



Australian Capital Territory

# Community Title Act 2001

**A2001-58**

**Republication No 13**

**Effective: 27 April 2016 – 31 May 2020**

Republication date: 27 April 2016

Last amendment made by [A2016-18](#)

## About this republication

### The republished law

This is a republication of the *Community Title Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 27 April 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 27 April 2016.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Community Title Act 2001

## Contents

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	Page	
<b>Part 1</b>	<b>Preliminary</b>	
1	Name of Act	2
3	Dictionary	2
4	Notes	2
4A	Offences against Act—application of Criminal Code etc	3
<b>Part 2</b>	<b>Nature of community title schemes</b>	
5	Community title schemes	4
6	Form and content of master plan	4
7	Form and content of management statements	5
<b>Part 3</b>	<b>Establishment of community title schemes</b>	
8	Community title scheme proposal—application for approval	7
9	Power of Minister to require changes to scheme proposal	8
10	Community title scheme proposal—approval	8
<hr/>		
R13	Community Title Act 2001	contents 1
27/04/16	Effective: 27/04/16-31/05/20	

## Contents

---

	Page	
11	Community title scheme proposal—amendment of management statement	9
12	Notice of approval of community title scheme proposal	9
13	Security for staged developments and unfinished works	9
14	Endorsement of community title plan for registration	10
15	Expiry of endorsement	11
16	Request to register community title scheme	11
17	Registration of community title scheme	12
<b>Part 4</b>	<b>Common property</b>	
18	Common property	13
19	Vesting of common property	13
<b>Part 5</b>	<b>Development rights</b>	
20	Development rights	14
21	Progressive development	14
<b>Part 6</b>	<b>Amendment of schemes</b>	
22	Application for authorisation to amend scheme	15
23	Authorisation of amendment	15
24	Expiry of authorisation	16
25	Request to register amendment	17
26	Registration of amendment	17
27	Amendment by the Supreme Court	18
<b>Part 7</b>	<b>Enforcement of schemes</b>	
28	Injunction	20
29	Implied term in contract for sale of lot	20
<b>Part 8</b>	<b>Bodies corporate</b>	
<b>Division 8.1</b>	<b>Establishment of bodies corporate</b>	
30	Establishment of body corporate	22
31	Legal status of body corporate	22
32	Members of body corporate	22
33	Merger and division of bodies corporate	22
34	Common seal	23

---

	Page
<b>Division 8.2</b>	<b>Functions of bodies corporate</b>
35	Functions of body corporate 24
36	Borrowing powers 25
37	Recovery of expenditure resulting from member's etc default 25
38	Public liability insurance by body corporate 26
39	Building insurance by body corporate 26
<b>Division 8.3</b>	<b>Membership and general meetings</b>
40	General meetings of body corporate 27
41	Voting at general meeting 28
42	People under 18 or under other legal disabilities 28
<b>Division 8.4</b>	<b>Management</b>
43	Committee of management 29
44	Appointment of manager 30
45	Administrative fund 30
46	Contributions 30
47	Interest on overdue contributions 31
<b>Division 8.5</b>	<b>By-laws</b>
48	Power to make by-laws 31
49	Limitations on by-law making power 32
50	Registration and commencement of changes to by-laws 32
51	Exclusive use by-laws 33
52	Legal effect of by-laws 34
53	Breach of by-laws—remedy 35
<b>Division 8.6</b>	<b>Miscellaneous</b>
54	Subrogation of contractual rights 36
55	Roll to be kept by body corporate 36
56	Community title certificate and access to body corporate records 37
57	Acting on information in community title certificate 38
58	Failure to give certificate or access—offence 38
59	Address for service 39
60	Mailbox 39
61	Appointment of administrator 39

		Page
<b>Part 9</b>	<b>Transfer of title to land under registered schemes</b>	
<b>Division 9.1</b>	<b>Transfer of title to land to be developed</b>	
62	Application—div 9.1	41
63	Acquisition of title to land under scheme	41
64	Assignment of land under scheme	41
65	Registration of dealing	42
66	Effect of registration	42
<b>Division 9.2</b>	<b>Sale of lots</b>	
67	Statement to be given by seller to buyer	42
68	Contents of contract	43
<b>Part 10</b>	<b>Statutory easements</b>	
69	Application—pt 10	44
70	Easements for support	44
71	Easements for utility services	45
72	Easements for shelter	45
73	Easements for projections	45
74	Easement for maintenance of building close to boundary	46
75	Exercise of rights under easement	46
76	Ancillary rights and obligations	47
<b>Part 11</b>	<b>Amalgamation of community title schemes</b>	
<b>Division 11.1</b>	<b>General</b>	
77	Meaning of <i>subsidiary scheme</i> —pt 11	48
78	General principles of amalgamation	48
79	Community title schemes that may be amalgamated	48
<b>Division 11.2</b>	<b>Amalgamation process</b>	
80	Purpose—div 11.2	49
81	Approval for amalgamations	50
82	Request to record amalgamation of community title schemes	51
83	Recording amalgamation of community title schemes	52
84	Dissolution of bodies corporate on amalgamation	52
85	Effects of amalgamation of community title schemes	53

	Page
<b>Part 12</b>	<b>Termination of community title schemes</b>
<b>Division 12.1</b>	<b>General</b>
86	Purpose—pt 12 54
87	Definitions—pt 12 54
<b>Division 12.2</b>	<b>Termination process</b>
88	Application—div 12.2 55
89	Termination of schemes 55
90	Request to record termination of basic scheme 56
91	Recording termination of scheme 57
92	Dissolution of body corporate for terminated scheme 58
<b>Part 13</b>	<b>Miscellaneous</b>
<b>Division 13.1</b>	<b>Notification and review of decisions</b>
93	Meaning of <i>reviewable decision</i> —div 13.1 59
94	Reviewable decision notices 59
94A	Applications for review 59
<b>Division 13.2</b>	<b>Other matters</b>
95	Notice of intention not to proceed to enforce mortgage 60
96	Determination of fees 60
97	Approved forms 60
98	Regulation-making power 61
<b>Schedule 1</b>	<b>Default by-laws</b>
1.1	Duty to keep lot in good order and repair 62
1.2	Duty to prevent nuisance 62
1.3	Duty to allow access for maintenance and repair of common property 62
1.4	Duty to pay rates and taxes 63
1.5	Use of lots 63
1.6	Duty to give information 63
1.7	Animals and birds 63
1.8	Body corporate's duties in relation to the common property 64

Contents

---

<b>Schedule 2</b>	<b>Reviewable decisions</b>	Page 65
<b>Dictionary</b>		67
<b>Endnotes</b>		
1	About the endnotes	72
2	Abbreviation key	72
3	Legislation history	73
4	Amendment history	75
5	Earlier republications	78





Australian Capital Territory

# Community Title Act 2001

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An Act to provide for the establishment and administration of community title schemes, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Community Title Act 2001*.

### 3 Dictionary

The dictionary at the end of this Act is part of the Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*lot entitlement schedule*—see section 7 (h).' means that the term 'lot entitlement schedule' is defined in that paragraph.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of the Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

## 4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Nature of community title schemes

### 5 Community title schemes

- (1) A community title scheme consists of—
  - (a) a master plan for developing the scheme land; and
  - (b) a management statement that complies with this part; and
  - (c) the constituent documents for the body corporate to be formed on the registration of the scheme; and
  - (d) the by-laws of the body corporate.
- (2) A community title scheme must include—
  - (a) 1 or more lots that are common property; and
  - (b) 2 or more lots that are not common property.
- (3) The land included in a community title scheme must form a single area that is not divided by anything other than—
  - (a) a road; or
  - (b) a body of water (other than a lake within the meaning of the [Lakes Act 1976](#)); or
  - (c) an area prescribed by regulation.

### 6 Form and content of master plan

The master plan forming part of a community title scheme must—

- (a) contain a site plan that—
  - (i) delineates the site; and
  - (ii) shows each lot included in the scheme; and

- (iii) identifies the lots that are common property; and
- (iv) shows the position of all buildings on the site; and
- (b) contain a sketch that complies with the regulations showing the expected appearance of the finished development; and
- (c) include a description of the general theme (if any) of the development (for example, the architectural style or the nature of landscaping); and

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (d) include any other information prescribed by regulation.

## **7 Form and content of management statements**

A management statement that forms part of a community title scheme must include—

- (a) the name and address of the developer; and
- (b) a description of the stages, and the sequence of stages, in which any development of scheme land is to be carried out; and
- (c) a plan showing construction zones and access zones and the nature of the use that may be made of them; and
- (d) a schedule of times for starting and finishing each stage of any proposed development of scheme land (which may be fixed by reference to the calendar, the finishing of a previous element of the scheme, or to progress in the sale of lots or on any other reasonable basis); and
- (e) if a body corporate is to be established (other than on registration of the scheme) for any elements of the scheme—a copy of the documents that are to establish the body corporate; and
- (f) a schedule of the hours when work may be carried out on the proposed development; and

- (g) a description of the amenities to be provided as part of the proposed development and a statement of—
  - (i) the purposes for which the amenities are to be provided; and
  - (ii) the extent to which the amenities are to be available for use by owners and occupiers of lots and their invitees; and
  - (iii) the arrangements for providing and maintaining the amenities and defraying the cost of their provision and maintenance; and
- (h) a schedule (the *lot entitlement schedule*) setting out—
  - (i) for each lot that is not to be common property—a whole number that is the lot entitlement for the lot; and
  - (ii) a whole number that is the total of the entitlements of all lots that are not to be common property; and
- (i) a statement of the voting rights of the members of the body corporate at a general meeting if a poll is required; and
- (j) any other information or materials prescribed by regulation.

*Note* If a form is approved under the [Land Titles Act 1925](#), s 140 for a lot entitlement schedule, the form must be used.

## Part 3                      Establishment of community title schemes

### 8                      Community title scheme proposal—application for approval

- (1) The developer of a community title scheme may apply to the planning and land authority, in writing, for approval of the scheme.

*Note 1* If a form is approved under s 97 for an application, the form must be used.

*Note 2* A fee may be determined under s 96 for this subsection.

