Western Australia

Strata Titles Act 1985

Strata Titles (General) Regulations 2019

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Western Australia

Strata Titles (General) Regulations 2019

Contents

Part 1 — Preliminary

1. Citation 1
2. Commencement 1
3. Terms used 1
4. Notes and examples not part of regulations 3

Part 2 — Further provisions relating to terms used in the Act

5. Requirements for approved form 4
6. Boundaries of cubic space 4
7. Calculation of open space 5
8. Calculation of plot ratio 6
9. Insurable asset 7
10. Key documents 7
11. Volunteer strata managers 8

Part 3 — Scheme plans

12. Additional requirements for lodgement and registration 9
13. Application of Survey Regulations to scheme plans 9
14. Surveyor's certificate 10
15. Preparation and certification of scheme plans and amendments 11
16. Numbering of lots and common property 12

Part 4 — Planning and development

17. Matters to be considered on application for subdivision approval 14

18. Duration of subdivision approval 14
19. Exemptions from planning approval 15
20. Review of Planning Commission decision 16
21. Review of local government decision 16

Part 5 — Short form easements and restrictive covenants

Division 1 — Preliminary
22. Terms used 17

Division 2 — Identification, location and nature
23. Permitted easements and short form descriptions 18
24. Location of easement area and identification of property affected 19
25. Permitted restrictive covenants and short form descriptions 20
26. Location of covenant area and identification of property affected 21
27. Benefit of short form easement or restrictive covenant need not attach to land 22
28. Short form easement or restrictive covenant binds strata company 22
29. Short form documents 22

Division 3 — Rights and liabilities under short form easements
30. General 23
31. Vehicle access easement 23
32. Light and air easement 25
33. Party wall easement 26
34. Intrusion easement 27
35. Pedestrian access easement 29
36. Easement in gross 30
37. Easement for utility services 31
38. Entry under easement 40
39. Rectification of damage 40
40. Indemnity payable by grantee 41
41. Payment of consideration 41

Division 4 — Rights and liabilities under short form restrictive covenants
42. General 42

43. Right of way restrictive covenant 42
44. Land use restrictive covenant 43
45. Conservation restrictive covenant 43
46. Building envelope restrictive covenant 44
47. Fire restrictive covenant 44

Part 6 — Staged subdivision

48. Terms used 45
49. Significant variations 45
50. Exemption for stage of subdivision with no significant variations 46
51. Persons entitled to dispute determination 47
52. Disputes about certified variations 48
53. Requirements relating to staged subdivision by-laws 48

Part 7 — Schedule of unit entitlements

54. Determining capital value of a lot 51
55. Certificate by licensed valuer 52

Part 8 — Scheme by-laws

56. Application for registration of scheme by-laws 53
57. Enforcement of scheme by-laws 53
58. Maximum penalty for contravention of scheme by-laws 53

Part 9 — Strata leases

59. Relationship with other laws 54
60. Consent of owner to deal with or dispose of strata title 54
61. Requirements for strata lease 54
62. Covenants or conditions of strata lease that are allowed 55
63. Amendment of strata lease 56

Part 10 — Common property (utility and sustainability infrastructure) easements

64. Special procedures for notice under s. 64 57
65. Consent of strata company to development 57
66. Obligations of infrastructure owner 58
67. Rights of infrastructure owner 58
68. Disposal of lot by infrastructure owner 59
69. Strata company to be notified of certain actions 59
70. Insurance 60
71. Damage to common property 60
72. Removal of infrastructure after termination of contract 61

Part 11 — Lot owners and occupiers

73. Term used: structure 62
74. Grounds for refusal of structural alteration 62
75. Application for approval of structural alteration 62

Part 12 — Strata companies

76. Temporary common property 66
77. Requirement to have 10 year plan 66
78. Rate of interest on unpaid contributions 69
79. Designated strata company — extended meaning 70
80. Expenditure on common property requiring special resolution 70
81. Budget variations that are authorised 71
82. Expenditure subject to objection procedure 71
83. Period in which records must be retained 71
84. Form of records 74
85. Person with proper interest in information 74
86. Fees for applications under s. 107 74
87. Inspection of material 75
88. Maximum charge for copies of material 76
89. Voting 76

Part 13 — Strata managers

90. Terms used 77

91. Repair or maintenance work and specialist work excluded 80
92. Strata manager must obtain national criminal record checks 80
93. Strata manager must provide criminal record statement to strata company 82
94. Volunteer strata manager to table criminal record check 83
95. Prescribed educational qualifications 84
97. Strata manager must warrant prescribed educational qualifications are held 86
97A. Saving provision for former prescribed educational qualifications 87
97B. Prescribed experience qualifications 88
97C. Strata manager must warrant prescribed experience qualifications are satisfied 89
97D. 2025 transitional provision for prescribed experience qualifications 90
97E. 2025 transitional provisions for strata management contract requirements 91
98. Strata manager must obtain professional indemnity insurance 91
99. Strata manager must warrant professional indemnity insurance in contract 91
100. Disclosure of remuneration and other benefits 92
101. Operation of trust accounts 93
102. Strata manager to provide annual return 94

Part 14 — Protection of buyers

103. Further information to be provided 96
104. Information to be given before contract 96
105. Particulars of notifiable variation to be provided to buyer 97
106. Occurrence of notifiable variation 99

Part 15 — Termination proposals

Division 1 — Preliminary

107. Terms used 100

Division 2 — Outline proposal

108. Details of arrangements for independent advice or representation 101
109. Additional information for outline proposal 102

Division 3 — Independent advocate

110. Level of independence of independent advocate 102
111. Qualifications of independent advocate 103
112. Assessment of proposal by independent advocate 104
113. Presentation by independent advocate 105
114. Maximum charge for exercise of primary functions 106

Division 4 — Full proposal

115. Tenants entitled to 5 year term 107
116. Person who can provide report of required works 107
117. Valuation methodology 108
118. Validity period of valuation 108
119. Preparation and certification of reports 108
120. Termination valuation report to be provided to Valuer-General 108

Division 5 — Voting, confirmation and withdrawal

121. Notice of proposal to vote under s. 182 108
122. Independent vote counter 109
123. Provision of record of votes 110
124. Protection of record of votes (resolution subject to confirmation) 110
125. Material to accompany application by proponent for confirmation of termination resolution 111
126. Things strata company must provide to Tribunal 112
127. Notice of termination proposal not proceeding 112

Division 6 — Arrangements for independent advice or representation for owners

128. Proponent to establish trust 113
129. Stages of termination proposal process for funding purposes 114
130. Services for which funding is to be provided 114
131. Advisory services 115
132. Representation services 115
133. Ancillary services 116
134. Method of funding under trust 117

135. Amount of funding 117
136. Other rules about funding 119
137. Trustee of trust 120
138. Disputes about trustee's performance 120
139. Trust account 121
140. Records 121
141. Privacy of information 122
142. Winding up of trust 123

Division 7 — Vulnerable persons

143. Identification of vulnerable persons 123
144. Diminished capacity to understand termination proposal process 124
145. Diminished capacity to cope with termination proposal process 125
146. Diminished capacity to respond to termination proposal process 125

Division 8 — Arrangements for recognition of vulnerable persons

147. Independent advocate to identify vulnerable persons to proponent 126
148. Owner of lot may apply to be recognised as vulnerable person 126
149. Proponent to make decision about claim of vulnerability 127
150. Trustee may require information about type of vulnerability 128
151. Dispute about proponent's decision 128
152. Unanimous owner-initiated termination proposals excluded 129

Division 9 — Provisions for unanimous owner-initiated termination proposals

153. Unanimous owner-initiated termination proposals 129
154. Permission to submit termination proposal as unanimous owner-initiated termination proposal 130
155. Outline of proposal 130
156. Qualifications of independent advocate 132
157. Full proposal 132
158. Person who can provide report of required works 133

159. Arrangements for independent advice or representation for owners 133

Part 16 — Tribunal proceedings

160. Occupier disputes relating to termination proposals 135
161. Orders required to be made by legally qualified member 135
162. Internal review of Tribunal decisions 136

Part 17 — Miscellaneous

163. Expiry day for leasehold scheme in scheme notice 137
164. Postponement of expiry day for leasehold scheme 137
165. Variation of strata titles scheme — redefining plan 137
166. Notice of impending expiry of leasehold scheme 138
167. Conversion of tenancy in common to strata titles scheme — simplified procedure 139
168. Disposition statements 140
169. Fees payable to Registrar of Titles 143
170. Fees payable to local government 144
171. Fees payable to Planning Commission 146

Part 18 — Repeal, savings and transitional

172. Terms used 147
173. *Strata Titles General Regulations 1996* repealed 147
174. Open space and plot ratio changes 148
175. Phasing-in of financial year requirements 148
176. Scheme notice for strata titles schemes continued by 2018 amending Act 149
177. Applications lodged before commencement day 149
178. Staged subdivisions under pre-commencement by-laws 151
179. Requirement to have 10 year plan 152
180. Compulsory changes to scheme by-laws 152
181. Phasing-in of national criminal record check requirements 153
182. Phasing-in of educational qualification requirements 154

182A. Transitional provision for *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 3) 2024* 156
183. Phasing-in of professional indemnity insurance requirements 157

Schedule 1 — Special provisions relating to single tier strata scheme

1. Term used: Schedule 2A 158
2. Application of Schedule 158
3. Permitted boundary deviation 158
4. Boundaries of cubic space — things that are included 158
5. Boundaries of cubic space — things that are excluded 159
6. Merger by resolution of buildings that are common property — sketch plan required 159
7. Merger by resolution of land that is common property — requirements for sketch plan 160
8. Merger by resolution of land that is common property — surveyor's certificate 160
9. Merger by resolution of land that is common property — disposition statement 161
10. Conversion of strata scheme to survey-strata scheme — survey-strata plan 161
11. Conversion of strata scheme to survey-strata scheme — certificate of interest holders 162
12. Conversion of strata scheme to survey-strata scheme — certificate of licensed surveyor 162
13. Conversion of strata scheme to survey-strata scheme — disposition statement 163
14. Action to be taken by Registrar of Titles 163
15. Insurance 164

Schedule 2 — Explanation of effect of section 47

1. Enforcement of scheme by-laws 165
2. Who can apply for enforcement of scheme by-laws 165

3. How this could affect you 165

Schedule 3 — Provisions to be included in strata lease

Division 1 — General

1. Preliminary 167
2. Terms used 167
3. Lease of the lot 167
4. Term of strata lease 167
5. Covenants or conditions of strata lease 168
6. Special provision for conditional tenure land 168
7. Services of notices under strata lease 168

Division 2 — Covenants or conditions

8. Term used: designated event 168
9. Compliance with legislation 169
10. Compliance with scheme by-laws 169
11. Requirement to maintain lot 169
12. Requirement to notify lessor of structural damage 169
13. Payment of rates and charges 169
14. Discharge of mortgages and removal of caveats 170
15. Change in ownership details 170
16. Lease by lessee must be consistent with strata lease 170
17. Inspection of lot 171
18. Lessee to deliver vacant possession when leasehold scheme expires 171

Schedule 5 — Fees payable to Registrar of Titles

Schedule 6 — Fees payable to Planning Commission

Notes

Compilation table 177

Defined terms

Strata Titles (General) Regulations 2019

Part 1 — Preliminary

1. Citation

These regulations are the *Strata Titles (General) Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

(a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;

(b) the rest of the regulations — on the day on which the *Strata Titles Amendment Act 2018* section 4 comes into operation.

3. Terms used

In these regulations —

assistant strata community manager has the meaning given in regulation 90;

calendar year means a period of 12 months beginning on 1 January;

commencement day means the day on which the *Strata Titles Amendment Act 2018* section 4 comes into operation;

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1;

Licensed Surveyors (General) Regulations means the *Licensed Surveyors (General Surveying Practice) Regulations 1961*;

Licensed Surveyors (TLA) Regulations means the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961*;

local legal practitioner has the meaning given in the *Legal Profession Uniform Law Application Act 2022* section 3(1);

local planning scheme means a local planning scheme in force under the *Planning and Development Act 2005*;

personal information has the meaning given in the *Freedom of Information Act 1992* Glossary clause 1;

prescribed educational qualification has the meaning given in regulation 90;

property type of a lot means the property type classification of the lot as residential, commercial or industrial land;

public authority means —

(a) a public authority within the meaning given in the *Transfer of Land Act 1893* section 4(1); or

(b) a public authority within the meaning given in the *Community Titles Act 2018* section 3(1); or

(c) a utility service provider;

R-Codes means the planning codes entitled Residential Design Codes prepared by the Planning Commission under the *Planning and Development Act 2005*, as amended from time to time;

section means a section of the Act;

Survey Regulations means the Licensed Surveyors (General) Regulations, the Licensed Surveyors (TLA) Regulations and the *Transfer of Land (Surveys) Regulations 1995* or any other rules or regulations, including any directions, instructions or guidelines issued under any of those rules or regulations, for the time being in force for the guidance of surveyors when practising under the *Transfer of Land Act 1893*.

[Regulation 3 amended: SL 2022/116 r. 8; SL 2024/18 r. 6; SL 2025/182 r. 13.]

4. Notes and examples not part of regulations

A note or example set out at the foot of a provision of these regulations is provided to assist understanding and does not form part of these regulations.

Part 2 — Further provisions relating to terms used in the Act

5. Requirements for approved form

(1) For the purposes of the definition of ***approved form*** in section 3(1), a document, evidence or information is in a form approved under the regulations if the document, evidence or information is in a form approved by the Registrar of Titles.

(2) A document, evidence or information is taken to be in a form approved by the Registrar of Titles if it is provided in accordance with requirements specified in relation to that document, evidence or information on the website of the Authority.

(3) An application for the approval of the Planning Commission under the Act is in a form approved under the regulations if it is in a form approved by the Planning Commission (despite subregulation (1)).

(4) An application is taken to be in a form approved by the Planning Commission if it is provided in accordance with requirements specified in relation to that application on the website of the Department of Planning, Lands and Heritage.

(5) The document, evidence or information must also comply with any other requirements of these regulations and the Transfer of Land Act requirements.

6. Boundaries of cubic space

(1) In this regulation —

single tier building means —

(a) a building that is part of a single tier strata scheme; or

(b) a building that, although not part of a single tier strata scheme, does not include any lot or part of a lot that

would be inconsistent with the building being part of a single tier strata scheme.

(2) For the purposes of section 3(2)(b), the boundaries of any cubic space referred to in paragraph (a) of the definition of ***floor plan*** in section 3(1) must be described in accordance with this regulation.

(3) If the cubic space is within a building that is not a single tier building, the boundaries of the cubic space must be —

(a) in the case of a vertical boundary, if the base of any wall corresponds substantially with any line referred to in paragraph (a) of the definition of ***floor plan*** in section 3(1) — the inner surface of that wall; and

(b) in the case of a horizontal boundary, if any floor or ceiling joins a vertical boundary of that cubic space — the upper surface of that floor and the under surface of that ceiling.

(4) If the cubic space is within a building that is a single tier building, the boundaries of the cubic space must be described in a manner that unambiguously defines the cubic space and its location in relation to the relevant building.

7. Calculation of open space

(1) For the purposes of the definition of ***open space*** in section 3(1), to calculate the open space of a lot in a strata titles scheme, the open space of the parcel that is the subject of the strata titles scheme is to be apportioned between lots —

(a) in accordance with the scheme by-laws; or

(b) if the scheme by-laws do not provide for that apportionment, in accordance with the pro rata entitlements of each lot.

(2) The open space of the parcel that is the subject of the strata titles scheme is calculated as follows —

(a) if the parcel is residential development to which the R-Codes apply — in accordance with the R-Codes;

(b) if paragraph (a) does not apply — in accordance with the relevant local planning scheme;

(c) if neither paragraph (a) nor (b) applies — in the same way as it would be determined by the local government if a development application (within the meaning given in the *Planning and Development Act 2005* section 4(1)) were made for approval of a structural alteration of the lot.

(3) The pro rata entitlements of a lot are calculated on the proportion that the area of a lot bears to the area of the parcel.

Note for this regulation:

Open space calculations are used in Part 7 Division 2 of the Act.

8. Calculation of plot ratio

(1) For the purposes of the definition of ***plot ratio*** in section 3(1), to calculate plot ratio in relation to a parcel, the gross total of the areas of all floors in any building on the parcel is to be calculated as follows —

(a) if the parcel is residential development to which the R-Codes apply — in the same way as plot ratio area is calculated under the R-Codes;

(b) if paragraph (a) does not apply — in the same way as floor area is calculated under the relevant local planning scheme.

(2) For the purposes of the definition of ***plot ratio*** in section 3(1), to calculate plot ratio in relation to a lot, the gross total of the areas of all floors in any building on the lot is to be calculated by apportioning the gross total of the areas of all floors in any building on the parcel (calculated as provided by

subregulation (1)) between lots in accordance with the pro rata entitlements of each lot.

(3) The pro rata entitlements of a lot are calculated on the proportion that the area of a lot bears to the area of the parcel.

Note for this regulation:

Plot ratio calculations are used in Part 7 Division 2 of the Act.

9. Insurable asset

(1) For the purposes of paragraph (a)(iii) of the definition of ***insurable asset*** in section 3(1), the following are included in that definition —

(a) carpet and flooring coverings on and within common property that are not temporary;

(b) buildings on the parcel of a strata scheme (whether or not shown on the scheme plan).

(2) For the purposes of paragraph (b)(iv) of the definition of ***insurable asset*** in section 3(1), temporary wall, floor and ceiling coverings on common property are excluded from that definition.

10. Key documents

For the purposes of paragraph (l) of the definition of ***key document*** in section 3(1), the following are included in that definition —

(a) any contracts relevant to the design or construction of buildings and improvements on the parcel entered into by the scheme developer, including any variations to those contracts and all plans and specifications relating to those contracts or variations;

(b) "as constructed" plans and diagrams for buildings, improvements and utility conduits on the parcel;

(c) any infrastructure contracts or variations to infrastructure contracts;

(d) any notice of completion given under the *Building Act 2011* section 33 in relation to —

(i) any scheme building in a strata scheme; or

(ii) any infrastructure located on the common property of a strata titles scheme;

(e) any documents relating to a defect or possible defect in a scheme building or infrastructure;

(f) any agreement relating to the supply of a water service (within the meaning given in the *Water Services Act 2012* section 3(1)) between a licensee under that Act and any of the following parties —

(i) a former owner of the land comprised in the parcel;

(ii) the strata company;

(iii) an owner or occupier of a lot in the strata titles scheme;

(g) the 10 year plan under section 100(2A) (if that provision applies to the strata titles scheme).

11. Volunteer strata managers

(1) For the purposes of paragraph (b) of the definition of ***volunteer strata manager*** in section 3(1), the amount of the honorary fee or reward that is fixed is $250 per calendar year for each lot in the strata titles scheme.

(2) If a reward is non-monetary, the amount of the reward is the value of the reward.

Part 3 — Scheme plans

12. Additional requirements for lodgement and registration

(1) A scheme plan, or an amendment of a scheme plan, that is lodged for registration with the Registrar of Titles must comply with this regulation.

(2) The land identified by a scheme plan as the land to be subdivided by the scheme must —

(a) be comprised in a single lot on a plan lodged with the Authority; and

(b) be the subject of a certificate of title.

(3) If a scheme plan, or an amendment of a scheme plan, for a strata scheme identifies an encroachment that is not onto a public road, street or way and is to be managed and controlled as if it were part of a lot, an appropriate easement must be granted and lodged with the Registrar of Titles.

(4) A scheme plan, or an amendment of a scheme plan, for a survey-strata scheme may create a lot as a cubic space lot (limited in height and depth) only if the balance of the land above and below the lot is common property.

(5) A scheme plan, or an amendment of a scheme plan, must not be registered if it does not comply with this regulation.

13. Application of Survey Regulations to scheme plans

(1) A scheme plan, an amendment of a scheme plan, or any other plan lodged for registration under the Act (including a sketch plan) must be prepared in accordance with the Survey Regulations.

(2) The Survey Regulations apply to a scheme plan, an amendment of a scheme plan, or any other plan lodged for registration under

the Act (including a sketch plan) with the following modifications —

(a) references in the Survey Regulations to a lot, a plan or a boundary include references to a lot or common property, a scheme plan or a boundary of a lot or common property;

(b) field records are only required to be lodged under regulation 8 of the Licensed Surveyors (General) Regulations and regulation 8 of the Licensed Surveyors (TLA) Regulations in the circumstances determined by the Registrar of Titles;

(c) the balance of regulation 12 of the Licensed Surveyors (TLA) Regulations from and including the words "Consecutive numbering from one upwards" are to be disregarded;

(d) the *Transfer of Land (Surveys) Regulations 1995* regulation 3(2) applies to a certification by a licensed surveyor under section 32(3)(c) in the same way as it applies to the certifications referred to in that regulation.

[Regulation 13 amended: SL 2021/151 r. 10.]

14. Surveyor's certificate

(1) A certificate under section 32(3)(c) in relation to a scheme plan, or an amendment of a scheme plan, must be in the form required by regulation 54 of the Licensed Surveyors (General) Regulations.

(2) In addition, if the certificate includes a determination that a stage of subdivision is or is not a significant variation under Part 6, the certificate must comply with any requirements for the certificate specified in that Part.

15. Preparation and certification of scheme plans and amendments

(1) A scheme plan must identify the parcel to be subdivided by the strata titles scheme by reference to the certificate of title number, the lot number of the parcel and the plan or diagram number of the parcel.

(2) The following additional requirements apply to scheme plans for a strata scheme and to any amendment of a scheme plan for a strata scheme that effects a subdivision or affects the boundary of a parcel —

(a) the boundaries of lots or whole separate parts of lots must be shown on the floor plan by continuous lines so that boundaries defined by walls or other structural features are clearly distinguished from boundaries defined by lines only;

(b) all linear connections shown on a scheme plan must be referred to a stated surface of a floor, wall, ceiling or permanent building shown on the plan;

(c) the location plan must specify the relationship of any building on the land to the boundaries of the parcel, if the Registrar of Titles requires that to be specified in the location plan;

(d) the location plan must specify offsets in any case where part of a building is within 2 metres of a boundary of the parcel;

(e) if any encroachment exists, the location plan must specify the encroachment and contain a statement to the effect that the encroachment is to be controlled and managed as if it were common property or is to be controlled and managed as if it were part of a lot (whichever case applies);

(f) if section 3(2)(a) applies to the floor plan, the scheme plan must contain a statement to the effect that the boundaries of the lots or parts of the lots which are

scheme buildings are the inner surfaces of the walls, the upper surfaces of the floor and the under surfaces of the ceiling, as provided by that section;

(g) if Schedule 2A clause 3AB of the Act applies to the floor plan, the scheme plan must contain a statement to the following effect —

(i) that the boundaries of the lots or parts of the lots which are scheme buildings are the external surfaces of those buildings, as provided by that clause; and

(ii) if 2 lots in a building have a common or party wall or 2 lots have buildings on them that are joined — that the centre plane of that wall, or the plane at which they are joined, is the boundary.

(3) The following additional requirements apply to scheme plans for a survey-strata scheme and to any amendment of a scheme plan for a survey-strata scheme that effects a subdivision or affects the boundary of a parcel —

(a) all common property (except temporary common property) must be unambiguously shown as common property in a manner approved by the Registrar of Titles;

(b) if a lot is limited in height and depth — the upper and lower boundaries of the lot must be defined in a manner approved by the Registrar of Titles.

(4) If an amendment of a scheme plan gives effect to a subdivision, the land must be described in a manner approved by the Registrar of Titles.

16. Numbering of lots and common property

(1) In this regulation —

interested person means a person who holds a designated interest, or any other interest registered or recorded in the

Register, over the whole or part of the parcel that is the subject of a scheme plan or an amendment of a scheme plan.

(2) Each lot in a scheme plan or created by an amendment of a scheme plan for a strata scheme must have a unique number.

(3) Each lot and area of common property (other than temporary common property) in a scheme plan or created by an amendment of a scheme plan for a survey-strata scheme must have a unique number.

(4) In all plans, if a lot consists of more than one part of a parcel, each part of the lot must have the same number and must be shown with the abbreviation "Pt" before the number.

(5) The Registrar of Titles may, after giving notice to all interested persons, number or renumber any lots in a scheme plan or created by an amendment of a scheme plan or any common property (other than temporary common property) in a survey-strata plan or created by an amendment of a survey-strata plan.

Part 4 — Planning and development

17. Matters to be considered on application for subdivision approval

(1) When considering an application under section 15, the Planning Commission must have regard to all relevant matters including but not limited to the following —

(a) the size, shape and dimensions of each lot;

(b) the services available to each lot;

(c) drainage of the land;

(d) access to each lot;

(e) the amount of public open space to be provided;

(f) any relevant planning scheme (within the meaning given in the *Planning and Development Act 2005* section 4(1));

(g) any relevant regulations made by the Minister under the *Planning and Development Act 2005*;

(h) any relevant local laws relating to town planning;

(i) any objections or recommendations made by a local government or a public authority after consultation on the application;

(j) any relevant planning approval that has not lapsed.

