extent to which the proposal does not comply
13 with a relevant planning scheme or interim
14 development order in force under the *Planning*
15 *and Development Act 2005*; and
- 16 (g) indicate, in general terms, the stages and
17 timeframes for progress of the proposal if it
18 proceeds; and
- 19 (h) provide an explanation, in the approved form,
20 of the process for, and consequences of,
21 termination of a strata titles scheme under this
22 Division; and
- 23 (i) if, under the regulations, the proponent of the
24 proposal will be required to make arrangements
25 for the obtaining of independent advice or
26 representation for owners of lots affected by the
27 proposal, provide details of the proposed
28 arrangements; and
- 29 (j) include any other information required by the
30 regulations.
- 31 (2) This section does not limit the matters that can be
32 included in an outline of a termination proposal.
- 33 (3) An outline of a termination proposal must be in the
34 approved form.

1 **176. Ordinary resolution and support of owner of**
2 **leasehold scheme required to proceed further**

- 3 (1) A termination proposal can only proceed further if,
4 within 3 months after an outline of the proposal has
5 been submitted as required under section 175 —
6 (a) for a freehold scheme — the strata company
7 passes an ordinary resolution supporting
8 consideration of a full proposal; and
9 (b) for a leasehold scheme —
10 (i) the owner of the leasehold scheme gives
11 written notice to the strata company
12 supporting consideration of a full
13 proposal; and
14 (ii) the strata company passes an ordinary
15 resolution supporting consideration of a
16 full proposal.
17 (2) For a 2-lot scheme, an ordinary resolution is taken to
18 be passed supporting consideration of a full proposal if
19 the vote attached to 1 of the lots is cast in favour of the
20 resolution (regardless of the unit entitlement of the lot).

21 **177. Approval of plan of subdivision**

- 22 (1) If the requirements of section 176 are met and a
23 termination proposal can proceed further —
24 (a) the proponent of the proposal can then make an
25 application under the *Planning and*
26 *Development Act 2005* Part 10 for approval of a
27 plan of subdivision for the proposal (that is, for
28 the parcel to cease being subdivided by a strata
29 titles scheme); and
30 (b) the owner of the land is taken to have consented
31 to the proponent making the application under
32 the *Planning and Development Act 2005*.

- 1 (2) The *Planning and Development Act 2005* applies to the
2 application subject to the following modifications —
3 (a) a reference to subdivision is to be read as
4 including a reference to termination of a strata
5 titles scheme;
6 (b) any other modifications set out in the
7 regulations.

8 **178. Full proposal**

- 9 (1) If approval of a plan of subdivision is obtained as
10 referred to in section 177, the proponent of the
11 proposal can then submit a full proposal for the
12 termination of the strata titles scheme to —
13 (a) the strata company for the scheme; and
14 (b) if it is a leasehold scheme, the owner of the
15 leasehold scheme.
16 (2) However, a full proposal cannot be submitted to a
17 strata company or owner of a leasehold scheme —
18 (a) if it is more than 12 months since the
19 requirements of section 176 were met for the
20 proposal; or
21 (b) during any period for which the Tribunal has,
22 on application by the strata company or the
23 owner of the leasehold scheme, prohibited
24 termination proposals being so submitted.
25 (3) For a leasehold scheme, the proponent must give
26 written notice to the owner of the leasehold scheme of
27 the date on which the proponent submitted the full
28 proposal to the strata company.

- 1 (4) A strata company to which a full proposal is submitted
2 in accordance with this section must, within 14 days
3 after being given the proposal —
4 (a) serve it on each person who is —
5 (i) the owner, occupier, registered
6 mortgagee or caveator of a lot in the
7 strata titles scheme; or
8 (ii) a person whose interest in a lot in the
9 strata titles scheme as a lessee, tenant or
10 mortgagee is recorded in the roll kept by
11 the strata company; or
12 (iii) the occupier of common property in the
13 strata titles scheme;
14 and
15 (b) lodge with the Registrar of Titles notice of
16 receipt of the proposal in the approved form.
17 (5) Any modification of the full proposal proposed by the
18 proponent must be submitted and served in the same
19 manner as for the full proposal.
20 (6) However, a modification cannot be submitted within
21 14 days before voting on the termination proposal
22 opens.

23 **179. Content of full proposal**

- 24 (1) A full proposal for the termination of a strata titles
25 scheme must —
26 (a) include the material required to be included in
27 an outline of a termination proposal; and
28 (b) be accompanied by the approved plan of
29 subdivision for the proposal; and

- 1 (c) describe, in detail, what is proposed in terms of
2 contracts to be offered to owners of lots,
3 including —
- 4 (i) contracts for the sale and purchase of
5 lots before termination of the strata titles
6 scheme, including —
- 7 (I) the name and address of any
8 buyer; and
- 9 (II) the purchase price or a
10 description of how the
11 purchase price is to be
12 determined; and
- 13 (III) the terms and conditions of the
14 contracts for sale and purchase,
15 including proposed settlement
16 dates, or a description of how
17 those terms and conditions are
18 to be determined; and
- 19 (IV) any deductions proposed to be
20 made out of the purchase price
21 or a description of how those
22 deductions are to be
23 determined;
- 24 and
- 25 (ii) contracts under which the owner of a lot
26 acquires an interest in land in exchange
27 for the lot, including —
- 28 (I) the choices available to owners
29 or the basis for determining
30 those choices; and
- 31 (II) the interests in land proposed to
32 be acquired by the owners; and
- 33 (III) other terms and conditions of
34 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

- 1 (h) indicate, in detail, the stages and timeframes
2 proposed for progress of the proposal if it
3 proceeds, including expectations for when
4 vacant possession of lots and common property
5 will be required; and
- 6 (i) describe any proposals for the temporary
7 relocation of owners of lots, including any
8 payments proposed to be made to owners to
9 enable them to arrange temporary relocation;
10 and
- 11 (j) include a statement obtained from the strata
12 company of —
- 13 (i) its current assets and liabilities; and
14 (ii) any legal proceedings or pending legal
15 proceedings to which the strata
16 company is or proposes to become a
17 party;
- 18 and
- 19 (k) specify the steps that will be taken to wind up
20 the strata company, including for the realisation
21 of assets and the discharge or transfer of
22 liabilities for termination of the scheme; and
- 23 (l) any other information required by the
24 regulations.
- 25 (2) A full proposal must incorporate a report (a
26 ***termination infrastructure report***) comprised of —
- 27 (a) a report of a structural engineer on the state and
28 condition of each scheme building and the
29 infrastructure on the common property in the
30 strata titles scheme; and
- 31 (b) a report of a person of a class specified in the
32 regulations on the scope of works reasonably
33 required to repair or replace the scheme

- 1 buildings or infrastructure taking into account
2 the report of the structural engineer; and
3 (c) a report of a quantity surveyor estimating the
4 cost of the works identified in the report under
5 paragraph (b).
- 6 (3) A full proposal must incorporate a report (a
7 **termination valuation report**) prepared and certified
8 by a licensed valuer setting out a valuation of the
9 market value of each lot in the strata titles scheme.
- 10 (4) The regulations may prescribe matters relating to the
11 determination of the market value of a lot for a
12 termination valuation report.
- 13 (5) The valuation must be current as at a date that is not
14 more than 21 days (or, if some other period is specified
15 in the regulations, that period) before submission of the
16 full proposal to the strata company.
- 17 (6) A person must, in preparing or certifying a termination
18 infrastructure report or termination valuation report,
19 comply with the requirements of the regulations.
- 20 (7) This section does not limit the matters that can be
21 included in a full proposal.
- 22 (8) The terms of a termination proposal set out in the full
23 proposal are in substitution for the terms set out in the
24 outline of the termination proposal.
- 25 (9) A full proposal, including the termination infrastructure
26 report and the termination valuation report must be in
27 the approved form.
- 28 **180. Support of owner of leasehold scheme required**
- 29 (1) A termination proposal for a leasehold scheme cannot
30 proceed further unless, within 3 months after the full
31 proposal is submitted to the strata company, the owner

1 of the leasehold scheme gives written notice to the
2 strata company that the owner supports the termination
3 proposal.

4 (2) A strata company must, as soon as reasonably
5 practicable, give written notice to the proponent of the
6 termination proposal of the receipt of a notice under
7 subsection (1).

8 **181. Meetings and submissions**

9 (1) After receipt of a full proposal, 1 or more general
10 meetings of the strata company must be convened to
11 consider the termination proposal (unless it is a
12 proposal that cannot proceed further).

13 (2) The members of the strata company present at a
14 meeting may, by ordinary resolution (for which notice
15 is not required), require the proponent of the
16 termination proposal to leave the meeting while the
17 proposal is discussed or, if the proponent is not a
18 member of the strata company, to be absent for the
19 whole of the meeting.

20 (3) The persons on whom a full proposal for the
21 termination of a strata titles scheme must be served by
22 the strata company for the scheme must be given a
23 reasonable opportunity to make submissions to the
24 proponent of the proposal and the strata company.

25 (4) The council of the strata company may —
26 (a) discuss a termination proposal with the
27 proponent; and
28 (b) inform the owners of lots in the strata titles
29 scheme of those discussions and of any
30 clarifications or additional information
31 provided by the proponent; and

1 (c) make recommendations to the owners of the
2 lots in the strata titles scheme regarding the
3 proposal.

4 (5) The regulations may impose additional requirements
5 about the process required for consideration of a
6 termination proposal.

7 **182. Vote**

8 (1) A termination proposal must be put to the vote of the
9 owners of the lots in the strata titles scheme (unless it is
10 a proposal that cannot proceed further) and it can only
11 proceed further if a termination resolution is passed.

12 Note for this subsection:

13 The terms of the termination proposal are as set out in the
14 full proposal rather than the outline: see section 179(8).

15 (2) A termination resolution is only effective if the voting
16 period opens at least 2 months after, and closes not
17 more than 6 months after, the service of the full
18 proposal by the strata company under this Division.

19 (3) A termination proposal may be modified and a further
20 vote taken on the proposal, but no more than 3 such
21 votes may be taken and each vote must be taken within
22 the period referred to in subsection (2).

23 (4) A person who is independent of the strata company and
24 the proponent of the termination proposal must be
25 appointed to tally and count the votes on the proposal.

26 (5) The vote must be taken as follows —

27 (a) 1 vote may be cast for each lot in the strata
28 titles scheme;

29 (b) the value of each vote is 1.

30 (6) A termination resolution is passed if the number of
31 votes cast in favour of the termination proposal equals
32 the number of lots in the strata titles scheme.

- 1 (7) A termination resolution is passed subject to the
2 confirmation of the Tribunal if —
- 3 (a) the strata titles scheme has 5 or more lots; and
- 4 (b) the number of votes cast in favour of the
5 termination proposal is at least 80% of the total
6 number of lots in the scheme.
- 7 (8) Section 126(a) does not apply to voting on a
8 termination resolution.
- 9 (9) A termination proposal must not be modified in a
10 material particular by the proponent of the proposal
11 after a termination resolution has been passed unless
12 the modification is supported under the same voting
13 arrangements as apply to the termination resolution.
- 14 (10) The independent person appointed to tally and count
15 the votes must —
- 16 (a) make a record of each vote identifying the lot
17 for which it is cast and the date on which it was
18 cast, and the tally of the votes; and
- 19 (b) as soon as reasonably practicable, give written
20 notice to the strata company of the number of
21 votes cast in favour of and against the
22 termination proposal and a statement of
23 whether confirmation of the resolution by the
24 Tribunal is required; and
- 25 (c) if confirmation of the resolution by the Tribunal
26 is required, the independent person must
27 provide the record made under paragraph (a) to
28 the strata company in the manner required by
29 the regulations, but must not otherwise disclose
30 information about who cast votes for or against
31 the proposal or for which lots the votes were
32 cast.

- 1 (11) A strata company must, as soon as practicable after a
2 termination resolution is passed —
- 3 (a) lodge with the Registrar of Titles notice of that
4 fact in the approved form; and
- 5 (b) give written notice of that fact to —
- 6 (i) the proponent of the termination
7 proposal; and
- 8 (ii) for a leasehold scheme, the owner of the
9 leasehold scheme.
- 10 (12) The notice must include a statement of whether or not
11 confirmation of the termination resolution by the
12 Tribunal is required.
- 13 (13) The regulations may impose additional requirements
14 about the process required for voting on a termination
15 proposal.
- 16 **183. Confirmation of termination resolution by Tribunal**
- 17 (1) If a termination proposal can proceed further only if the
18 Tribunal confirms the termination resolution, the
19 proponent of the proposal can apply to the Tribunal for
20 that confirmation.
- 21 (2) The application must be made within 28 days after the
22 date on which the termination resolution is passed or
23 within an extension of that period given by the
24 Tribunal.
- 25 (3) The application must be accompanied by —
- 26 (a) the full proposal for the termination of the
27 strata titles scheme; and
- 28 (b) all written submissions made to the proponent
29 about the termination proposal; and
- 30 (c) any other material specified in the regulations.

- 1 (4) For the *State Administrative Tribunal Act 2004*
2 section 45(1)(b), the following persons are entitled to a
3 copy of, or notice of, the application —
- 4 (a) the strata company for the strata titles scheme;
5 and
6 (b) for a leasehold scheme, the owner of the
7 leasehold scheme.
- 8 (5) The strata company and, for a leasehold scheme, the
9 owner of the leasehold scheme, will be taken to be
10 parties to the proceedings.
- 11 (6) The strata company must, within 14 days after being
12 given notice of the application —
- 13 (a) serve notice of the application on each person
14 who is —
- 15 (i) the owner, occupier or registered
16 mortgagee of a lot in the strata titles
17 scheme; or
18 (ii) the occupier of common property in the
19 strata titles scheme; or
20 (iii) a person whom the Tribunal requires to
21 be served with notice of the application;
22 and
- 23 (b) if the strata titles scheme constitutes or includes
24 a retirement village within the meaning of the
25 *Retirement Villages Act 1992* — serve notice of
26 the application on the Commissioner within the
27 meaning of that Act; and
- 28 (c) provide the following to the Tribunal (which
29 may then be released by the Tribunal to any
30 person entitled to appear and be heard or to
31 make submissions) —
- 32 (i) for a leasehold scheme, a copy of the
33 notice of support for the termination

- 1 resolution given by the owner of the
2 leasehold scheme under section 180;
- 3 (ii) a record (as provided by the
4 independent person who counted the
5 votes) of each vote on the termination
6 resolution, identifying the lot for which
7 it was cast and the date on which it was
8 cast, and a tally of the votes;
- 9 (iii) minutes of all meetings of the strata
10 company or the council of the strata
11 company at which the termination
12 proposal was considered;
- 13 (iv) all written submissions made to the
14 strata company about the termination
15 proposal;
- 16 (v) the scheme plan, scheme by-laws and
17 schedule of unit entitlements for the
18 strata titles scheme;
- 19 (vi) anything else required by the
20 regulations;
- 21 and
- 22 (d) lodge with the Registrar of Titles notice of the
23 application in the approved form.
- 24 (7) A person who is required to be served with notice of
25 the application is entitled to appear and be heard or
26 make written submissions to the Tribunal (as the
27 Tribunal determines).
- 28 (8) In proceedings for confirmation of a termination
29 resolution of a strata company, the Tribunal may —
- 30 (a) make an order confirming the termination
31 resolution (which may be subject to the
32 termination proposal being modified in a

- 1 specified manner as set out in subsection (13));
2 or
3 (b) make a decision not to make such an order.
- 4 (9) The Tribunal can only confirm a termination resolution
5 if the proponent of the termination proposal satisfies
6 the Tribunal that —
- 7 (a) the process required by this Division has been
8 complied with; and
9 (b) under the termination proposal, the owner of a
10 lot in the strata titles scheme who does not
11 support the termination will receive fair market
12 value for the lot or a like for like exchange for
13 the lot; and
14 (c) the termination proposal is otherwise just and
15 equitable having regard to —
- 16 (i) the interests of the owners of the lots in
17 the strata titles scheme; and
18 (ii) if it is a leasehold scheme, the interests
19 of the owner of the leasehold scheme;
20 and
21 (iii) the interests of occupiers of the lots and
22 the occupiers of the common property in
23 the strata titles scheme; and
24 (iv) the interests of registered mortgagees of
25 the lots in the strata titles scheme; and
26 (v) the interests of any other person with an
27 estate or interest in, or right over, a lot
28 or common property in the strata titles
29 scheme that is registered or recorded in
30 the Register.