- (2) The application must be signed by—
- (a) the developer; and
  - (b) if the developer is not the lessee of every lot to be included in the scheme—the lessee of each lot that is not leased to the developer; and
  - (c) if the application relates to land under a declared land sublease and—
    - (i) the developer is not the sublessee—the sublessee; and
    - (ii) the developer is not the Crown lessee—the Crown lessee.
- (3) Each person who signs the application is taken to be the applicant in relation to it.
- (4) The application must be accompanied by the documents that comprise the proposed community title scheme.
- (5) The documents that comprise the scheme must comply with any requirement prescribed by regulation.
- (6) The application may be made whether the site is entirely undeveloped or partly developed.

**9 Power of Minister to require changes to scheme proposal**

Before approving a proposed community title scheme, the planning and land authority may require changes to the scheme that need to be made for the scheme to comply with this Act.

**10 Community title scheme proposal—approval**

- (1) The planning and land authority may approve a community title scheme proposal if satisfied that—
  - (a) the proposal is in accordance with section 8 (Community title scheme proposal—application for approval); and
  - (b) the proposed community title scheme complies with section 5 (2) and (3) (Community title schemes); and
  - (c) the proposed lot entitlement schedule is reasonable having regard to the prospective relative values of the lots to be included in the scheme that are not to be common property.
- (2) The planning and land authority may refuse to approve a community title scheme if the lessee of a lot proposed to be included in the scheme is in breach of the lease, or a provision of (or requirement under) the *Planning and Development Act 2007* that applies to the lessee because the lessee is the lessee of the lot.
- (3) The planning and land authority may refuse to approve a community title scheme proposal if the proposal is inconsistent with a heritage guideline or heritage direction under the *Heritage Act 2004*.



## 11 Community title scheme proposal—amendment of management statement

If a community title scheme proposal provides for development of the scheme land in stages, the planning and land authority may, before approving the proposal under section 10, amend the management statement if the authority considers it reasonable to do so to reduce the adverse effect of the development on anyone's amenity while it is taking place.

### Examples of people whose amenity may be affected

- 1 Owners or occupiers of lots, or parts of lots, in the scheme.
- 2 Owners or occupiers of nearby premises.
- 3 Members of the public who regularly use the surrounding area.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## 12 Notice of approval of community title scheme proposal

If the planning and land authority approves a community title scheme proposal, the authority must give the developer of the scheme—

- (a) written notice of the approval including particulars of any security required under section 13; and
- (b) a schedule setting out the provisions under which leases of the lots of common property are to be held.

## 13 Security for staged developments and unfinished works

- (1) This section applies—
  - (a) to a community title scheme that provides for development of the scheme land in stages (a *staged development*); and

- (b) to works (including landscaping, roadworks and work on driveways) needed for a development provided for in an approved community title scheme proposal that (in the opinion of the planning and land authority) will not be finished when the community title scheme plan is endorsed under section 14.
- (2) If this section applies, the planning and land authority may, by written notice to the developer of the scheme, require the developer to give a bond to the Territory providing security—
- (a) for a staged development—for the completion of the development in accordance with the management statement; or
  - (b) in any other case—for the completion of the works, as provided for in the community title proposal, within the time mentioned in the notice.
- Note* If a form is approved under s 97 for a bond, the form must be used.
- (3) The required security must not be more than—
- (a) for a staged development—10% of the total cost of the work necessary to finish the staged development; or
  - (b) in any other case—the amount needed to finish the incomplete works as required by the notice.
- (4) If a bond is forfeited, the Territory is entitled to all of the security or to a lesser amount decided by the planning and land authority.

#### **14 Endorsement of community title plan for registration**

If the planning and land authority has approved a community title scheme and the full amount of any security required under section 13 has been provided, the authority must—

- (a) place on the documents that comprise the scheme an endorsement that the documents are approved under this Act as the community title scheme for the scheme land; and

- (b) sign and date the endorsement.

*Note* If a form is approved under the *Land Titles Act 1925*, s 140 for an endorsement under par (a), the form must be used.

## 15 Expiry of endorsement

- (1) An endorsement of a community title scheme under section 14 ceases to have effect—
- (a) 3 months after it is made, unless the scheme is, before that time, lodged with the registrar-general for registration under the *Land Titles Act 1925*; or
- (b) if the scheme is so lodged within 3 months after the endorsement is made, but is later withdrawn under that Act, section 26—when the endorsement under that section is made by the registrar-general.
- (2) If an endorsement of a community title scheme ceases to have effect, the developer may again submit the scheme to the planning and land authority for endorsement under section 14 (Endorsement of community title plan for registration), after which that section and this section apply as if the previous endorsement had not been made.

## 16 Request to register community title scheme

- (1) The developer of a community title scheme may lodge with the registrar-general a request for registration of the scheme.
- Note 1* If a form is approved under the *Land Titles Act 1925*, s 140 for a request, the form must be used.
- Note 2* A fee may be determined under the *Land Titles Act 1925*, s 139 for this subsection.
- (2) The request must be accompanied by (in addition to documents required under the *Land Titles Act 1925*) the scheme documents endorsed by the planning and land authority under section 14 (Endorsement of community title plan for registration).

**17 Registration of community title scheme**

- (1) If a request to register a community title scheme complies with this Act and is in registrable form under the *Land Titles Act 1925*, the registrar-general must—
  - (a) register the scheme; and
  - (b) record the registration of the scheme on the folium for the certificate of title for each lot included in the scheme.
- (2) The registration of the scheme takes effect when the registrar-general finishes the action mentioned in subsection (1).

## Part 4 Common property

### 18 Common property

The *common property* of a community title scheme is all the lots included in the scheme that are identified as common property in the master plan for the scheme.

### 19 Vesting of common property

The common property of a community title scheme vests in the body corporate of the scheme.

## Part 5 Development rights

### 20 Development rights

- (1) The developer of a community title scheme is entitled to reasonable access to, and use of, the scheme land—
  - (a) to carry out the proposed development; and
  - (b) for other purposes related to development stated in the management statement except subdivision of the common property.
- (2) The rights of others in relation to the scheme land (including rights in relation to lots that are not common property) are subordinate to the rights of the developer under this section.
- (3) The by-laws cannot limit the rights of a developer under this section.

### 21 Progressive development

- (1) The land subject to a community title scheme is to be progressively developed in accordance with the scheme.
- (2) The planning and land authority may refuse to approve an application under the *Planning and Development Act 2007*, chapter 7 for approval to carry out an activity needed for the development of a stage of the scheme if an earlier stage of the scheme has not been finished as required by the scheme.

## Part 6 Amendment of schemes

### 22 Application for authorisation to amend scheme

- (1) The developer under a registered community title scheme, or the body corporate of the scheme, may apply to the planning and land authority for an authorisation to amend the scheme and to make any consequential amendments needed to the lot entitlement schedule.

*Note 1* If a form is approved under s 97 for an application, the form must be used.

*Note 2* A fee may be determined under s 96 for this subsection.

- (2) The planning and land authority may, by written notice, require the applicant to provide additional information or documents needed to consider the application (including a certificate from a qualified valuer about the effect of the proposed amendment of the scheme on the potential relative values of the lots in the scheme).
- (3) The planning and land authority may defer consideration of an application until any required additional information and documents are provided.

### 23 Authorisation of amendment

- (1) The planning and land authority may authorise an amendment of a community title scheme on an application under section 22 if satisfied that—
  - (a) each person with a registered interest in a lot in the scheme, and each prospective owner of a lot in the scheme, consents to the amendment; and
  - (b) the scheme as amended is consistent with the territory plan; and
  - (c) for an amendment of the lot entitlement schedule—the amendment is necessary to reflect accurately a change in the relative values of lots because of other amendments of the scheme.

- (2) The planning and land authority may—
  - (a) authorise the amendment unconditionally; or
  - (b) authorise the amendment subject to conditions; or
  - (c) refuse to authorise the amendment.
- (3) In this section:

*registered interest* means an interest registered under the *Land Titles Act 1925*.

## 24 Expiry of authorisation

- (1) An authorisation under section 23 ceases to have effect—
  - (a) 3 months after it is given, unless the amendment it authorises is, before that time, lodged with the registrar-general for registration under the *Land Titles Act 1925*; or
  - (b) if the amendment is so lodged within 3 months after the authorisation is given, but is later withdrawn under section 26 of that Act—when the endorsement under that section is made by the registrar-general.
- (2) If an authorisation of an amendment ceases to have effect, the developer may again apply to the planning and land authority under section 22 (Application for authorisation to amend scheme) for authorisation to make the amendment, after which that section, section 23 (Authorisation of amendment) and this section apply as if the previous authorisation had not been given.



**25 Request to register amendment**

- (1) The developer of a community title scheme may lodge with the registrar-general a request for registration of an amendment of the scheme.

*Note 1* If a form is approved under the [Land Titles Act 1925](#), s 140 for a request, the form must be used.

*Note 2* A fee may be determined under the [Land Titles Act 1925](#), s 139 for this subsection.

- (2) The request must be accompanied by (in addition to documents required under the [Land Titles Act 1925](#))—
- (a) the proposed scheme as amended, indicating the amendments; and
  - (b) the authorisation of the amendment under section 23 (Authorisation of amendment); and
  - (c) the certificate of title to any land not formerly within the scheme that is affected by the amendment.

**26 Registration of amendment**

- (1) If a request to register an amendment of a community title scheme complies with this Act and is in registrable form under the [Land Titles Act 1925](#), the registrar-general must—
- (a) register the scheme as amended; and
  - (b) record the registration of the scheme in the folium for the certificate of title for any lot not formerly within the scheme that is within the scheme as amended.
- (2) The registration of the amendment takes effect when the registrar-general finishes the action mentioned in subsection (1).

## 27 Amendment by the Supreme Court

(1) In this section:

*interested person* means each of the following:

- (a) the developer of the community title scheme;
  - (b) the body corporate;
  - (c) an owner or prospective owner of a lot of scheme land;
  - (d) for scheme land under a declared land sublease—the Crown lessee;
  - (e) the registrar-general;
  - (f) anyone else who has, in the Supreme Court’s opinion, a proper interest in the scheme.
- (2) The Supreme Court may, on application by an interested person, order that a community title scheme be amended if satisfied that it is impossible or impracticable to finish the scheme as proposed in the master plan and management statement.
- (3) The applicant must give notice of the application to each other interested person.
- (4) An interested person may appear and be heard in the proceeding.
- (5) The Supreme Court may make an order—
- (a) extending the time for completion of 1 or more stages of the community title scheme; or
  - (b) changing the order in which the various stages of the scheme are to be finished; or
  - (c) amending the scheme in other ways to ensure (so far as practicable) its successful completion.

