

Community Titles Act 2018

Compare between:

[07 Jul 2020, 00-c0-01] and [30 Jun 2021, 00-d0-00]

Western Australia

Community Titles Act 2018

An Act —

- to provide for the subdivision of land by community schemes, the creation of community titles, and the governance and operation of community schemes; and
- to make consequential and related amendments to other Acts; and
- for related purposes.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

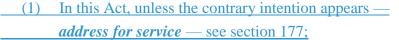
This is the Community Titles Act 2018.

2. Commencement

This Act comes into operation as follows —

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

[3-. Terms used



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

administrative fund — see section 85(1)(a);

administrator of a community corporation means a person appointed by the Tribunal as an administrator of the community corporation under section 165(2)(q);

amendment of a community titles scheme — see section 15(2);

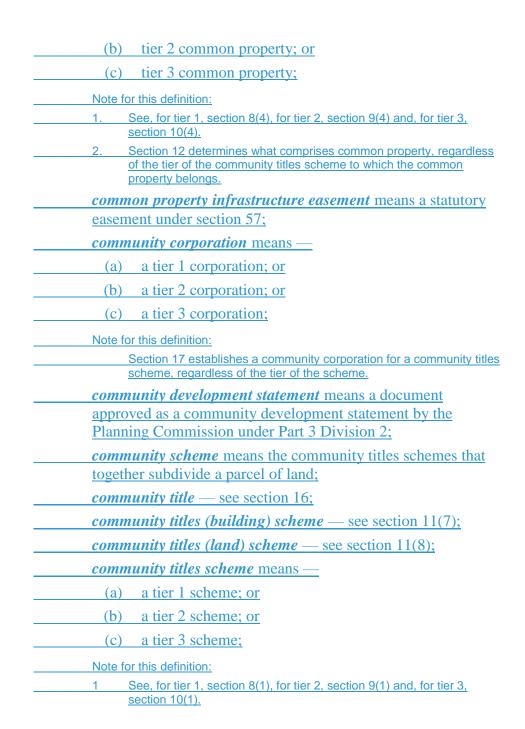
amendment in relation to common property or a lot in a community titles scheme — see subsection (2);

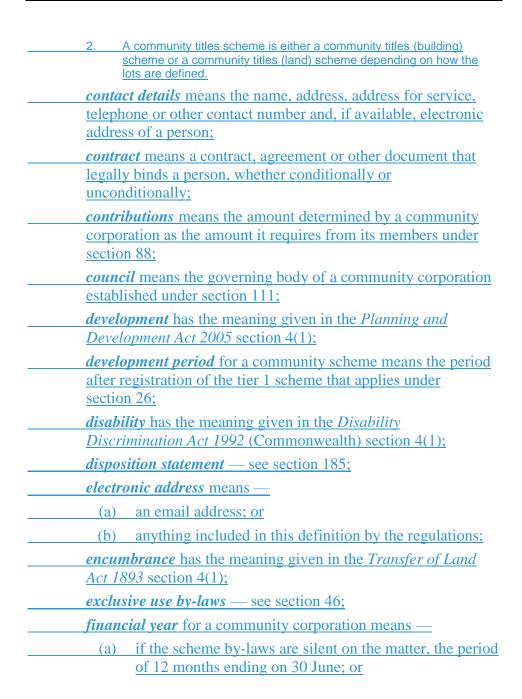
approved form — a document, evidence or information is in an approved form only if it is in the form approved under the regulations or Transfer of Land Act requirements and it complies with any requirements of the regulations or Transfer of Land Act requirements;

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

associa	ate — 2 persons are associates if —			
(a)	1 is the spouse or de facto spouse of the other; or			
(b)	1 is the child or grandchild of the other; or			
(c)	they have a parent or grandparent in common; or			
(d)	they are partners; or			
(e)	they are directors of the same body corporate; or			
(f)	1 is employed by the other; or			
(g)	1 is a body corporate and the other is a director, officer			
(h)	or employee of the body corporate or a person who is otherwise in a position to control or substantially influence the conduct of the body corporate; or they are bodies corporate and the same person is a			
(11)	director of both bodies corporate;			
Austra	clian legal practitioner has the meaning given in the			
	Profession Act 2008 section 3;			
Author	rity means the Western Australian Land Information			
	rity established by the Land Information Authority			
<u>Act 20</u>	<u>06 section 5;</u>			
belong	s — see section 13 —			
(a)				
	to a community titles scheme; and			
(b)	for when a community titles scheme belongs to another			
	community titles scheme;			
buildin	g includes structure;			
_	value has the meaning given in the Valuation of Land			
<u>Act 19</u>	78 section 4(1);			
	issioner of Titles means the person holding or acting in			
	ice of the Commissioner of Titles under the <i>Transfer of</i>			
	<u>Land Act 1893;</u>			
<u>comme</u>	on property means —			
(a)	tier 1 common property; or			

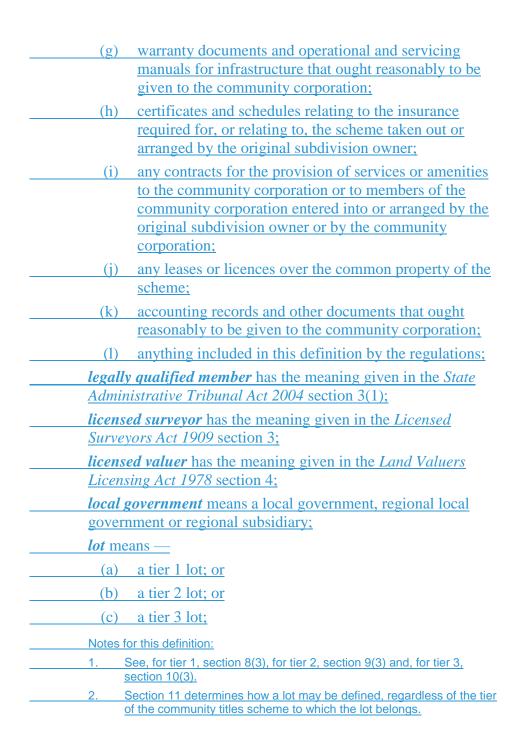
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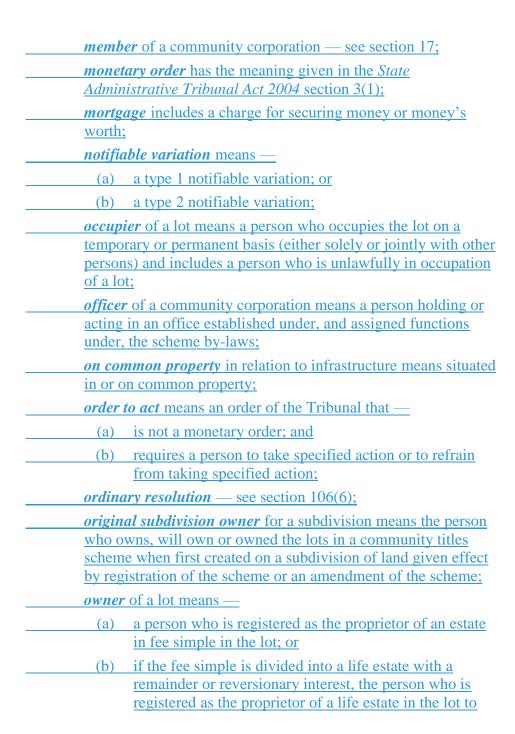


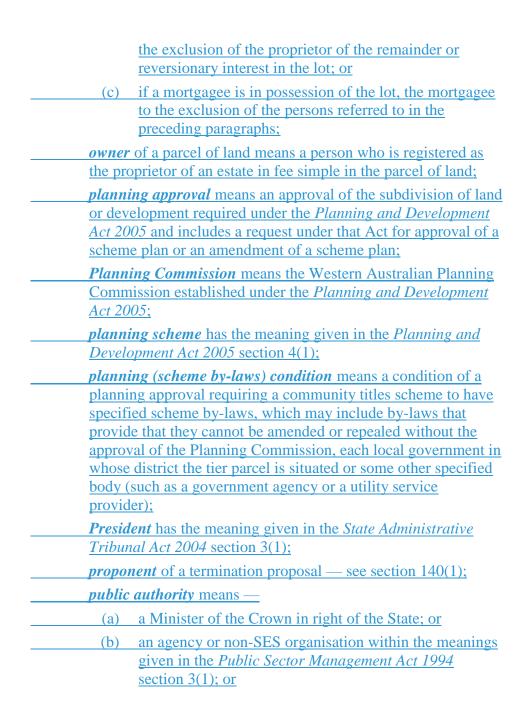


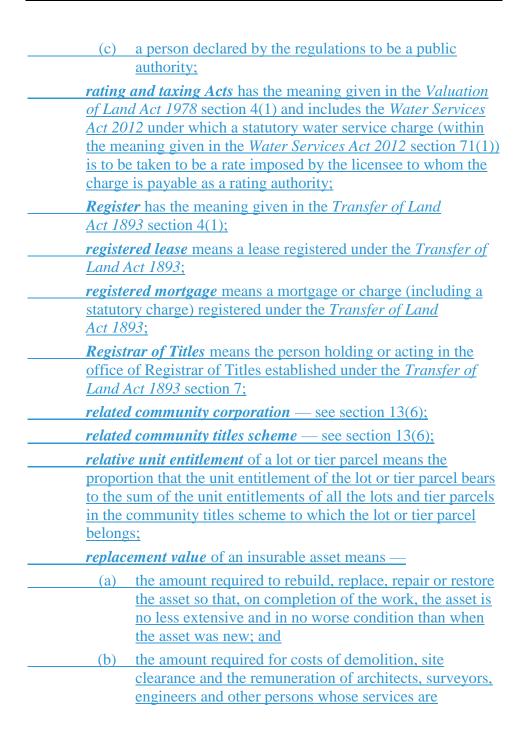
	(b) if the scheme by-laws specify a period of 12 months			
	on a different date as the financial year for the			
	e, the period specified in the by-laws;			
floor includes	a stairway or ramp;			
<u>infrastructure</u>	include public or private access ways, lifts,			
	ols, gymnasiums, other recreational facilities,			
_	s, loading bays, infrastructure for utility services			
	res and, in each case, associated equipment;			
<u>infrastructure</u>	contract — see section 57(1)(a);			
<u>infrastructure</u>	owner — see section 57(3);			
<u>insurable asse</u>	t of a community titles scheme —			
(a) means				
(i)	the common property of the scheme (including			
(1)	the fixtures and improvements on the common			
	property); or			
(ii)	the parts of scheme buildings that comprise lots			
	in the scheme (including the paint and			
	wallpaper); or			
(iii)	anything included in this definition by the			
	regulations;			
but				
(b) does no	ot include —			
(i)	fixtures or improvements on the common			
	property that are not themselves common			
	property; or			
(ii)	carpet and temporary wall, floor and ceiling			
	coverings in a scheme building; or			
(iii)	fixtures removable by a lessee at the expiration			
	of a tenancy; or			
(iv)	anything excluded from this definition by the			
	regulations;			

intere	interested community corporations for a termination			
propo	proposal — see section 141(1);			
interii	n development order has the meaning given in the			
	ing and Development Act 2005 section 4(1);			
item r	egistered or recorded for a community titles scheme —			
see se	ction 52(5);			
Note fo	r this definition:			
<u></u>	For example, an item may comprise an estate, interest, right, encumbrance, notification, memorial or caveat.			
judici	al member has the meaning given in the State			
<u>Admir</u>	nistrative Tribunal Act 2004 section 3(1);			
key do	perment in relation to a subdivision of land by a			
comm	unity titles scheme means each of the following —			
(a)	the application for registration of the scheme or			
	amendment of the scheme to give effect to the			
	subdivision and everything that accompanies the			
	application;			
(b)_	the scheme documents, or amendments of the scheme			
	documents, as registered for the subdivision;			
(c)	planning approvals for the subdivision and development			
	associated with the scheme;			
<u>(d)</u>	occupancy permits and building approval certificates			
	under the Building Act 2011 relating to development			
	associated with the subdivision;			
(e)	official notices relating to the subdivision or			
	development associated with the subdivision;			
<u>(f)</u>	specifications, diagrams and drawings relating to the tier			
	parcel or a building on the tier parcel affected by the			
	subdivision (including any specifications, diagrams and			
	drawings that show utility conduits, utility infrastructure			
	or sustainability infrastructure);			

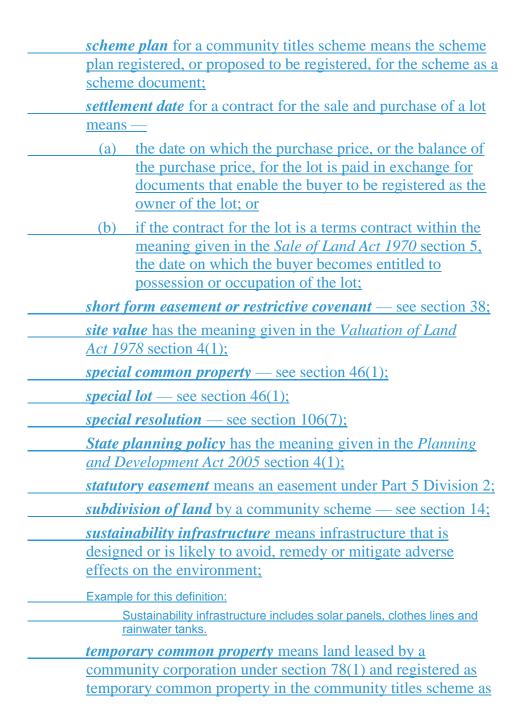






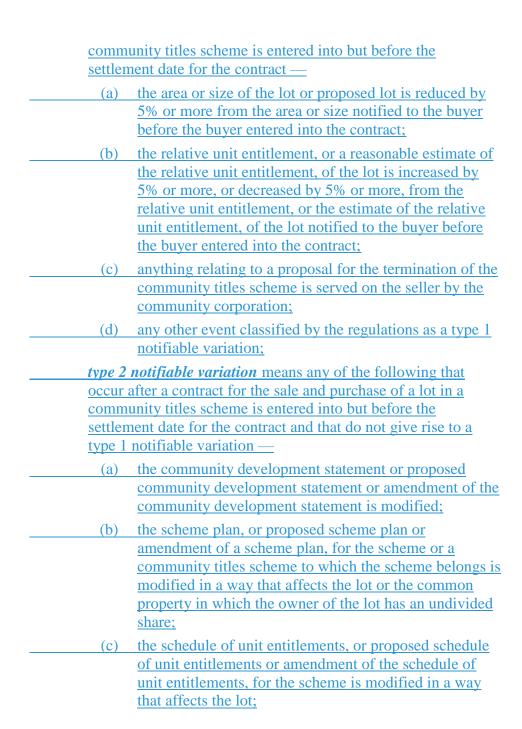


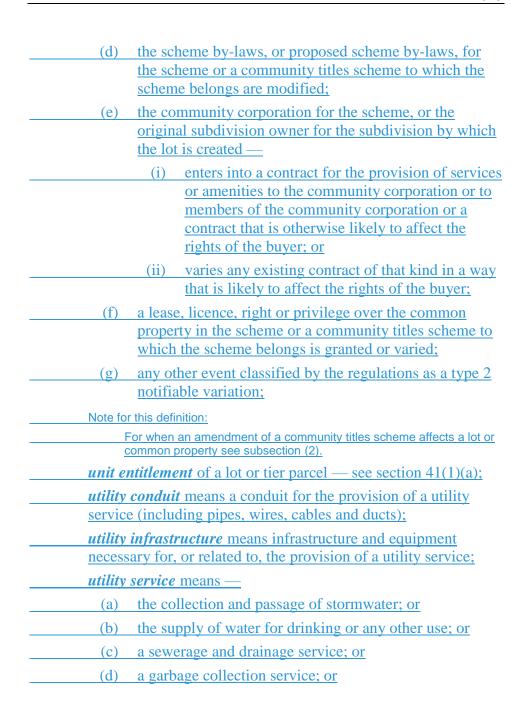
necessary for the rebuilding, replacement, repair or
restoration of the asset;
reserve fund — see section 85(1)(b);
restricted use condition — see section 37(2)(a);
Note for this definition:
An example of a restricted use is use of a community titles scheme as a retirement village.
schedule of unit entitlements for a community titles scheme means the schedule of unit entitlements registered, or proposed
to be registered, for the scheme as a scheme document;
scheme building means a building shown on a scheme plan for
a community titles (building) scheme and by reference to which
lots are defined;
scheme by-laws for a community titles scheme means the
by-laws registered, or proposed to be registered, for the scheme
as a scheme document;
scheme contacts register — see section 92(1);
scheme dispute — see section 162(1);
scheme document — see section 15(1);
scheme function for a community titles scheme means —
(a) a function of the community corporation; or
(b) a function of the council of the community corporation;
<u>or</u>
(c) a function of an officer of the community corporation;
scheme management contract — see section 118(1)(a);
scheme manager — see section 117(1);
scheme notice for a community titles scheme means the scheme
notice registered, or proposed to be registered, for the scheme as
<u>a scheme document;</u>
scheme participant — see section 162(2);



a result of inclusion in the description of temporary common
property in the scheme plan;
<u>termination infrastructure report</u> — see section 147(2);
<u>termination proposal</u> — see section 141(1);
<u>termination resolution</u> — see section 149;
<u>termination valuation report</u> — see section 147(3);
<u>tier 1 common property</u> — see section 8(4);
<u>section 17 on registration of a tier 1 scheme;</u>
tier 1 lot — see section 8(3);
tier 1 parcel — see section 8(2);
tier 1 scheme — see section 8(1);
tier 2 common property — see section 9(4);
tier 2 corporation means the body corporate established under
section 17 on registration of a tier 2 scheme;
<u>tier 2 lot</u> — see section 9(3);
tier 2 parcel — see section 9(2);
tier 2 scheme — see section 9(1);
<u>tier 3 common property</u> — see section 10(4);
<i>tier 3 corporation</i> means the body corporate established under section 17 on registration of a tier 3 scheme;
<i>tier 3 lot</i> — see section 10(3);
tier 3 parcel — see section 10(2);
see section 10(1);
<u>tier parcel</u> means —
(a) a tier 1 parcel; or
(b) a tier 2 parcel; or
(c) a tier 3 parcel;

Note for this definition: See, for tier 1, section 8(2), for tier 2, section 9(2) and, for tier 3, section 10(2). **Transfer of Land Act requirements** means requirements determined under the Transfer of Land Act 1893 section 182A; *Tribunal* means the State Administrative Tribunal; type 1 interest means the interest of a person who holds the remainder or reversionary interest in land comprised of a lot in a community titles scheme in a case where the owner of the lot holds a life estate in the land; or (b) a registered mortgage; or (c) the interest of a judgment creditor named in a property seizure and sale order registered under section 133 of the Transfer of Land Act 1893; or (d) the interest of a person named in a memorial registered under the Transfer of Land Act 1893 as having a statutory right requiring the consent of the person to any dealing with the land; or (e) a plantation interest registered under the *Transfer of* Land Act 1893; or (f) a carbon covenant registered under the Transfer of Land Act 1893; a carbon right registered under the Transfer of Land **(g)** Act 1893; (h) a profit à prendre registered under the *Transfer of Land* Act 1893; type 2 interest means — (a) a registered lease; or (b) a caveat recorded under the *Transfer of Land Act 1893*; type 1 notifiable variation means any of the following that occur after a contract for the sale and purchase of a lot in a





(e)	a gas, electricity or air service, including air conditioning and heating; or
(f)	a communication or data service, including telephone,
	radio, television and internet; or
<u>(g)</u>	a service classified by the regulations as a utility service
	<u>or</u>
<u>(h)</u>	another like service;
utility	service easement — see section 56(1);
	eer scheme manager means a scheme manager of a
comn	unity corporation who —
<u>(a)</u>	is the owner of a lot in the community scheme; and
<u>(b)</u>	does not receive any fee, reward or benefit for work
	performed as a scheme manager other than an honorary
	fee or reward not exceeding, if an amount is fixed by th
	regulations, that amount; and
(c)	personally performs the work of the scheme manager;
	cludes a door, window or other structure dividing a lot in
	nunity scheme from common property or from another
<u>lot in</u>	he community scheme;
	ng day means a day other than a Saturday, a Sunday or a
publi	holiday throughout the State.
(2) An ar	endment of a community titles scheme affects the
comn	on property or a lot in the scheme as follows —
(a)	an amendment of the scheme plan affects the common
	property if it —
	(i) modifies the common property; or
	(ii) creates or discharges an easement or restrictive
	covenant that benefits or burdens the common
	property:
<u>(b)</u>	an amendment of the scheme plan affects a lot if it —
	(i) modifies the definition of the lot; or

- (ii) creates or discharges an easement or restrictive covenant that benefits or burdens the lot;
- (c) an amendment of the schedule of unit entitlements
 affects a lot or tier parcel if it modifies the unit
 entitlement of the lot or tier parcel.

4. Notes and examples not part of Act

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

5. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Community schemes

6. Legislative framework

- (1) This Act provides for a form of subdivision of land referred to as subdivision by a community scheme and sets out requirements for that form of subdivision.
- (2) Relevant planning approvals must be obtained under the Planning and Development Act 2005 for the subdivision of land by a community scheme.
- (3) Each community titles scheme comprised in a community scheme is to be incorporated in the Register, and certificates of title for lots in the scheme are to be created for community titles, under the *Transfer of Land Act 1893*.
- (4) Consequently, this Act must be read together with the *Planning*and Development Act 2005 and the Transfer of Land Act 1893

 to gain a proper understanding of the legislative framework for the subdivision of land by a community scheme.
- (5) This Act also contains provisions about the governance and operation of community schemes and about scheme managers.

Note for this section:

The following sections explain how a community scheme is a scheme for the subdivision of a parcel of land by various tiers of community titles schemes.

7. Community scheme

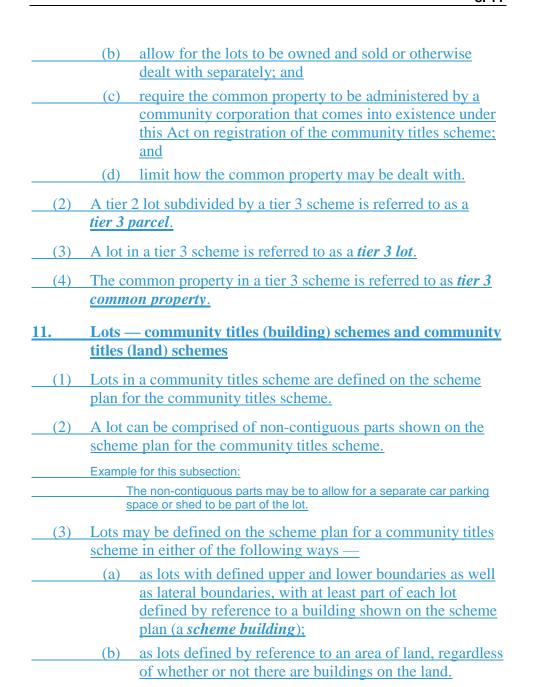
- (1) Land may be subdivided by a community scheme if
 - (a) it comprises the whole of a parcel of land; and
 - (b) the parcel of land is freehold land held in fee simple and comprised in a single certificate of title under the *Transfer of Land Act 1893*; and
 - (c) the parcel of land is not already subdivided by a strata titles scheme under the *Strata Titles Act 1985*; and

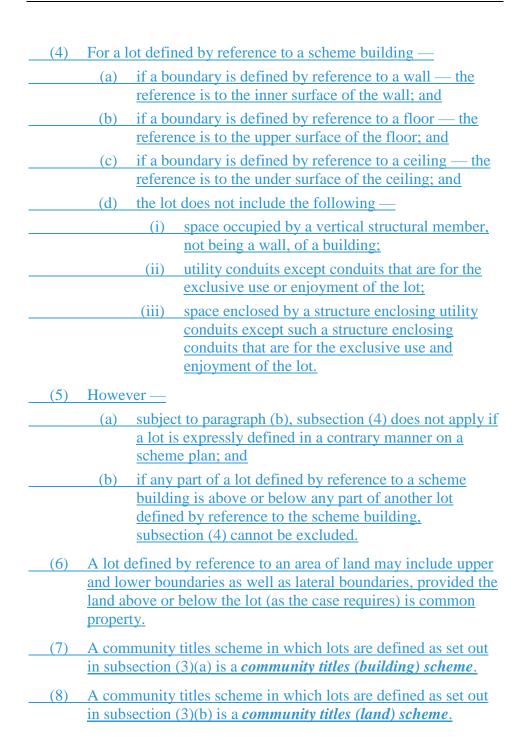
Part 2

The common property in a tier 1 scheme is referred to as *tier 1*

common property.

9.	Community titles scheme — tier 2 scheme
(1)	A tier 2 scheme is a scheme for the creation of community titles
	on registration of the scheme so as to —
	(a) effect a physical division of a tier 1 lot into —
	(i) 2 or more lots; or
	(ii) 2 or more lots and common property;
	and
	(b) allow for the lots to be owned and sold or otherwise
	<u>dealt with separately (except for any lots that are subdivided by tier 3 schemes); and</u>
	(c) require the common property to be administered by a
	community corporation that comes into existence under this Act on registration of the community titles scheme;
	and
	(d) limit how the common property may be dealt with.
(2)	A tier 1 lot subdivided by a tier 2 scheme is referred to as a
(2)	tier 2 parcel.
(3)	A lot in a tier 2 scheme is referred to as a <i>tier 2 lot</i> , except if the
(3)	lot is subdivided by a tier 3 scheme.
(4)	The common property in a tier 2 scheme is referred to as <i>tier</i> 2
(+)	common property.
10	
<u>10.</u>	Community titles scheme — tier 3 scheme
(1)	
	on registration of the scheme so as to —
	(a) effect a physical division of a tier 2 lot into —
	(i) 2 or more lots; or
	(ii) 2 or more lots and common property;
	and





- All lots and parts of lots in a community titles scheme must be defined in the same way, that is, the way described in subsection (3)(a) or the way described in subsection (3)(b).
- (10)A lot in a community titles (building) scheme cannot be subdivided by a community titles scheme that is a community titles (land) scheme.
- (11)A tier 1 lot or tier 2 lot in a community titles (land) scheme can be subdivided by a community titles scheme that is either a community titles (building) scheme or a community titles (land) scheme.
- (12)A change in the definition of a lot in a community titles scheme does not, of itself, affect any item registered or recorded for the scheme in the Register (even if the lot is assigned a new identifying number).
- Damage to, or destruction or removal of a wall, floor, ceiling or (13)other structural element by reference to which a lot in a community titles (building) scheme is defined does not of itself affect the definition of the boundaries of the lot (which remain as defined on the scheme plan).
- If a scheme plan identifies an encroachment outside the tier (14)parcel that is to be controlled and managed as part of a lot, the encroachment is to be regarded, for this Act, as if it were part of the lot.

12. Common property

- (1) The *common property* in a community titles scheme is
 - that part of the tier parcel subdivided by the community (a) titles scheme that does not form part of a lot in the community titles scheme; and
 - (b) temporary common property.

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

13. Relationships in and between schemes

- (1) A lot or common property is in or belongs to the community titles scheme under which it is created.
- (2) A tier 2 parcel belongs to the tier 1 scheme under which the lot subdivided to become the tier 2 parcel is created.
- (3) A tier 3 parcel belongs to the tier 2 scheme under which the lot subdivided to become the tier 3 parcel is created.
- (4) A tier 2 scheme belongs to the tier 1 scheme to which its tier 2 parcel belongs.
- (5) A tier 3 scheme belongs to the tier 2 scheme to which its tier 3 parcel belongs and also to the tier 1 scheme to which that tier 2 scheme belongs.
- (6) A community titles scheme is related to each community titles scheme to which it belongs or that belongs to it and the community corporations of the related schemes are related community corporations.
- (7) The tier 1, 2 and 3 schemes that together comprise a community scheme belong to the community scheme.

Part 2

Subdivision of land by community scheme (1) Land is subdivided by a community scheme — (a) by registration of a community titles scheme that belongs to the community scheme; or by registration of an amendment of a community titles (b) scheme that belongs to the community scheme. Registration of an amendment of a community titles scheme gives effect to a subdivision if it effects a change to the definition of a lot that belongs to (a) the community titles scheme; or (b) effects a change to the boundary of a tier parcel that belongs to the community titles scheme; or effects a change to the boundary of the tier parcel of the community titles scheme. Note for this section: Subdivision by registration of an amendment of a community titles scheme encompasses re-subdivision of lots or common property, consolidation of lots, conversion of lots into common property, adding land to, and removing land from, common property and changing the community titles scheme in the community scheme to which a lot or common property belongs. Registration of community titles scheme **15.** A community titles scheme is registered when the following documents (the scheme documents) are registered and incorporated in the Register — (a) a scheme notice; (b) a scheme plan; (c) a schedule of unit entitlements;

(2) A registered community titles scheme is amended when

amendments of the relevant scheme documents, or replacements

(d) scheme by-laws.

of the relevant scheme documents, are registered or recorded and incorporated in the Register.

Note for this subsection:

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

- the amendment of the scheme notice so as to amend the name or address for service of the community corporation; or
- the amendment or replacement of the scheme plan for the community titles scheme for a purpose related to an easement or restrictive covenant or a restricted use condition; or
- the amendment or replacement of the schedule of unit entitlements for the community titles scheme because of a new valuation of lots; or
- the amendment or replacement of scheme by-laws.
- (3) In a community scheme
 - (a) the tier 1 scheme must be registered before any tier 2 scheme can be registered; and
 - (b) the tier 1 scheme and the tier 2 scheme to which a tier 3 scheme belongs must be registered before the tier 3 scheme can be registered.

16. Community titles

- (1) The title to the land comprised in a lot is a *community title*.
- (2) A certificate of title must be created and registered for each community title under the *Transfer of Land Act 1893*.

Note for this subsection:

A separate certificate of title is not created for common property or for a tier parcel.

(3) On registration of a community titles scheme or an amendment of a community titles scheme to give effect to a subdivision of land, community titles come into operation.] existence, cease to exist or are varied as necessary to ensure that —

[Parts 2-12 have not come into operation.]

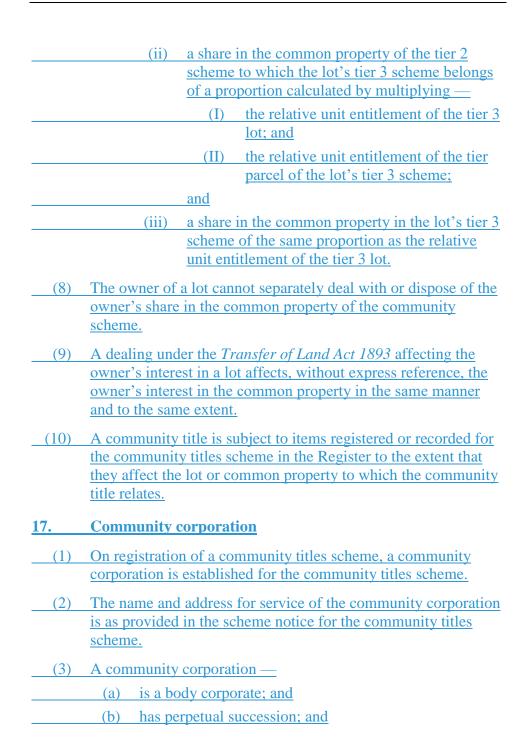
with the other owners of lots in the community scheme;

and

(c) for a tier 2 lot —

(i)	an undivided share in the common property in
	the tier 1 scheme to which the lot's tier 2 scheme
	belongs as a tenant in common with the other
	owners of lots in the community scheme; and
(ii)	an undivided share in the common property in
	the lot's tier 2 scheme as a tenant in common
	with —
	(I) the other owners of lots in that tier 2
	scheme; and
	(II) the owners of lots in any tier 3 scheme
	that belongs to that tier 2 scheme;
and	<u> </u>
	ier 3 lot —
<u>(i)</u>	an undivided share in the common property in
	the tier 1 scheme to which the lot's tier 3 scheme belongs as a tenant in common with the other
	owners of lots in the community scheme; and
(**)	
(ii)	an undivided share in the common property in
	the tier 2 scheme to which the lot's tier 3 scheme belongs as a tenant in common with —
	(I) the owners of lots in that tier 2 scheme;
	<u>and</u>
	(II) the other owners of lots in that tier 3
	scheme; and
	(III) the owners of lots in any other tier 3
	scheme that belongs to that tier 2
	scheme;
	and
(iii)	an undivided share in the common property in
,/	the lot's tier 3 scheme as a tenant in common
	with the other owners of lots in that tier 3
	scheme.