- 1 (10) In determining under subsection (9)(b) whether an
2 owner of a lot will receive fair market value for the
3 lot —
- 4 (a) the Tribunal must be satisfied that —
- 5 (i) the owner will receive an amount that is
6 at least the amount of compensation that
7 would be required to be paid by an
8 acquiring authority under the *Land*
9 *Administration Act 1997* for taking of
10 the lot without agreement; and
- 11 (ii) the owner will not be disadvantaged in
12 terms of the owner's financial position
13 as a result of the termination of the
14 strata titles scheme;
- 15 and
- 16 (b) in considering the amount of compensation that
17 would be payable under the *Land*
18 *Administration Act 1997* section 241 —
- 19 (i) that section is to be read as if the owner
20 of the lot were the claimant and the
21 proponent of the termination proposal
22 were the acquiring authority; and
- 23 (ii) no regard is to be had to any reference
24 to proposed public works nor to the
25 undertaking of improvements after there
26 is a notice of intention; and
- 27 (iii) an amount appropriate to compensate
28 for the taking without agreement may be
29 added to the award or offer (but it may
30 not be more than 10% of the amount
31 otherwise awarded or offered unless the
32 Tribunal is satisfied that exceptional
33 circumstances justify a higher amount);
- 34 and

- 1 (c) without limitation, regard is to be had to the
2 loss or damage, if any, sustained by the owner
3 by reason of any of the following —
4 (i) removal expenses;
5 (ii) disruption and reinstatement of a
6 business;
7 (iii) liability for capital gains tax, goods and
8 services tax or other tax or duty;
9 (iv) conveyancing and legal costs and other
10 costs associated with the creation or
11 discharge of mortgages and other
12 interests, including for the acquisition of
13 a replacement property.
- 14 (11) In determining under subsection (9)(b) whether an
15 owner of a lot will receive a like for like exchange for
16 the lot, the Tribunal must consider —
17 (a) whether the value of what is offered in
18 exchange is equivalent to the fair market value
19 of the lot (as set out in subsection (10)); and
20 (b) how the location, facilities and amenity of what
21 is offered in exchange compares to that of the
22 lot.
- 23 (12) Without limiting the factors that the Tribunal can take
24 into account under subsection (9)(c), the Tribunal must
25 consider the following —
26 (a) any evidence of impropriety in the termination
27 process, including, for example —
28 (i) evidence of proxy votes being exercised
29 invalidly or votes being affected by
30 undue influence in connection with the
31 termination resolution; and
32 (ii) evidence of false or misleading
33 information (whether by inclusion or

- 1 omission) having been included in the
2 outline of or the full proposal for the
3 termination of the strata titles scheme;
- 4 (b) the proportion of owners of lots in favour of
5 and against the termination proposal in terms of
6 numbers of lots and in terms of unit
7 entitlements of lots;
- 8 (c) the termination infrastructure report and options
9 reasonably available to address problems
10 identified in the report (including the extent to
11 which contributions would need to be increased
12 for implementation of an option);
- 13 (d) any arrangements for the owner of a lot in the
14 strata titles scheme to buy back into the
15 subdivided land following redevelopment;
- 16 (e) the benefits and detriments of the termination
17 proposal proceeding or not proceeding for all
18 those whose interests must be taken into
19 account.
- 20 (13) If the Tribunal is not satisfied of the matters set out in
21 subsection (9)(b) or (c) but would be satisfied of those
22 matters if the termination proposal were modified in a
23 specified manner, the Tribunal may confirm the
24 termination resolution subject to the termination
25 proposal being modified in the specified manner.
- 26 (14) Without limitation, the modifications may include a
27 requirement for the proponent to make a payment to a
28 party to a lease or tenancy agreement over a lot or
29 common property in the strata titles scheme that will
30 terminate as a consequence of the termination of the
31 scheme.

- 1 (15) The modifications must not have the effect of being
2 less advantageous to any owner of a lot in the strata
3 titles scheme, or, if it is a leasehold scheme, the owner
4 of the leasehold scheme, than the termination proposal
5 without modification.
- 6 (16) Subsection (15) does not apply to an owner in the
7 capacity of a proponent of the termination proposal.
- 8 (17) Without limiting other powers of the Tribunal to make
9 ancillary orders, if the Tribunal makes an order
10 confirming a termination resolution, it may also order
11 that, on specified conditions connected with the
12 termination being met —
- 13 (a) the owner of a lot in the strata titles scheme
14 must execute a transfer of ownership of the lot;
15 or
- 16 (b) if there is a duplicate certificate of title for a lot
17 in the strata titles scheme, the owner of the lot
18 must deliver the duplicate certificate of title to
19 the Registrar of Titles; or
- 20 (c) a person with an estate or interest in, or right
21 over, the whole or a part of the strata titles
22 scheme parcel that is registered or recorded in
23 the Register must take steps necessary for the
24 discharge, withdrawal or other removal, or for
25 the bringing forward, of the estate, interest or
26 right; or
- 27 (d) the occupier of a lot or the common property in
28 the strata titles scheme must vacate the lot or
29 common property.
- 30 (18) The Tribunal's powers under this section are
31 exercisable only by a judicial member (or by the
32 Tribunal constituted of a judicial member and other
33 members).

- 1 (19) A strata company must, as soon as practicable after
2 being given notice of the decision of the Tribunal on an
3 application under this section —
- 4 (a) lodge with the Registrar of Titles notice of the
5 decision in the approved form; and
- 6 (b) give written notice of the decision to each
7 person entitled to receive notice of the
8 application.

9 **184. Endorsement of subdivision approval on plan**

- 10 (1) If a termination proposal can proceed further under
11 section 182 (including, if required, because the
12 Tribunal confirms the termination resolution under
13 section 183) —
- 14 (a) the proponent of the proposal can then make a
15 request to the Planning Commission to approve
16 a diagram or plan of survey under the *Planning*
17 *and Development Act 2005* section 145 and to
18 endorse the approval of the plan of subdivision
19 for the proposal obtained under section 177 on
20 the diagram or plan of survey; and
- 21 (b) the owner of the land is taken to have consented
22 to the proponent making the request under the
23 *Planning and Development Act 2005*.
- 24 (2) The *Planning and Development Act 2005* applies to a
25 request under subsection (1) subject to any
26 modifications set out in the regulations.

27 **185. Application for termination of scheme**

- 28 (1) The proponent of a termination proposal can make an
29 application for termination of a strata titles scheme
30 if —
- 31 (a) the relevant approval has been obtained as set
32 out in section 184; and

1 (b) the steps required to be taken before
2 termination of the scheme for winding up the
3 strata company under the termination proposal
4 or an order under section 192 have been taken.

5 (2) The application must be made within 12 months after
6 the termination resolution has been passed or, if the
7 proposal can only proceed if the Tribunal confirms the
8 termination resolution, after the Tribunal has made an
9 order under section 183 confirming the termination
10 resolution.

11 **186. Withdrawal of termination proposal**

12 (1) If the proponent of a termination proposal makes a
13 decision not to proceed with the proposal, the
14 proponent must, as soon as reasonably practicable,
15 withdraw the proposal by written notice to the strata
16 company and, if it is a leasehold scheme, the owner of
17 the leasehold scheme.

18 (2) A strata company that is given written notice of the
19 withdrawal of a termination proposal from the
20 proponent of the proposal must, within 14 days after
21 being given the notice —

- 22 (a) serve the notice on each person who is —
- 23 (i) the owner of a lot in the strata titles
24 scheme; or
- 25 (ii) if the full proposal for the termination of
26 the strata titles scheme has been served
27 by the strata company — the occupier
28 of a lot or the common property in the
29 strata titles scheme; or
- 30 (iii) a registered mortgagee of a lot in the
31 strata titles scheme;
- 32 and

- 1 (b) lodge with the Registrar of Titles notice of the
2 withdrawal of the proposal in the approved
3 form.
- 4 **187. Notice that termination proposal cannot proceed**
5 **further**
- 6 (1) This section applies if a termination proposal cannot
7 proceed further for any of the following reasons —
- 8 (a) at the end of 3 months after the outline of the
9 termination proposal has been submitted to the
10 strata company, the requirements of section 176
11 have not been met;
- 12 (b) at the end of 3 months after the full proposal
13 has been submitted to the strata company, the
14 requirements of section 180 have not been met;
- 15 (c) at the end of 6 months after service of the full
16 proposal by the strata company, a termination
17 resolution has not been passed;
- 18 (d) at the end of 12 months after a termination
19 resolution that does not require the
20 confirmation of the Tribunal has been passed,
21 no application for termination of the strata titles
22 scheme has been made;
- 23 (e) the termination resolution requires confirmation
24 of the Tribunal and —
- 25 (i) the Tribunal makes a decision not to
26 confirm the resolution; or
- 27 (ii) at the end of 12 months after the making
28 of an order under section 183
29 confirming the termination resolution,
30 no application for termination of the
31 strata titles scheme has been made.

- 1 (2) If this section applies, the strata company must —
2 (a) lodge with the Registrar of Titles notice, in the
3 approved form, that the termination proposal
4 cannot proceed further; and
5 (b) give written notice confirming that fact to —
6 (i) the proponent of the termination
7 proposal; and
8 (ii) for a leasehold scheme, the owner of the
9 leasehold scheme; and
10 (iii) each member of the strata company.

11 **188. Notices received by Registrar of Titles**

12 If a notice is lodged with the Registrar of Titles under
13 this Division, the Registrar of Titles must —

- 14 (a) record a notification in the Register; and
15 (b) for a notice of withdrawal of a termination
16 proposal or a notice that a termination proposal
17 cannot proceed further, record the notice as a
18 withdrawal of all earlier notifications recorded
19 in the Register about the termination proposal.

20 **189. Costs of process**

- 21 (1) A strata company may charge the proponent of a
22 termination proposal reasonable fees to cover costs
23 associated with undertaking an activity under this
24 Division.
25 (2) The fees must not exceed any limits imposed by the
26 regulations.
27 (3) A strata company need not undertake the relevant
28 activity until the fees have been paid.
29 (4) If the strata company undertakes the relevant activity
30 before receiving payment for the activity, the strata
31 company can recover, in a court of competent

1 jurisdiction, the fees for the activity as a debt owed to it
2 by the proponent of the termination proposal.

3 **190. Arrangements for independent advice or**
4 **representation for owners**

5 (1) The regulations may require the proponent of a
6 termination proposal to enter into specified
7 arrangements for the owners of lots in the strata titles
8 scheme proposed to be terminated to obtain
9 independent advice or representation in connection
10 with the proposal.

11 (2) Without limitation, the arrangements may include a
12 requirement for the proponent of a termination
13 proposal to pay an amount to a trustee to be held in
14 trust for owners of lots who meet specified criteria to
15 obtain independent legal advice or representation,
16 valuation advice or reports or financial or taxation
17 advice in connection with the proposal.

18 Note for this section:

19 The main purpose of the arrangements is to ensure that
20 vulnerable owners have access to independent advice
21 about a termination proposal.

22 **Division 4 — Termination by single owner**

23 **191. Application for termination by single owner**

24 (1) If all the lots in a strata titles scheme are owned by the
25 same person, that person can make an application for
26 termination of the scheme if, under the *Planning and*
27 *Development Act 2005* Part 10 —

- 28 (a) a plan of subdivision for the termination of the
29 scheme has been approved (that is, for the
30 parcel to cease being subdivided by a strata
31 titles scheme); and
32 (b) a diagram or plan of survey has been endorsed
33 with that approval.

- 1 (2) The *Planning and Development Act 2005* applies to the
2 required approval subject to the following
3 modifications —
- 4 (a) a reference to subdivision is to be read as
5 including a reference to termination of a strata
6 titles scheme;
- 7 (b) any other modifications set out in the
8 regulations.
- 9 (3) For a leasehold scheme, if the applicant for
10 cancellation of registration of the scheme is not the
11 owner of the leasehold scheme, the application can
12 only be made if the owner of the leasehold scheme has
13 given written consent to the application.

14 **Division 5 — Directions for winding up of**
15 **strata company**

16 **192. Order for directions about winding up of strata**
17 **company**

- 18 (1) Before a strata titles scheme is terminated, an
19 application may be made to the Tribunal for an order
20 for directions about winding up the strata company
21 by —
- 22 (a) an owner of a lot in the scheme; or
23 (b) a registered mortgagee of a lot in the scheme;
24 or
25 (c) the strata company; or
26 (d) a judgement creditor of the strata company; or
27 (e) for a leasehold scheme, the owner of the
28 leasehold scheme.
- 29 (2) If proceedings are before the Tribunal under
30 section 183, the application may be made in those
31 proceedings.

- 1 (3) Without limitation, an order under this section may
2 include directions for —
- 3 (a) the sale or disposition of property of the strata
4 company (including to whom and how
5 proceeds must be disbursed); or
- 6 (b) the discharge of the liabilities of the strata
7 company; or
- 8 (c) the administration and functions of the strata
9 company.
- 10 (4) The applicant and any person to whom a copy of the
11 application has been given under the *State*
12 *Administrative Tribunal Act 2004* section 45, is entitled
13 to appear and be heard on the hearing of the
14 application.
- 15 (5) The Tribunal may vary an order made under this
16 section on the application of any person who was
17 entitled to appear and be heard on the hearing of the
18 application for the order.
- 19 (6) An order under this section prevails over steps
20 specified in a termination proposal for winding up of
21 the strata company to the extent of any inconsistency.

22 **Division 6 — Notice, application and**
23 **registration process**

24 **193. Notice of expiry or application for termination of**
25 **scheme**

- 26 (1) A notice of the expiry of a leasehold scheme or an
27 application for termination of a strata titles scheme
28 must —
- 29 (a) be made to the Registrar of Titles; and
30 (b) be in the approved form; and

- 1 (c) for termination, be accompanied by the diagram
2 or plan of survey endorsed with the approval of
3 the Planning Commission under the *Planning*
4 *and Development Act 2005*; and
- 5 (d) be accompanied by evidence in the approved
6 form that the requirements of this Act for the
7 termination of the scheme have been complied
8 with; and
- 9 (e) be accompanied, if applicable, by —
- 10 (i) a statement (in the approved form) of
11 how each item registered or recorded for
12 the scheme in the Register is to be dealt
13 with; and
- 14 (ii) disposition statements, instruments or
15 documents necessary for that purpose;
- 16 and
- 17 (f) be accompanied by the fee fixed by the
18 regulations.
- 19 (2) An application for termination of a strata titles scheme
20 can be made before the diagram or plan of survey
21 required for termination of the scheme is endorsed with
22 the approval of the Planning Commission but the
23 registration of the scheme cannot be cancelled until the
24 diagram or plan of survey is so endorsed.

25 **194. Registration process for termination of scheme**

- 26 (1) The Registrar of Titles must, to give effect to the
27 termination of a strata titles scheme on an application
28 for termination made in accordance with
29 section 193 —
- 30 (a) cancel the registration of the strata titles
31 scheme; and
- 32 (b) cancel the certificates of title for the lots in the
33 strata titles scheme; and

- 1 (c) for a leasehold scheme, record on or in
2 connection with the certificate of title for the
3 parcel the fact that the scheme is terminated.
- 4 (2) The Registrar of Titles must, to give effect to the
5 termination of a leasehold scheme with effect from the
6 end of the expiry day for the scheme on a notice of
7 expiry given in accordance with section 193 —
- 8 (a) cancel the registration of the strata titles
9 scheme; and
- 10 (b) cancel the certificates of title for the lots in the
11 strata titles scheme; and
- 12 (c) record on or in connection with the certificate
13 of title for the parcel the fact that the scheme is
14 terminated.
- 15 (3) The Registrar of Titles must take the action required
16 under this section in the manner that the Registrar of
17 Titles considers appropriate for incorporation in the
18 Register under the *Transfer of Land Act 1893*.