(2) The Planning Commission may consult with a local government or a public authority about an application if the Planning Commission is of the opinion that the strata plan or amendment of strata plan may affect the functions of the local government or public authority.

(3) This regulation does not affect section 16(2).

18. Duration of subdivision approval

(1) If the Planning Commission approves a strata plan or an amendment of a strata plan under section 15, an application

must be made for a certificate endorsing the scheme plan or amendment of the scheme plan with the Planning Commission's unconditional approval of the subdivision within the period of 2 years after the Planning Commission approves the strata plan or amendment under section 15.

(2) If the application is not made by the end of that 2-year period, the Planning Commission's approval under section 15 lapses.

19. Exemptions from planning approval

(1) For the purposes of section 15(6), a strata plan or an amendment of a strata plan for a freehold scheme that gives effect to a type 3 subdivision or a type 4 subdivision is exempt from the requirement for Planning Commission approval under section 15 if —

(a) the area of the parcel is no more than 2 500 square metres; and

(b) the lots in the strata scheme are to be used for residential purposes and each lot in the strata scheme contains one dwelling; and

(c) there are no more than 5 lots in the scheme (including after amendment); and

(d) the land is —

(i) within a residential zone under a local planning scheme and conforms with that local planning scheme; or

(ii) if the land is not within the area of a local planning scheme — within an area that is a townsite within the meaning given in the *Land Administration Act 1997* section 26(1).

(2) A strata plan or an amendment of a strata plan that, under this regulation, is exempt from the requirement to be approved by the Planning Commission is also exempt from section 15(4).

20. Review of Planning Commission decision

For the purposes of the definition of ***prescribed period*** in section 27(7), the prescribed period for an application for approval by the Planning Commission of a strata plan or an amendment of a strata plan is the period of 90 days or any longer period that is agreed in writing between the Planning Commission and the applicant for approval.

Note for this regulation:

This regulation makes the period consistent with the period in which the Planning Commission must try to deal with an application under the *Planning and Development Act 2005* section 143(2).

21. Review of local government decision

For the purposes of the definition of ***prescribed period*** in section 28(8), if the local government and the applicant for approval agree in writing to a longer prescribed period than 40 days, the prescribed period is that agreed period.

Part 5 — Short form easements and restrictive covenants

Division 1 — Preliminary

22. Terms used

In this Part, unless the contrary intention appears —

covenant area, in relation to a short form restrictive covenant, means —

(a) an area of a lot or common property (or both) burdened by the short form restrictive covenant that is shown on the scheme plan or amendment of the scheme plan as being subject to the short form restrictive covenant; or

(b) if the entire parcel is subject to the short form restrictive covenant — the parcel;

covenantee, in relation to a short form restrictive covenant, means the local government or public authority benefited by the restrictive covenant;

covenantor, in relation to a short form restrictive covenant, means —

(a) if a lot is burdened by the restrictive covenant — the owner of the lot; or

(b) if common property is burdened by the restrictive covenant — the strata company;

easement area, in relation to a short form easement, means an area of the lot or common property (or both) burdened by the short form easement that is shown on the scheme plan or amendment of the scheme plan as being subject to the short form easement;

grantee, in relation to a short form easement, means —

(a) if a lot is benefited by the easement — the owner of the lot; or

(b) if common property is benefited by the easement — the strata company; or

(c) if the easement benefits a local government or public authority (and does not benefit a lot or common property) — the local government or public authority;

grantor, in relation to a short form easement, means —

(a) if a lot is burdened by the easement — the owner of the lot; or

(b) if common property is burdened by the easement — the strata company;

short form description, in relation to short form easements — see regulation 23;

short form description, in relation to short form restrictive covenants — see regulation 25;

short form documents means any of the following —

(a) a scheme plan or amendment of a scheme plan;

(b) a memorial or other instrument in an approved form lodged with a scheme plan or amendment of a scheme plan.

Division 2 — Identification, location and nature

23. Permitted easements and short form descriptions

(1) For the purposes of section 33(1), an easement of a class specified in the Table under the heading "Type of short form easement" is specified as a short form easement.

(2) For the purposes of section 33(1)(a), the short form easement must be identified in the short form documents using the description specified in the Table under the heading "Short form description of easement" next to the short form easement concerned (the ***short form description***).

Table

Type of short form easement	**Short form description of easement**
An easement relating to vehicle access, parking or turning	Vehicle access easement
An easement for access to or use of light and air	Light and air easement
An easement for party wall rights	Party wall easement
An easement for the right of a building to intrude into another lot or the common property where that intrusion would constitute a permitted boundary deviation if the scheme were a single tier strata scheme	Intrusion easement
An easement for pedestrian access	Pedestrian access easement
An easement in gross for the benefit of the Planning Commission, a local government in whose district the land is situated or a public authority	Easement in gross
An easement for one or more utility services	Easement for utility services

24. Location of easement area and identification of property affected

(1) The location of the easement area must be delineated on the scheme plan or amendment of the scheme plan in accordance

with the Survey Regulations and any requirements of the Registrar of Titles.

(2) The easement area must be shown on the scheme plan or amendment of the scheme plan as being subject to that short form easement.

(3) The easement area may be —

(a) limited by height or depth; and

(b) shown by reference to markings in the area that are relevant to the short form easement.

(4) The lots and common property (if any) benefited by the short form easement and the lots and common property burdened by the short form easement must be identified on the scheme plan or amendment of the scheme plan in a manner approved by the Registrar of Titles.

(5) If the short form easement benefits a local government or a public authority (and does not benefit a lot or common property), the local government or public authority benefited must be specified in the short form documents.

(6) The scheme plan or amendment of the scheme plan must make it clear that the short form easement is an easement under section 33 by specifically referring to that section.

25. Permitted restrictive covenants and short form descriptions

(1) For the purposes of section 33(1), a restrictive covenant of a class specified in the Table under the heading "Type of short form restrictive covenant" is specified as a short form restrictive covenant.

(2) For the purposes of section 33(1)(a), the short form restrictive covenant must be identified in the short form documents using the description specified in the Table under the heading "Short form description of restrictive covenant" next to the short form restrictive covenant concerned (the ***short form description***).

Table

Type of short form restrictive covenant	**Short form description of restrictive covenant**
A restrictive covenant to prevent development in a right of way setback	Right of way restrictive covenant
A restrictive covenant to restrict the use of land	Land use restrictive covenant
A restrictive covenant to protect areas identified for conservation	Conservation restrictive covenant
A restrictive covenant to control the siting of development	Building envelope restrictive covenant
A restrictive covenant to restrict development in fire prone areas	Fire restrictive covenant

26. Location of covenant area and identification of property affected

(1) The location of the covenant area must be delineated on the scheme plan or amendment of the scheme plan in accordance with the Survey Regulations and any requirements of the Registrar of Titles.

(2) The covenant area must be shown on the scheme plan or amendment of the scheme plan as being subject to that short form restrictive covenant.

(3) The covenant area may be —

(a) limited by height or depth; and

(b) shown by reference to markings in the area that are relevant to the short form restrictive covenant.

(4) The lots and common property burdened by the short form restrictive covenant must be identified on the scheme plan or amendment of the scheme plan in a manner approved by the Registrar of Titles.

(5) The local government or public authority benefited by the short form restrictive covenant must be specified in the short form documents.

(6) The scheme plan or amendment of the scheme plan must make it clear that the short form restrictive covenant is a restrictive covenant under section 33 by specifically referring to that section.

27. Benefit of short form easement or restrictive covenant need not attach to land

A short form easement or restrictive covenant may be created and made binding in respect of land subdivided by a strata titles scheme for the benefit of the local government in whose district the land is situated, or a public authority, even though the benefit of the short form easement or restrictive covenant would not be in respect of land.

28. Short form easement or restrictive covenant binds strata company

A short form easement or restrictive covenant that benefits or burdens common property is binding on the strata company.

29. Short form documents

(1) The short form documents may include provisions about rights and liabilities under a short form easement or restrictive covenant.

(2) The provisions in the short form documents have effect according to their terms, and Divisions 3 and 4, and Division 1 in its application to those Divisions, have effect subject to the provisions in the short form documents.

(3) The provisions in the short form documents do not override the provisions of this Division, and this Division prevails to the extent of any inconsistency with the short form documents.

Division 3 — Rights and liabilities under short form easements

30. General

The rights and liabilities under a short form easement that is identified in accordance with these regulations by its short form description are as provided for by this Division in relation to that short form description, subject to any contrary provision in the short form documents.

Note for this regulation:

Section 33(4) provides that a short form easement or restrictive covenant runs with the land and is binding on the owners, from time to time, of lots in the strata titles scheme.

31. Vehicle access easement

(1) Under a vehicle access easement, the grantor grants the grantee an easement that confers the following rights —

(a) a right to park vehicles in the easement area, in the manner (if any) indicated in the short form documents;

(b) a right to turn and drive vehicles over the easement area for the purpose of gaining access to and egress from the lot or common property benefited by the easement to any street or any part of the parcel;

(c) a right to access the easement area on foot for the purpose of exercising the rights referred to in paragraphs (a) and (b).

(2) The easement —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property burdened by the easement; and

(b) benefits any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property benefited by the easement.

(3) The following persons are entitled to exercise the rights conferred by the easement —

(a) if the easement benefits a lot — the owner of the lot, any occupier of the lot, and any contractor, employee, agent or visitor of the owner or occupier;

(b) if the easement benefits common property — any person lawfully entitled to use the common property.

(4) The easement is non-exclusive unless otherwise specified in the short form documents.

(5) If the easement is non-exclusive —

(a) the grantor must keep the easement area in good order (including by doing any repairs, replacements, maintenance, cleaning or other upkeep); and

(b) the grantee must reimburse the prescribed proportion of the costs incurred by the grantor in keeping the easement area in good order.

(6) Unless the short form documents specify otherwise, the prescribed proportion is —

(a) the proportion that the unit entitlement of the grantee's lot bears to the total unit entitlements of the grantor's and the grantee's lots, unless paragraph (b) or (c) applies; or

(b) if common property is burdened by the easement — the proportion that the unit entitlement of the grantee's lot bears to the sum of the unit entitlements of all lots in the strata titles scheme; or

(c) if common property is benefited by the easement — the proportion that the sum of the unit entitlements of all lots in the strata titles scheme (other than the grantor's

lot) bears to the sum of the unit entitlements of all lots in the strata titles scheme.

(7) If the easement is exclusive, the grantee must keep the easement area in good order (including by doing any repairs, replacements, maintenance, cleaning or other upkeep).

32. Light and air easement

(1) Under a light and air easement, the grantor grants to the grantee an easement that confers the following rights —

(a) a right to unimpeded access to light and air for the use and enjoyment of the lot or common property benefited by the easement, without any obstruction or interruption caused by or consequent on the erection of any building on the easement area;

(b) a right to enter the lot or common property burdened by the easement, at any reasonable time, for the purpose of taking all reasonable steps to prevent or remove any building, trees, vegetation or other thing obstructing or interrupting the access to light and air.

(2) A right to unimpeded access to light and air is a right to unimpeded access to light and air to, through and for the windows or openings in any building on the lot or common property benefited by the easement at the date of creation of the easement.

(3) The easement does not apply to any obstruction or interruption that is —

(a) caused by, or consequent on, a building that is on the lot or common property burdened by the easement at the date of creation of the easement or any building later erected on the same foundations and of the same or lesser dimensions; or

(b) reasonably incidental to the use of the lot or common property burdened by the easement by the grantor or any

person lawfully entitled to use the lot or common property.

(4) The right referred to in subregulation (1)(b) must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the strata titles scheme.

(5) The easement —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property burdened by the easement; and

(b) benefits any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property benefited by the easement.

(6) The following persons are entitled to exercise the rights conferred by the easement —

(a) if the easement benefits a lot — the owner of the lot and any occupier of the lot;

(b) if the easement benefits common property — the strata company.

33. Party wall easement

(1) Under a party wall easement, the grantor grants to the grantee an easement that confers the following rights —

(a) a right to use a party wall within or on the boundary of the easement area for the support of the walls, floors, footings, ceilings, roofs or other parts of any building built or placed on the lot or common property benefited by the easement;

(b) a right to enter the lot or common property burdened by the easement, at any reasonable time, for the purpose of repairing, maintaining, renewing or otherwise remedying any failure to maintain the party wall including the right to erect scaffolding or equipment as

is reasonably necessary for upholding and maintaining the party wall.

(2) The right referred to in subregulation (1)(b) must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the strata titles scheme.

(3) The easement —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property burdened by the easement; and

(b) benefits any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property benefited by the easement.

(4) The following persons are entitled to exercise the rights conferred by the easement —

(a) if the easement benefits a lot — the owner of the lot and any occupier of the lot;

(b) if the easement benefits common property — the strata company.

34. Intrusion easement

(1) Under an intrusion easement, the grantor grants to the grantee an easement that confers the following rights —

(a) a right to retain, construct, inspect, alter, maintain, repair, replace and use any permitted intrusion in the easement area;

(b) a right to enter the lot or common property burdened by the easement, at any reasonable time, for the purpose of exercising the rights referred to in paragraph (a).

(2) A permitted intrusion is any part of a building that is on the lot or common property benefited by the easement (including

anything that is attached to or projects from the building) which —

(a) intrudes into the lot or common property burdened by the easement in the easement area; and

(b) is a thing that would be included as part of the lot under Schedule 1 clause 3 or 4, if the lot or common property benefited by the easement were a lot in a single tier strata scheme; and

(c) would be regarded as a permitted boundary deviation if the strata titles scheme were a single tier strata scheme.

(3) The right referred to in subregulation (1)(b) must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the strata titles scheme.

(4) The easement —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property burdened by the easement; and

(b) benefits any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property benefited by the easement.

(5) The following persons are entitled to exercise the rights conferred by the easement —

(a) if the easement benefits a lot — the owner of the lot and any occupier of the lot;

(b) if the easement benefits common property — the strata company.

Note for this regulation:

Schedule 1 explains the meaning of ***permitted boundary deviation***.

35. Pedestrian access easement

(1) Under a pedestrian access easement, the grantor grants to the grantee an easement that confers a right to pass and repass on foot over the easement area at any time or at the times specified in the short form documents.

(2) The easement —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property burdened by the easement; and

(b) benefits any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property benefited by the easement.

(3) The following persons are entitled to exercise the rights conferred by the easement —

(a) if the easement benefits a lot — the owner of the lot, any occupier of the lot, and any contractor, employee, agent or visitor of the owner or occupier;

(b) if the easement benefits common property — any person lawfully entitled to use the common property.

(4) The easement is non-exclusive unless otherwise specified in the short form documents.

(5) If the easement is non-exclusive —

(a) the grantor must keep the easement area in good order (including by doing any repairs, replacements, maintenance, cleaning or other upkeep); and

(b) the grantee must reimburse the prescribed proportion of the costs incurred by the grantor in keeping the easement area in good order.

(6) Unless the short form documents specify otherwise, the prescribed proportion is —

(a) the proportion that the unit entitlement of the grantee's lot bears to the total unit entitlements of the grantor's and the grantee's lots, unless paragraph (b) or (c) applies; or

(b) if common property is burdened by the easement — the proportion that the unit entitlement of the grantee's lot bears to the sum of the unit entitlements of all lots in the strata titles scheme; or

(c) if common property is benefited by the easement — the proportion that the sum of the unit entitlements of all lots in the strata titles scheme (other than the grantor's lot) bears to the sum of the unit entitlements of all lots in the strata titles scheme.

(7) If the easement is exclusive, the grantee must keep the easement area in good order (including by doing any repairs, replacements, maintenance, cleaning or other upkeep).

36. Easement in gross

(1) Under an easement in gross, the grantor grants to the grantee an easement in the terms described in the short form documents.

(2) The short form documents may describe the terms of the easement by reference to a planning condition, statutory provision or contract.

(3) The easement —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as the lot or common property burdened by the easement; and

(b) benefits a local government or public authority specified in the short form documents (and does not benefit a lot or common property).

(4) The local government or public authority benefited by the easement and any contractor, employee or agent of the local government or public authority, is entitled to exercise the rights conferred by the easement.

(5) If the easement expires at the end of a particular period, that period must be specified in the short form documents.

(6) If the short form documents provide that the easement expires at the end of a specified period, the grantor and grantee consent to the Registrar of Titles discharging the easement at any time after the end of the specified period, without any application by, or notice to, the grantor or grantee.

37. Easement for utility services

(1) Under an easement for utility services, the grantor grants to the grantee an easement for a purpose specified in the short form documents.

(2) The purpose specified must be a purpose described in the Table under the heading "Purpose of easement".

(3) The easement confers the rights specified in relation to that purpose in the Table under the heading "Rights conferred by easement".

(4) The easement burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property burdened by the easement.

(5) The easement —

(a) benefits any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property benefited by the easement; or

(b) benefits a local government or public authority specified in the short form documents (in which case it does not benefit a lot or common property).

(6) The following persons are entitled to exercise the rights conferred by the easement —

(a) if the easement benefits a lot — the owner of the lot, an occupier of the lot, and any contractor, employee or agent of the owner or occupier;

(b) if the easement benefits common property — the strata company;

(c) if the easement benefits a local government or public authority — the local government or public authority and any contractor, employee or agent of the local government or public authority.

(7) The rights conferred by the easement must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of the lots and common property in the strata titles scheme.

(8) A strata company must not interfere or permit interference with the exercise by any person of the rights conferred on the person by the easement, other than —

(a) in the reasonable exercise of rights under an easement of which it has the benefit; or

(b) in the performance of its function of controlling and managing common property in the strata titles scheme.

(9) An owner or occupier of a lot must not, either within or outside the lot, interfere or permit interference with the exercise by any person of the rights conferred on the person by the easement, other than in the reasonable exercise of rights conferred by an easement of which the owner or occupier has the benefit.

(10) This regulation does not affect the easement provided for by section 63.

Note for this subregulation:

Section 63 provides for a utility service easement. That easement exists for the benefit and burden of each lot and the common property in a strata titles scheme. The easement provided for by this regulation

is an additional (optional) easement. The easement provided for by this regulation (unlike the section 63 easement) is required to be shown on the scheme plan or amendment of the scheme plan.

Table

Purpose of easement	**Rights conferred by easement**
Water supply	A right — (a) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for the purpose of laying down, fixing, taking up, repairing, re-laying, replacing or examining pipes and of using and maintaining those pipes for water supply purposes; and (b) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a).
Drainage	A right — (a) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for the purpose of laying down, fixing, taking up, repairing, re-laying, replacing or examining drains or drainage pipes and of using and maintaining

Purpose of easement	**Rights conferred by easement**
	those drains and drainage pipes for drainage purposes; and (b) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a).
Gas supply	A right — (a) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for the purpose of laying down, fixing, taking up, repairing, re-laying, replacing or examining pipes and of using and maintaining those pipes for the purpose of supplying gas; and (b) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a).

Transmission and distribution of electricity by overhead cable and conductors	A right — (a) to suspend cables and conductors across the easement area and construct supports for those cables and conductors; and (b) to construct and install apparatus (within the meaning given in the *Energy Operators (Powers) Act 1979* section 4(1)) in the easement area; and (c) to construct other works (such as fences and access tracks) in the easement area for the purpose of ensuring the safe, secure and reliable operation of the grantee's electricity transmission and distribution system; and (d) to inspect, alter, maintain, repair and replace the cables, conductors, supports, apparatus and works referred to in paragraphs (a), (b) and (c); and (e) to use the cables, conductors, supports, apparatus and works referred to in paragraphs (a), (b) and (c) for the purpose of transmitting and distributing electricity or ensuring the safe, secure and reliable

Purpose of easement	**Rights conferred by easement**
	operation of the grantee's electricity transmission and distribution system; and (f) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for any of the purposes referred to in paragraph (a), (b), (c), (d) or (e); and (g) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a), (b), (c), (d), (e) or (f).
Transmission and distribution of electricity by underground cable	A right — (a) to lay ducts, pipes and cables under the surface of the easement area; and (b) to construct and install apparatus (within the meaning given in the *Energy Operators (Powers) Act 1979* section 4(1)) in the easement area; and (c) to construct other works (such as fences and access tracks) in the easement area for the purpose of ensuring the safe, secure and reliable

Purpose of easement	**Rights conferred by easement**
	operation of the grantee's electricity transmission and distribution system; and (d) to inspect, alter, maintain, repair and replace the ducts, pipes, cables, apparatus and works referred to in paragraphs (a), (b) and (c); and (e) to use the ducts, pipes, cables, apparatus and works referred to in paragraphs (a), (b) and (c) for the purpose of transmitting and distributing electricity or ensuring the safe, secure and reliable operation of the grantee's electricity transmission and distribution system; and (f) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for any of the purposes referred to in paragraph (a), (b), (c), (d) or (e); and (g) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a), (b), (c), (d), (e) or (f).

Purpose of easement	**Rights conferred by easement**
Transmission of communication signals by overhead cable	A right — (a) to suspend cables across the easement area and construct supports for those cables; and (b) to inspect, alter, maintain, repair and replace those cables and supports; and (c) to use the cables for the purpose of transmitting communication signals; and (d) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for any of the purposes referred to in paragraph (a), (b) or (c); and (e) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a), (b), (c) or (d).
Transmission of communication signals by underground cable	A right — (a) to lay ducts, pipes and cables under the surface of the easement area; and

Purpose of easement	**Rights conferred by easement**
	(b) to inspect, alter, maintain, repair and replace those ducts, pipes and cables; and (c) to use the cables for the purpose of transmitting communication signals; and (d) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for any of the purposes referred to in paragraph (a), (b) or (c); and (e) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a), (b), (c) or (d).
Sewerage	A right — (a) to break the surface of, dig, open up, remove soil, vegetation or obstructions from and use the easement area for the purpose of laying down, fixing, taking up, repairing, re-laying, replacing or examining pipes and of using and maintaining

Purpose of easement	Rights conferred by easement
	those pipes for sewerage purposes; and (b) to enter the lot or common property burdened by the easement for any of the purposes referred to in paragraph (a).

38. Entry under easement

Section 65 applies to a right of entry under any of the following short form easements in the same way as it applies to a right of entry under a statutory easement —

(a) light and air easement;

(b) party wall easement;

(c) intrusion easement;

(d) easement in gross;

(e) easement for utility services.

Note for this regulation:

Section 65 sets out the notice requirements that apply when a person needs to enter a lot or common property to exercise rights under a statutory easement.

39. Rectification of damage

(1) Any damage caused to a lot or common property in the course of exercising a right of entry under the following short form easements must be repaired and made good as soon as practicable by the person exercising those rights —

(a) light and air easement;

(b) party wall easement;

(c) intrusion easement;

(d) easement in gross;

(e) easement for utility services.

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

40. Indemnity payable by grantee

(1) In this regulation —

relevant claim means any action, liability, proceeding, claim, cost or expense that the grantor suffers, incurs or sustains in connection with, or arising in any way out of, the loss of or damage to any property or the death or injury of any person.

(2) The grantee under any of the following short form easements must indemnify and keep indemnified the grantor against all relevant claims resulting from the exercise of the rights conferred by the easement by the grantee or by any other person entitled to exercise the rights conferred by the easement —

(a) vehicle access easement;

(b) light and air easement;

(c) party wall easement;

(d) intrusion easement;

(e) pedestrian access easement.

(3) This regulation applies only if —

(a) the grantee is the owner of the lot benefited by the short form easement; and

(b) the short form easement is exclusive to the grantee.

41. Payment of consideration

If the short form documents require a grantee of a short form easement to pay consideration for the grant of the easement (whether as a single payment or at intervals), the rights

conferred by the easement are subject to the payment of that consideration.

Division 4 — Rights and liabilities under short form restrictive covenants

42. General

The rights and liabilities under a short form restrictive covenant that is identified in accordance with these regulations by its short form description are as provided for by this Division in relation to that short form description, subject to any contrary provision in the short form documents.

Note for this regulation:

Section 33(4) provides that a short form easement or restrictive covenant runs with the land and is binding on the owners, from time to time, of lots in the strata titles scheme.

43. Right of way restrictive covenant

(1) Under a right of way restrictive covenant, the covenantor covenants with the covenantee that no new development may occur within a specified distance of a right of way that is identified on the scheme plan or amendment of the scheme plan so as to accommodate widening of the right of way should it be required in the future.

(2) The short form documents must specify the distance within which no new development may occur.

(3) The restrictive covenant —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property burdened by the restrictive covenant; and

(b) benefits a local government or public authority specified in the short form documents (and does not benefit a lot or common property).

44. Land use restrictive covenant

(1) Under a land use restrictive covenant, the covenantor covenants with the covenantee that the covenant area may be used only for a use or class of use specified in the short form documents.