(7)				vided share in the common property of a
			heme of	an owner of a lot is determined as
	follow	<u>/s —</u>		
	(a)	a tier 1	l lot own	er has a share in the tier 1 common
			•	same proportion as the relative unit
		entitle	ment of t	the tier 1 lot;
	(b)	a tier 2	2 lot own	er has —
		(i)		in the tier 1 common property of a
			proport	ion calculated by multiplying —
			(I)	the relative unit entitlement of the tier 2
				lot; and
			(II)	the relative unit entitlement of the tier
				parcel of the lot's tier 2 scheme;
			and	
		(ii)	a share	in the common property in the lot's tier 2
			scheme	of the same proportion as the relative
			unit ent	itlement of the tier 2 lot;
	(c)	a tier 3	3 lot own	<u>er has —</u>
		(i)	a share	in the tier 1 common property of a
			proport	ion calculated by multiplying —
			(I)	the relative unit entitlement of the tier 3
				lot; and
			(II)	the relative unit entitlement of the tier
				parcel of the lot's tier 3 scheme; and
			(III)	the relative unit entitlement of the tier
				parcel of the tier 2 scheme to which the
				lot's tier 3 scheme belongs;
			and	



- (c) is capable of suing and being sued in its own name; and
- (d) has, subject to this Act, all the powers of a natural person that are capable of being exercised by a body corporate.
- (4) The governing body of a community corporation is a council established under section 111.
- (5) A community corporation may have a common seal, but it does not have to do so.
- (6) A tier 1 corporation is comprised of the following members
 - (a) the owners, for the time being, of the tier 1 lots;
 - (b) for each tier 2 parcel belonging to the tier 1 scheme, the tier 2 corporation.
- (7) A tier 2 corporation is comprised of the following members
 - (a) the owners, for the time being, of the tier 2 lots;
 - (b) for each tier 3 parcel belonging to the tier 2 scheme, the tier 3 corporation.
- (8) A tier 3 corporation is comprised of the owners, for the time being, of the tier 3 lots (who are the members of the community corporation).

Division 1

Introduction

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Part 3 — Planning and development

Division 1 — Introduction

- 18. Planning requirements for subdivision by community scheme
 - (1) Before land can be subdivided by a community scheme
 - (a) as set out in Division 2, the Planning Commission must approve a community development statement for the community scheme; and
 - (b) if a community development statement is approved for the land then, as set out in Division 3
 - (i) a plan of subdivision must be approved under the *Planning and Development Act 2005*; and
 - (ii) a scheme plan, or an amendment of the scheme plan, for the community titles scheme must be approved under the *Planning and Development*Act 2005 after completion of
 - (I) the works necessary for the subdivision; and
 - (II) for a community titles (building)
 scheme, the construction or
 modification of the scheme buildings
 necessary for the subdivision.
 - (2) The Planning Commission will approve a community development statement only if it makes a decision that subdivision by a community scheme is an appropriate form of subdivision for the particular land.

Effect of community development statement on planning approvals A community development statement is an instrument that may (1) control — (a) subdivision of land by a community scheme; and development of land subdivided or to be subdivided by a (b) community scheme; and the purposes for which land subdivided or to be (c) subdivided by a community scheme may be used; and staging and sequencing of such subdivision and development; and other matters relevant to a community scheme. While a community development statement is in force for a community scheme (whether or not the scheme is registered) a subdivision applied for before the commencement of the development period for the community scheme must be approved if it could be carried out consistently with the community development statement; and a subdivision applied for after the commencement of the development period for the community scheme must be approved if — (i) it could be carried out consistently with the community development statement; and there is at least 4 years until the end of the (ii) development period for the scheme to allow for an application to be made for registration of a community titles scheme or an amendment of a community titles scheme to give effect to the subdivision;

and

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Note for this paragraph:

An application may be made for extension of the development period.

(c) an application for approval of a subdivision or development made before the end of the development period for the community scheme must not be approved if it is inconsistent with the community development statement; and

Note for this paragraph:

The community development statement may be amended to accommodate a subdivision or development that would otherwise be inconsistent.

- (d) due regard must be had to the community development statement in determining an application for approval of a subdivision or development in any other circumstances.
- (3) Subsection (2) does not limit the conditions that may be imposed on a planning approval, although conditions that are inconsistent with the community development statement must not be imposed after the statement is approved and before the end of the development period for the community scheme.
- (4) A community development statement comes into force at the beginning of the day of its approval under this Part and remains in force until it ceases to have effect under this Part.

20. Waiver of other requirements relating to plans or instruments

(1) The Planning Commission may, by instrument in writing, waive requirements for the preparation of particular plans or instruments under a planning scheme or interim development order for land that is or is proposed to be divided by a community scheme if satisfied that the preparation of the plans or instruments is not necessary taking into account the existence of a community development statement.

(2) Before waiving the requirements, the Planning Commission must consult with each local government in whose district the community scheme is, or is proposed to be, situated.

Division 2 — Community development statement

	DIVISIOII		- Community development statement
21.	Applicat	ion t	o approve statement or amendment
(1)	A person may apply to the Planning Commission for approval		
	<u>of —</u>		
	(a) a	com	munity development statement; or
	(b) a	n am	endment of a community development statement.
(2)	The appl	icatio	on must be accompanied by —
	(a) if	it is	an application for approval of a community
	<u>d</u>	evelo	opment statement —
		(i)	a statement of the grounds on which it is
			proposed that subdivision by a community
			scheme is an appropriate form of subdivision for
			the particular land; and
		(ii)	a draft community development statement;
	a	<u>nd</u>	
	(b) if	it is	an application for approval of an amendment of a
	<u>C</u> (<u>omm</u>	unity development statement —
		(i)	a draft amendment of the community
			development statement (in the form of a separate
			textual amendment that directly changes the
			material in the statement or a marked up version
			of the statement showing the changes); and
		(ii)	a consolidated version of the community
			development statement including the
			amendments; and
	((iii)	if the community scheme has been registered,
			evidence to the satisfaction of the Planning

Part 3 Planning and development

Division 2 Community development statement

s. 22

Commission that the tier 1 corporation has by special resolution approved of the amendment.

- (3) The Planning Commission may require the applicant to provide additional information reasonably required for determination of the application.
- (4) If the additional information is not provided, the Planning Commission may refuse the application.

22. Comments from local government and others

- (1) Within 7 days after an application for approval of a community development statement or an amendment of a community development statement is made to the Planning Commission, the Planning Commission must refer the application for comment to
 - (a) each local government in whose district the land is situated; and
 - (b) each public authority or utility service provider the performance of whose functions the Planning

 Commission considers may be affected by the subdivision of the land.
- (2) A local government to which an application is referred must advertise the application for public comment.
- (3) A referral or advertisement of an application must
 - (a) be accompanied by a copy of the draft community
 development statement or amendment of the community
 development statement or specify how a copy of the
 draft may be obtained; and
 - (b) specify how comments may be made and the period within which they must be made.
- (4) The regulations must specify a minimum period that must be allowed for comments to be made.

- (5) If comments are received by a local government, the comments must be passed on to the Planning Commission.
- (6) The Planning Commission must give due regard to comments received on the application within the period for comment or such longer period as the Planning Commission allows.

23. Decision as to appropriate form of subdivision

- (1) On an application to approve a community development statement, the Planning Commission must decide whether subdivision by a community scheme is an appropriate form of subdivision for the particular land.
- (2) In making that decision, the Planning Commission must have due regard
 - (a) to relevant State planning policies; and
 - (b) to planning schemes or interim development orders that have effect in the locality in which the land is situated; and
 - (c) to whether some other form of subdivision of land or no subdivision would be more appropriate in the circumstances to achieve orderly and proper planning, and the preservation of the amenity, of the locality in which the land is situated; and
 - (d) to comments received under section 22; and
 - (e) to any other matter set out in the regulations.
- (3) The Planning Commission must not make a decision that conflicts with a relevant State planning policy or a planning scheme or interim development order that has effect in the locality in which the land is situated.
- (4) If the Planning Commission decides that subdivision by a community scheme is not an appropriate form of subdivision for the particular land, the Planning Commission must refuse the

application and give the applicant written notice of the refusal and the reasons for the refusal.

24. Approval of community development statement or amendment

- (1) A community development statement, or an amendment of a community development statement must not be approved if it would conflict with a State planning policy or a planning scheme or interim development order that has effect in the locality in which the land is situated.
- (2) The Planning Commission may approve a draft community development statement, or an amendment of a community development statement, subject to the condition that the draft must be modified in a specified manner and returned to the Planning Commission within a specified period.
- (3) If a condition is imposed, the applicant must provide the Planning Commission with the following
 - (a) a copy of the draft modified in the specified manner within the specified period;
 - (b) if the community scheme has been registered, evidence to the satisfaction of the Planning Commission that the tier 1 corporation has by special resolution approved of the modified draft within the specified period.
- (4) If subsection (3) is not complied with within the specified period or such longer period as the Planning Commission allows, the approval of the Planning Commission ceases to have effect.
- (5) The date of approval of a community development statement or an amendment of a community development statement is the date on which subsection (3) is complied with or, if there are no conditions of approval, the date on which the approval is given.

Content of statement 25. A community development statement for a community scheme must identify the location of the parcel of land (a) subdivided by the community scheme; and may specify requirements for subdivision of the land by the community scheme, including (without limitation) the following — (i) limitations on the number of tiers of community titles schemes belonging to the community scheme; (ii) limitations on the type of community titles schemes (that is, community titles (building) schemes or community titles (land) schemes); limitations on the number or location of tier 2 (iii) parcels or tier 3 parcels; (iv) limitations on the number, size or arrangement of lots: requirements for restricted use conditions (but (v) not if the relevant planning scheme identifies the land as land that may be used for residential purposes, so as to prohibit the land being used for public housing or affordable housing); <u>(vi)</u> requirements for the creation of easements or restrictive covenants or other interests; requirements for land to be vested in the Crown (vii) under the *Planning and Development Act 2005* section 152; requirements for roads to be delineated as new (viii) roads and dedicated under the Planning and Development Act 2005 section 168;

Community development statement

(:)	all an amount of the second of
(ix)	other arrangements for acquisition or management of land by a local government or
	public authority;
(w)	
<u>(x)</u>	open space requirements;
(xi)	requirements for money to be paid to local
	government in lieu of setting aside land and vesting it in the Crown for parks, recreation
	grounds or open spaces under the <i>Planning and</i>
	Development Act 2005 section 153;
(xii)	requirements for development contributions to
(AII)	fund public infrastructure;
(xiii)	requirements that will or may apply under the
(AIII)	Planning and Development Act 2005;
and	
	pecify requirements for development of the land as
	munity scheme, including (without limitation) the
	ving —
(i)	limitations as to the location and scale of
· · · · · · · · · · · · · · · · · · ·	improvements (including the number of levels in,
	and heights of, scheme buildings);
(ii)	requirements for the provision of utility
	infrastructure, sustainability infrastructure or
	other infrastructure;
(iii)	requirements for landscaping;
(iv)	architectural and design themes;
(v)	requirements for the collection and disposal of
	waste;
and	
	pecify requirements for a plan for the provision of
•	services in the community scheme and for utility
	ructure to be constructed, commissioned and
	nined in accordance with standards or documents
specif	ied by utility service providers; and

incorporate, wholly or partially and with or without

modification, a State Planning Policy, an Australian Standard published by Standards Australia, or a document of a class

Part 3 Planning and development

Division 2 Community development statement

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specified in the regulations, as in force at a specified time or, if allowed by the regulations in a particular case, as in force from time to time.

- (4) A community development statement or an amendment of a community development statement must
 - (a) be in the approved form; and
 - (b) be endorsed with the date of its approval by the Planning Commission.

26. Development period for community scheme

- (1) The development period for a community scheme is 10 years

 (or, if some other period is fixed in the regulations, that period)

 after registration of the tier 1 scheme belonging to the
 community scheme.
- (2) The Planning Commission may extend the development period for a community scheme on the application of an applicant for a planning approval for a subdivision affecting the community scheme or a person who proposes to make such an application.
- (3) An application for an extension of a development period for a community scheme must
 - (a) be made at least 6 months before the expiry of the development period (although the Planning Commission may accept a late application); and
 - (b) be accompanied by a copy of a special resolution of the tier 1 corporation approving the extension of the development period.
- (4) If the Planning Commission accepts an application made after the development period for a community scheme has already expired, the Planning Commission may require the applicant to provide a draft of an amendment of the community development statement for approval of the Planning Commission and for registration with the community titles scheme or amendment of the community titles scheme proposed by the applicant.

(5)	The Planning Commission must refer the application for
	comment to —

- (a) each local government in whose district the land is situated; and
- (b) each public authority or utility service provider the performance of whose functions the Planning
 Commission considers may be affected by the extension of the development period.
- (6) A local government to which an application is referred may, and must, if the Planning Commission so requires, advertise the application for public comment.
- (7) A referral or advertisement of an application must
 - (a) be accompanied by a copy of any draft amendment of the community development statement or specify how a copy of the draft may be obtained; and
 - (b) specify how comments may be made and the period within which they must be made.
- (8) The regulations may specify a minimum period that must be allowed for comments to be made.
- (9) If comments are received by a local government, the comments must be passed on to the Planning Commission.
- (10) The Planning Commission must give due regard to comments received on the application within the period for comment or such longer period as the Planning Commission allows.
- (11) If the Planning Commission extends the development period for a community scheme, the Planning Commission must lodge with the Registrar of Titles notice in the approved form of the new date on which the development period ends.
- (12) The new date has effect when it is recorded for the scheme in the Register.

Division 2 Community development statement

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27. Statement or amendment ceases to have effect in certain circumstances

- (1) A community development statement ceases to have effect if, at the end of 4 years after approval of a community development statement for a community scheme
 - (a) the tier 1 scheme has not been registered; and
 - (b) there is no application for registration of the tier 1
 scheme lodged with the Registrar of Titles that has not been finally determined.
- (2) An amendment of the community development statement ceases to have effect if, at the end of 4 years after approval of an amendment of the community development statement proposed to be registered with a community titles scheme or an amendment of a community titles scheme to give effect to a subdivision of land
 - (a) the community titles scheme or amendment of the community titles scheme has not been registered; and
 - (b) there is no application for registration of the community titles scheme or amendment of the community titles scheme lodged with the Registrar of Titles that has not been finally determined.
- (3) The Planning Commission can, on its own initiative, declare that a community development statement for a community scheme ceases to have effect if the development period for the community scheme has expired.
- (4) If the Planning Commission declares that a community development statement ceases to have effect it must give notice of the declaration in the approved form to the Registrar of Titles.
- (5) The declaration has effect when it is recorded for the scheme in the Register.

28. Availability of statement

- (1) The Planning Commission must ensure that an up-to-date version of each community development statement as approved by the Planning Commission (consolidated so as to include any amendments) is available to members of the public free of charge from an official location on the internet.
- (2) To the extent of any inconsistency between a community development statement published under this section and a community development statement incorporated in the Register, the statement incorporated in the Register prevails.

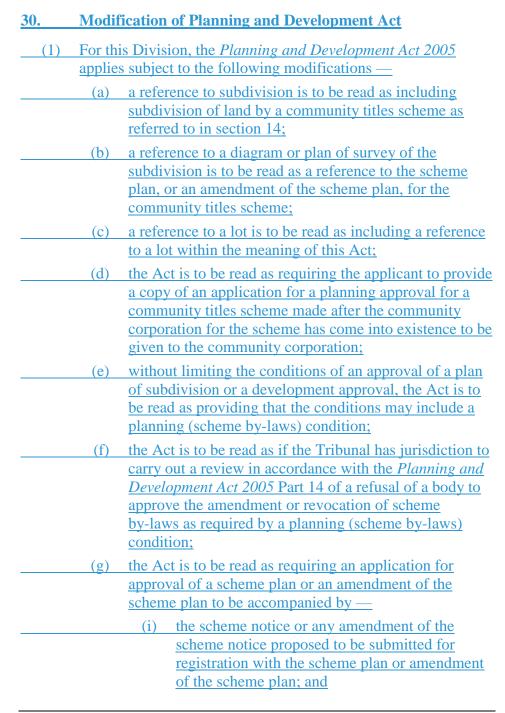
<u>Division 3 — Planning approvals</u>

29. Planning approvals

- (1) For subdivision of land by a community scheme, an application must be made under the *Planning and Development Act 2005*Part 10 for
 - (a) approval of a plan of subdivision as if it were an application for approval to subdivide land under that Act; and
 - (b) as necessary in the circumstances, approval of development.
- (2) A person may submit to the Planning Commission a scheme plan, or an amendment of a scheme plan, for a community titles scheme giving effect to a subdivision of land for which there is an approval of a plan of subdivision under the *Planning and Development Act 2005* and request the Planning Commission to approve the plan or amendment.
- (3) Such a request is to be dealt with under the *Planning and*Development Act 2005 as if it were a request for approval of a

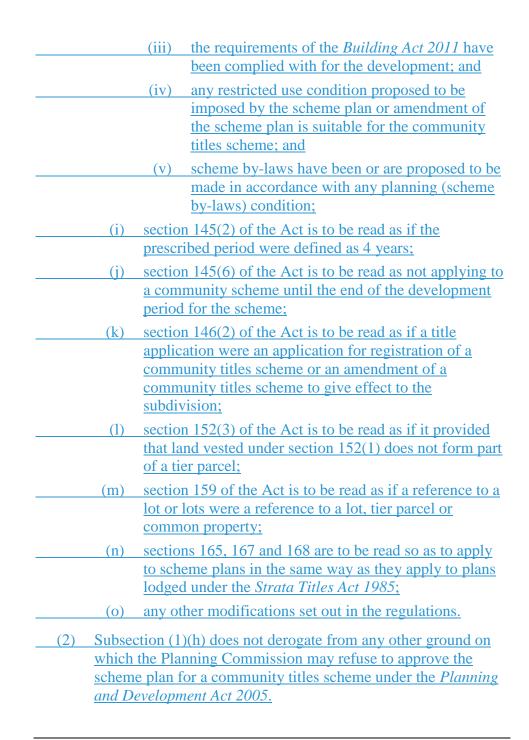
 diagram or plan of survey of the subdivision under section 145

 of that Act.



(ii) any existing scheme by-laws made under a
planning (scheme by-laws) condition; and
(iii) for subdivision of land by a community titles
(building) scheme, an occupancy permit or
building approval certificate granted under the
Building Act 2011 Part 4 Division 3 for each
scheme building constructed or modified for the
subdivision (as the case requires);
(h) the Act is to be read as providing that the Planning
Commission may refuse to endorse the scheme plan, or
an amendment of the scheme plan, for a community
titles scheme with the approval of the subdivision unless the Planning Commission is satisfied that —
(i) the scheme plan or amendment of the scheme plan is an accurate depiction of the subdivision
that has been prepared after completion of the
works necessary for the subdivision and, for a
community titles (building) scheme, the
construction or modification of the scheme
buildings necessary for the subdivision; and
(ii) the subdivision and development has been
undertaken consistently with —
(I) the community development statement;
<u>and</u>
(II) any utility services plan required by that
statement; and
(III) the approval of the plan of subdivision
under the Planning and Development
Act 2005 (including its conditions); and
(IV) any relevant approval of development
under the Planning and Development
Act 2005 (including its conditions);
and

Planning approvals



- (3) The Planning Commission may, by written notice, require a local government, public authority or utility services provider to provide a certificate (in a form approved by the Planning Commission) as to compliance for subsection (1)(h) within a period specified in the regulations.
- (4) The Planning Commission may rely on a certificate provided as proof of the matters certified in the certificate.
- (5) The Planning Commission must have due regard to a certificate provided within the period specified in the notice or such longer period as the Planning Commission may allow.
- (6) The regulations may specify relevant factors for determining whether the construction or modification of a scheme building has been completed.

31. Approval of modification of restricted use condition

- (1) The approval of the Planning Commission is required for the amendment of the scheme plan for a community titles scheme so as to impose, vary or revoke a restricted use condition.
- (2) The approval may be applied for and given in conjunction with an approval of a plan of subdivision or by separate application.

32. Approval under planning (scheme by-laws) condition

- (1) If, in accordance with scheme by-laws required under a planning (scheme by-laws) condition, the amendment or repeal of scheme by-laws requires the approval of the Planning Commission or a local government, an application for that approval can be made under this Part.
- (2) The approval may be applied for and given in conjunction with an application for a planning approval or by separate application.

Division 4 — Miscellaneous

[176-187. Have 33. Applications under Part

- (1) An application under this Part must
 - (a) be made in writing to the Planning Commission or local government (as the case requires); and
 - (b) be in the form approved by the Planning Commission or local government (as the case requires); and
 - (c) be accompanied by any information required by the Planning Commission or local government (as the case requires); and
 - (d) be accompanied by the fee fixed by the regulations.
- (2) The Planning Commission or local government may require the applicant to provide additional information reasonably required for determining the application.
- (3) An application may be refused if the applicant does not comply with a requirement for additional information.

34. Review of decisions

- (1) A person who has made an application under this Part may apply to the Tribunal for a review of
 - (a) a decision to refuse to approve the application, including by
 - (i) making a decision that subdivision by a community scheme is not an appropriate form of subdivision for the land the subject of the application; or
 - (ii) refusing to extend the development period for a community scheme; or
 - (iii) refusing to approve an amendment or repeal of scheme by-laws;

or

- (b) a decision to approve a draft community development statement or an amendment of a community development statement subject to conditions.
- (2) The Tribunal has jurisdiction to carry out the review in accordance with the *Planning and Development Act* 2005 Part 14.
- (3) Part 12 does not apply to a proceeding under this section (which is a proceeding within the Tribunal's review jurisdiction).
- (4) If at the end of 120 days after an application is made under section 21 (or any longer period agreed with an applicant), the Planning Commission has not made a decision under section 23 or 24, the applicant may give written notice of default to the Planning Commission.
- (5) If at the end of 28 days after an application is made under section 26(2) (or any longer period agreed with an applicant), the Planning Commission has not made a decision on the application, the applicant may give written notice of default to the Planning Commission.
- (6) If a notice of default is given to the Planning Commission, the applicant may apply to the Tribunal for a review, in accordance with the *Planning and Development Act 2005* Part 14, as if the Planning Commission had refused to approve the application on the day on which the notice of default was given to the Planning Commission.

Part 4 — Scheme documents

Division 1 — Scheme notice

35. Scheme notice

- (1) A scheme notice for a community titles scheme must
 - (a) specify the name of the community corporation; and
 - (b) specify the address for service of the community corporation.
- (2) A scheme notice, or an amendment of a scheme notice, for a community titles scheme must be in the approved form.
- (3) On registration of a scheme notice, the community corporation for the community titles scheme must give a copy of the scheme notice to each related community corporation.

36. Name and address for service of community corporation

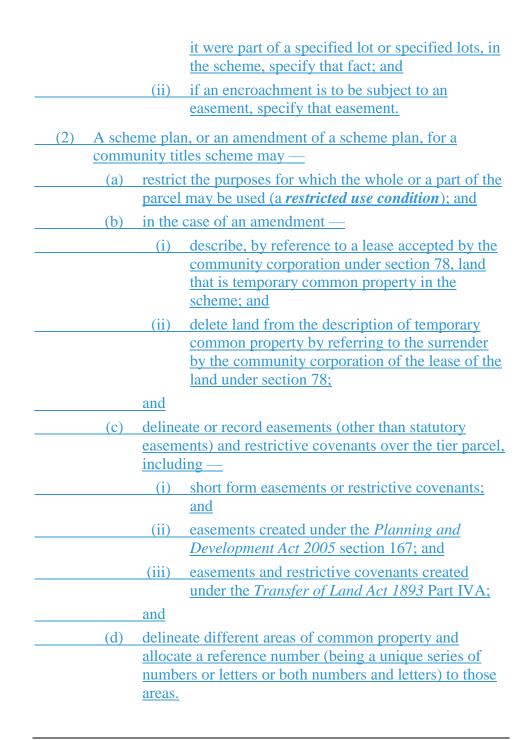
- (1) A scheme notice, or an amendment of a scheme notice to alter the name of the community corporation, must not be registered if the Registrar of Titles is satisfied that the name of the community corporation is undesirable or does not comply with a naming convention set out in the regulations.
- (2) An amendment of a scheme notice to alter the name of the community corporation must not be registered unless the amendment is authorised by special resolution of the community corporation.
- (3) An amendment of a scheme notice to alter the address for service of the community corporation must not be registered unless the amendment is authorised by ordinary resolution of the community corporation.
- (4) On registration of an amendment of a scheme notice, the community corporation for the community titles scheme must

give written notice of the amendment to each related community corporation.

Division 2 — Scheme plan

37.	Schen	ne plan
(1)	A sch	eme plan for a community titles scheme must —
	(a)	specify the address of the tier parcel; and
	(b)	identify the title to the land that is to be the tier parcel;
		<u>and</u>
	(c)	1 · · ·
		scheme or tier 3 scheme; and
	<u>(d)</u>	specify whether the scheme is a community titles (building) scheme or a community titles (land) scheme;
		and
	(e)	enable each lot in the scheme to be separately identified
		and located; and
	(f)	define the boundaries of each lot as set out in section 11
		depending on whether the scheme is a community titles
		(building) scheme or a community titles (land) scheme; and
	(g)	if land is or is to be vested in the Crown under the
	(5/	Planning and Development Act 2005 section 152,
		delineate that land; and
	(h)	delineate areas that are roads or are to become new
		roads for the <i>Planning and Development Act</i> 2005 section 168; and
	(i)	identify the nature and extent of any part of a wall or
	(1)	building or material attached to a wall or building that
		encroaches on land outside the tier parcel and —
		(i) if an encroachment is to be controlled and
		managed as if it were common property, or as if

Scheme plan



- (3) A scheme plan, or an amendment of a scheme plan, for a community titles scheme —
 - (a) may consist of multiple plans, drawings and documents containing descriptions or other matters; and
 - must be in the approved form; and (b)
 - must be prepared and certified by a licensed surveyor (except for an amendment that relates only to a restricted use condition or temporary common property and does not involve any aspect of survey).
- A licensed surveyor must comply with the regulations and Transfer of Land Act requirements in preparing and certifying a scheme plan for a community titles scheme.

38. **Short form easements or restrictive covenants**

- (1) A scheme plan for a community titles scheme may contain an easement or restrictive covenant of a class specified in the regulations (a *short form easement or restrictive covenant*) that benefits or burdens land in the tier parcel as follows
 - the type of easement or restrictive covenant must be identified using the description specified in the regulations;
 - for an easement, its location must be delineated in the manner specified in the regulations;
 - the lots and common property benefited and burdened (c) by the easement or restrictive covenant must be identified in the manner specified in the regulations;
 - any other requirements specified in the regulations must be complied with.
- The nature of a short form easement or restrictive covenant and the rights and liabilities under the easement or restrictive covenant are as specified in the regulations.

Community Titles Act 2018

Part 4 Scheme documents

Division 2 Scheme plan

- (3) The liabilities specified in the regulations may include positive obligations.
- (4) A short form easement or restrictive covenant runs with the land and is binding
 - (a) to the extent that common property is benefited or burdened by the easement or restrictive covenant, on the owners, from time to time, of lots in the community titles scheme or in a community titles scheme that belongs to the scheme; and
 - (b) to the extent that lots are benefited or burdened by the easement or restrictive covenant, on the owners, from time to time, of those lots.
- (5) A short form easement or restrictive covenant comes into force when the scheme plan, or an amendment of the scheme plan, for the community titles scheme containing the easement or the restrictive covenant is registered.
- (6) A short form easement or restrictive covenant is discharged by
 - (a) registration of an amendment of the scheme plan to give effect to the discharge; or
 - (b) termination of the community titles scheme.
- (7) A short form easement or restrictive covenant has effect even if the lot benefited and the lot burdened have the same owner.
- (8) The *Property Law Act 1969* section 121 does not apply to a short form easement or restrictive covenant.
- (9) This section does not derogate from any other method by which an easement or restrictive covenant may be created in a community titles scheme.

Scheme plan

<u>39.</u>	Requi	irements for registration of scheme plan
		eme plan for a community titles scheme must not be ered unless —
	(a)	for a tier 1 scheme — the owner of the parcel to be subdivided by the scheme is the applicant for registration or has given written consent to the subdivision of the parcel by the scheme; and
	(b)	for a tier 2 or tier 3 scheme — the owner of the lot that is to be subdivided by the scheme is the applicant for registration or has given written consent to the subdivision of the lot by the scheme; and
	(c)	the holder of each type 1 interest, or type 2 interest, over the whole or a part of the parcel of land or lot to be subdivided by registration of the scheme —
		(i) has been given notice in the approved form of the subdivision and schedule of unit entitlements; and
		(ii) has given written consent to the subdivision; and
	(d)	the scheme plan is approved by the Planning Commission; and
	(e)	for a community titles (building) scheme, the scheme plan is accompanied by an occupancy permit or building approval certificate under the <i>Building Act 2011</i> Part 4 Division 3 for each scheme building; and
	(f)	if the scheme plan identifies an encroachment that is not on to a public road, street or way and is to be managed and controlled as if it were common property or part of a lot or lots, an appropriate easement has been granted and lodged with the Registrar of Titles.

40.	Requi	irement	ts for reg	istration of amendment of scheme plan
(1)	An amendment of a scheme plan for a community titles scheme must not be registered unless —			
	(a)	subdiv the scl	vision of l	at the amendment gives effect to a land and affects the common property in the amendment is authorised by special e community corporation; and
	(b)			at the amendment gives effect to a land and affects a lot in the scheme —
		(i)		not an applicant for registration of the ment —
			(I)	has been given notice in the approved form of the subdivision and any associated amendment of the schedule of unit entitlements; and
			(II)	has given written consent to the amendment;
			and	amendment,
		(ii)	the hold	ler of each type 1 interest over the whole t of a lot affected by the amendment —
			(I)	has been given notice in the approved form of the amendment and any associated amendment of the schedule of unit entitlements; and
			(II)	has given written consent to the amendment;
			and	
		(iii)		ler of each type 2 interest over the whole t of a lot affected by the amendment —
			(I)	has been given notice in the approved form of the amendment and any

	associated amendment of the schedu	<u>le</u>
	of unit entitlements; and	
	(II) either —	
	(A) has given written consent to amendment; or	<u>the</u>
	(B) has not, at the end of 60 days after being given notice, made written objection to the amendment;	
and		
	extent that the amendment gives effect to a ision of land —	
(i)	the amendment of the scheme plan is approve	ed
	by the Planning Commission; and	_
(ii)	for a community titles (building) scheme, the	
	amendment of the scheme plan is accompanie	<u>ed</u>
	by an occupancy permit or building approval	
	certificate under the <i>Building Act 2011</i> Part 4	
	Division 3 for each scheme building affected the amendment;	<u>by</u>
and	the difference;	
and		
	extent that the amendment imposes, varies or s a restricted use condition, the imposition,	
	on or revocation —	
(i)	has been approved by the Planning Commissi	on
(1)	under section 31; and	011
(ii)	is authorised by special resolution of the	
	community corporation;	
and		
(e) to the	extent that the amendment describes land as	
tempo	rary common property in the scheme —	
<u>(i)</u>	the acceptance of the lease of the temporary	
	common property by the community corporat	<u>ion</u>

Scheme plan

is authorised by special resolution of the community corporation; and	
(ii) the holder of each type 1 interest over the land leased as temporary common property—	
(I) has been given notice in the approved	<u>l</u>
form of the lease; and	
(II) has given written consent to the lease:	<u>;</u>
and	
(iii) the holder of each type 2 interest over the land leased as temporary common property—	
(I) has been given notice in the approved form of the lease; and	<u>l</u>
(II) either —	
(A) has given written consent to the	he
<u>lease; or</u>	
(B) has not, at the end of 60 days	
after being given notice, made	
written objection to the lease;	<u>L</u>
and	
(f) to the extent that the amendment deletes land from the	
description of land as temporary common property—	
the surrender of the lease of the temporary common property by the community corporation is authorised by	27/
special resolution of the community corporation; and	<u>) y</u>
(g) to the extent that the amendment creates or discharges	
an easement or restrictive covenant —	-
(i) for a short form easement or restrictive	
covenant — the amendment is approved by the	<u> </u>
Planning Commission; and	
(ii) in the case of an amendment affecting the	
<u>common property</u> — the amendment is	
authorised by special resolution of the	
community corporation; and	

(iii) in the case of an amendment affecting a lot —
the owner of the lot has given written consent to
the amendment; and
(iv) the holder of each type 1 interest over common
property, or a lot, affected by the amendment —
(I) has been given notice in the approved
form of the amendment; and
(II) has given written consent to the
amendment;
and
(v) the holder of each type 2 interest over common
property, or a lot, affected by the amendment —
(I) has been given notice in the approved
form of the amendment; and
(II) either —
(A) has given written consent to the
amendment; or
(B) has not, at the end of 60 days
after being given notice, made a
written objection to the
amendment;
and
(h) if the amendment of the scheme plan identifies an
encroachment that is not on to a public road, street or
way and is to be managed and controlled as if it were
common property or part of a lot or lots, an appropriate
easement has been granted and lodged with the Registrar
of Titles.
Note for this subsection:
For when an amendment of the scheme plan affects the common
property or a lot, see section 3(2).
(2) The Tribunal may, on the application of an applicant for
registration of an amendment of a community titles scheme that

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Division 3 Schedule of unit entitlements

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involves the amendment of the scheme plan, order that an objection to the application of a person with a type 2 interest be disregarded on the grounds that the objection is unreasonable.

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

Division 3 — Schedule of unit entitlements

41. Schedule of unit entitlements

- (1) The schedule of unit entitlements for a community titles scheme must
 - (a) allocate a whole number (a *unit entitlement*) to each lot and each tier parcel in the scheme; and
 - (b) state the number that is the sum of the unit entitlements of all the lots and tier parcels belonging to the community titles scheme.