- (6) An order may also—
- (a) provide for the payment of compensation in addition to, or instead of, damages or compensation to which a person would otherwise be entitled; and
  - (b) amend rights and obligations arising under this Act in relation to the community title scheme; and
  - (c) make any other provision the Supreme Court considers just and equitable.
- (7) The Supreme Court may, on application by an interested person, amend or revoke an order under this section.
- (8) Subsections (3) and (4) apply to an application to amend or revoke an order under this section.
- (9) A copy of an order under this section (including an order amending or revoking an earlier order) must be lodged with the registrar-general by the person who obtained the order.
- Note* A fee may be determined under the *Land Titles Act 1925*, s 139 for this subsection.
- (10) The registrar-general must register the order and, on registration, it becomes part of the scheme.

## Part 7 Enforcement of schemes

### 28 Injunction

- (1) The Supreme Court may, on application by an interested person, grant a mandatory injunction requiring the developer of a community title scheme to finish the scheme in accordance with the terms of the scheme.
- (2) In this section:  
*interested person* means each of the following:
  - (a) a body corporate for the community title scheme;
  - (b) an owner or prospective owner of a lot of scheme land;
  - (c) for scheme land under a declared land sublease—the Crown lessee;
  - (d) the owners corporation of a units plan within the scheme;
  - (e) the Minister;
  - (f) the planning and land authority.

### 29 Implied term in contract for sale of lot

- (1) Until the development of a community title scheme is finished, the developer of the scheme warrants to a person who purchases a lot or a proposed lot of scheme land, or who is a prospective owner of a lot or a proposed lot of scheme land, that the development will be carried out in accordance with the scheme.
- (2) A warranty under subsection (1)—
  - (a) is enforceable in the same way as a contractual warranty; and
  - (b) cannot be limited or excluded by contract.

- (3) Without limiting the damages recoverable for breach of the statutory warranty, the owner or prospective owner of a lot may recover damages for the loss of a reasonably expected capital appreciation of the lot that would have resulted from completion of the development in accordance with the terms of the community title scheme.

## **Part 8 Bodies corporate**

### **Division 8.1 Establishment of bodies corporate**

#### **30 Establishment of body corporate**

- (1) On the registration of a community title scheme, a body corporate is established under the name ‘Community Title Scheme No ’.
- (2) The number to be included in the name of a body corporate established under this section is the number allotted to the community title scheme by the registrar-general on its registration.

#### **31 Legal status of body corporate**

A body corporate—

- (a) has perpetual succession; and
- (b) must have a common seal; and
- (c) may sue and be sued in its corporate name.

#### **32 Members of body corporate**

- (1) The members of the body corporate of a community title scheme are the people who are for the time being the owners of the lots in the scheme that are not common property.
- (2) If a lot in a community title scheme that is not common property is owned by more than 1 person, each part-owner is a member of the body corporate of the scheme.

#### **33 Merger and division of bodies corporate**

- (1) A body corporate may be divided into 2 or more separate bodies corporate by unanimous resolution of the body corporate.

- (2) Rights and liabilities that had accrued to the body corporate before the division takes effect attach to the bodies corporate established by the division both separately and collectively.
- (3) Two or more bodies corporate established for a scheme may merge to form a single body corporate.
- (4) Any rights and liabilities that had accrued to the bodies corporate subject to the merger before the merger takes effect attach to the body corporate established by the merger.
- (5) A merger of bodies corporate, or a division of a body corporate, under this section does not take effect until the community title scheme is amended to reflect the merger or division.
- (6) If 2 or more bodies corporate are established for the same scheme, constituent documents for the bodies corporate must—
  - (a) define the functions and responsibilities of each body corporate and, in doing so, may create an administrative hierarchy with 1 or more bodies corporate at each level of the hierarchy; and
  - (b) provide for the resolution of disputes between the bodies corporate; and
  - (c) ensure the powers of a body corporate under this Act, so far as they relate to a lot within the scheme, are directly exercisable in relation to the lot by only a single body corporate.

### **34 Common seal**

- (1) A body corporate's common seal must include the body corporate's name.
- (2) The seal must not be attached to a document unless its use has been authorised by a resolution of the body corporate or its committee of management.

- (3) The attachment of the seal must be witnessed by at least 2 members of the body corporate (unless there is only 1 member, in which case the attachment of the seal must be witnessed by the member).
- (4) The body corporate must take reasonable precautions to prevent unauthorised use of the seal.
- (5) If a document appears to have the common seal of a body corporate attached, and the attachment of the seal appears to have been witnessed as required by this section—
  - (a) a person dealing with the body corporate without notice of irregularity is entitled to assume that the seal was properly attached; and
  - (b) in legal proceedings or proceedings before a Territory official, it must be presumed, in the absence of evidence to the contrary, that the seal was properly attached.
- (6) This section does not limit how a body corporate may execute a document.

## **Division 8.2 Functions of bodies corporate**

### **35 Functions of body corporate**

- (1) A body corporate has the functions given to it by the body corporate's constituent documents that form part of the registered scheme.
- (2) A body corporate may establish and operate a business on the common property or, with the owner's agreement, on a lot in the scheme that is not common property, if—
  - (a) the business—
    - (i) is conducted according to law; and
    - (ii) is related to use and enjoyment of the common property, and lots in the scheme that are not common property, by owners or occupiers of lots in the scheme; and



- (iii) is not conducted outside the scheme land; and
  - (iv) does not prevent the reasonable use and enjoyment of the scheme land by the owners or occupiers of lots in the scheme; and
- (b) separate records of the business are kept.

### **36 Borrowing powers**

A body corporate may, if authorised by a unanimous resolution, do either or both of the following:

- (a) borrow amounts required for the exercise of its functions;
- (b) secure the repayment of amounts borrowed by it and the payment of interest on amounts borrowed by it.

### **37 Recovery of expenditure resulting from member's etc default**

- (1) This section applies if a body corporate has, in carrying out its functions, incurred expense, or carried out any work, that is necessary because of—
  - (a) a wilful or negligent act or omission of a member of the community title scheme, or an occupier of the member's lot; or
  - (b) a breach of its by-laws by a member of the community title scheme, or an occupier of the member's lot.
- (2) The amount of the expense, or the amount spent on the cost of the work, is recoverable by the body corporate from the member as a debt.
- (3) If a body corporate receives or recovers an amount under subsection (2) from a member of the community title scheme for an act, omission or breach of an occupier of the member's lot, the member may recover the amount from the occupier as a debt.

- (4) In this section:

*work* carried out by a body corporate means maintenance or anything else the body is authorised or required under this Act to do.

### **38 Public liability insurance by body corporate**

- (1) A body corporate of a community title scheme must take out and maintain public liability insurance for all of the following events happening in relation to the common property of the scheme because of an accident:
- (a) death, bodily injury or illness of anyone;
  - (b) loss of, or damage to, the property of anyone.
- (2) Public liability insurance under subsection (1) must be for a total amount of liability not less than the amount prescribed by regulation.

### **39 Building insurance by body corporate**

- (1) A body corporate of a community title scheme must insure and keep insured all buildings on the common property of the scheme for their replacement value from time to time against all of the following risks:
- (a) fire, lightning, tempest, earthquake and explosion;
  - (b) riot, civil commotion, strikes and labour disturbances;
  - (c) malicious damage;
  - (d) bursting, leaking and overflowing of boilers, water tanks, water pipes and associated apparatus;
  - (e) impact of aircraft (including parts of, and objects falling from, aircraft) and road vehicles, horses and cattle.
- (2) However, if the replacement value of all buildings on the common property of the community title scheme is less than the amount prescribed by regulation, the body corporate may, by unanimous resolution, exempt itself from the requirement to take out building

insurance under subsection (1) for any risk stated in the exemption resolution.

- (3) An exemption resolution under subsection (2) has effect on the day after the general meeting when it is passed until the day of the next annual general meeting.

## **Division 8.3                      Membership and general meetings**

### **40                      General meetings of body corporate**

- (1) An annual general meeting of the body corporate of a community title scheme must be held within 3 months after the body corporate's formation.
- (2) An annual general meeting of the body corporate (other than the first) must be held within 15 months after the last annual general meeting of the body corporate.
- (3) The body corporate's committee of management may call a special general meeting of the body corporate at any time and must do so if required by not less than  $\frac{1}{3}$  of the total number of members of the body corporate.
- (4) The body corporate's committee of management must, at least 14 days before a general meeting of the body corporate, give to each member of the body corporate written notice—
  - (a) stating the date, time and place of the general meeting; and
  - (b) stating the nature of the business to be transacted; and
  - (c) if a unanimous resolution is to be put to the general meeting—  
setting out the proposed resolution.
- (5) If a lot is owned jointly or in common by 2 or more people, the notice may be addressed to the co-owners jointly and given or sent to any of them.

#### **41 Voting at general meeting**

- (1) A member of the body corporate may vote personally or by proxy on issues to be decided at a general meeting.
- (2) Voting may be by show of hands but, if a poll is required, voting is in accordance with the constituent documents of the body corporate.
- (3) Co-owners may vote by proxy jointly appointed by them and, without such a proxy, they may not vote on a show of hands (except on a motion for a unanimous resolution).
- (4) However a co-owner may require a poll and on the poll a co-owner is entitled to voting rights proportionate to the co-owner's interest in the lot.
- (5) If a mortgagee is in possession of a lot under a mortgage, the mortgagee is entitled to exercise the voting rights of the lessee, to the exclusion of the rights of the lessee.

#### **42 People under 18 or under other legal disabilities**

- (1) The right of a person to vote at a general meeting may not be exercised by the person if—
  - (a) the person is under 18 years old; or
  - (b) the person is under any other legal disability preventing the person from dealing with his or her property.
- (2) The right to vote of an incapacitated person (under subsection (1)) may be exercised—
  - (a) if the person is under 18 years old—by the person's parent or guardian; or
  - (b) if the person is under any other legal disability—by a person for the time being authorised by law to control the person's property.