(2) The restrictive covenant —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property burdened by the restrictive covenant; and

(b) benefits a local government or public authority specified in the short form documents (and does not benefit a lot or common property).

Note for this regulation:

For example, a land use restrictive covenant could provide that the covenant area may be used only for purposes of accommodation for aged and dependant persons or for the purposes of single bedroom dwellings.

45. Conservation restrictive covenant

(1) Under a conservation restrictive covenant, the covenantor covenants with the covenantee that the covenant area must not be used contrary to any restriction on the use of the covenant area that is specified in the short form documents so as to protect areas identified for conservation.

(2) The restrictive covenant —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property burdened by the restrictive covenant; and

(b) benefits a local government or public authority specified in the short form documents (and does not benefit a lot or common property).

46. Building envelope restrictive covenant

(1) Under a building envelope restrictive covenant, the covenantor covenants with the covenantee that, unless otherwise approved by the covenantee, no buildings may be built, and no effluent disposal systems may be built or used, outside the defined building envelope.

(2) The scheme plan or amendment of the scheme plan must show the defined building envelope.

(3) The restrictive covenant —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property burdened by the restrictive covenant; and

(b) benefits a local government or public authority specified in the short form documents (and does not benefit a lot or common property).

47. Fire restrictive covenant

(1) Under a fire restrictive covenant, the covenantor covenants with the covenantee that no habitable buildings may be built within areas identified on the scheme plan or amendment of the scheme plan as BAL-40 or BAL-Flame Zone in accordance with Australian Standard AS 3959 published by Standards Australia.

(2) The restrictive covenant —

(a) burdens any lot or common property identified on the scheme plan or amendment of the scheme plan as a lot or common property burdened by the restrictive covenant; and

(b) benefits a local government or public authority specified in the short form documents (and does not benefit a lot or common property).

Part 6 — Staged subdivision

48. Terms used

In this Part, unless the contrary intention appears —

agreed stage of subdivision means a proposed stage of subdivision of a strata titles scheme as described in the staged subdivision by-laws of the strata titles scheme;

relative unit entitlement, of a lot, means the proportion that the unit entitlement of the lot bears to the sum of unit entitlements of all lots in the strata titles scheme;

significant variation — see regulation 49.

49. Significant variations

(1) Each of the following is a ***significant variation*** to an agreed stage of subdivision —

(a) a stage of subdivision that will result in the relative unit entitlement of an existing lot increasing to more than, or decreasing to less than, the relative unit entitlement of that lot as provided for in the agreed stage of subdivision, if the increase or decrease is 10% or more of the relative unit entitlement of that lot as provided for in the agreed stage of subdivision;

(b) a stage of subdivision that will result in the total number of lots in the strata titles scheme increasing to more than, or decreasing to less than, the total number of lots as provided for in the agreed stage of subdivision, if the increase or decrease is 10% or more of the total number of lots as provided for in the agreed stage of subdivision;

(c) a stage of subdivision that will result in a change to a registered easement or restrictive covenant over the whole or part of the parcel that was not provided for in the agreed stage of subdivision, unless the change does not have a material adverse impact on any existing lots within the scheme.

(2) A licensed valuer may make a determination about whether a stage of subdivision is or is not a significant variation to an agreed stage of subdivision under subregulation (1)(a).

(3) The licensed valuer who makes the determination must consider how any changes in configuration of scheme buildings, lots or common property not provided for in the agreed stage of subdivision affect the unit entitlement of any existing lots in the scheme.

(4) A licensed surveyor may make a determination about whether a stage of subdivision is or is not a significant variation to an agreed stage of subdivision under subregulation (1)(b) or (c).

50. Exemption for stage of subdivision with no significant variations

(1) For the purposes of section 36, a stage of subdivision described in an application for amendment of a scheme plan is undertaken with sufficient compliance with the staged subdivision by-laws if —

(a) a licensed valuer determines that the stage of subdivision is not a significant variation to the agreed stage of subdivision under regulation 49(1)(a); and

(b) a licensed surveyor determines that the stage of subdivision is not a significant variation to the agreed stage of subdivision under regulation 49(1)(b) or (c).

(2) An application for amendment of a scheme plan that is made in reliance on section 36 must be accompanied by —

(a) a certificate of a licensed valuer that sets out the licensed valuer's determination that the stage of subdivision is not a significant variation under regulation 49(1)(a); and

(b) a certificate of a licensed surveyor that sets out the licensed surveyor's determination that the stage of subdivision is not a significant variation under regulation 49(1)(b) or (c).

(3) The licensed valuer and the licensed surveyor who provide the certificates of determination must not be associates of the scheme developer.

(4) The application must not be made unless —

(a) the person making the application has served notice of the determinations of the licensed valuer and licensed surveyor on each person who is entitled to dispute the determination; and

(b) at least 28 days have elapsed since those notices were served; and

(c) if a person entitled to dispute the determination makes an application to the Tribunal disputing the accuracy of that determination — the application has been withdrawn or the Tribunal has resolved that dispute.

(5) The notice referred to in subregulation (4)(a) must include —

(a) a copy of the application for amendment of the scheme plan; and

(b) a copy of the schedule of unit entitlements proposed to be lodged with the application for amendment of the scheme plan; and

(c) a copy of the staged subdivision by-laws or instructions on how to obtain or inspect a copy of the staged subdivision by-laws.

51. Persons entitled to dispute determination

Each of the following persons is entitled to dispute a determination by a licensed valuer or licensed surveyor that a stage of subdivision is not a significant variation —

(a) the strata company for the strata titles scheme the subject of the application;

(b) if the scheme is a leasehold scheme — the owner of the leasehold scheme;

(c) if the application for amendment of the scheme plan gives effect to a subdivision of a kind referred to in paragraph (b) of the definition of ***type 1 subdivision*** in section 3(1) — a person referred to in section 35(1)(b)(ii) or (iii);

(d) if the application for amendment of the scheme plan gives effect to a type 3 subdivision — a person referred to in section 35(1)(d)(i), (ii) or (iii);

(e) if the application for amendment of the scheme plan gives effect to a type 4 subdivision — a person referred to in section 35(1)(e)(ii);

(f) in any case — an owner of a lot in the strata titles scheme.

52. Disputes about certified variations

(1) A person who is entitled to dispute a determination by a licensed valuer or licensed surveyor that a stage of subdivision is not a significant variation may dispute whether that determination is sufficiently accurate to be relied on by a person for the purposes of section 36.

(2) For the purposes of section 197(1)(i), the dispute is a scheme dispute between the person entitled to dispute the determination and the person proposing to make the application for amendment of the scheme plan.

(3) The time limit for making an application to the Tribunal for resolution of the dispute is 28 days after notice of the determination is served in accordance with regulation 50(4)(a).

53. Requirements relating to staged subdivision by-laws

(1) For the purposes of section 42(2)(c), staged subdivision by-laws must comply with the requirements set out in this regulation.

(2) The staged subdivision by-laws must contain a proposed amendment of a scheme plan for each stage of the subdivision that complies with the requirements of section 32.

(3) The staged subdivision by-laws must contain a proposed schedule of unit entitlements for each stage of the subdivision.

(4) The proposed schedule of unit entitlements for each stage of subdivision must —

(a) set out the proposed unit entitlement of each lot to be created by the stage of subdivision; and

(b) set out any change to the unit entitlement of a lot in the scheme that existed before the completion of the stage of subdivision; and

(c) set out the sum of unit entitlements of all lots in the strata titles scheme at the completion of the stage of subdivision; and

(d) comply with the requirements of section 37.

(5) The staged subdivision by-laws must contain details of any additional by-laws, or amendment or repeal of by-laws, that are proposed to be made and registered on the completion of each stage of subdivision.

(6) The staged subdivision by-laws for a strata scheme must include plans and specifications, whether by architectural drawings or otherwise, of any building or other improvements shown on the proposed floor plan or the proposed location plan but not shown on the floor plan or the location plan of the registered strata plan.

(7) The plans referred to in subregulation (6) must include drawings, of a scale that provides clarity and legibility, showing —

(a) a plan of every level of the building to be constructed or, if every level is the same, a plan of one level with a note that every other level is the same; and

(b) at least 2 elevations of external fronts; and

(c) one or more sections, cross-sectional or longitudinal; and

(d) the heights of each level of the building to be constructed; and

(e) levels of ground; and

(f) approximate relative levels of the lot on which the building or other improvement is to be constructed with respect to any adjoining street, way or lot.

(8) The specifications referred to in subregulation (7)(c) must include a description of the materials to be used in the construction of the walls, floors and roofs.

(9) The staged subdivision by-laws must contain a warning statement to the following effect —

(a) staged subdivision by-laws do not bind the Planning Commission or a local government to give a planning approval for an agreed stage of subdivision;

(b) staged subdivision by-laws do not bind the scheme developer of a stage of subdivision to undertake the subdivision.

Part 7 — Schedule of unit entitlements

54. Determining capital value of a lot

(1) For the purposes of section 37(4), a determination of the capital value of a lot in a strata scheme that is made for the purposes of registering a schedule of unit entitlements, or an amendment of a schedule of unit entitlements, must be made in accordance with this regulation.

(2) A licensed valuer must determine the capital value of a lot as if it had the standard level of internal fit out and finishes for that lot.

(3) The standard level of internal fit out and finishes for a lot is the level of fit out and finishes that the licensed valuer determines to be a reasonable representation of the average expected level of fit out and finishes for lots in the strata scheme of that property type and of commensurate age.

(4) The standard level of internal fit out and finishes for a lot must be determined by the licensed valuer after —

(a) conducting a physical inspection of the parcel of land the subject of the strata scheme; and

(b) conducting an internal inspection of as many lots in the strata scheme as is reasonably practicable to enable the licensed valuer to make a reasonable assessment of the average expected level of fit out and finishes for lots of the same property type and of commensurate age; and

(c) taking into account any relevant information obtained from the strata company or on the strata plan.

(5) A licensed valuer must include in the capital value of a lot any buildings within the lot that have planning approval or approval under any other written law, whether or not shown on the strata plan.

55. Certificate by licensed valuer

(1) For the purposes of section 37(6), a certificate by a licensed valuer in relation to a schedule of unit entitlements, or an amendment of a schedule of unit entitlements, must be in an approved form.

(2) The certificate must specify the date on which the licensed valuer issued the certificate.

(3) The date of issue of the certificate must be no more than 2 years before the application to register the schedule, or amendment, is made to the Registrar of Titles.

(4) In addition, if the certificate includes a determination that a stage of subdivision is or is not a significant variation under Part 6, the certificate must comply with any requirements for the certificate specified in that Part.

Part 8 — Scheme by-laws

56. Application for registration of scheme by-laws

(1) This regulation specifies additional requirements that apply to an application for registration of an amendment of a strata titles scheme that is made under section 56 to give effect to the making, amendment or repeal of any scheme by-laws.

(2) The application must —

(a) in the case of a new scheme by-law, specify whether the by-law is a governance by-law or a conduct by-law; and

(b) in any case, include a consolidated set of all the current scheme by-laws for the strata titles scheme.

57. Enforcement of scheme by-laws

The explanation of the effect of section 47 that is required to be given under section 47(2)(d) is an explanation in the form of or to the effect of Schedule 2.

58. Maximum penalty for contravention of scheme by-laws

For the purposes of section 47(7)(a), the maximum amount that may be imposed by the Tribunal by way of penalty for contravention of scheme by-laws is $2 000.

Part 9 — Strata leases

59. Relationship with other laws

(1) For the purposes of section 49(2)(c), the provisions of the *Commercial Tenancy (Retail Shops) Agreements Act 1985* relating to retail shop leases do not apply to or in relation to a strata lease.

(2) This regulation does not affect the application of the *Commercial Tenancy (Retail Shops) Agreements Act 1985* to any sublease of a lot in a leasehold scheme.

60. Consent of owner to deal with or dispose of strata title

(1) In this regulation —

lease includes an agreement to lease.

(2) For the purposes of section 51(3), if a parcel is conditional tenure land (as defined in the *Land Administration Act 1997* section 72), the consent of the owner of the leasehold scheme is required for any lease of the lot by the owner of the lot (despite section 51(2)).

61. Requirements for strata lease

(1) A strata lease must contain provisions to the effect of the provisions in Schedule 3.

(2) A strata lease must contain all of the covenants or conditions set out in Schedule 3 Division 2 as in force at the date the strata lease is entered into.

(3) To avoid doubt, the covenants or conditions of a strata lease cannot include covenants or conditions for the payment of rent by the owner of the lot.

(4) If the strata lease is lodged with the Registrar of Titles in connection with registration of the leasehold scheme, the strata lease —

(a) must be lodged as a single document that applies to all lots in the leasehold scheme; and

(b) must be executed by the owner of the leasehold scheme as both lessor and lessee under the strata lease.

(5) If the strata lease is lodged with the Registrar of Titles in connection with an amendment of a leasehold scheme to give effect to a subdivision, the strata lease —

(a) must be lodged as a single document that applies to all lots in the leasehold scheme that are created by the subdivision; and

(b) must be executed by the owner of the leasehold scheme as lessor under the strata lease; and

(c) must be executed by the owner of each lot that is being subdivided as lessee under the strata lease.

(6) A strata lease lodged with the Registrar of Titles is taken, on registration as a scheme document, to be a separate strata lease for each lot to which it applies.

Note for this regulation:

Under section 52(1)(d), a strata lease must be in the approved form. Regulation 5 requires the strata lease to be in a form approved by the Registrar of Titles and to comply with any other requirements of these regulations.

62. Covenants or conditions of strata lease that are allowed

(1) For the purposes of section 52(1)(a), a strata lease is allowed to contain the covenants or conditions set out in Schedule 3 Division 2.

(2) If Schedule 3 Division 2 is amended after a strata lease is entered into, any covenants or conditions that were allowed under section 52(1)(a) when the strata lease was entered into

continue to be allowed under section 52(1)(a) in relation to that strata lease.

(3) Subregulation (2) does not prevent the strata lease from being amended under section 53 to give effect to any amendments to the covenants or conditions allowed under section 52(1)(a) that are made after the strata lease is entered into.

(4) This regulation does not affect the operation of the *Land Administration Act 1997* section 75(3B)(b) in relation to conditional tenure land.

Notes for this regulation:

1. Under section 52(1)(a), a strata lease can only contain the covenants or conditions allowed by the regulations. Schedule 3 Division 2 sets out the covenants or conditions that are allowed and must be included in all strata leases.
2. The *Land Administration Act 1997* section 75(3B)(b) also provides that if the land is conditional tenure land, the strata lease is taken to contain a condition that the lot must not be used for a purpose that is inconsistent with the conditions concerning the use of the land determined by the Minister under that Act.

63. Amendment of strata lease

(1) An amendment of a strata lease must be in an approved form.

(2) If a strata lease is amended to change the covenants or conditions of the strata lease —

(a) the amendment cannot impose covenants or conditions that are not allowed under section 52(1)(a) at the date the amendment is agreed between the owner of the leasehold scheme and the owner of the lot to which the strata lease relates; and

(b) the strata lease must contain all of the covenants or conditions set out in Schedule 3 Division 2 as in force at the date the amendment is agreed between the owner of the leasehold scheme and the owner of the lot to which the strata lease relates.

Part 10 — Common property (utility and sustainability infrastructure) easements

64. Special procedures for notice under s. 64

(1) A notice of a proposed resolution to apply section 64 to an infrastructure contract must include the following information —

(a) a statement of the effect of section 64(3) to (7);

(b) a copy of the infrastructure contract.

(2) The copy of the infrastructure contract that is provided must include or be accompanied by the following —

(a) a description of the nature of the infrastructure to which the infrastructure contract relates;

(b) the name and contact details of the infrastructure owner;

(c) a description of the easement area, being the proposed location of the infrastructure on the common property (including a drawing of that location);

(d) particulars of who will benefit from the common property (utility and sustainability infrastructure) easement;

(e) particulars of who is entitled to the benefits of the infrastructure to which the infrastructure contract relates.

65. Consent of strata company to development

If a strata company, by ordinary resolution under section 64(1)(b), applies section 64 to an infrastructure contract, the strata company is taken to have given its written consent to the making of an application by the infrastructure owner for planning approval, or any other approval, required by written law to install the infrastructure specified in the contract in the easement area specified in the contract.

66. Obligations of infrastructure owner

(1) It is taken to be a condition of an infrastructure contract under section 64(8)(b) that the infrastructure owner must —

(a) obtain any planning approval, or any other approval, required by written law before installing the infrastructure to which the infrastructure contract relates; and

(b) provide evidence that all necessary approvals for the installation and operation of the infrastructure have been obtained when requested to do so by the strata company; and

(c) maintain and repair the infrastructure.

(2) Unless the infrastructure contract provides otherwise, the infrastructure owner is required to keep in good and serviceable repair, and properly maintain, the common property that forms the easement area under the infrastructure contract.

(3) Subregulation (2) does not impose an obligation on the infrastructure owner to renew or replace the common property.

Note for this regulation:

Under section 91(1)(c), the strata company must renew or replace common property if necessary.

67. Rights of infrastructure owner

(1) It is taken to be a condition of an infrastructure contract under section 64(8)(b) that the infrastructure owner is entitled to the benefits from the infrastructure to which the infrastructure contract relates, unless the infrastructure contract provides otherwise.

(2) In addition to the rights referred to in section 64(3), the infrastructure owner under an infrastructure contract is entitled —

(a) to install utility conduits on the common property that are required to operate the infrastructure; and

(b) to use the infrastructure for the purpose provided for in the infrastructure contract.

(3) The rights of an infrastructure owner under section 64(3) and this regulation are subject to the terms of the infrastructure contract.

68. Disposal of lot by infrastructure owner

(1) If an infrastructure owner under an infrastructure contract is the owner of a lot in the strata titles scheme, the infrastructure contract must provide for what happens if the infrastructure owner disposes of the lot.

(2) In particular, the infrastructure contract must specify whether the new owner of the lot acquires or is entitled to acquire the infrastructure and the rights and obligations of the infrastructure owner under the infrastructure contract.

69. Strata company to be notified of certain actions

(1) An infrastructure contract must make provision for the following —

(a) what happens if the infrastructure owner transfers ownership of or disposes of the infrastructure;

(b) whether the infrastructure owner is entitled to transfer or assign the rights and obligations of the infrastructure owner under the infrastructure contract to another person.

(2) It is taken to be a condition of an infrastructure contract under section 64(8)(b) that the infrastructure owner must notify the strata company before the infrastructure owner —

(a) transfers ownership of or disposes of the infrastructure; or

(b) transfers or assigns the rights and obligations of the infrastructure owner under the infrastructure contract to another person.

70. Insurance

(1) In this regulation —

required insurance means insurance a strata company is required to obtain under section 97.

(2) It is taken to be a condition of an infrastructure contract under section 64(8)(b) that the strata company may, if the strata company is unable to obtain required insurance, or to obtain required insurance on reasonable terms, as a result of the presence of the infrastructure on the common property, give written notice to the infrastructure owner requiring the infrastructure owner to do 1 or more of the following —

(a) take specified action within a specified period;

(b) refrain from taking specified action;

(c) pay a specified amount to the strata company within a specified period, being an amount equal to the part of the premium payable by the strata company for the required insurance that is attributable solely to the risk associated with the presence of the infrastructure on the common property.

(3) An infrastructure owner given a notice under subregulation (2) must comply with the notice or negotiate with the strata company to take some step other than that specified in the notice to enable the required insurance to be obtained by the strata company on reasonable terms.

(4) The strata company must negotiate with the infrastructure owner with a view to achieving a fair and reasonable outcome.

71. Damage to common property

(1) It is taken to be a condition of an infrastructure contract under section 64(8)(b) that the strata company may, by written notice, terminate the contract if the installation or operation of the infrastructure causes damage to the common property and the

infrastructure owner fails to repair that damage in accordance with section 66.

(2) No cause of action against the strata company arises from the exercise of a power referred to in subregulation (1).

72. Removal of infrastructure after termination of contract

If an infrastructure contract is terminated, the infrastructure owner must remove the infrastructure from the common property as soon as practicable, unless the infrastructure contract provides otherwise.

Part 11 — Lot owners and occupiers

73. Term used: structure

For the purposes of the definition of ***structure*** in section 86, the things classified as a structure are any dwelling, shop, factory, commercial premises, garage, carport, shed or other building or improvement (whether free standing or annexed to or incorporated with any existing building on the lot) —

(a) the construction or erection of which is required to be approved by the local government or any other authority; or

(b) the area of which is to be taken into account for the purposes of determining the plot ratio restrictions or open space requirements for the lot.

74. Grounds for refusal of structural alteration

For the purposes of section 87(5)(c), the following are grounds on which an approval may be refused —

(a) that the carrying out of the proposal will contravene a specified by-law or specified by-laws of the strata company;

(b) that the carrying out of the proposal may interfere with a short form easement or restrictive covenant or any other easement or covenant affecting the parcel that is shown on the scheme plan or registered against the parcel.

75. Application for approval of structural alteration

(1) For the purposes of section 89(1), the following information is prescribed —

(a) plans and specifications for the structural alteration;

(b) the additional information prescribed for the type of structural alteration concerned by this regulation.

(2) The following additional information is prescribed for a structural alteration of a lot on a strata plan —

(a) the plot ratio restrictions and open space requirements in relation to the parcel;

(b) the pro rata entitlements of the lot (calculated as provided for by regulations 7 and 8);

(c) if the application is approved, the area of the structure, including the area of all existing and proposed structures to be taken into account for the purposes of calculating the plot ratio restrictions and open space requirements;

(d) whether or not the carrying out of the proposal will breach the pro rata entitlements of the lot and, if it does, the percentage and area by which the pro rata entitlements of the lot is exceeded;

(e) the location and dimensions of the proposed structure upon its completion in relation to any existing structure on the lot or to the boundaries of the lot;

(f) any contravention of the by-laws of the strata company, whether of a permanent or temporary nature, which is likely to occur during or as a result of the erection, alteration or extension of the structure, and any proposed manner of dealing with that contravention;

(g) any likely interruption to or interference with any statutory easement, short form easement or restrictive covenant or any other easement or restrictive covenant affecting the parcel that is shown on the scheme plan or registered against the parcel, whether of a permanent or temporary nature;

(h) whether the structural alteration of the lot changes the boundaries of the lot and whether the applicant has sought advice from a licensed surveyor about the effect of the structural alteration.

(3) Subregulation (2)(a) to (d) do not apply if —

(a) the area of the structure, upon its erection, alteration or extension, would not be required to be taken into account for the purposes of calculating the plot ratio restrictions and open space requirements in relation to the parcel; and

(b) the application for approval includes a statement to that effect and the reason why it would not be required to be taken into account; and

(c) the strata company does not request in writing that the applicant supply the information referred to in subregulation (2)(a) to (d).

(4) The following additional information is prescribed for a structural alteration of a lot on a survey-strata plan —

(a) the plot ratio restrictions and open space requirements in relation to the parcel;

(b) the pro rata entitlements of the lot (calculated as provided for by regulations 7 and 8);

(c) if the application is approved, the area of the structure, including the area of all existing and proposed structures to be taken into account for the purposes of calculating the plot ratio restrictions and open space requirements;

(d) whether or not the carrying out of the proposal will breach the pro rata entitlements of the lot and, if it does, the percentage and area by which the pro rata entitlements of the lot is exceeded;

(e) the dimensions of the proposed structure upon its completion;

(f) any likely interruption to or interference with any statutory easement, short form easement or restrictive covenant or any other easement or restrictive covenant affecting the parcel that is shown on the scheme plan or registered against the parcel, whether of a permanent or temporary nature.

Part 12 — Strata companies

76. Temporary common property

For the purposes of section 92(2), land that is leased for the purpose of creating temporary common property may be subject to a designated interest if —

(a) the designated interest does not prohibit the lease; and

(b) the holder of the designated interest consents in writing to the lease; and

(c) the consent does not impose any obligation on the strata company to comply with the terms of the designated interest.

77. Requirement to have 10 year plan

(1) For the purposes of section 100(2A)(a)(iii), the 10 year plan for a designated strata company must include the following information —

(a) the name of the strata company and the address of the strata titles scheme;

(b) the name and address of the person or persons who prepared the plan;

(c) if the strata company employs or engages a person to prepare the plan — the qualifications (if any) of each individual who prepares the plan or is involved in preparing the plan on behalf of that person;

(d) the period covered by the plan;

(e) a list of the items of common property, and personal property of the strata company, that the strata company anticipates will require maintenance, repair, renewal or replacement in the period covered by the plan (the ***covered items***);

(f) a report about the condition of the covered items and the anticipated maintenance, repair, renewal or replacement

requirements of the covered items in the period covered by the plan (a ***condition report***);

(g) the method by which the estimated costs for the maintenance, repair, renewal or replacement of the covered items, as set out in the 10 year plan, were determined, including any assumptions underlying that determination;

(h) a plan or recommendation for the funding of the estimated costs for the maintenance, repairs, renewal or replacement of the covered items.