Note for this subsection:

The unit entitlement of a lot or tier parcel determines —

- the interest of the owner of the lot in the common property in the community scheme: see section 16; and
- subject to the scheme by-laws, the contributions payable by a member of the community corporation: see section 88; and

- the voting rights that attach to the lot or tier parcel: see section 106.
- (2) When allocated, the relative unit entitlement of a lot or tier parcel must not be greater than 5% more, or 5% less, than the proportion that the value of the lot or tier parcel bears to the sum of the value of all the lots and tier parcels in the community titles scheme to which the lot or tier parcel belongs.
- (3) The value of a lot or tier parcel is
 - (a) in a community titles (building) scheme the capital value; and
 - (b) in a community titles (land) scheme the site value.
 - (4) Without limitation, the regulations
 - (a) may prescribe matters relating to the determination of the value of a lot or tier parcel; and
 - (b) may specify a number or a method for determining a number that the number allocated to a lot or tier parcel in the schedule of unit entitlements for a community titles scheme must not be less than.
- (5) A schedule of unit entitlements, or an amendment of a schedule of unit entitlements, for a community titles scheme must
 - (a) be in the approved form; and
 - (b) be prepared and certified by a licensed valuer.
- (6) A licensed valuer must comply with the regulations or Transfer of Land Act requirements in preparing and certifying a schedule of unit entitlements for a community titles scheme.
- (7) A schedule of unit entitlements, or an amendment of a schedule of unit entitlements, must not be registered unless it is certified by a licensed valuer within a period specified in the regulations before an application is made for registration of the schedule or amendment.

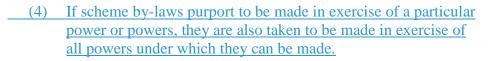
42. Requirements for registration of amendment of schedule of unit entitlements

- (1) An amendment of a schedule of unit entitlements may only be registered
 - (a) in conjunction with an amendment of the scheme plan to give effect to a subdivision; or
 - (b) if the amendment is authorised by special resolution of the community corporation; or
 - (c) if the amendment is authorised by order of the Tribunal.
- (2) The Tribunal may, on the application of a community corporation or the owner of a lot in a community titles scheme, authorise the amendment of the schedule of unit entitlements for the scheme if satisfied that, if unit entitlements were to be allocated at the time of the application, the schedule of unit entitlements would require amendment for compliance with section 41(2).
- (3) If the Tribunal makes an order under this section, the applicant for the order must lodge a copy of the order certified by the Tribunal with the Registrar of Titles for registration of the amendment of the schedule of unit entitlements.

Division 4 — Scheme by-laws

43. Scheme by-laws

- (1) Scheme by-laws registered when a community titles scheme is registered will be taken to have been made by the community corporation for the community titles scheme.
- (2) Subject to this Act, the community corporation may make further scheme by-laws by special resolution.
- (3) The power to make scheme by-laws includes power to amend or repeal scheme by-laws in the same manner and on the same conditions as they are made.



- (5) Scheme by-laws may refer to, or incorporate, wholly or partially and with or without modification, scheme by-laws for any other community titles scheme in the community scheme as in force from time to time.
- (6) Scheme by-laws must be in the approved form.

44. Application of scheme by-laws

- (1) Scheme by-laws may apply to the following
 - (a) the community corporation for the community titles scheme;
 - (b) a member, for the time being, of the community corporation for the community titles scheme;
 - (c) the members of a community corporation for a community titles scheme that belongs to the community titles scheme;
 - (d) an occupier or lessee, for the time being, of a lot in the community titles scheme;
 - (e) an occupier or lessee, for the time being, of common property in the community titles scheme or in a community titles scheme that belongs to the community titles scheme;
 - (f) in the case of exclusive use by-laws
 - (i) the owners and occupiers, for the time being, of special lots; and
 - (ii) if the special lots are all lots in a community titles scheme, the community corporation for that community titles scheme.
 - (2) Each person to whom scheme by-laws apply must comply with the by-laws as if the by-laws were a deed (signed and sealed by

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each person to whom they apply) containing mutual covenants to observe and perform the matters set out in the by-laws.

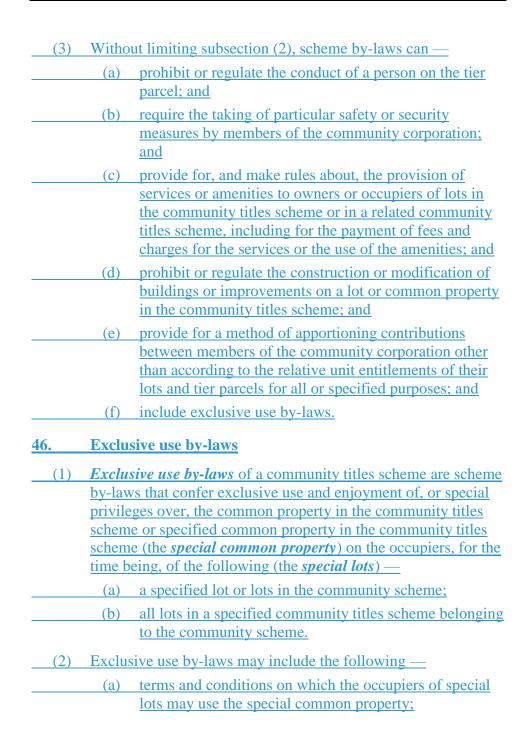
- (3) A lease of a lot or common property in a community titles scheme is taken to contain an agreement by the lessee that the lessee will comply with the scheme by-laws.
- (4) The owner, occupier or lessee of a lot or common property in a community titles scheme must take all steps that are reasonable in the circumstances to ensure that every person who they permit to use or who they invite on to the lot or common property complies with by-laws that apply to the owner, occupier or lessee.
- (5) Scheme by-laws are not by-laws or subsidiary legislation within the meaning of the *Interpretation Act 1984*.
- (6) An interest created under scheme by-laws does not have effect as an interest registered under the *Transfer of Land Act 1893*.

45. Content of scheme by-laws

- (1) Scheme by-laws
 - (a) may determine the membership of the council of the community corporation and establish a scheme for the appointment or election of members of the council of the community corporation; and
 - (b) may determine procedures of the council of the community corporation, including how it holds meetings and how it makes decisions; and
 - (c) must assign each of the following functions (relating to procedural matters) to a specified officer of the community corporation
 - (i) the function of presiding at meetings of the community corporation and making decisions on quorum or other procedural matters at those meetings;

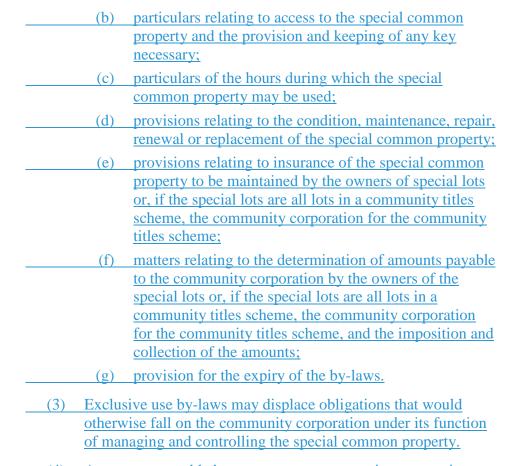
(ii)	the function of presiding at meetings of the
	council of the community corporation and
	making decisions on quorum or other procedural
	matters at those meetings;
and	
(d) must a	assign each of the following functions (relating to
	ial matters) to a specified officer of the
	unity corporation —
(i)	the function of receiving, acknowledging,
	banking and accounting for money paid to the
	community corporation;
(ii)	the function of keeping proper accounting
(11)	records and preparing financial statements and
	budgets for the community corporation;
and	badgets for the community corporation,
	assign each of the following functions (relating to
	s of administration) to a specified officer of the
	unity corporation —
<u>(i)</u>	the function of notifying members of the
	community corporation of contributions to be
	raised from them under this Act;
(ii)	
(ii)	raised from them under this Act;
(ii)	raised from them under this Act; the function of keeping the records of the
	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation;
(iii)	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation; the function of arranging meetings of the
	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation;
(iii)	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation; the function of arranging meetings of the community corporation and of the council of the community corporation;
	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation; the function of arranging meetings of the community corporation and of the council of the community corporation; the function of preparing and distributing
(iii)	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation; the function of arranging meetings of the community corporation and of the council of the community corporation; the function of preparing and distributing minutes of meetings of the community
(iii)	raised from them under this Act; the function of keeping the records of the community corporation and of the council of the community corporation; the function of arranging meetings of the community corporation and of the council of the community corporation; the function of preparing and distributing

		ne function of giving and receiving notices on
	· ·	ehalf of the community corporation under this
		<u>.ct;</u>
(ne function of answering communications
		ddressed to the community corporation or to the
		ouncil of the community corporation;
(7		ne function of keeping documents and making
		nem available for inspection as required under
		nis Act;
(V		ne function of attending to matters of an
		dministrative or secretarial nature in connection
		rith the functions of the community corporation r the council of the community corporation;
		t the council of the community corporation,
	<u>nd</u>	
		officer of the community corporation to whom n is assigned, must establish a scheme for the
		nent or election of the officer; and
	_	cify arrangements for the day-to-day control and
		nent of the common property in the scheme,
	_	g infrastructure on the common property; and
		cify arrangements for the day-to-day control and
		nent of utility services subject to a utility
		asement.
		can provide for other matters as contemplated
	•	necessary or expedient —
· ·		anagement, control, use or enjoyment of a lot
		on property in the community titles scheme; or
	orporati	n the functions or procedures of the community on; or
		ge the relationships between the community on, related community corporations and their
	nembers	* *
_		_



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- (4) An amount payable by a person to a community corporation under exclusive use by-laws must be paid (together with interest on any outstanding amount) and may be recovered by the community corporation, as if
 - (a) the special lots were lots in the community titles scheme (in a case where that is not so); and
 - (b) the amount payable were an unpaid contribution levied on the person as a member of the community corporation.
- (5) Exclusive use by-laws can only be made or amended if the owner of each lot that is or is proposed to be a special lot or, if

the special lots are or are proposed to be all of the lots in a community titles scheme, the community corporation for the community titles scheme has given written consent to the by-laws (although they may be repealed without such consent).

<u>47.</u>	17. Invalidity of scheme by-laws		
	Scheme by-laws are invalid as follows —		
	(a) to the extent that there is no power to make the by-law		
	(b)	to the extent that they are inconsistent with this Act or any other written law;	
	(c)	to the extent that they are inconsistent with the	
		<u>community</u> development statement for the community <u>scheme</u> ;	
	(d)	to the extent that they are inconsistent with a restricted use condition;	
	(e)	for by-laws for a tier 2 scheme, to the extent that they	
		are inconsistent with by-laws for the tier 1 scheme to which the tier 2 scheme belongs;	
	(f)	for by-laws for a tier 3 scheme, to the extent that they	
		are inconsistent with by-laws for a related community titles scheme;	
	(g)	to the extent that they purport to deny or limit the right	
		of a member of a community corporation to vote on a proposed resolution of the community corporation other than by preventing the member from voting on a resolution that is not required to be a special resolution if there are outstanding contributions or other amounts owed by the member to the community corporation;	
	(h)	to the extent that they prohibit or restrict the devolution	
	(11)	of a lot or a transfer, lease, mortgage or other dealing with a lot;	
	(i)	to the extent that they purport to discharge or modify an	
	. ,	easement or restrictive covenant;	

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(j) to the extent that they prohibit or restrict the keepin			
			of an animal that is used as an assistance animal by
		_	on with a disability who is an owner or occupier of
<u>a lot;</u>			
	(k)		extent that they prohibit or restrict the use on the
		_	arcel of an assistance animal by a person with a
		disabi	
	(1)		extent that, having regard to the interests of all of
			wners of lots in the community titles scheme or in a
			nunity titles scheme that belongs to the community scheme in the use and enjoyment of their lots and
			ommon property —
		(i)	they are unfairly prejudicial to, or unfairly
		(1)	discriminatory against, 1 or more of the owners
			of lots; or
		(ii)	they are oppressive or unreasonable.
40	T. e		
48.	Enior	cement	t of scheme by-laws
(1) A community corporation may —		corporation may —	
	(a)	give a	written notice to a person alleged to have
		contra	evened the scheme by-laws; or
	(b)	apply	to the Tribunal under this section for an order
		enforc	eing the scheme by-laws if —
		(i)	the contravention has had serious adverse
			consequences for a person other than the person
			alleged to have contravened the scheme by-laws;
			<u>or</u>
		<u>(ii)</u>	the person has contravened the particular scheme
			by-law on at least 3 separate occasions; or
		(iii)	the person has been given notice under

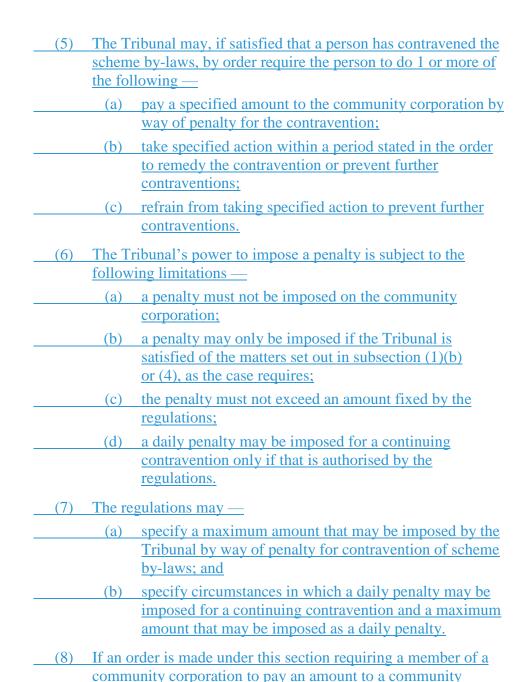
paragraph (a) and has contravened the notice.

(2)		tten notice given by the community corporation to a	
	person alleged to have contravened the scheme by-laws must —		
	(a)	specify the particular scheme by-law that is alleged to	
		have been contravened; and	
	(b)	specify the particular facts relied on as evidence of the	
		contravention; and	
	(c)	specify the action that must be taken or refrained from	
		being taken in order to avoid a continuing or further	
		contravention of the particular scheme by-law; and	
	(d)	contain an explanation of the effect of this section in	
		terms set out in the regulations.	
(3)	An ap	plication may also be made to the Tribunal for	
	enforc	cement of scheme by-laws by —	
	(a)	a member of the community corporation; or	
	(b)	a mortgagee of a lot in the community titles scheme; or	
	(c)	an occupier of a lot in the community titles scheme; or	
	(d)	for exclusive use by-laws, the owner of a lot that is a	
		special lot or, if the special lots are all of the lots in a	
		community titles scheme, the community corporation	
		for that community titles scheme.	
(4)	An ap	plication can only be made under subsection (3) on the	
	grounds that —		
	(a)	if a person other than the community corporation is	
		alleged to have contravened the scheme by-laws — the	
		person has been given notice under subsection (1)(a) and	
		has contravened the notice; or	
	<u>(b)</u>	the contravention has had serious adverse consequences	
		for a person other than the person alleged to have	
		contravened the scheme by-laws; or	
	(c)	the person has contravened the particular scheme by-law	
		on at least 3 separate occasions.	

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corporation, the amount may be recovered by the community

corporation, and interest is payable on any outstanding amount, as if —

- (a) the member were a member of the community
 corporation (which may be the case if the order relates
 to contravention of exclusive use by-laws); and
- (b) the amount payable were an unpaid contribution levied on the member as a member of the community corporation.
- (9) An amount otherwise ordered to be paid by way of penalty under this section is recoverable as a debt in a court of competent jurisdiction.
- 49. Requirement for registration of amendment to give effect to scheme by-laws
- (1) A community corporation must apply to the Registrar of Titles for registration of an amendment of the community titles scheme to register scheme by-laws as soon as reasonably practicable and, in any event, within 3 months, after they are made, amended or repealed.
- (2) An amendment of a community titles scheme to give effect to scheme by-laws may only be registered if the scheme by-laws have been made, amended or repealed in accordance with this Division.

Division 1

Schemes and amendments of schemes

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Part 5 — Registration and land titles

Division 1 — Schemes and amendments of schemes

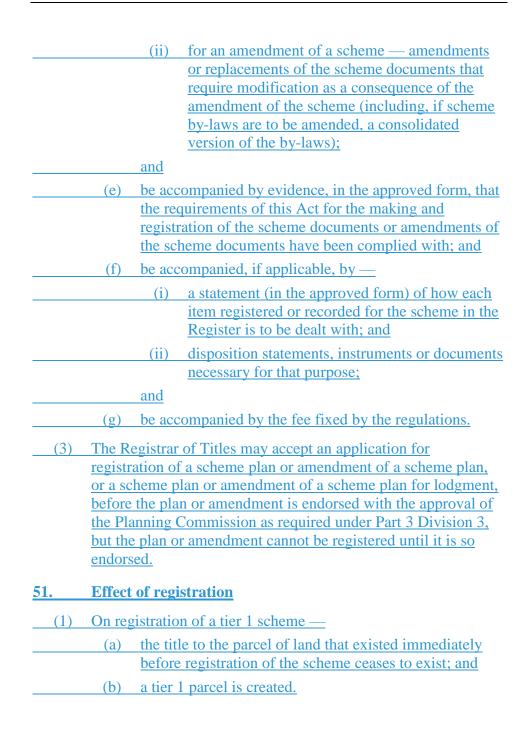
50. Application for registration

- (1) An application for registration of a community titles scheme or an amendment of a community titles scheme can be made
 - (a) for registration to give effect to a subdivision, by the owner of the parcel of land or lot to be subdivided by the scheme; or
 - (b) for registration of an amendment of a community titles scheme, by
 - (i) the community corporation for the scheme; or
 - (ii) a member of the community corporation for the scheme.

Note for this subsection:

The application must be made within 2 years of subdivision approval being endorsed on a scheme plan or amendment of the scheme plan because of the *Planning and Development Act 2005* section 146.

- (2) An application for registration of a community titles scheme or an amendment of a community titles scheme must
 - (a) be lodged with the Registrar of Titles; and
 - (b) be in the approved form; and
 - (c) if a community development statement, or an amendment of the community development statement, for the community scheme has been approved by the Planning Commission for registration with the scheme or amendment, be accompanied by a copy of the statement or amendment certified by the Planning Commission; and
 - (d) be accompanied by
 - (i) for registration of a scheme the scheme documents; or



Part 5 Registration and land titles

Division 1 Schemes and amendments of schemes

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- (a) the community title to the tier 1 lot subdivided by the tier 2 scheme that existed immediately before registration of the scheme ceases to exist; and
- (b) a tier 2 parcel is created.

(3) On registration of a tier 3 scheme —

- (a) the community title to the tier 2 lot subdivided by the tier 3 scheme that existed immediately before registration of the scheme ceases to exist; and
- (b) a tier 3 parcel is created.
- (4) A tier parcel cannot be dealt with (including by registration of a mortgage) or disposed of as such under the *Transfer of Land Act 1893*.
- (5) If a title ceases to exist, the certificate of title must be cancelled under the *Transfer of Land Act 1893*.
- (6) On registration of a community titles scheme or an amendment of a community titles scheme to give effect to a subdivision of land
 - (a) the relevant lots are created, cease to exist or are varied as required by the subdivision; and
 - (b) the relevant common property (if any) comes into existence, ceases to exist or is varied as required by the subdivision.
- (7) A scheme document, or an amendment of a scheme document, has effect from when it is registered or recorded by the Registrar of Titles.

<u>52.</u>	Registration process			
(1)		To register a community titles scheme or an amendment of a		
	comm	munity titles scheme, the Registrar of Titles must —		
	(a)	allocate a reference number (being a unique series of		
		numbers or letters or both numbers and letters) to the scheme; and		
	(b)	register or record, in the manner that the Registrar		
	, - /	considers appropriate for incorporation in the Register under the <i>Transfer of Land Act 1893</i> —		
		(i)	the scheme documents or amendments of the scheme documents; and	
		(ii)		
			statement has been approved by the Planning	
			Commission for registration with the community	
			titles scheme or the amendment of the	
			community titles scheme — the statement or	
			amendment; and	
		(iii)	if the Planning Commission notifies the Registrar	
			that the development period for a community	
			scheme is extended — the new date on which the	
			development period will end; and	
		(iv)	<u> </u>	
			that a registered community development	
			statement has ceased to have effect — that fact;	
		and		
	(c)		propriate in the circumstances, register or record a	
		_	sition statement, transfers or other documents	
		_	d with the application for registration in the	
			er that the Registrar considers appropriate for	
			poration in the Register under the <i>Transfer of Land</i> 893; and	
		ACI 10	, and	

Division 1 Schemes and amendments of schemes

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(d)	on registration of a community titles scheme or an
	amendment of a community titles scheme to give effect
	to a subdivision of land —

- (i) ensure that there is a separate certificate of title registered under the *Transfer of Land Act 1893* for each lot in the community titles scheme; and
- (ii) create and register or cancel, or enter a memorial on, certificates of title as necessary for that purpose.
- (2) A separate certificate of title is not to be created for common property or for a tier parcel.
- (3) The *Transfer of Land Act 1893* section 48B does not apply to a certificate of title for a lot in a community scheme.
- (4) The *Transfer of Land Act 1893* section 166 does not apply to a subdivision of land by a community scheme.
- (5) Without limiting how the Registrar of Titles incorporates
 material into the Register, an item will be taken to be registered
 or recorded for a community titles scheme in the Register if it is
 registered or recorded on the scheme plan, a certificate of title
 for a lot in the scheme or on a separate record of information
 relating to the scheme.

Note for this subsection:

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

53. No presumption of validity of scheme by-laws

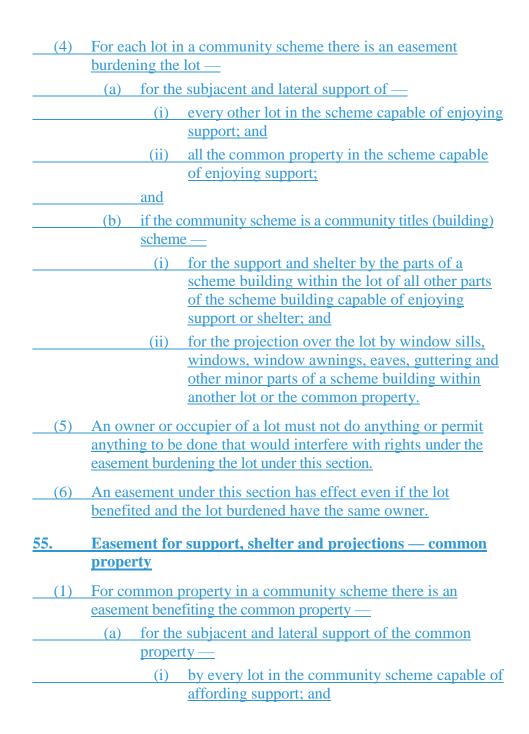
- (1) The Registrar of Titles may, but is not obliged to, examine scheme by-laws lodged for registration for compliance with this Act.
- (2) It must not be presumed that, because the Registrar of Titles has registered scheme by-laws, the by-laws are valid or enforceable.

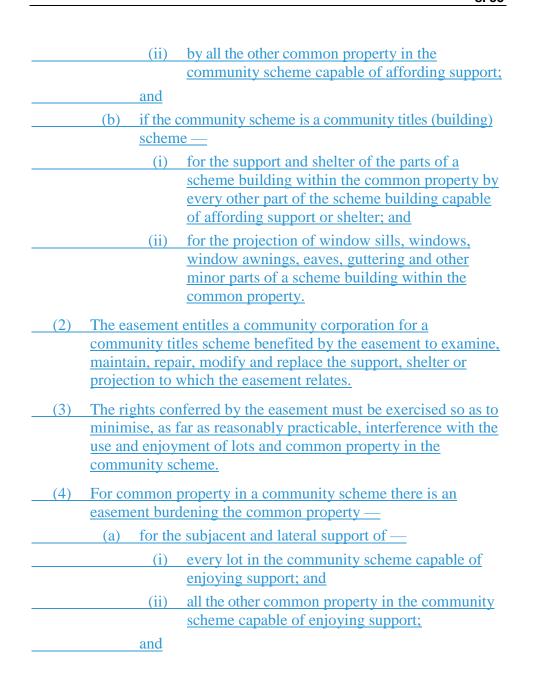
(3) The State does not guarantee the validity or enforceability of scheme by-laws.

<u>Division 2 — Statutory easements</u>			
<u>54.</u>	Easement for support, shelter and projections — lot		
(1)	7		
	benefiting the lot —		
	(a) for the subjacent and lateral support of the lot —		
	(i) by every other lot in the scheme capable of		
	affording support; and		
	(ii) by all the common property in the scheme		
	capable of affording support;		
	and		
	(b) if the community scheme is a community titles (building)		
	scheme —		
	(i) for the support and shelter of the parts of a		
	scheme building within the lot by every other		
	part of the scheme building capable of affording		
	support or shelter; and		
	(ii) for the projection of window sills, windows,		
	window awnings, eaves, guttering and other		
	minor parts of a scheme building within the lot.		
(2)	The easement entitles the owner of a lot benefited by the		
	easement to examine, maintain, repair, modify and replace the		
	support, shelter or projection to which the easement relates.		
(3)	The rights conferred by the easement must be exercised so as to		
(3)_	minimise, as far as reasonably practicable, interference with the		
	use and enjoyment of lots and common property in the		

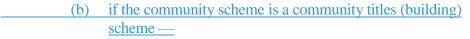
community scheme.

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- (i) for the support and shelter by the parts of a scheme building within the common property of all other parts of the scheme building capable of enjoying support or shelter; and
- (ii) for the projection over the common property by window sills, windows, window awnings, eaves, guttering and other minor parts of a scheme building within a lot.
- (5) A community corporation must not do anything or permit anything to be done that would interfere with rights under the easement burdening the common property under this section.

56. Utility service easement

- (1) An easement (a *utility service* easement) exists for the benefit and burden of each lot and the common property in a community scheme to the extent reasonably required for the provision of utility services to each lot and the common property.
- (2) A utility service easement entitles each community corporation, and each owner of a lot, in the community scheme
 - (a) to install and remove utility conduits; and
 - (b) to examine, maintain, repair, modify and replace utility conduits.
- (3) The rights conferred by a utility service easement must be exercised so as to minimise, as far as reasonably practicable, interference with the use and enjoyment of lots and common property in the community scheme.
- (4) A community corporation must not interfere or permit interference with utility conduits or a utility service provided by means of utility conduits in a way that may prejudice the use or enjoyment of a lot or the common property, other than —

- (a) in the reasonable exercise of rights under a utility service easement of which it has the benefit; or
- (b) in the performance of its function of controlling and managing common property in its community titles scheme.
- (5) An owner or occupier of a lot must not, either within or outside the lot, interfere or permit interference with utility conduits or a utility service provided by means of utility conduits in a way that may prejudice the use or enjoyment of another lot or the common property in the community scheme, other than in the reasonable exercise of rights under a utility service easement.
- (6) A utility service easement has effect even if the lot benefited and the lot burdened have the same owner.
- (7) In any dispute about the location of utility conduits under a utility service easement, the objective must be to resolve the matter fairly taking into account the options that are reasonably available to give effect to the easement.
- (8) If, in the course of exercising rights under a utility service easement, the owner of a lot comes into possession of documents specifying the location of utility conduits or other information relating to utility conduits that ought reasonably to be kept by the community corporation, the owner of the lot must ensure that the documents are provided to the community corporation.
- (9) If, in the course of exercising rights under a utility service easement, the community corporation comes into possession of documents specifying the location of utility conduits or other information relating to utility conduits that ought reasonably to be kept by the community corporation, the community corporation must keep the documents.

(1) This section applies if — (a) a community corporation has entered into a coninfrastructure contract) with a person under we person owns and operates infrastructure on com	hich the
infrastructure contract) with a person under w	hich the
nerson owns and operates infrastructure on com	ımon
property in the community titles scheme; and	
(b) this section is applied to the infrastructure contra	ract as
<u>follows —</u>	
(i) if the infrastructure is utility infrastructure	
sustainability infrastructure, by ordinary	
resolution of the community corporation	
(ii) in any other case, by special resolution of community corporation.	of the
(2) An infrastructure contract must —	
(a) specify the common property over which there	<u>is an</u>
easement under this section; and	
(b) specify the infrastructure to which the easemen	t applies.
(3) The person (the <i>infrastructure owner</i>) who, from time	to time,
owns the infrastructure the subject of an infrastructure	•
has an easement over the common property specified in	
infrastructure contract that entitles the infrastructure ov	<u> </u>
(a) to install and remove the infrastructure specifie contract; and	d in the
(b) to operate that infrastructure; and	
(c) to examine, maintain, repair, modify and replace	e that
<u>infrastructure.</u>	
(4) The easement is subject to any conditions set out in the	•
infrastructure contract (as in force from time to time).	-
(5) The infrastructure contract may be varied by agreemen	t between
the community corporation and the person who is the	<u>. serween</u>

infrastructure owner from time to time.

- (6) The easement ceases to exist if the infrastructure contract is terminated or otherwise ceases to have effect.
- (7) The rights conferred by the easement must be exercised so as to minimise, as far as reasonably practicable, interference with the enjoyment and use of the common property.
- (8) The regulations may
 - (a) specify special procedures for notice or voting on the resolution required for the application of this section; and
 - (b) set out terms and conditions that are to be taken to be implied in an infrastructure contract; and
 - (c) otherwise regulate the rights and obligations of the community corporation and the infrastructure owner.

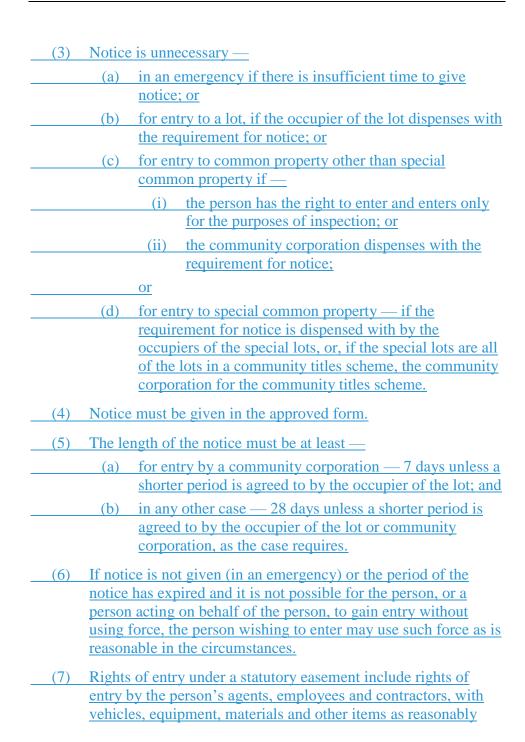
58. Entry under statutory easement

- (1) A community corporation has a right to enter the common property of its community titles scheme to exercise its rights under a statutory easement without notice to any person.
- (2) If a person needs to enter a lot or common property in order to exercise rights under a statutory easement (other than as set out in subsection (1)), the person must give notice
 - (a) for entry to a lot to the occupier of the lot; and
 - (b) for entry to common property other than special common property to the community corporation for the community titles scheme to which the common property belongs; and
 - (c) for special common property to the occupiers of the special lots who have exclusive use and enjoyment of, or special privileges over, the special common property under an exclusive use by-law or, if the special lots are all of the lots in a community titles scheme, the community corporation for that community titles scheme.

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Division 2 Statutory easements

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necessary for the purpose of exercising rights under the easement.

59. Rectification of damage

- (1) Any damage caused to a lot or common property in the course of exercising rights under a statutory easement must be repaired and made good as soon as practicable by the person exercising those rights.
- (2) Subsection (1) does not apply to the extent that the damage was the result of an unreasonable act or omission on the part of the owner of the lot damaged or, in the case of damage to the common property, on the part of the community corporation for the community titles scheme to which the common property belongs.

Division 3 — Rates, taxes and charges

60. Arrangements for sharing of information

The Registrar of Titles must enter into arrangements with the Valuer-General and rating and taxing authorities (within the meaning of the *Valuation of Land Act 1978* section 4(1)) for the sharing of information about community schemes as reasonably required for the administration of rating and taxing Acts.

61. Valuation for rating and taxing

- (1) In determining under the *Valuation of Land Act 1978* for rating and taxing Acts the unimproved value of land subdivided by a community titles (land) scheme, the Valuer-General must carry out a separate valuation of each lot as a separate parcel of land owned by the owner of the lot.
- (2) However, if a tier 1 or tier 2 community titles (land) scheme includes a tier parcel that is subdivided by a community titles (building) scheme, the valuation of lots in that community titles

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	(building) scheme for by subsection (3).	rating and taxing Acts is to be governed
(3)		he <i>Valuation of Land Act 1978</i> for rating improved value of land subdivided by a ding) scheme —
	community titl	neral must value the tier parcel of the es (building) scheme as if it were a of land owned by the community
		r parcels and lots is to be determined as
	follows — (i) if the so	cheme is a tier 1 scheme —
	(I) If the st	for the tier 1 parcel — as the
		unimproved value determined by the Valuer-General under paragraph (a);
	(II)	for a tier 2 parcel or tier 1 lot — by multiplying the unimproved value of the tier 1 parcel by the relative unit entitlement of the tier 2 parcel or tier 1 lot;
	(III)	for a tier 3 parcel or tier 2 lot — by multiplying the value, determined under item (II), of the tier 2 parcel to which the tier 3 parcel or tier 2 lot belongs by the relative unit entitlement of the tier 3 parcel or tier 2 lot;
	(IV)	for a tier 3 lot — by multiplying the value, determined under item (III), of the tier 3 parcel to which the tier 3 lot belongs by the relative unit entitlement of the tier 3 lot;

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(::) :£4h- a a	home is a tion 2 ashome
	cheme is a tier 2 scheme —
(I)	for the tier 2 parcel — as the
	unimproved value determined by the
(Valuer-General under paragraph (a);
(II)	for a tier 3 parcel or tier 2 lot — by
	multiplying the unimproved value of
	the tier 2 parcel to which the tier 3 parcel or tier 2 lot belongs by the
	relative unit entitlement of the tier 3
	parcel or tier 2 lot;
(III)	for a tier 3 lot — by multiplying the
(111)	value, determined under item (II), of the
	tier 3 parcel to which the tier 3 lot
	belongs by the relative unit entitlement
	of the tier 3 lot;
(iii) if the sc	heme is a tier 3 scheme —
(I)	for the tier 3 parcel — as the
	unimproved value determined by the
	Valuer General under paragraph (a);
(II)	for a tier 3 lot — by multiplying the
	unimproved value of the tier 3 parcel by
	the relative unit entitlement of the tier 3
	<u>lot.</u>
	he Valuation of Land Act 1978 for rating
	oss rental value of land subdivided by a
community scheme, th	
	a valuation of a number of lots together
-	1 lot if the lots are lots in a community
	scheme owned by the same person and e same person; but
	carry out a separate valuation of each
<u>lot.</u>	

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Part 5 Registration and land titles
Division 3 Rates, taxes and charges

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- (5) In determining under the *Valuation of Land Act 1978* for rating and taxing Acts the value of land subdivided by a community scheme, the Valuer-General must take into account benefits and disadvantages applicable to a lot as part of a community scheme.
- (6) Until a valuation is first carried out after a lot is created by subdivision of land by a community titles scheme, the valuation of the lot for rating and taxing purposes is to be calculated by multiplying the most recent valuation of the parcel or lot subdivided by the community titles scheme to which the lot belongs by the relative unit entitlement of the lot.