19 **195. Effect of termination of scheme**

- 20 (1) A strata titles scheme is terminated —
- 21 (a) for a leasehold scheme —
- 22 (i) at the end of the expiry day for the
23 scheme; or
- 24 (ii) if the registration of the scheme is
25 cancelled before that day, when the
26 cancellation of the registration of the
27 scheme is registered or recorded by the
28 Registrar of Titles;
- 29 or
- 30 (b) for a freehold scheme, when cancellation of the
31 registration of the scheme is registered or
32 recorded by the Registrar of Titles.

- 1 (2) On termination of a strata titles scheme, the following
2 occur —
- 3 (a) the scheme documents cease to have any effect;
- 4 (b) the lots and common property cease to exist;
- 5 (c) the land becomes a parcel of land that is not
6 subdivided by a strata titles scheme;
- 7 (d) for a leasehold scheme —
- 8 (i) the person who was the owner of the
9 leasehold scheme immediately before
10 termination becomes the owner of the
11 parcel of land and is entitled to vacant
12 possession of the land; and
- 13 (ii) if the leasehold by-laws (as in force
14 immediately before termination of the
15 scheme) provided for the payment of
16 compensation on the expiry of the
17 scheme — the owner of the parcel of
18 land (from time to time) is liable to pay
19 compensation to the persons who were
20 owners of lots in the scheme
21 immediately before its termination as
22 required under those by-laws;
- 23 (e) for a freehold scheme — the persons who were
24 owners of the lots immediately before
25 termination of the strata titles scheme become
26 the owners of the parcel of land as tenants in
27 common in shares proportional to the unit
28 entitlements of their respective lots
29 immediately before termination of the scheme
30 (or, if there was only 1 such owner, the person
31 becomes the owner of the parcel of land);
- 32 (f) the strata company ceases to exist;
- 33 (g) all rights vested in the strata company
34 immediately before it ceased to exist are vested

- 1 in the persons who become the owners of the
2 parcel of land on termination of the scheme;
- 3 (h) the persons who become the owners of the
4 parcel of land on termination of the scheme
5 become jointly and severally liable for all of the
6 liabilities of the strata company subsisting
7 immediately before it ceased to exist (and those
8 persons are liable to contribute amongst
9 themselves in shares proportional to the unit
10 entitlements of their respective lots
11 immediately before termination of the scheme);
- 12 (i) legal proceedings begun by or against the strata
13 company may be completed by or against the
14 persons who were owners of lots in the scheme
15 immediately before its termination.
- 16 (3) If 2 or more persons own a lot in a strata titles scheme,
17 or are the owners of a leasehold scheme, that is
18 terminated, the owners hold their share in the new
19 parcel of land as tenants in common or as joint tenants
20 in the same manner as they owned the lot or scheme
21 and, if they owned it as tenants in common, in the same
22 proportions as they owned the lot or scheme.

23 **Division 7 — Termination on compulsory acquisition**

24 **Part 13 — Tribunal proceedings**

25 **197. Scheme disputes**

- 26 (1) This Part provides for resolution by the Tribunal of the
27 following disputes (*scheme disputes*) —
- 28 (a) a dispute between scheme participants about —
- 29 (i) the scheme documents, including the
30 validity of scheme by-laws; or
- 31 (ii) the performance of, or the failure to
32 perform, a function conferred or

- 1 imposed on a person by this Act or the
2 scheme by-laws; or
- 3 (iii) an alleged contravention of this Act
4 (other than an offence); or
- 5 (iv) a resolution or decision of a strata
6 company or the council of a strata
7 company, including its validity; or
- 8 (v) the appointment or election of a member
9 of the council or an officer of a strata
10 company, including its validity; or
- 11 (vi) any other matter arising under this Act
12 or the scheme by-laws;
- 13 (b) a dispute between an applicant for the
14 registration of a strata titles scheme or
15 amendment of a strata titles scheme and a
16 person whose consent to the application is
17 required, or who may object to the application,
18 relating to the consent or objection;
- 19 (c) if the scheme by-laws (other than leasehold
20 by-laws, staged subdivision by-laws and
21 exclusive use by-laws) require the approval or
22 consent of a person, other than the Planning
23 Commission or a local government, to the
24 amendment or repeal of certain scheme
25 by-laws, a dispute between that person and the
26 strata company about a refusal to give an
27 approval or consent;
- 28 (d) a dispute between an infrastructure owner and a
29 strata company about a matter connected with a
30 common property (utility and sustainability
31 infrastructure) easement;
- 32 (e) a dispute between the scheme developer of a
33 subdivision of land by a strata titles scheme and
34 a strata company about a matter arising under
35 Part 6;

- 1 (f) a dispute between an applicant under
2 section 107 and the strata company about a
3 matter arising under Part 8 Division 1
4 Subdivision 6;
- 5 (g) a dispute between a strata manager, or former
6 strata manager, of a strata company and the
7 strata company about —
- 8 (i) a matter arising under Part 9; or
9 (ii) the strata management contract; or
10 (iii) the performance of, or the failure to
11 perform, a function conferred or
12 imposed on the strata manager;
- 13 (h) a dispute between a buyer or prospective buyer
14 of a lot in a strata titles scheme and the seller of
15 the lot about a matter arising under Part 10;
- 16 (i) a dispute of a class specified in the regulations.
- 17 (2) The following are *scheme participants* —
- 18 (a) the strata company for the strata titles scheme;
19 (b) for a leasehold scheme, the owner of the
20 leasehold scheme;
- 21 (c) a person who is appointed as an administrator
22 of a strata company for the strata titles scheme;
- 23 (d) a member of the strata company for the strata
24 titles scheme;
- 25 (e) the occupier of a lot in the strata titles scheme;
26 (f) the registered mortgagee of a lot in the strata
27 titles scheme;
- 28 (g) a member of the council of a strata company, or
29 an officer of the strata company, for the strata
30 titles scheme, who is not a member of the strata
31 company.

- 1 (3) The following are not *scheme disputes* —
- 2 (a) a dispute with the Planning Commission or
- 3 some other planning authority or a dispute that
- 4 can be the subject of a review under the
- 5 *Planning and Development Act 2005* Part 14;
- 6 (b) a dispute with the Registrar of Titles;
- 7 (c) a dispute with the Valuer-General or a rating or
- 8 taxing authority;
- 9 (d) a dispute about a contract of mortgage
- 10 insurance under section 84;
- 11 (e) a contractual dispute, or a dispute about an
- 12 estate or interest in land, between —
- 13 (i) a scheme participant and a person who
- 14 is not a scheme participant (other than a
- 15 dispute arising out of termination of a
- 16 contract under section 115); or
- 17 (ii) the owner of a lot and a buyer,
- 18 mortgagee or prospective buyer or
- 19 mortgagee of the lot (other than a
- 20 dispute of a kind referred to in
- 21 subsection (1)(f) or (h));
- 22 (f) a dispute about an amount owed as a debt
- 23 (other than a debt owed under section 99(2) or
- 24 clause 53E);
- 25 (g) a dispute of a kind declared by the regulations
- 26 not to be a scheme dispute.
- 27 (4) An application for resolution of a scheme dispute can
- 28 be made to the Tribunal by a party to the dispute.
- 29 (5) However, the occupier of a lot in a strata titles scheme
- 30 can only apply for resolution of a scheme dispute under
- 31 subsection (1)(a) if the dispute is about —
- 32 (a) the scheme by-laws; or

- 1 (b) a resolution or decision of the strata company
2 that directly affects the occupier; or
3 (c) an obligation or right of the occupier under this
4 Act or the scheme by-laws.

5 **198. Procedure**

- 6 (1) The Tribunal may, on application by a member of a
7 strata company, if it is satisfied that a strata company
8 has unreasonably refused to make an application to the
9 Tribunal under this Act —
10 (a) authorise the member to make the application
11 on behalf of the strata company; and
12 (b) authorise expenditure up to a specified amount
13 from a fund of the strata company for legal
14 advice and legal action for the proceeding.
- 15 (2) For the *State Administrative Tribunal Act 2004*
16 section 45(1)(b), the following persons are entitled to a
17 copy of, or notice of, an application to the Tribunal
18 under this Act to which a strata company is a party —
19 (a) each member of the strata company;
20 (b) each mortgagee of a lot who has given written
21 notice of the mortgagee's interest to the strata
22 company;
23 (c) the occupier of each lot in the strata titles
24 scheme that would be affected if the order
25 sought were made.
- 26 (3) For the *State Administrative Tribunal Act 2004*
27 section 45(1)(b), each mortgagee of a lot is entitled to a
28 copy of, or notice of, an application to the Tribunal
29 under this Act to which the owner of a leasehold
30 scheme is a party.

- 1 (4) Despite the *State Administrative Tribunal Act 2004*
2 section 45 —
- 3 (a) the entitlement is to a copy of the application
4 unless there is an approved form for the
5 purpose, in which case, the entitlement is to
6 notice in the approved form; and
- 7 (b) if the applicant is not the strata company —
- 8 (i) the obligation to give a copy of, or
9 notice of, the application to the persons
10 entitled under subsection (2) falls on the
11 strata company rather than on the
12 applicant; and
- 13 (ii) section 45(3) of that Act applies as if the
14 strata company were the applicant.
- 15 (5) In addition to the circumstances in which the *State*
16 *Administrative Tribunal Act 2004* section 47 applies,
17 that section applies to a scheme dispute if the
18 Tribunal —
- 19 (a) is not satisfied that the nature of the dispute is
20 more than trivial; or
- 21 (b) is not satisfied that the applicant has an interest
22 in the matter that is more than trivial and
23 warrants recourse by the applicant to the
24 Tribunal; or
- 25 (c) is satisfied that the purpose of the application is
26 to harass or annoy, or to cause delay or
27 detriment, or is otherwise wrongful; or
- 28 (d) is satisfied that the nature and gravity of the
29 dispute is such that it is reasonable to expect the
30 parties to resolve the dispute without recourse
31 to the Tribunal.
- 32 (6) The Tribunal may make a final decision in proceedings
33 under this Act at a directions hearing if the Tribunal
34 considers that appropriate.

- 1 Note for this section:
- 2 Under the *State Administrative Tribunal Act 2004* Part 4
- 3 Division 2 the Tribunal may, amongst other things —
- 4 • strike out all, or any part, of a proceeding if it considers
- 5 that the matter, or any aspect of it, would be more
- 6 appropriately dealt with by another tribunal, a court or
- 7 any other person; or
- 8 • dismiss or strike out a proceeding if it believes that it is
- 9 frivolous, vexatious, misconceived or lacking in
- 10 substance, is being used for an improper purpose or is
- 11 otherwise an abuse of process; or
- 12 • direct that proceedings be consolidated or split.
- 13 Under section 38 of that Act, the Tribunal may order that a
- 14 person be joined as a party to a proceeding.

15 **199. Declarations**

- 16 (1) In a proceeding under this Act, the Tribunal may make
- 17 a declaration concerning a matter in the proceeding
- 18 instead of any order the Tribunal could make, or in
- 19 addition to any order the Tribunal makes, in the
- 20 proceeding.
- 21 (2) The Tribunal's power to make a declaration is
- 22 exercisable only by a legally qualified member (or by
- 23 the Tribunal constituted of a legally qualified member
- 24 and other members).
- 25 (3) Without limitation, a declaration may be made that —
- 26 (a) a specified person has or has not contravened a
- 27 specified provision of this Act, the scheme
- 28 by-laws or a strata lease; or
- 29 (b) a specified clause of a strata lease is or is not
- 30 invalid; or
- 31 (c) a specified scheme by-law is or is not invalid;
- 32 or
- 33 (d) a specified decision or resolution of a strata
- 34 company is or is not invalid; or

- 1 (e) a specified appointment or election of a
2 member of a council of a strata company or an
3 officer of a strata company is or is not invalid;
4 or
5 (f) a settlement date for a contract for the sale and
6 purchase of a lot was or was not validly
7 postponed under this Act; or
8 (g) a contract for the sale and purchase of a lot was
9 or was not validly avoided under this Act.

10 **200. Orders**

- 11 (1) In a proceeding under this Act, the Tribunal may make
12 any order it considers appropriate to resolve the dispute
13 or proceeding.
- 14 (2) Without limitation, the orders that may be made by the
15 Tribunal on an application under this Act include the
16 following —
- 17 (a) an order requiring a scheme document to be
18 amended in a specified manner (including in a
19 manner that effects a subdivision);
- 20 (b) an order requiring a structural element by
21 reference to which a lot in a strata scheme is
22 defined to be reinstated following its damage,
23 destruction or removal;
- 24 (c) an order determining the form and location of
25 utility conduits to provide specified utility
26 services subject to a utility service easement;
- 27 (d) an order requiring the scheme developer of a
28 subdivision of land by a strata titles scheme to
29 pay a specified amount to a strata company,
30 being the whole or a part of the remuneration or
31 the value of a benefit that the scheme developer
32 failed to disclose as required under section 79;

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Part 2 Strata Titles Act 1985 amended

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- 1 (e) an order determining action that must be taken
2 or refrained from being taken by a member of a
3 strata company under section 98;
- 4 (f) an order authorising a specified person to
5 convene and preside at a general meeting of a
6 strata company —
- 7 (i) as the first annual general meeting; or
8 (ii) to appoint or elect members of the
9 council or officers of the strata
10 company; or
11 (iii) for some other specified purpose;
- 12 (g) an order authorising a specified person to
13 convene and preside at a meeting of the council
14 of a strata company —
- 15 (i) to appoint or elect officers of the strata
16 company; or
17 (ii) for some other specified purpose;
- 18 Note for paragraphs (f) and (g):
19 The order may require the meeting to be held within a
20 specified period or require notice of the meeting to be given
21 in a specified manner.
- 22 (h) an order removing a specified person from
23 office as a member of the council of a strata
24 company or as an officer of a strata company;
- 25 (i) an order appointing a specified person as a
26 member of the council of a strata company or
27 as an officer of a strata company to replace a
28 person removed from office;
- 29 (j) an order varying or terminating a strata
30 management contract;
- 31 (k) an order requiring a strata manager to pay a
32 specified amount to a strata company, being the
33 whole or a part of the remuneration or the value
34 of a benefit that the strata manager failed to

- 1 disclose as required under section 145(2)(b) or
2 section 147;
- 3 (l) an order requiring a strata company to take
4 specified action or to refrain from taking
5 specified action in the performance or exercise
6 of its functions, including the following —
- 7 (i) an order to sell or acquire real or
8 personal property;
- 9 (ii) an order to enter into, vary or terminate
10 a contract, including a contract for
11 services or amenities to the strata
12 company or the members of the strata
13 company;
- 14 (iii) an order that a particular insurance
15 claim be pursued;
- 16 (iv) an order that the amount of insurance
17 cover be varied;
- 18 (v) an order to allow the keeping of an
19 animal on specified conditions or
20 prohibit the keeping of an animal on a
21 lot or common property;
- 22 (m) an order requiring a person to take specified
23 action or to refrain from taking specified action
24 to remedy a contravention or prevent further
25 contraventions of this Act, scheme by-laws or a
26 strata management contract;
- 27 (n) an order that the strata company is to be taken
28 to have passed or not to have passed a specified
29 resolution required under this Act or the
30 scheme by-laws as an ordinary resolution,
31 special resolution, resolution without dissent or
32 unanimous resolution;

- 1 (o) an order requiring a party to the proceeding
2 before it to pay money to —
- 3 (i) a person specified in the order by way
4 of compensation for any pecuniary loss
5 or damage suffered; or
- 6 (ii) another party to a contract for the
7 purpose of adjusting the position or
8 rights of the parties consequentially on
9 the termination or variation of the
10 contract under the order;
- 11 (p) if a declaration is made that a contract for the
12 sale and purchase of a lot was validly avoided
13 under this Act, an order requiring a person who
14 is holding a deposit or other moneys in trust to
15 pay the deposit or other moneys to the former
16 buyer;
- 17 (q) an order appointing an administrator of a strata
18 company (being a person who has given written
19 consent to the appointment) to perform some or
20 all scheme functions.
- 21 (3) If the Tribunal makes an order requiring the payment
22 of money by a strata manager or scheme developer of a
23 subdivision of land by a strata titles scheme, it may, on
24 the application of a party to the proceeding or on its
25 own initiative, by order, prohibit the strata manager or
26 scheme developer from seeking or enforcing an
27 indemnity from the strata company or any other party
28 for the required payment.
- 29 (4) An order may specify that it is to be taken to have
30 come into effect on a date earlier than the date of the
31 order.
- 32 (5) An order may be made to take effect on default being
33 made in complying with some other order made by it.