## **Division 8.4                      Management**

### **43                      Committee of management**

- (1) A body corporate may, by ordinary resolution—
  - (a) appoint a committee of management to transact business for the body corporate; or
  - (b) change the membership of a committee of management; or
  - (c) overrule a decision of the committee of management (so far as it has not been acted on); or
  - (d) remove a committee of management from office.
- (2) A committee of management may, subject to limitations and directions imposed or given by the body corporate in a general meeting, exercise any powers of the body corporate except powers that may only be exercised by a unanimous resolution of the body corporate.
- (3) A committee of management—
  - (a) must consist of at least 2 members of the body corporate; and
  - (b) may consist of members representing sectional interests in the scheme.
- (4) Subject to any rules to the contrary made by the body corporate in a general meeting—
  - (a) a majority of the total number of members of the committee of management form a quorum of the committee; and
  - (b) a decision in which a majority of the members present at a meeting of the committee agree is a decision of the committee.
- (5) The committee must keep appropriate minutes of its proceedings and must make them available for inspection on request by a member of the body corporate.

#### 44 Appointment of manager

- (1) The body corporate may appoint a manager and delegate to the manager functions related to the administration, management and control of the common property.

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* In particular, a person may be appointed for a particular provision of a law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see [Legislation Act](#), s 207).

*Note 3* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (2) A manager is subject to control and direction by the body corporate acting in general meeting or through a committee of management.

#### 45 Administrative fund

- (1) A body corporate must keep a fund for meeting its financial obligations under this Act.
- (2) All income must be paid into the fund and all expenditure must be made from the fund.
- (3) If the body corporate considers it appropriate, the fund may be subdivided into separate parts, one related to recurrent expenditure and the other related to capital expenditure.
- (4) The fund must be kept at a level sufficient to meet reasonably foreseeable expenditure to be incurred by the body corporate.

#### 46 Contributions

- (1) The body corporate may from time to time levy contributions in relation to the lots in the scheme to raise an amount the body corporate decides to be necessary to meet expected expenditure.

- (2) The contributions must be levied on a basis fixed by the management statement registered under this Act.
- (3) A contribution must be paid by a day fixed by the body corporate and notified to the owner of the lot by written notice of the amount payable.
- (4) The day fixed by the notice must be—
  - (a) not earlier than 14 days after the owner is given the notice; and
  - (b) not later than 28 days after the owner is given the notice.
- (5) The owner of the lot on the day by which the amount is payable is liable for the contribution and a person who later becomes an owner before the contribution is paid becomes separately and collectively liable for the payment.

#### **47 Interest on overdue contributions**

- (1) Interest accrues on overdue contributions at a rate fixed by resolution of the body corporate.
- (2) The rate of interest must be fixed on a fair and reasonable basis.

### **Division 8.5 By-laws**

#### **48 Power to make by-laws**

- (1) The body corporate may make by-laws about—
  - (a) the administration, management and control of the common property; and
  - (b) the use and enjoyment of privately owned lots and the common property.
- (2) A by-law may—
  - (a) adopt with or without change the by-laws in schedule 1; or
  - (b) amend or revoke a by-law.

- (3) The first by-laws of the body corporate are to be—
  - (a) the by-laws lodged with the community title scheme; or
  - (b) if no by-laws are lodged with the scheme—the by-laws in schedule 1.
- (4) The by-laws lodged with the scheme may include exclusive use by-laws.
- (5) If the by-laws of a body corporate do not deal with a subject required under this Act to be dealt with in the by-laws, the body corporate is taken to have adopted the relevant by-law in schedule 1 on that subject.
- (6) The first by-laws of the body corporate come into operation on the registration of the scheme.

#### **49 Limitations on by-law making power**

- (1) A by-law cannot—
  - (a) change a statutory easement or prohibit or restrict the enjoyment of a statutory easement; or
  - (b) restrict an owner’s right to deal with or dispose of a lot unless the restriction—
    - (i) is necessary to preserve the character of the scheme; and
    - (ii) is made in accordance with the management statement of the scheme.
- (2) However a by-law may impose a minimum term (not longer than 6 months) for the letting of lots.

#### **50 Registration and commencement of changes to by-laws**

- (1) If a body corporate makes a by-law, the body corporate must, within 3 months after passing the resolution for making the by-law, lodge an application for registration of the by-law with the registrar-general—



- (a) setting out the text of the by-law; and
- (b) stating the nature of the resolution by which the by-law was made; and
- (c) stating the day the resolution for making the by-law was passed.

*Note 1* If a form is approved under the *Land Titles Act 1925*, s 140 for an application, the form must be used.

*Note 2* A fee may be determined under the *Land Titles Act 1925*, s 139 for this subsection.

- (2) If the application is not lodged within 3 months, the resolution ceases to have effect.
- (3) A by-law commences on the day the registrar-general registers the by-law or, if a later day is stated in the by-law, the later day.

## **51 Exclusive use by-laws**

- (1) The body corporate may, by unanimous resolution, make a by-law (an *exclusive use by-law*) giving the owner of a lot exclusive rights to the use and enjoyment of, or other special rights over, the common property or part of the common property.
- (2) An exclusive use by-law must—
  - (a) clearly identify or define the part of the common property to which the by-law applies; or
  - (b) set aside a clearly identified part of the common property for allocation to the owners of lots by a person (who may be the original proprietor or the original proprietor's agent) authorised to make the allocation or provide for another method of allocation to the owners of lots.
- (3) An exclusive use by-law may give rights to the owner of a lot only if the owner agrees in writing before—
  - (a) the by-law is made; or

- (b) the allocation to the owner of the part of the common property to which the rights relate.
- (4) If the owner to whom the rights are given first agrees in writing, an exclusive use by-law may impose conditions (which may include conditions requiring the owner to make a payment or periodic payments to the body corporate or the owners of other lots or both).
- (5) An exclusive use by-law is taken, unless it specifically provides otherwise, to make the owner of the lot responsible for maintenance of the part of the common property over which the rights are given by the by-law.
- (6) An exclusive use by-law may allow the owner who has the benefit of the by-law to make particular improvements to the part of the common property to which the by-law applies (which may consist of or include the installation of particular fixtures or the making of particular changes to that part of the common property) but, if the by-law does not give that permission, it is not to be taken to allow the owner to make improvements to the common property.
- (7) If an exclusive use by-law imposes a monetary liability—
  - (a) the liability may be recovered as a debt; and
  - (b) the liability is enforceable separately and collectively against the person who was the owner of the lot when the liability arose and a successor in title.
- (8) An exclusive use by-law may be revoked by an ordinary resolution.

## **52 Legal effect of by-laws**

- (1) There are taken to be agreements under seal between the body corporate of a community title scheme and the owner of each lot in the scheme that is not common property, and between the owner of each lot in the scheme that is not common property and the owner of each other such lot, under which the body corporate and the owners of the lots agree to be bound by the by-laws of the scheme.

- (2) An occupier of a lot in a community title scheme (who is not the owner of the lot) is bound by each by-law of the scheme as if the occupier were the owner of the lot, unless the by-laws provide otherwise.
- (3) If the owner of a lot in a community title scheme does not occupy the lot, the owner is liable separately and collectively with an occupier of the lot for any breach of the by-laws of the scheme by the occupier, unless the owner establishes that the owner took reasonable precautions and exercised appropriate care to prevent the breach.
- (4) An occupier of a lot in a community title scheme who occupies the lot under a residential tenancy agreement within the meaning of the *Residential Tenancies Act 1997* is not bound by any by-law of the scheme to the extent that the by-law is inconsistent with the prescribed terms (or terms to the effect of the prescribed terms) to which the agreement is subject under section 8 of that Act.

### **53 Breach of by-laws—remedy**

- (1) If the owner or an occupier of a lot in a community title scheme breaches the by-laws of the scheme by an act or omission, the body corporate may serve on the owner or occupier written notice giving particulars of the breach and requiring the owner or occupier to remedy the breach within a reasonable time stated in the notice.

*Note* For how documents may be served, see the [Legislation Act](#), pt 19.5.

- (2) If the person on whom the notice is served fails to remedy the breach within the time stated in the notice, the body corporate may remedy the breach itself.

*Note* If the body corporate remedies the breach, it may recover the cost of doing so from the owner or occupier concerned (see s 37 (Recovery of expenditure resulting from member's etc default)).

## Division 8.6 Miscellaneous

### 54 Subrogation of contractual rights

- (1) If—
  - (a) building work was carried out for the developer of a community title scheme in anticipation of registration of the scheme or after its registration; and
  - (b) the building work is defective;the body corporate is subrogated to the contractual rights of the developer to damages for the defects.
- (2) The body corporate may recover damages under this section on its own behalf (so far as the defects relate to common property) or for owners of lots other than common property affected by the defects.
- (3) The body corporate's right of subrogation under this section does not operate to the exclusion of the developer's rights and, if both the body corporate and the developer take action to recover damages for breach of contract, the damages may be apportioned between them as may be just.

### 55 Roll to be kept by body corporate

- (1) The body corporate must keep a roll containing the following particulars:
  - (a) the plan number allotted by the registrar-general;
  - (b) the name and address of the owner of each lot in the scheme that is not common property;
  - (c) the name and address of any agent employed by the body corporate to carry out any of its functions in relation to the scheme;
  - (d) the name and address of any sublessee of a lot in the scheme that has been notified to the body corporate;

- (e) the name and address of any mortgagee in possession of a lot in the scheme that has been notified to the body corporate.
- (2) The roll must be based on the best information reasonably available to the body corporate.
- (3) The roll must be kept in the form of a written record or a computer record from which a written record may be generated.

## **56 Community title certificate and access to body corporate records**

- (1) On request by an eligible person for a lot in a community title scheme, the body corporate of the scheme must, within 14 days after the request is received, give the person a certificate under the seal of the body corporate (a *community title certificate*) giving information about the lot.

### **Examples of information that may be required to be included in a certificate**

- 1 A statement of amounts owing to the body corporate for a lot.
- 2 A statement of any resolutions passed by the body corporate that affect the proportionate liability for contributions for each lot.
- 3 A statement of the by-laws applying to the body corporate.

*Note 1* If a form is approved under section 97 for a community title certificate, the form must be used.

*Note 2* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) On request by an eligible person for a lot, the body corporate must, within 14 days after the request is received, allow the person to inspect the books, records or documents held by the body corporate nominated in the request.
- (3) A request must be in writing accompanied by a fee fixed by the body corporate of not more than the amount prescribed by regulation (plus any GST payable in relation to the amount).

- (4) Only a single fee is payable for a request under both subsection (1) and subsection (2).