62. Objections

- (1) For an objection to a valuation of a tier parcel of a community titles scheme under the *Valuation of Land Act 1978*, the community corporation is to be regarded as a person liable to pay a rate or tax assessed in respect of the tier parcel.
- (2) On receiving an objection made by the owner of a lot in a community scheme under the *Valuation of Land Act 1978* to a valuation, the Valuer-General
 - (a) must inform the community corporation for the community titles scheme to which the lot belongs of the objection and the grounds on which it has been made; and
 - (b) may consolidate the objection with any other objection made in respect of the valuation of other land subdivided by the community scheme and may deal with the objections together.
- (3) An objection made by the owner of a lot in a community scheme under the *Valuation of Land Act 1978* to a valuation may involve an objection to a valuation of the tier parcel of the community titles scheme to which the lot belongs or to any community titles scheme to which that scheme belongs.

63. Rating and taxing

- (1) For rating and taxing Acts
 - (a) the owner of a lot is liable for the rate or tax as if the lot were a separate parcel of land (subject to any exemptions or concessions); and
 - (b) no rate or tax is payable by a community corporation.
- (2) If part of a tier parcel is rateable for rates for water, sewerage or drainage services, the rateable value of that part is to be the value of the tier parcel after deducting the value of any lot assessed and rated separately and in which the water, sewerage or drainage service, as the case may be, is exclusively for the use and benefit of the lot.
- (3) If part only of a lot is liable to a rate or tax, that rate or tax is to be applied to an amount that bears the same proportion to the value of the lot as the gross rental value of the part so liable bears to the gross rental value of the lot.

64. Charges for water supplied

If an authority (including a licensee within the meaning given in the *Water Services Act 2012* section 3(1)) provides 1 water supply connection to a tier parcel and the quantity of water used by each lot belonging to the tier parcel is not measured, the charges that may become payable according to the quantity of water used are payable by the community corporation to the authority and are recoverable as a debt in a court of competent jurisdiction.

Part 6 — Original subdivision owner

65. First statutory general meeting

- (1) An original subdivision owner for the initial subdivision of land by registration of a community titles scheme must, within 3 months after that registration, convene a general meeting of the community corporation for the scheme.
- (2) The original subdivision owner must do so even if the original subdivision owner is no longer a member of the community corporation and even if there are no other members of the community corporation.
- (3) If there is another member of the community corporation, a member of the community corporation may convene the meeting if the original subdivision owner fails to do so.
- (4) The first statutory general meeting is to be conducted as an annual general meeting of the community corporation and the obligations that would usually fall on the community corporation fall instead on the original subdivision owner.
- (5) The person who convenes the meeting is to preside at the meeting or nominate someone to preside at the meeting.

66. Key documents

- (1) An original subdivision owner for a subdivision of land by a community titles scheme must ensure that
 - (a) all the key documents for the subdivision that come into the possession or control of the original subdivision owner are retained; and
 - (b) all the key documents for the subdivision that the original subdivision owner possesses or controls are given to the community corporation for the scheme
 - (i) at the first general meeting of the community corporation following the subdivision; or

Part 6

- (ii) if the key document comes into the possession or control of the original subdivision owner after that meeting as soon as reasonably practicable after it comes into the possession or control of the original subdivision owner.
- (2) An original subdivision owner is bound by this section whether or not the original subdivision owner is the owner of a lot in the community titles scheme when the general meeting is held.

67. Disclosure of remuneration and other benefits

- (1) This section applies to the following
 - (a) a contract for the provision of services or amenities to the community corporation or to members of the community corporation entered into or arranged by the original subdivision owner for the subdivision or by the community corporation;
 - (b) any other contract that binds the community corporation;
 - (c) a lease or licence of the common property of the community titles scheme.
- (2) An original subdivision owner for a subdivision of land by a community titles scheme must disclose in writing to the community corporation for the scheme the following for each contract, lease or licence to which this section applies
 - (a) details of any remuneration or other benefit (including savings connected with installation or commissioning of infrastructure for the provision of services under the contract) that the original subdivision owner or an associate of the original subdivision owner has received or has a reasonable expectation of receiving arising out of the contract, lease or licence;
 - (b) details of any other direct or indirect pecuniary interest
 that the original subdivision owner or an associate of the
 original subdivision owner has in the contract, lease or



- (3) The disclosure
 - (a) must be made as soon as reasonably practicable after the original subdivision owner becomes aware of the facts giving rise to the requirement to disclose; and
 - (b) must include information as to the value of the remuneration or other benefit.

68. Defects in scheme buildings or infrastructure

- (1) On establishment of a community corporation for a community titles scheme, the community corporation is subrogated to all the rights and remedies of the original subdivision owner in respect of
 - (a) in a community titles (building) scheme, each scheme building; and
 - (b) in any community titles scheme, infrastructure comprising common property of the scheme.
- (2) If, within 10 years after completion of a scheme building or infrastructure comprising common property of a community titles scheme, a proposed resolution is put to a community corporation about a defect in the scheme building or infrastructure, a member of the community corporation must be excluded from voting on the resolution if the member is
 - (a) a person who became an original subdivision owner on registration of the community titles scheme; or
 - (b) an associate of such a person.
- (3) If a member is excluded under subsection (2), the unit entitlement of the lot of the member must be disregarded in determining whether the proposed resolution is passed as a special resolution of the community corporation.

69. Contracting out prohibited

- (1) A contract or arrangement is of no effect to the extent that it purports to exclude or restrict the operation.] of this Part.
- (2) A purported waiver of a right, remedy or benefit conferred on a person under this Part is of no effect.

Part 7 — Lot owners and occupiers

70. Offence to contravene restricted use condition

An owner or occupier of a lot in a community titles scheme commits an offence if the owner or occupier uses, or permits to be used, an area or space in a manner that contravenes a restricted use condition set out in the scheme plan for the scheme.

Penalty:

- (a) a fine of \$10 000;
- (b) a daily penalty of a fine of \$1 000 for each day or part of a day during which the offence continues.

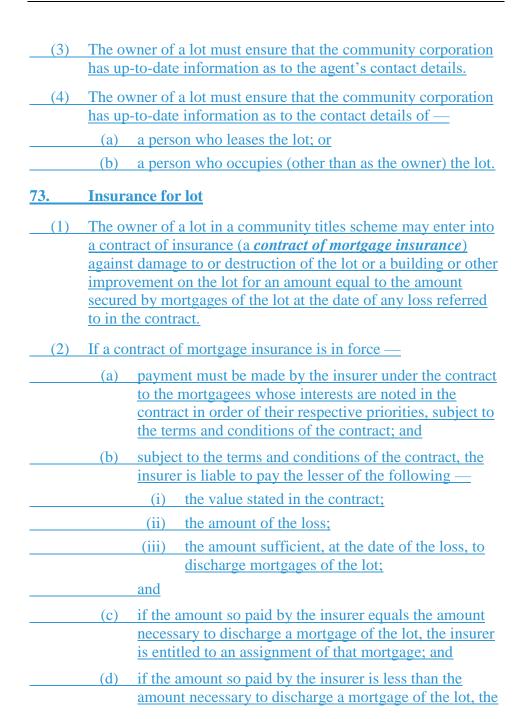
71. Use and enjoyment

The owner or occupier of a lot must not use, or permit the use of, the lot, or common property of the community titles scheme or a community titles scheme to which the scheme belongs, in a way that interferes unreasonably with the use or enjoyment of another lot or the common property by a person who is lawfully on the lot or common property.

72. Information and agent

- (1) The owner of a lot must ensure that the community corporation has up-to-date information as to the owner's contact details.
- (2) If the owner of a lot is ordinarily resident overseas or is a body corporate that is not registered in Australia
 - (a) the owner must nominate in writing to the community corporation a person who is ordinarily resident in Australia or a body corporate registered in Australia to be the owner's agent; and
 - (b) the agent's address for service is taken to be the address for service of the owner.

Part 7



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insurer is entitled, in order to secure the amount so paid, to have the mortgage transferred to the insurer and the mortgagee as tenants in common in undivided shares proportional to the amount paid by the insurer and the balance necessary to discharge the mortgagee's interest.

- (3) A contract of mortgage insurance is not liable to be brought into contribution with any other contract of mortgage insurance unless both contracts cover the same lot and relate to the same mortgage debt.
- (4) Nothing in this Act limits the right of the owner of a lot to effect insurance for the lot.

74. Person to act for lot owner in certain circumstances

- (1) If the owner of a lot cannot be located after reasonable enquiry or the owner lacks the capacity to vote or consent to a matter under this Act, an application for an order under this section may be made to the Tribunal by the community corporation or a person who the Tribunal considers has a proper interest in the matter.
- (2) The Tribunal may, on an application under this section, by order
 - (a) dispense with the requirement for the owner to vote or consent on a particular matter; or
 - (b) authorise the Public Trustee under the *Public Trustee*Act 1941 or another specified person (with that person's consent) to exercise all or specified powers of the person under this Act as the owner of a lot.

Part 8 — Community corporation

Division 1 — Functions

Subdivision 1 — Property

75. Control and management of common property

- (1) The principal function of a community corporation is to control and manage the common property in the community titles scheme for the benefit of
 - (a) the members of the community corporation; and
 - (b) if there are other community titles schemes that belong to the community titles scheme, the members of the community corporations of those other schemes.
- (2) The function includes the following
 - (a) an obligation to keep in good and serviceable repair,
 properly maintain and renew and replace the common
 property (including its fixtures and fittings) as necessary
 because of damage or deterioration arising from fair wear
 and tear, inherent defect or any other cause;
 - (b) a power to improve or alter the common property;
 - (c) a power to use, or allow the use of, the common property for any lawful purpose, including a commercial purpose.
- (3) The function must be exercised subject to any limitations imposed
 - (a) by the scheme by-laws; or
 - (b) by ordinary resolution of the community corporation.

Note for this subsection:

An ordinary resolution is invalid if it conflicts with scheme by-laws unless the by-laws expressly contemplate that: see section 106.

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(4) A community corporation may sue and be sued for rights and liabilities related to the common property of its community titles scheme as if it were the owner and occupier of the common property.

76. Rights over common property

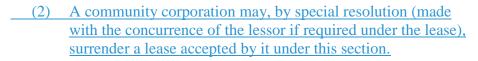
- (1) A community corporation is entitled, subject to this Act—
 - (a) to install and remove infrastructure on the common property; and
 - (b) to operate infrastructure on the common property; and
 - (c) to examine, maintain, repair, modify and replace infrastructure on the common property; and
 - (d) to take other action as necessary for the performance of its function of controlling and managing the common property.
- (2) For temporary common property, this section applies subject to the terms of the lease of the temporary common property.
- (3) This section does not derogate from the application of other written laws including, for example, a requirement to obtain approval of development under the *Planning and Development Act 2005*.

77. Personal property

A community corporation must keep in good and serviceable repair, properly maintain and, if necessary, renew and replace personal property owned by the community corporation.

78. Temporary common property

(1) A community corporation may, by special resolution, for the purpose of creating temporary common property accept a lease of land that is a lot in the community scheme or land that is contiguous to the tier parcel or separated only by a road, railway or waterway.



(3) If a special resolution is passed under this section, the community corporation may enter into the necessary transactions in its own name.

79. Transactions relating to land

- (1) If a community corporation is authorised to do so by special resolution, the community corporation may enter into a transaction to which this section applies and execute documents related to the transaction in its own name, as if it were the owner of an estate in fee simple in the tier parcel.
- (2) This section applies to the following transactions for a community titles scheme
 - (a) the acceptance of a transfer of land that
 - (i) is contiguous to the tier parcel or separated only by a road, railway or waterway; and
 - (ii) is not subject to a type 1 or type 2 interest; and
 - (iii) is to be added to the common property in the community titles scheme in connection with a subdivision to be given effect by registration of an amendment of the scheme;
 - (b) the disposal of land comprising common property (other than temporary common property) in the scheme in connection with a subdivision to be given effect by registration of an amendment of the scheme;
 - (c) a lease of common property in the scheme;
- (d) the surrender of or re-entry under a lease of common property in the scheme;

Division 1 Functions

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(e) the execution, acceptance, discharge or surrender of an easement or restrictive covenant burdening or benefiting the tier parcel.

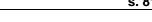
Note for this subsection:

If land is being transferred from 1 community titles scheme to another or is being added to or removed from the community scheme, a series of transactions by various community corporations will be required. For land to be added to the tier 1 parcel, the tier 1 corporation must enter a transaction to acquire the land.

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

80. Carrying out work and recovering cost

- (1) A community corporation may carry out work on a lot or tier parcel and recover the costs of that work in the following circumstances—
 - (a) if a member of a community corporation or the occupier of a lot does not carry out work on a lot or tier parcel required to be carried out by order of a court or tribunal or by a notice or order given under a written law by a local government, public authority or other person—the community corporation may carry out the work and recover the costs from the member or occupier;
 - (b) if a person does not carry out work on common property required to be carried out under exclusive use by-laws the community corporation may carry out the work and recover the costs from the person;
 - (c) if the work is to be carried out at the request, or with the consent, of a member of the community corporation and the work wholly or substantially benefits the lot or tier parcel of the member to the exclusion of other lots and tier parcels in the community scheme the community corporation may carry out the work and, subject to any





- (d) if a person does not carry out work necessary to remedy a contravention of a duty that the person has under a statutory easement the community corporation may carry out the work and recover the costs from the person.
- (2) If the costs are recoverable from 2 or more members of a community corporation, the members are liable jointly and severally for the costs and are entitled to contribution amongst each other according to the relative unit entitlements of their lots or tier parcels.
- (3) If an amount recoverable from the owner of a lot under this section is outstanding when ownership of the lot is transferred, the amount is recoverable against any subsequent owner of the lot.
- (4) If an amount is recoverable under this section from a member of a community corporation, the amount may be recovered and interest is payable on any outstanding amount, as if the amount payable were an unpaid contribution levied on the member.
- (5) An amount otherwise recoverable under this section is recoverable as a debt in a court of competent jurisdiction.

81. Power of community corporation to enter any part of parcel

- (1) A community corporation has a right to enter any part of the tier parcel of its community titles scheme for the purpose of
 - (a) exercising rights conferred on it under section 76; or
 - (b) carrying out work under section 80; or
 - (c) carrying out work that the community corporation is required to carry out under an order of a court or tribunal or a notice issued, or other order made, under a written law; or

Part 8 Community corporation

Division 1 Functions

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- (d) ascertaining whether scheme by-laws or this Act has been, or is being, complied with.
- (2) Sections 58 and 59 apply to entry to common property or a lot by a community corporation under this section as if the community corporation were exercising rights under a statutory easement.
- (3) A person must not obstruct or hinder a person exercising a power under this section.

82. Recovery of property

- (1) A community corporation may give written notice to a person requiring the person to deliver all records, keys or other property of the community corporation in the person's possession or control to a specified person within a specified period (being a period that is reasonable in the circumstances).
- (2) A person commits an offence if the person fails, without reasonable excuse to deliver property in the person's possession or control as required by the notice.
 - Penalty for this subsection: a fine of \$3 000.
- (3) A person cannot exercise any claim or lien against or on the property of a community corporation that the person is required, under this section, to deliver to the community corporation.

Subdivision 2 — **Insurance**

83. Required insurance

- (1) A community corporation must ensure that the following insurance is in place for the community titles scheme
 - (a) all insurable assets of the scheme must be insured against fire, storm and tempest (excluding damage by sea, flood or erosion), lightning, explosion and earthquake—
 - (i) to replacement value; or

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

and

(b) the community corporation must be insured against damage to property, death, bodily injury or illness for which the community corporation could become liable in damages to an amount of not less than an amount determined in accordance with the regulations.

Notes for this subsection:

- The owner of a lot in a community titles (land) scheme is responsible for insurance of the kind referred to in paragraph (a) for infrastructure on the lot.
- 2. The owner of a lot is responsible for insurance of the kind referred to in paragraph (b) for damages for which the owner could become liable.
- (2) However, if a community corporation has taken all reasonably practicable steps available to it to obtain the required insurance but no insurer is willing to enter into a contract of insurance on reasonable terms that meets the requirements, the community corporation must obtain whatever insurance it can obtain on reasonable terms that most closely meets the requirements.
- (3) The Tribunal may, on application by a community corporation, exempt it from compliance with this section subject to conditions specified in the exemption.
- (4) A community corporation may enter into a contract of insurance relating to the insurable assets of its community titles scheme and execute documents relating to the contract in its own name, as if it were the owner of the assets.
- (5) Subject to subsection (6), if a community corporation receives money from an insurer in the event of damage to or destruction of an insurable asset of its community titles scheme, that money must be applied by the community corporation in rebuilding,

Division 1

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replacing, repairing or restoring the insurable asset so far as that may lawfully be done.

- (6) Subsection (5) does not apply if
 - (a) the community titles scheme is a community titles (land) scheme; and
 - (b) the community corporation passes a special resolution
 - (i) determining that a specified part or all of the money is not to be used for the purposes of rebuilding, replacing, repairing or restoring the insurable asset of its community titles scheme; and
 - (ii) specifying how that money is to be distributed amongst members of the community corporation or used;

and

- (c) the insurable asset of its community titles scheme or, if the insurable asset has been destroyed or removed, the area affected by the damage or destruction, is left in a safe condition; and
- (d) the insurable asset is not one the existence of which is required by the community development statement.
- (7) Nothing in this section derogates from
 - (a) any other requirement imposed on a community corporation to obtain insurance (for example, for workers' compensation or by resolution of the community corporation); or
- (b) the power of the community corporation to obtain other insurance in its capacity as a body corporate.

84. Notice to member of community corporation

- (1) If it is reasonably necessary in order for a community

 corporation to obtain the required insurance on reasonable

 terms, the community corporation may give written notice to a

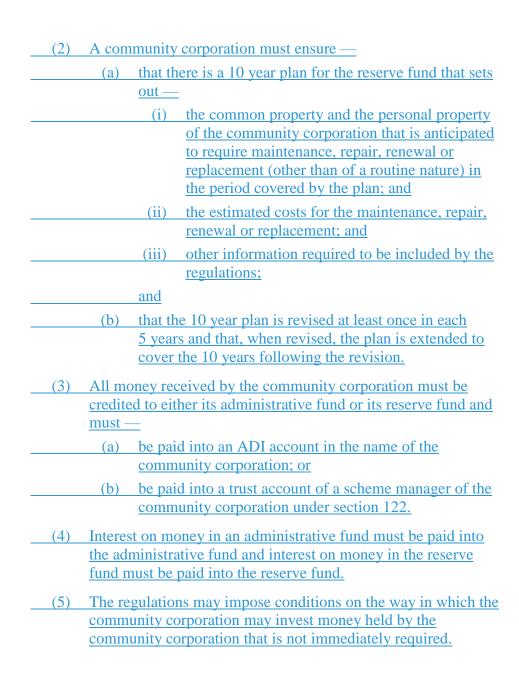
 member of the community corporation requiring the member to

 do 1 or more of the following
 - (a) to take specified action within a specified period;
 - (b) to refrain from taking specified action;
 - (c) to pay a specified amount to the community corporation within a specified period, being an amount equal to that part of the premium payable by the community corporation for the required insurance attributable solely to the risk associated with something within the member's control.
- (2) A member of a community corporation given such a notice may negotiate with the community corporation to take some step other than that specified in the notice to enable the required insurance to be obtained by the community corporation on reasonable terms.
- (3) The community corporation must negotiate with the member with a view to achieving a fair and reasonable outcome.

Subdivision 3 — Financial management

85. Funds and investment

- (1) A community corporation must establish
 - (a) a fund (an *administrative fund*) out of which the operating costs of the community corporation are to be paid; and
 - (b) a fund (a *reserve fund*) for the purpose of accumulating funds to meet contingent expenses, other than those of a routine nature, and other major expenses of the community corporation likely to arise in the future.

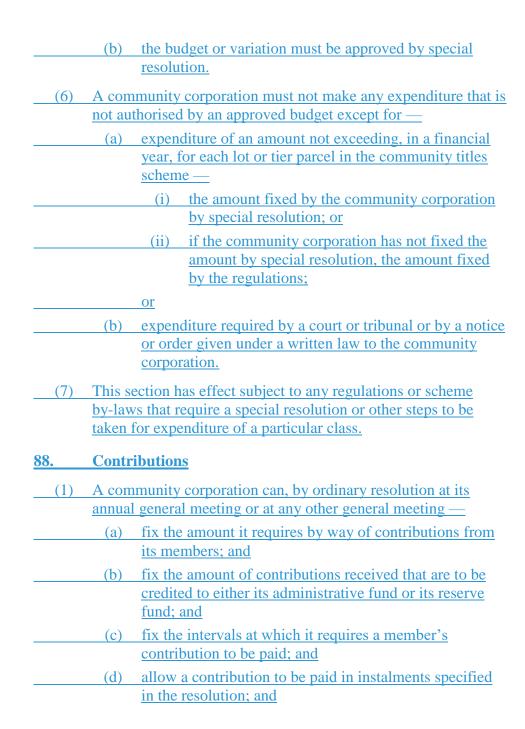


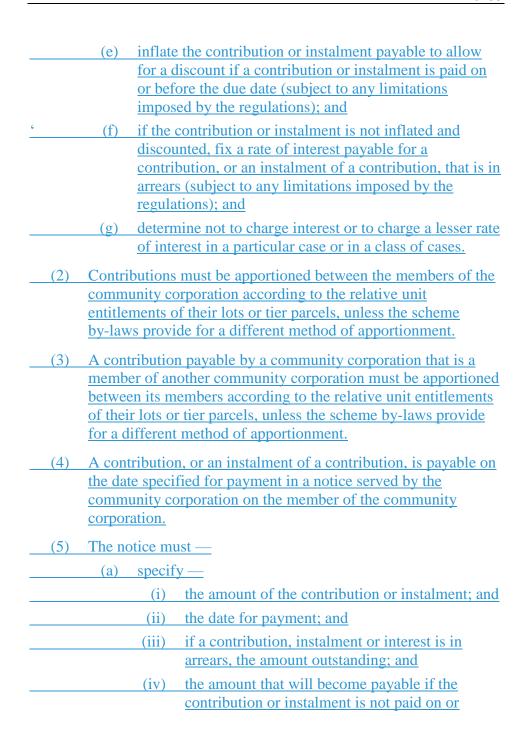
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86.	Accounting	records at	nd statement	· oť	accounte
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- (1) A community corporation must keep proper accounting records of its income and expenditure.
- (2) A community corporation must prepare a statement of accounts for each financial year showing
 - (a) the assets and liabilities of the community corporation at the end of the financial year; and
 - (b) the income and expenditure of the community corporation for the financial year.

87. Budget

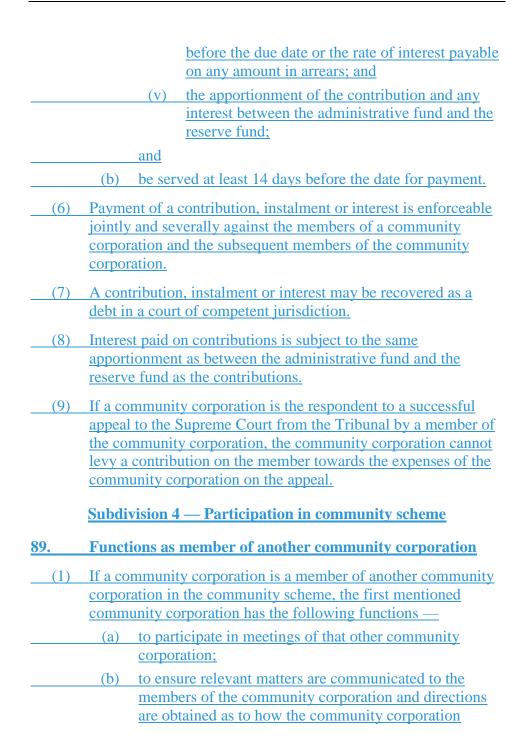
- (1) A community corporation must prepare a budget for each financial year and submit it for approval to its annual general meeting.
- (2) The budget must be prepared
 - (a) taking into account the 10 year plan for the reserve fund; and
 - (b) in accordance with any requirements set out in the regulations and the scheme by-laws.
- (3) The community corporation may, by ordinary resolution at its annual general meeting or at a subsequent general meeting, approve a budget with or without modification.
- (4) The community corporation may, by ordinary resolution, vary its approved budget.
- (5) If a budget or a variation of a budget provides for expenditure on common property under section 75(2)(b) (other than expenditure on sustainability infrastructure) exceeding an amount determined under the regulations—
 - (a) information regarding that expenditure must be provided to the members of the community corporation as required by the regulations; and





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- to participate on the council of that other community corporation if required under this Act or the scheme by-laws for the other community corporation or to stand for election as a member of that council if that is allowed under the scheme by-laws for the other community corporation.
- Subject to the scheme by-laws
 - the person assigned the function of presiding at meetings of the community corporation under the by-laws has the function of —
 - (i) representing the community corporation at meetings of the community corporation of which it is a member; and
 - (ii) casting the vote of the community corporation; and
 - if that person is unable or unwilling to perform the function, the council of the community corporation may authorise another individual to do so.
- (3) A scheme manager of the community corporation may not be assigned functions or authorised to perform functions under subsection (2).
- **90. Cooperation between community corporations**

A community corporation must cooperate with each other community corporation in the community scheme, especially in coordinating voting or meetings of its community corporation with voting or meetings of the other community corporations to facilitate participation and decision making of all tiers of the community titles schemes in the community scheme.

Division 1

Functions

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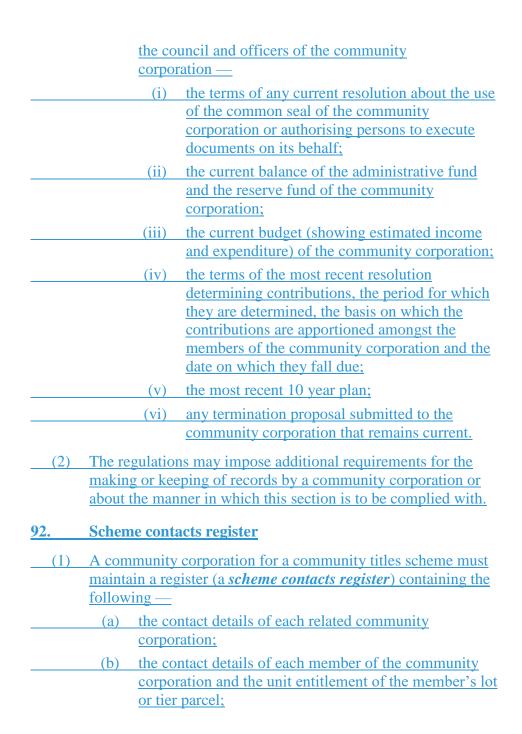
Subdivision 5 — Records and correspondence

<u>91.</u>	Records and correspondence		
(1)	A community corporation for a community titles scheme		
	<u>must —</u>		
	<u>(a)</u>	keep a	a copy of each of the following —
		(i)	if there is a community development statement in
			force for the community scheme, the community development statement;
		(ii)	any proposed amendments of the community
			development statement of which it is aware and
			that remain current;
		(iii)	the current scheme documents;
		(iv)	any proposed amendments of the scheme
			documents of which it is aware and that remain
			<u>current;</u>
		and	
	(b)	make	and keep for a period fixed by the regulations —
		(i)	minutes of its general meetings and meetings of
			its council; and
		(ii)	records of its resolutions and the decisions of its
			council; and
		(iii)	such other records as are required by the
			regulations;
		and	
	(c)	keep f	for a period fixed by the regulations —
		(i)	records and statements of account made or kept
			under section 86; and
		(ii)	notices of its general meetings and meetings of
			its council; and
		(iii)	notices of proposed resolutions and material
			submitted to members of the community

	ar e ar an an an
	corporation in connection with proposed resolutions; and
(iv)	notices of disclosures made under
(iv)	section 67, 119(2) or 121; and
(v)	all correspondence, other notices and orders it or
(V)	its council sends or receives; and
(vi)	each lease accepted under section 78 and any
(V1)	instrument of surrender of such a lease; and
(vii)	each contract entered into by the community
	corporation and any variation, extension or
	termination of such a contract, including
	(without limitation) the following —
	(I) a scheme management contract;
	(II) an insurance contract;
	(III) an infrastructure contract;
	(IV) a contract for services or amenities
	provided to the community corporation
	or members of the community
	corporation;
	and
(viii)	each lease, licence or other document granting a
	special privilege over the common property
	(other than exclusive use by-laws); and
(ix)	each key document it has received; and
(x)	each document it has kept or received under
	section 56;
(xi)	each certificate given under section 97;
and	
(d) keep t	he following in a manner that facilitates access to
•	formation, in particular, for use by the members of

Division 1

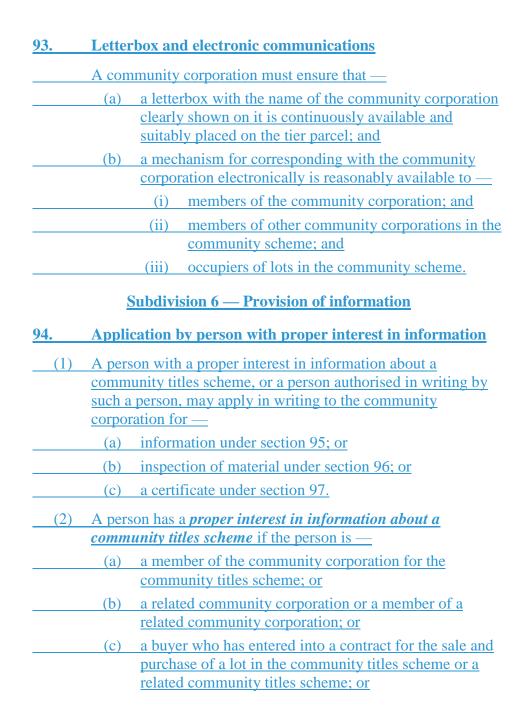
Functions



	()		*C* 1
	(c)		ified to the community corporation, the contact s of an agent of a member of the community
			ration;
	(d)		ontact details of each member of the council of the
	(u)		nunity corporation and each officer of the
			nunity corporation;
	(e)	the co	ontact details of each scheme manager of the
	· · · · ·		nunity corporation;
	(f)	the co	entact details of a person (other than a member of
			mmunity corporation) who is the owner of a
		_	al lot or holds a lease or licence over the common
			rty, or otherwise occupies common property, in the
		schem	
	(g)		ified to the community corporation, the contact s of —
		<u>(i)</u>	a mortgagee of a lot in the community titles scheme; or
		(ii)	
		(11)	scheme; or
		(iii)	a person who occupies (other than as the owner)
		(111)	a lot in the community titles scheme;
	(h)	if ther	re is a common property infrastructure easement,
	(/		ontact details of the infrastructure owner within the
		meani	ing of section 57.
	Penalt	y for th	is subsection: a fine of \$3 000.
(2)	An en	try in th	ne scheme contacts register for a member of the
			orporation who is an original subdivision owner
		•	the member as such.

Division 1

Functions



- (d) a mortgagee of a lot in the community titles scheme or a related community titles scheme; or
 - (e) a person of a class specified in the regulations.
- (3) A community corporation may charge a fee for an application under this section.
- (4) However, any fee that is charged must not exceed an amount fixed by the regulations.

95. Information from scheme contacts register

A community corporation commits an offence if, on application under section 94, it does not provide to the applicant as soon as reasonably practicable and, in any event, within 14 days, information in its scheme contacts register.