(2) The list of covered items dealt with by the plan must include any items of value that form part of the common property or the personal property of the strata company which, in the opinion of the strata company, should be included in the plan having regard to the maintenance, repair, renewal or replacement that it is anticipated will be required in the period covered by the plan.

(3) Without limiting subregulation (2), the following items are items of value that may be included in the plan —

(a) roofs and gutters;

(b) walls (including retaining walls);

(c) floors;

(d) ceilings;

(e) windows, eaves, flashings, soffits and window sills;

(f) downpipes;

(g) foundations of buildings;

(h) driveways;

(i) footpaths;

(j) steps;

(k) stairs and stair railings;

(l) doors and doorways (including fire doors);

(m) lighting;

(n) storage or plant rooms;
(o) fencing and gates;
(p) balconies, railings and balustrades;
(q) lifts;
(r) ventilation;
(s) fire services, fire alarms and fire hoses;
(t) air conditioning systems;
(u) building and ancillary structures;
(v) utility conduits and services;
(w) garbage disposal;
(x) hot water systems;
(y) electrical systems;
(z) post boxes;
(za) security components;
(zb) swimming pools, spas and pumps or filters;
(zc) water bores and water tanks;
(zd) back flow devices and pumping devices;
(ze) car stackers;
(zf) roof access safety equipment;
(zg) solar and other sustainability infrastructure;
(zh) disability access facilities.

(4) The covered items may be itemised separately or grouped together in any way that the strata company considers appropriate.

(5) A condition report may relate to a single covered item or a group of covered items.

(6) A condition report must include such of the following information about a covered item or items as the strata company

considers appropriate, having regard to the design, age and overall condition of the strata titles scheme —

(a) the date of installation, construction or acquisition (if known);

(b) the present condition or operating state (including whether working or not);

(c) the date on which an inspection was last undertaken;

(d) details of any maintenance, repair, renewal or replacement that is anticipated to be required in the period of the plan;

(e) the date or dates on which it is estimated that maintenance, repair, renewal or replacement is likely to be required in the period of the plan;

(f) details of the estimated cost of maintenance, repair, renewal or replacement;

(g) the estimated lifespan of the covered item or items once maintained, repaired, renewed or replaced.

(7) The first 10 year plan for a designated strata company must be submitted for approval at the first annual general meeting of the strata company.

Notes for this regulation:

1. Section 100(2A) requires the 10 year plan to set out the estimated costs for the maintenance, repairs, renewal or replacement of the common property and personal property to which the plan relates.
2. Personal property of the strata company may include items like vehicles, computers, gardening or maintenance equipment and signage.
3. A strata company that chooses to employ or engage a person to prepare the 10 year plan may decide what qualifications (if any) are appropriate to that role.

78. Rate of interest on unpaid contributions

For the purposes of section 100(4)(b), the rate of simple interest specified is 11% per annum.

79. Designated strata company — extended meaning

(1) For the purposes of section 100(7)(b), a ***designated strata company*** includes the following —

(a) a strata company for a strata scheme that has a scheme building replacement cost of more than $5 000 000;

(b) a strata company for a survey-strata scheme if the replacement cost of the improvements on the common property is more than $5 000 000.

(2) The replacement cost of a thing is the reasonable cost of rebuilding, replacing or repairing the thing to a condition which is equivalent to or substantially the same as (but not better or more extensive than) when it was new.

80. Expenditure on common property requiring special resolution

(1) The amount that applies for the purposes of section 102(5) is the amount determined by multiplying the number of lots in the strata titles scheme by $500.

(2) For the purposes of section 102(5)(a), a notice of a proposed special resolution to approve expenditure to which section 102(5) applies must be provided to members of the strata company with the following information —

(a) details of the proposed improvement or alteration of the common property including the following —

(i) a description of the proposed improvement or alteration, with particulars of what is proposed in terms of design and materials;

(ii) the proposed timeframe for completion of the proposed improvement or alteration;

(iii) particulars of the estimated cost of the work necessary to complete the proposed improvement or alteration;

(b) a drawing showing where the proposed improvement or alteration will occur on the common property;

(c) particulars of a quotation or tender obtained by the strata company for the work necessary to complete the proposed improvement or alteration.

Note for this regulation:

Under section 102(5), a budget or budget variation that provides for expenditure on common property that exceeds the amount determined under this regulation must be approved by special resolution.

81. Budget variations that are authorised

The amount fixed for the purposes of section 102(6)(a)(ii) is $500 (being $500 for each lot in the strata titles scheme).

Note for this regulation:

Under section 102(6)(a), expenditure that exceeds the approved budget of a strata company is authorised if the expenditure does not exceed an amount fixed by special resolution or, if no amount is fixed, the amount fixed by this regulation.

82. Expenditure subject to objection procedure

For the purposes of section 102(6)(b)(ii), a notice under section 102(6)(b)(i) must include particulars of at least 2 separate quotations or tenders obtained by the strata company in relation to the proposed expenditure.

83. Period in which records must be retained

A document that a strata company is required to make or keep under a section specified in the Table under the heading "Type of document" must be kept for the period specified in the Table under the heading "Retention period" next to the document concerned.

Table

Type of document	**Retention period**
Section 104(1)(b)(i) (minutes of general meetings and meetings of council)	7 years
Section 104(1)(b)(ii) (records of resolutions and decisions of council)	20 years for special resolutions, unanimous resolutions and resolutions without dissent; 7 years in any other case
Section 104(1)(c)(i) (records and statements of account made or kept under section 101)	7 years
Section 104(1)(c)(ii) (notices of general meetings and meetings of council)	7 years
Section 104(1)(c)(iii) (notices of proposed resolutions and material submitted to members in connection with proposed resolutions)	7 years
Section 104(1)(c)(iv) (notices of disclosures made under section 79, 145(2) or 147)	7 years
Section 104(1)(c)(v) (all correspondence, other notices and orders sent or received by the strata company or its council)	7 years

Type of document	**Retention period**
Section 104(1)(c)(vi) (each lease accepted under section 92 and any instrument of surrender of such a lease)	7 years beginning the day after the lease ends
Section 104(1)(c)(vii) (a copy of each contract entered into by the strata company and any variation, extension or termination of such a contract)	20 years for an insurance contract, or an infrastructure contract for a common property (utility and sustainability infrastructure) easement, including any variation, extension or termination of such a contract; 7 years in any other case
Section 104(1)(c)(viii) (each lease, licence or other document granting a special privilege over the common property (other than exclusive use by-laws))	7 years beginning the day after the lease, licence or other document granting a special privilege ends
Section 104(1)(c)(ix) (each key document received by the strata company)	The life of the scheme (except where a shorter period is specified in relation to that document elsewhere in this Table)
Section 104(1)(c)(x) (each document kept or received under section 63(8) or (9))	The life of the scheme

84. Form of records

A record that is required to be made or kept by a strata company under section 104 may be made and kept in electronic form.

85. Person with proper interest in information

For the purposes of section 107(2)(d), the following classes of persons are specified as persons who have a proper interest in information about a strata titles scheme —

(a) the owner of a leasehold scheme;

(b) a person appointed as a guardian or administrator of the owner of a lot under the *Guardianship and Administration Act 1990*;

(c) if the whole or part of the parcel is, or is intended to be, used or occupied as a retirement village (within the meaning given in the *Retirement Villages Act 1992* section 3(1)) —

(i) a resident (within the meaning given in that section) of the retirement village; or

(ii) a person who has entered into a residence contract (within the meaning given in that section) in relation to the retirement village.

86. Fees for applications under s. 107

(1) For the purposes of section 107(4), the following amounts are fixed as the maximum fee for an application under section 107 —

(a) in the case of an application for information under section 108 — $10;

(b) in the case of an application for inspection of material under section 109 —

(i) if the application is by a person who has a proper interest in information about a strata titles scheme — $1; or

(ii) if the application is by a person authorised in writing by the person referred to in subparagraph (i) — $100;

(c) in the case of an application for a certificate under section 110 specifying the matters referred to in section 110(1) — $140;

(d) in the case of an application for a certificate under section 110 specifying the matters referred to in section 110(2) — $140.

(2) An application under section 107 is not duly made to a strata company until the fee (if any) charged by the strata company for the application has been paid.

(3) A maximum fee under this regulation is increased by 10% if the strata company is required to remit GST for the provision of the service for which the fee is payable.

87. Inspection of material

(1) For the purposes of section 109(4)(a), a strata company may, by notice in writing to an applicant, specify requirements for the taking of extracts from, or the making of copies of, material that a person inspects under section 109.

(2) A person inspecting material under section 109 may take extracts from, or make copies of, the material but only in accordance with those requirements.

(3) Subregulation (1) does not authorise a strata company to prevent or impose restrictions on the person photographing any of the material during the inspection using the person's own camera.

(4) A strata company cannot charge the person a fee for any such photographing.

88. Maximum charge for copies of material

(1) For the purposes of section 109(5), the following amounts are fixed as the maximum fee that may be charged by a strata company for providing a copy of material under section 109 —

(a) for the supply of a copy of the material on a portable data storage device provided by the strata company — $50 plus the actual cost of the device;

(b) for the supply of a photocopy of the material — $50 for the first 5 pages plus $1 for each extra page of the photocopy;

(c) for the supply of an electronic copy of the material by email or other electronic transmission — $50.

(2) A strata company may refuse to provide a copy of material until the fee (if any) charged by the strata company under section 109(5) for providing the copy is paid.

(3) A maximum fee under this regulation is increased by 10% if the strata company is required to remit GST for the provision of the service for which the fee is payable.

89. Voting

For the purposes of section 120(8)(b), if a vote is to be taken outside of a general meeting, the notice of the proposed resolution must specify the following —

(a) how the vote will be conducted;

(b) how a vote may be submitted;

(c) the closing date for submitting a vote;

(d) how the owner of a lot will know their vote has been cast;

(e) how the results of the vote will be published.

Part 13 — Strata managers

90. Terms used

In this Part —

2025 commencement day means the day on which the *Lands Regulations (Community and Strata Titles) Amendment Regulations 2025* regulation 12 comes into operation;

assistant strata community manager, in relation to a strata titles scheme, means an individual —

(a) who is an agent, employee or contractor of the strata manager; and

(b) who, under the terms of the employment or engagement, assists in the performance of authorised scheme functions under the supervision and direction of a principal or a strata community manager;

authorised scheme function, in relation to a strata titles scheme, means a scheme function that a strata manager is authorised to perform by a strata management contract relating to the scheme;

criminal record statement — see regulation 93;

former regulations means the *Strata Titles (General) Regulations 2019* as in force immediately before 2025 commencement day;

local employee, of a body corporate, means an employee of the body corporate who is authorised or expected to perform, or who does perform, scheme functions in relation to a strata titles scheme that is located within this State;

national criminal record check means a document issued by the Police Force of Western Australia that sets out the convictions of an individual (if any) for offences under a law of this State, the Commonwealth or any other State or a Territory;

prescribed educational qualification, in relation to a strata manager, means an educational requirement that the strata manager or a director, partner, agent, employee or contractor of

or in the strata manager is required to satisfy under regulation 95(2);

prescribed experience qualification, in relation to a strata manager, means an experience requirement that the strata manager or a director, partner, agent, employee or contractor of or in the strata manager is required to satisfy under regulation 97B(2);

principal, in relation to a strata manager, means —

(a) if the strata manager is an individual —

(i) each agent, employee or contractor of the strata manager to whom the strata manager has assigned responsibility for ensuring the performance of the authorised scheme functions in accordance with the strata management contract; or

(ii) if there is no such agent, employee or contractor, the strata manager;

and

(b) if the strata manager is a body corporate or a partnership, each individual who —

(i) is a director of or partner in the strata manager, or is an agent, employee or contractor of the strata manager; and

(ii) in that capacity, has responsibility for ensuring that the strata manager performs the authorised scheme functions in accordance with the strata management contract;

property or dishonesty offence means —

(a) an offence of theft, robbery, larceny, stealing, receiving or similar crime; or

(b) an offence of fraud, money laundering, extortion, bribery or similar crime; or

(c) an offence of perjury or giving a false or misleading statement; or

(d) any offence, crime or misdemeanour that is usually motivated by financial gain;

qualified person means —

(a) an individual who holds a licence as a real estate agent under the *Real Estate and Business Agents Act 1978* or who has obtained the necessary qualifications to hold that licence; or

(b) a local legal practitioner; or

(c) an individual who holds a CPP40307 Certificate IV in Property Services (Real Estate); or

(d) an individual who holds a CPP40611 Certificate IV in Property Services (Operations); or

(e) an individual who holds a CPP41419 Certificate IV in Real Estate Practice or superseding qualification;

repair or maintenance work means work involved in repairing, maintaining, renewing, replacing, altering or improving the common property or any personal property owned by a strata company;

specialist work means any work that assists a strata company to perform its scheme functions and which the strata company or a strata manager is not ordinarily qualified to carry out, such as legal work, accounting work, auditing work, building work, plumbing work or electrical work.

strata community manager, in relation to a strata titles scheme, means an individual —

(a) who is an agent, employee or contractor of the strata manager; and

(b) who, under the terms of the employment or engagement —

(i) performs authorised scheme functions; and

(ii) may be supervised or directed in performing those functions by a principal of the strata manager;

superseding qualification means a Certificate IV in a course entered on the National Register as superseding a CPP41419 Certificate IV in Real Estate Practice.

[Regulation 90 amended: SL 2025/182 r. 14.]

91. Repair or maintenance work and specialist work excluded

(1) A person who is employed or engaged by a strata company, or by a strata manager on behalf of the strata company, to supervise or carry out repair or maintenance work, or specialist work, is not, because of that employment or engagement, authorised to perform any scheme functions of the strata company.

(2) Accordingly, section 143 does not apply to that employment or engagement or to work done under that employment or engagement.

Note for this regulation:

Section 143 enables a strata company to delegate its scheme functions to a strata manager. The object of this regulation is to clarify that a strata company, or a strata manager for a strata company, does not delegate or sub-delegate scheme functions of the strata company by employing or engaging persons to supervise or carry out repair or maintenance work or specialist work that assists the strata company to perform its scheme functions.

92. Strata manager must obtain national criminal record checks

(1) A strata manager must, if the strata manager is an individual —

(a) obtain a national criminal record check in relation to the strata manager; and

(b) obtain a new national criminal record check in relation to the strata manager at least once every 3 years.

(2) A strata manager must, if the strata manager is a body corporate or a partnership —

(a) obtain a national criminal record check in relation to each of its directors or partners, as the case may be; and

(b) obtain a new national criminal record check in relation to each of its directors or partners, as the case may be, at least once every 3 years.

(3) A strata manager must not appoint, employ or engage, or retain or continue to employ or engage, a person as a principal, a strata community manager or an assistant strata community manager unless —

(a) the strata manager obtains a national criminal record check in relation to the person; and

(b) the strata manager obtains a new national criminal record check in relation to the person at least once every 3 years; and

(c) the person consents to the strata manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any strata company for which the strata manager performs functions as a strata manager.

(4) A strata manager must not authorise, or continue to authorise, a body corporate or a partnership to perform any of the scheme functions the strata manager is authorised to perform unless —

(a) the strata manager obtains a national criminal record check in relation to each of the directors of the body corporate or each of the partners in the partnership, as the case may be, and its local employees; and

(b) the strata manager obtains a new national criminal record check in relation to each of the directors or partners and the local employees at least every 3 years; and

(c) the directors or partners and the local employees consent to the strata manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any strata company for which the strata manager performs functions as a strata manager.

[Regulation 92 inserted: SL 2025/182 r. 15.]

93. Strata manager must provide criminal record statement to strata company

(1) A strata manager must make a statement (a ***criminal record statement***) and provide a copy of the statement to any strata company that authorises the strata manager to perform scheme functions before entering into a strata management contract with the strata company.

(2) In the criminal record statement, the strata manager must —

(a) declare that the strata manager has obtained the national criminal record checks that the strata manager is required to obtain under regulation 92; and

(b) declare that each of those national criminal record checks is less than 3 years old; and

(c) if a national criminal record check has revealed that a person has been convicted of a property or dishonesty offence, disclose particulars of the conviction in accordance with subregulation (5); and

(d) declare that the national criminal record checks obtained by the strata manager do not reveal any convictions for property or dishonesty offences, other than those (if any) that have been disclosed by the strata manager.

(3) A criminal record statement must be in the form of a statutory declaration made in accordance with the *Oaths, Affidavits and Statutory Declarations Act 2005* section 12 —

(a) by the strata manager; or

(b) if the strata manager is a body corporate — by a director; or

(c) if the strata manager is a partnership — by a partner.

(4) For the purposes of section 145(1)(k), a strata management contract must provide for the following —

(a) the strata manager warrants that the strata manager will obtain national criminal record checks when required by regulation 92; and

(b) the strata manager must notify the strata company, in writing, as soon as practicable if the strata manager becomes aware that the strata manager or a person in relation to whom the strata manager is required to obtain a national criminal record check has been convicted of a property or dishonesty offence and disclose particulars of the conviction in accordance with subregulation (5).

(5) A strata manager who is required to disclose particulars of a conviction for a property or dishonesty offence must disclose to the strata company —

(a) the identity of the person convicted; and

(b) the role of the person in the business of the strata manager; and

(c) particulars of the offence or offences concerned.

(6) This regulation does not apply to a volunteer strata manager or to a strata management contract that is a volunteer agreement with a volunteer strata manager.

[Regulation 93 amended: SL 2025/182 r. 16.]

94. Volunteer strata manager to table criminal record check

(1) A volunteer strata manager must table a national criminal record check obtained in relation to the strata manager at a meeting of the strata company or the council of the strata company at least once every 3 years.

(2) If a volunteer strata manager is convicted of a property or dishonesty offence, the volunteer strata manager must, as soon as practicable, notify the strata company in writing of the particulars of the conviction.

95. Prescribed educational qualifications

(1) In this regulation —

Certificate IV in Strata Community Management means —

(a) CPP40521 Certificate IV in Strata Community Management; or

(b) any other qualification of a different title or a different code that, according to the National Register, directly or indirectly supersedes, or is superseded by, CPP40521 Certificate IV in Strata Community Management;

Diploma of Property (Agency Management — Strata) means —

(a) CPP51122 Diploma of Property (Agency Management — Strata); or

(b) any other qualification of a different title or a different code that, according to the National Register, directly or indirectly supersedes, or is superseded by, CPP51122 Diploma of Property (Agency Management — Strata);

unit, in relation to a qualification referred to in the Table, means a unit that, according to the National Register —

(a) is a unit in that qualification; or

(b) directly or indirectly supersedes, or is superseded by, a unit in that qualification.

(2) For the purposes of section 144(1)(b)(ii), each individual of a class set out in column 1 of the Table is required to satisfy the educational requirement set out in column 2 of the Table for that class.

(3) A requirement set out in the Table to have completed a stated number of units cannot be satisfied by counting separately two units, one of which directly or indirectly supersedes, or is superseded by, the other.

(4) This regulation does not apply in relation to a volunteer strata manager.

Table

Item	Column 1 Individual	Column 2 Requirement
1.	A principal who is a qualified person	Have completed 6 units in a Certificate IV in Strata Community Management
2.	A principal who is not a qualified person	Hold — (a) a Certificate IV in Strata Community Management; or (b) a Diploma of Property (Agency Management — Strata)
3.	A strata community manager who is a qualified person	Have completed 6 units in a Certificate IV in Strata Community Management
4.	A strata community manager who is not a qualified person	Hold a Certificate IV in Strata Community Management

Item	Column 1 Individual	Column 2 Requirement
5.	An assistant strata community manager who is a qualified person	Not later than 2 years after commencing employment or engagement as an assistant strata community manager, have completed 4 units in a Certificate IV in Strata Community Management
6.	An assistant strata community manager who is not a qualified person	Not later than 2 years after commencing employment or engagement as an assistant strata community manager, have completed 6 units in a Certificate IV in Strata Community Management

Note for this regulation:

The requirement to hold the prescribed educational qualification does not apply until the end of a 7-year and 6-month transitional period set out in Part 18.

[Regulation 95 inserted: SL 2025/182 r. 17.]

*[**96.** Deleted: SL 2025/182 r. 17.]*

97. Strata manager must warrant prescribed educational qualifications are held

(1) For the purposes of section 145(1)(k), a strata management contract must provide for the following —

(a) the strata manager warrants that each of the strata manager's principals, strata community managers and assistant strata community managers satisfies the prescribed educational qualification;

(b) the strata manager must, for the duration of the strata management contract, ensure that each of the strata manager's principals, strata community managers and

assistant strata community managers satisfies the prescribed educational qualification;

(c) the strata manager must, on the written request of the strata company, provide evidence to the strata company that each of the strata manager's principals, strata community managers and assistant strata community managers satisfies the prescribed educational qualification.

(2) This regulation does not apply to a strata management contract that is a volunteer agreement with a volunteer strata manager.

Note for this regulation:

The requirement to satisfy the prescribed educational qualification does not apply until the end of a 7-year and 6-month transitional period set out in Part 18. Part 18 provides for an alternative wording for strata management contracts that are entered into before the end of the 7-year and 6-month transitional period, if the strata manager does not wish to warrant that the prescribed educational qualification is satisfied.

[Regulation 97 amended: SL 2024/50 r. 7; SL 2024/209 r. 7; SL 2025/182 r. 18.]

97A. Saving provision for former prescribed educational qualifications

(1) For the purposes of section 144(1)(b)(ii), a person who immediately before 2025 commencement day is a principal, or is an agent, employee or contractor of a strata manager —

(a) is taken to satisfy the prescribed educational qualification for a principal if, immediately before 2025 commencement day, the person satisfies the prescribed educational qualification for a principal set out in Schedule 4 clause 2 of the former regulations; and

(b) is taken to satisfy the prescribed educational qualification for a strata community manager or an assistant strata community manager if, immediately before 2025 commencement day, the person holds the prescribed educational qualifications for a designated

person set out in Schedule 4 clause 3 of the former regulations.

(2) A strata manager is taken to comply with the warranty required by regulation 97(1)(a) —

(a) in relation to a principal — if the principal is taken under subregulation (1)(a) to satisfy the prescribed educational qualification for a principal; and

(b) in relation to a strata community manager or assistant strata community manager — if the strata community manager or assistant strata community manager, as the case may be, is taken under subregulation (1)(b) to satisfy the prescribed educational qualification for a strata community manager or an assistant strata community manager.

[Regulation 97A inserted: SL 2025/182 r. 19.]

97B. Prescribed experience qualifications

(1) In this regulation —

community corporation has the meaning given in the *Community Titles Act 2018* section 3(1);

community titles scheme has the meaning given in the *Community Titles Act 2018* section 3(1);

industry experience means experience gained as a principal, agent, employee or contractor of a strata manager or a scheme manager, carrying out duties relating to the management of a strata titles scheme or a community titles scheme, other than —

(a) repairing, maintaining, renewing, replacing, altering or improving the common property or any personal property owned by a strata company or a community corporation; or

(b) work that assists a strata company or a community corporation to perform its scheme functions and which the strata company or community corporation, or a strata

manager or scheme manager, as the case may be, is not ordinarily qualified to carry out, such as legal work, accounting work, auditing work, building work, plumbing work or electrical work;

scheme manager has the meaning given in the *Community Titles Act 2018* section 117(1).

(2) Each individual of a class set out in column 1 of the Table is required to satisfy the experience requirement set out in column 2 of the Table for that class.

(3) This regulation does not apply in relation to a volunteer strata manager.

Table

Item	Column 1 Individual	Column 2 Requirement
1.	A principal	Have at least 2 years of industry experience
2.	A strata community manager	Have at least 1 year of industry experience

[Regulation 97B inserted: SL 2025/182 r. 19.]

97C. Strata manager must warrant prescribed experience qualifications are satisfied

(1) For the purposes of section 145(1)(k), a strata management contract must provide for the following —

(a) the strata manager warrants that each principal and strata community manager of a strata manager satisfies the prescribed experience qualification;

(b) the strata manager must, for the duration of the strata management contract, ensure that each of the strata manager's principals and strata community managers satisfies the prescribed experience qualification.

(2) This regulation does not apply to a strata management contract that is a volunteer agreement with a volunteer strata manager.

[Regulation 97C inserted: SL 2025/182 r. 19.]

97D. 2025 transitional provision for prescribed experience qualifications

(1) For the purposes of section 144(1)(b)(ii) —

(a) a person who immediately before 2025 commencement day is a principal of a strata manager is taken to satisfy the prescribed experience qualification for a principal until the day that is 2 years after 2025 commencement day; and

(b) a person who immediately before 2025 commencement day is employed or engaged by a strata manager (other than as a principal) is taken to satisfy the prescribed experience qualification for a strata community manager until the day that is 1 year after 2025 commencement day.