**57 Acting on information in community title certificate**

If a person acts honestly on a matter stated in a community title certificate, then, in an action by or against the body corporate, the body corporate is estopped, as against that person, from denying the truth of that or any other matter stated in the certificate.

**58 Failure to give certificate or access—offence**

- (1) A person commits an offence if—
- (a) the person is a member of the committee of management of a body corporate; and
  - (b) the body corporate fails to comply with a request under section 56 (Community title certificate and access to body corporate records) for a community title certificate or access to books, records or documents held by the body corporate.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that—
- (a) the person making the request, when asked by someone acting for the body corporate, did not give the body corporate reasonable grounds to believe that the person was an eligible person; or
  - (b) the defendant took reasonable steps to ensure that the request was complied with; or
  - (c) the failure to comply with the request happened without the defendant's knowledge.

**59 Address for service**

- (1) The address for service of a body corporate is the body corporate's address for service as registered by the registrar-general.
- (2) The registrar-general may, on application by the body corporate, change the address for service of the body corporate.

*Note 1* If a form is approved under the *Land Titles Act 1925*, s 140 for an application, the form must be used.

*Note 2* A fee may be determined under the *Land Titles Act 1925*, s 139 for this subsection.

**60 Mailbox**

A body corporate must—

- (a) keep a mailbox clearly showing the body corporate's name in a suitable position at or near the street alignment of the scheme land; or
- (b) make suitable alternative arrangements for the receipt of mail.

**61 Appointment of administrator**

- (1) The Supreme Court may, on application by an interested person, appoint an administrator of the body corporate's affairs for a fixed period, or until further order by the court.
- (2) An appointment may be made on terms the court considers appropriate.
- (3) The administrator is to be remunerated as decided by the court and the remuneration and expenses of the administrator are payable from the body corporate's administrative fund.
- (4) The administrator has the functions and powers of the body corporate (or such of the functions and powers as the court may decide) to the exclusion of the functions and powers of the body corporate.

- (5) The administrator may delegate powers given under this section.

*Note* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

- (6) The court may, on the application of an interested person, remove or replace the administrator.

- (7) If a person is appointed, removed or replaced as an administrator, the person must, within 7 days, give the registrar-general written notice of the appointment, removal or replacement.

*Note 1* If a form is approved under the [Land Titles Act 1925](#), s 140 for a notice, the form must be used.

*Note 2* A fee may be determined under the [Land Titles Act 1925](#), s 139 for this subsection.

- (8) In this section:

***interested person*** means—

- (a) the body corporate; or
- (b) a creditor of the body corporate; or
- (c) the owner of a lot in the community title scheme; or
- (d) the owner of a registered mortgage of a lot in the scheme.



## **Part 9**                      **Transfer of title to land under registered schemes**

### **Division 9.1**              **Transfer of title to land to be developed**

#### **62**              **Application—div 9.1**

This division applies to land in a community title scheme that is to be developed or further developed in accordance with the scheme.

#### **63**              **Acquisition of title to land under scheme**

A person who acquires title to land to which this division applies becomes bound to develop the land in accordance with the relevant community title scheme.

#### **64**              **Assignment of land under scheme**

If the owner of land to which this division applies proposes to sell or dispose of the land—

- (a) the owner must give written notice of the proposed transaction to the planning and land authority; and
- (b) the person who is to acquire title to the land by the transaction must—
  - (i) give to the planning and land authority a written undertaking to develop the land in accordance with the relevant community title scheme; and
  - (ii) give the authority any security required by the authority, within 28 days after notice of the transaction was given to

the authority, for the development of the land in accordance with the scheme.

*Note* If a form is approved under s 97 for an undertaking, the form must be used.

## **65 Registration of dealing**

When a dealing for the sale or disposal of land to which this division applies is submitted for registration, it must be accompanied by—

- (a) a copy of the undertaking to finish the development in accordance with the relevant community title scheme; and
- (b) a statement verifying that the planning and land authority has not required security to be given under this Act for completion of the development in accordance with the scheme or that such a requirement has been complied with.

*Note* It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

## **66 Effect of registration**

On registration of a dealing for the sale or disposal of land to which this division applies, the rights and obligations of the developer under the relevant community title scheme, so far as they relate to the land transferred, pass to the person who acquires title to the land.

## **Division 9.2 Sale of lots**

### **67 Statement to be given by seller to buyer**

- (1) The seller of a lot included in a community title scheme (including the original owner of the scheme land, or a mortgagee exercising a power of sale of the lot) must give to a person (the *buyer*) who proposes to buy the lot, before the buyer enters into a contract to buy the lot, a statement complying with subsections (2) to (4).

- (2) The statement must—
- (a) state that the lot is included in a community title scheme that imposes obligations on the owner of the lot; and
  - (b) state the name and address of—
    - (i) the body corporate of the scheme; or
    - (ii) if it is the duty of a body corporate manager to act for the body corporate in supplying community title certificates—the manager; and
  - (c) state the amount of annual contributions currently fixed by the body corporate as payable by the owner of the lot; and
  - (d) identify improvements on common property of the scheme for which the owner of the lot is responsible.

*Note* If a form is approved under s 97 for a statement, the form must be used.

- (3) The statement must be signed by the seller or a person authorised by the seller.
- (4) The statement must be substantially complete.
- (5) The seller must attach to the contract, as a first or top sheet, a copy of the statement given to the buyer under subsection (1).
- (6) The buyer may rescind the contract if—
- (a) the seller has not complied with subsections (1) and (5); and
  - (b) settlement has not taken place.

## **68 Contents of contract**

When a contract mentioned in section 67 (1) is made, its provisions include the statement mentioned in that subsection.

## Part 10 Statutory easements

### 69 Application—pt 10

- (1) This part provides for easements for lots included in a community title scheme.
- (2) However, this part applies to the scheme—
  - (a) only for buildings forming part of the scheme land when the scheme is established or later changed; and
  - (b) only if the lots included in the scheme are lots shown in the master plan for the scheme.
- (3) This part has effect for the scheme subject to an easement established under the *Land Titles Act 1925*.

### 70 Easements for support

- (1) An easement for lateral or subjacent support exists for a lot included in a community title scheme against another lot included in the scheme that can supply lateral or subjacent support.
- (2) An easement for support under subsection (1)—
  - (a) entitles the owner of a lot (*lot X*) to enter a lot supplying support to lot X under the easement to maintain or replace any support; and
  - (b) entitles the body corporate to enter a lot supplying support to a lot that is common property under the easement to maintain or replace any support.
- (3) An easement for support under subsection (1) continues until the scheme no longer exists.

**71 Easements for utility services**

- (1) An easement exists for a lot in a community title scheme against other lots in the scheme for supplying utility services to the lot and establishing and maintaining utility infrastructure reasonably necessary for supplying the utility services.
- (2) However, the exercise of rights under the easement must not interfere unreasonably with the use or enjoyment of the lot against which the easement lies.

**72 Easements for shelter**

- (1) If a lot (the *benefited lot*) in a community title scheme is sheltered by parts of a building on the scheme land, an easement exists entitling the owner of the lot to have the lot sheltered by the parts of the building necessary to supply shelter.
- (2) The easement exists against the lots where the relevant parts of the building are situated.
- (3) The easement entitles the owner of the benefited lot to enter a lot supplying shelter under the easement to maintain or replace the shelter.

**73 Easements for projections**

- (1) If eaves, guttering, drainpipes, awnings, window sills or other minor parts of a building within a lot in a community title scheme (*lot A*) project over the boundaries of another lot in the scheme (*lot B*), an easement exists for lot A, and against the part of lot B over which the projection lies, allowing the projection.
- (2) The easement entitles the owner of lot A to enter lot B to maintain or replace the building parts.

**74 Easement for maintenance of building close to boundary**

- (1) If a building is on the boundary of a lot in a community title scheme (*lot A*), or so close to the boundary of lot A that maintenance or replacement of the building cannot be carried out without entering another lot in the scheme (*lot B*), an easement exists for lot A against lot B.
- (2) The easement entitles the owner of lot A to enter lot B to carry out the maintenance or replacement.

**75 Exercise of rights under easement**

- (1) Rights under an easement under this part must not be exercised in a way that unreasonably prevents or interferes with the use and enjoyment of a lot.
- (2) If an easement under this part entitles a lot owner to enter another lot to carry out work, the owner—
  - (a) must give reasonable written notice—
    - (i) if the other lot is not common property—to the other lot's owner (and, additionally, if the owner is not the occupier, the other lot's occupier) before entering the lot to carry out the work; or
    - (ii) if the other lot is common property—to the body corporate before entering the common property to carry out the work; and
  - (b) must comply with the security or other arrangements or requirements ordinarily applying for people entering the lot.
- (3) If an easement under this part entitles the body corporate to enter a lot to carry out work, the body corporate must give reasonable notice to the lot owner before entering the lot to carry out work.
- (4) Subsections (2) and (3) do not apply if the need for the work to be carried out is an emergency.

**76 Ancillary rights and obligations**

- (1) Ancillary rights and obligations necessary to make the easements effective apply to easements under this part.
- (2) The community management statement may also establish rights and obligations ancillary to easements under this part.
- (3) Rights and obligations established under subsection (2) replace rights and obligations that would otherwise apply under subsection (1), as far as there is inconsistency between the rights and obligations under subsection (1) and the rights and obligations under subsection (2).

## Part 11 Amalgamation of community title schemes

### Division 11.1 General

#### 77 Meaning of *subsidiary scheme*—pt 11

In this part:

*subsidiary scheme* means a community title scheme all the scheme land for which is located within, and forms part of, the scheme land for another community title scheme.

#### 78 General principles of amalgamation

- (1) Two or more community title schemes may be amalgamated under this part.
- (2) When the schemes are amalgamated—
  - (a) the schemes end their existence as separate community title schemes; and
  - (b) the lots of each scheme become the lots of a single, newly established, community title scheme.
- (3) Community title schemes must not be amalgamated if the newly established community title scheme would not comply with the requirements of this Act for a community title scheme.