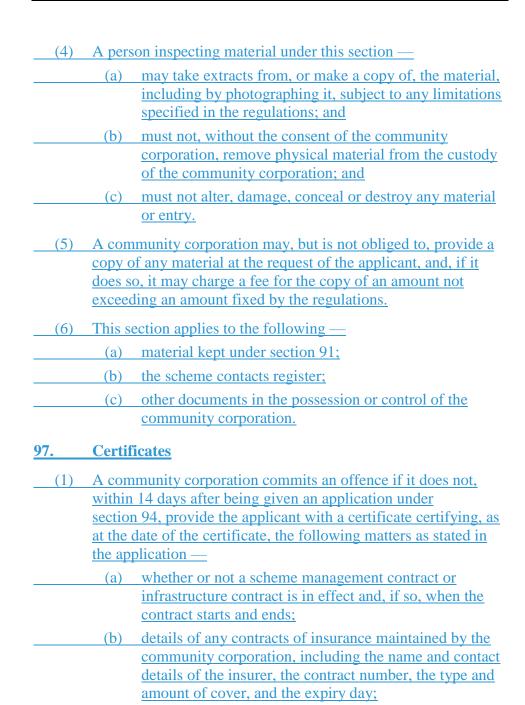
Penalty: a fine of \$3 000.

96. Inspection of material

- (1) A community corporation commits an offence if, on application under section 94, it does not make material to which this section applies available for inspection by the applicant at a place and time
 - (a) agreed between the community corporation and the person; or
 - (b) if agreement is not reached within 3 days after the community corporation is given the application, specified in a written notice given by the community corporation to the person.

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

- (2) The time specified in a notice under subsection (1)(b) must be between 9am and 5pm on a day not more than 10 days after the community corporation is given the application.
- (3) The material may be made available in electronic or hard copy form.



whether any transfer, lease or other disposition has been entered into or exclusive use by-laws have been made in favour of a person over the common property but not registered by the Registrar of Titles, and, if so, the name of the person and the nature and effect of the transaction or by-laws.

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

- (2) A community corporation commits an offence if it does not, within 14 days after being given an application under section 94, provide the applicant with a certificate certifying, as at the date of the certificate, the following matters as they relate to a lot or tier parcel specified in the application –
 - (a) the amount and due date of contributions determined for the lot or tier parcel
 - at the most recent annual general meeting of the community corporation; and
 - (ii) at any time subsequent to that meeting; and
 - in the previous 12 months; (iii)
 - any amount owed to a community corporation by the owner or occupier of the lot, or the community corporation for the tier parcel, that is outstanding, the date on which it became outstanding, and the nature of the payment;

Note for this paragraph:

For example, the amount may be an amount of —

- contributions; or
- an amount payable under exclusive use by-laws; or
- an amount payable for work undertaken on the part of the owner of the lot; or
- any penalty or other amount ordered to be paid by the Tribunal: or
- any amount payable for utility services or other services or amenities.

Part 8 Community corporation

Division 1 Functions

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(c) the rate of interest payable in respect of the outstanding amount.

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

(3) A certificate under this section is conclusive evidence of the matters stated in the certificate, as at the date of the certificate, in favour of a person taking an estate or interest in a lot for valuable consideration.

98. Legal professional privilege and defamation

- (1) Nothing in this Subdivision requires a community corporation
 - (a) to give or certify any information that is the subject of legal professional privilege; or
 - (b) to make available a document or a part of a document if that would disclose information that is the subject of legal professional privilege.
- (2) It is a defence to an action for defamation if the defendant proves that
 - (a) the defamatory matter was contained in information or a document mentioned in this Subdivision; and
 - (b) the publication consisted of giving or certifying the information, or making the document available, in accordance with this Subdivision.

Subdivision 7 — **Miscellaneous powers**

99. Compliance with scheme by-laws

A community corporation has the function of complying with the scheme by-laws and enforcing compliance with those by-laws by others to whom they apply.

100. Enforcement of road laws

A community corporation may enter into a contract or arrangement with a local government about the enforcement of

laws relating to roads on the tier parcel of its community titles scheme.

101. Enforcement of local laws

A community corporation may enter into a contract or arrangement with a local government about the enforcement of a local law on the tier parcel of its community titles scheme.

102. Termination of certain services or amenities contracts

- (1) This section applies to a contract if
 - (a) it relates to the provision of services or amenities to a community corporation or members of the community corporation; and
 - (b) it was made before registration of the community titles scheme or when
 - (i) the lots in the community titles scheme of

 1 member of the community corporation had a
 relative unit entitlement of 50% or more; or
 - (ii) the relative unit entitlement of 1 tier parcel in the community titles scheme had a relative unit entitlement of 50% or more and the lots of 1 member of the community corporation for the community titles scheme for that parcel had a relative unit entitlement of 50% or more; or
 - (iii) 1 person otherwise controlled 50% or more of the voting power of the members of the community corporation.
- (2) There is implied in a contract to which this section applies a provision that the community corporation may terminate the contract, by written notice to every other party to the contract, after 5 years have passed since the contract was made.
- (3) No cause of action against a person arises from the exercise of the power referred to in subsection (2).

Part 8 Community corporation

Division 1 Functions

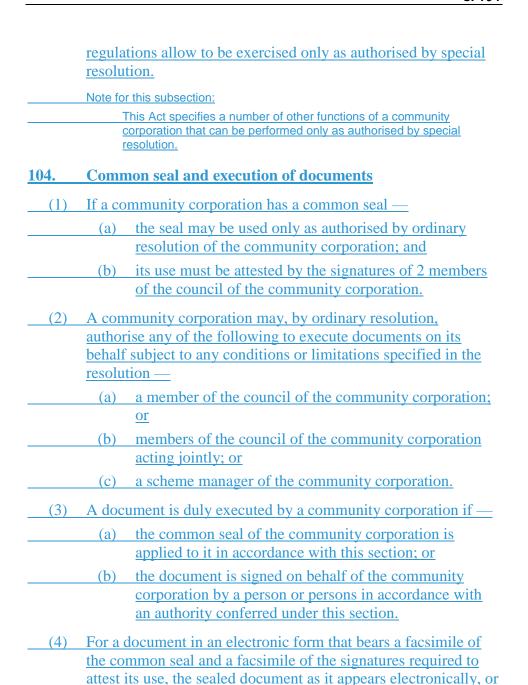
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- (4) A contract or arrangement is of no effect to the extent that it purports to exclude or restrict the operation of this section.
- (5) A purported waiver of a right, remedy or benefit conferred on a community corporation under this section is of no effect.
- (6) The Tribunal may, on the application of a party to a contract to which this section applies, by order extend the period of 5 years provided for by subsection (2), so far as it applies to that contract, if satisfied that the contract—
 - (a) is fair to all members of the community corporation; and
 - (b) will remain fair to all those members during the extended period.
- (7) An extended period under subsection (6) is not to exceed the term specified in the contract or a period of 10 years from the time when the contract was made, whichever is the lesser.

Subdivision 8 — Limitations

103. Limitations on exercise of powers

- (1) A community corporation must not
 - (a) acquire or dispose of land, or an interest in land, except as authorised under section 78 or 79; or
 - (b) mortgage common property; or
 - (c) act as a guarantor; or
 - (d) establish a corporation or subsidiary of a corporation; or
 - (e) engage in an activity that a community corporation must not engage in under the regulations.
- (2) A community corporation must not, except as authorised by special resolution, perform or exercise a function that the



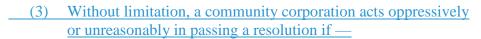
as it appears when printed on paper, has the same effect as if the common seal had been applied and attested in accordance with

this section, unless there is evidence that the document was not executed by the community corporation.

Division 2 — Objectives

105. Objectives

- (1) In performing its functions, a community corporation is to have the objective of implementing processes and achieving outcomes that are not, having regard to the use and enjoyment of lots and common property in the community scheme
 - (a) unfairly prejudicial to or discriminatory against a person; or
 - (b) oppressive or unreasonable.
- (2) In achieving that objective, a community corporation
 - (a) must take into account any failure of a person to act consistently with this Act or the scheme by-laws; and
 - (b) must consider the merits of any proposal put to it and the options that are reasonably available in any particular circumstances; and
 - (c) must be aware that
 - (i) a resolution or other conduct may be overturned for failure to meet that objective despite the fact that it reflects the will of the majority of members of a community corporation as expressed through the exercise of their voting powers; and
 - (ii) the fact that a person has chosen to become the owner of a lot does not prevent the person challenging the performance of a function for failure to meet that objective.



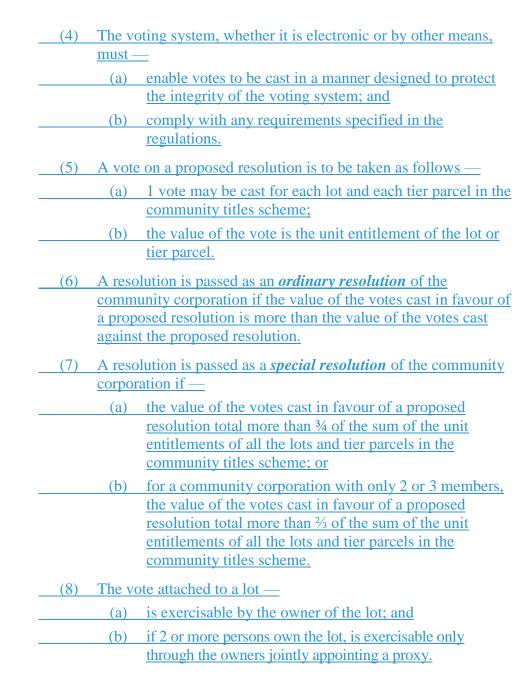
- the resolution would not have been passed, or not have been passed as a particular type of resolution, but for the fact that a person was improperly denied a vote on the resolution; or
- the resolution would have been passed, or would have been passed as a particular type of resolution, if a person had properly been given an opportunity to vote on the resolution.

Division 3 — **Procedures**

Voting and resolutions 106.

- (1) A proposed resolution can be put to the members of a community corporation
 - at a general meeting; or (a)
 - outside of a general meeting. (b)
- (2) A resolution can be proposed only by a member of the community corporation who is entitled to vote on the resolution.
- A proposed resolution can only be put to the members if (3)
 - written notice of the proposed resolution is given to all members of the community corporation at least 14 days before the vote is taken at the meeting or the period for voting by electronic or other means opens; and
 - (b) the notice includes
 - (i) the terms of the proposed resolution; and
 - (ii) details of the voting system to be used and any requirements for its use.

Division 3 Procedures



Division 3



- (a) is exercisable by the community corporation for the community titles scheme that subdivides the parcel; and
- (b) is exercisable only if the vote of the community corporation is cast according to an ordinary resolution of the members of the community corporation.
- (10) A decision about how a community corporation is to vote on a proposed resolution of a community corporation of which it is a member can be made by ordinary resolution whether or not the proposed resolution is required to be a special resolution.
- (11) Meetings of community corporations in the community scheme and voting arrangements must be organised so as to enable decisions to be made as required under this section.
- (12) The community corporations of a community scheme can be considering and voting on the same resolution during the same period.

(13) Scheme by-laws —

- (a) can impose requirements for the operation of an electronic or other voting system; and
- (b) can exclude the application of subsection (3) to a decision on a specified class of matters that may be determined by ordinary resolution; and
- (c) can exclude a member of the community corporation
 whose contributions to the community corporation are
 overdue from voting on a resolution that may be passed
 as an ordinary resolution.

(14) Scheme by-laws —

(a) cannot exclude the application of subsection (3) on a matter that must be determined by special resolution; and

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- (b) cannot exclude a member of the community corporation from voting on a resolution that is required to be a special resolution.
- (15) An ordinary resolution of a community corporation is of no effect to the extent that it purports to exclude or restrict the operation of scheme by-laws unless that is expressly contemplated by the by-laws.

107. Voting by proxy

- (1) A member of a community corporation can, by instrument in writing, appoint a person to vote for the member as the member's proxy.
- (2) Subject to any limitations expressed in the instrument of appointment, the appointment of a proxy is for all purposes.
- (3) The instrument of appointment of a proxy may limit the appointment
 - (a) to a specified general meeting or to a vote on a specified proposed resolution; or
 - (b) to general meetings held, or to resolutions that are proposed, within a specified period; or
 - (c) to a specified purpose; or
 - (d) in any other specified way.
- (4) A person appointed as a proxy may be, but is not required to be, a member of the community corporation.
- (5) If a member of a community corporation who is an individual and who is the sole owner of a lot is present at a meeting of the community corporation, the member must cast the member's vote personally rather than by proxy.
- (6) If a member's proxy has a direct or indirect pecuniary or other interest in the subject of a proposed resolution, the proxy—

- (a) must inform the member of the details of the interest; and
- (b) can vote for the member as the member's proxy only if the member expressly directs the proxy in writing to do so in the particular case and only in accordance with those express directions.
- (7) The regulations may impose limitations on a scheme manager being appointed as a proxy, including limitations as to the number of members or unit entitlements of lots or tier parcels for which a scheme manager may be appointed as a proxy.

108. Annual general meeting

A community corporation must hold an annual general meeting of the members of the corporation once in each 12 months and not later than 15 months after its previous annual general meeting.

109. Convening of general meetings

- (1) A general meeting of the members of a community corporation may be convened by the council of the community corporation.
- (2) The council must convene a general meeting on the written request of a member or members of the community corporation with lots or tier parcels with an aggregate relative unit entitlement of 25% or more.
- (3) If the council does not, within 21 days after a request has been made under subsection (2), take steps to convene a general meeting, any of the members making the request may do so within 3 months after the date of the request.
- (4) A general meeting of the community corporation is convened by giving written notice of the meeting to all members of the community corporation at least 14 days before the date of the meeting.

Division 3 Procedures

(5) The notice i	nust —		
(a) spec	specify the day, time and place of the meeting (which		
		taking into account what might be	
		pected to be convenient to a majority of	
		f the community corporation); and	
		nda for the meeting, which must	
	<u>ude — </u>		
		on confirming the minutes of the previous	
(1)		meeting; and	
(ii)		ns of any resolutions to be put to the ers of the community corporation at the	
		g and, if the resolution is required to be a	
		resolution, a statement of that fact; and	
(iii)	other it	ems of business that have been notified in	
		to the council of the community	
	_	ation by a member of the community	
	-	ation in time for it to be reasonable for	
		be included in the agenda; and	
(iv)	for an a	nnual general meeting —	
	(I)	presentation of the statement of	
		accounts for the previous financial year; and	
	(II)	presentation of the budget (including	
		estimates of income and expenditure)	
		for the current financial year for	
		approval; and	
	(III)	presentation of the 10 year plan for the	
	(TT T)	reserve fund; and	
	(IV)	determination of contributions to be	
		paid by members for the current financial year or any part of that year;	
		and	
			

(V)	presentation of schedules and
	certificates relating to the insurance
	required for the community titles
	scheme for the current financial year or
	any part of that year; and
(VI)	as necessary, the appointment or
	election of members of the council of
	the community corporation or officers
	of the community corporation;
and	
(v) any oth	er matters required to be included by the
regulati	ons.

110. Procedure at general meetings

- (1) A general meeting of a community corporation can be held with all persons or with some persons (including proxies)
 participating by telephone, video link, internet connection or similar means of remote communication.
- (2) A person attending a meeting by remote communication is taken to be present at the meeting.
- (3) The officer of the community corporation assigned the function of presiding at the meeting under the scheme by-laws is to preside at the meeting.
- (4) Subject to the scheme by-laws, in the absence of that person, a person present may be appointed to preside at the meeting by the persons present and entitled to vote at the meeting.
- (5) No business may be transacted at a general meeting unless a quorum is present at the time when the meeting proceeds to business.



- (a) by persons entitled to cast votes for lots or tier parcels that together have a relative unit entitlement of 50% or more;
- (b) if such persons are not present after 30 minutes has elapsed from the time appointed for the meeting, by persons entitled to vote who are present at that time.

Note for this subsection:

A special resolution cannot be passed at a meeting if a quorum is constituted under paragraph (b).

Division 4 — Council and officers

111. Council and officers of community corporation

- (1) Unless the scheme by-laws provide otherwise, the council of a community corporation for a community titles scheme is to be constituted of
 - (a) each community corporation of another community titles scheme that belongs to the scheme; and
 - (b) for each lot in the scheme, a person who is the owner, or, if the owner is a body corporate or if 2 or more persons own the lot, a nominee of the owner, of the lot.
- (2) The following persons are not eligible to be, or to be nominated as, a member of the council of a community corporation
 - (a) a scheme manager of any community corporation in the community scheme;
 - (b) according to the *Interpretation Act 1984* section 13D, a bankrupt or a person whose affairs are under insolvency laws;
 - (c) a Chapter 5 body corporate within the meaning given in the *Corporations Act 2001* (Commonwealth) section 9.

- (3) A person is not entitled to nominate a candidate for appointment or election as a member of the council or an officer of the community corporation unless the person is entitled to vote on the appointment or election.
- (4) If a member of the council of a community corporation becomes a person who is not eligible to be a member or to be nominated as a member, the person ceases to hold office.
- (5) For any period for which a member of a community corporation owes an outstanding amount of contributions to the community corporation, the member or nominee of the member cannot vote on any matter as a member of the council of the community corporation.
- (6) An officer of a community corporation must be a member of the council of the community corporation.
- (7) If a community corporation is a member of the council or an officer of another community corporation, subject to its scheme by-laws—
 - (a) the person assigned the function of presiding at meetings of the community corporation is taken to be authorised to perform on its behalf its functions as a member or officer; and
 - (b) if that person is absent or is unable or unwilling to act, the council of the community corporation
 - (i) must authorise another individual to do so; and
 - (ii) may revoke the authority of an individual so authorised.
- (8) Subject to subsection (2), a body corporate other than a community corporation is eligible to be a member of the council of a community corporation or an officer of a community corporation.

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Division 4 Council and officers

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- (9) A body corporate other than a community corporation that is a member of the council of a community corporation or an officer of a community corporation
 - (a) must authorise an individual to perform on its behalf its functions as a member or officer; and
 - (b) may revoke the authority of an individual so authorised.
- (10) Neither the council of a community corporation nor an officer of a community corporation can delegate functions under this Act or the scheme by-laws.
- (11) An act or proceeding of a council of a community corporation is not rendered invalid by reason only of a vacancy in its membership or a defect in the appointment or election of a member.

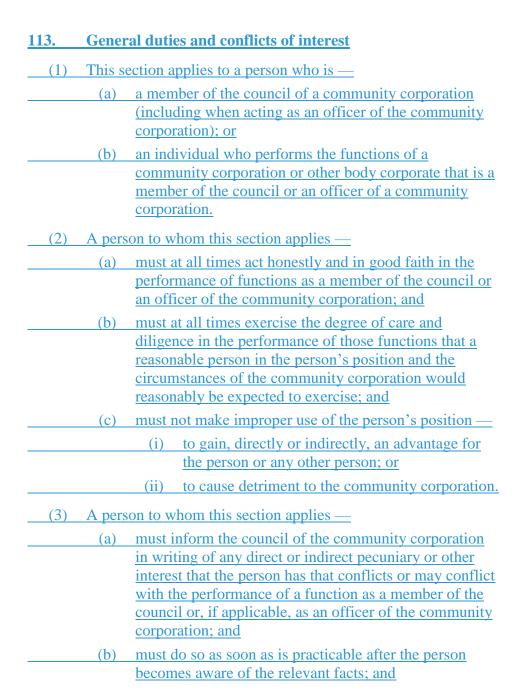
112. Functions and procedures of council

- (1) Subject to this Act, the scheme by-laws and any ordinary resolution of the community corporation, the council of a community corporation is responsible for performing the functions of the community corporation.
- (2) If the performance of a function of a community corporation requires an ordinary or special resolution, the council can perform the function only if a vote has been taken on a proposed resolution and it has been passed as an ordinary or special resolution, as the case requires.

Note for this subsection:

For example, money cannot generally be spent outside the budget unless that is authorised by ordinary resolution of the community corporation: see section 87.

(3) Subject to this Act, the scheme by-laws and any ordinary resolution of the community corporation, the council of a community corporation may determine its own procedures.



Division 5 Miscellaneous

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- (c) in the case of a member of the council, must not vote on a matter in which the member has an interest required to be disclosed under paragraph (a).
- (4) Subsection (3) does not apply to an interest arising solely from the fact that the person is a member of the community corporation.

Division 5 — Miscellaneous

114. Performance of council functions in general meeting

- (1) If the council of a community corporation is prohibited from performing a function by reason of the scheme by-laws or a resolution of the community corporation, the function may be performed by the members of the community corporation in general meeting.
- (2) If, at any time, there is no council of a community corporation or there are insufficient members of the council to constitute a quorum, the functions of the council may be performed by the members of the community corporation in general meeting.

115. Protection from liability

- (1) This section applies to a person who is or has been
 - (a) a member of the council of a community corporation (including when acting as an officer of the community corporation); or
 - (b) an individual who performs the functions of a community corporation or other body corporate that is a member of the council or an officer of a community corporation.
- (2) No civil liability attaches to a person to whom this section applies for anything that the person has, in good faith, done or omitted to be done
 - (a) in the performance of a function under this Act or the scheme by-laws; or

Miscellaneous

- (b) in the reasonable belief that the act or omission was in the performance of a function under this Act or the scheme by-laws.
- (3) A liability that would, but for subsection (2), attach to a person attaches instead to the community corporation.

116. Exclusion of Corporations Act

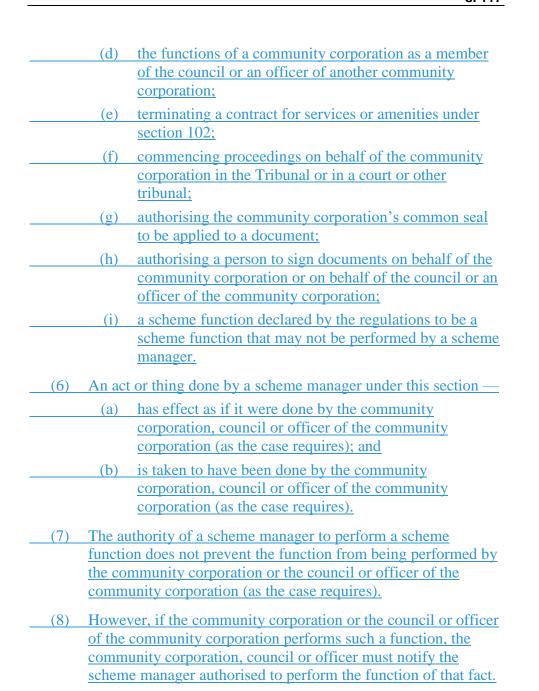
The following matters are declared to be excluded matters for the purposes of the *Corporations Act 2001* (Commonwealth) section 5F in relation to the whole of the Corporations legislation to which Part 1.1A of that Act applies —

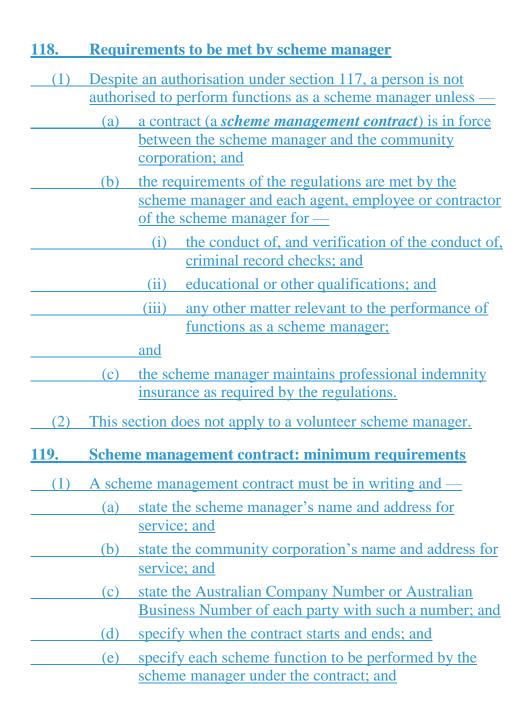
- (a) a community corporation;
- (b) an act or omission of a person, body or other entity in relation to a community corporation.

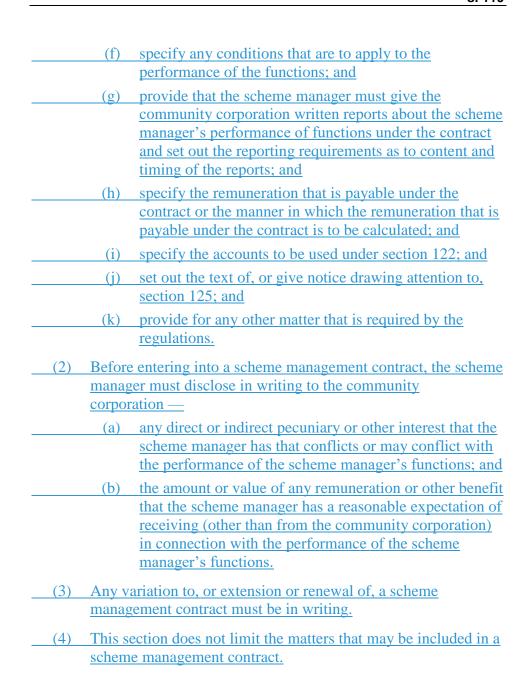
Part 9 — Scheme managers

117. Authorisation of functions of scheme manager

- (1) A community corporation may, subject to this Part, authorise a person (a *scheme manager*) to perform a specified scheme function.
- (2) An authorisation under this section
 - (a) is subject to any conditions specified by the community corporation; and
 - (b) may be varied or revoked by the community corporation.
- (3) If the performance of a function of a community corporation requires a special resolution or ordinary resolution and a scheme manager is authorised to perform the function, the scheme manager may perform the function only if a vote has been taken on a proposed resolution and it has been passed as an ordinary or special resolution, as the case requires.
- (4) An Australian legal practitioner does not act as a scheme manager in providing services that can, under the *Legal Profession Act 2008*, be provided only by an Australian legal practitioner.
- (5) A scheme manager cannot be authorised to perform any of the following functions
 - (a) authorising a person to perform a scheme function other than as an agent, employee or contractor of the scheme manager;
 - (b) determining contributions;
 - (c) entering into a contract with another scheme manager,
 varying, extending or terminating such a contract or
 making a decision relating to such a contract or the
 meaning of such a contract;







<u>120.</u>	Gener	ral duties and conflict of interest
(1)	A sch	eme manager of a community corporation —
	(a)	must at all times act honestly and in good faith in the performance of the scheme manager's functions; and
	(b)	must at all times exercise a reasonable degree of skill, care and diligence in the performance of the scheme manager's functions; and
	(c)	must have a good working knowledge of this Act; and
	(d)	must not make improper use of information acquired as the community corporation's scheme manager —
		(i) to gain, directly or indirectly, an advantage for the scheme manager or any other person; or
		(ii) to cause detriment to the community corporation or a member of the community corporation;
		and
	(e)	must not make improper use of the position of scheme
		manager —
		(i) to gain, directly or indirectly, an advantage for
		the scheme manager or any other person; or
		(ii) to cause detriment to the community corporation
		or a member of the community corporation;
		and
	(f)	must take reasonable steps to ensure that the scheme
		manager's agents, employees and contractors comply
		with this Act when performing the scheme manager's
		<u>functions.</u>
(2)	A scho	eme manager of a community corporation —
	(a)	must inform the community corporation in writing of
		any direct or indirect pecuniary or other interest that the
		scheme manager has that conflicts or may conflict with
		the performance of the scheme manager's functions; and

(b) must do so as soon as is practicable after the scheme manager becomes aware of the relevant facts.

121. Disclosure of remuneration and other benefits

- (1) A scheme manager of a community corporation
 - (a) must inform the community corporation in writing of the amount or value of any remuneration or other benefit that the scheme manager receives, or has a reasonable expectation of receiving, (other than from the community corporation) in connection with the performance of the scheme manager's functions; and
 - (b) must do so as soon as is practicable after the scheme manager becomes aware of the relevant facts.
- (2) Subsection (1) does not apply to remuneration or any other benefit that is less than an amount or value specified in or calculated in accordance with the regulations.

122. Operation of accounts

- (1) A scheme manager (other than a volunteer scheme manager)
 must pay all money received on behalf of a community
 corporation into 1 of the following accounts—
 - (a) a separate ADI trust account for the community corporation;
 - (b) a pooled ADI trust account solely for a number of community corporations for which the person is a scheme manager;
 - (c) an ADI account of the community corporation nominated to the scheme manager for the purpose by the community corporation.
- (2) If a community corporation has a volunteer scheme manager, the community corporation must have an ADI account and the volunteer scheme manager must pay all money received on

- behalf of the community corporation into an ADI account of the community corporation.
- (3) A scheme manager must be able to account separately for money that the scheme manager is paid or receives on behalf of a community corporation.
- (4) A scheme manager may pay out of an account mentioned in subsection (1) an amount that is payable by the community corporation on whose behalf money is received.
- (5) Money paid into a trust account is not available for the payment of the debt of any creditor of the scheme manager and cannot be attached or taken in execution under an order or process of any court at the instance of a creditor of the scheme manager.
- (6) The regulations may provide for other matters relating to the operation of trust accounts by scheme managers.

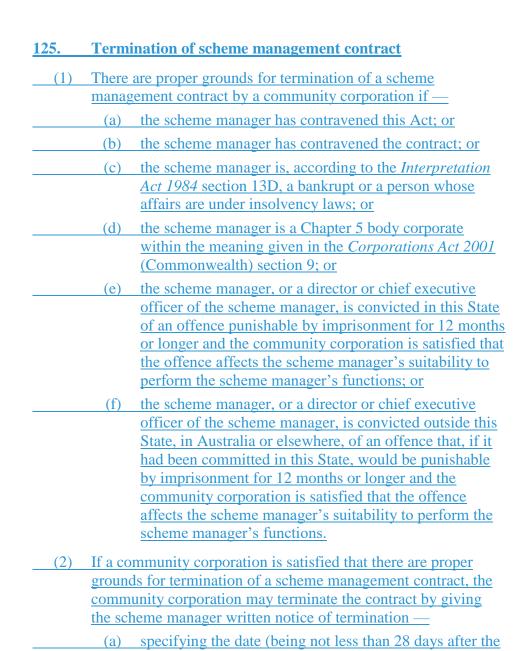
123. Accounting information

- (1) A community corporation can, by written notice, require a scheme manager to provide the following information to the community corporation
 - (a) the name and number of each account operated by the scheme manager in performing scheme functions and the name and identifying number or code of the ADI with which each account is held;
 - (b) the balance in each such account standing to the credit of the community corporation on a specified date;
 - (c) particulars of cheques drawn or amounts transferred out of an account by the scheme manager on behalf of the community corporation but for which amounts have not, as at a specified date, been paid out of the account;
 - (d) particulars relating to the payment of money to, or the receipt of money by, the scheme manager on behalf of the community corporation;

- (f) particulars relating to a specified transaction that has been entered into by the scheme manager on behalf of the community corporation.
- (2) The scheme manager must comply with the notice within a reasonable time but, in any event, within 7 days after the day the notice was given.
- (3) However, a scheme manager does not have to provide the community corporation with information in relation to a matter as it was, or that occurred, more than 7 years before notice requiring the information is given.

124. Audits

- (1) A scheme manager who operates an account in performing scheme functions must, if the community corporation has an auditor, give the auditor access to statements of the account, or otherwise authorise the auditor's access to statements of the account, if required by the auditor to do so.
- (2) A scheme manager of a community corporation must provide such an auditor with
 - (a) any document in the scheme manager's possession or control relating to money paid to, or received by, the scheme manager on behalf of the community corporation that the auditor reasonably requires; and
 - (b) any other information relating to money paid to, or received by, the scheme manager on behalf of the community corporation that the auditor reasonably requires.



date of the notice) on which the termination will take

effect; and

- (3) Before a community corporation terminates a scheme management contract under subsection (2), the community corporation must give the scheme manager a notice (a *show cause notice*).
- (4) A show cause notice must
 - (a) be in writing; and
 - (b) state that the community corporation proposes to terminate the scheme management contract; and
 - (c) specify the grounds on which it is proposed to terminate the scheme management contract; and
 - (d) set out particulars of the facts relied on as evidence of those grounds; and
 - (e) invite the scheme manager to make written submissions to the community corporation as to why the scheme management contract should not be terminated; and
 - (f) specify the period (being at least 14 days after the date of the notice) within which the written submissions must be received by the community corporation.
- (5) A community corporation must give proper consideration to any written submissions made by the scheme manager within the period specified in the show cause notice.
- (6) Nothing in this section affects the operation of section 102 in relation to a scheme management contract or any other right that the community corporation may have to terminate the contract.

126. Return of property

- (1) If a scheme management contract is terminated, the scheme manager must return to the community corporation
 - (a) all records of the community corporation, including records of account, in the scheme manager's possession or control; and
 - (b) all keys and other property of the community corporation in the scheme manager's possession or control.
- (2) The property must be returned to the community corporation within 28 days after the day on which the contract is terminated (even if the scheme manager has made an application for review of the decision to terminate the contract).
- (3) The community corporation may agree to the property being made available for collection by another scheme manager engaged by the community corporation or being returned in some other manner.
- (4) A scheme manager cannot exercise any claim or lien against or on the property of a community corporation that the scheme manager is required, under this section, to return to the community corporation.

127. Provision of information about industry

- The regulations may require a scheme manager (other than a volunteer scheme manager) to lodge a periodic return at the office of the Authority containing aggregated information about community titles schemes managed by the scheme manager (being information ordinarily kept by a scheme manager and readily available) for the purposes of the Authority —
- (a) publishing, if it chooses to do so, a list of scheme managers; and
 - (b) using the information to develop policy and advise the Minister on matters related to scheme managers.

Contracting out prohibited 128.

- A contract or arrangement is of no effect to the extent that it (1) purports to exclude or restrict the operation of this Part.
- A purported waiver of a right, remedy or benefit conferred on a person under this Part is of no effect.