- 1 (6) An order requiring amendment of a scheme
2 document —
3 (a) must specify the extent to which the
4 amendment is subject to the obtaining of the
5 approvals and consents that would otherwise be
6 required under this Act; and
7 (b) does not take effect until the Registrar of Titles
8 registers the amendment of the scheme
9 document.
10 (7) An order may be expressed to remain in force for a
11 specified period, until a specified event or until further
12 order.

13 **201. Interim orders**

- 14 (1) In a proceeding under this Act, the Tribunal may make
15 an order on an interim basis (an *interim order*) if
16 satisfied that by reason of the urgent circumstances of
17 the case it should do so.
18 (2) An interim order remains in force for the period (not
19 exceeding 3 months) specified in the order and may be
20 renewed by further order of the Tribunal for
21 subsequent periods (not exceeding, in any case,
22 3 months).
23 (3) An interim order may be made or renewed even if the
24 period for parties to make written submissions has not
25 expired.
26 (4) An interim order is subject to variation or revocation
27 by further order of the Tribunal.

28 **202. Decision not to make order or declaration**

- 29 In a proceeding under this Act, the Tribunal may make
30 a decision not to make an order or declaration.

- 1 (iii) a resolution fixing or varying
2 contributions unless the Tribunal is
3 satisfied that the contributions fixed by
4 the strata company are inadequate or
5 excessive; or
6 (iv) a resolution fixing or varying the
7 interest rate applicable to contributions
8 unless the Tribunal is satisfied that the
9 interest rate fixed by the strata company
10 is unreasonable; or
11 (v) a resolution determining arrangements
12 for payment of contributions in
13 instalments unless the Tribunal is
14 satisfied that the arrangements allowed
15 by the strata company are unreasonable;
16 or
17 (c) make an order that the amount of insurance
18 cover be varied unless satisfied that the amount
19 for which the strata company has insurance as
20 required by this Act is inadequate or excessive;
21 or
22 (d) make an order to allow the keeping of an
23 animal on specified conditions or prohibit the
24 keeping of an animal on a lot or common
25 property unless satisfied that the strata
26 company has acted unreasonably; or
27 (e) make an order by way of compensation for
28 personal injury or death; or
29 (f) make an order for the payment of money to
30 resolve a dispute between a buyer or
31 prospective buyer of a lot in a strata titles
32 scheme and the seller of the lot about a matter
33 arising under Part 10 (other than to order
34 repayment of a deposit or other money); or

- 1 (g) make an order in circumstances prohibited
2 under the regulations.

3 **205. Administrator of strata company**

- 4 (1) An order of the Tribunal appointing an administrator of
5 a strata company may specify conditions of
6 appointment of the administrator.

- 7 (2) If the Tribunal makes an order appointing an
8 administrator of a strata company —

- 9 (a) no person other than the administrator may,
10 while the order remains in force, perform a
11 function that the administrator is authorised to
12 perform under the order; and
13 (b) any act or thing done or suffered by the
14 administrator in the performance of a function
15 under the order has the same effect as it would
16 have had if the order had not been made and it
17 had been done or suffered by the person or
18 body who, but for the order, would have been
19 entitled or required to perform the function; and
20 (c) the Tribunal may, by further order, vary or
21 revoke the appointment.

- 22 (3) An administrator of a strata company appointed by the
23 Tribunal must, after performing a function under the
24 order —

- 25 (a) make a written record specifying the function
26 and the manner of its performance; and
27 (b) serve the record on the strata company.

28 **206. Contributions for money payable by strata**
29 **company**

- 30 If the Tribunal makes an order that requires the
31 payment of money by a strata company, the Tribunal

1 may, on the application of a party to the proceeding or
2 on its own initiative, by order —

- 3 (a) direct that the money (and any expenses and
4 costs of making the payment) must be paid out
5 of contributions levied in relation to the lots in
6 the strata titles scheme, and in the proportions,
7 specified in the order; and
8 (b) direct the strata company to levy contributions
9 in accordance with the order; and
10 (c) prohibit the strata company from levying a
11 contribution that would be payable by another
12 party to the dispute.

13 **207. Enforcement of order to act**

- 14 (1) An application for an order under this section can be
15 made by a person who was the applicant in a
16 proceeding under this Act in which an order to act was
17 made.
18 (2) If the Tribunal is satisfied that an order to act has not
19 been complied with, or has been complied with in part
20 only, by the person to whom it was given, the Tribunal
21 may —
22 (a) vary, revoke or substitute the order to act; and
23 (b) make an order that the person to whom the
24 order to act was given pay to the applicant a
25 specified amount by way of compensation for
26 the failure to act or to refrain from acting.
27 (3) Subsection (2) applies whether or not the person to
28 whom the order to act was given has been convicted of
29 an offence under the *State Administrative Tribunal*
30 *Act 2004* section 95 before the revocation of the order.

- 1 (4) The variation, revocation or substitution of an order
2 does not affect —
3 (a) anything done under the order before the
4 revocation; or
5 (b) a penalty that has been or may be imposed
6 under the *State Administrative Tribunal*
7 *Act 2004* section 95 for the failure to comply
8 with the order.

9 **208. Order overrides existing scheme by-laws**

10 If an order of the Tribunal under this Act is
11 inconsistent with scheme by-laws as in force when the
12 order is made, the order prevails over the by-laws to
13 the extent of the inconsistency.

14 Note for this section:

15 If scheme by-laws are inconsistent, the Tribunal may make
16 an order requiring by-laws to be amended in a specified
17 manner.

18 **209. Original jurisdiction**

19 Unless otherwise provided in this Act, a proceeding
20 before the Tribunal under this Act comes within the
21 Tribunal's original jurisdiction.

22 **210. Internal review of order or declaration**

- 23 (1) If, in a proceeding before the Tribunal under this Act,
24 the Tribunal is constituted without a judicial member
25 and the Tribunal makes an order, or declaration, of a
26 kind specified in the regulations, a party to the
27 proceeding may apply for internal review of the order
28 or declaration.

- 1 (2) However, an application for internal review of an order
2 or declaration can be made only if —
- 3 (a) leave is given by the Tribunal (constituted as
4 required for an internal review under this
5 section); and
- 6 (b) the application is made within 28 days after the
7 order or declaration is made or within an
8 extension of that period given by the President.
- 9 (3) For an internal review of an order or declaration, the
10 Tribunal must be constituted of —
- 11 (a) a judicial member or a senior member who is a
12 legally qualified member; and
- 13 (b) such other members, if any, as the President
14 considers appropriate.
- 15 (4) On an internal review of an order or declaration, the
16 Tribunal may —
- 17 (a) affirm the order or declaration; or
18 (b) vary the order or declaration; or
19 (c) set aside the order or declaration and substitute
20 another order or declaration.
- 21 (5) Unless otherwise provided by the regulations, the *State*
22 *Administrative Tribunal Act 2004* Part 3 Division 3
23 Subdivision 3 applies in relation to an internal review
24 of an order or declaration.
- 25 (6) The regulations may modify the operation of the *State*
26 *Administrative Tribunal Act 2004* for an internal
27 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).

- 1 (4) A document required or authorised by this Act or
2 scheme by-laws to be served on the owner of a lot in a
3 strata titles scheme may be served —
- 4 (a) by serving it on the owner personally; or
5 (b) by sending it to the owner's address for service
6 as appearing on the roll maintained under
7 section 105 or as last notified in writing under
8 section 106 (by post if it is a postal address or
9 by electronic transmission if it is an electronic
10 address); or
11 (c) if there is no such address for service, by
12 sending it by post to the owner to the address of
13 the lot; or
14 (d) by serving it in a manner authorised for service
15 on the owner of a lot by the scheme by-laws.
- 16 (5) If there are 2 or more persons who are co-owners of a
17 lot, a document will be taken to be served on the owner
18 of the lot when it has been served on each of those
19 persons.
- 20 (6) A document required or authorised by this Act or
21 scheme by-laws to be served on the occupier of a lot
22 may be served —
- 23 (a) by serving it on the occupier personally; or
24 (b) by leaving it with some person apparently of or
25 over the age of 16 years at the address of the
26 lot; or
27 (c) by sending it by post to the occupier at the
28 address of the lot; or
29 (d) by serving it in a manner authorised for service
30 on an occupier of a lot by the by-laws of the
31 strata company.
- 32 (7) A document required or authorised by this Act or
33 scheme by-laws to be served on a person other than a

- 1 person who may be served as set out under a preceding
2 subsection may be served —
- 3 (a) by serving it on the person personally or by
4 post; or
- 5 (b) by leaving it with a person apparently of or
6 over the age of 16 years at the place of
7 residence or place of business of the
8 first-mentioned person; or
- 9 (c) if the person has an address for service on the
10 roll maintained by the strata company under
11 section 105, by sending it to that address (by
12 post if it is a postal address or by electronic
13 transmission if it is an electronic address); or
- 14 (d) if the person has an interest in the parcel that is
15 registered or recorded in the Register, by
16 sending it by post to the person's address as it
17 appears in the Register; or
- 18 (e) by sending it to an electronic address notified to
19 the sender by the first-mentioned person as an
20 address at which service of such notices will be
21 accepted.
- 22 (8) For the purposes of this section, service by post must
23 be by pre-paid post.
- 24 (9) This section is in addition to the *Interpretation*
25 *Act 1984* sections 75 and 76.
- 26 **218. Correction of errors by Registrar of Titles**
- 27 (1) The Commissioner of Titles may direct the Registrar of
28 Titles to correct errors in the Register.
- 29 (2) The Registrar of Titles may correct errors in a scheme
30 document or other document lodged for registration or
31 approval.

- 1 (3) A correction of an error under this section may require
2 the deletion of material or the insertion of material.
- 3 (4) When correcting an error under this section, the
4 Registrar of Titles must —
- 5 (a) for a paper medium, not erase or render
6 illegible the original writing and include the
7 date on which the correction was made together
8 with the Registrar's initials; and
- 9 (b) for a digital medium, keep a permanent record
10 of any words or lines deleted and the date on
11 which the correction was made.
- 12 (5) A scheme document or other document corrected under
13 this section has the same validity and effect as if the
14 error had not been made except as regards any entry
15 made in the Register before the time of correcting the
16 error.

17 **222. Disposition statement**

- 18 The regulations may provide for the registration of an
19 instrument (a *disposition statement*) in conjunction
20 with the registration of a strata titles scheme, an
21 amendment of a strata titles scheme, or the cancellation
22 of the registration of a strata titles scheme, by which —
- 23 (a) items registered or recorded for the scheme in
24 the Register are discharged, withdrawn or
25 otherwise removed, or brought forward, under
26 the *Transfer of Land Act 1893*; or
- 27 (b) evidence required under this Act is provided.

28 **223. Requirements under Transfer of Land Act**

- 29 Requirements determined under the *Transfer of Land*
30 *Act 1893* section 182A may relate to matters arising
31 under this Act.

- 1 **227. Review of this Act**
- 2 (1) The Minister must review the operation and
- 3 effectiveness of this Act as soon as practicable after the
- 4 expiry of 5 years from the day on which the *Strata*
- 5 *Titles Amendment Act 2018* section 4 comes into
- 6 operation.
- 7 (2) The Minister must, as soon as practicable —
- 8 (a) prepare a report about the outcome of the
- 9 review; and
- 10 (b) cause a copy of the report to be laid before each
- 11 House of Parliament.
- 12 **228. Transitionals and savings: Schedules 3, 4 and 5**
- 13 (1) Schedules 3, 4 and 5, and any transitional regulations
- 14 made under section 224 or Schedule 3 clause 26, are
- 15 additional to and do not prejudice or affect the
- 16 application of any relevant provisions of the
- 17 *Interpretation Act 1984*, except where the contrary
- 18 intention appears.
- 19 (2) The purpose of —
- 20 (a) Schedule 3 is to effect the transition from the
- 21 *Strata Titles Act 1966* to this Act as enacted in
- 22 1985; and
- 23 (b) Schedule 4 is to effect the transition to the
- 24 *Strata Titles Amendment Act 1995*.
- 25 (3) Except where the contrary intention appears,
- 26 Schedules 3 and 4 are to be construed in accordance
- 27 with the purpose set out in subsection (2) and in
- 28 particular —
- 29 (a) a reference in Schedule 3 to a section of this
- 30 Act is to be construed as a reference to the
- 31 section as in force immediately after the

1 commencement of the *Strata Titles Act 1985*
2 section 132; and
3 (b) a reference in Schedule 4 to a section of this
4 Act is to be construed as a reference to the
5 section as in force immediately after the
6 commencement of the *Strata Titles Amendment*
7 *Act 1995* section 91.
8

9 **Division 4 — Sections relocated to Parts 2 to 14**

10 **84. Sections relocated to Parts 2 to 14**

11 The sections listed in column 1 of the Table below are, after
12 their amendment as set out in Part 2 Division 2 of this Act,
13 renumbered (if relevant) and relocated (in the order set out in
14 the Table) to the Parts, Divisions and Subdivisions inserted by
15 section 83 of this Act as set out in columns 2 and 4 of the Table.

16 **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
s. 24		Preliminary determinations by local government	Part 3 Division 2
s. 26	s. 28	Review of local government decision	Part 3 Division 4

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Section number	Renumbered section number	Section heading	Relocation of section
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
s. 37	s. 116	Powers of strata company generally	Part 8 Division 1 Subdivision 7

Section number	Renumbered section number	Section heading	Relocation of section
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

Strata Titles Amendment Bill 2018**Part 2** Strata Titles Act 1985 amended**Division 4** Sections relocated to Parts 2 to 14**s. 84**

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 <i>Water Services Act 2012</i>	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

1 Note: The heading to section 129D is to read:
2 **Money received by Registrar of Titles**

3 **85. References to renumbered provisions in other laws or other**
4 **documents**

5 A reference in another law or another document to a provision
6 renumbered under this Division is a reference to the provision
7 as renumbered unless the contrary intention appears.

8 **Division 5 — Amendment of Schedules**

9 **86. Schedule 1 heading replaced**

10 Delete the heading to Schedule 1 and the reference after it and
11 insert:

13 **Schedule 1 — Governance by-laws**
14

1 **87. Schedule 1 by-law 1 amended**

2 (1) In Schedule 1 by-law 1(1):

3 (a) delete “A proprietor shall —” and insert:

4

5 The owner of a lot must —

6

7 (b) in paragraph (a) delete “forthwith” and insert:

8

9 immediately

10

11 (c) in paragraph (a) delete “by any competent public authority
12 or local government” and insert:

13

14 under a written law

15

16 (d) in paragraph (a) delete “his” (each occurrence) and
17 insert:

18

19 the

20

21 (e) in paragraph (b) delete “repair and maintain his” and
22 insert:

23

24 maintain and repair the

25

26 (f) in paragraph (b) delete “repair,” and insert:

27

28 condition,

29

30 (2) In Schedule 1 by-law 1(1a):

31 (a) renumber sub-by-law (1a) as sub-by-law (1A);

1 (b) delete “A proprietor shall —” and insert:

2

3 The owner of a lot must —

4

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

6

7 (a) notify in writing the strata company immediately on
8 becoming the owner of the lot, including in the
9 notice the owner’s address for service for the
10 purposes of this Act; and

11

12 (d) in paragraph (b) delete “his” and insert:

13

14 the

15

16 (3) Delete Schedule 1 by-law 1(2).