#### 79 Community title schemes that may be amalgamated

- (1) Subsections (2) and (3) describe the only amalgamations of community title schemes available under this part.
- (2) Two or more community title schemes may be amalgamated if—
  - (a) none of the schemes is a subsidiary scheme; and



- (b) the scheme land of each of the schemes would, on amalgamation of the schemes, form a single area of land undivided by anything other than—
  - (i) a road; or
  - (ii) a body of water; or
  - (iii) an area prescribed for section 5 (3) (c).
- (3) Two or more subsidiary schemes may be amalgamated if—
  - (a) all the schemes are lots included in a single community title scheme (*scheme A*), but they are not the only lots in scheme A; and
  - (b) the scheme land of each of the schemes would, on amalgamation of the schemes, form a single area of land undivided by anything other than—
    - (i) a road; or
    - (ii) a body of water; or
    - (iii) an area prescribed for section 5 (3) (c).

## **Division 11.2            Amalgamation process**

### **80            Purpose—div 11.2**

- (1) This division describes the requirements, and the process that must be followed, for the amalgamation of community title schemes.
- (2) The approach adopted in this division for the description of the process of amalgamation is to describe the process for the amalgamation of 2 community title schemes (*scheme A* and *scheme B*), but the process described applies equally to the amalgamation of more than 2 community title schemes.

- (3) In this division:

*scheme C* means the single, newly established, community title scheme formed, or to be formed, from the amalgamation of schemes A and B.

## 81 Approval for amalgamations

- (1) Scheme A and scheme B may be amalgamated if—
- (a) the planning and land authority consents in writing to the amalgamation; and
  - (b) the body corporate for scheme A and the body corporate for scheme B each agree, by unanimous resolution, to—
    - (i) the amalgamation; and
    - (ii) the management statement to be recorded for scheme C; and
    - (iii) the constituent documents for the body corporate to be formed on the registration of scheme C; and
    - (iv) the by-laws of the body corporate for scheme C.
- (2) If scheme A and scheme B are subsidiary schemes, the body corporate for the community title scheme that includes scheme A and scheme B as lots must also consent to the amalgamation, but by ordinary resolution.
- (3) Alternatively, scheme A and scheme B may be amalgamated if the Supreme Court, on the application of the owner of a lot included in scheme A or scheme B, or the body corporate for scheme A or scheme B, decides it is just and equitable to amalgamate the schemes and orders that they be amalgamated.

- (4) A person who applies to the Supreme Court for an order under subsection (3) must, on the day the application is made to the court, give the planning and land authority—
- (a) written notice of the application; and
  - (b) a copy of the application and each document filed with the court in support of the application.
- (5) If scheme A and scheme B are, or are to be, amalgamated under subsection (1) or (3), the Supreme Court may make an order, if it considers it is just and equitable to do so, about—
- (a) the contents of the management statement for scheme C; or
  - (b) the disposition of liabilities that, immediately before the amalgamation, were liabilities of the body corporate for scheme A or scheme B.
- (6) The Supreme Court may make an order under subsection (5) on application by the body corporate for scheme A or scheme B.

## **82 Request to record amalgamation of community title schemes**

- (1) A request to record the amalgamation of scheme A and scheme B may be lodged with the registrar-general.

*Note 1* If a form is approved under the [Land Titles Act 1925](#), s 140 for a request, the form must be used.

*Note 2* A fee may be determined under the [Land Titles Act 1925](#), s 139 for this subsection.

- (2) The request must be lodged by or on behalf of—
- (a) the bodies corporate for the schemes; or
  - (b) a person on whose application the court made an order for amalgamating the schemes.

- (3) The request must be accompanied by (in addition to documents required under the *Land Titles Act 1925*)—
- (a) a true copy of each resolution, or the order, for the amalgamation of the schemes; and
  - (b) the management statement intended to be recorded for scheme C, showing the appropriate consents and notifications; and
  - (c) if scheme A and scheme B are lots included in another community title scheme and the existing statement for the other scheme is not consistent with amalgamation of the schemes—a new management statement for the other scheme.

### **83 Recording amalgamation of community title schemes**

- (1) If the request to record the amalgamation of scheme A and scheme B complies with this Act and any order of the Supreme Court, and is in registrable form under the *Land Titles Act 1925*, the registrar-general must—
- (a) record the cancellation of the management statements for the schemes; and
  - (b) record the management statement for scheme C and any other management statement accompanying the request; and
  - (c) register the amalgamation.
- (2) The amalgamation takes effect when the registrar-general completes the action mentioned in subsection (1).

### **84 Dissolution of bodies corporate on amalgamation**

- (1) When scheme A and scheme B are amalgamated, the bodies corporate for the schemes are dissolved.

- (2) On dissolution of the bodies corporate for the schemes, the rights and liabilities of the bodies corporate for the schemes vest in the body corporate for scheme C.
- (3) Body corporate assets for scheme A and scheme B (including land and other body corporate assets registered or otherwise held in the name of a dissolved body corporate) vest in the body corporate for scheme C, and may be dealt with by that body corporate as if they were registered or otherwise held in its name.
- (4) If the amalgamation is authorised under a court order, subsections (2) and (3) have effect subject to the order.

## **85 Effects of amalgamation of community title schemes**

When scheme A and scheme B are amalgamated—

- (a) a liability for a charge, levy, rate or tax that has accrued on a lot included in scheme A or scheme B before the schemes ceased to exist as community title schemes is not affected; and
- (b) anything done in relation to scheme A or scheme B before the amalgamation continues in effect so far as there is no inconsistency with the management statement recorded for scheme C, including, for example, the following:
  - (i) an order of a court relating to a lot;
  - (ii) obligations attaching to the owner of each lot.

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

## Part 12 Termination of community title schemes

### Division 12.1 General

#### 86 Purpose—pt 12

- (1) This part provides for the complete termination of a community title scheme, including the dissolution of the body corporate.
- (2) Only a basic scheme may be terminated.
- (3) Consequently, to terminate a community title scheme other than a basic scheme, it is necessary for the scheme first to become a basic scheme.

#### 87 Definitions—pt 12

In this part:

*basic scheme* means a community title scheme that consists entirely of lots that are registered under the [Land Titles Act 1925](#) and that are not—

- (a) land of another community title scheme; or
- (b) land that has been subdivided under the [Unit Titles Act 2001](#).

*termination issues* means—

- (a) the disposal, and disposition of proceeds from the disposal, of the land that, immediately before the termination of a community title scheme, is scheme land; and
- (b) custody, management and distribution (including the disposal, and disposition of proceeds from the disposal) of items of property that, immediately before the termination of a community title scheme are body corporate assets; and

- (c) the sharing of liabilities that, immediately before the termination of a community title scheme, are liabilities of the body corporate.

## **Division 12.2      Termination process**

### **88      Application—div 12.2**

This division applies to a basic scheme (the *scheme*).

### **89      Termination of schemes**

- (1) The scheme may be terminated if—
  - (a) the body corporate by unanimous resolution decides to terminate the scheme; and
  - (b) so far as necessary for the effective termination of the scheme, an agreement about termination issues is entered into between—
    - (i) all registered proprietors of scheme land; and
    - (ii) each lessee under a registrable sublease to which scheme land is subject.
- (2) Alternatively, the scheme may be terminated if the Supreme Court decides it is just and equitable to terminate the scheme and orders that the scheme be terminated.
- (3) If the scheme is, or is to be, terminated under an order of the Supreme Court, the court may make an order, so far as is necessary for the effective termination of the scheme, about termination issues.
- (4) The court may make an order under subsection (2) or subsection (3) on application by—
  - (a) the body corporate; or
  - (b) the owner of a lot in the scheme.

- (5) In making an order under this section, the court may appoint an administrator and give the administrator authority to put the order into effect in the way directed by the court.
- (6) In making an order under this section, the court may take into account the views of the following:
  - (a) a person mentioned in subsection (1) (b);
  - (b) the Minister;
  - (c) the planning and land authority.

## **90 Request to record termination of basic scheme**

- (1) A request to record the termination of the scheme may be lodged with the registrar-general.

*Note 1* If a form is approved under the *Land Titles Act 1925*, s 140 for a request, the form must be used.

*Note 2* A fee may be determined under the *Land Titles Act 1925*, s 139 for this subsection.

- (2) The request must be lodged by—
  - (a) the body corporate; or
  - (b) a person on whose application the Supreme Court made an order terminating the scheme.
- (3) The request must be accompanied by (in addition to documents required under the *Land Titles Act 1925*) a true copy of—
  - (a) if the scheme is terminated under a resolution of the body corporate—the resolution to terminate the scheme, and any agreement made about termination issues; or
  - (b) if the scheme is terminated under an order of the Supreme Court—the order to terminate the scheme.



## 91 Recording termination of scheme

- (1) If the request to record the termination of the scheme complies with this Act and with any order of the Supreme Court, the registrar-general must record the termination of the scheme and must also—
  - (a) place a statement of the termination of the scheme in the folium for the certificate of title for each lot that was included in the scheme; and
  - (b) cancel the particulars (other than particulars of easements, covenants and other dealings that can be maintained against scheme land after the termination of the scheme) recorded in the register kept under the *Land Titles Act 1925*, section 43.
- (2) The termination takes effect when the registrar-general completes the action mentioned in subsection (1).
- (3) On the termination of the scheme, the registrar-general must create a single title for a lot consisting of all the land that, immediately before the termination, was scheme land.
- (4) The registered owners for the title mentioned in subsection (3) are the people who, immediately before the scheme's termination, were the owners of the lots included in the scheme (the *former owners*).
- (5) For subsection (4), the former owners must be recorded as tenants in common in shares proportionate to their respective schedule lot entitlements immediately before the termination.
- (6) If a lot included in the scheme was mortgaged immediately before the scheme was terminated, the former owner's interest in the land as tenant in common is subject to the mortgage.
- (7) A liability for a charge, levy, rate or tax that had accrued on a lot included in the scheme before the scheme was terminated is not affected by the termination, and the charge, levy, rate or tax is taken to have been levied on the former owner's interest in the land as tenant in common.

## 92 Dissolution of body corporate for terminated scheme

- (1) On termination of the scheme, the body corporate is dissolved.
- (2) On dissolution of the body corporate—
  - (a) the owners of the lots immediately before the scheme was terminated (the *former owners*) become entitled to the body corporate assets in shares proportionate to the respective schedule lot entitlements of their lots immediately before the termination; and
  - (b) the liabilities of the body corporate vest collectively and separately in the former owners, but they are entitled to contribution against each other in proportion to their respective schedule lot entitlements immediately before the termination.
- (3) Body corporate assets (including land and other body corporate assets registered or otherwise held in the name of the dissolved body corporate) may be dealt with by the former owners as if the assets were registered or otherwise held in the names of the former owners.
- (4) Subsections (2) and (3) are subject to—
  - (a) if the scheme is terminated under a resolution of the body corporate—the resolution to terminate the scheme, and any agreement made about termination issues; or
  - (b) if the scheme is terminated under an order of the Supreme Court—the order to terminate the scheme.
- (5) On the application of an interested person, the Supreme Court may make orders for the custody, management and distribution of body corporate assets.