129. Protection from liability

- No civil liability attaches to a volunteer scheme manager for (1) anything that the manager has, in good faith, done or omitted to be done —
 - (a) in the performance of a function under this Act or the scheme by-laws; or
 - (b) in the reasonable belief that the act or omission was in the performance of a function under this Act or the scheme by-laws.
- (2) A liability that would, but for subsection (1), attach to a volunteer scheme manager attaches instead to the community corporation.

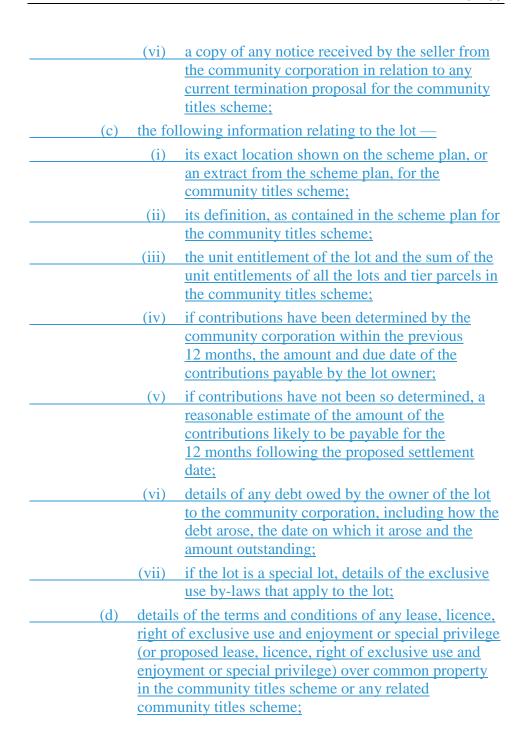
Part 10 — Protection of buyers

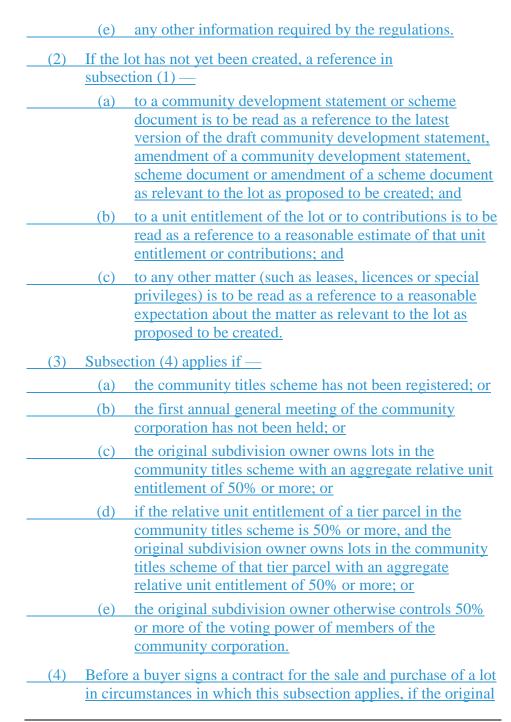
130. Information to be given before contract

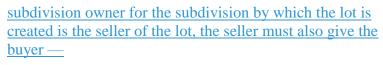
Before a buyer signs a contract for the sale and purchase of a lot (1) in a community titles scheme, the seller of the lot must give the buyer the following — (a) the name and address of the seller; (b) the following information — (i) if there is a community development statement in force for the community scheme, the community development statement; the scheme documents (and any scheme by-laws (ii) that have been made but not yet registered) for the community titles scheme to which the lot belongs and for any community titles scheme to which the scheme belongs; the name and address for service of the (iii) community corporation and of each related community corporation; (iv) either — (I) the minutes of the most recent annual general meeting and of any subsequent extraordinary general meetings of the community corporation; or a statement of why the seller has been (II)unable to obtain the minutes; (v) either – (I) the statement of accounts last prepared by the community corporation; or a statement of why the seller has been (II)

accounts;

unable to obtain a statement of







- (a) a statement of the estimated income and expenditure of the community corporation for the 12 months after the proposed settlement date; and
- (b) details of any disclosure that the original subdivision owner is required to make under section 67; and
- (c) details of any contract (or proposed contract) for the provision of services or amenities to the community corporation or to members of the community corporation entered into or arranged by the original subdivision owner or by the community corporation, including
 - (i) its terms and conditions; and
 - (ii) the consideration and the estimated costs to the members of the community corporation.
- (5) The seller must comply with this section either
 - (a) by giving the buyer a notice in the approved form; or
 - (b) by including the information and statements in the contract to be signed by the buyer in the manner set out in the regulations.
- (6) In any court or tribunal proceedings arising out of or connected with a contract for the sale and purchase of a lot, the onus of proving that the required information and statements were given in accordance with this section lies on the seller.

131. Information to be given after contract

(1) If a notifiable variation occurs after a buyer signs a contract for the sale and purchase of a lot, the seller must, by notice in writing, inform the buyer of particulars of the notifiable variation that a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as

- to whether the buyer is materially prejudiced by the notifiable variation.
- (2) The regulations may provide that if the notice contains specified particulars of a notifiable variation of a specified type it will be conclusively presumed to contain the particulars required by subsection (1).
- (3) The seller must comply with subsection (1)
 - (a) if the seller becomes aware of the notifiable variation
 less than 15 working days before the settlement date for
 the contract as soon as practicable; and
 - (b) in any other case not later than 10 working days after the seller becomes aware of the notifiable variation.
- (4) Subsection (1) does not apply if
 - (a) the seller has in the contract informed the buyer of any proposed action or matter that would be a notifiable variation; and
 - (b) the action or matter when completed does not differ from that described in the contract; and
 - (c) the seller gives the buyer written notice of completion of the action or matter within the time required by subsection (5), with particulars which a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether the action or matter as completed differs from that described in the contract.
- (5) For subsection (4)(c), the time required for notice of completion is
 - (a) if the seller becomes aware of the completion of the action or matter less than 15 working days before the settlement date for the contract as soon as practicable; and

- (b) in any other case not later than 10 working days after the seller becomes aware of completion of the action or matter.
- (6) In any court or tribunal proceedings arising out of or connected with a contract for the sale and purchase of a lot, the onus of proving that a notice required by subsection (1) or a notice referred to in subsection (4)(c) was given in accordance with this section lies on the seller.

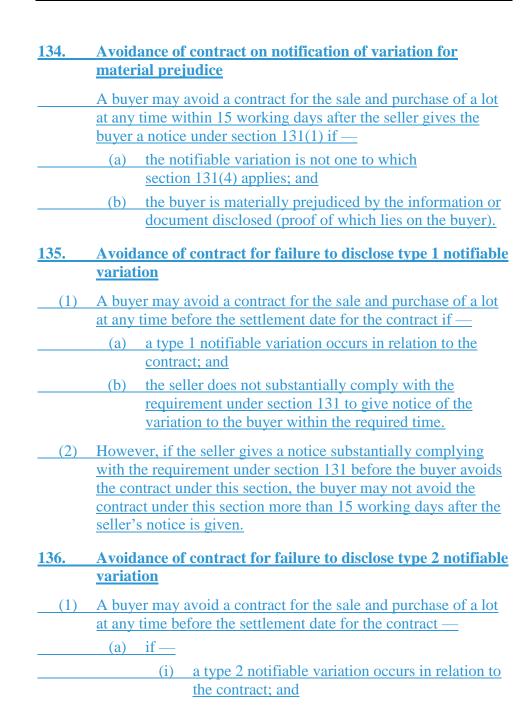
132. Delay in settlement for failure to give information

- (1) A buyer may, by written notice to the seller, postpone the settlement date for a contract for the sale and purchase of a lot if the seller has not complied with section 130 or 131.
- (2) The settlement date may be postponed by no more than

 15 working days after the latest date on which the seller
 complies with the relevant requirements (even though that may
 be after the contract has been entered into).

133. Avoidance of contract for failure to give information

- (1) A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date for the contract
 - (a) if the seller has not complied with section 130; and
 - (b) if the seller were now to comply with that section, the buyer would receive information or a document that would disclose material prejudice to the buyer (proof of which lies on the buyer).
- (2) However, if the seller gives the buyer a notice substantially complying with section 130 before the buyer avoids the contract under this section, the buyer may avoid the contract under this section only if the buyer does so within 15 working days after the seller's notice is given to the buyer.



- (ii) the seller does not substantially comply with the requirement under section 131 to give notice of the variation to the buyer within the required time; and
- (b) if the seller were now to comply with that section, the buyer would receive information or a document that would disclose material prejudice to the buyer (proof of which lies on the buyer).
- (2) However, if the seller gives a notice substantially complying with the requirement under section 131 before the buyer avoids the contract under this section, the buyer may not avoid the contract under this section more than 15 working days after the seller's notice is given.

137. Proposed lot contract

- (1) This section applies to a contract for the sale and purchase of a lot in a community titles scheme entered into before the lot is created on registration of the scheme or an amendment of the scheme.
- (2) A contract to which this section applies must
 - (a) require any deposit or other amount payable by the
 buyer prior to registration of the community titles
 scheme or amendment of the community titles scheme
 to be paid by the buyer to an Australian legal
 practitioner, real estate agent or settlement agent to be
 held on trust for the buyer until the scheme is registered;
 and
 - (b) specify the practitioner or agent to whom payment is to be made by the buyer and how the payment may be made.

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(3)	The buyer may, at any time before registration of the		
	community titles scheme or amendment of the community titles		
	scheme, avoid a contract to which this section applies if —		
	(a) the contract does not comply with subsection (2); or		
	(b) the lot is not created —		
	(i) within a period after the date of the contract		
	agreed in writing by the buyer and seller; or		
	(ii) in the absence of such an agreement, within 6 months after that date.		
(4)	In this section —		
	date of the contract means the day on which the contract was		
	signed or, if the parties signed it on different days, the last of		
	those days;		
	real estate agent means a person licensed as a real estate agent under the Real Estate and Business Agents Act 1978;		
	settlement agent means a person licensed as a settlement agent under the Settlement Agents Act 1981.		
	and the section of th		
138.	Avoidance of contract — manner and effect		
(1)	A notice of avoidance of a contract for the sale and purchase of		
	<u>a lot must —</u>		
	(a) be given by the buyer to the seller in writing; and		
	(b) specify the grounds on which the contract is avoided,		
	including details of the material prejudice to the buyer if		
	required as grounds for avoidance.		
(2)	On the avoidance under this Part of a contract for the sale and		
	purchase of a lot —		
	(a) the buyer may recover from the seller as a debt all		
	money paid by the buyer under the contract; and		
	(b) a person who is holding a deposit or other amount on		
	behalf of the buyer for the contract must repay the		
	deposit or other amount to the buyer, minus any amount		

due to the seller as rent for any period during which the buyer was in occupation of the lot or entitled to receive the rents and profits of the lot.

139. Contracting out prohibited

- (1) A contract or arrangement is of no effect to the extent that it purports to exclude or restrict the operation of this Part.
- (2) No penalty is payable by a buyer under a contract or arrangement for exercising a right under this Part.
- (3) A purported waiver of a right, remedy or benefit conferred on a buyer by this Part is of no effect.

Termination proposals

Part 11 — Termination

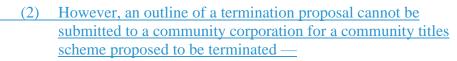
Division 1 — Termination proposals

140. Introduction

- (1) The termination of a community titles scheme may be proposed by a person (the *proponent*) who is
 - (a) the owner of a lot in the community scheme; or
 - (b) a person who has a contractual right to purchase a lot in the community scheme; or
 - (c) a body corporate formed by 2 or more such persons.
- (2) If it is proposed to terminate a tier 2 scheme, the proposal must include a proposal to terminate each tier 3 scheme that belongs to the tier 2 scheme.
- (3) If it is proposed to terminate a tier 1 scheme, the proposal must include a proposal to terminate each tier 2 scheme that belongs to the tier 1 scheme.

141. Outline of termination proposal

- (1) The proponent of a proposal to terminate 1 or more community titles schemes in a community scheme (a *termination proposal*) must submit an outline of the proposal to each of the following community corporations (the *interested community corporations* for the termination proposal)
 - (a) the community corporation for a community titles scheme proposed to be terminated;
 - (b) each community corporation that is related to that community corporation.



- (a) during any period commencing when an ordinary resolution has been passed by the community corporation in support of an outline of another termination proposal and ending when that proposal cannot proceed further under this Division; or
- (b) during any period (not exceeding 12 months) for which the community corporation has, by ordinary resolution, prohibited termination proposals being submitted to it; or
- (c) during any period for which the Tribunal has, on application by the community corporation or a related community corporation, prohibited termination proposals being submitted to the community corporation.
- (3) If an outline of a termination proposal cannot be submitted to a community corporation for a community titles scheme proposed to be terminated, it cannot be submitted to the community corporations related to that community corporation.
- (4) A community corporation to which an outline of a termination proposal is submitted in accordance with this section must, within 14 days after being given the proposal serve it on each owner, and each registered mortgagee, of a lot in its community titles scheme.
- (5) A community corporation must, on completion of the requirements under subsection (4), give written notice of that fact to the proponent of the termination proposal.
- (6) The tier 1 corporation must, within 14 days after being given an outline of a termination proposal, lodge with the Registrar of Titles notice of receipt of the outline in the approved form.

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Any modification of an outline of a termination proposal proposed by the proponent of the proposal must be submitted and served in the same manner as for the outline. Content of outline of termination proposal 142. An outline of a termination proposal must — (1) specify the name and address for service of the proponent of the proposal; and identify the community titles schemes proposed to be (b) terminated; and (c) provide an explanation of the reasons for proposing termination of the community titles schemes, including (without limitation) if the difficulty of raising sufficient contributions for repair of scheme buildings or infrastructure on common property is a reason for the proposal, a statement of that reason; and if community titles schemes are to be (ii) amalgamated, the reasons for amalgamation; and describe, in general terms, any proposals for contracts to be offered to owners of lots in a community titles scheme proposed to be terminated; and for each community titles scheme proposed to be terminated, describe, in general terms, what is proposed in terms of subdivision and development of the tier parcel following termination of the scheme; and describe the planning approvals required for the proposal described under paragraph (e) and the extent to which the proposal does not comply with any community development statement that is in force or any applicable planning scheme or interim development

order under the *Planning and Development Act 2005*;

and

- (g) indicate, in general terms, the stages and timeframes for progress of the proposal if it proceeds; and
 - (h) provide an explanation, in the approved form, of the process for, and consequences of, termination of a community titles scheme under this Division; and
 - (i) provide, in accordance with the regulations, details of proposed arrangements for obtaining independent advice or representation referred to in section 160; and
 - (j) include any other information required by the regulations.
- (2) This section does not limit the matters that can be included in an outline of a termination proposal.
- (3) An outline of a termination proposal must be in the approved form.

143. Ordinary resolution required to proceed further

- (1) A termination proposal can only proceed further if, within 3 months after an outline of the proposal has been submitted to the interested community corporations for the proposal, each of those community corporations passes an ordinary resolution supporting consideration of a full proposal.
- (2) If there are only 2 lots in a community titles scheme, an ordinary resolution is taken to be passed supporting consideration of a full proposal if the vote attached to 1 of the lots is cast in favour of the resolution (regardless of the unit entitlement of the lot).

144. Approval of plan of subdivision

(1) If the requirements of section 143 are met and a termination proposal can proceed further, the proponent of the proposal can then make an application under the *Planning and Development*Act 2005 Part 10 for approval of a plan of subdivision for the

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proposal (that is, for 1 or more tier parcels to cease being subdivided by a community titles scheme).

(2) The application must —

(a) to the extent that the subdivision of land is subdivision by a community scheme, be made in accordance with Part 3 Division 3; and

Note for this paragraph:

It may also be necessary to apply for an amendment of the community development statement under Part 3 Division 2.

- (b) to the extent that the subdivision of land involves land that is to cease being subdivided by a community scheme, be made under the *Planning and Development Act 2005* Part 10 as an application for approval to subdivide land under that Act.
- (3) It is not necessary under subsection (2)(a) for a plan of subdivision to show an amendment of a community titles scheme as a consequence of the termination of a community titles scheme that belongs to that scheme if the community titles scheme (as amended) is, itself, also to be terminated.
- (4) The *Planning and Development Act 2005* applies to the application subject to
 - (a) the modification that a reference to subdivision is to be read as including a reference to termination of a community titles scheme; and
 - (b) any other appropriate modifications.

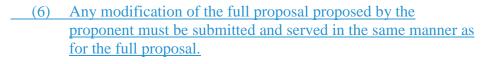
Note for this subsection:

For an application under subsection (2)(a) the modifications to the *Planning and Development Act 2005* are in addition to the modifications set out in section 30.

145. Full proposal

- (1) If approval of a plan of subdivision is obtained as referred to in section 144, the proponent of the proposal can then submit a full proposal for the termination of the community titles schemes to each community corporation in the community scheme.
- (2) However, a full proposal cannot be submitted to a community corporation
 - (a) if it is more than 12 months since the requirements of section 143 were met for the proposal; or
 - (b) during any period for which the Tribunal has, on application by the community corporation or a related community corporation, prohibited termination proposals being submitted to the community corporation.
- (3) A community corporation to which a full proposal is submitted in accordance with this section must, within 14 days after being given the proposal, serve it on
 - (a) each owner, occupier, registered mortgagee, or caveator, of a lot in its community titles scheme; and
 - (b) each person whose interest in a lot in the community
 titles scheme as a lessee, tenant or mortgagee is recorded
 in the scheme contacts register; and
 - (c) each occupier of common property in its community titles scheme.
- (4) A community corporation must, as soon as practicable, after serving the proposal as required, give written notice to the tier 1 corporation of the date of service.
- (5) The tier 1 corporation must, within 14 days after being given a full proposal, lodge with the Registrar of Titles notice of receipt of the full proposal in the approved form.

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(7) However, a modification cannot be submitted within 14 days before voting on the termination proposal opens.

146. Reference of full proposal to independent advocate

- (1) In this section
 - *independent advocate* means a person to whom a full proposal is referred under subsection (2).
- (2) A community corporation to which a full proposal is submitted under section 145 must refer the proposal for review and assessment to a person who
 - (a) is independent of the community corporation and the proponent of the termination proposal; and
 - (b) satisfies any requirements of the regulations regarding experience or qualifications.
- (3) The independent advocate must, in accordance with the regulations
 - (a) review the full proposal; and
 - (b) provide the community corporation with an independent assessment of the full proposal; and
 - (c) at a time and place arranged with the community corporation, make a presentation of its assessment open to the persons mentioned in section 145(3)(a), conducted so as to take account of the needs of any of those persons who have sensory or mobility disabilities.
- (4) The independent advocate must, in accordance with the regulations
 - (a) endeavour to identify any owners of lots in the

 community corporation's community titles scheme for
 whom arrangements for fuller or more extensive advice

	or representation are to be made under regulations made
	under section 160(1)(b); and
	(b) advise those owners of their entitlements under
	regulations made under section 160; and
	(c) if requested by those owners, refer them to independent
	providers of the advice or representation which they are
	to obtain; and
	(d) if requested by those owners, assist them in obtaining
	benefits under the trust referred to in section 160(2).
(5)	In any proceedings before the Tribunal under Part 12 in which
	there is a dispute about whether an owner of a lot in the
	community corporation's community titles scheme is entitled to
	<u>fuller or more extensive advice or representation under</u>
	regulations made under section 160(1)(b) or is entitled to benefit
	under a trust referred to in section 160(2), the independent
	advocate may, in accordance with the regulations, represent the owner in the proceedings.
(6)	The regulations may prescribe how a person's independence is
	to be determined for the purposes of subsection (2)(a).
(7)	The community corporation —
	(a) must pay the remuneration of, and reimburse the
	expenses incurred by, the independent advocate; and
	(b) may charge fees under section 159 to cover the cost of
	paying those fees and reimbursing those expenses.
147.	Content of full proposal
(1)	A full proposal for the termination of community titles schemes
	* *
	must —
	must — (a) include the material required to be included in an outline
	must —

the proposal; and

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	etail, what is proposed in terms of
	e offered to owners of lots, including —
	ets for the sale and purchase of lots in a
	unity titles scheme before termination of
the sch	eme, including —
(I)	the name and address of the buyer; and
(II)	the purchase price or a description of
	how the purchase price is to be
	determined; and
(III)	the terms and conditions of the
	contracts for sale and purchase,
	including proposed settlement dates, or
	a description of how those terms and
	conditions are to be determined; and
(IV)	any deductions proposed to be made out
	of the purchase price or a description of
	how those deductions are to be
	determined;
and	
	ets under which the owner of a lot in a
` '	unity titles scheme proposed to be
	ated acquires an interest in land in
	age for the lot, including —
(I)	
(1)_	basis for determining those choices; and
(II)	<u> </u>
<u>(II)</u>	the interests in land proposed to be acquired by the owners; and
	aconneo by the owners: and
/***	
(III)	other terms and conditions of the
(III)	
(III)	other terms and conditions of the
and	other terms and conditions of the
and (iii) contrac	other terms and conditions of the exchange;
and (iii) contract commit	other terms and conditions of the exchange; ets under which the owner of a lot in a
and (iii) contract commutermin.	other terms and conditions of the exchange; ets under which the owner of a lot in a unity titles scheme proposed to be

	or option relating to an interest in the land
	following its subdivision or development;
	and
(d)	for each community titles scheme proposed to be
<u>(u)</u>	terminated, describe, in detail, what is proposed to
	happen on termination in terms of the discharge,
	withdrawal, removal or bringing forward of registered
	mortgages over the lots and other estates and interests in
	<u>a lot or common property in the scheme that are</u> registered or recorded in the Register; and
(e)	for each community titles scheme proposed to be
(6)	terminated, describe, in detail, what is proposed to
	happen on termination in terms of the contractual rights
	of occupiers of lots or common property in the scheme;
	<u>and</u>
(f)	for each community titles scheme proposed to be
	terminated, describe, in detail, what is proposed in terms of subdivision and development of the tier parcel
	following termination, including —
	(i) plans for demolition; and
	(ii) plans for subdivision, including by registration of
	community titles schemes or amendments of
	community titles schemes; and
	(iii) architectural plans for development;
	<u>and</u>
(g)	describe the planning approvals required for the
	proposal described under paragraph (f) and the extent to
	which the proposal does not comply with any community development statement that is in force or
	any applicable planning scheme or interim development
	order under the <i>Planning and Development Act 2005</i> ;
	and
(h)	indicate, in detail, the stages and timeframes proposed
	for progress of the proposal if it proceeds, including

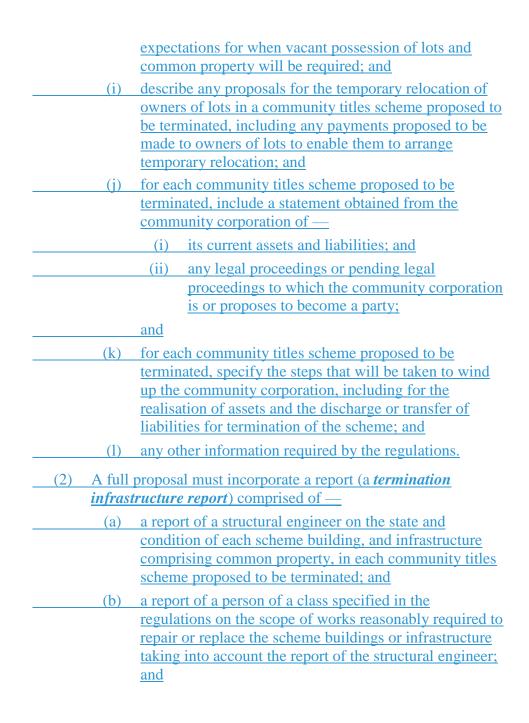
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- (c) a report of a quantity surveyor estimating the cost of the works identified in the report under paragraph (b).
- (3) A full proposal must incorporate a report (a *termination valuation report*) prepared and certified by a licensed valuer setting out a valuation of the market value of each lot in a community titles scheme proposed to be terminated.
- The regulations must prescribe matters relating to the determination of the market value of a lot for a termination valuation report, including a valuation methodology that takes account of —
 - (a) relevant recent sales history; and
 - (b) the highest and best use of the lot; and
 - the value attributable to the owner's interest in common (c) property.
- (5) The valuation must be current as at a date that is not more than 21 days (or, if some other period is specified in the regulations, that period) before submission of the full proposal to the community corporation.
- A person must, in preparing or certifying a termination infrastructure report or a termination valuation report, comply with the requirements of the regulations.
- This section does not limit the matters that can be included in a (7) full proposal.
- The terms of a termination proposal set out in the full proposal (8) are in substitution for the terms set out in the outline of the termination proposal.
- A full proposal, including the termination infrastructure report and the termination valuation report must be in the approved form.

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148. Meetings and submissions

- (1) After receipt of a full proposal by a community corporation,

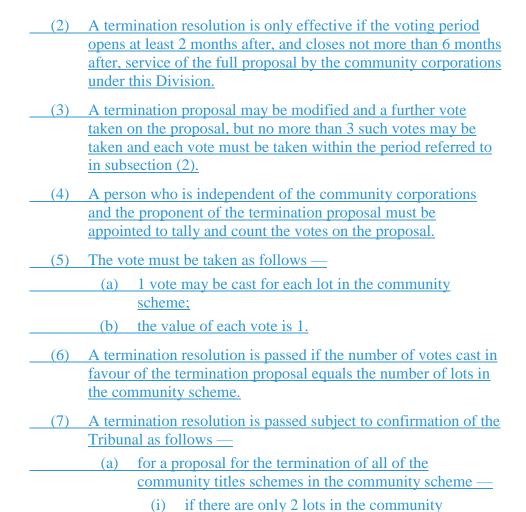
 1 or more general meetings of the community corporation must be convened to consider the termination proposal.
- (2) The members of the community corporation present at a meeting may, by ordinary resolution (for which notice is not required), require the proponent of the termination proposal to leave the meeting while the proposal is discussed or, if the proponent is not a member of the community corporation, to be absent for the whole of the meeting.
- (3) The persons on whom a full proposal for the termination of a community titles scheme must be served by the community corporation for the scheme must be given a reasonable opportunity to make submissions to the proponent of the proposal and the community corporation.
- (4) The council of the community corporation may
 - (a) discuss a termination proposal with the proponent; and
 - (b) inform the members of the community corporation of those discussions and of any clarifications or additional information provided by the proponent; and
 - (c) make recommendations to its members regarding the proposal.
- (5) The regulations may impose additional requirements about the process required for consideration of a termination proposal.

149. Vote

(1) A termination proposal must be put to the vote of the owners of the lots in the community scheme and it can only proceed further if a termination resolution is passed.

Note for this subsection:

The terms of the termination proposal are as set out in the full proposal rather than the outline: see section 147(8).



termination proposal; or

proposal; or

scheme — at least 1 vote is cast in favour of the

if there are 3 lots in the community scheme — at least 2 votes are cast in favour of the termination

if there are more than 3 lots in the community

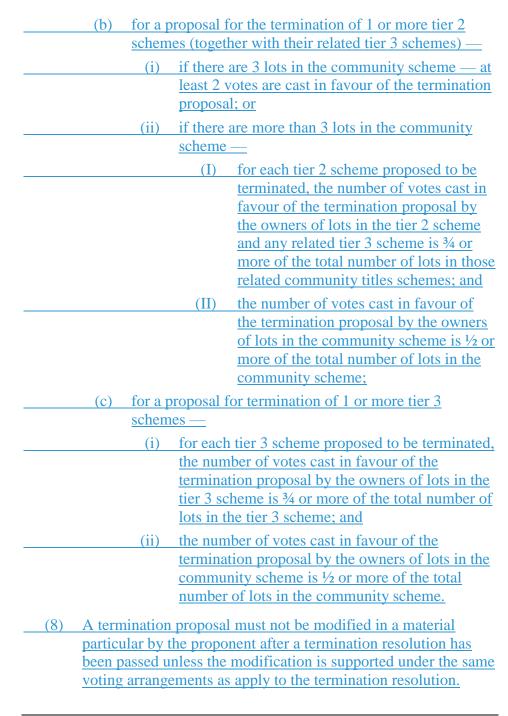
number of lots in the community scheme;

<u>scheme</u> — the number of votes cast in favour of the termination proposal is ³/₄ or more of the total

(ii)

(iii)

Termination proposals



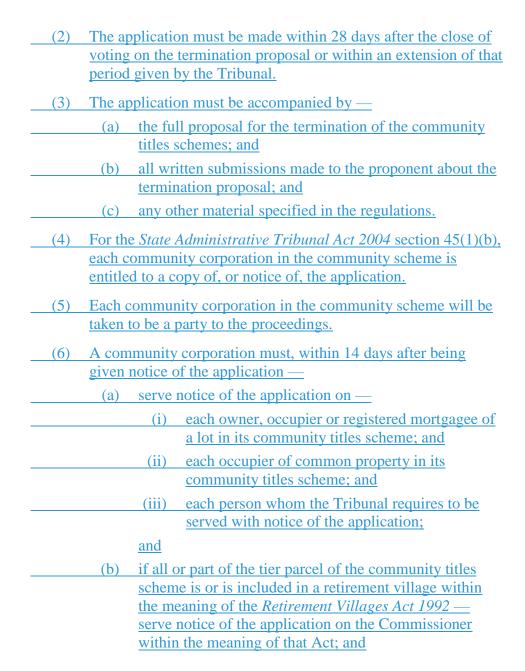


- (a) make a record of each vote identifying the lot for which it is cast and the date on which it was cast, and the tally of the votes; and
- as soon as reasonably practicable, give written notice to (b) each community corporation in the community scheme of whether the termination resolution was passed and whether confirmation of the resolution by the Tribunal is required; and
- if confirmation of the resolution by the Tribunal is required, provide the record made under paragraph (a) to the tier 1 corporation in the manner required by the regulations, but must not otherwise disclose information about who cast votes for or against the proposal or for which lots the votes were cast.
- (10)The tier 1 corporation must, as soon as practicable after a termination resolution is passed
 - lodge with the Registrar of Titles notice of that fact in the approved form; and
 - give written notice of that fact to the proponent of the (b) termination proposal.
- (11)The notice must include a statement of whether or not confirmation of the termination resolution by the Tribunal is required.
- (12)The regulations may impose additional requirements about the process required for voting on a termination proposal.

Confirmation of termination resolution by Tribunal 150.

If a termination proposal can proceed further only if the (1) Tribunal confirms the termination resolution, the proponent of the proposal can apply to the Tribunal for that confirmation.

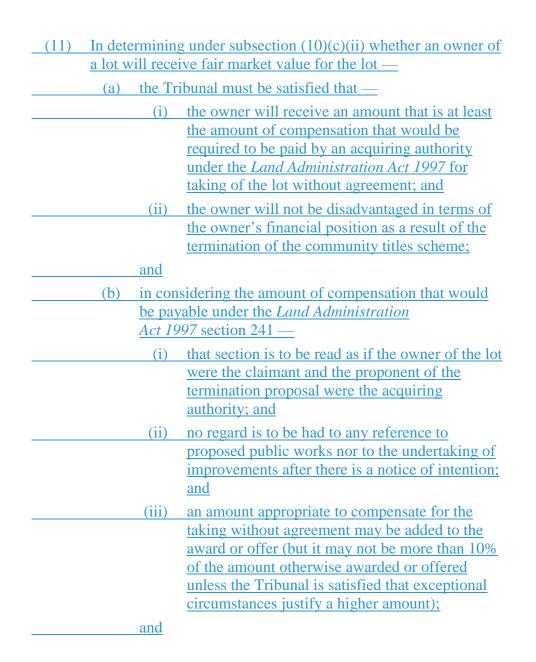
Division 1 Termination proposals



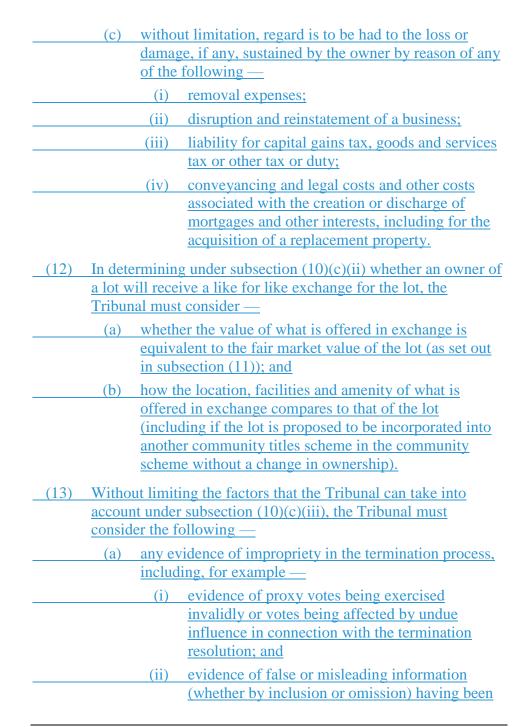
		lowing to the Tribunal (which may then			
<u>be released by the Tribunal to any person entitled to</u> appear and be heard or to make submissions) —					
 (i) in the case of the tier 1 corporation —					
	(I)	the record (as provided by the independent person who counted the votes) of each vote on the termination resolution, identifying the lot for which it was cast and the date on which it was cast, and a tally of the votes;			
	(II)	any community development statement in force;			
(ii)	corpora corpora	s of all meetings of the community tion or the council of the community tion at which the termination proposal asidered;			
(iii)		ten submissions made to the community tion about the termination proposal;			
 (iv)		mmunity titles scheme is proposed to be ted — the scheme documents for the			
 (v)	anythin	g else required by the regulations.			
(7) The tier 1 corporation must, within 14 days after being given notice of the application, lodge with the Registrar of Titles notice of the application in the approved form.					
A person who is required to be served with notice of the application is entitled to appear and be heard or make written submissions to the Tribunal (as the Tribunal determines).					
In proceedings for confirmation of a termination resolution, the					
Tribunal may					
		confirming the termination resolution			
(WIIICI	i may be	subject to the termination proposal being			

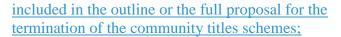
Termination proposals

modified in a specified manner as set out in subsection (14)); or
(b) make a decision not to make such an order.
(10) The Tribunal can only confirm a termination resolution if —
(a) for a tier 2 scheme, each tier 3 scheme that belongs to
the tier 2 scheme can be terminated; and
(b) for a tier 1 scheme, each tier 2 scheme that belongs to
the tier 1 scheme can be terminated; and
(c) in any case, the proponent of the termination proposal satisfies the Tribunal that —
(i) the process required by this Division has been
complied with; and
(ii) under the termination proposal, the owner of a
lot in a community titles scheme that is proposed
to be terminated who does not support that termination will receive fair market value for the
lot or a like for like exchange for the lot; and
(iii) the termination proposal is otherwise just and
equitable having regard to —
(I) the interests of the owners of the lots in
the community scheme; and
(II) the interests of the occupiers of the lots and the occupiers of the common
property in the community scheme; and
(III) the interests of registered mortgagees of
the lots in the community scheme; and
(IV) the interests of any infrastructure
owners; and (A) the interests of any other person with an
(V) the interests of any other person with an estate or interest in, or right over, a lot
or common property in the community
scheme that is registered or recorded in
the Register.