17 Note: The heading to amended by-law 1 is to read:

18 **Duties of owner**

19 **88. Schedule 1 by-law 2 deleted**

20 Delete Schedule 1 by-law 2.

21 **89. Schedule 1 by-law 3 amended**

22 (1) In Schedule 1 by-law 3(1):

23 (a) delete “Where” and insert:

24

25 If

26

27 (b) delete “proprietor or other” and insert:

28

29 owner or

30

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s. 89

1 (c) delete “sub-by-law (2),” and insert:

2

3 sub-by-law (3),

4

5 (2) In Schedule 1 by-law 3(2):

6 (a) delete “shall” and insert:

7

8 must

9

10 (b) delete “account with an ADI (authorised deposit-taking
11 institution) as defined in section 5 of the *Banking Act 1959* of
12 the Commonwealth” and insert:

13

14 ADI account

15

16 (c) delete “shall,” and insert:

17

18 must,

19

20 (d) delete “proprietor” and insert:

21

22 owner

23

24 (3) In Schedule 1 by-law 3(3):

25 (a) delete “proprietor or other” and insert:

26

27 owner or

28

29 (b) delete “proprietor” and insert;

30

31 owner

32

- 1 (4) In Schedule 1 by-law 3(4):
2 (a) delete “Where” and insert:
3
4 If
5
6 (b) delete “he is no longer the proprietor” and insert:
7
8 the person is no longer the owner
9
10 (c) delete “a proprietor” and insert;
11
12 an owner
13
14 (d) delete “shall” and insert:
15
16 must
17
18 (e) delete “his” and insert:
19
20 the person’s
21

22 **90. Schedule 1 by-law 4 amended**

- 23 (1) In Schedule 1 by-law 4(1):
24 (a) delete “shall,” and insert:
25
26 must,
27
28 (b) delete “shall be” and insert:
29
30 is
31

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-
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- 1 (5) Delete Schedule 1 by-law 4(5), (6) and (7) and insert:
2
- 3 (6) If there are co-owners of a lot, 1 only of the co-owners is
4 eligible to be, or to be elected to be, a member of the council
5 and the co-owner who is so eligible must be nominated by
6 the co-owners, but, if the co-owners fail to agree on a
7 nominee, the co-owner who owns the largest share of the lot
8 is the nominee or, if there is no co-owner who owns the
9 largest share of the lot, the co-owner whose name appears
10 first in the certificate of title for the lot is the nominee.
11
- 12 (6) In Schedule 1 by-law 4(8):
13 (a) delete “where” and insert:
14
15 if
16
17 (b) delete “proprietors,” and insert:
18
19 owners of lots in the scheme,
20
21 (c) delete “his” and insert:
22
23 the member’s
24
- 25 (7) In Schedule 1 by-law 4(9):
26 (a) delete “his”;
27 (b) delete paragraphs (a) and (b) and insert:
28
29 (a) if the member dies or ceases to be an owner or
30 co-owner of a lot; or
31 (b) on receipt by the strata company of a written notice
32 of the member’s resignation from the office of
33 member; or
34

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- 1 (c) in paragraph (c) delete “he” and insert:
2
3 the member
4
5 (d) delete paragraph (d) and insert:
6
7 (d) in a case where the member is a member of the
8 council by reason of there being not more than 3
9 owners of lots in the scheme, on an election of
10 members of the council (as a result of there being an
11 increase in the number of owners to more than 3) at
12 which the member is not elected; or
13
14 (e) in paragraph (e) delete “where he” and insert:
15
16 if the member
17
18 (f) in paragraph (e) delete “sub-by-law (8).” and insert:
19
20 sub-by-law (8); or
21
22 (g) after paragraph (e) insert:
23
24 (f) if the Tribunal orders that the member’s
25 appointment is revoked and the member is removed
26 from office.
27
28 (8) Delete Schedule 1 by-law 4(10) and (11) and insert:
29
30 (10) The remaining members of the council may appoint a
31 person eligible for election to the council to fill a vacancy in
32 the office of a member of the council, other than a vacancy
33 arising under sub-by-law (9)(c) or (d), and any person so
34 appointed holds office, subject to this by-law, for the
35 balance of the predecessor’s term of office.

- 1 Note for this sub-bylaw:
2 By-law 6(3A) provides for the filling of vacancies in the
3 offices of chairperson, secretary and treasurer.
- 4 (11) Except if 1 person is the owner of all of the lots in the
5 scheme, a quorum of the council is 2 if the council consists
6 of 3 or 4 members; 3, if it consists of 5 or 6 members; and 4,
7 if it consists of 7 members.
8
- 9 (9) In Schedule 1 by-law 4(12) delete “notwithstanding any” and
10 insert:
11
- 12 even if there is a
13
- 14 (10) In Schedule 1 by-law 4(13):
15 (a) delete “council shall, notwithstanding that” and insert:
16 council, even if
17 council, even if
18
- 19 (b) delete “be” and insert:
20 are
21 are
22
- 23 **91. Schedule 1 by-law 5 amended**
- 24 (1) In Schedule 1 by-law 5 delete “shall” and insert:
25
- 26 must
27
- 28 (2) In Schedule 1 by-law 5(1):
29 (a) delete “shall determine,” and insert:
30 must determine,
31 must determine,
32

- 1 (b) delete “shall consist.” and insert:
2
3 is to consist.
4
- 5 (3) In Schedule 1 by-law 5(2) delete “chairman shall call upon those
6 persons present” and insert:
7
- 8 chairperson must call on those persons who are present at the meeting
9 in person or by proxy
10
- 11 (4) In Schedule 1 by-law 5(3):
12 (a) delete “his” and insert:
13
14 the
15
- 16 (b) in paragraph (a) delete “chairman” and insert:
17
18 chairperson
19
- 20 (c) in paragraph (b) delete “meeting.” and insert:
21
22 meeting in person or by proxy.
23
- 24 (5) In Schedule 1 by-law 5(4):
25 (a) delete “chairman — ” and insert:
26
27 chairperson —
28
- 29 (b) in paragraph (a) delete “where” and insert:
30
31 if
32

- 1 (c) in paragraph (a) delete “shall” and insert:
2
3 must
4
5 (d) in paragraph (b) delete “where” and insert:
6
7 if
8
9 (e) in paragraph (b) delete “shall” and insert:
10
11 must
12
13 (6) In Schedule 1 by-law 5(5):
14 (a) delete “chairman shall —” and insert:
15
16 chairperson must —
17
18 (b) in paragraph (b) delete “present and entitled to vote a blank
19 paper” and insert:
20
21 entitled to vote and present in person or by proxy, a blank
22 form
23
24 (c) in paragraph (b) delete “he” and insert:
25
26 the person
27
28 (d) in paragraph (b) delete “ballot-paper.” and insert:
29
30 ballot form.
31

- 1 (7) In Schedule 1 by-law 5(6):
- 2 (a) delete “shall complete a valid ballot-paper” and insert:
- 3
- 4 must complete a valid ballot form
- 5
- 6 (b) in paragraphs (a) and (b) delete “thereon” and insert:
- 7
- 8 on the form
- 9
- 10 (c) in paragraph (b) delete “his” and insert:
- 11
- 12 the person’s
- 13
- 14 (d) in paragraph (b) delete “he” and insert:
- 15
- 16 the person
- 17
- 18 (e) in paragraph (b) delete “proprietor” (each occurrence)
- 19 and insert;
- 20
- 21 owner
- 22
- 23 (f) in paragraph (c) delete “ballot-paper; and” and insert:
- 24
- 25 ballot form; and
- 26
- 27 (g) in paragraph (d) delete “chairman.” and insert:
- 28
- 29 chairperson.
- 30

1 (8) Delete Schedule 1 by-law 5(7) and insert:

2

3 (7) The chairperson, or a person appointed by the
4 chairperson, must count the votes recorded on valid
5 ballot forms in favour of each candidate.
6

7 (9) In Schedule 1 by-law 5(8) delete “numbers of votes shall” and
8 insert:

9

10 numbers (in terms of lots or unit entitlements as required under the
11 *Strata Titles Act 1985* section 122) of votes are to
12

13 (10) In Schedule 1 by-law 5(9):

14 (a) delete “Where the number” and insert:

15

16 If the number (in terms of lots or unit entitlements as required
17 under the *Strata Titles Act 1985* section 122)
18

19 (b) delete “shall” and insert:

20

21 must
22

23 (c) delete “present and entitled to vote.” and insert:

24

25 entitled to vote and present in person or by proxy.
26

27 Note: The heading to amended by-law 5 is to read:

28 **Election of council at general meeting**

- 1 **92. Schedule 1 by-law 6 amended**
- 2 (1) In Schedule 1 by-law 6(1):
- 3 (a) delete “shall” and insert:
- 4
- 5 must
- 6
- 7 (b) delete “chairman,” and insert:
- 8
- 9 chairperson,
- 10
- 11 (2) In Schedule 1 by-law 6(2):
- 12 (a) in paragraph (a) delete “shall” and insert:
- 13
- 14 must
- 15
- 16 (b) in paragraph (a) delete “he” and insert:
- 17
- 18 the person
- 19
- 20 (c) in paragraph (b) delete “one” and insert:
- 21
- 22 1
- 23
- 24 (3) Delete sub-by-law (3) and (4) and insert:
- 25
- 26 (3) A person appointed to an office referred to in sub-by-law (1)
- 27 holds office until the first of the following events
- 28 happens —
- 29 (a) the person ceases to be a member of the council
- 30 under by-law 4(9);
- 31 (b) receipt by the strata company of a written notice of
- 32 the person’s resignation from that office;

1 (c) another person is appointed by the council to hold
2 that office.

3 (3A) The remaining members of the council must appoint a
4 member of the council to fill a vacancy in an office referred
5 to in sub-by-law (1), other than a vacancy arising under
6 by-law 4(9)(c) or (d), and any person so appointed holds
7 office, subject to this by-law, for the balance of the
8 predecessor's term of office.

9 (4) The chairperson is to preside at all meetings of the council
10 but, if the chairperson is absent from, or is unwilling or
11 unable to preside at, a meeting, the members of the council
12 present at that meeting can appoint 1 of their number to
13 preside at that meeting during the absence of the
14 chairperson.

15
16 Note: The heading to amended by-law 6 is to read:
17 **Chairperson, secretary and treasurer of council**

18 **93. Schedule 1 by-law 7 amended**

19 (1) In Schedule 1 by-law 7(1) delete "chairman," (each occurrence)
20 and insert:

21
22 chairperson,
23

24 (2) In Schedule 1 by-law 7(2) delete "a proprietor to act as the
25 chairman" and insert:

26
27 an owner of a lot to act as the chairperson
28

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1 (3) In Schedule 1 by-law 7(3) delete “he” and insert:

2

3 the person

4

5 Note: The heading to amended by-law 7 is to read:

6 **Chairperson, secretary and treasurer of strata company**

7 **94. Schedule 1 by-law 8 amended**

8 (1) In Schedule 1 by-law 8(1) delete “shall” and insert:

9

10 must

11

12 (2) In Schedule 1 by-law 8(2):

13 (a) in paragraph (a) delete “shall” and insert:

14

15 must

16

17 (b) in paragraph (a) delete “him,” and insert:

18

19 the member

20

21 (c) in paragraph (a) delete “meeting;” and insert:

22

23 meeting; or

24

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

26

27 (b) employ or engage, on behalf of the strata company,
28 any person as it thinks is necessary to provide any
29 goods, amenity or service to the strata company; or

30

1 (e) in paragraph (c) delete “one” and insert:

2

3 1

4

5 (3) Delete Schedule 1 by-law 8(3) and insert:

6

7 (3) A member of a council may appoint an owner of a lot, or an
8 individual authorised under the *Strata Titles Act 1985*
9 section 136 by a corporation which is an owner of a lot, to
10 act in the member’s place as a member of the council at any
11 meeting of the council.

12

13 (4) In Schedule 1 by-law 8(4):

14 (a) delete “A proprietor” and insert:

15

16 An owner of a lot

17

18 (b) delete “he” and insert:

19

20 that person

21

22 (5) In Schedule 1 by-law 8(5):

23 (a) delete “he” (each occurrence) and insert:

24

25 the person

26

27 (b) delete “his” and insert:

28

29 the person’s

30

31 (6) Delete Schedule 1 by-law 8(6).

1 **95. Schedule 1 by-law 9 amended**

2 In Schedule 1 by-law 9:

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

4

5 (c) the supply of information on behalf of the strata
6 company in accordance with the *Strata Titles*
7 *Act 1985* sections 108 and 109; and

8

9 (b) delete paragraph (f) and insert:

10

11 (f) subject to the *Strata Titles Act 1985* sections 127,
12 128, 129, 200(2)(f) and 200(2)(g) the convening of
13 meetings of the strata company and of the council.

14

15 **96. Schedule 1 by-law 10 amended**

16 In Schedule 1 by-law 10:

17 (a) in paragraph (a) delete “proprietors” and insert:

18

19 owners of lots

20

21 (b) in paragraph (a) delete “pursuant to the Act; and” and
22 insert:

23

24 under the *Strata Titles Act 1985*; and

25

26 (c) in paragraph (c) delete “section 43 of the Act; and” and
27 insert:

28

29 the *Strata Titles Act 1985* section 110; and

30

1 (d) delete paragraph (d) and insert:

2

3 (d) the keeping of the records of account referred to in
4 the *Strata Titles Act 1985* section 101 and the
5 preparation of the statement of accounts referred to
6 in the *Strata Titles Act 1985* section 101.

7

8 **97. Schedule 1 by-laws 11 to 15 deleted**

9 Delete Schedule 1 by-laws 11 to 15.

10 **98. Schedule 2 heading replaced**

11 Delete the heading to Schedule 2 and the reference after it and
12 insert:

13

14 **Schedule 2 — Conduct by-laws**

15

16 **99. Schedule 2 by-law 1 replaced**

17 Delete Schedule 2 by-law 1 and insert:

18

19 **1. Vehicles and parking**

20 (1) An owner or occupier of a lot must take all reasonable steps
21 to ensure that the owner's or occupier's visitors comply with
22 the scheme by-laws relating to the parking of motor
23 vehicles.

24 (2) An owner or occupier of a lot must not park or stand any
25 motor or other vehicle on common property except with the
26 written approval of the strata company.