(2) A strata manager is taken to comply with the warranty required by regulation 97C(1) —

(a) in relation to a principal — if the principal is taken under subregulation (1)(a) to satisfy the prescribed experience qualification for a principal; and

(b) in relation to a strata community manager — if the strata community manager is taken under subregulation (1)(b) to satisfy the prescribed experience qualification for a strata community manager.

[Regulation 97D inserted: SL 2025/182 r. 19.]

97E. 2025 transitional provisions for strata management contract requirements

(1) In this regulation —

2025 transitional period means the period of 12 months beginning on 2025 commencement day.

(2) During the 2025 transitional period, regulations 97 and 97C do not apply to a strata management contract that —

(a) is in effect on 2025 commencement day; and

(b) includes the matters required to be included by regulation 97 of the former regulations.

[Regulation 97E inserted: SL 2025/182 r. 19.]

98. Strata manager must obtain professional indemnity insurance

(1) A strata manager must obtain and maintain professional indemnity insurance in relation to the strata manager's performance of functions as a strata manager of not less than $1 000 000 for any one claim.

(2) This regulation does not apply to a volunteer strata manager.

Note for this regulation:

Under section 144(2), a volunteer strata manager is not required to maintain professional indemnity insurance.

99. Strata manager must warrant professional indemnity insurance in contract

(1) For the purposes of section 145(1)(k), a strata management contract must provide for the following —

(a) the strata manager warrants that the strata manager holds, and will continue to hold for the duration of the contract, professional indemnity insurance at the level required by regulation 98;

(b) the strata manager must, on the written request of the strata company, provide evidence to the strata company of the following —

(i) the amount of cover;

(ii) the type of claims that are covered by the professional indemnity insurance;

(iii) any exclusions from cover.

(2) This regulation does not apply to a strata management contract that is a volunteer agreement with a volunteer strata manager.

100. Disclosure of remuneration and other benefits

(1) For the purposes of section 147(2), section 147(1) (the requirement to inform the strata company of remuneration or other benefits) does not apply to any remuneration or other benefit received from a person in connection with the strata manager's performance of functions for the strata company if —

(a) the amount of the remuneration or other benefit is less than $100; and

(b) the total amount of remuneration or other benefits received from that person in connection with the strata manager's performance of functions for the strata company during the calendar year is less than $100.

(2) If any remuneration or other benefit is non-monetary, the amount of the remuneration or other benefit is the value of the remuneration or other benefit.

(3) Remuneration or other benefits received includes any remuneration or other benefits reasonably expected to be received.

(4) Remuneration or other benefits are received from the same person if the same person is responsible for payment of the remuneration or other benefits (whether or not they are paid through different intermediaries).

101. Operation of trust accounts

(1) In this regulation —

trust account means —

(a) a separate ADI trust account for a strata company, as referred to in section 148(1)(a); or

(b) a pooled ADI trust account for more than one strata company, as referred to in section 148(1)(b).

(2) A strata manager must ensure that any trust account operated by the strata manager is a type of account that cannot be overdrawn.

(3) If a trust account operated by a strata manager is a separate ADI trust account for a strata company, the strata manager must ensure that the words "trust account" are a prefix to the account name (followed by any other necessary identifying information).

(4) If a trust account operated by a strata manager is a pooled ADI trust account for more than one strata company, the strata manager must ensure that —

(a) the name of the strata manager is a prefix to the account name (followed by any other necessary identifying information); and

(b) the account name includes the words "trust account"; and

(c) the arrangements with the ADI are that any fees, charges or other amounts charged by the ADI in respect of the trust account (including government fees or charges) are charged by the ADI to a separate account held with the same ADI, and not to the pooled ADI trust account.

(5) Subregulation (4)(c) does not prevent a strata manager from requiring any fees, charges or other amounts charged by the ADI, or a proportion of those fees, charges or other amounts, to

be paid by a strata company in accordance with a strata management contract.

(6) A trust account may be an interest-bearing account.

Notes for this regulation:

1. This regulation applies only to trust accounts referred to in section 148(1)(a) and (b). A strata manager may, instead of operating a trust account, pay money received on behalf of a strata company into the strata company's own ADI account (as referred to in section 148(1)(c)).
2. The purpose of subregulation (4)(c) is to ensure that a pooled ADI trust account (in which funds are held for more than one strata company) is not used to pay fees or charges for which a single strata company may be responsible.

102. Strata manager to provide annual return

(1) A strata manager must lodge an annual return, in the approved form, at the office of the Authority.

(2) An annual return is required —

(a) for the calendar year that is the first calendar year to start on or after commencement day; and

(b) for each of the next 4 calendar years after that.

(3) An annual return must be lodged within 3 months after the end of the calendar year to which it relates.

(4) The annual return must include the following information (current as at 31 December in the calendar year to which the return relates) —

(a) the total number of strata titles schemes for which the strata manager provides services as a strata manager, divided into the following categories —

(i) small schemes, being strata titles schemes with less than 6 lots;

(ii) medium schemes, being strata titles schemes with more than 5 lots and less than 21 lots;

(iii) large schemes, being strata titles schemes with more than 20 lots and less than 51 lots;

(iv) very large schemes, being strata titles schemes with more than 50 lots;

(b) the total number of lots in each of those categories;

(c) an estimate of the total amount of money held by the strata manager on behalf of all those strata titles schemes under section 148;

(d) a general description of the types of services the strata manager provides in respect of strata titles schemes.

(5) This regulation does not apply to a volunteer strata manager.

Part 14 — Protection of buyers

103. Further information to be provided

(1) For the purposes of section 156(1)(d), the following information is required —

(a) if the contract contains any voting right restrictions — a statement that the contract restricts the buyer's right to vote as owner of the lot and that sets out particulars of the voting right restrictions;

(b) the approved form of general information about buying and selling in strata titles schemes.

(2) For the purposes of subregulation (1), a ***voting right restriction*** is any requirement in a contract that results in a buyer losing the right to vote as an owner of a lot in a strata titles scheme or that restricts that right to vote, including any of the following requirements —

(a) that the buyer of the lot grant an enduring proxy to the seller;

(b) that the buyer of the lot grant a power of attorney to the seller to enable the seller to exercise the buyer's voting rights as owner.

104. Information to be given before contract

(1) The information and statements required to be provided by the seller under section 156, including the approved form under section 156(5)(a), may be provided by electronic means if the buyer has consented to receiving information by electronic means or the contract is to be effected by electronic means.

(2) For the purposes of section 156(5)(b) —

(a) the information in the approved form under section 156(5)(a) that is designated by the approved form as information specific to the sale of a strata lot

must be included in the contract in a prominent position (such as the front page); and

(b) the information in the approved form under section 156(5)(a) that is designated by the approved form as general information about strata titles schemes must also be included in the contract, but may be provided in a form that is separate from the rest of the contract.

(3) Any staged subdivision by-laws that are spent may be provided as follows —

(a) by including them with the other scheme by-laws that are required to be included under section 156; or

(b) by including a notice that complies with subregulation (4).

(4) A notice referred to in subregulation (3)(b) must —

(a) identify the staged subdivision by-laws that are spent; and

(b) explain that those by-laws are spent; and

(c) contain information on how a copy of those staged subdivision by-laws may be inspected or obtained.

(5) For the purposes of subregulations (3) and (4), staged subdivision by-laws are spent when the stage of subdivision to which those by-laws relate has been completed and any amendments to the scheme plan and schedule of unit entitlements that the by-laws specify are to be made on completion of that stage of subdivision have also been made.

105. Particulars of notifiable variation to be provided to buyer

(1) A notice referred to in section 157(1) must —

(a) identify the type of notifiable variation that has occurred (type 1 or type 2); and

(b) inform the buyer of the buyer's rights under the Act to avoid a contract when that type of notifiable variation occurs.

(2) For the purposes of section 157(2), if a strata company or a scheme developer enters into a contract and entry into the contract is a notifiable variation referred to in paragraph (d)(i) of the definition of ***type 2 notifiable variation*** in section 3(1), a notice will be conclusively presumed to contain the particulars required by section 157(1) in relation to that notifiable variation if it contains —

(a) the particulars required by subregulation (1); and

(b) a copy of the contract or a summary of the contract.

(3) For the purposes of section 157(2), if a strata company or a scheme developer varies an existing contract and that variation is a notifiable variation referred to in paragraph (d)(ii) of the definition of ***type 2 notifiable variation*** in section 3(1), a notice will be conclusively presumed to contain the particulars required by section 157(1) in relation to that notifiable variation if it contains —

(a) the particulars required by subregulation (1); and

(b) either —

(i) a copy of the contract and a copy of the variation; or

(ii) a summary of the contract that specifies how the contract is being varied.

(4) A summary of a contract must include the following —

(a) the names and contact details of the contracting parties;

(b) the duration of the contract;

(c) a summary of the services or amenities to be provided under the contract or, if the contract is not a contract for the provision of services or amenities, a summary of the

rights and obligations of the contracting parties under the contract;

(d) particulars of the remuneration or other amounts payable under the contract.

106. Occurrence of notifiable variation

(1) For the purposes of section 157(1), a notifiable variation referred to in paragraph (a) of the definition of ***type 1 notifiable variation*** in section 3(1) or in paragraph (a) of the definition of ***type 2 notifiable variation*** in section 3(1) occurs when a scheme plan that gives effect to the variation is lodged with the Registrar of Titles (even if the scheme plan is lodged before an application to register or amend the scheme plan is made).

(2) For the purposes of section 157(1), a notifiable variation referred to in paragraph (b) of the definition of ***type 1 notifiable variation*** in section 3(1) or in paragraph (b) of the definition of ***type 2 notifiable variation*** in section 3(1) occurs when —

(a) if the strata titles scheme has been registered — an application to amend the schedule of unit entitlements to give effect to the variation is made to the Registrar of Titles; or

(b) if the strata titles scheme has not been registered — an application to register the schedule of unit entitlements is made to the Registrar of Titles.

(3) For the purposes of section 157(1), a notifiable variation referred to in paragraph (c) of the definition of ***type 2 notifiable variation*** in section 3(1) occurs when —

(a) if the strata titles scheme has been registered — an application to amend the scheme by-laws to give effect to the variation is made to the Registrar of Titles; or

(b) if the strata titles scheme has not been registered — an application to register the scheme by-laws is made to the Registrar of Titles.

Part 15 — Termination proposals

Division 1 — Preliminary

107. Terms used

In this Part, unless the contrary intention appears —

advisory service — see regulation 131;

affected person means a person referred to in section 178(4)(a);

ancillary service — see regulation 133;

class of vulnerable person means a class of vulnerable person referred to in regulation 143;

full proposal stage — see regulation 129;

independent vote counter means the independent person appointed to tally and count the votes on a termination proposal, as provided for by section 182(4);

record of votes means the record of votes on a termination proposal made by the independent vote counter under section 182(10)(a), being a record that complies with section 183(6)(c)(ii);

representation service — see regulation 132;

termination proposal process means the process under Part 12 Division 3 of the Act;

Tribunal confirmation stage — see regulation 129;

trust means a trust established by the proponent of a termination proposal in accordance with Division 6;

unanimous owner-initiated termination proposal — see regulation 153;

unanimous support of owners of lots in a strata titles scheme — see regulation 153;

voting notice — see regulation 121;

vulnerable person means an owner of a lot who, under regulation 143, is a vulnerable person for the purposes of section 190(1)(b).

Note for this regulation:

This Part sets out provisions that are relevant to a proposal to terminate a strata titles scheme under Part 12 Division 3 of the Act. Part 12 Division 4 of the Act provides for a simpler method of terminating a strata titles scheme if all lots in the scheme are owned by the same person. A proponent of a termination proposal could, instead of starting the termination proposal process provided for by Part 12 Division 3 of the Act, or at any stage of that termination proposal process, negotiate with lot owners to buy all of the lots in the strata titles scheme and then terminate the scheme under Part 12 Division 4 of the Act as the owner of all lots in the scheme.

Division 2 — Outline proposal

108. Details of arrangements for independent advice or representation

(1) In an outline of a termination proposal, the details of the proposed arrangements for obtaining independent advice or representation provided under section 175(1)(i) must include the following —

(a) details of the funding that the proponent will make available to lot owners under Division 6 for the purpose of enabling them to obtain independent advice or representation in connection with the proposal, including —

(i) how much money each lot owner who is not a vulnerable person will be able to access; and

(ii) how much money each lot owner who is a vulnerable person will be able to access; and

(iii) what the money can be used for; and

(iv) the arrangements for how and when that money can be obtained;

(b) the name and contact details of the trustee who will hold and administer the payment of money under the trust or, if that is not yet known, a declaration that the name and contact details of the trustee will be provided to the strata company in the full termination proposal.

(2) This regulation does not apply to a unanimous owner-initiated termination proposal.

Note for this regulation:

The requirements for a unanimous owner-initiated termination proposal are set out in Division 9.

109. Additional information for outline proposal

For the purposes of section 175(1)(j), an outline of a termination proposal must also explain that under section 189 the strata company may charge the proponent reasonable fees to cover costs associated with responding to the termination proposal and require those fees to be paid before responding.

Division 3 — Independent advocate

110. Level of independence of independent advocate

(1) For the purposes of section 178A(2)(a), an independent advocate is independent of the strata company and the proponent of a termination proposal only if the independent advocate, and each person employed or engaged by the independent advocate to assist in the exercise of functions under section 178A, is not —

(a) the proponent or an associate of the proponent; or

(b) a member of the strata company or an associate of a member of the strata company; or

(c) the strata manager for the strata company or an associate of the strata manager; or

(d) if the scheme is a leasehold scheme — the owner of the leasehold scheme or an associate of the owner of the leasehold scheme.

(2) The proponent must not direct or coerce an independent advocate in the exercise of functions under section 178A.

111. Qualifications of independent advocate

(1) For the purposes of section 178A(2)(b), an independent advocate must be —

(a) a local legal practitioner; or

(b) a person who provides any social services (within the meaning given in the *Children and Community Services Act 2004* section 3) and who holds a degree from an Australian university that is relevant to the provision of those social services.

(2) An independent advocate may employ or engage any one or more of the following persons to assist in the exercise of functions under section 178A(4) —

(a) a person who is also qualified to be an independent advocate under subregulation (1);

(b) a person who is registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession;

(c) a person who is registered under the Health Practitioner Regulation National Law (Western Australia) in the psychology profession;

(d) an interpreter or Auslan interpreter;

(e) a financial counsellor;

(f) any other person who, in the opinion of the independent advocate, has relevant training or skills to assist in the exercise of the functions concerned, such as a person who has completed training in disability awareness and in cultural and linguistic diversity.

(3) An independent advocate or person employed or engaged to assist an independent advocate must not disclose any personal information obtained about a person in the course of exercising functions under section 178A except —

(a) with the consent of the person to whom the information relates; or

(b) with the consent of, or at the request of, the Tribunal; or

(c) with the consent of, or at the request of, a person appointed as a guardian or administrator under the *Guardianship and Administration Act 1990* of the person to whom the information relates; or

(d) if the disclosure is required by these regulations or any other law.

(4) Subregulation (3) does not prevent an independent advocate and a person employed or engaged to assist an independent advocate from disclosing personal information obtained about a person to each other for the purposes of exercising functions under section 178A.

(5) Subregulation (1) does not apply if the termination proposal is a unanimous owner-initiated termination proposal.

Note for this regulation:

The requirements for a unanimous owner-initiated termination proposal are set out in Division 9.

112. Assessment of proposal by independent advocate

(1) The independent advocate's assessment of the full proposal under section 178A(3)(b) must address the following matters —

(a) whether the full proposal contains all the information required under section 179;

(b) whether the termination proposal appears feasible and fair to owners of lots;

(c) whether the arrangements for occupiers of the lots or common property in the strata titles scheme are appropriate.

(2) The independent advocate must provide a copy of the assessment to the strata company within sufficient time to enable the strata company to provide a copy of the assessment to affected persons at least 7 days before the presentation referred to in section 178A(3)(c) is conducted.

(3) The strata company must —

(a) serve a copy of the assessment on the proponent within 7 days after receiving it from the independent advocate; and

(b) provide or offer to provide a copy of the assessment to each affected person within 7 days after receiving it from the independent advocate and at least 7 days before the presentation referred to in section 178A(3)(c) is conducted; and

(c) ensure that a copy of the assessment is provided to each affected person who requests it.

113. Presentation by independent advocate

(1) The independent advocate must ensure that the presentation referred to in section 178A(3)(c) is conducted at least 7 days before the termination proposal is put to a vote under section 182.

(2) The strata company must ensure that reasonable arrangements are made to enable affected persons to attend and participate in the presentation by telephone or electronic means if they wish to do so.

(3) The strata company must serve written notice of the presentation on affected persons at least 7 days before the presentation occurs.

(4) The notice must specify —

(a) the date, time and venue of the presentation; and

(b) the arrangements for attending and participating by telephone or electronic means (for those affected persons who wish to attend and participate in that manner); and

(c) that an affected person can request the assistance at the presentation of an Auslan interpreter.

(5) The strata company must ensure that an Auslan interpreter assists with the presentation if any affected person requests that assistance by notice in writing served on the strata company at least 3 days before the presentation occurs.

(6) The independent advocate may proceed with a presentation of which notice has been duly served even if an affected person is unable to attend, or fails to attend, the presentation.

(7) The independent advocate must ensure that an audio or audiovisual record is made of the presentation and provided to the strata company.

(8) The strata company must make an electronic copy of the audio or audiovisual record available to any affected person who requests it, free of charge.

114. Maximum charge for exercise of primary functions

(1) The independent advocate must ensure that the total amount charged by the independent advocate by way of remuneration, costs or expenses for the exercise of functions under section 178A(3) does not exceed $13 000 plus $1 000 for each lot in the strata titles scheme to which the termination proposal relates.

(2) The maximum charge referred to in subregulation (1) includes any amount charged by the independent advocate for remuneration, costs or expenses incurred in employing or

engaging persons to assist the independent advocate in the exercise of functions under section 178A(3).

(3) Nothing in this regulation prevents the independent advocate from agreeing to perform the functions of an independent advocate —

(a) for no payment; or

(b) for payment of an amount that is less than the maximum amount set by this regulation.

Note for this regulation:

The functions of the independent advocate under section 178A(3) are to review the full proposal, provide the strata company with an independent assessment of the full proposal and make a presentation of the assessment that is open to affected persons.

Division 4 — Full proposal

115. Tenants entitled to 5 year term

For the purposes of section 179(1)(l), a full proposal for the termination of a strata titles scheme must describe, in detail, what is proposed to happen on termination to tenants under leases that are subject to the *Commercial Tenancy (Retail Shops) Agreements Act 1985* section 13.

116. Person who can provide report of required works

(1) For the purposes of section 179(2)(b), the person providing the report must be registered as a building service contractor under the *Building Services (Registration) Act 2011* section 18.

(2) Subregulation (1) does not apply if the report is to be incorporated in a full proposal for a unanimous owner-initiated termination proposal.

Note for this regulation:

The requirements for a unanimous owner-initiated termination proposal are set out in Division 9.

117. Valuation methodology

For the purposes of section 179(4), the market value of a lot for a termination valuation report must be determined using a sales comparison approach, taking into account the matters referred to in section 179(4)(a) to (c).

118. Validity period of valuation

For the purposes of section 179(5), a period of 3 months is specified.

Note for this regulation:

As a result of this regulation, the valuation must be current as at a date that is not more than 3 months before submission of the full proposal to the strata company.

119. Preparation and certification of reports

For the purposes of section 179(6), a person who prepares or certifies a termination infrastructure report or termination valuation report must not be the proponent or an associate of the proponent.

120. Termination valuation report to be provided to Valuer-General

A strata company must, within 14 days after being given a full proposal in accordance with section 178, provide to the Valuer-General a copy of the termination valuation report that is incorporated in the proposal.

Division 5 — Voting, confirmation and withdrawal

121. Notice of proposal to vote under s. 182

(1) A strata company must serve written notice (a ***voting notice***) on owners of lots in a strata titles scheme of a proposal to put a termination proposal to a vote under section 182 at least 14 days before the vote.

(2) The voting notice must specify the following —

(a) the termination proposal that will be put to the vote (including by specifying the version of the termination proposal concerned);

(b) how the vote will be conducted (including, if the vote is to be conducted at a meeting, the date, time and venue of the meeting);

(c) how a vote may be submitted;

(d) the date or closing date for submitting a vote;

(e) the name of the independent vote counter.

(3) If the proponent of the termination proposal is not an owner of a lot, the strata company must also serve the voting notice on the proponent.

122. Independent vote counter

(1) A strata company must appoint an independent vote counter to tally and count the votes on the termination proposal before serving a voting notice on owners of lots in the strata titles scheme.

(2) The independent vote counter must be a person who is not —

(a) the proponent or an associate of the proponent; or

(b) a member of the strata company or an associate of a member of the strata company; or

(c) the strata manager for the strata company or an associate of the strata manager; or

(d) if the scheme is a leasehold scheme — the owner of the leasehold scheme or an associate of the owner of the leasehold scheme.

(3) The proponent may request the strata company to appoint a different person as the independent vote counter, but only if the proponent establishes that the person appointed by the strata company does not satisfy subregulation (2).

(4) The independent vote counter may charge a strata company a reasonable amount for remuneration and for reasonable expenses incurred by the independent vote counter in exercising the independent vote counter's functions under the Act.

123. Provision of record of votes

(1) If a termination resolution is passed as provided for by section 182(6), the independent vote counter must provide the record of votes to the strata company at the time of giving the strata company the written notice that the independent vote counter is required to give to the strata company under section 182(10)(b).

(2) If a termination resolution is passed subject to the confirmation of the Tribunal, the independent vote counter must provide the record of votes to the strata company as soon as reasonably practicable after the strata company requests the record of votes.

(3) The strata company must not request the independent vote counter to provide the record of votes to the strata company until the strata company receives notice that the proponent has applied to the Tribunal for confirmation of the termination resolution.

Note for this regulation:

If confirmation of a termination resolution by the Tribunal is required, the independent vote counter is required to keep the record of votes confidential under section 182(10)(c).

124. Protection of record of votes (resolution subject to confirmation)

(1) If a termination resolution is passed subject to the confirmation of the Tribunal, the independent vote counter must provide the record of votes to the strata company in a secure electronic format (a ***sealed record of votes***).

(2) The strata company must not view or otherwise access the information contained in a sealed record of votes, unless doing

so is necessary to enable the strata company to exercise its functions under the Act or to comply with any law.

(3) As soon as practicable after the strata company receives a sealed record of votes, the strata company must provide a copy of the record of votes to the trustee of the trust for the termination proposal.

(4) The strata company must not disclose to any person the information contained in a sealed record of votes, except with the consent of, or at the request of, the Tribunal or as required by this regulation or any other law.

Notes for this regulation:

1. Under section 183(6)(c)(ii), the strata company must provide the record of votes to the Tribunal within 14 days after being given notice of an application for confirmation of the termination proposal.
2. The trustee of the trust is under a duty of confidentiality with respect to all personal information it obtains under Division 6.

125. Material to accompany application by proponent for confirmation of termination resolution

For the purposes of section 183(3)(c), the following material is specified —

(a) the outline of the termination proposal submitted under section 174;

(b) the approval of a plan of subdivision referred to in section 177(1)(a);

(c) details of payments made to the strata company under section 189;

(d) details of the arrangements and payments made under section 190;

(e) the list, provided to the proponent by the independent advocate, of owners of lots identified by the independent advocate as vulnerable persons.

126. Things strata company must provide to Tribunal

For the purposes of section 183(6)(c)(vi), the following are required to be provided to the Tribunal —

(a) the roll of the strata company;

(b) records and statements of account kept by the strata company under section 101;

(c) any lease accepted under section 92 and any instrument of surrender of a lease accepted under section 92;

(d) any lease, licence, or document that creates a right of exclusive use and enjoyment, or special privilege, over the common property (other than the exclusive use by-laws);

(e) the independent advocate's assessment of the full proposal under section 178A(3)(b) and an audio or audiovisual record of the presentation under section 178A(3)(c).

127. Notice of termination proposal not proceeding

(1) A strata company that is given written notice of the withdrawal of a termination proposal from the proponent under section 186(1) must, within 14 days after being given the notice, serve the notice on —

(a) the independent advocate; and

(b) the trustee of the trust.

(2) A strata company that gives written notice to the proponent of a termination proposal that the termination proposal cannot proceed further under section 187(2)(b)(i) must also serve the notice on —

(a) the independent advocate; and

(b) the trustee of the trust.

Notes for this regulation:

1. Under section 186(2)(a), the strata company must also serve written notice of the withdrawal of a termination proposal on owners of lots, registered mortgagees of lots and, in some cases, occupiers of lots and common property in the strata titles scheme.
2. Under section 187(2)(b)(ii) and (iii), the strata company must also serve written notice that a termination proposal cannot proceed further on each member of the strata company and, for a leasehold scheme, the owner of the leasehold scheme.