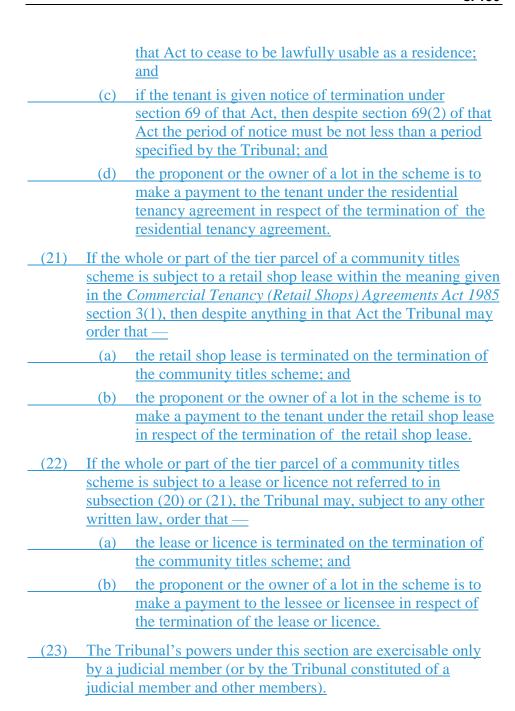
Termination proposals





- (b) the proportion of owners of lots in favour of and against the termination proposal in terms of numbers of lots and unit entitlements of lots and in terms of each community titles scheme to be terminated and across the community scheme;
- (c) the termination infrastructure report and options
 reasonably available to address problems identified in
 the report (including the extent to which contributions
 would need to be increased for implementation of an
 option);
 - (d) any arrangements for the owner of a lot in a community titles scheme that is to be terminated to buy back into the subdivided land following redevelopment;
 - (e) the benefits and detriments of the termination proposal proceeding or not proceeding for all those whose interests must be taken into account in terms of each community titles scheme terminated, each community titles scheme not terminated and across the community scheme.
- (14) If the Tribunal is not satisfied of the matters set out in subsection (10)(c)(ii) or (iii) but would be satisfied of those matters if the termination proposal were modified in a specified manner, the Tribunal may confirm the termination resolution subject to the termination proposal being modified in the specified manner.
- (15) Without limitation, the modifications may include a requirement for the proponent to make a payment to a party to a lease or tenancy agreement over a lot or common property in a community titles scheme that will terminate as a consequence of the termination of the scheme.

- (16) The modifications must not have the effect of being less advantageous to any owner of a lot than the termination proposal without modification.
- (17) Subsection (16) does not apply to an owner of a lot in the capacity of a proponent of the termination proposal.
- (18) Without limiting other powers of the Tribunal to make ancillary orders, if the Tribunal makes an order confirming a termination resolution, it may also order that, on specified conditions connected with the termination being met
 - (a) the owner of a lot must execute a transfer of ownership of the lot; or
 - (b) a person with an estate or interest in, or right over, the whole or a part of a tier parcel that is registered or recorded in the Register must take steps necessary for the discharge, withdrawal or other removal, or for the bringing forward, of the estate, interest or right; or
 - (c) the occupier of a lot or the common property must vacate the lot or common property.
- (19) If the Tribunal orders a person under subsection (18)(b) to take steps for the discharge, withdrawal or removal of an estate, interest or right the Tribunal may order the proponent or the owner of a lot in the community titles scheme to make a payment to that person in respect of the discharge, withdrawal or removal of the estate, interest or right.
- (20) If the whole or part of the tier parcel of a community titles scheme is subject to a residential tenancy agreement within the meaning given in the *Residential Tenancies Act 1987* section 3, the Tribunal may order that on the termination of the community titles scheme
 - (a) the tenant and the lessor must terminate the residential tenancy agreement under that Act; and
 - (b) the premises subject to the residential tenancy agreement are taken for the purposes of section 69 of



Division 1 Termination proposals

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- (24) A community corporation must, as soon as practicable after being given notice of the decision of the Tribunal on an application under this section
 - (a) lodge with the Registrar of Titles notice of the decision in the approved form; and
 - (b) give written notice of the decision to each person entitled to receive notice of the application.

151. Endorsement of subdivision approval on plan

- (1) If the termination proposal can proceed further under section 149 (including, if required, because the Tribunal confirms the termination resolution under section 150), the proponent of the proposal can then request the Planning Commission
 - (a) to the extent that the subdivision of land is subdivision
 by a community scheme, to approve a scheme plan or an
 amendment of a scheme plan in accordance with Part 3
 Division 3 and to endorse the approval of the plan of
 subdivision for the proposal obtained under section 144
 on the plan or amendment; and
 - (b) to the extent that the subdivision of land will result in land no longer being subdivided by a community scheme, to approve a diagram or plan of survey under the *Planning and Development Act 2005* section 145 and to endorse the approval of the plan of subdivision for the proposal obtained under section 144 on the diagram or plan of survey.
- (2) It is not necessary under subsection (1) for an amendment of a scheme plan for a tier 1 or tier 2 scheme to be prepared to show an amendment of the scheme as a consequence of the termination of a community titles scheme that belongs to the scheme if the tier 1 or tier 2 scheme is, itself, also to be terminated.

(3)	The Planning and Development Act 2005 applies to a request				
	under subsection (1) subject to any appropriate modifications.				
<u>152.</u>	Order for directions about winding up of community				
	<u>corporation</u>				
(1)	Before a community titles scheme is terminated, an application				
	may be made to the Tribunal for an order for directions about				
	winding up the community corporation by —				
	(a) the community corporation; or				
	(b) a member of a community corporation; or				
	(c) a registered mortgagee of a lot in the scheme; or				
	(d) a judgment creditor of the community corporation.				
(2)	If proceedings are before the Tribunal under section 150, the				
	application may be made in those proceedings.				
(3)	Without limitation, an order under this section may include				
	<u>directions for —</u>				
	(a) the sale or disposition of property of the community				
	corporation (including to whom and how proceeds must				
	be disbursed); or				
	(b) the discharge of the liabilities of the community				

(4) The applicant and any person to whom a copy of the application has been given under the *State Administrative Tribunal*Act 2004 section 45, is entitled to appear and be heard on the hearing of the application.

(c) the administration and functions of the community

(5) The Tribunal may vary an order made under this section on the application of any person who was entitled to appear and be heard on the hearing of the application for the order.

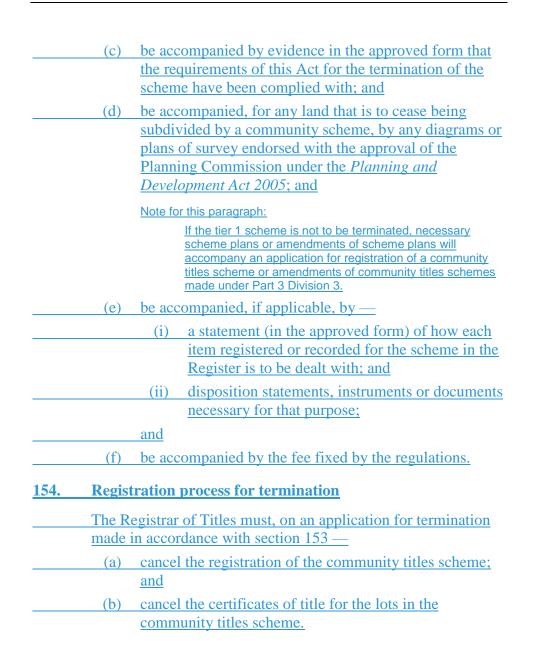
corporation; or

corporation.

(6) An order under this section prevails over steps specified in a termination proposal for winding up of the community corporation to the extent of any inconsistency.

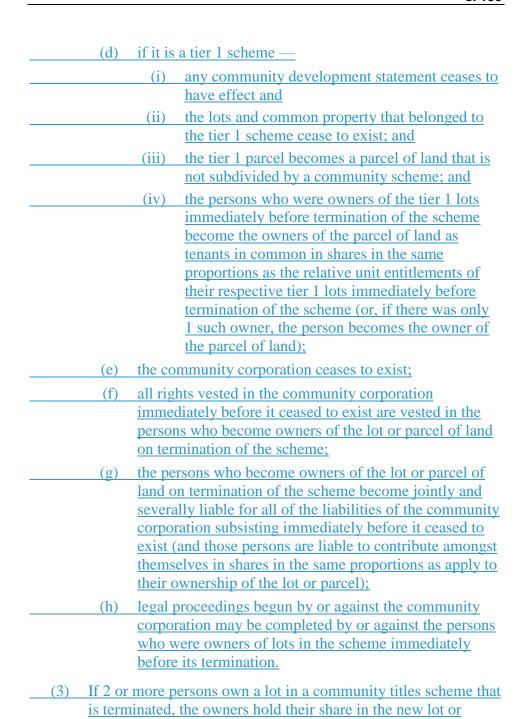
153. Application for termination

- (1) The proponent of a termination proposal can make an application for termination of a community titles scheme if
 - (a) the relevant approvals have been obtained as set out in section 151; and
 - (b) the steps required to be taken before termination of the scheme for winding up the community corporation under the termination proposal or an order under section 152 have been taken.
- (2) The application must be made within 12 months after the termination resolution has been passed or, if the proposal can only proceed if the Tribunal confirms the termination resolution, after the Tribunal has made an order under section 150 confirming the termination resolution.
- (3) If the tier 1 scheme is not to be terminated, an application must also be made under Part 5 Division 1 for registration of 1 or more community titles schemes or the amendment of 1 or more community titles schemes as necessary in the circumstances.
- (4) However, it is not necessary to make an application for registration of an amendment of a tier 2 scheme as a consequence of the termination of 1 or more related tier 3 schemes if the tier 2 scheme is, itself, also to be terminated.
- (5) An application for termination of a community titles scheme must
 - (a) be made to the Registrar of Titles; and
 - (b) be in the approved form; and





- (1) A community titles scheme is terminated when cancellation of the registration of the scheme is registered or recorded by the Registrar of Titles.
- (2) On termination of a community titles scheme, the following occur
 - (a) the scheme documents cease to have any effect;
 - (b) if it is a tier 3 scheme
 - (i) the lots and common property that belonged to the tier 3 scheme cease to exist; and
 - (ii) the tier 3 parcel becomes a tier 2 lot in the tier 2 scheme to which the tier 3 scheme belonged; and
 - immediately before termination of the scheme become the owners of the tier 2 lot as tenants in common in shares of the same proportions as the relative unit entitlements of their respective tier 3 lots immediately before termination of the scheme (or, if there was only 1 such owner, the person becomes the owner of the tier 2 lot);
 - (c) if it is a tier 2 scheme
 - (i) the lots and common property that belonged to the tier 2 scheme cease to exist; and
 - (ii) the tier 2 parcel becomes a tier 1 lot in the tier 1 scheme to which the tier 2 scheme belonged; and
 - (iii) the persons who were owners of the tier 2 lots immediately before termination of the scheme become the owners of the tier 1 lot as tenants in common in shares in the same proportions as the relative unit entitlements of their respective tier 2 lots immediately before termination of the scheme (or, if there was only 1 such owner, the person becomes the owner of the tier 1 lot);



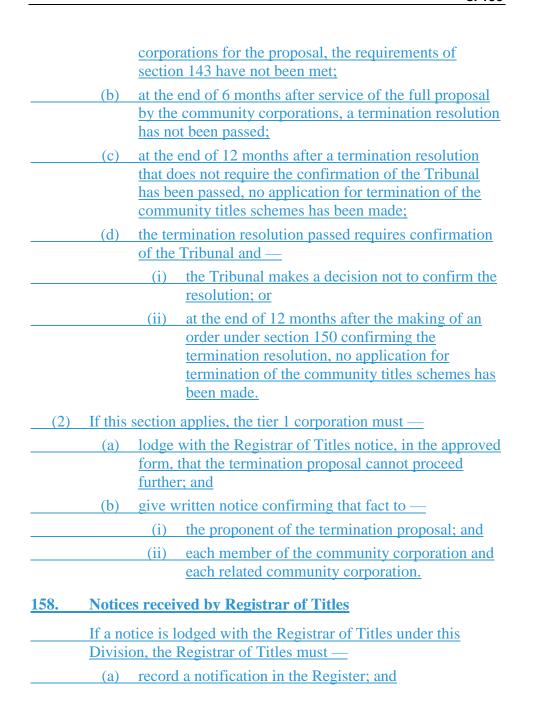
parcel of land as tenants in common or as joint tenants in the same manner as they owned the lot and, if they owned it as tenants in common, in the same proportions as they owned the lot.

156. Withdrawal of termination proposal

- (1) If the proponent of a termination proposal makes a decision not to proceed with the proposal, the proponent must, as soon as reasonably practicable, withdraw the proposal by written notice to the community corporations to which the proposal or an outline of the proposal was required to be submitted.
- (2) A community corporation that is given a written notice of withdrawal of a termination proposal from the proponent of the proposal must, within 14 days after being given the notice, serve the notice on
 - (a) each member of the community corporation; and
 - (b) if the full proposal has been served by the community corporation each occupier of a lot or common property in its community titles scheme other than a member of the community corporation; and
 - (c) each registered mortgagee of a lot in its community titles scheme.
- (3) A tier 1 corporation that is given a written notice of withdrawal of a termination proposal from the proponent of the proposal must, within 14 days after being given the notice, lodge with the Registrar of Titles a notice of the withdrawal of the proposal in the approved form.

157. Notice that termination proposal cannot proceed further

- (1) This section applies if a termination proposal cannot proceed further in respect of a community scheme for any of the following reasons
 - (a) at the end of 3 months after service of the outline of the termination proposal on the interested community



Division 1 Termination proposals

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(b) for a notice of withdrawal of a termination proposal or a notice that a termination proposal cannot proceed further, record the notice as a withdrawal of all earlier notifications recorded in the Register about the termination proposal.

159. Costs of process

- (1) A community corporation may charge the proponent of a termination proposal reasonable fees to cover costs associated with undertaking an activity under this Division.
- (2) The fees must not exceed any limit imposed by the regulations.
- (3) A community corporation need not undertake the relevant activity until the fees have been paid.
- (4) If the community corporation undertakes the relevant activity

 before receiving payment for the activity, the community

 corporation can recover, in a court of competent jurisdiction, the
 fees for the activity as a debt owed to it by the proponent of the
 termination proposal.

160. Arrangements for independent advice or representation for owners

- (1) The regulations
 - (a) must require the proponent of a termination proposal to enter into specified arrangements for the owners of lots in the community titles scheme proposed to be terminated to obtain independent advice or representation in connection with the proposal; and
 - (b) must specify arrangements for obtaining fuller or more extensive advice or representation for a class or classes of owner identified in or under the regulations as vulnerable, having regard to
 - (i) age, illness, trauma, disability or other factors that may impair the ability of an owner to

- consider and make an informed decision in relation to a termination proposal; or
- (ii) financial disadvantage which would significantly impair the ability of the owner to bear the cost of obtaining appropriate professional advice in relation to a termination proposal.
- (2) Without limitation, the arrangements may include a requirement for the proponent of a termination proposal to pay an amount to a trustee to be held in trust for owners to obtain independent legal advice or representation, valuation advice or reports or financial or taxation advice in connection with the proposal.
- (3) The regulations may specify terms of a trust referred to in subsection (2).

Division 2 — Termination by single owner

161. Termination by single owner

- (1) If all the lots in a community scheme are owned by the same person, that person can make an application for termination of each community titles scheme in the community scheme if
 - (a) a plan of subdivision for the termination of the scheme

 has been approved (that is, for the parcel to cease being subdivided by a community scheme); and
 - (b) a diagram or plan of survey has been endorsed with that approval.
- (2) An application for the required approvals must be made under the *Planning and Development Act 2005* Part 10 as an application for approval to subdivide land under that Act.
- (3) The *Planning and Development Act 2005* applies to the required approval subject to
 - (a) the modification that a reference to subdivision is to be read as including a reference to termination of a community scheme; and

Community Titles Act 2018

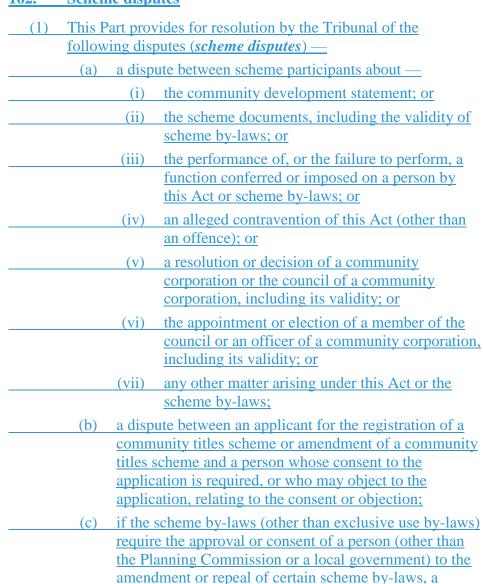
Part 11 Termination

Division 2 Termination by single owner

- (b) any other appropriate modifications.
- (4) If an application for termination of a community scheme is made under this section, sections 152, 153(5), 154 and 155 apply and any reference to "this Division" in those sections is to be read as if it were a reference to this section.
- (5) The regulations may modify the application of Division 1 if all the lots in a community titles scheme proposed to be terminated (but not all of the lots in the community scheme) are owned by the same person.

Part 12 — Tribunal proceedings

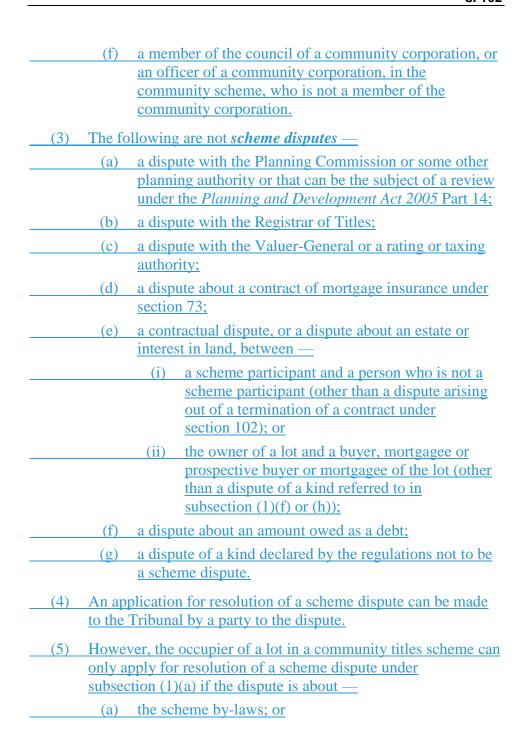
162. **Scheme disputes**



dispute between that person and the community

	corporation about a refusal to give an approval or
	consent;
(d)	a dispute between an infrastructure owner and a
	community corporation about a matter connected with a
	common property infrastructure easement;
(e)	a dispute between an original subdivision owner and a
	community corporation about a matter arising under
	<u>Part 6;</u>
(f)	a dispute between an applicant under section 94 and the
	community corporation about a matter arising under
	Part 8 Division 1 Subdivision 6;
(g)	a dispute between a scheme manager, or former scheme
	manager, of a community corporation and the
	<u>community corporation about —</u>
	(i) a matter arising under Part 9; or
	(ii) the scheme management contract; or
	(iii) the performance of, or the failure to perform, a
	function conferred or imposed on the scheme
	manager;
(h)	a dispute between a buyer or prospective buyer of a lot
	in a community scheme and the seller of the lot about a
	matter arising under Part 10;
(i)	a dispute of a class specified in the regulations.
(2) The fo	ollowing are scheme participants —
(a)	a community corporation in the community scheme;
(b)	a person who is appointed as an administrator of a
	community corporation in the community scheme;
(c)	a member of a community corporation in the community
	scheme;
(d)	the occupier of a lot in the community scheme;
(e)	the registered mortgagee of a lot in the community titles
	scheme;

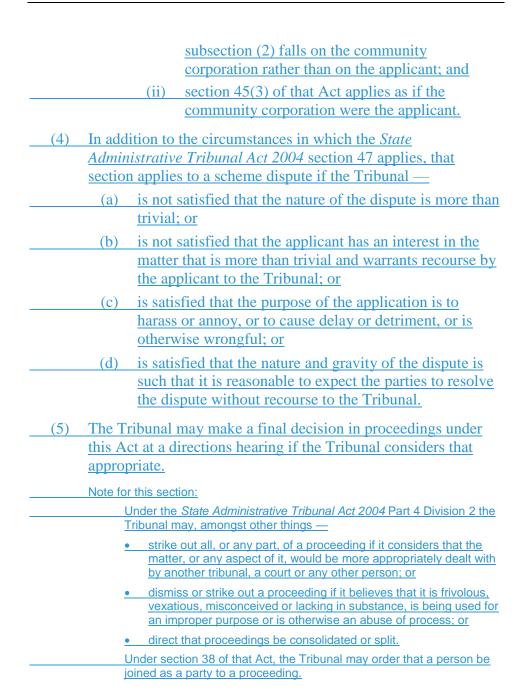
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- (b) a resolution or decision of the community corporation that directly affects the occupier; or
- (c) an obligation or right of the occupier under this Act or the scheme by-laws.

163. Procedure

- (1) The Tribunal may, on application by a member of a community corporation, if it is satisfied that a community corporation has unreasonably refused to make an application to the Tribunal under this Act—
 - (a) authorise the member to make the application on behalf of the community corporation; and
 - (b) authorise expenditure from a fund of the community corporation for legal advice and legal action for the proceedings.
- (2) For the *State Administrative Tribunal Act 2004* section 45(1)(b), the following persons are entitled to a copy of, or notice of, an application to the Tribunal under this Act to which a community corporation is a party
 - (a) each member of the community corporation;
 - (b) each mortgagee of a lot who has given written notice of the mortgagee's interest to the community corporation;
 - (c) the occupier of each lot in the scheme that would be affected if the order sought were made.
- (3) Despite the *State Administrative Tribunal Act* 2004 section 45
 - (a) the entitlement is to a copy of the application unless
 there is an approved form for the purpose, in which case,
 the entitlement is to notice in the approved form; and
 - (b) if the applicant is not the community corporation
 - (i) the obligation to give a copy of, or notice of, the application to the persons entitled under



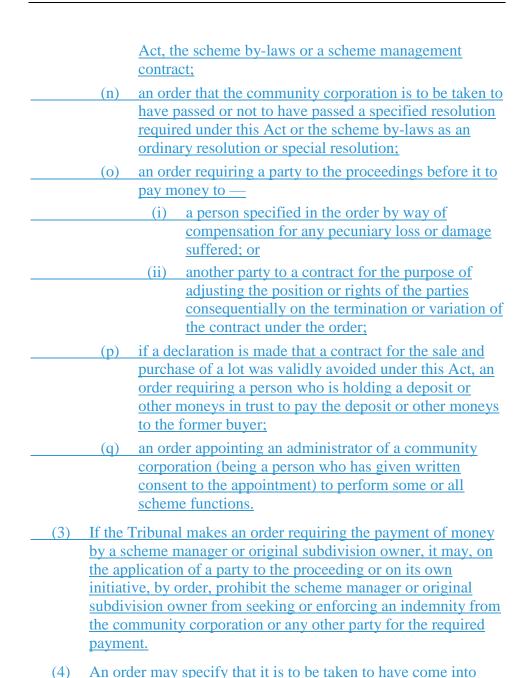
164. Declarations

- (1) In proceedings under this Act, the Tribunal can make a declaration concerning a matter in the proceedings instead of any order the Tribunal could make, or in addition to any order the Tribunal makes, in the proceedings.
- (2) The Tribunal's power to make a declaration is exercisable only by a legally qualified member (or by the Tribunal constituted of a legally qualified member and other members).
- (3) Without limitation, a declaration may be made that
 - (a) a specified person has or has not contravened a specified provision of this Act or scheme by-laws; or
 - (b) a specified scheme by-law is or is not invalid; or
 - (c) a specified decision or resolution of a community corporation is or is not invalid; or
 - (d) a specified appointment or election of a member of a council of a community corporation or an officer of a community corporation is or is not invalid; or
 - (e) a settlement date for a contract for the sale and purchase of a lot was or was not validly postponed under this Act; or
 - (f) a contract for the sale and purchase of a lot was or was not validly avoided under this Act.

165. Orders

- (1) In a proceeding under this Act, the Tribunal may make any order it considers appropriate to resolve the dispute or proceeding.
- (2) Without limitation, the orders that can be made by the Tribunal on an application under this Act include the following
 - (a) an order requiring a scheme document to be amended in a specified manner;

(h)	an order removing a specified person from office as a		
	member of the council of a community corporation or as		
	an officer of a community corporation;		
(i)	an order appointing a specified person as a member of		
	the council of a community corporation or as an officer		
	of a community corporation to replace a person removed		
	<u>from office;</u>		
(j)	an order varying or terminating a scheme management		
	contract;		
(k)	an order requiring a scheme manager to pay a specified		
	amount to a community corporation, being the whole or		
	a part of the remuneration or the value of a benefit that the scheme manager failed to disclose as required under		
	section 119(2)(b) or section 121;		
(1)	an order requiring a community corporation to take		
(1)	specified action or to refrain from taking specified		
	action in the performance or exercise of its functions,		
	<u>including the following —</u>		
	(i) an order to sell or acquire real or personal		
	property;		
	(ii) an order to enter into, vary or terminate a		
	contract, including a contract for services or		
	amenities to the community corporation or the members of the community corporation;		
	(iii) an order that a particular insurance claim be		
	pursued;		
	(iv) an order that the amount of insurance cover be		
	varied;		
	(v) an order to allow the keeping of an animal on		
	specified conditions or prohibit the keeping of an		
	animal on a lot or common property;		
(m)	an order requiring a person to take specified action or to		
	refrain from taking specified action to remedy a contravention or prevent further contraventions of this		



effect on a date earlier than the date of the order.

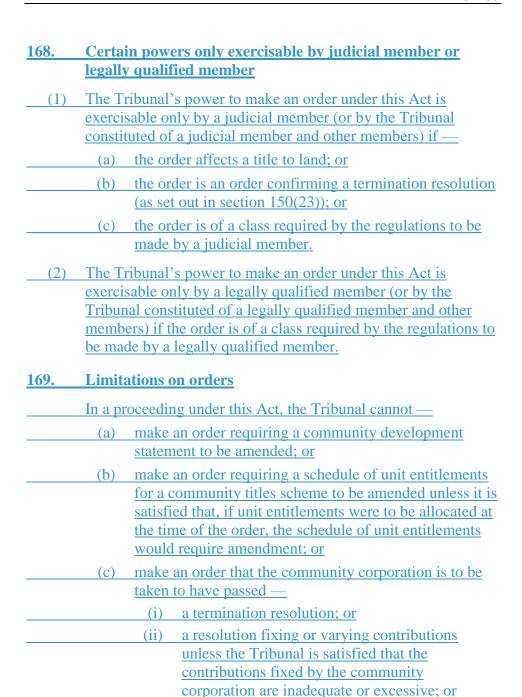
- (5) An order may be made to take effect on default being made in complying with some other order made by it.
- (6) An order requiring amendment of a scheme document
 - (a) must specify the extent to which the amendment is subject to the obtaining of the approvals and consents that would otherwise be required under this Act; and
 - (b) does not take effect until the Registrar of Titles registers the amendment of the scheme document.
- (7) An order may be expressed to remain in force for a specified period, until a specified event or until further order.

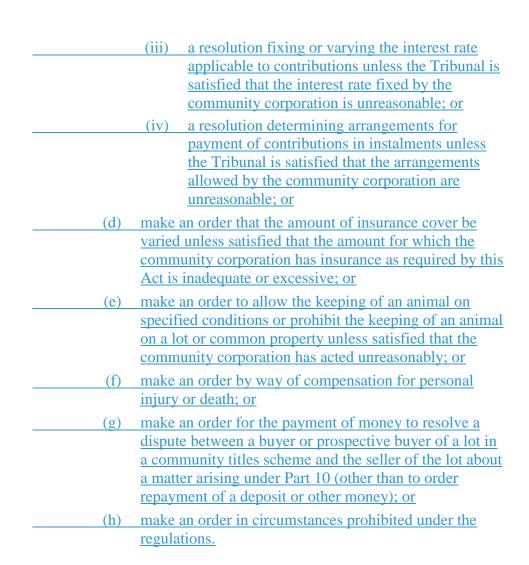
166. Interim orders

- (1) In a proceeding under this Act, the Tribunal may make an order on an interim basis (an *interim order*) if satisfied that by reason of the urgent circumstances of the case it should do so.
- (2) An interim order remains in force for the period (not exceeding 3 months) specified in the order and may be renewed by further order of the Tribunal for subsequent periods (not exceeding, in any case, 3 months).
- (3) An interim order may be made or renewed even if the period for parties to make written submissions has not expired.
- (4) An interim order is subject to variation or revocation by further order of the Tribunal.

167. Decision not to make order or declaration

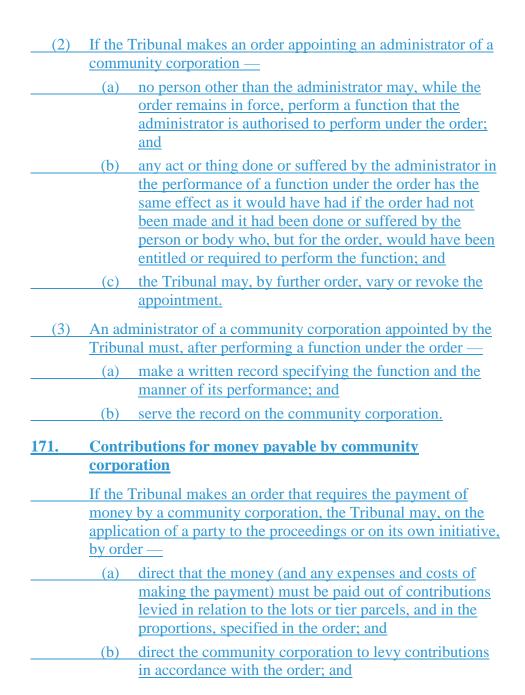
In a proceeding under this Act, the Tribunal may make a decision not to make an order or declaration.





170. Administrator of community corporation

(1) An order of the Tribunal appointing an administrator of a community corporation may specify conditions of appointment of the administrator.



(c) prohibit the community corporation from levying a contribution that would be payable by another party to the dispute.

172. Enforcement of order to act

- (1) An application for an order under this section can be made by a person who was the applicant in a proceeding under this Act in which an order to act was made.
- (2) If the Tribunal is satisfied that an order to act has not been complied with, or has been complied with in part only, by the person to whom it was given, the Tribunal may—
 - (a) vary, revoke or substitute the order to act; and
 - (b) make an order that the person to whom the order to act was given pay to the applicant a specified amount by way of compensation for the failure to act or to refrain from acting.
- (3) Subsection (2) applies whether or not the person to whom the order to act was given has been convicted of an offence under the *State Administrative Tribunal Act 2004* section 95 before the revocation of the order.
- (4) The variation, revocation or substitution of an order does not affect
 - (a) anything done under the order before the revocation; or
 - (b) a penalty that has been or may be imposed under the

 State Administrative Tribunal Act 2004 section 95 for
 the failure to comply with the order.

173. Order overrides existing scheme by-laws

If an order of the Tribunal is inconsistent with scheme by-laws as in force when the order is made, the order prevails over the by-laws to the extent of the inconsistency.

Note for this section:

If scheme by-laws are inconsistent, the Tribunal may make an order requiring by-laws to be amended in a specified manner.

Original jurisdiction 174.

Unless otherwise provided in this Act, a proceeding before the Tribunal under this Act comes within the Tribunal's original jurisdiction.