## Part 13 Miscellaneous

### Division 13.1 Notification and review of decisions

#### 93 Meaning of *reviewable decision*—div 13.1

In this division:

*reviewable decision* means a decision mentioned in schedule 2, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

#### 94 Reviewable decision notices

If the planning and land authority makes a reviewable decision, the authority must give a reviewable decision notice to each entity mentioned in schedule 2, column 4 in relation to the decision.

*Note 1* The planning and land authority must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

#### 94A Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 2, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Division 13.2            Other matters

### 95            Notice of intention not to proceed to enforce mortgage

- (1) A mortgagee in possession of a lot included in a community title scheme commits an offence if the mortgagee—
  - (a) decides not to enforce the mortgage; and
  - (b) fails to immediately give written notice of the decision to the body corporate.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) On giving the written notice, the mortgagee ceases to be a mortgagee in possession of the lot and is not the owner of the lot under this Act.

### 96            Determination of fees

- (1) The Minister may determine fees for this Act.

*Note*        The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note*        A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

### 97            Approved forms

- (1) The planning and land authority may approve forms for this Act.
- (2) If the planning and land authority approves a form for a particular purpose, the approved form must be used for that purpose.

*Note*        For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

*Note*        A notifiable instrument must be notified under the [Legislation Act](#).

**98**      **Regulation-making power**

The Executive may make regulations for this Act.

*Note*      A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## Schedule 1 Default by-laws

(see s 48)

### 1.1 Duty to keep lot in good order and repair

- (1) The owner of a lot must keep buildings and structural improvements on the lot in a state of good repair and to a standard in keeping with other buildings and structural improvements on the site.
- (2) The owner must carry out any work in relation to the owner's lot that the owner is required to carry out by—
  - (a) the Territory; or
  - (b) a territory authority; or
  - (c) the body corporate.
- (3) The owner of a lot must not, without the body corporate's written permission, make or allow a change to the exterior character, design or finish of buildings or structural improvements on the lot.

### 1.2 Duty to prevent nuisance

The occupier of a lot must not use the lot, or allow its use, in a way that causes a nuisance to the owner or occupier of another lot.

### 1.3 Duty to allow access for maintenance and repair of common property

- (1) The body corporate is entitled to reasonable access to a lot to maintain, repair or replace common property.
- (2) A person authorised by the body corporate may enter the lot for that purpose—
  - (a) after giving to the occupier of the lot reasonable notice of intention to exercise the rights of access; or
  - (b) in an emergency, without notice.

**1.4 Duty to pay rates and taxes**

The owner of a lot must pay all rates, taxes and charges payable in relation to the owner's lot.

**1.5 Use of lots**

- (1) The occupier of a lot must not behave in a way likely to interfere with the reasonable use and enjoyment of another lot by the owner or occupier of another lot or the invitees of the owner or occupier of another lot.
- (2) An owner or occupier of a lot must take reasonable steps to ensure that invitees do not behave in a way likely to interfere with the reasonable use or enjoyment of another lot by the owner or occupier of another lot or the invitees of the owner or occupier of another lot.

**1.6 Duty to give information**

The owner of a lot must give the body corporate written notice of any change in the ownership of the lot.

**1.7 Animals and birds**

- (1) The owner of a lot must not keep, or permit to be kept, any animal or bird on the lot or the common property.
- (2) This by-law does not apply to the keeping of an animal or bird if the body corporate has given the person keeping the animal or bird written permission to do so.
- (3) Permission may be given subject to stated conditions.
- (4) Permission may be withdrawn by resolution of the body corporate.

**1.8      Body corporate's duties in relation to the common property**

The body corporate must—

- (a) administer, manage and control the common property reasonably and for the benefit of the owners and occupiers of the lots; and
- (b) establish and maintain (where appropriate) suitable lawns and gardens on the common property; and
- (c) maintain the utility infrastructure in good and serviceable order and condition.



## Schedule 2 Reviewable decisions

(see div 13.1)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	9	require changes to proposed community title scheme	applicant for approval
2	10	refuse to approve community title scheme	applicant for approval
3	11	amend management statement	applicant for approval
4	12 (b)	state provisions under which leases of common property to be held	applicant for approval
5	13 (2)	require developer to give bond	developer
6	13 (2)	fix amount of bond	developer
7	23 (2)	authorise amendment of community title scheme subject to conditions	applicant for authorisation
8	23 (2)	refuse to authorise amendment of community title scheme	applicant for authorisation

**Schedule 2**Reviewable decisions

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<b>column 1 item</b>	<b>column 2 section</b>	<b>column 3 decision</b>	<b>column 4 entity</b>
9	81 (1) (a)	refuse to consent to amalgamation of community title schemes	body corporate of scheme or owner of lot in scheme

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## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- function
- planning and land authority
- reviewable decision notice
- Supreme Court
- the Territory.

***administrative fund*** means a fund established by a body corporate to meet recurrent and capital expenditure of the body corporate.

***basic scheme***, for part 12 (Termination of community title schemes)—see section 87.

***body corporate*** means a body corporate created under this Act for a community title scheme.

***body corporate assets***, for a community title scheme, means items of real or personal property acquired by the body corporate, other than property that is incorporated into and becomes part of the common property.

***common property***, of a community title scheme—see section 18.

***community title certificate***—see section 56.

***community title scheme*** means a scheme created on the registration of a plan under part 3 (Establishment of community title schemes).

***Crown lease***—see the [Land Titles Act 1925](#), dictionary.

***Crown lessee***, in relation to a declared land sublease, means the lessee under the Crown lease under which the sublease is granted.

***declared land sublease***—see the [Planning and Development Act 2007](#), section 312C.

**developer**, of a community title scheme, means the person by or on whose behalf the scheme is, or is proposed to be, lodged for registration.

**eligible person**, for a lot in relation to which a community title certificate, or access to books, records or documents, is required, means—

- (a) the owner, or someone else with an interest in the lot, or in an easement over the lot; or
- (b) for a lot that is owned, or partly owned, by a company—a representative of the company; or
- (c) anyone authorised in writing by a person mentioned in paragraph (a) or (b); or
- (d) if access to the information or the books, records or documents is necessary for the administration of this Act—the director-general.

**exclusive use by-law** means a by-law giving the owner of a lot exclusive rights to the use and enjoyment of, or other special rights over, the common property of a community title scheme or part of the common property.

**land sublease**—see the [Planning and Development Act 2007](#), dictionary.

**lot**—

- (a) means a parcel of land for which a certificate of title has been issued under the [Land Titles Act 1925](#); but
- (b) does not include a land sublease other than a declared land sublease.

**lot entitlement schedule**—see section 7 (h) (Form and content of management statements).

**manager**, of a community title scheme, means a person appointed by the body corporate of the scheme under section 44.

**mortgage** includes a charge on a lot, or an interest in a lot, for securing money or money's worth.

**mortgagee in possession**, of a lot in a community title scheme, means a mortgagee who has taken steps to enforce a mortgage of the lot and has told the body corporate of the mortgagee's intention to enforce the mortgage (whether or not the mortgagee has actually gone into possession of the lot), but does not include a mortgagee who has told the body corporate of a decision not to continue with the enforcement of the mortgage.

**occupier**, of a lot included in a community title scheme, means—

- (a) a resident owner or resident sublessee of the lot, or someone else who lives on the lot; or
- (b) a person who occupies the lot for business purposes or works on the lot in carrying on a business from the lot.

**ordinary resolution**, of a body corporate, means a resolution passed at a properly called meeting of the members of the body corporate by a majority of the votes of members present and voting at the meeting.

**owner**, of a lot in a community title scheme, means the person who is (or is entitled to be) the registered owner of the lot, and, if 2 or more people are the registered owners (or are entitled to be the registered owners) of the lot, includes each of them.

**plan** means a community title master plan.

**prospective owner**, of a lot in a community title scheme, means a person who has entered into a contract to buy an existing or future lot in the scheme.

**reviewable decision**, for division 13.1 (Notification and review of decisions)—see section 93.

**road**—see the *Road Transport (General) Act 1999*, dictionary.

**schedule lot entitlement**, for a lot in a community title scheme, means the number allocated to the lot in the lot entitlement schedule for the scheme.

***scheme***—

- (a) for this Act generally—means a community title scheme; and
- (b) for division 12.2—see section 88.

***scheme A***, for division 11.2 (Amalgamation process)—see section 80.

***scheme B***, for division 11.2 (Amalgamation process)—see section 80.

***scheme C***, for division 11.2 (Amalgamation process)—see section 80.

***scheme land***, of a community title scheme, means the land the subject of the scheme.

***statutory easement*** means an easement under part 10.

***subsidiary scheme***, for part 11 (Amalgamation of community title schemes)—see section 77.

***termination issues***, for part 12 (Termination of community title schemes)—see section 87.

***unanimous resolution***, of a body corporate, means a resolution passed at a properly called meeting of the members of the body corporate against which no member of the body corporate casts a dissenting vote.

***units plan***—see the [Unit Titles Act 2001](#), dictionary.

***utility infrastructure*** means cables, wires, pipes, sewers, drains, ducts, plant and equipment by which lots are supplied with utility services.