Division 6 — Arrangements for independent advice or representation for owners

128. Proponent to establish trust

(1) The proponent of a termination proposal must establish a trust in accordance with this Division that provides funding to owners of lots for services obtained by them in connection with the termination proposal process.

(2) The trust must be established before the start of the full proposal stage.

(3) The terms of the trust must be consistent with this Part.

(4) If a provision of a trust deed establishing the trust is inconsistent with this Part, this Part prevails.

(5) This Division does not apply to a unanimous owner-initiated termination proposal.

Note for this regulation:

This Division sets out the general requirements for termination proposals under section 190. The section 190 requirements for unanimous owner-initiated termination proposals are set out in Division 9.

129. Stages of termination proposal process for funding purposes

(1) For the purpose of the funding arrangements that are to be provided to owners of lots under the trust, the termination proposal process is divided into 2 stages —

(a) the full proposal stage; and

(b) the Tribunal confirmation stage.

(2) The full proposal stage starts when an owner of a lot is served with notice of the full termination proposal by the strata company under section 178(4)(a) and ends when one of the following occurs (whichever occurs first) —

(a) the termination resolution is passed (whether or not subject to confirmation by the Tribunal);

(b) no further votes can be taken on the termination proposal under section 182(3);

(c) the owner of the lot receives notice under section 186(2)(a)(i) that the termination proposal is withdrawn by the proponent.

(3) The Tribunal confirmation stage occurs only if a termination resolution is passed subject to the confirmation of the Tribunal.

(4) The Tribunal confirmation stage starts when the termination resolution is passed subject to the confirmation of the Tribunal and ends when the Tribunal makes an order confirming the termination resolution or makes a decision not to make such an order under section 183(8).

130. Services for which funding is to be provided

(1) Under the trust, owners of lots must be provided with funding for the following —

(a) advisory services obtained during the full proposal stage;

(b) representation services obtained during the Tribunal confirmation stage.

(2) In addition, owners of lots who are vulnerable persons must be provided with funding for the following —

(a) ancillary services obtained during the full proposal stage;

(b) ancillary services obtained during the Tribunal confirmation stage.

(3) However, an owner of a lot is to be provided with funding for a representation service or ancillary service obtained during the Tribunal confirmation stage only if the owner of the lot voted against the termination proposal under section 182.

131. Advisory services

(1) Each of the following services is an advisory service —

(a) legal advice about the termination proposal or any part of the termination proposal process;

(b) taxation advice and financial advice about the termination proposal;

(c) valuation advice about an owner's lot.

(2) Legal advice must be obtained from a local legal practitioner.

(3) Taxation advice must be obtained from an accountant (as defined in the *Legal Profession Uniform Law Application Act 2022* section 3(1)).

(4) Valuation advice must be obtained from a licensed valuer.

[Regulation 131 amended: SL 2022/116 r. 9.]

132. Representation services

A representation service is any service provided by a local legal practitioner in connection with proceedings before the Tribunal that are part of the termination proposal process.

133. Ancillary services

(1) In relation to the full proposal stage, an ancillary service is any service that is reasonably required by a vulnerable person, having regard to the diminished capacity of the vulnerable person, for any of the following purposes —

(a) to obtain advisory services during the full proposal stage;

(b) to attend, understand, participate in and make an informed decision in the termination proposal process.

(2) In relation to the Tribunal confirmation stage, an ancillary service is any service that is reasonably required by a vulnerable person, having regard to the diminished capacity of the vulnerable person, for any of the following purposes —

(a) to obtain representation services during the Tribunal confirmation stage;

(b) to attend, understand and participate in Tribunal proceedings that are part of the termination proposal process.

(3) Without limitation, each of the following services is an ancillary service —

(a) the services of a translator for a person who has difficulty reading or understanding English;

(b) the services of an Auslan interpreter for a person who is hearing impaired;

(c) transportation services for a person who is mobility impaired;

(d) additional legal services for a person who is not capable of making an informed decision in the termination proposal process (such as the appointment of a guardian or administrator);

(e) a disability assistance or support service for a person with a disability that enables the person to participate in the termination proposal process;

(f) psychological support or counselling services that enable a person to participate in the termination proposal process.

134. Method of funding under trust

(1) Payments must be made from the trust to owners of lots for the costs and expenses paid or payable by them in obtaining the services for which funding is required to be provided.

(2) The trustee of the trust may require an owner of a lot to provide an invoice or other written evidence of the amount paid or payable in support of a claim for payment from the trust.

(3) If an invoice or other written evidence of an amount payable to a service provider by an owner of a lot is provided to the trustee at least 7 days before it becomes payable by the owner, the trustee must ensure that the amount is paid (either to the owner or to the service provider) before it becomes payable by the owner.

(4) The terms of the trust may make provision for the following —

(a) the procedure for claiming payments from the trust;

(b) the evidence of amounts paid or payable that must be provided to the trustee;

(c) the manner in which claims will be paid.

135. Amount of funding

(1) The trustee of the trust must pay a cost or expense paid or payable by an owner of a lot for a service for which funding is required to be provided unless the payment would result in the guaranteed funding amount for the owner's lot being exceeded.

(2) The guaranteed funding amount for a lot is —

(a) $1 500 for all advisory services obtained during the full proposal stage; and

(b) $5 000 for all representation services obtained during the Tribunal confirmation stage.

(3) Subregulation (2) does not apply if one or more owners of the lot is a vulnerable person (whether or not all owners are vulnerable persons).

(4) If the owner of a lot is a vulnerable person (whether or not all owners are vulnerable persons), the guaranteed funding amount for the lot is —

(a) $3 000 for all advisory services and ancillary services obtained during the full proposal stage; and

(b) $9 000 for all representation services and ancillary services obtained during the Tribunal confirmation stage.

(5) If more than one vulnerable person is an owner of the lot, the guaranteed funding amount for a lot increases as follows —

(a) an additional $1 000 for advisory services and ancillary services obtained during the full proposal stage for each additional vulnerable person who is an owner of the lot;

(b) an additional $2 000 for representation services and ancillary services obtained during the Tribunal confirmation stage for each additional vulnerable person who is an owner of the lot.

(6) The guaranteed funding amount for a lot is an amount per lot and, except as provided by subregulation (5), does not increase because more than one person owns the lot.

(7) The trustee of the trust may refuse to pay any cost or expense of an owner of a lot to the extent that the payment would result in the guaranteed funding amount for the owner's lot being exceeded.

(8) The proponent must ensure that the trust is provided with sufficient funds to ensure that the trustee can comply with this regulation.

(9) This regulation does not affect a requirement that an owner of a lot provide evidence of a cost or expense in support of a claim for payment from the trust.

136. Other rules about funding

(1) Funding under the trust must not be provided for any services obtained from the proponent or an associate of the proponent.

(2) If the proponent of a termination proposal decides not to proceed with the termination proposal, a claim for payment from the trust cannot be made for services obtained by an owner of a lot after the strata company serves notice on the owner that the proponent has withdrawn the proposal under section 186(2)(a).

(3) If a termination proposal cannot proceed under section 187, a claim for payment from the trust cannot be made for services obtained by an owner of a lot after the strata company gives notice to the owner confirming that fact under section 187(2)(b)(iii).

(4) A claim for payment from the trust for a service cannot be made by an owner of a lot more than 3 months after —

(a) the end of the stage of the termination proposal process during which the service was obtained; or

(b) if the proponent withdraws the termination proposal — the date the strata company serves notice on the owner that the proponent has withdrawn the proposal under section 186(2)(a); or

(c) if the termination proposal cannot proceed under section 187 — the date the strata company gives notice to the owner confirming that fact under section 187(2)(b)(iii).

137. Trustee of trust

(1) The trust must be administered by a trustee.

(2) The trustee of the trust must not be —

(a) the proponent or an associate of the proponent; or

(b) a member of the strata company or an associate of a member of the strata company; or

(c) the strata manager for the strata company or an associate of the strata manager; or

(d) if the scheme is a leasehold scheme — the owner of the leasehold scheme or an associate of the owner of the leasehold scheme.

(3) For the purposes of section 179(1)(l), the full proposal must include the name and contact details of the trustee if —

(a) the name and contact details of the trustee were not included in the outline of the termination proposal; or

(b) the name or contact details of the trustee have changed since the proponent submitted the outline of the termination proposal to the strata company.

138. Disputes about trustee's performance

(1) For the purposes of section 197(1)(i), a dispute between an owner of a lot and the trustee of the trust about the trustee's performance of, or failure to perform, a function of the trustee under this Part, or under the terms of the trust, is a scheme dispute under section 197(1).

(2) An owner of a lot may make an application to the Tribunal for resolution of the dispute.

(3) For the purposes of a requirement under this Part that owners of lots be provided with funding under the trust for services

obtained by them in connection with the termination proposal process —

(a) the dispute, and any proceedings before the Tribunal in connection with the dispute, are taken to be part of the termination proposal process; and

(b) the stage of the termination proposal process to which the dispute relates does not end in relation to the owner of the lot until the application for resolution of the dispute is withdrawn by the owner or the dispute is resolved by the Tribunal.

Note for this regulation:

Subregulation (3) enables owners of lots to claim funding from the trust for advisory or representation services and, if the owner is a vulnerable person, ancillary services obtained in connection with the dispute.

139. Trust account

(1) The funds held by the trustee under the trust must be kept in an ADI trust account.

(2) The trust account must include the words "trust account" within the name of the account.

140. Records

(1) The trustee must —

(a) make and keep a record of all amounts received into or paid from the trust account; and

(b) keep a copy of all claims for payment made against the trust including any invoice or other written evidence provided in support of a claim.

(2) The trustee must provide to the Tribunal a copy of the documents kept under subregulation (1)(a) within 7 days after receiving notice from the strata company that an application has been made to the Tribunal for confirmation of a termination resolution.

(3) The trustee must, within 7 days after receiving a request in writing from an owner of a lot, give to the owner written notice of the total amount that has been paid from the trust account in respect of the owner's lot.

(4) The trustee must, within 7 days after receiving a request in writing from the proponent, give to the proponent a written summary, based on the records kept by the trustee under subregulation (1)(a), of amounts received into or paid from the trust account.

(5) The summary must not —

(a) identify an owner of a lot to whom or in respect of whom any payment is made; or

(b) identify the class of vulnerable person into which an owner of a lot falls or in respect of which a payment is made; or

(c) describe a service for which a payment is made.

(6) Subregulation (5) does not prevent the summary identifying a service for which a payment is made as an advisory service, representation service or ancillary service.

141. Privacy of information

(1) The trustee of the trust or a person employed or engaged to assist the trustee must not disclose any personal information obtained about a person in the course of exercising functions under this Part except —

(a) with the consent of the person to whom the information relates; or

(b) with the consent of, or at the request of, the Tribunal; or

(c) with the consent of, or at the request of, a person appointed as a guardian or administrator under the *Guardianship and Administration Act 1990* of the person to whom the information relates; or

(d) if the disclosure is required by these regulations or any other law.

(2) Subregulation (1) does not prevent the trustee and a person employed or engaged to assist the trustee from disclosing personal information obtained about a person to each other for the purposes of exercising functions under this Part.

142. Winding up of trust

(1) The trust must not be wound up until the trustee is satisfied that —

(a) all persons entitled to make a claim for funding from the trust have no further claim for funding from the trust; and

(b) all outstanding claims for payment from the trust have been paid or resolved.

(2) The trustee is entitled to be satisfied that a person will have no further claim for funding from the trust if —

(a) the person has confirmed in writing that the person does not intend to make a claim or any further claim for funding from the trust; or

(b) the time within which the person may make any claim for funding from the trust has expired.

(3) After the trust is wound up, any remaining funds may be paid to the proponent.

Division 7 — Vulnerable persons

143. Identification of vulnerable persons

(1) For the purposes of section 190(1)(b), an owner of a lot is a vulnerable person if the owner falls within one or more of the following 3 classes of vulnerable person —

(a) persons who have a diminished capacity to understand the termination proposal process;

(b) persons who have a diminished capacity to cope with the termination proposal process;

(c) persons who have a diminished capacity to respond to the termination proposal process.

(2) Only a natural person can be a vulnerable person.

Note for this regulation:

An owner of a lot that is a body corporate can still obtain funding for advisory services and representative services under the funding arrangements that apply to lot owners who are not vulnerable persons under Division 6.

144. Diminished capacity to understand termination proposal process

(1) A person has diminished capacity to understand the termination proposal process if there are factors that impair the person's ability to understand the termination proposal process.

(2) Without limitation, the following are factors that impair a person's ability to understand the termination proposal process —

(a) difficulty reading or understanding English (because a person is from a non-English speaking background);

(b) a visual impairment that results in difficulty reading written information;

(c) a hearing impairment that results in difficulty hearing oral discussions;

(d) illiteracy;

(e) a person being under 18 years of age;

(f) a cognitive impairment that results in difficulty with complex decision-making;

(g) a mental illness that affects understanding.

145. Diminished capacity to cope with termination proposal process

(1) A person has diminished capacity to cope with the termination proposal process if there are factors that impair the person's ability to cope with the termination proposal process.

(2) Without limitation, the following are examples of factors that impair a person's ability to cope with the termination proposal process —

(a) an illness or disability that impacts on a person's mobility;

(b) an abusive relationship or other personal circumstances that impact on a person's ability to make an informed, independent decision in relation to a termination proposal;

(c) a mental illness or disorder, such as an anxiety disorder;

(d) frailty, poor health or serious illness;

(e) social isolation;

(f) a recent traumatic life event such as divorce or bereavement.

146. Diminished capacity to respond to termination proposal process

(1) A person has diminished capacity to respond to the termination proposal process if there are socioeconomic factors that impair the person's ability to access the professional advice or other services that the person requires to make an informed decision in the termination proposal process.

(2) Without limitation, the following are examples of socioeconomic factors that impair a person's ability to access professional advice or other services —

(a) unemployment;

(b) dependency on a government pension, benefit or allowance.

Division 8 — Arrangements for recognition of vulnerable persons

147. Independent advocate to identify vulnerable persons to proponent

(1) The independent advocate must provide to the proponent a list of owners of lots identified by the independent advocate as vulnerable persons under section 178A(4)(a).

(2) The list must be provided at least 14 days before the termination proposal is put to a vote under section 182.

(3) The independent advocate must not disclose to the proponent the class of vulnerable person within which the lot owner falls or the reasons why the independent advocate identified the lot owner as falling within a particular class of vulnerable person.

148. Owner of lot may apply to be recognised as vulnerable person

(1) Any owner of a lot who is a natural person may, at any time after notice of a full termination proposal is served under section 178, apply in writing to the proponent to be recognised as a vulnerable person in relation to the termination proposal process.

(2) An owner of a lot may apply to the proponent to be recognised as a vulnerable person even if the owner is not identified by the independent advocate as a vulnerable person.

(3) An owner who applies to the proponent to be identified as a vulnerable person must identify the class of vulnerable person within which the owner claims to fall but is not required to give the proponent evidence that the owner falls within that class of vulnerable person.

149. Proponent to make decision about claim of vulnerability

(1) If an owner of a lot is identified by the independent advocate as a vulnerable person, or applies to the proponent to be recognised as a vulnerable person, the proponent must either —

(a) recognise the owner as a vulnerable person; or

(b) refuse to recognise the owner as a vulnerable person.

(2) An owner of a lot is entitled to be recognised as a vulnerable person if the owner is a vulnerable person under this Part.

(3) If the proponent recognises an owner of a lot as a vulnerable person, the proponent must serve notice in writing of that decision on —

(a) the owner; and

(b) the trustee of the trust.

(4) If the owner of a lot is recognised as a vulnerable person as a result of applying to the proponent for recognition, the notice served on the trustee must also identify the class or classes of vulnerable person within which the lot owner falls.

(5) If the proponent recognises an owner of a lot as a vulnerable person, the trustee of the trust must treat the person as a vulnerable person for the purposes of any claim for funding made against the trust.

(6) If the proponent refuses to recognise an owner of a lot as a vulnerable person, the proponent must serve notice in writing of that decision on —

(a) the owner; and

(b) the independent advocate (if the owner was identified by the independent advocate as a vulnerable person).

(7) A notice under subregulation (3) or (6) must be served not less than 10 days before the termination proposal is put to a vote under section 182.

(8) However, if an application for recognition as a vulnerable person is made to the proponent less than 14 days before the termination proposal is put to a vote under section 182, or after the termination proposal is put to a vote, the notice must be served within 5 days after the application is made.

(9) An owner of a lot who is recognised as a vulnerable person may make a claim for payment from the trust for an ancillary service obtained before the owner was so recognised, as long as the service is one for which funding must be provided under this Part.

150. Trustee may require information about type of vulnerability

(1) The trustee of the trust may, for the purpose of verifying whether a vulnerable person is eligible for funding from the trust for a particular ancillary service, request the independent advocate to disclose to the trustee the class of vulnerable person within which the person falls.

(2) The request must be made in writing.

(3) The independent advocate must comply with the request.

(4) The independent advocate must not disclose to the trustee of the trust the reasons why the independent advocate identified the person as falling within a particular class of vulnerable person.

151. Dispute about proponent's decision

(1) An owner of a lot who is a natural person may dispute a decision of the proponent to refuse to recognise the person as a vulnerable person.

(2) The owner may dispute the decision by making an application to the Tribunal for resolution of the dispute.

(3) For the purposes of section 197(1)(i), a dispute about the decision is a scheme dispute under section 197(1).

(4) For the purposes of a requirement under this Part that owners of lots be provided with funding under the trust for services obtained by them in connection with the termination proposal process —

(a) the dispute, and any proceedings before the Tribunal in connection with the dispute, are taken to be part of the termination proposal process; and

(b) the stage of the termination proposal process to which the dispute relates does not end in relation to the owner of the lot until the application for resolution of the dispute is withdrawn by the owner or the dispute is resolved by the Tribunal.

152. Unanimous owner-initiated termination proposals excluded

This Division does not apply in respect of a unanimous owner-initiated termination proposal.

Note for this regulation:

The requirements for a unanimous owner-initiated termination proposal are set out in Division 9.

Division 9 — Provisions for unanimous owner-initiated termination proposals

153. Unanimous owner-initiated termination proposals

(1) A proposal for the termination of a strata titles scheme is a ***unanimous owner-initiated termination proposal*** if —

(a) the proponent is one or more of the owners of lots in the strata titles scheme; and

(b) the termination proposal is submitted by the proponent on condition that the termination proposal will be proceeded with only if it has the unanimous support of owners of lots in the strata titles scheme.

(2) A termination proposal has the ***unanimous support*** of owners of lots in a strata titles scheme if, on a vote under section 182, the termination proposal is passed as provided for by section 182(6).

Note for this regulation:

A termination proposal that has unanimous support of owners of lots in a strata titles scheme does not require the confirmation of the Tribunal. If the termination resolution is passed as provided for by section 182(6), an application can be made to the Registrar of Titles for the termination of the scheme under section 193.

154. Permission to submit termination proposal as unanimous owner-initiated termination proposal

An outline of a termination proposal may be submitted to a strata company as a unanimous owner-initiated termination proposal only if, before the outline is submitted to the strata company, the strata company passes a unanimous resolution permitting the proponent to submit a termination proposal as a unanimous owner-initiated termination proposal.

155. Outline of proposal

(1) In this regulation —

dissenting owner protections means the protections afforded to owners of lots by the following —

(a) section 178A (which relates to the independent advocate);

(b) section 179(2) (which requires a full termination proposal to incorporate a termination infrastructure report);

(c) section 179(3) (which requires a full termination proposal to incorporate a termination valuation report);

(d) section 190 (which relates to arrangements for independent advice or representation for owners).

(2) For the purposes of section 175(1)(j), an outline of a termination proposal that is a unanimous owner-initiated termination proposal must —

(a) declare that the termination proposal is submitted by the proponent as a unanimous owner-initiated termination proposal; and

(b) declare that the termination proposal is submitted by the proponent on condition that the termination proposal will be proceeded with only if it has the unanimous support of owners of lots in the strata titles scheme; and

(c) explain what unanimous support means under this Part; and

(d) explain, in the approved form —

(i) the dissenting owner protections; and

(ii) how the dissenting owner protections apply to a termination proposal that is not a unanimous owner-initiated termination proposal; and

(iii) how the dissenting owner protections apply to a termination proposal that is a unanimous owner-initiated termination proposal.

(3) For the purposes of section 175(1)(i), the details of the proposed arrangements for obtaining independent advice or representation must specify the following —

(a) an owner of a lot is entitled, at any time before voting on the full proposal, to notify the strata company that the owner wishes to access funding from the proponent to obtain independent advice or representation in connection with the termination proposal;

(b) an owner of a lot is also entitled, at any time before voting on the full proposal, to notify the strata company or the independent advocate that the owner wishes to be identified as a vulnerable person and to access funding from the proponent to obtain fuller or more extensive

advice or representation in connection with the termination proposal;

(c) if an owner of a lot notifies the strata company or the independent advocate that the owner wishes to access the funding arrangements referred to in paragraph (a) or (b), the proponent must —

(i) withdraw the termination proposal; and

(ii) if the proponent wishes to proceed further, submit a new outline of the termination proposal that is not a unanimous owner-initiated termination proposal under which a fund will be established that will enable owners to access funding to obtain independent advice or representation in connection with the proposal.

156. Qualifications of independent advocate

For the purposes of section 178A(2)(b), an independent advocate for a unanimous owner-initiated termination proposal must satisfy any requirements as to experience or qualifications that the strata company specifies.

157. Full proposal

(1) A full termination proposal may be submitted to a strata company as a unanimous owner-initiated termination proposal only if the outline of the termination proposal was submitted as a unanimous owner-initiated termination proposal.

(2) For the purposes of section 179(1)(l), a full proposal for the termination of a strata titles scheme that is a unanimous owner-initiated termination proposal must —

(a) declare that the termination proposal is submitted by the proponent as a unanimous owner-initiated termination proposal; and

(b) declare that the proposal is submitted by the proponent on condition that the termination proposal will be

proceeded with only if it has the unanimous support of owners of lots in the strata titles scheme; and

(c) explain what unanimous support means under this Part; and

(d) declare that the termination proposal will not be modified in a material particular by the proponent after a termination resolution is passed unless the modification has the unanimous support of owners of lots in the strata titles scheme.

158. Person who can provide report of required works

For the purposes of section 179(2)(b), if the report is to be incorporated in a full proposal for a unanimous owner-initiated termination proposal, the person providing the report must be a person, or person of a class, approved by the strata company.

159. Arrangements for independent advice or representation for owners

(1) The proponent of a unanimous owner-initiated termination proposal must enter into an arrangement with the strata company under which the proponent agrees that, if the proponent is notified by the strata company or the independent advocate that an owner of a lot wishes to access funding from the proponent to obtain independent advice or representation in connection with the proposal at any time before the proposal is put to a vote under section 182 (whether as a vulnerable person or otherwise), the proponent must —

(a) withdraw the termination proposal; and

(b) if the proponent wishes to proceed further, submit a new outline of the termination proposal that is not a unanimous owner-initiated termination proposal and under which a fund will be established that will enable owners to access funding from the proponent to obtain independent advice or representation in connection with the proposal.

(2) The strata company must notify the proponent if an owner of a lot notifies the strata company, at any time before the proposal is put to a vote under section 182, that the owner wishes to access funding from the proponent to obtain independent advice or representation in connection with the proposal (whether as a vulnerable person or otherwise).

(3) The independent advocate must notify the proponent if an owner of a lot notifies the independent advocate, at any time before the proposal is put to a vote under section 182, that the owner wishes to be identified as a vulnerable person and to access funding from the proponent to obtain fuller or more extensive advice or representation in connection with the proposal.

Note for this regulation:

The section 190 arrangement for unanimous owner-initiated termination proposals enables owners of lots who have unanimously agreed to a termination of the scheme to avoid the cost of establishing a fund under section 190(2) unless and until one or more of the owners of the lots requests access to funding to obtain independent advice or representation in connection with the termination proposal. In that case, if the proponent wishes to proceed, the proponent must start the termination proposal process again by submitting a termination proposal that is not a unanimous owner-initiated termination proposal and establish a trust under which that funding will be provided.

Part 16 — Tribunal proceedings

160. Occupier disputes relating to termination proposals

(1) For the purposes of section 197(1)(i), the following disputes are scheme disputes under section 197(1) —

(a) a dispute about a proposal to terminate a strata titles scheme under section 191 between an occupier of a lot in the scheme and the owner of the lot;

(b) a dispute about a proposal to terminate a strata titles scheme between an occupier of a lot in the scheme and the proponent of the proposal, being a termination proposal for which a termination resolution has been passed under section 182(6).

(2) An occupier of a lot may make an application to the Tribunal for a resolution of the dispute.