175. Internal review of order or declaration

- (1) If, in a proceeding before the Tribunal under this Act, the Tribunal is constituted without a judicial member and the Tribunal makes an order or declaration of a kind specified in the regulations, a party to the proceedings may apply for internal review of the order or declaration.
- However, an application for internal review of an order or declaration can be made only if
 - leave is given by the Tribunal (constituted as required (a) for an internal review under this section); and
 - (b) the application is made within 28 days after the order or declaration is made or within an extension of that period given by the President.
- (3) For an internal review of an order or declaration, the Tribunal must be constituted of —
 - (a) a judicial member or a senior member who is a legally qualified member; and
 - (b) such other members, if any, as the President considers appropriate.
- (4) On an internal review of an order or declaration, the Tribunal may
 - affirm the order or declaration; or (a)
 - (b) vary the order or declaration; or

- (c) set aside the order or declaration and substitute another order or declaration.
- (5) Unless otherwise provided by the regulations, the *State Administrative Tribunal Act 2004* Part 3 Division 3

 Subdivision 3 applies in relation to an internal review of an order or declaration.
- (6) The regulations may modify the operation of the *State*Administrative Tribunal Act 2004 for an internal review of an order or declaration.

Part 13 — Miscellaneous

176. Refusal or failure to perform function

In any court or tribunal proceedings, if a written application is made to a community corporation, the council of a community corporation or a scheme manager for the performance of a function, the community corporation is to be taken to have refused or failed to perform that function if —

- (a) the community corporation, council or scheme manager gives the applicant written notice that it has decided not to perform the function in accordance with the application; or
- (b) the community corporation, council or scheme manager does not, before the end of 2 months after the making of the application
 - (i) perform the function in accordance with the application; or
 - (ii) give the applicant written notice that it has decided to perform or not to perform the function in accordance with the application.

177. Address for service

- (1) An address for service provided under this Act must be an address of a place within Australia.
- (2) An electronic address may be provided as an additional address for service under this Act.

178. Termination or amendment of community titles scheme as consequence of compulsory acquisition

(1) A person who compulsorily acquires the whole or a part of a tier parcel under a written law must, before or as soon as is practicable after the acquisition takes effect, make an application for registration of the termination or amendment of community titles schemes as necessary to give effect to the

- acquisition and any consequential adjustment of the community scheme to which the tier parcel belongs.
- (2) This Act applies to an application for the registration of an amendment of a community titles scheme as if it had been made under Part 5 Division 1 and to an application for termination of a community titles scheme as if it had been made under Part 11, subject to any modifications specified in the regulations.

179. Entry to common property

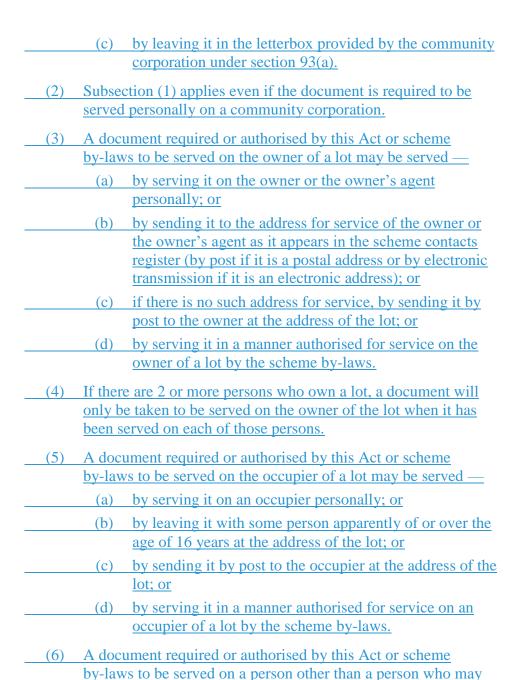
In exercising or performing functions, police officers, and officers engaged in providing emergency services or other government or local government services, may enter common property (other than common property to which neither owners of lots nor the public usually has access) as if it were land to which the public has access, whether on payment or not.

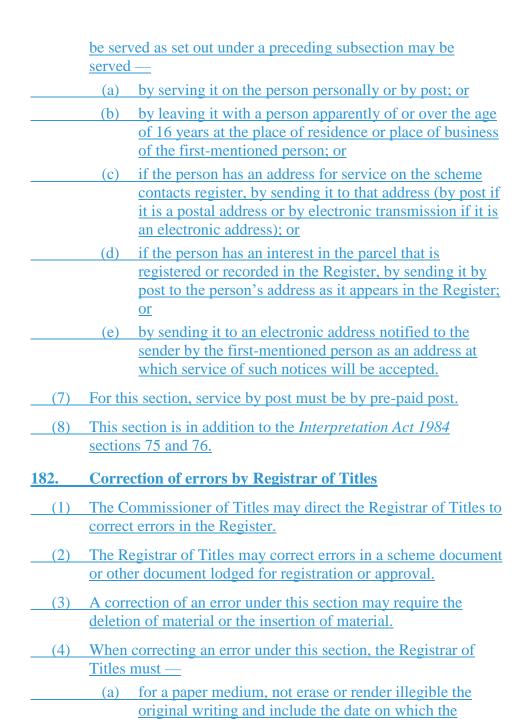
180. Court or tribunal may refer matters to Tribunal

A court or tribunal may, on application of a party to a proceeding before it or on its own initiative, refer a matter to the Tribunal and strike out all or part of the proceeding before it if the court or tribunal considers that the matter would be more appropriately dealt with by the Tribunal under this Act.

181. Service of documents on community corporations, members and others

- (1) A document required or authorised by this Act, another written law or scheme by-laws to be served on a community corporation, the members of a community corporation or on all owners of lots in a community titles scheme may be served
 - (a) by serving it on a member of the council of the community corporation; or
 - (b) by sending it to the community corporation's address for service (by post if it is a postal address or by electronic transmission if it is an electronic address); or





- <u>correction was made together with the Registrar's</u> initials; and
- (b) for a digital medium, keep a permanent record of any words or lines deleted and the date on which the correction was made.
- (5) A scheme document or other document corrected under this section has the same validity and effect as if the error had not been made except as regards any entry made in the Register before the time of correcting the error.
- (6) The Commissioner of Titles may delegate the Commissioner's functions under this section to a member of the Authority's staff who is an Australian lawyer (within the meaning of that term in the Legal Profession Act 2008 section 3).
- (7) The delegation must be in writing signed by the Commissioner of Titles.
- (8) A person to whom a function is delegated under this section cannot delegate that function.
- (9) A person performing a function that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (10) Nothing in this section limits the ability of the Commissioner of Titles to perform a function through an officer or agent.

183. Delegation by Registrar of Titles

- (1) The Registrar of Titles may delegate a function of the Registrar under this Act to a member of the Authority's staff.
- (2) The delegation must be in writing signed by the Registrar of Titles.
- (3) A person to whom a function is delegated under this section cannot delegate that function.

- (4) A person exercising a function that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Registrar of Titles to perform a function through an officer or agent.

184. Money received by Registrar of Titles

The Registrar of Titles is to pay to the Authority any money paid to the Registrar under this Act.

185. Disposition statement

The regulations may provide for the registration of an instrument (a *disposition statement*) in conjunction with the registration of a community titles scheme, an amendment of a community titles scheme, or the cancellation of the registration of a community titles scheme, by which —

- (a) items registered or recorded for the scheme in the
 Register are discharged, withdrawn or otherwise
 removed, or brought forward, under the *Transfer of Land Act 1893*; or
- (b) evidence required under this Act is provided.

186. Requirements under Transfer of Land Act

Requirements determined under the *Transfer of Land Act 1893* section 182A may relate to matters arising under this Act.

187. Regulations

- (1) The Governor may make regulations prescribing matters
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for giving effect to this Act.

- Without limiting subsection (1), the regulations may provide for the verification by statutory declaration of information or documents given under this Act.
- (3) The fees fixed by the regulations for an application lodged with the Registrar of Titles may, without limitation, include a separate fee for lodgment of a scheme document or an amendment of a scheme document and, in such a case, the separate fee is payable when the document or amendment of the document is lodged (including in anticipation of the application).
- The regulations may provide that contravention of a regulation is an offence and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of \$3 000.

188. Certain prescribed fees may exceed cost recovery

- (1) Regulations prescribing a fee payable to the Registrar of Titles may prescribe a fee that is more than the amount, or an estimate of the amount, needed to allow recovery of expenditure
 - incurred in connection with the matter in relation to which the fee is charged; or
 - (b) that is relevant to
 - the scheme or system under which the action to which the fee relates is taken; or
 - the performance of any function to which the fee (ii) relates.
- (1A) To the extent that regulations to which subsection (1) applies prescribe a fee that includes an amount that is a tax, the regulations may impose the tax.
 - (2) This section does not limit the *Interpretation Act* 1984 section 45A.

[Section 188 amended: No. 33 of 2018 s. 4.]

189. Expiry of section 188

- (1) Section 188 expires at the end of 31 December 2019 ¹.
- (2) However, the Governor, on the recommendation of the Minister, may, by proclamation made before section 188 expires, postpone the expiry of section 188 until the end of a date specified in the proclamation, and in that case section 188 expires at the end of that date.
- (3) The Minister cannot make a recommendation under subsection (2) unless the Minister is satisfied, on the basis of the most recent report laid before each House of Parliament under the *Land Information Authority Act 2006* section 93(2), that the expiry of section 188 should be postponed.
- (4) There is no limit on the number of times the expiry of section 188 may be postponed, but each postponement cannot be for longer than 5 years beginning on the day after the most recent date on which section 188 would expire if that expiry were not postponed.
- (5) The *Interpretation Act 1984* section 42 applies to and in relation to a proclamation made under subsection (2) as if the proclamation were a regulation.
- (6) The expiry of section 188 does not affect the validity of any regulations in effect immediately before that expiry.

Review of this Act

- (1) The Minister must review the operation and effectiveness of this Act as soon as practicable after the expiry of 5 years from the day on which this section comes into operation.
- (2) The Minister must, as soon as practicable
 - (a) prepare a report about the outcome of the review; and
 - (b) cause a copy of the report to be laid before each House of Parliament.

Part 14 — Other Acts amended

Division 1 — Building Act 2011 amended

191. Act amended

This Division amends the *Building Act 2011*.

192. Section 3 amended

In section 3 in the definition of *land* after "defined in" insert:

the Community Titles Act 2018 section 3(1) or

<u>Division 2 — Commercial Tenancy (Retail Shops) Agreements</u> Act 1985 amended

193. Act amended

This Division amends the Commercial Tenancy (Retail Shops)
Agreements Act 1985.

194. Section 3 amended

In section 3(1) in the definition of *retail shopping centre* after paragraph (b)(i) insert:

(ia) comprise lots in a community titles scheme under the *Community Titles*Act 2018; or

195. Section 12 amended

(1) In section 12(3) delete the definition of *strata titles levy*.

Community Titles Act 2018

Part 14 Other Acts amended

Division 3 Credit (Administration) Act 1984 amended

s. 196

(2) In section 12(3) in the definition of *operating expenses* delete "a strata titles levy is imposed on the landlord, that part of the levy which" and insert:

contributions are levied under the *Community Titles Act 2018* or the *Strata Titles Act 1985* on the landlord, that part of the contributions that

Division 3 — Credit (Administration) Act 1984 amended

196. Act amended

This Division amends the *Credit (Administration) Act 1984*.

197. Section 4 amended

In section 4 in the definition of *body corporate* after paragraph (a) insert:

(aa) a community corporation under the *Community Titles Act 2018*; or

Division 4 — Credit Act 1984 amended

198. Act amended

This Division amends the Credit Act 1984.

199. Section 5 amended

In section 5(1) in the definition of *body corporate* after paragraph (a) insert:

(aa) a community corporation under the *Community Titles Act 2018*; or

Division 5 — Dividing Fences Act 1961 amended 200. Act amended This Division amends the *Dividing Fences Act 1961*. 201. Section 5 amended (1) In section 5 delete "In this" and insert: (1) In this (2) In section 5 in the definition of *owner* delete "includes" and insert: includes, subject to subsection (2), (3) At the end of section 5 insert: (2) For a community scheme under the *Community Titles* Act 2018, the owner of land is to be determined as

- follows
 - (a) if the by-laws of a community titles scheme under that Act determine who is to be the owner for the purposes of this Act, the owner is to be determined according to those by-laws;
 - (b) in any other case
 - (i) if the land is a lot under that Act, the owner of the land is the owner of the lot under that Act;

Other Acts amended

Division 5

Dividing Fences Act 1961 amended

s. 202

(ii) if the land is common property under that Act, the owner of the land is the community corporation for the community titles scheme to which the common property belongs.

202. Section 6 amended

- (1) In section 6 delete "Nothing" and insert:
 - (1) Nothing
 - (2) At the end of section 6 insert:
 - (2) Nothing in this Act affects the by-laws of a community titles scheme under the *Community Titles Act 2018*
 - (a) affecting dividing fences between lots, or between common property or between lots and common property; or
 - (b) determining who is to be regarded as the owner of land for the purposes of this Act.

Note: The heading to amended section 6 is to read:

Act not to interfere with agreements or by-laws of community titles scheme

Division 6 — Duties Act 2008 amended

203. Act amended

This Division amends the *Duties Act* 2008.

204. Section 17 amended

After section 17(2)(a) insert:

(aa) an estate in land created as a community lot in a community titles scheme on the registration of the community titles scheme or an amendment of the community titles scheme under the Community Titles Act 2018;

Note for this subparagraph:

Common property created on the registration or amendment of a community titles scheme is also not new dutiable property.

(ab) an estate in land referred to in the *Community*Titles Act 2018 section 154(2)(b)(ii), (c)(ii) or

(d)(iii) created on termination of a community titles scheme under that Act;

205. Section 87 amended

After section 87(2)(i)(i) insert:

(ia) the registration of a community titles
scheme or an amendment of a
community titles scheme under the
Community Titles Act 2018; or

Community Titles Act 2018

Part 14 Other Acts amended

Division 7 Electronic Conveyancing Act 2014 amended

s. 206

206. Section 90 amended

Before section 90(b) insert:

_(ab) for —

- (i) the sale of a lot in a community titles
 (building) scheme (within the meaning
 of the Community Titles Act 2018); and
- (ii) the construction on the lot, after liability for duty on the agreement arises, of a building for commercial, residential or mixed use purposes;

or

<u>Division 7 — Electronic Conveyancing Act 2014 amended</u>

207. Act amended

This Division amends the *Electronic Conveyancing Act 2014*.

208. Section 3 amended

In section 3(1) in the definition of *land titles legislation* before paragraph (a)(i) insert:

(ia) the Community Titles Act 2018;

Division 8 — Environmental Protection Act 1986 amended

209. Act amended

This Division amends the Environmental Protection Act 1986.

210. Section 3 amended

(1) In section 3(1) in the definition of *responsible authority* paragraph (b)(i) delete "2005;" and insert:

2005 (including a subdivision of land by a community scheme under the *Community Titles Act 2018*);

(2) In section 3(2a)(a) delete "2005; or" and insert:

2005 (including a subdivision of land by a community scheme under the *Community Titles Act 2018*); or

Division 9 — First Home Owner Grant Act 2000 amended

211. Act amended

This Division amends the First Home Owner Grant Act 2000.

212. Section 14B amended

In section 14B(6)(a) after "(including" insert:

for a community titles scheme or amendment of a community titles scheme under the Community Titles Act 2018 or Part 14

Other Acts amended

Division 10

Home Building Contracts Act 1991 amended

s. 213

Division 10 — Home Building Contracts Act 1991 amended

213. Act amended

This Division amends the *Home Building Contracts Act 1991*.

214. Section 3 amended

- (1) In section 3(1) delete the definition of *strata-titled dwelling*.
- (2) In section 3(1) insert in alphabetical order:

part of a building, occupied or intended for occupation solely or mainly as a place of residence, that is erected on a lot within the meaning of the *Community Titles*Act 2018 or the Strata Titles Act 1985;

(3) In section 3(1) in the definition of *home building work* delete "strata-titled dwelling" (each occurrence) and insert:

strata/community title dwelling

Division 11 — Land Information Authority Act 2006 amended

215. Act amended

This Division amends the *Land Information Authority Act* 2006.

216. Section 94A amended

(1) Before section 94A(1)(a)(i) insert:

(ia) the Community Titles Act 2018;

(2) Before section 94A(5)(a) insert:			
	(aa)	the Community Titles Act 2018 section 188;	
<u>D</u>	ivision 12 —	- Land Tax Assessment Act 2002 amended	
217.	Act amend	<u>ed</u>	
	This Division	on amends the Land Tax Assessment Act 2002.	
218.	Section 43A	<u>amended</u>	
	After section	n 43A(1)(a) insert:	
	(aa)	the new lot is not a lot in a community titles (building) scheme as defined in the <i>Community Titles Act 2018</i> section 3(1); and	
219.	Glossary ar	<u>mended</u>	
(1)	In the Glossary clause 1 in the definition of <i>home unit</i> before paragraph (a) insert:		
_	(aa)		
(2)	In the Gloss paragraph (a	eary clause 1 in the definition of <i>owner</i> after a) insert:	
_	(aa)	in relation to a lot as defined in the <i>Community</i> Titles Act 2018 section 3(1), means the owner of the	

lot within the meaning of that Act; or

Part 14 Other Acts amended

Division 13 Perth Parking Management Act 1999 amended

s. 220

(3)	In the Glossary clause 2(1) in the definition of <i>lot</i> after
	paragraph (a)(vi) insert:

(via) a lot defined in a scheme plan or amendment of a scheme plan under the Community Titles Act 2018 where the land the subject of the scheme plan is subdivided as referred to in clause 3(1)(ca); or

(4) In the Glossary clause 3(1)(a) delete "subdivision of the land" and insert:

subdivision of the land (other than for a subdivision under the *Community Titles Act 2018*)

(5) In the Glossary clause 3(1) after paragraph (c) insert:

(ca) in the case of land the subject of a scheme plan or amendment of a scheme plan under the *Community Titles Act 2018*, the plan or amendment is approved by the Western Australian Planning Commission in accordance with section 18(1)(b)(ii) of that Act; or

Division 13 — Perth Parking Management Act 1999 amended

220. Act amended

This Division amends the Perth Parking Management Act 1999.

221. Section 4 amended

(1) In section 4 delete the definitions of:

common property

<u>lot</u>

strata company
strata scheme
survey-strata scheme

(2) In section 4 insert in alphabetical order:

common property means —

- (a) common property within the meaning of the Community Titles Act 2018 section 3(1); or
- (b) common property within the meaning of the Strata Titles Act 1985 section 3(1);

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

lot means —

- (a) in relation to a community titles scheme, a lot within the meaning of the *Community Titles*Act 2018 section 3(1); or
- (b) in relation to a strata titles scheme, a lot within the meaning of the *Strata Titles Act 1985* section 3(1);

strata titles scheme has the meaning given in the Strata Titles Act 1985 section 3(1);

- (3) In section 4 in the definition of *owner* insert before paragraph (a):
 - (aa) if the land or building is part or all of the common property or a lot in a community titles scheme under the *Community Titles Act 2018* section 3(1)—the community corporation for that scheme, within the meaning of that Act; or

Part 14 Other Acts amended

Division 14 Planning and Development Act 2005 amended

s. 222

Division 14 — Planning and Development Act 2005 amended

222. Act amended

This Division amends the *Planning and Development Act 2005*.

223. Section 136 amended

After section 136(2) insert:

- (2A) Subsection (1) applies to land comprised of common property or a lot in a community titles scheme and a reference in that subsection to a lot includes a reference to a lot in a community titles scheme.
- (2B) However, subsection (1) does not apply to the sale of common property or part of a lot, an agreement to sell common property or part of a lot or the grant of an option of purchase of common property or part of a lot if the transaction is associated with a subdivision by registration of an amendment of a community titles scheme.
- (2C) Words in subsections (2A) and (2B) have the meanings given in the *Community Titles Act 2018* section 3(1) (and references to those words in sections 139 and 140 are to be read accordingly).

[224-226. Have not come into operation.]

227.	Act amended
	This Division amends the <i>Property Law Act 1969</i> .
228.	Section 6 amended
	In section 6:
	(a) after "Transfer of Land Act 1893," insert:
	the Community Titles Act 2018
	(b) delete "either" and insert:
	any
229.	Section 7 amended
(1)	In section 7 in the definition of <i>land under the Transfer of</i> Land Act 1893 delete "registered" and insert:
	Luna Act 1893 defete Tegistered and Insert.
	registered, or incorporated in the Register,
(2)	In section 7 in the definition of <i>registered or duly registered</i> delete "provided by" and insert:
	provided by, or incorporated in the Register under,

Community Titles Act 2018

Part 14 Other Acts amended

Division 16 Rates and Charges (Rebates and Deferments) Act 1992

amended

s. 230

<u>Division 16 — Rates and Charges (Rebates and Deferments)</u> Act 1992 amended

230. Act amended

This Division amends the *Rates and Charges (Rebates and Deferments) Act 1992*.

231. Section 28 amended

(1) In section 28(1)(a)(ii) delete "1985;" and insert:

1985; or

(2) After section 28(1)(a)(ii) insert:

(iii) made under Part 5 Division 3 of the Community Titles Act 2018;

<u>Division 17 — Real Estate and Business Agents</u> Act 1978 amended

232. Act amended

This Division amends the *Real Estate and Business Agents Act 1978.*

233. Section 4 amended

- (1) In section 4(1) delete the definition of *strata company*.
- (2) In section 4(3a) delete "strata company" and insert:

community corporation within the meaning of the Community

Titles Act 2018 or a strata company within the meaning of the

Strata Titles Act 1985

234.	Section 61 amended			
	In section 61(4a) in the definition of <i>prescribed transaction</i> before paragraph (a) insert:			
	oototo paragrapii (a) moott.			
_	(aa) the sale of a proposed lot under the <i>Community</i>			
	<u>Titles Act 2018</u> before the lot is created;			
235.	Section 131A amended			
	In section 131A in the definition of <i>dwelling</i> :			
	(a) before paragraph (a) insert:			
-	(aa) a lot within the meaning of the <i>Community</i>			
	Titles Act 2018; and			
	(b) in paragraph (b) delete "paragraph (a)," and insert:			
	paragraph (aa) or (a),			
Ξ	Division 18 — Residential Tenancies Act 1987 amended			
236.	Act amended			
	This Division amends the Residential Tenancies Act 1987.			
237.	Section 48 amended			
	Delete section 48(2) and insert:			
	(2) It is a term of every residential tenancy agreement that contributions payable to a community corporation under the <i>Community Titles Act 2018</i> or a strata			

company under the Strata Titles Act 1985 cannot be

passed on to a tenant.

Part 14 Other Acts amended

Division 19 Retirement Villages Act 1992 amended

s. 238

Division 19 — Retirement Villages Act 1992 amended

238. Act amended

This Division amends the Retirement Villages Act 1992.

239. Section 15 amended

(1) In section 15(6) after "under" insert:

the Community Titles Act 2018 or

(2) In section 15(7) and (8) delete "strata".

240. Section 23 amended

In section 23(1) in the definition of *former resident* after "under" insert:

the Community Titles Act 2018 or

241. Section 54A inserted

After section 54 insert:

54A. Jurisdiction of Tribunal under Community Titles Act 2018

Section 54 does not derogate from the jurisdiction of the Tribunal under the *Community Titles Act 2018* in respect of a retirement village that is also a community titles scheme.

242.	Section 75 amended			
	In section 75(7):			
	(a) before "Strata Titles Act 1985" insert:			
	Community Titles Act 2018 or the			
	(b) delete "purchaser" and insert:			
	<u>buyer</u>			
	(c) delete "that Act." and insert:			
	those Acts.			
<u>243.</u>	Division 20 — Sale of Land Act 1970 amended Act amended			
	This Division amends the Sale of Land Act 1970.			
244.	Section 11 amended			
(1)	In section 11 delete the definition of <i>lot</i> .			
(2)	In section 11 insert in alphabetical order:			
_	lot means —			
_	(a) a lot within the meaning of —			
_	(i) the <i>Planning and Development</i> Act 2005; or			
	(ii) the Community Titles Act 2018; or			
	(iii) the Strata Titles Act 1985;			
_	<u>or</u>			

Part 14

Other Acts amended

Division 21

Settlement Agents Act 1981 amended

s. 245

(b) an area of land represented, by or on behalf of a person attempting to promote the sale of the area of land, to be an area of land that will constitute a lot in a subdivision or proposed subdivision;

subdivision means an area of land subdivided into lots;

245. Section 13 amended

In section 13(1) delete "subdivision, or one or more lots in the case of a subdivision or proposed subdivision effected or continued under the *Strata Titles Act 1985*," and insert:

subdivision

246. Section 14 amended

In section 14(1) delete "subdivision, or one or more lots in the case of a subdivision or proposed subdivision effected or continued under the *Strata Titles Act 1985*," and insert:

subdivision

Division 21 — Settlement Agents Act 1981 amended

247. Act amended

This Division amends the Settlement Agents Act 1981.

248.	Cootion	16	amended
7.44	Section	40	amennen
ATU.	Decidon	TU	amenucu

In section 46(2)(a) after "2005" insert:

or the Community Titles Act 2018

249. Schedule 2 clause 1 amended

In Schedule 2 after clause 1(2)(c)(ii) insert:

(iia) the Community Titles Act 2018; or

Division 22 — Swan and Canning Rivers Management Act 2006 amended

250. Act amended

This Division amends the Swan and Canning Rivers Management Act 2006.

251. Schedule 5 amended

In Schedule 5 after item (1)(b) insert:

(c) the Community Titles Act 2018;

Division 23 — Transfer of Land Act 1893 amended

252. Act amended

This Division amends the *Transfer of Land Act 1893*.

[253. Has not come into operation.]

Part 14 Other Acts amended

Division 23 Transfer of Land Act 1893 amended

s. 254



(1) In section 65A(1) delete "subsection (2)," and insert:

subsection (2) or (3),

- (2) After section 65A(2) insert:
 - (3) If an easement is created under Part IVA by notation on a scheme plan for a community titles scheme under the *Community Titles Act 2018* or as a short form easement or restrictive covenant under that Act, it is not necessary for a memorandum of the easement to be entered on the certificates of title for the dominant and servient tenements that are also a subject of that plan.

255. Section 129A amended

(1) In section 129A(5) delete "subsection (6)," and insert:

subsection (6) or (7),

- (2) After section 129A(6) insert:
 - (7) If a restrictive covenant is created under Part IVA by notation on a scheme plan for a community titles scheme under the *Community Titles Act 2018* or as a short form easement or restrictive covenant under that Act, it is not necessary for a memorandum of the restrictive covenant to be entered on the certificates of title for the dominant and servient tenements that are also a subject of that plan.

256.	Section 136A amended
	After section 136A(a) insert:
	(ab) a scheme plan lodged for registration under the <u>Community Titles Act 2018</u> ; or
257.	Section 136F amended
	In section 136F(1)(a) after "under" insert:
	the Community Titles Act 2018 or
258.	Section 181 amended
(1)	Before section 181(1) insert:
<u>(</u>	1AA) In this section — lodge includes deposit, present and file.
(2)	In section 181(1):
	(a) in paragraph (bc) delete "lodgment, presentation, filing or deposit" and insert:
	lodgment
	(b) in paragraph (be) delete "lodged, presented, filed or deposited" and insert:
	lodged

Part 14

Other Acts amended

Division 23

Transfer of Land Act 1893 amended

s. 259

- (c) delete paragraphs (bf) and (bg) and insert:
 - (including consents, permissions or approvals)
 that are required or authorised under this Act or
 any other written law to accompany or be
 endorsed on, included in, lodged with or given
 in relation to a document lodged with the
 Authority, the Commissioner or the Registrar
 (whether electronically or in paper form),
 including (without limitation)
 - (i) requiring or permitting action in relation to a thing to be done by electronic means; and
 - (ii) requiring or permitting a thing that
 otherwise would be required or
 authorised to accompany or be endorsed
 on, included on, lodged with or given in
 relation to a lodged document to be
 lodged or given separately:

and

(d) in paragraph (bh) delete "lodged, presented, filed or deposited" and insert:

lodged

259. Section 182A amended

(1) Before section 182A(1) insert:

(1AA) In this section —

lodge includes deposit, present and file.

(2) In	n secti	ion 182A(1):
	(a)	in paragraph (a) delete "lodgment, presentation, filing or deposit" and insert:
		lodgment
	(b)	in paragraph (c) delete "lodged, presented or deposited" and insert:
		lodged
	(c)	delete paragraphs (d) and (e) and insert:

- (d) things (including consents, permissions or approvals) that are required or authorised under this Act or any other written law to accompany or be endorsed on, included in, lodged with or given in relation to a document lodged with the Authority, the Commissioner or the Registrar (whether electronically or in paper form), including (without limitation)
 - (i) requiring or permitting action in relation to a thing to be done by electronic means; and
 - (ii) requiring or permitting a thing that
 otherwise would be required or
 authorised to accompany or be endorsed
 on, included on, lodged with or given in
 relation to a lodged document to be
 lodged or given separately;

Part 14 Other Acts amended

Division 23 Transfer of Land Act 1893 amended

s. 260

(d) in paragraph (f) delete "lodged, presented, filed or deposited" and insert:

lodged

260. Section 192B amended

Delete section 192B(2)(a)(i) and insert:

(i) the requirements of this Act, the

Community Titles Act 2018 or the Strata

Titles Act 1985 (including any regulations made under those Acts); or

261. Section 192C amended

Delete section 192C(1)(a)(i) and insert:

(i) a requirement of this Act, the

Community Titles Act 2018 or the Strata

Titles Act 1985 (including any
regulations made under those Acts); or

262. Section 192D amended

Delete section 192D(3)(a)(i) and insert:

(i) the requirements of this Act, the

Community Titles Act 2018 or the Strata

Titles Act 1985 (including any
regulations made under those Acts); or

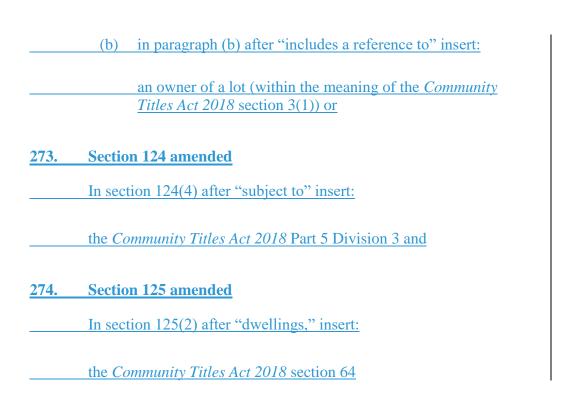
<u>263.</u>	Section 198 amended
	In section 198 before "or the <i>Electronic Conveyancing</i> <u>Act 2014." insert:</u>
	or the Community Titles Act 2018
264.	Section 214 amended
	In section 214(3)(a)(ii) after "under this" insert:
	or any other
265.	Section 239 amended
	After section 239(1)(b) insert:
	(ba) a scheme document, community development statement or any item registered for a community titles scheme under the <i>Community Titles Act 2018</i> ;
<u>266.</u>	Section 242 amended
	In section 242(1A) after "judge" insert:
	or tribunal
	Division 24 — Valuation of Land Act 1978 amended
267.	Act amended
	This Division amends the Valuation of Land Act 1978.

Community Titles Act 2018

Part 14 Other Acts amended

Division 25 Water Services Act 2012 amended

268.	Section 24 amended
	In section 24(1) after "Subject to" insert:
	the Community Titles Act 2018 and
<u>269.</u>	Section 37 amended
	In section 37(c) after "under" insert:
	the Community Titles Act 2018 or
	<u>Division 25 — Water Services Act 2012 amended</u>
270.	Act amended
	This Division amends the Water Services Act 2012.
271.	Section 3 amended
	In section 3(1) in the definition of <i>dwelling</i> paragraph (a) after "as defined in" insert:
	the Community Titles Act 2018 section 3(1) or
<u>272.</u>	Section 71 amended
	In section 71(2):
	(a) in paragraph (a) after "meaning of" insert:
	the Community Titles Act 2018 section 3(1) or



Notes

This is a compilation of the *Community Titles Act 2018* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Community Titles Act 2018 (other than s. 224-226 and 253)	32 of 2018	19 Nov 2018	s. 1 and 2: 19 Nov 2018 (see s. 2(a)); Pt. 13 (but only s. 188 and 189): 6 Nov 2019 (see s 2(b) and <i>Gazette</i> 5 Nov 2019 p. 3877)3877); Act other than s. 1, 2, 188, 189, 224, 225, 226 and 253: 30 Jun 2021 (see s. 2(b) and SL 2021/69 cl. 2)
Community Titles Amendment (Consistency of Charging) Act 2018	33 of 2018	19 Nov 2018	6 Nov 2019 (see s. 2(b) and <i>Gazette</i> 5 Nov 2019 p. 3877)

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA Legislation website.

Short title	Number and year	Assent	Commencement
Community Titles Act-2018 s. 3-5, Pt. 2-12, s. 176-187224-226 and 190 and Pt. 14253	32 of 2018	19 Nov 2018	s. 3-5, Pt. 2-12, s. 176-187 and 190, Pt. 14 (other than s. 224-226 and 253): 30 Jun 2021 (see s. 2(b) and SL 2021/69 cl. 2); s. 224-226 and 253: to be proclaimed (see s. 2(b)) To be proclaimed (see s. 2(b))
Planning and Development Amendment Act 2020 Pt. 12 Div. 2	26 of 2020	7 Jul 2020	To be proclaimed (see s 2(1)(b))

Other notes

The *Community Titles Act 2018 (Postponement of Expiry) Proclamation 2019* published in *Gazette 5* Nov 2019 p. 3877-8 provides that the expiry of section 188 is postponed until the end of 31 December 2024.