27

1 **100. Schedule 2 by-law 2 replaced**

2 Delete Schedule 2 by-law 2 and insert:

3

4 **2. Use of common property**

5 An owner or occupier of a lot must —

- 6 (a) use and enjoy the common property in such a
7 manner as not unreasonably to interfere with the use
8 and enjoyment of the common property by other
9 owners or occupiers of lots or of their visitors; and
- 10 (b) not use the lot or permit it to be used in such
11 manner or for such purpose as causes a nuisance to
12 an occupier of another lot (whether an owner or not)
13 or the family of such an occupier; and
- 14 (c) take all reasonable steps to ensure that the owner's
15 or occupier's visitors do not behave in a manner
16 likely to interfere with the peaceful enjoyment of an
17 owner or occupier of another lot or of a person
18 lawfully using common property; and
- 19 (d) not obstruct lawful use of common property by any
20 person.
21

22 **101. Schedule 2 by-law 3 amended**

23 In Schedule 2 by-law 3:

- 24 (a) delete “a proprietor, occupier, or other resident of a lot shall”
25 and insert:

26

27 an owner or occupier of a lot must

28

- 29 (b) in paragraph (a) delete “upon” and insert:

30

31 on

32

1 (c) in paragraph (b) delete “his” and insert:

2

3 the owner’s or occupier’s

4

5 **102. Schedule 2 by-law 4 amended**

6 In Schedule 2 by-law 4:

7 (a) delete “A proprietor, occupier, or other resident of a lot
8 shall” and insert:

9

10 An owner or occupier of a lot must

11

12 (b) delete “upon” and insert:

13

14 on

15

16 (c) delete “shall” and insert:

17

18 must

19

20 (d) delete “the proprietor, occupier, or other resident” and
21 insert:

22

23 an owner or occupier

24

25 Note: The heading to amended by-law 4 is to read:

26 **Behaviour of owners and occupiers**

27 **103. Schedule 2 by-law 5 deleted**

28 Delete Schedule 2 by-law 5

1 **106. Schedule 2 by-law 8 amended**

2 In Schedule 2 by-law 8:

3 (a) delete “A proprietor, occupier, or other resident of a lot
4 shall” and insert:

5

6 An owner or occupier of a lot must

7

8 (b) delete “approval in writing” and insert:

9

10 written approval

11

12 (c) delete “upon” (each occurrence) and insert:

13

14 on

15

16 **107. Schedule 2 by-law 9 amended**

17 In Schedule 2 by-law 9:

18 (a) delete “A proprietor, occupier, or other resident of a lot
19 shall” and insert:

20

21 An owner or occupier of a lot must

22

23 (b) delete “upon” and insert:

24

25 on

26

27 (c) delete “he” (each occurrence) and insert:

28

29 that person

30

Strata Titles Amendment Bill 2018

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s. 108

1 (d) delete “his” and insert:

2

3 their

4

5 **108. Schedule 2 by-law 10 amended**

6 In Schedule 2 by-law 10:

7 (a) delete “A proprietor of a lot shall” and insert:

8

9 An owner of a lot must

10

11 (b) delete “the proprietor, occupier, or other resident” and
12 insert:

13

14 an owner or occupier

15

16 **109. Schedule 2 by-law 11 amended**

17 In Schedule 2 by-law 11:

18 (a) delete “A proprietor” and insert:

19

20 An owner

21

22 (b) after “lot” insert:

23

24 must

25

26 (c) in paragraph (a) delete “shall maintain within his” and
27 insert:

28

29 maintain within their

30

1 (d) in paragraph (c) delete “the proprietor, occupier or other
2 resident” and insert:

3

4 an owner or occupier

5

6 (e) delete “his” and insert:

7

8 their

9

10 **110. Schedule 2 by-law 12 amended**

11 In Schedule 2 by-law 12:

12 (a) delete “A proprietor, occupier or other resident shall” and
13 insert:

14

15 An owner or occupier of a lot must

16

17 (b) in paragraph (a) delete “that he owns, occupies or resides in
18 for any” and insert:

19

20 for a

21

22 (c) in paragraph (b) delete “any” and insert:

23

24 the

25

26 (d) in paragraph (c) delete “subject to section 42(15) of the
27 Act, keep any” and insert:

28

29 keep

30

31 (e) in paragraph (c) after “lot” delete “that he owns, occupies
32 or resides in”;

1 (f) in paragraph (c) delete “him” and insert:

2

3 that person

4

5 Note: The heading to amended by-law 12 is to read:

6 **Additional duties of owners and occupiers**

7 **111. Schedule 2 by-law 13 amended**

8 In Schedule 2 by-law 13:

9 (a) delete “A proprietor of a lot shall not alter” and insert:

10

11 An owner of a lot must not alter or permit the alteration of

12

13 (b) delete “shall” and insert:

14

15 must

16

17 **112. Schedule 2 by-law 14 amended**

18 In Schedule 2 by-law 14 “A proprietor, occupier or other resident
19 of a lot shall” and insert:

20

21 An owner or occupier of a lot must

22

23 **113. Schedule 2 by-law 15 inserted**

24 After Schedule 2 by-law 14 insert:

25

26 **15. Decoration of, and affixing items to, inner surface of lot**

27 An owner or occupier of a lot must not, without the written
28 consent of the strata company, paint, wallpaper or otherwise
29 decorate a structure which forms the inner surface of the
30 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

- 1 (b) the boundaries are not so fixed and that structural
2 cubic space —
- 3 (i) has boundaries described in accordance
4 with the regulations; and
- 5 (ii) is shown in that floor plan as part of a lot;
- 6 ***structural cubic space*** means —
- 7 (a) cubic space occupied by a vertical structural
8 member, not being a wall, of a building; and
- 9 (b) utility conduits in a building; and
- 10 (c) cubic space enclosed by a structure enclosing utility
11 conduits,
- 12 but, except if clause 3AB applies, does not include utility
13 conduits that are for the exclusive use or enjoyment of 1 lot.

14 **2A. Dividing fences**

15 Sections 213 and 214 apply to a single tier strata scheme as
16 if it were a survey-strata scheme.

17 **3. Terms used**

18 In this Schedule —

19 ***permitted boundary deviation*** means a part of a lot that is
20 above or below another lot in a single tier strata scheme in
21 circumstances allowed by the regulations;

22 ***single tier strata scheme*** means a strata scheme —

- 23 (a) in which no lot or part of a lot is above or below
24 another lot; or
- 25 (b) that would come within paragraph (a) except for
26 any lot that has a permitted boundary deviation.

27 **Part 2 — Lot boundaries**

28 **4. Order for extension of period for reinstatement of**
29 **building without affecting boundary**

- 30 (1) This clause applies if a part of a building on a lot that
31 constitutes a permitted boundary deviation has been
32 destroyed as mentioned in clause 3AB(2).

- 1 (2) An application to the Tribunal for an order under this clause
2 can be made by —
3 (a) the owner of the lot; or
4 (b) a registered mortgagee of the lot.
- 5 (3) The application must be made within 1 year from the time
6 when the destruction occurred.
- 7 (4) An order under this clause is an order extending the period
8 within which the destroyed part of the building may be
9 reinstated.
- 10 (5) The period is not to be extended so that the period is more
11 than 5 years from the time the destruction occurred.
- 12 (6) An order can only be made under this clause if the Tribunal
13 is satisfied that there are reasonable grounds for the delay in
14 completing the reinstatement.

15 **Part 3 — Statutory easement**

16 **Part 4 — Subdivision**

17 **Division 1 — Merger of common property into lots in**
18 **certain strata schemes**

19 **Subdivision 1 — Preliminary**

20 **Subdivision 2 — Merger by resolution of buildings that are**
21 **common property**

22 **Subdivision 3 — Merger by resolution of land that is common**
23 **property**

24 **Division 2 — Conversion of strata schemes to survey-strata**
25 **schemes**

26 **Part 5 — Insurance**

27
28 Note:

29 Clauses are inserted into Schedule 2A through renumbering and
30 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 2A Part 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

Strata Titles Amendment Bill 2018**Part 2** Strata Titles Act 1985 amended**Division 6** Sections relocated to Schedule 2A**s. 117**

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

Strata Titles Amendment Bill 2018**Part 2** Strata Titles Act 1985 amended**Division 6** Sections relocated to Schedule 2A**s. 117**

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

1 **118. References to redesignated provisions in other laws or other**
2 **documents**

3 A reference in another law or another document to a provision
4 redesignated under this Division is a reference to the provision
5 as redesignated unless the contrary intention appears.

119. Schedule 5 inserted

Schedule 5 — Transitional provisions for *Strata Titles Amendment Act 2018*

In this Schedule —

commencement day means the day on which section 4 of the amending Act comes into operation.

(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

1 would fall if they had been made on commencement
2 day.

3 (6) By-laws in force immediately before commencement day
4 that can only be amended or repealed with the consent or
5 approval of the Planning Commission or local government
6 are taken to have been made subject to a planning (scheme
7 by-laws) condition.

8 (7) Sections 46 and 47 apply to scheme by-laws whether made
9 or registered before, on or after commencement day and a
10 penalty may be imposed by the Tribunal under section 47
11 whether or not the particular scheme by-law provides for a
12 penalty as set out in section 42A as in force immediately
13 before commencement day.

14 **5. Schedule of unit entitlements**

15 The schedule of unit entitlement registered for a strata
16 scheme or survey-strata scheme immediately before
17 commencement day continues to be registered as the
18 schedule of unit entitlements for the scheme.

19 **6. Council members and officers**

20 (1) A member of the council or officer of a strata company who
21 continues in that capacity on commencement day —

- 22 (a) must inform the council in writing, as soon as
23 practicable after that day, of any direct or indirect
24 pecuniary or other interest that the person has that
25 conflicts or may conflict with the performance of a
26 function as a member of the council or, if
27 applicable, an officer of the strata company; and
28 (b) in the case of a member of the council, must not
29 vote on a matter in which the member has an
30 interest required to be disclosed under
31 paragraph (a).

32 (2) Subclause (1) does not apply to an interest arising solely
33 from the fact that the member or officer is the owner of a lot
34 in the strata titles scheme.

- 1 (3) Subclause (1)(a) does not apply to matters of which the
2 member or officer has already informed the council in
3 writing but subclause (1)(b) does apply to such matters.
- 4 **7. Applications lodged with Registrar of Titles before**
5 **commencement day**
- 6 (1) An application lodged with the Registrar of Titles but not
7 finally dealt with before commencement day of a kind listed
8 below is taken to have been lodged under section 56 as an
9 application for registration of amendment of a scheme
10 plan —
- 11 (a) application for registration of plan of re-subdivision
12 under section 8A as in force immediately before
13 commencement day;
- 14 (b) application for registration of strata/survey-strata
15 plan of consolidation under section 9 as in force
16 immediately before commencement day;
- 17 (c) application for registration of conversion of 1 or
18 more lots into common property under section 10 as
19 in force immediately before commencement day;
- 20 (d) application for registration of a transfer of land
21 under section 18 as in force immediately before
22 commencement day;
- 23 (e) an application for registration of a lease, transfer of
24 a lease or sub-lease, or the surrender of a lease,
25 under section 18 as in force immediately before
26 commencement day (being an amendment relating
27 to temporary common property);
- 28 (f) an application for registration of a transfer of
29 common property under section 19 as in force
30 immediately before commencement day;
- 31 (g) an application for registration of the creation or
32 surrendering of an easement or restrictive covenant
33 under section 20 as in force immediately before
34 commencement day.
- 35 (2) An application lodged with the Registrar of Titles but not
36 finally dealt with before commencement day for registration

1 of an amended schedule of unit entitlement under section 15
2 as in force immediately before commencement day is taken
3 to have been lodged under section 56 as an application for
4 registration of an amendment of the schedule of unit
5 entitlements.

6 **8. Approvals and certificates**

- 7 (1) For the purposes of an application to the Registrar of Titles
8 involving registration of scheme documents or amendments
9 of scheme documents prepared before commencement
10 day —
11 (a) a certificate of a licensed surveyor or licensed
12 valuer given in relation to a strata plan,
13 survey-strata plan or schedule of unit entitlement
14 before commencement day in accordance with the
15 Act as then in force is taken to comply with the
16 requirements of the Act as amended by the
17 amending Act; and
18 (b) an approval of the Planning Commission or local
19 government given under a provision of the Act as in
20 force immediately before commencement day is
21 taken to be an approval under the corresponding
22 provision of the Act as amended by the amending
23 Act.
24 (2) The regulations may impose time limits within which an
25 application to the Registrar of Titles must be made if it
26 involves registration of scheme documents or amendments
27 of scheme documents prepared before commencement day.

28 **9. Utility service easement**

29 A utility service easement applies to utility conduits whether
30 installed before, on or after commencement day.

31 **10. Scheme developers**

- 32 (1) Section 79 applies to contracts, leases and licences whether
33 entered into or granted before, on or after commencement
34 day in connection with a subdivision given effect by

- 1 registration of a strata titles scheme or an amendment of a
2 strata titles scheme on or after commencement day.
- 3 (2) A person who is a scheme developer of a subdivision
4 immediately before commencement day must inform the
5 strata company in writing, as soon as practicable on or after
6 commencement day, of the following for each contract,
7 lease or licence to which section 79 applies —
- 8 (a) details of any remuneration or other benefit
9 (including savings connected with installation or
10 commissioning of infrastructure for the provision of
11 services under the contract) that the scheme
12 developer or an associate of the scheme developer
13 has received arising out of the contract, lease or
14 licence;
- 15 (b) details of any other direct or indirect pecuniary
16 interest that the scheme developer or an associate of
17 the scheme developer has in the contract, lease or
18 licence, other than as a member of the strata
19 company.
- 20 (3) Subclause (2) does not apply to —
- 21 (a) matters of which the scheme developer has already
22 informed the strata company in writing; or
- 23 (b) a contract, lease or licence relating to a subdivision
24 given effect by registration of a strata titles scheme
25 or an amendment of a strata titles scheme before
26 commencement day.

27 **11. Structural alteration of lot**

28 An application to the Tribunal under section 90 may relate
29 to a structural alteration made before commencement day.

30 **12. Records and correspondence**

31 Section 104(1) extends to records and correspondence made
32 or kept under the Act as in force immediately before
33 commencement day and to records and correspondence in
34 the possession or control of a strata company immediately
35 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

- 1 with the performance of the strata manager's
2 functions; and
- 3 (b) the amount or value of any remuneration or other
4 benefit that the strata manager receives, or has a
5 reasonable expectation of receiving (other than from
6 the strata company) in connection with the
7 performance of the strata manager's functions.
- 8 (6) Subclause (5) does not apply to —
- 9 (a) remuneration or any other benefit that is less than
10 an amount or value specified in or calculated in
11 accordance with the regulations; or
- 12 (b) matters of which the strata manager has already
13 informed the strata company in writing.
- 14 **14. Scheme disputes**
- 15 (1) A scheme dispute may involve an event that occurred, or a
16 matter that arose, before commencement day.
- 17 (2) In determining a scheme dispute, the Tribunal may apply the
18 objectives set out in section 119 as if that section had been
19 in force when the event occurred or the matter arose.
- 20 **15. Administrators**
- 21 A person who holds office as an administrator of a strata
22 company under this Act immediately before commencement
23 day continues to hold that office on the same terms and
24 conditions and section 205 applies as if the administrator
25 had been appointed under the Act as amended by the
26 amending Act.
- 27 **16. Schedule 2A**
- 28 The clauses in Schedule 2A (except those in Part 1) are
29 numbered as they were as sections in the body of the Act
30 immediately before commencement day and anything done
31 under any of those sections that may have effect after that
32 day is taken to have been done under the corresponding
33 clause.

- 1 **17. Short form easements and restrictive covenants**
- 2 (1) If the regulations declare that an easement of a specified
- 3 class created under section 5D as in force immediately
- 4 before commencement day corresponds to a specified short
- 5 form easement or restrictive covenant —
- 6 (a) an easement of that class that is in force
- 7 immediately before commencement day is taken to
- 8 be a short form easement or restrictive covenant of
- 9 the specified kind; and
- 10 (b) the rights and obligations under the easement are
- 11 those applicable to the specified short form
- 12 easement or restrictive covenant.
- 13 (2) An easement created under section 5D to which
- 14 subclause (1) does not apply and in force immediately
- 15 before commencement day —
- 16 (a) continues in force on the same terms and conditions
- 17 as if the amending Act had not been enacted; but
- 18 (b) may be discharged by amendment to the scheme
- 19 plan as if it were a short form easement or
- 20 restrictive covenant.
- 21 **18. Restricted use conditions**
- 22 (1) A restriction on the use to which a parcel or part of a parcel
- 23 may be put under section 6 as in force immediately before
- 24 commencement day is taken to be a restricted use condition.
- 25 (2) A reference to a retired person in such a restricted use
- 26 condition is a reference to that term within the meaning of
- 27 section 6A as in force immediately before commencement
- 28 day.
- 29 **19. Approvals for structural alterations**
- 30 An approval under section 7 or 7A as in force immediately
- 31 before commencement day is taken to be an approval under
- 32 section 87 or 88 respectively.

1 **20. Temporary common property**

- 2 (1) Land leased under section 18 as in force immediately before
3 commencement day is taken to be leased under section 92.
- 4 (2) Land noted on a strata plan or survey-strata plan under
5 section 18(4) as in force immediately before commencement
6 day that is leased by the strata company is taken to be
7 temporary common property for the strata titles scheme as if
8 the lease had been accepted under section 92.

9 **21. Termination of strata scheme by unanimous resolution**

10 If the documents required for termination of a strata titles
11 scheme under section 30 or 30A as in force immediately
12 before commencement day are lodged with the Registrar of
13 Titles before commencement day, the Registrar of Titles
14 must take the steps required under that section to terminate
15 the scheme as if the amending Act had not been enacted.