161. Orders required to be made by legally qualified member

For the purposes of section 203(2), the following classes of orders are required to be made by a legally qualified member —

(a) an order under section 200(2)(b) (an order requiring a structural element by reference to which a lot in a strata scheme is defined to be reinstated following its damage, destruction or removal);

(b) any other order relating to a dispute about the damage, destruction or removal of a structural element by reference to which a lot in a strata scheme is defined.

162. Internal review of Tribunal decisions

For the purposes of section 210(1), an order made by the Tribunal constituted by a member who is not a legally qualified member is specified.

Note for this regulation:

Under section 210(1), a party to proceedings in which the order is made may apply for internal review of the order.

Part 17 — Miscellaneous

163. Expiry day for leasehold scheme in scheme notice

(1) A scheme notice for a proposed leasehold scheme must specify the expiry day for the scheme by specifying the proposed term of the strata lease for each lot that is created on the registration of the leasehold scheme.

(2) The term must commence on the registration of the leasehold scheme.

164. Postponement of expiry day for leasehold scheme

If the Registrar of Titles registers an amendment of a scheme notice that postpones the expiry day for a leasehold scheme, the Registrar of Titles must notify the following of the postponement —

(a) the Valuer-General;

(b) each local government and other authority that appears to the Registrar to be authorised to levy rates or taxes in respect of the parcel or part of the parcel.

165. Variation of strata titles scheme — redefining plan

(1) For the purposes of section 169(1), a redefining plan must —

(a) be in an approved form; and

(b) be prepared and certified by a licensed surveyor in accordance with the Act and regulation 54 of the Licensed Surveyors (General) Regulations; and

(c) comply with the requirements of this regulation.

(2) A redefining plan for a strata scheme must —

(a) identify the strata scheme to which it relates by reference to the number allocated to the scheme by the Registrar of Titles under section 58(1)(a); and

(b) define the boundaries of the lots, and the balance of the lots, that remain after the taking takes effect by reference to a floor plan and a location plan; and

(c) identify the nature and extent of any encroachment in the manner required for a scheme plan under section 32(1)(j) and Part 3 of these regulations; and

(d) if part of a building is within 2 metres of the parcel boundary, specify any offset on the location plan.

(3) A redefining plan for a survey-strata scheme must —

(a) identify the survey-strata scheme to which it relates by reference to the number allocated to the scheme by the Registrar of Titles under section 58(1)(a); and

(b) define the boundaries of the lots, and the balance of the lots, that remain after the taking takes effect in accordance with the requirements of the Act, these regulations and the Transfer of Land Act requirements.

(4) The numbering of any lots, or parts of lots, remaining in a strata titles scheme after the taking must be the same as before the taking.

(5) For the purposes of section 169(2)(b), the Registrar of Titles may amend the registered scheme plan in any manner the Registrar considers appropriate.

166. Notice of impending expiry of leasehold scheme

(1) An owner of a leasehold scheme must ensure that the notice of the impending expiry of a leasehold scheme referred to in section 172 is lodged with the Registrar of Titles no earlier than 3 months before the expiry of the leasehold scheme.

(2) To avoid doubt, a single notice may be lodged for the purposes of both section 172 and section 193.

(3) Within 7 days after lodging the notice with the Registrar of Titles, the owner of the leasehold scheme must serve a copy of the notice on the following —

(a) all owners of lots in the leasehold scheme;

(b) all occupiers of lots in the leasehold scheme.

(4) An owner of a leasehold scheme commits an offence if the owner —

(a) fails to comply with subregulation (1); or

(b) fails to comply with subregulation (3).

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

167. Conversion of tenancy in common to strata titles scheme — simplified procedure

(1) The Registrar of Titles may direct that the procedure provided for by this regulation (the ***simplified conversion procedure***) is to apply to the conversion of a tenancy in common to a strata titles scheme, instead of the usual procedure that, but for that direction, would apply.

(2) The simplified conversion procedure is as follows —

(a) an application for conversion to a strata titles scheme must be made to the Registrar of Titles as an application for registration of the strata titles scheme under section 56;

(b) the application must be signed by all the owners of the land the subject of the application;

(c) the application must identify the type of strata titles scheme to be created, that is, whether it is a strata scheme or survey-strata scheme and whether it is a freehold scheme or leasehold scheme;

(d) the application must be accompanied by a disposition statement that is signed by all the owners of the land the subject of the application and complies with the

requirements of these regulations in relation to disposition statements;

(e) if the scheme to be created is a leasehold scheme, the disposition statement must also direct the Registrar of Titles to endorse the certificate of title for the parcel in accordance with section 57(2)(b).

(3) To avoid doubt, an owner of land who is a mortgagee in possession or the owner of a life estate can apply for a conversion under this regulation.

(4) If an application is made by the owner of a life estate in land, the owner in remainder must also consent to the application.

(5) If the Registrar of Titles is satisfied that the simplified conversion procedure has been complied with, the Registrar of Titles must register the strata titles scheme in accordance with section 58.

168. Disposition statements

(1) For the purposes of section 222, a disposition statement may be registered under the Act if it is in an approved form and it complies with the requirements of this regulation.

(2) A disposition statement may be made for any of the following purposes —

(a) to give effect to an application for conversion of a tenancy in common to a strata titles scheme under regulation 167;

(b) to amend a strata titles scheme to give effect to a type 4 subdivision;

(c) to give effect to a notice of resolution lodged for registration under Schedule 2A clause 21S of the Act (which relates to mergers of common property into lots);

(d) to give effect to a notice of resolution lodged for registration under Schedule 2A clause 31D of the Act

(which relates to conversion of strata schemes to survey-strata schemes).

(3) A disposition statement referred to in subregulation (2)(a) —

(a) must provide for the disposition of all of the lots and common property in the strata titles scheme so that they vest in the original proprietors of the strata titles scheme as owners, and no other person; and

(b) must provide for the disposition of all of the lots in the strata titles scheme so that each of the original proprietors becomes an owner of at least one lot in the strata titles scheme; and

(c) may provide for the disposition of any lot in the strata titles scheme so that it vests in any one or more of the original proprietors of the strata titles scheme; and

(d) if the tenancy in common is being converted to a leasehold scheme —

(i) must provide for the disposition of the interest of the owner of the leasehold scheme in each strata lease under the scheme so that it vests in the original proprietors in the same proportions as the freehold was owned by them as tenants in common immediately before the disposition; and

(ii) may provide for the disposition of the interest of a lot owner in a strata lease so that it vests in any one or more of the persons who comprise the owner of the leasehold scheme (in accordance with the principles that apply to the disposition of lots in the scheme under paragraph (c)).

(4) A disposition statement referred to in subregulation (2)(b), (c) or (d) must —

(a) provide for the disposition of the lots and common property created by the subdivision or notice of resolution so that they vest in the persons who were the

owners of the lots affected by the subdivision or notice of resolution immediately before the disposition, and no other person, in the way referred to in section 13(5) when a new lot is created; and

(b) provide for the disposition of the lots created by the subdivision or notice of resolution so that they vest in the owners in the same manner as the affected lots were owned immediately before the disposition.

(5) To avoid doubt, the effect of subregulation (4)(b) is as follows —

(a) if a lot affected by a subdivision or notice of resolution is owned by 2 or more persons as joint tenants immediately before the disposition, the disposition must vest the new lot in those persons as joint tenants;

(b) if a lot affected by a subdivision or notice of resolution is owned by 2 or more persons as tenants in common immediately before the disposition, the disposition must vest the new lot in those persons as tenants in common in the same proportions as the affected lot was owned immediately before the disposition.

(6) If a disposition statement is made to give effect to a type 4 subdivision, and the effect of the subdivision is to enlarge or reduce an existing lot or common property, subregulations (4) and (5) apply to the enlarged or reduced lot or common property in the same way as they would apply if the enlarged or reduced lot or common property were a new lot or common property created by the subdivision.

(7) A disposition statement may not effect —

(a) the complete release, removal or discharge of an encumbrance or caveat; or

(b) the release, removal or discharge of an entire interest in an encumbrance; or

(c) the registration of any registered interest (other than as registered proprietor) in respect of a lot or common property if a part of that lot or the common property, or the common property that was formerly comprised in the land the subject of the application, was not previously subject to that registered interest; or

(d) the lodgement of a caveat in respect of a lot if a part of that lot was not previously subject to that caveat; or

(e) a change of any person having a registered interest in any encumbrance registered in respect of a lot or the common property, from the person as previously registered or lodged; or

(f) a change of the proprietor of an interest the subject of any caveat lodged in respect of a lot, from the proprietor as previously registered or lodged.

(8) Subregulation (7)(c) does not prevent a disposition statement from effecting the creation of —

(a) any short form easement or restrictive covenant that may be created on a strata plan or survey-strata plan; or

(b) any short form easement or restrictive covenant that may be created on the lodgement of a sketch plan referred to in Schedule 2A clause 21T(1)(b) of the Act or a survey-strata plan referred to in Schedule 2A clause 31E(1)(a) of the Act.

(9) When a disposition statement is registered, items registered or recorded for the scheme in the Register are to be discharged, withdrawn or otherwise removed, or brought forward, under the *Transfer of Land Act 1893* in the manner necessary to give effect to the disposition statement.

169. Fees payable to Registrar of Titles

The fees specified in Schedule 5 are the fees payable to the Registrar of Titles in respect of matters specified in that Schedule.

170. Fees payable to local government

(1) This regulation specifies the fees payable for a service provided by the local government pursuant to an application for —

(a) approval to amend or repeal scheme by-laws under section 22(1); or

(b) approval of a subdivision under section 23(1); or

(c) a determination under section 24; or

(d) approval of the discharge of an easement under Schedule 2A clause 21W(3)(b) of the Act.

(2) The fee payable is to be calculated by adding together the following —

(a) the staff costs for the application, being the total number of hours that each member of the local government's staff spends dealing with the application multiplied by the hourly rate of that staff member;

(b) operating overhead costs for the application, being 33.3% of the amount calculated under paragraph (a).

(3) The hourly rates for members of the local government's staff are as follows —

(a) for the person in charge of planning at the local government — $88.00 per hour;

(b) for a senior planner or manager — $66.00 per hour;

(c) for a planning officer, environmental health officer or other officer with qualifications relevant to the request — $36.86 per hour;

(d) for a secretary or administrative officer — $30.20 per hour.

(4) A local government may reduce the hourly rate payable in respect of a member of the local government's staff.

(5) A local government that receives an application for an approval or determination referred to in subregulation (1) must give the

applicant an estimate of the fee that will be payable for the application under this regulation.

(6) The estimate must include the following —

(a) the estimated number of hours that the members of the local government's staff will spend dealing with the application;

(b) the hourly rates for those staff members;

(c) the operating overhead costs for the application;

(d) the total fee that the local government estimates will be imposed for dealing with the application.

(7) The estimate must include a separate estimate of the number of hours that the members of the local government's staff will spend dealing with the application for each of the categories referred to in subregulation (3)(a) to (d), specified by reference to each of the following tasks involved in dealing with the application —

(a) preliminaries;

(b) liaison with external agencies;

(c) liaison with the applicant;

(d) assessment and approval;

(e) updating of records.

(8) A local government may reduce the fee specified in the estimate, and in that case the fee payable is reduced accordingly.

(9) A local government may refuse to deal with an application referred to in subregulation (1) until —

(a) the estimated total fee specified in the estimate given by the local government is paid; or

(b) if that fee is reduced under subregulation (8), the reduced fee is paid.

(10) A local government may waive or reduce, in whole or in part, the fee payable in respect of an application.

171. Fees payable to Planning Commission

(1) The fees specified in Schedule 6 are the fees payable to the Planning Commission in respect of matters specified in that Schedule.

(2) For the purposes of calculating a fee payable under Schedule 6, each area of common property shown on a survey-strata plan is counted as a lot.

Part 18 — Repeal, savings and transitional

172. Terms used

In this Part —

4-year and 6-month transitional period means the period starting on the commencement day and ending on the day that is 4 years and 6 months after the commencement day;

4-year transitional period means the period starting on the commencement day and ending on the day that is 4 years after the commencement day;

5-year and 6-month transitional period means the period starting on commencement day and ending on the day that is 5 years and 6 months after commencement day;

5-year transitional period means the period starting on the commencement day and ending on the day that is 5 years after the commencement day;

6-month grace period means the period of 6 months after the commencement day;

7-year and 6-month transitional period means the period starting on the commencement day and ending on the day that is 7 years and 6 months after the commencement day;

2018 amending Act means the *Strata Titles Amendment Act 2018*;

prescribed educational qualification has the meaning given in Part 13.

[Regulation 172 amended: SL 2024/50 r. 8; SL 2024/209 r. 8; SL 2025/182 r. 20.]

173. *Strata Titles General Regulations 1996* repealed

The *Strata Titles General Regulations 1996* are repealed.

174. Open space and plot ratio changes

The *Strata Titles General Regulations 1996* regulation 35 continues to apply to applications served under section 7B before the commencement day (as if that regulation had not been repealed).

175. Phasing-in of financial year requirements

(1) The amendment to section 3(1) made by the 2018 amending Act that inserts the definition of ***financial year for a strata company*** does not apply to a strata company until the end of the 5-year transitional period.

(2) During the 5-year transitional period, the financial year for a strata company is taken to be —

(a) if a financial year is specified in the scheme by-laws of the strata company — that period; or

(b) if paragraph (a) does not apply — the period of 12 months used by the strata company as its financial year before the commencement day; or

(c) if neither paragraph (a) nor (b) applies — the period of 12 months ending on the day before the anniversary of registration of the strata titles scheme, or the period of 12 months ending on 30 June, whichever period the strata company chooses.

(3) During the 5-year transitional period, a strata company that, under subregulation (2)(b) or (c), uses or chooses to use as its financial year a period of 12 months ending on a different date from 30 June may make a by-law that specifies that period as its financial year.

(4) Such a by-law has effect for the purposes of the definition of ***financial year for a strata company***, as inserted by the 2018 amending Act, if it is made by ordinary resolution of the strata company and is taken to be a governance by-law.

Note for this regulation:

If a strata company makes a by-law before the end of the 5-year transitional period specifying the financial year it uses or chooses to use under subregulation (2)(b) or (c) as its financial year, it will be able to continue to use that period as its financial year at the end of the 5-year transitional period under the definition of ***financial year for a strata company*** as inserted by the 2018 amending Act.

176. Scheme notice for strata titles schemes continued by 2018 amending Act

(1) The Registrar of Titles may create and register a scheme notice for any strata titles scheme that continues in existence under Schedule 5 clause 2(1) of the Act to facilitate the registration of amendments to the scheme notice under the Act.

(2) The scheme notice must contain the information that is taken to be specified in a scheme notice for the strata titles scheme by Schedule 5 clause 3 of the Act.

177. Applications lodged before commencement day

(1) In this regulation —

pending registration application means an application for registration of a strata plan or survey-strata plan under section 4 as in force immediately before the commencement day that was lodged but not finally dealt with by the Registrar of Titles before the commencement day.

(2) The Registrar of Titles may register and otherwise deal with a pending registration application in accordance with the Act as in force immediately before the commencement day if a strata plan or survey-strata plan was lodged in connection with the application before the commencement day and the Registrar of Titles is satisfied that —

(a) the Planning Commission issued a certificate for the plan, or endorsed the plan, under the Act or the *Planning and Development Act 2005* before the commencement day in a manner that would have enabled it to be registered under the Act as in force at the time of

lodgement of the plan or the plan was, at the time of lodgement, exempt from the requirement to be approved by the Planning Commission for registration; and

(b) the plan was approved by the relevant local government before the commencement day (if applicable).

(3) A pending registration application that is not dealt with as provided for by subregulation (2) is taken to have been lodged under section 56 and is to be dealt with accordingly.

(4) The Registrar of Titles may treat an application referred to in subregulation (3) as having been made in compliance with section 56 if the Registrar is satisfied that the scheme plan that is lodged in connection with the application meets the requirements for registration under the Act, as amended by the 2018 amending Act.

(5) The Registrar of Titles may treat an application that, under Schedule 5 clause 7(1) of the Act, is taken to have been lodged under section 56 as an application for registration of amendment of a scheme plan as having been made in compliance with section 56 if the Registrar is satisfied that the scheme plan that is lodged in connection with the application meets the requirements for registration under the Act, as amended by the 2018 amending Act.

(6) The Registrar of Titles may treat an application for registration of a strata titles scheme or an amendment of a strata titles scheme that is lodged on or after the commencement day in relation to a strata plan or survey-strata plan that was lodged before the commencement day as having been made in compliance with section 56 if satisfied that —

(a) the Planning Commission issued a certificate for the plan, or endorsed the plan, under the Act or the *Planning and Development Act 2005* before the commencement day in a manner that would have enabled it to be registered under the Act as in force at the time of lodgement of the plan or the plan was, at the time of

lodgement, exempt from the requirement to be approved by the Planning Commission for registration; and

(b) the plan was approved by the relevant local government before the commencement day (if applicable); and

(c) the plan meets the requirements for registration under the Act, as amended by the 2018 amending Act.

(7) The Registrar of Titles may require a replacement scheme plan to be lodged in relation to an application referred to in subregulation (3), (5) or (6) if the plan lodged does not meet the requirements for registration under the Act, as amended by the 2018 amending Act.

(8) Without limiting subregulation (7), the Registrar of Titles may require a replacement scheme plan to be lodged in relation to an application that updates references to provisions of the Act to reflect the changes made by the 2018 amending Act.

178. Staged subdivisions under pre-commencement by-laws

(1) In this regulation —

pre-commencement re-subdivision by-laws means by-laws of a strata company made before the commencement day that —

(a) are of a kind described in Schedule 2A item 8 of the Act, as in force immediately before the commencement day; and

(b) continue to have effect under Schedule 5 clause 4(1) of the Act.

(2) If an amendment of a scheme plan is required as a consequence of the completion of a stage of subdivision to which pre-commencement re-subdivision by-laws apply, and an application is made to the Registrar of Titles under section 56 for registration of the amendment to the scheme plan —

(a) sections 35 and 36, and the regulations under section 36, do not apply to the application; and

(b) section 8A(a)(ii) and 8A(i) and (j), as in force immediately before the commencement day, apply to the application and the scheme plan lodged for registration in connection with the application (as if those provisions had not been repealed); and

(c) the regulations in force under section 8A(a)(ii)(II) immediately before the commencement day continue to apply for the purpose of determining whether the scheme plan sufficiently complies with the pre-commencement re-subdivision by-laws.

Note for this regulation:

Section 42 and Schedule 2A item 8 of the Act, as in force immediately before the commencement day, enabled by-laws to be made relating to any proposed re-subdivision in a scheme, subject to certain requirements. Under section 8A(a)(ii)(II) of the Act, as in force immediately before the commencement day, a plan of re-subdivision lodged under the Act was required to confirm that it complied with those by-laws or sufficiently complied with those by-laws in a way that was allowed by the regulations. The *Strata Titles General Regulations 1996* regulation 36, as in force before its repeal by these regulations, set out the requirements relating to compliance with section 8A(a)(ii)(II) of the Act.

179. Requirement to have 10 year plan

A reference in regulation 77 to the first annual general meeting of a designated strata company is a reference to the first annual general meeting of the strata company to occur more than 12 months after the commencement day.

180. Compulsory changes to scheme by-laws

(1) If Schedule 5 clause 4 of the Act applies to the by-laws of a strata company and, on or after the commencement day, an application for registration of an amendment of a strata titles scheme is made to give effect to the making, amendment or repeal of any by-laws of the strata company, the current copy of

scheme by-laws that is lodged with the application must be an updated consolidated set of scheme by-laws that —

(a) includes any re-classification of the by-laws (as governance by-laws or conduct by-laws) that is taken to have been made by Schedule 5 clause 4(1) of the Act; and

(b) omits any by-laws that are taken to have been repealed by Schedule 5 clause 4(2) of the Act; and

(c) is otherwise consistent with Schedule 5 clause 4 of the Act.

(2) A strata company may update its scheme by-laws in the manner set out in subregulation (1) but is not required to do so until it makes, amends or repeals any of its other scheme by-laws.

(3) Any changes to scheme by-laws that are required by Schedule 5 clause 4 of the Act, and any renumbering of scheme by-laws that are consequential on those changes, do not require a resolution of the strata company.

(4) This regulation does not affect Schedule 5 clause 4(5) of the Act.

Note for this regulation:

Schedule 5 clause 4(2) of the Act provides that all by-laws that are in force immediately before the commencement day in the terms set out in Schedule 1 clauses 11 to 15, or Schedule 2 clause 5, of the Act as then in force are taken to be repealed on the commencement day.

181. Phasing-in of national criminal record check requirements

(1) Regulation 92 does not apply in respect of a person who was employed or engaged by a strata manager before the commencement day until the end of the 6-month grace period.

(2) Accordingly, a strata manager must obtain a national criminal record check as required by regulation 92 in relation to persons employed or engaged by the strata manager by the end of the 6-month grace period.

(3) A strata manager must not, after the end of the 6-month grace period, continue to perform scheme functions under a contract between the strata manager and a strata company that was entered into before the commencement day (an ***existing contract***) unless —

(a) the strata manager makes a criminal record statement that complies with regulation 93 and provides a copy of the statement to the strata company before the end of the 6-month grace period; and

(b) the existing contract continues to have effect at the end of the 6-month grace period under Schedule 5 clause 13(3) of the Act.

(4) To avoid doubt, the strata management contract requirements imposed by regulation 93 extend to contracts between a strata manager and a strata company that were entered into before commencement day, but not until the end of the 6-month grace period.

(5) This regulation does not apply to a volunteer strata manager or to a volunteer agreement with a volunteer strata manager.

Note for this regulation:

Schedule 5 clause 13(3) of the Act provides that a contract or volunteer agreement with a strata company ceases to have effect 6 months after commencement day unless the contract or volunteer agreement then meets the requirements set out in section 145 (the strata management contract requirements).

182. Phasing-in of educational qualification requirements

(1) Regulation 95 does not take effect until the end of the 7-year and 6-month transitional period.

(2) Regulation 97 does not apply to a strata management contract entered into before the end of the 7-year and 6-month transitional period, if the contract provides for the matters required under subregulation (3).

(3) For the purposes of section 145(1)(k), a strata management contract entered into before the end of the 7-year and 6-month transitional period that does not comply with regulation 97 must —

(a) indicate that the strata manager is required by law to ensure that, by the end of the 7-year and 6-month transitional period, each person who is a principal of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager, holds the prescribed educational qualification; and

(b) indicate whether or not, at the time of entering into the contract, each person who is a principal of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager, holds the prescribed educational qualification; and

(c) if the duration of the strata management contract extends beyond the end of the 7-year and 6-month transitional period, specify that —

(i) at the end of the 7-year and 6-month transitional period, the strata manager warrants that each person who is a principal of the business of the strata manager, or a designated person in relation to the strata manager who has a key role in performing scheme functions, will hold the prescribed educational qualifications; and

(ii) after the end of the 7-year and 6-month transitional period and for the remainder of the strata management contract, the strata manager must continue to ensure that each person who is a principal of the business of the strata manager, or a designated person in relation to the strata manager who has a key role in performing

scheme functions, holds the prescribed educational qualifications; and

(iii) after the end of the 7-year and 6-month transitional period, the strata manager must, on the written request of the strata company, provide evidence to the strata company that each person who is a principal of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager, holds the prescribed educational qualification.

(4) To avoid doubt, the strata management contract requirements imposed by regulation 97 and this regulation extend to contracts between a strata manager and a strata company that were entered into before commencement day, but not until the end of the 6-month grace period.

(5) This regulation does not apply to a volunteer strata manager or to a volunteer agreement with a volunteer strata manager.

Note for this regulation:

Schedule 5 clause 13(3) of the Act provides that a contract or volunteer agreement with a strata company ceases to have effect 6 months after commencement day unless the contract or volunteer agreement then meets the requirements set out in section 145 (the strata management contract requirements).

[Regulation 182 amended: SL 2024/50 r. 9; SL 2024/209 r. 9; SL 2025/182 r. 21.]

182A. Transitional provision for *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 3) 2024*

(1) This regulation applies to a strata management contract referred to in regulation 182 that was entered into before the commencement of the *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 3) 2024* regulation 9.

(2) A reference in the contract to the end of the 4-year transitional period or to the end of the 4-year and 6-month transitional period is taken to be a reference to the end of the 7-year and 6 month transitional period.

[Regulation 182A inserted: SL 2024/209 r. 10; amended: SL 2025/182 r. 22.]

183. Phasing-in of professional indemnity insurance requirements

(1) Regulation 98 takes effect at the end of the 6-month grace period.

(2) To avoid doubt, the strata management contract requirements imposed by regulation 99 extend to contracts between a strata manager and a strata company that were entered into before commencement day (other than volunteer agreements), but not until the end of the 6-month grace period.

Note for this regulation:

Schedule 5 clause 13(3) of the Act provides that a contract or volunteer agreement with a strata company ceases to have effect 6 months after commencement day unless the contract or volunteer agreement then meets the requirements set out in section 145 (the strata management contract requirements).