***utility service*** means—

- (a) water reticulation or supply; or
- (b) gas reticulation or supply; or
- (c) electricity supply; or

- (d) airconditioning; or
- (e) telephone service; or
- (f) a computer or television service; or
- (g) a sewer system; or
- (h) drainage; or
- (i) a system for the removal of garbage or waste; or
- (j) another system or service designed to improve the amenity, or increase the enjoyment, of privately owned lots or common property.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired



### 3 Legislation history

#### **Community Title Act 2001 A2001-58**

notified 10 September 2001 ([Gaz 2001 No S66](#))  
s 1, s 2 commenced 10 September 2001 ((IA s 10B))  
remainder commenced 10 March 2002 (s 2 and LA s 79)

as amended by

#### **[Statute Law Amendment Act 2002 A2002-30 pt 3.7](#)**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
pt 3.7 commenced 17 September 2002 (s 2 (1))

#### **[Planning and Land \(Consequential Amendments\) Act 2002 A2002-56 sch 3 pt 3.3](#)**

notified LR 20 December 2002  
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))  
sch 3 pt 3.3 commenced 1 July 2003 (s 2 and see [Planning and Land Act 2002 A2002-55, s 2](#))

#### **[Heritage Act 2004 A2004-57 sch 1 pt 1.3](#)**

notified LR 9 September 2004  
s 1, s 2 commenced 9 September 2004 (LA s 75 (1))  
sch 1 pt 1.3 commenced 9 March 2005 (s 2 and LA s 79)

#### **[Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.14](#)**

notified LR 27 October 2005  
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))  
sch 1 pt 1.14 commenced 24 November 2005 (s 2)

#### **[Justice and Community Safety Legislation Amendment Act 2007 A2007-22 sch 1 pt 1.4](#)**

notified LR 5 September 2007  
s 1, s 2 commenced 5 September 2007 (LA s 75 (1))  
sch 1 pt 1.4 commenced 6 September 2007 (s 2)

## Endnotes

3 Legislation history

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**[Planning and Development \(Consequential Amendments\) Act 2007 A2007-25 sch 1 pt 1.8](#)**

notified LR 13 September 2007  
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))  
sch 1 pt 1.8 commenced 31 March 2008 (s 2 and see [Planning and Development Act 2007 A2007-24, s 2](#) and [CN2008-1](#))

**[Statute Law Amendment Act 2007 \(No 3\) A2007-39 sch 3 pt 3.7](#)**

notified LR 6 December 2007  
s 1, s 2 commenced 6 December 2007 (LA s 75 (1))  
sch 3 pt 3.7 commenced 27 December 2007 (s 2)

**[Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.15](#)**

notified LR 12 August 2008  
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))  
sch 3 pt 3.15 commenced 26 August 2008 (s 2)

**[ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 \(No 2\) A2008-37 sch 1 pt 1.23](#)**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.23 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 \(1\)](#) and [CN2009-2](#))

**[Administrative \(One ACT Public Service Miscellaneous Amendments\) Act 2011 A2011-22 sch 1 pt 1.32](#)**

notified LR 30 June 2011  
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))  
sch 1 pt 1.32 commenced 1 July 2011 (s 2 (1))

**[Planning and Development \(University of Canberra and Other Leases\) Legislation Amendment Act 2015 A2015-19 pt 5](#)**

notified LR 11 June 2015  
s 1, s 2 commenced 11 June 2015 (LA s 75 (1))  
pt 5 commenced 1 July 2015 (s 2 and [CN2015-9](#))

**[Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 3 pt 3.14](#)**

notified LR 13 April 2016  
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))  
sch 3 pt 3.14 commenced 27 April 2016 (s 2)

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Offences against Act—application of Criminal Code etc

s 4A ins [A2005-54](#) amdt 1.84

### Community title scheme proposal—application for approval

s 8 am [A2002-56](#) amdt 3.27; [A2008-28](#) amdt 3.57; [A2015-19](#) s 12

### Power of Minister to require changes to scheme proposal

s 9 am [A2002-56](#) amdt 3.27

### Community title scheme proposal—approval

s 10 am [A2002-56](#) amdt 3.27; [A2004-57](#) amdt 1.4; [A2007-25](#)  
amdt 1.33

### Community title scheme proposal—amendment of management statement

s 11 am [A2002-56](#) amdt 3.27, amdt 3.28

### Notice of approval of community title scheme proposal

s 12 am [A2002-56](#) amdt 3.27, amdt 3.28

### Security for staged developments and unfinished works

s 13 am [A2002-30](#) amdt 3.51; [A2002-56](#) amdt 3.20, amdt 3.27

### Endorsement of community title plan for registration

s 14 am [A2002-56](#) amdt 3.27, amdt 3.28

### Expiry of endorsement

s 15 am [A2002-56](#) amdt 3.27

### Request to register community title scheme

s 16 am [A2002-56](#) amdt 3.27

### Common property

s 18 am [A2007-39](#) amdt 3.14

### Progressive development

s 21 am [A2002-56](#) amdt 3.21; [A2007-25](#) amdt 1.34

### Application for authorisation to amend scheme

s 22 am [A2002-56](#) amdt 3.27

### Authorisation of amendment

s 23 hdg sub [A2002-56](#) amdt 3.22

s 23 am [A2002-56](#) amdt 3.27

### Expiry of authorisation

s 24 am [A2002-56](#) amdt 3.23, amdt 3.27

### Request to register amendment

s 25 am [A2002-56](#) amdt 3.24

## Endnotes

4 Amendment history

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### **Amendment by the Supreme Court**

s 27 am [A2002-30](#) amdt 3.52; [A2015-19](#) s 13; pars renum R12 LA

### **Injunction**

s 28 am [A2002-30](#) amdt 3.53; [A2002-56](#) amdt 3.25; [A2015-19](#) s 14;  
pars renum R12 LA

### **Functions of bodies corporate**

div 8.2 hdg sub [A2002-30](#) amdt 3.54

### **Functions of body corporate**

s 35 hdg sub [A2002-30](#) amdt 3.55

s 35 am [A2002-30](#) amdt 3.56

### **Appointment of manager**

s 44 am [A2002-30](#) amdt 3.57

### **Legal effect of by-laws**

s 52 am [A2007-22](#) amdt 1.21

### **Breach of by-laws—remedy**

s 53 am [A2002-30](#) amdt 3.58

### **Community title certificate and access to body corporate records**

s 56 am [A2007-39](#) amdt 3.15, amdt 3.16

### **Failure to give certificate or access—offence**

s 58 sub [A2005-54](#) amdt 1.85

### **Appointment of administrator**

s 61 am [A2002-30](#) amdt 3.59

### **Assignment of land under scheme**

s 64 am [A2002-56](#) amdt 3.27, amdt 3.28

### **Registration of dealing**

s 65 am [A2002-56](#) amdt 3.27; [A2016-18](#) amdt 3.61, amdt 3.62

### **Approval for amalgamations**

s 81 am [A2002-56](#) amdt 3.27

### **Termination of schemes**

s 89 am [A2002-56](#) amdt 3.26

### **Notification and review of decisions**

div 13.1 hdg sub [A2008-37](#) amdt 1.89

### **Meaning of *reviewable decision*—div 13.1**

s 93 am [A2002-56](#) amdt 3.27

sub [A2008-37](#) amdt 1.89

### **Reviewable decision notices**

s 94 am [A2002-56](#) amdt 3.27, amdt 3.28

sub [A2008-37](#) amdt 1.89

**Applications for review**

s 94A ins [A2008-37](#) amdt 1.89

**Notice of intention not to proceed to enforce mortgage**

s 95 sub [A2005-54](#) amdt 1.86

**Approved forms**

s 97 am [A2002-30](#) amdt 3.60; [A2002-56](#) amdt 3.27

**Land Titles Act 1925, section 139 (1) (other than the examples and note)**

s 99 om LA s 89 (3)

**Land Titles Act 1925, section 140 (1)**

s 100 om LA s 89 (3)

**Land (Planning and Environment) Act 1991, section 172B**

s 101 om LA s 89 (3)

**Land (Planning and Environment) Act 1991, new section 172B**

s 102 om LA s 89 (3)

**Unit Titles Act 2001, new section 48 (3) (d)**

s 103 om LA s 89 (3)

**Default by-laws**

sch 1 ss renum R5 LA  
am [A2007-39](#) amdt 3.17, amdt 3.18

*Note for sch 1* sch 1 also ins [A2008-37](#) amdt 1.90 and renum as sch 2

**Reviewable decisions**

sch 2 (prev sch 1) ins [A2008-37](#) amdt 1.90  
renum as sch 2 R10 LA

**Dictionary**

dict am [A2002-30](#) amdt 3.61; [A2007-39](#) amdt 3.19; [A2008-37](#)  
amdt 1.91, amdt 1.92  
def **Crown lease** ins [A2015-19](#) s 15  
def **Crown lessee** ins [A2015-19](#) s 15  
def **declared land sublease** ins [A2015-19](#) s 15  
def **eligible person** am [A2007-39](#) amdt 3.20, amdt 3.21;  
[A2011-22](#) amdt 1.99  
def **Land Act** om [A2007-25](#) amdt 1.35  
def **land sublease** ins [A2015-19](#) s 15  
def **lot** sub [A2015-19](#) s 16  
def **reviewable decision** ins [A2008-37](#) amdt 1.93  
def **scheme** sub [A2008-28](#) amdt 3.58

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 10 Mar 2002	10 Mar 2002– 16 Sept 2002	not amended	new Act
R2 17 Sept 2002	17 Sept 2002– 30 June 2003	<a href="#">A2002-30</a>	amendments by <a href="#">A2002-30</a>
R3 1 July 2003	1 July 2003– 8 Mar 2005	<a href="#">A2002-56</a>	amendments by <a href="#">A2002-56</a>
R4 9 Mar 2005	9 Mar 2005– 23 Nov 2005	<a href="#">A2004-57</a>	amendments by <a href="#">A2004-57</a>
R5 24 Nov 2005	24 Nov 2005– 5 Sept 2007	<a href="#">A2005-54</a>	amendments by <a href="#">A2005-54</a>
R6 6 Sept 2007	6 Sept 2007– 26 Dec 2007	<a href="#">A2007-22</a>	amendments by <a href="#">A2007-22</a>
R7 27 Dec 2007	27 Dec 2007– 30 Mar 2008	<a href="#">A2007-39</a>	amendments by <a href="#">A2007-39</a>
R8 31 Mar 2008	31 Mar 2008– 25 Aug 2008	<a href="#">A2007-39</a>	amendments by <a href="#">A2007-25</a>
R9 26 Aug 2008	26 Aug 2008– 1 Feb 2009	<a href="#">A2008-28</a>	amendments by <a href="#">A2008-28</a>
R10 2 Feb 2009	2 Feb 2009– 30 June 2011	<a href="#">A2008-37</a>	amendments by <a href="#">A2008-37</a>
R11 1 July 2011	1 July 2011– 30 June 2015	<a href="#">A2011-22</a>	amendments by <a href="#">A2011-22</a>
R12 1 July 2015	1 July 2015– 26 Apr 2016	<a href="#">A2015-19</a>	amendments by <a href="#">A2015-19</a>

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