16 **22. Roll**

17 A roll kept by a strata company under section 35A as in
18 force immediately before commencement day is taken to be
19 a roll kept under section 105.

20 **23. Financial management**

- 21 (1) An administrative fund of a strata company established
22 under section 36 as in force immediately before
23 commencement day is taken to be an administrative fund
24 established under section 100.
- 25 (2) A reserve fund of a strata company established under
26 section 36 as in force immediately before commencement
27 day is taken to be a reserve fund established under
28 section 100.
- 29 (3) Contributions or other arrangements determined under
30 section 36 as in force immediately before commencement
31 day for any period that continues on or after commencement
32 day are taken to be contributions or arrangements
33 determined under section 100.

- 1 (4) Expenditure of a strata company already authorised for the
2 current financial year under section 47 as in force
3 immediately before commencement day but not expended
4 before that day is taken to be authorised under section 102.

5 **24. Extension of contract termination period**

6 Any extension of a period applying to a contract under
7 section 39A as in force immediately before commencement
8 day is taken to have been made under section 115.

9 **25. Provision of information**

10 If an application has been made to a strata company under
11 section 43 as in force immediately before commencement
12 day but not complied with before that day, the strata
13 company must deal with the application as if it had been
14 made under section 107.

15 **26. Authorisation of body corporate**

16 An authorisation of an individual under section 45 as in
17 force immediately before commencement day is taken to
18 have been given under section 136.

19 **27. Restrictions on powers of expenditure**

20 A special resolution under section 47(1)(a) as in force
21 immediately before commencement day is taken to be a
22 special resolution under section 102(6)(a)(i).

23 **28. Insurance in transitional period**

24 For 12 months after commencement day, a strata company
25 is not required to comply with Part 8 Division 1
26 Subdivision 2 or Schedule 2A Part 5 (as applicable to the
27 strata company) if it complies with Part IV Division 4 of the
28 Act as in force immediately before commencement day.

- 1 **29. Protection of buyers**
- 2 Part 5 of the Act as in force immediately before
- 3 commencement day continues to apply, as if the amending
- 4 Act had not been enacted, to —
- 5 (a) a contract for the sale and purchase of a lot in a
- 6 strata titles scheme entered into before
- 7 commencement day; and
- 8 (b) the buyer and seller for the contract; and
- 9 (c) any person who has been paid money in relation to
- 10 that contract.
- 11 **30. Proceedings**
- 12 (1) A proceeding in the District Court or Tribunal under this
- 13 Act commenced before commencement day must be dealt
- 14 with as if the amending Act had not been enacted.
- 15 (2) A proceeding under this Act that could have been, before
- 16 commencement day, commenced in the District Court must
- 17 instead be commenced in the Tribunal and the Tribunal has
- 18 jurisdiction to hear and determine the matter.
- 19

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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.

1 **Division 2 — *Caravan Parks and Camping Grounds***
2 ***Act 1995* amended**

3 **124. Act amended**

4 This Division amends the *Caravan Parks and Camping*
5 *Grounds Act 1995*.

6 **125. Section 5 amended**

7 In section 5(1) in the definition of *site* delete paragraph (b) and
8 insert:

9
10 (b) that is a lot in a freehold scheme under the
11 *Strata Titles Act 1985*;

12

13 **Division 3 — *Credit (Administration) Act 1984* amended**

14 **126. Act amended**

15 This Division amends the *Credit (Administration) Act 1984*.

16 **127. Section 4 amended**

17 In section 4 in the definition of *body corporate* delete
18 paragraph (a) and insert:

19

20 (a) a strata company under the *Strata Titles*
21 *Act 1985*; or

22

1 **Division 4 — *Credit Act 1984* amended**

2 **128. Act amended**

3 This Division amends the *Credit Act 1984*.

4 **129. Section 5 amended**

5 In section 5(1) in the definition of *body corporate* delete
6 paragraph (a) and insert:

- 7
8 (a) a strata company under the *Strata Titles*
9 *Act 1985*; or
10

11 **Division 5 — *Duties Act 2008* amended**

12 **130. Act amended**

13 This Division amends the *Duties Act 2008*.

14 **131. Section 3 amended**

15 In section 3 insert in alphabetical order:

- 16
17 *lease* does not include a strata lease;
18 *strata lease* has the meaning given in the *Strata Titles*
19 *Act 1985* section 3(1);
20

21 **132. Section 17 amended**

22 (1) Before section 17(2)(b) insert:

- 23
24 (ac) an estate in land created as a strata lot in a
25 freehold or a leasehold scheme on the
26 registration of the strata titles scheme or an
27 amendment of the strata titles scheme under the
28 *Strata Titles Act 1985*;

1 Note for this paragraph:

2 Common property created on the registration or
3 amendment of a strata titles scheme is also not new
4 dutiable property.

5 (ad) an estate in land created on termination of a
6 strata titles scheme under the *Strata Titles*
7 *Act 1985*;

8
9 (2) After section 17(2) insert:

10
11 (3) Without limiting section 11(1)(f), new dutiable
12 property that is land in Western Australia includes an
13 extension of the term of a strata lease for a lot in a
14 leasehold scheme by the postponement of the expiry
15 day for the scheme as referred to in the *Strata Titles*
16 *Act 2018* section 50(3).
17

18 **133. Section 18 amended**

19 After section 18(c) insert:

20
21 (ca) a strata lease;
22

23 **134. Section 87 amended**

24 In section 87(2)(j)(ii) delete “strata/survey-strata plan” and
25 insert:

26
27 strata titles scheme or an amendment of a strata titles scheme
28

1 **135. Section 90 amended**

2 (1) In section 90(b)(i) delete “strata lot; and” and insert:

3

4 lot in a strata scheme (within the meaning of the *Strata*
5 *Titles Act 1985*); and

6

7 (2) In section 90(b)(ii) delete “strata”.

8 **136. Section 112 amended**

9 (1) In section 112(6):

10 (a) in paragraph (a) delete “section 21I or 21M or an order
11 under section 103P of that Act; or” and insert:

12

13 Schedule 2A clause 21I; or

14

15 (b) delete paragraphs (b) and (c);

16 (c) in paragraph (d) delete “Part II Division 2A or Part III
17 Division 3,” and insert:

18

19 Schedule 2A Part 4 Division 1 or 2,

20

1 **Division 6 — *Environmental Protection Act 1986* amended**

2 **137. Act amended**

3 This Division amends the *Environmental Protection Act 1986*.

4 **138. Section 3 amended**

5 (1) In section 3(1) in the definition of ***responsible authority***
6 paragraph (b)(ii) delete “a strata plan, strata plan of subdivision
7 or strata plan of consolidation required to be accompanied by a
8 certificate issued under section 23 of” and insert:

9
10 a subdivision of land by a strata scheme under

11
12 (2) Delete section 3(2a)(b) and insert:

13
14 (b) a subdivision of land by a strata scheme under
15 the *Strata Titles Act 1985*.

16
17 **Division 7 — *First Home Owner Grant Act 2000* amended**

18 **139. Act amended**

19 This Division amends the *First Home Owner Grant Act 2000*.

20 **140. Section 6 amended**

21 After section 6(1)(b) insert:

22
23 (ba) a strata lease of the land, as defined in the
24 *Strata Titles Act 1985* section 3(1);

25

1 **141. Section 14B amended**

2 In section 14B(6)(a) delete “a proposed strata plan or
3 survey-strata plan within the meaning of” and insert:

4
5 for a strata titles scheme or amendment of a strata titles scheme
6 under
7

8 **Division 8 — *Heritage of Western Australia Act 1990* amended**

9 **142. Act amended**

10 This Division amends the *Heritage of Western Australia*
11 *Act 1990*.

12 **143. Section 78 amended**

13 In section 78(1)(d) delete “approval under section 25 of the
14 *Strata Titles Act 1985*; and” and insert:

15
16 endorsing a strata plan with unconditional approval of a
17 subdivision under the *Strata Titles Act 1985* section 15(4); and
18

19 **Division 9 — *Land Administration Act 1997* amended**

20 **144. Act amended**

21 This Division amends the *Land Administration Act 1997*.

22 **145. Section 3 amended**

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

24
25 *leasehold scheme* has the meaning given in the *Strata*
26 *Titles Act 1985* section 3(1);
27

1 **146. Section 16 amended**

2 After section 16(2) insert:

3

4 (2A) If the charge secures the due performance of conditions
5 concerning a specified use under section 75(1) and
6 those conditions are varied under that section, the
7 charge is to be taken to secure the performance of the
8 conditions as so varied.

9

10 **147. Section 35 amended**

11 (1) In section 35(4):

12 (a) in paragraph (a)(ii) delete “if a sublease or caveat” and
13 insert:

14

15 if a sublease, caveat or other interest

16

17 (b) in paragraph (a)(ii) delete “Crown land;” and insert:

18

19 Crown land; or

20

21 (c) after paragraph (a)(ii) insert:

22

23 (iii) if it is land referred to in
24 subsection (1)(b) subdivided by a
25 leasehold scheme, remains so
26 subdivided and the freehold reversion in
27 the land is held by the Minister until the
28 termination of the leasehold scheme,
29 when the land becomes Crown land;

30

- 1 (2) In section 35(5)(a)(i) delete “sublease or caveat” and insert:
2
3 sublease, caveat or other interest
4
- 5 (3) In section 35(6) after “sublease” insert:
6
7 or other interest
8
- 9 (4) In section 35(7):
10 (a) after “sublease” insert:
11
12 or other interest
13
14 (b) delete “sublessee,” and insert:
15
16 sublessee or interest holder,
17
18 (c) delete “sublease.” and insert:
19
20 sublease or other interest.
21
- 22 (5) In section 35(10) delete “any sublease or caveat” and insert:
23
24 it is subdivided by a leasehold scheme or any sublease, caveat
25 or other interest that
26
- 27 (6) After section 35(10) insert:
28
- 29 (10A) If the freehold reversion in land forfeited under this
30 section is held by the Minister, as referred to in
31 subsection (4)(a)(iii), then nothing in this Act, or any

1 other law, affects the capacity of the Minister under the
2 *Strata Titles Act 1985* to be, and to exercise all rights
3 and functions as —

- 4 (a) the owner of a leasehold scheme; and
5 (b) if the Minister, as owner of a leasehold scheme,
6 re-enters a lot in a leasehold scheme under the
7 *Strata Titles Act 1985* — the owner of a lot in a
8 leasehold scheme.
9

10 **148. Section 72 amended**

- 11 (1) In section 72 insert in alphabetical order:
12

13 *owner of a leasehold scheme* has the meaning given in
14 the *Strata Titles Act 1985* section 3(1);

15 *resolution without dissent* has the meaning given in
16 the *Strata Titles Act 1985* section 3(1);

17 *scheme by-laws* has the meaning given in the *Strata*
18 *Titles Act 1985* section 3(1);

19 *strata company* has the meaning given in the *Strata*
20 *Titles Act 1985* section 3(1);

21 *strata lease* has the meaning given in the *Strata Titles*
22 *Act 1985* section 3(1).
23

- 24 (2) In section 72 in the definition of *employee* delete “1994.” and
25 insert:

26
27 *1994;*
28

1 **149. Section 75 amended**

2 (1) After section 75(3) insert:

3
4 (3A) Conditional tenure land cannot be subdivided except by
5 a leasehold scheme and with the written permission of
6 the Minister.

7 (3B) If conditional tenure land is subdivided by a leasehold
8 scheme –

9 (a) strata leases of lots in the scheme, and the
10 scheme by-laws, are invalid to the extent that
11 they are inconsistent with the conditions
12 concerning the specified use; and

13 (b) a strata lease of a lot in the scheme is taken to
14 contain a condition (contravention of which
15 may lead to forfeiture of the lot to the owner of
16 the leasehold scheme) that the lot must not be
17 used for a purpose that is inconsistent with the
18 conditions concerning the specified use; and

19 (c) if the owner of the leasehold scheme or the
20 strata company refuses or fails to take action to
21 enforce a strata lease or the scheme by-laws
22 after being given a reasonable opportunity to do
23 so, the Minister may take that action as if the
24 Minister were the owner of the leasehold
25 scheme or the strata company, as the case
26 requires.

27
28 (2) In section 75(4) delete “When conditional tenure land is used in
29 breach of any condition concerning the specified use —” and
30 insert:

31
32 If there is a breach of the conditions concerning the specified
33 use of conditional tenure land —
34

- 1 (3) In section 75(6) before “licence” insert:
2
- 3 lease,
4
- 5 (4) After section 75(6) insert:
6
- 7 (6A) Subsection (6) does not apply -
8 (a) to an individual lot in a leasehold scheme
9 (rather than to the parcel of land subdivided by
10 the scheme); or
11 (b) in circumstances prescribed in the regulations.
- 12 (6B) The Minister may, by order, on the application of the
13 holder of the freehold in conditional tenure land, vary
14 the conditions concerning the specified use.
- 15 (6C) The Minister may charge the holder an amount for
16 variation of the conditions concerning the specified
17 use, being the difference between the unimproved
18 value of the conditional tenure land, as determined by
19 the Minister on the advice of the Valuer-General, if it
20 were transferred at the time of the variation subject to
21 the conditions as varied and the price that was paid for
22 the conditional tenure land when it was transferred to
23 the holder or a predecessor of the holder under
24 subsection (1).
- 25 (6D) Subject to the regulations, an application for variation
26 of the conditions concerning the specified use must be
27 accompanied by —
28 (a) the written consent of each person with a lease,
29 licence, mortgage, charge, security or other
30 encumbrance over the conditional tenure land
31 (disregarding any such lease, licence, mortgage,
32 charge, security or encumbrance over an
33 individual lot in a leasehold scheme rather than

- 1 over the parcel of land subdivided by the
2 scheme); and
3 (b) if the land is subdivided by a leasehold scheme,
4 evidence to the satisfaction of the Minister that
5 the strata company has passed a resolution
6 without dissent in favour of the variation.
7

8 (5) In section 75(4) after paragraph (a) delete “and” and insert:
9

10 or
11

12 **Division 10 — *Land Information Authority Act 2006* amended**

13 **150. Act amended**

14 This Division amends the *Land Information Authority Act 2006*.

15 **151. Section 94A amended**

16 In section 94A(5)(b) delete “section 131A;” and insert:
17

18 section 225;
19

1 **Division 11 — *Land Tax Assessment Act 2002* amended**

2 **152. Act amended**

3 This Division amends the *Land Tax Assessment Act 2002*.

4 **153. Section 43A amended**

5 Delete section 43A(1)(a) and insert:

6

- 7 (a) the new lot is not a lot in a strata scheme as
8 defined in the *Strata Titles Act 1985*
9 section 3(1); and
10

11 **154. Section 43B inserted**

12 At the end of Part 3 Division 5 insert:

13

14 **43B. Freehold reversion in parcel subdivided by**
15 **leasehold scheme, exemption for**

16 (1) In this section —

17 *parcel* has the same meaning as in the *Strata Titles*
18 *Act 1985* section 3(1).