Schedule 1 — Special provisions relating to single tier strata scheme

1. Term used: Schedule 2A

In this Schedule —

Schedule 2A means Schedule 2A to the Act.

2. Application of Schedule

This Schedule prescribes matters for the purposes of Schedule 2A.

3. Permitted boundary deviation

(1) For the purposes of the definition of ***permitted boundary deviation*** in Schedule 2A clause 3, a part of a lot may be above or below another lot if —

(a) no part of a floor of a lot or part of a lot in a building forms or joins the ceiling of another lot or part of a lot in a building; and

(b) no part of a lot extends horizontally above or below another lot by more than 3 metres.

(2) In subclause (1), a reference to a building includes any building whether shown on the strata plan or not.

4. Boundaries of cubic space — things that are included

The following things are prescribed for the purposes of Schedule 2A clause 3AB(1)(a)(i)(II) as things to be included as part of a lot —

(a) hot water systems;

(b) refrigeration, air conditioning and cooling or heating plant or equipment;

(c) antennae or aerials for telecommunication;

(d) skylights;

(e) chimneys;

(f) roof ornaments;

(g) pipes, wires and cables;

(h) awnings, blinds, shutters and window grilles;

(i) light fittings;

(j) meter boxes;

(k) signs;

(l) renewable energy systems (such as solar panels or wind turbines);

(m) any thing of a kind similar to any of the things referred to in paragraphs (a) to (l).

5. Boundaries of cubic space — things that are excluded

The following things are prescribed for the purposes of Schedule 2A clause 3AB(1)(a)(ii) as things that are not to be included as part of a lot, unless they are shown on the floor plan in respect of that lot —

(a) patios;

(b) carports and pergolas;

(c) enclosed rooms;

(d) storage rooms;

(e) any structure of a kind similar to any of the structures referred to in paragraphs (a) to (d).

6. Merger by resolution of buildings that are common property — sketch plan required

(1) The approved form of a notice of resolution that is lodged with the Registrar of Titles under Schedule 2A clause 21G(1) must be accompanied by a plan (a ***sketch plan***) in an approved form that complies with the requirements of this regulation.

(2) The sketch plan must —

(a) show how the strata plan is to be amended as a consequence of the resolution; and

(b) comply with the requirements for a scheme plan or amendment of a scheme plan, with any modifications approved by the Registrar of Titles; and

(c) be prepared and certified by a licensed surveyor in accordance with regulation 54 of the Licensed Surveyors (General) Regulations.

7. Merger by resolution of land that is common property — requirements for sketch plan

A sketch plan under Schedule 2A clause 21T(1)(b) must —

(a) be in an approved form; and

(b) show how the strata plan is to be amended as a consequence of the resolution; and

(c) comply with the requirements for a scheme plan or an amendment of a scheme plan, with any modifications approved by the Registrar of Titles; and

(d) be prepared and certified by the licensed surveyor who gives the certificate referred to in Schedule 2A clause 21T(1)(c).

Note for this clause:

Schedule 2A clause 21U(1)(b) requires the certificate of a licensed surveyor referred to in Schedule 2A clause 21T(1)(c) to comply with the regulations and Transfer of Land Act requirements for certification of amendments of scheme plans. Under regulation 14(1), a certificate in relation to an amendment of a scheme plan is required to be in the form required by regulation 54 of the Licensed Surveyors (General) Regulations.

8. Merger by resolution of land that is common property — surveyor's certificate

(1) For the purposes of Schedule 2A clause 21U(4)(a), the following matters as to which a licensed surveyor is to certify under Schedule 2A clause 21U(3) are prescribed —

(a) the number of car parking bays and rights of vehicular turning and access to a street or parts of the common property;

(b) in the case of residential developments, rights to private open space for the occupiers of each of the lots;

(c) rights of pedestrian access to a street or parts of the common property;

(d) rights for access and use of storage areas, service areas, mail boxes and service meters;

(e) rights for service access.

(2) The matters must be certified having regard to —

(a) the provisions of the relevant local planning scheme or improvement scheme in force under the *Planning and Development Act 2005*; and

(b) the existing planning approval for the strata scheme; and

(c) any statutory easements or other provisions contained in the Act; and

(d) any short form easements or restrictive covenants of a kind referred to in Schedule 2A clause 21W that are to be created on registration of the notice of resolution.

(3) In the case of a residential development, any expression used in subclause (1) or (2) that is defined in the R-Codes has the same meaning as it has in that document.

9. Merger by resolution of land that is common property — disposition statement

(1) For the purposes of Schedule 2A clause 21V(2), a disposition statement may be registered if —

(a) it is in an approved form; and

(b) it complies with the requirements for disposition statements specified in these regulations for the purposes of section 222.

(2) A disposition statement must include a certificate of a kind referred to in Schedule 2A clause 21T(1)(e) or 21V(3) if that is required by the approved form.

10. Conversion of strata scheme to survey-strata scheme — survey-strata plan

For the purposes of Schedule 2A clause 31E(1)(a)(i), the survey-strata plan must —

(a) be in an approved form; and

(b) comply with the requirements under section 32 and these regulations for a scheme plan that is a survey-strata plan.

Note for this clause:

Part 3 of these regulations specifies further requirements for a survey-strata plan for the purposes of section 32.

11. Conversion of strata scheme to survey-strata scheme — certificate of interest holders

A certificate under Schedule 2A clause 31E(1)(e) must be in an approved form.

12. Conversion of strata scheme to survey-strata scheme — certificate of licensed surveyor

(1) For the purposes of Schedule 2A clause 31F(1)(b), a certificate under Schedule 2A clause 31E(1)(b) must be in the form required by regulation 54 of the Licensed Surveyors (General) Regulations.

(2) For the purposes of Schedule 2A clause 31F(3)(a), the following matters as to which a licensed surveyor is to certify under Schedule 2A clause 31F(2)(e) are prescribed —

(a) the number of car parking bays and rights of vehicular turning and access to a street or parts of the common property;

(b) rights to light and air;

(c) rights of support, or for an intrusion into another lot which constitutes a permitted boundary deviation before the conversion;

(d) in the case of residential developments, rights to private open space for the occupiers of each of the lots;

(e) rights of pedestrian access to a street or parts of the common property;

(f) rights for access and use of storage areas, service areas, mail boxes and service meters;

(g) rights for service access.

(3) The matters must be certified having regard to —

(a) the provisions of the relevant local planning scheme or improvement scheme in force under the *Planning and Development Act 2005*; and

(b) the existing planning approval for the strata scheme; and

(c) any statutory easements or other provisions contained in the Act; and

(d) any short form easements or restrictive covenants of a kind referred to in Schedule 2A clause 31G that are to be created on registration of the notice of resolution.

(4) In the case of a residential development, any expression used in subclause (2) or (3) that is defined in the R-Codes has the same meaning as it has in that document.

13. Conversion of strata scheme to survey-strata scheme — disposition statement

(1) For the purposes of Schedule 2A clause 31H(2), a disposition statement may be registered if —

(a) it is in an approved form; and

(b) it complies with the requirements for disposition statements specified in these regulations for the purposes of section 222.

(2) A disposition statement must include a certificate of a kind referred to in Schedule 2A clause 31E(1)(e) or 31H(3) if that is required by the approved form.

14. Action to be taken by Registrar of Titles

(1) For the purposes of Schedule 2A clauses 21J, 21Z(1)(a) and 31K(1)(a), the strata plan is to be amended in the manner the Registrar of Titles determines to be appropriate in the circumstances.

(2) In addition to amending the strata plan, the Registrar of Titles may make any other entries in the Register that the Registrar considers appropriate to give effect to a notice of resolution that is registered under Schedule 2A.

15. Insurance

Section 97(2) applies to any insurance a strata company is required to keep under Schedule 2A clause 53C or 53D in the same way as it applies to any insurance a strata company is required to keep under section 97(1).

Schedule 2 — Explanation of effect of section 47

[r. 57]

1. Enforcement of scheme by-laws

(1) The strata company that has given you this notice is alleging that you have contravened the scheme by-laws.

(2) Under the *Strata Titles Act 1985* section 47, the State Administrative Tribunal (the ***Tribunal***) has power to enforce scheme by-laws.

2. Who can apply for enforcement of scheme by-laws

(1) The following persons may make an application to the Tribunal for enforcement of scheme by-laws —

(a) the strata company;

(b) an owner of a lot in the strata titles scheme;

(c) if the strata titles scheme is a leasehold scheme — the owner of the leasehold scheme;

(d) a mortgagee of a lot in the strata titles scheme;

(e) an occupier of a lot in the strata titles scheme.

(2) An application can only be made on the grounds that —

(a) the contravention has had serious adverse consequences for another person; or

(b) you have contravened the same scheme by-law on at least 3 separate occasions; or

(c) you have been given this notice and have contravened the notice.

3. How this could affect you

(1) If an application is made to the Tribunal for enforcement of scheme by-laws, the Tribunal has power to make any order it considers appropriate to resolve the by-law enforcement proceeding.

(2) In particular, if the Tribunal is satisfied that you have contravened the scheme by-laws, the Tribunal has power to make an order that requires you to do one or more of the following —

(a) pay a specified amount to the strata company by way of penalty for the contravention;

(b) take specified action within a period stated in the order to remedy the contravention or prevent further contraventions of the scheme by-laws;

(c) refrain from taking specified action to prevent further contraventions of the scheme by-laws.

(3) The maximum amount that the Tribunal can impose by way of penalty for the contravention is $2 000.

Schedule 3 — Provisions to be included in strata lease

[r. 61, 62, 63]

Division 1 — General

1. Preliminary

This strata lease applies to the following lots in leasehold scheme number [*insert relevant leasehold scheme number*] —

[*insert relevant lot numbers*]

Note for this clause:

The leasehold scheme number and the lots to which the strata lease applies should be inserted in clause 1. Under the *Strata Titles (General) Regulations 2019*, the strata lease is taken to be a separate strata lease for each of those lots.

2. Terms used

In this strata lease —

Act means the *Strata Titles Act 1985*;

leasehold scheme means the leasehold scheme described in clause 1;

lessee means the owner (as defined in section 3(1) of the Act) for the time being of the lot;

lessor means the owner (as defined in section 3(1) of the Act) for the time being of the leasehold scheme;

lot means a lot to which this strata lease applies (as specified in clause 1).

3. Lease of the lot

The lessor leases the lot to the lessee for the term of this strata lease.

4. Term of strata lease

This strata lease —

(a) commences when the lot is created on the registration of the leasehold scheme or an amendment of the leasehold scheme; and

(b) expires on the expiry day for the leasehold scheme as set out in the scheme notice registered for the scheme as a scheme document.

5. Covenants or conditions of strata lease

(1) This lease is subject to the covenants or conditions set out in Division 2, which forms part of this lease.

(2) If there is any inconsistency between the covenants or conditions set out in this strata lease, and the covenants or conditions that are allowed to be contained in this lease under section 52(1)(a) of the Act, the covenants or conditions that are allowed to be contained in this lease under section 52(1)(a) of the Act prevail to the extent of the inconsistency.

6. Special provision for conditional tenure land

(1) If the *Land Administration Act 1997* section 75(3B) applies to the leasehold scheme, this strata lease is also subject to the condition referred to in section 75(3B)(b) of that Act.

(2) This clause is a fundamental covenant or condition.

7. Services of notices under strata lease

(1) Notices required to be served on the lessor under this strata lease must be served in accordance with section 216(3) of the Act.

(2) Notices required to be served on the lessee under this strata lease must be served in accordance with section 216(4) of the Act.

Division 2 — Covenants or conditions

8. Term used: designated event

In this Division —

designated event, in relation to the strata lease, means the occurrence of one of the following events (whichever occurs first) —

(a) the leasehold scheme expires;

(b) the leasehold scheme is terminated;

(c) the lessee surrenders the lot to the lessor;

(d) the lessor is entitled to re-enter the lot under section 40(4)(a)(ii)(III) of the Act;

(e) the lessor is authorised to re-enter the lot by order of the State Administrative Tribunal under section 54(3)(d) of the Act.

9. Compliance with legislation

(1) The lessor must comply with the Act.

(2) The lessee must comply with the Act.

(3) Subclause (2) is a fundamental covenant or condition.

10. Compliance with scheme by-laws

Both the lessor and the lessee must comply with the scheme by-laws for the leasehold scheme.

11. Requirement to maintain lot

(1) The lessee must maintain and repair the lot and keep it in a state of good condition.

(2) Reasonable wear and tear, and damage by fire, storm, tempest or act of God are excepted.

12. Requirement to notify lessor of structural damage

The lessee must serve notice on the lessor of any structural damage to the lot within 30 days of becoming aware of the damage.

13. Payment of rates and charges

(1) In this clause —

government charge means —

(a) a rate or service charge under the *Local Government Act 1995*; or

(b) any other tax, rate or charge imposed by a written law that —

(i) under a written law, is a charge on the lot; or

(ii) under a written law, is recoverable from the owner of land for the time being if land is transferred;

utility charge means a rate or charge for a utility service that, under a written law, is a charge on the lot.

(2) The lessee must ensure that —

(a) any government charge payable in respect of the lot is paid; and

(b) any utility charge payable for services provided to the lot is paid; and

(c) any government charge or utility charge the payment of which has been deferred or which is outstanding is paid before or immediately after a designated event occurs.

(3) Any accrued interest on a government charge or utility charge forms part of the charge and must also be paid.

14. Discharge of mortgages and removal of caveats

The lessee must ensure that —

(a) any mortgage of the lot is discharged before or immediately after a designated event occurs; and

(b) any caveat lodged against the lot is removed before or immediately after a designated event occurs.

15. Change in ownership details

If the lot is transferred, the lessee must serve notice in writing on the lessor of the following within 14 days after the transfer occurs —

(a) the name of the lessee;

(b) the address for service of the lessee.

16. Lease by lessee must be consistent with strata lease

(1) The lessee must ensure that any lease of the lot is not inconsistent with this strata lease.

(2) If this strata lease is amended, the lessee must ensure that any lease of the lot is amended to the extent necessary to ensure that it is not inconsistent with this strata lease.

17. Inspection of lot

(1) The lessor may enter the lot to inspect the lot only —

(a) with the consent of the lessee; or

(b) if the lessee does not consent, under the authority of an order of the State Administrative Tribunal that authorises the lessor to enter the lot to inspect the lot.

(2) The lessor may apply for an order referred to in subclause (1)(b) only if —

(a) the lessor has evidence that the lessee has failed to maintain and repair the lot and keep it in a state of good condition, or failed to notify the lessor of structural damage to the lot, as required by this strata lease; and

(b) the inspection is necessary to ascertain the state of repair of the lot.

18. Lessee to deliver vacant possession when leasehold scheme expires

The lessee must deliver vacant possession of the lot to the lessor when the leasehold scheme expires or if it is terminated.

[Schedule 4 deleted: SL 2025/182 r. 23.]

Schedule 5 — Fees payable to Registrar of Titles

[r. 169]

Item	Matter	Fee ($)
1.	(a) General fee for lodgement of any plan (including an amendment to a plan)	364.00
	(b) Additional fee for each lot shown on the plan, or for each area of common property in a survey-strata plan, other than a lot that is proposed to be vested in the Crown under the *Planning and Development Act 2005* section 152	97.00
2.	(a) General fee for lodgement of application to register a strata titles scheme	225.10
	(b) Additional fee for each lot in the strata titles scheme	8.20
3.	Fee for lodgement of scheme by-laws in connection with application to register strata titles scheme	225.10
4.	(a) General fee for lodgement of strata lease in connection with application to register a leasehold scheme	225.10
	(b) Additional fee for each separate strata lease in the scheme (after the first strata lease) taken to be registered when the strata lease is registered as a scheme document	8.20
5.	(a) General fee for lodgement of application to amend a strata titles scheme, being an application that amends a scheme plan	225.10
	(b) Additional fee for each new lot created by the amendment, other than a lot that is proposed to be vested in the Crown under the *Planning and Development Act 2005* section 152	8.20

Item	Matter	Fee ($)
6.	Fee for lodgement of application to amend a strata titles scheme, being an application that does not amend a scheme plan	225.10
7.	Fee for lodgement of disposition statement	225.10
8.	(a) General fee under section 193(1)(f) for lodgement of application for termination of strata titles scheme	225.10
	(b) Additional fee under section 193(1)(f) for each lot in the strata titles scheme to be terminated	8.20
9.	(a) General fee under section 193(1)(f) for lodgement of notice of expiry of a leasehold scheme	225.10
	(b) Additional fee under section 193(1)(f) for each lot in the leasehold scheme that expires	8.20
10.	Fee for the issuing, by the Registrar of Titles, of a requisition in respect of a lodged plan	146.60
11.	Fee for lodgement of any other application	225.10
12.	Fee for lodgement of any notification	225.10
13.	Fee for entering any notice or order	225.10
14.	Fee for a procedure or function required or permitted to be done under the Act and not specified in this Schedule but which is specified in the *Transfer of Land Regulations 2004*	The fee prescribed by those regulations

Item	Matter	Fee ($)
15.	Fee for a procedure or function required or permitted to be done under the Act and not specified in this Schedule or in the *Transfer of Land Regulations 2004*	The fee (if any) assessed by the Registrar of Titles (not exceeding the cost of providing the service)

[Schedule 5 amended: SL 2020/76 r. 6; SL 2021/88 r. 6; SL 2022/62 r. 8; SL 2023/44 r. 8; SL 2024/83 r. 8; SL 2025/85 r. 8; SL 2026/64 r. 8.]

Schedule 6 — Fees payable to Planning Commission

[r. 171]

Item	Matter	Fee ($)
1.	Fee for application for approval of strata plan under section 15(1) to give effect to a subdivision of land by a strata scheme (not being an amendment of a strata plan) —	
	(a) General fee for strata scheme with 2 to 5 lots	656.00
	(b) Additional per lot fee for strata scheme referred to in paragraph (a)	65.00
	(c) General fee for strata scheme with 6 to 100 lots	981.00
	(d) Additional fee for strata scheme referred to in paragraph (c) for each lot in excess of 5 lots	43.50
	(e) Fee for strata scheme with 101 or more lots	5 113.50
2.	Fee for application for endorsement of the strata plan, or amendment of the strata plan, for a leasehold scheme under section 15(4) —	
	(a) General fee for leasehold scheme with up to 5 lots	656.00
	(b) Additional per lot fee for scheme referred to in paragraph (a)	65.00
	(c) General fee for leasehold scheme with 6 to 100 lots	981.00
	(d) Additional fee for scheme referred to in paragraph (c) for each lot in excess of 5 lots	43.50
	(e) Fee for leasehold scheme with 101 or more lots	5 113.50
3.	Fee for application for approval of amendment of strata plan under section 15(1) to give effect to a subdivision of land by a strata scheme —	
	(a) General fee for strata scheme that will have 2 to 100 lots (after amendment)	1 217.00

Item	Matter	Fee ($)
	(b) Additional per lot fee for scheme referred to in paragraph (a)	26.00
	(c) General fee for strata scheme that will have 101 or more lots (after amendment)	3 817.00
	(d) Additional fee for scheme referred to in paragraph (c) for each lot in excess of 100 lots	4.00
	(e) Fee for amendment of strata scheme that consolidates lots into a single lot	820.00
4.	Fee for application under section 20(1) for the approval of the Planning Commission to the making, amendment or repeal of leasehold by-laws providing for the postponement of the expiry day of a leasehold scheme	588.00

Notes

This is a compilation of the *Strata Titles (General) Regulations 2019* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table.

Compilation table

Citation	Published	Commencement
Strata Titles (General) Regulations 2019	31 Dec 2019 p. 4455-635	r. 1 and 2: 31 Dec 2019 (see r. 2(a)) Regulations other than r. 1 and 2: 1 May 2020 (see r. 2(b) and SL 2020/39 cl. 2)
Lands Regulations Amendment (Fees and Charges) Regulations 2020 Pt. 3	SL 2020/76 9 Jun 2020	1 Jul 2020 (see r. 2(b))
Lands Regulations Amendment (Fees and Charges) Regulations 2021 Pt. 3	SL 2021/88 18 Jun 2021	1 Jul 2021 (see r. 2(b))
Lands Regulations Amendment (Surveys) Regulations 2021 Pt. 3	SL 2021/151 31 Aug 2021	1 Sep 2021 (see r. 2(b))
Lands Regulations Amendment (Fees and Charges) Regulations 2022 Pt. 4	SL 2022/62 3 Jun 2022	1 Jul 2022 (see r. 2(b))
Lands Regulations Amendment (Legal Profession) Regulations 2022 Pt. 3	SL 2022/116 30 Jun 2022	1 Jul 2022 (see r. 2(b) and SL 2022/113 cl. 2)
Lands Regulations Amendment (Fees and Charges) Regulations 2023 Pt. 4	SL 2023/44 19 May 2023	1 Jul 2023 (see r. 2(b))
Lands Regulations Amendment Regulations 2024 Pt. 3	SL 2024/18 21 Feb 2024	1 Mar 2024 (see r. 2(b))
Lands Regulations (Community and Strata Titles) Amendment Regulations 2024 Pt. 3	SL 2024/50 17 Apr 2024	18 Apr 2024 (see r. 2(b))
Lands Regulations Amendment (Fees and Charges) Regulations 2024 Pt. 4	SL 2024/83 29 May 2024	1 Jul 2024 (see r. 2(b))
Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 3) 2024 Pt. 3	SL 2024/209 16 Oct 2024	17 Oct 2024 (see r. 2(b))
Lands Regulations Amendment (Fees and Charges) Regulations 2025 Pt. 4	SL 2025/85 11 Jun 2025	1 Jul 2025 (see r. 2(b))
Lands Regulations (Community and Strata Titles) Amendment Regulations 2025 Pt. 3	SL 2025/182 29 Oct 2025	30 Oct 2025 (see r. 2(b))

Citation	Published	Commencement
Lands Regulations Amendment (Fees and Charges) Regulations 2026 Pt. 4	SL 2026/64 13 May 2026	1 Jul 2026 (see r. 2(b))

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
2018 amending Act	172
2025 commencement day	90
2025 transitional period	97E(1)
4-year and 6-month transitional period	172
4-year transitional period	172
5-year and 6-month transitional period	172
5-year transitional period	172
6-month grace period	172
7-year and 6-month transitional period	172
Act	Sch. 3 cl. 2
advisory service	107
affected person	107
agreed stage of subdivision	48
ancillary service	107
assistant strata community manager	3, 90
authorised scheme function	90
calendar year	3
Certificate IV in Strata Community Management	95(1)
class of vulnerable person	107
commencement day	3
community corporation	97B(1)
community titles scheme	97B(1)
condition report	77(1)
covenant area	22
covenantee	22
covenantor	22
covered items	77(1)
criminal record statement	90, 93(1)
designated event	Sch. 3 cl. 8
designated strata company	79(1)
Diploma of Property (Agency Management - Strata)	95(1)
dissenting owner protections	155(1)
easement area	22
existing contract	181(3)
former regulations	90
full proposal stage	107
government charge	Sch. 3 cl. 13(1)
grantee	22
grantor	22

GST 3
independent vote counter 107
industry experience ..... 97B(1)
interested person ..... 16(1)
lease ..... 60(1)
leasehold scheme ..... Sch. 3 cl. 2
lessee ..... Sch. 3 cl. 2
lessor ..... Sch. 3 cl. 2
Licensed Surveyors (General) Regulations 3
Licensed Surveyors (TLA) Regulations 3
local employee 90
local legal practitioner 3
local planning scheme 3
lot ..... Sch. 3 cl. 2
national criminal record check 90
pending registration application ..... 177(1)
personal information 3
pre-commencement re-subdivision by-laws ..... 178(1)
prescribed educational qualification 3, 90, 172
prescribed experience qualification 90
principal 90
property or dishonesty offence 90
property type 3
public authority 3
qualified person 90
R-Codes 3
record of votes 107
relative unit entitlement 48
relevant claim ..... 40(1)
repair or maintenance work 90
representation service 107
required insurance ..... 70(1)
Schedule 2A ..... Sch. 1 cl. 1
scheme manager ..... 97B(1)
sealed record of votes ..... 124(1)
section 3
short form description ..... 22, 23(2), 25(2)
short form documents 22
significant variation ..... 48, 49(1)
simplified conversion procedure ..... 167(1)
single tier building ..... 6(1)
sketch plan ..... Sch. 1 cl. 6(1)
specialist work 90
strata community manager 90

superseding qualification 90
Survey Regulations 3
termination proposal process 107
Tribunal ..... Sch. 2 cl. 1(2)
Tribunal confirmation stage 107
trust 107
trust account ..... 101(1)
unanimous owner-initiated termination proposal ..... 107, 153(1)
unanimous support ..... 107, 153(2)
unit ..... 95(1)
utility charge ..... Sch. 3 cl. 13(1)
voting notice ..... 107, 121(1)
voting right restriction ..... 103(2)
vulnerable person 107

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