19 (2) Land is exempt for an assessment year if at midnight
20 on 30 June in the previous financial year the land is —

- 21 (a) freehold reversion in a parcel that has been
22 subdivided under the *Strata Titles Act 1985* by
23 a leasehold scheme registered under that Act; or
24 (b) freehold in possession in a parcel that has been
25 subdivided, as referred to in clause 3(1)(d), by a
26 leasehold scheme to be registered under the
27 *Strata Titles Act 1985*.
28

1 **155. Glossary amended**

2 (1) In the Glossary clause 1 delete the definitions of:

3

4 *strata plan*

5 *strata scheme*

6 *strata title home unit*

7 *survey-strata plan*

8 *survey-strata scheme*

9

10 (2) In the Glossary clause 1 in the definition of *home unit* delete

11 paragraph (a) and insert:

12

13 (a) a lot as defined in the *Strata Titles Act 1985*

14 section 3(1); or

15

16 (3) In the Glossary clause 1 in the definition of *owner* delete

17 paragraph (b) and insert:

18

19 (b) in relation to a lot as defined in the *Strata Titles*

20 *Act 1985* section 3(1), means the owner of the lot

21 within the meaning of that Act; or

22

23 (4) In the Glossary clause 2(1) in the definition of *lot* delete

24 paragraph (a)(vii) and insert:

25

26 (vii) a lot defined in a scheme plan or

27 amendment of a scheme plan under the

28 *Strata Titles Act 1985* where the land the

29 subject of the scheme plan is subdivided as

30 referred to in clause 3(1)(d); or

31

- 1 (5) In the Glossary delete clause 3(1)(d) and (e) and insert:
2
3 (d) in the case of land the subject of a scheme plan or
4 amendment of a scheme plan under the *Strata Titles*
5 *Act 1985* —
6 (i) if the plan or amendment of the plan is
7 required to be endorsed with the
8 unconditional approval of the Western
9 Australian Planning Commission of the
10 subdivision under the *Strata Titles Act 1985*
11 section 15(4) or 17(3) — the plan or
12 amendment of the plan is so endorsed; or
13 (ii) if not — an occupancy permit or a building
14 approval certificate is granted under the
15 *Building Act 2011* Part 4 Division 3, as
16 required under the *Strata Titles Act 1985*
17 section 34(d)(i) or 35(1)(j)(i).
18

19 **Division 12 — *Local Government Act 1995* amended**

20 **156. Act amended**

21 This Division amends the *Local Government Act 1995*.

22 **157. Section 1.4 amended**

23 In section 1.4 in the definition of **owner** after paragraph (a)(i)
24 insert:

- 25
26 (ia) the owner of a lot in a leasehold scheme
27 as defined in the *Strata Titles Act 1985*
28 section 3(1); and
29

1 **Division 13 — *Perth Parking Management Act 1999* amended**

2 **158. Act amended**

3 This Division amends the *Perth Parking Management Act 1999*.

4 **159. Section 4 amended**

5 In section 4 in the definition of **owner** delete paragraph (a)
6 insert:

- 7
- 8 (a) if the land or building is part or all of the
9 common property or a lot in a strata titles
10 scheme within the meaning of the *Strata Titles*
11 *Act 1985* section 3(1) — the strata company for
12 that scheme, within the meaning of that Act; or
13

14 **Division 14 — *Planning and Development Act 2005* amended**

15 **160. Act amended**

16 This Division amends the *Planning and Development Act 2005*.

17 **161. Section 4 amended**

18 In section 4(1) in the definition of **lot** delete “in relation to a
19 strata scheme, a lot in relation to a survey-strata scheme, or a lot
20 shown as common property on a survey-strata plan, as those
21 terms are defined in the *Strata Titles Act 1985*,” and insert:

22

23 as defined in the *Strata Titles Act 1985* section 3(1);
24

1 **162. Section 136 amended**

2 (1) Delete section 136(3A) and insert:

3

4 (2D) Subsection (1) applies to land comprised of common
5 property or a lot in a strata titles scheme and a
6 reference in that subsection to a lot includes a reference
7 to a lot in a strata titles scheme.

8 (2E) However, subsection (1) does not apply to the sale of
9 common property or part of a lot, an agreement to sell
10 common property or part of a lot or the grant of an
11 option of purchase of common property or part of a lot
12 if the transaction is associated with a subdivision by
13 registration of an amendment of a strata titles scheme.

14 (2F) Words in subsections (2D) and (2E) have the meanings
15 given in the *Strata Titles Act 1985* section 3(1) (and
16 references to those words in sections 139 and 140 are
17 to be read accordingly).

18

19 (2) In section 136(3) in the definition of *licence to use or occupy*
20 delete “easement;” and insert:

21

22 easement.

23

24 (3) In section 136(3) delete the definition of *lot*.

25 **163. Section 148 deleted**

26 Delete section 148.

1 **164. Section 150 amended**

2 In section 150(3)(a) and (c) delete “plan lodged” and insert:

3

4 scheme plan lodged

5

6 **165. Section 152 amended**

7 (1) In section 152(1) delete “plan under” and insert:

8

9 scheme plan under

10

11 (2) In section 152(2)(a) delete “plan lodged” and insert:

12

13 scheme plan lodged

14

15 (3) In section 152(3)(b) delete “plan” and insert:

16

17 scheme plan

18

19 **166. Part 10 Division 5A inserted**

20 After section 164 insert:

21

22 **Division 5A — Integration of subdivision and**
23 **development**

24 **164A. Integration of subdivision and development**

25 (1) This section applies if, on an application for
26 subdivision approval or development approval, the
27 Commission or responsible authority forms the opinion
28 that the integration of subdivision and development

- 1 approvals or multiple subdivision or development
2 approvals is necessary or desirable —
- 3 (a) due to the size of the lots and potential impact
4 on the amenity of the locality; or
- 5 (b) for other reasons associated with the
6 achievement of orderly and proper planning,
7 and the preservation of the amenity, of the
8 locality.
- 9 (2) The main purposes of integrating subdivision and
10 development approvals are —
- 11 (a) to facilitate a cohesive approach to planning
12 and development in circumstances
13 where subdivision and development should
14 only be undertaken in conjunction with each
15 other; and
- 16 (b) to ensure that, in those circumstances,
17 appropriate conditions for both the subdivision
18 and development of land are determined as
19 early as is practicable.
- 20 (3) Without limitation, integration of subdivision and
21 development approvals will generally be necessary or
22 desirable in the context of a strata scheme within the
23 meaning of the *Strata Titles Act 1985*.
- 24 (4) If this section applies —
- 25 (a) the Commission may, in order to achieve the
26 necessary or desirable integration of
27 subdivision and development approvals, refuse
28 to determine an application for subdivision
29 approval until other applications for subdivision
30 or development approvals are made or are made
31 and determined; and
- 32 (b) the Commission may refuse to unconditionally
33 endorse a diagram or plan of survey with a
34 subdivision approval in order for the plan to be

- 1 registered in the Register under the *Transfer of*
2 *Land Act 1893* unless satisfied that —
- 3 (i) the diagram or plan of survey is an
4 accurate depiction of the subdivision
5 that has been prepared after completion
6 of the works necessary for the
7 subdivision and the construction or
8 modification of the buildings necessary
9 for the development, the approvals of
10 which have been required to be
11 integrated; and
- 12 (ii) the subdivision and development has
13 been undertaken consistently with the
14 relevant approvals, including their
15 conditions; and
- 16 (iii) the requirements of the *Building*
17 *Act 2011* have been complied with for
18 the development.
- 19 (5) Regulations may be made —
- 20 (a) requiring the Commission or a responsible
21 authority to inform each other and share
22 information about an application for
23 subdivision approval or development approval;
24 or
- 25 (b) requiring an applicant to provide additional
26 documents or information reasonably required
27 to determine whether subdivision and
28 development approvals should be integrated
29 under this section and to give effect to any such
30 integration; or
- 31 (c) establishing processes for the concurrent or
32 separate consideration of subdivision and
33 development approvals to which this section
34 applies and for the imposition of conditions of
35 approvals to which this section applies; or

1 (d) otherwise facilitating the integration of
2 subdivision and development approvals.
3

4 **167. Section 165 amended**

5 Delete section 165(1)(b) and insert:
6

7 (b) a strata titles scheme as defined in the *Strata*
8 *Titles Act 1985* section 3(1), registered, or
9 lodged for registration, under that Act,
10

11 **168. Section 167 amended**

12 In section 167(1)(a) and (c) delete “plan lodged” and insert:
13

14 scheme plan lodged
15

16 **169. Section 168 amended**

17 (1) In section 168(1), (3), (4)(a) and (8)(a) delete “plan lodged” and
18 insert:
19

20 scheme plan lodged
21

22 (2) In section 168(9) delete “plan that” and insert:
23

24 scheme plan that
25

1 **170. Schedule 2 amended**

2 In schedule 2 clause 4(4) and (5) delete “Part II” and insert:

3

4 Part 3

5

6 **Division 15 — *Property Law Act 1969* amended**

7 **171. Act amended**

8 This Division amends the *Property Law Act 1969*.

9 **172. Section 68A amended**

10 In section 68A delete “1987.” and insert:

11

12 *1987* and the *Strata Titles Act 1985*.

13

14 **Division 16 — *Rates and Charges (Rebates and Deferments)***
15 ***Act 1992* amended**

16 **173. Act amended**

17 This Division amends the *Rates and Charges (Rebates and*
18 *Deferments) Act 1992*.

19 **174. Section 27 amended**

20 In section 27(1) delete “possession in land” and insert:

21

22 possession in land, a strata lease as defined in the *Strata Titles*
23 *Act 1985*

24

1 **175. Section 28 amended**

2 Delete section 28(1)(a)(ii) and insert:

3

4 (ii) made under the *Strata Titles Act 1985*
5 Part 5 Division 4;

6

7 **176. Section 33 amended**

8 In section 33(1) delete “possession in land” and insert:

9

10 possession in land, a strata lease as defined in the *Strata Titles*
11 *Act 1985*

12

13 **177. Section 43 amended**

14 In section 43(2)(a) delete “land; or” and insert:

15

16 land or as the sole owner of a lot in a leasehold scheme, as
17 defined in the *Strata Titles Act 1985* section 3(1); or

18

19 **Division 17 — *Real Estate and Business Agents***
20 ***Act 1978* amended**

21 **178. Act amended**

22 This Division amends the *Real Estate and Business Agents*
23 *Act 1978*.

1 **179. Section 61 amended**

2 In section 61(4a) in the definition of *prescribed transaction*
3 delete paragraph (a) and insert:

- 4
5 (a) the sale of a proposed lot under the *Strata Titles*
6 *Act 1985* before the lot is created;

7
8 **180. Section 131A amended**

9 In section 131A in the definition of *dwelling* delete
10 paragraph (a) and insert:

- 11
12 (a) a lot within the meaning of the *Strata Titles*
13 *Act 1985*; and

14
15 **Division 18 — Residential Tenancies Act 1987 amended**

16 **181. Act amended**

17 This Division amends the *Residential Tenancies Act 1987*.

18 **182. Section 5 amended**

19 After section 5(1) insert:

- 20
21 (1A) This Act does not apply to a residential tenancy
22 agreement that is a strata lease, within the meaning of
23 the *Strata Titles Act 1985*.

24 Note for this subsection:

25 This subsection does not affect the application of this Act to
26 a residential tenancy agreement that is a sublease of a
27 strata lease.
28

1 **Division 19 — *Retirement Villages Act 1992* amended**

2 **183. Act amended**

3 This Division amends the *Retirement Villages Act 1992*.

4 **184. Section 54B inserted**

5 Before section 55 insert:

6

7 **54B. Jurisdiction of Tribunal under *Strata Titles Act 1985***

8 Section 54 does not derogate from the jurisdiction of
9 the Tribunal under the *Strata Titles Act 1985* in respect
10 of a retirement village that is also a strata titles scheme.

11

12 **Division 20 — *Sale of Land Act 1970* amended**

13 **185. Act amended**

14 This Division amends the *Sale of Land Act 1970*.

15 **186. Section 11 amended**

16 In section 11 in the definition of *lot* delete paragraphs (a) and
17 (b) and insert:

18

- 19 (a) a lot as defined in the *Strata Titles Act 1985*
20 section 3(1); and

21

22 **Division 21 — *Settlement Agents Act 1981* amended**

23 **187. Act amended**

24 This Division amends the *Settlement Agents Act 1981*.

1 **188. Section 46 amended**

2 (1) In section 46(2):

3 (a) in paragraph (a) delete “2005; or” and insert:

4

5 2005 or the *Strata Titles Act 1985*; or

6

7 (b) in paragraph (b) after “land” insert:

8

9 the subject of a strata lease as defined in the *Strata Titles*
10 *Act 1985* section 3(1) or land

11

12 **189. Section 47 amended**

13 In section 47(2)(a) after “except”:

14

15 a strata lease as defined in the *Strata Titles Act 1985*
16 section 3(1) or

17

18 **Division 22 — *Swan and Canning Rivers Management***
19 ***Act 2006* amended**

20 **190. Act amended**

21 This Division amends the *Swan and Canning Rivers*
22 *Management Act 2006*.

23 **191. Section 3 amended**

24 In section 3(1) in the definition of **owner** after paragraph (b)
25 insert:

26

27 (c) in relation to a strata lease as defined in the
28 *Strata Titles Act 1985* section 3(1) — the owner

1 of the lot to which the strata lease relates,
2 within the meaning of that Act;
3

4 **192. Section 28 amended**

5 In section 28(1)(b) after “lease” insert:
6

7 (including a strata lease as defined in the *Strata Titles Act 1985*
8 section 3(1))
9

10 **Division 23 — *Transfer of Land Act 1893* amended**

11 **193. Act amended**

12 This Division amends the *Transfer of Land Act 1893*.

13 **194. Section 3 amended**

14 At the end of section 3 insert:
15

16 (4) If a provision of this Act is inconsistent with a
17 provision of the *Strata Titles Act 1985* that relates to
18 strata leases, the provision of that Act prevails to the
19 extent of the inconsistency.
20

21 **195. Section 4 amended**

22 In section 4(1) delete the definition of *strata/survey-strata plan*.

23 **196. Section 11 amended**

24 In section 11 after “by this” insert:
25

26 or any other
27

1 **197. Section 48B amended**

2 (1) In section 48B(1) after “unless” insert:

3

4 subsection (1A) applies or

5

6 (2) After section 48B(1) insert:

7

8 (1A) A duplicate certificate of title is not to be issued to the
9 proprietor of a strata leasehold estate in land as defined
10 in the *Strata Titles Act 1985* section 3(1).

11

12 (3) In section 48B(3) delete “proprietor of land that is the subject of
13 a certificate of title has requested that a duplicate certificate of
14 title not be” and insert:

15

16 duplicate certificate of title is not

17

18 (4) In section 48B(5) delete “Nothing” and insert:

19

20 Subject to subsection (1A), nothing

21

22 **198. Section 65A amended**

23 Delete section 65A(2) and insert:

24

25 (2) If an easement is created under Part IVA by notation
26 on a scheme plan as defined in the *Strata Titles*
27 *Act 1985* section 3(1) or as a short form easement or
28 restrictive covenant under that Act, it is not necessary
29 for a memorandum of the easement to be entered on
30 the certificates of title for the dominant and servient
31 tenements that are also a subject of that plan.

32

1 **199. Section 129A amended**

2 Delete section 129A(6) and insert:

3

4 (6) If a restrictive covenant is created under Part IVA by
5 notation on a scheme plan as defined in the *Strata*
6 *Titles Act 1985* section 3(1) or as a short form
7 easement or restrictive covenant under that Act, it is
8 not necessary for a memorandum of the restrictive
9 covenant to be entered on the certificates of title for the
10 dominant and servient tenements that are also a subject
11 of that plan.

12

13 **200. Section 129C amended**

14 In section 129C(1d) in the definition of *lot* delete “lot, other
15 than a common property lot on a survey-strata plan;” and insert:

16

17 lot;

18

19 **201. Section 136A amended**

20 In 136A(b) delete “strata/survey-strata” and insert:

21

22 scheme

23

24 **202. Section 136F amended**

25 In 136F(1)(a) before “plan” insert:

26

27 scheme

28

1 **203. Section 198 amended**

2 In section 198 after “this Act” insert:

3

4 or the *Strata Titles Act 1985*

5

6 **204. Section 239 amended**

7 (1) In section 239(1):

8 (a) in paragraph (b) delete “graphic or a strata/survey-strata
9 plan;” and insert:

10

11 graphic;

12

13 (b) before paragraph (c) insert:

14

15 (bb) a scheme document or any item registered or
16 recorded for a strata titles scheme under the
17 *Strata Titles Act 1985*;

18

19 **Division 24 — *Valuation of Land Act 1978* amended**

20 **205. Act amended**

21 This Division amends the *Valuation of Land Act 1978*.

22 **206. Section 24 amended**

23 In section 24(1) delete “sections 62 and 63 of”.

24 **207. Section 37 amended**

25 In section 37(c) delete “section 60 of”.

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