

No. 56 of 2022.

***Strata Title Act 2022.***

Certified on : 4 OCT 2022



No. 56 of 2022.

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No. 56 of 2022.

AN ACT

entitled

***Strata Title Act 2022,***

Being an Act to provide for the registration of strata titles and for related purposes,

MADE by the National Parliament to come into operation, not less than six months after the date on which the Act comes into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C. (*qualified rights*) of the *Constitution*, namely -

- (a) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (b) the right to freedom of assembly and association conferred by Section 47; and
- (c) the right to protection from unjust deprivation of property conferred by Section 53; and
- (d) the special provision in relation to certain lands conferred by Section 54; and
- (e) the other rights and privileges on citizens conferred by Section 56,

is a law that is made under Section 38 of the *Constitution*, taking into account the National Goals and Directive Principles and Social Obligations made for the purposes of giving effect to the public interest in public order, public safety and public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this law relates to a matter of national interest.

**2. INTERPRETATION.**

In this Act, unless the contrary intention appears -

“annexed” means a unit subsidiary or an easement that is stated by this Act to be annexed to a unit, common property or an estate in leasehold and includes an appurtenant to a unit, common property or estate;

“appoint” means engage;

“attachment”, in relation to a building means -

- (a) an eave, gutter or downpipe; or
- (b) an awning; or
- (c) anything attached to the building prescribed by this Act;

“benefitted estate” means an easement right given by Section 36 and includes an easement declared by owners corporations under Section 37;

“boundary authority” means a boundary authority granted under Section 42;

“building” includes

- (a) a structure; and
- (b) any other improvement (including fixtures, fittings and site improvements); and

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- (c) as shown in a strata title application, a building, structure or improvement (including fixtures, fittings and site improvements such as paved paths or paved barbeque area) proposed to be erected, or as proposed to be altered or added;
- “building damage scheme” means a scheme described in Section 45;
- “burdened estate” means an estate that does not have easement rights given by Section 36 or Section 37;
- “cancellation authority” means an authority granted under Section 53;
- “cancellation dissolution order” means an order issued by the National Court under Section 62;
- “cancellation order” means an order issued by the National Court under Section 55;
- “Class A Unit” means a unit classified as a Class A Unit under Section 7;
- “Class B Unit” means a unit classified as a Class B Unit under Section 8;
- “common property” is all the parts of a parcel identified as common property before the strata plan is registered in the relevant strata title application or after the strata plan is registered in the strata plan;
- “corporate register” means a register kept by the owners’ corporation that lists the names of the owners of the unit or common property;
- “Department” means the Department of Lands and Physical Planning or its successor;
- “Departmental Head” means the head of the Department responsible for land matters;
- “developer” means the lessee of a parcel who applies for the approval of the subdivision of the parcel under Section 14;
- “development” of a parcel, a unit or common property means the erection, alteration or addition of a building on the parcel, unit or common property and includes a proposal for the erection, alteration or addition of a building on the parcel, unit or common property;
- “development statement” means a statement about a staged development, accompanying a strata title application;
- “encroachment” means a projection at, above or below ground level;
- “estate”, in relation to a unit title easement right given by this Act, means the unit or common property benefited or burdened by the right;
- “expiry dissolution order” means an order issued by the National Court under Section 65;
- “final building damage order” means an order issued by the National Court under Section 50;
- “former members” means the persons who were the members of the owners’ corporation immediately before it was dissolved;
- “improved value”, for calculating the unit entitlement of a unit (whether before or after the registration of the strata plan) means -
- (a) for a Class A Unit, the total of the following values:
    - (i) the value of the unit itself; and
    - (ii) for any unit subsidiaries annexed to the unit that are buildings or parts of buildings, the value of the buildings or parts of buildings; and
    - (iii) for any unit subsidiaries annexed to the unit that are constituted by land, the combined value of the land and all buildings on the land; or
  - (b) for a Class B Unit, the total of the following values:
    - (i) the combined value of the land occupied by the unit itself and of all buildings on the land; and
    - (ii) for any subsidiaries annexed to the unit that are buildings or parts of buildings, the value of the buildings or parts of buildings; and
    - (iii) for any unit subsidiaries annexed to the unit that are constituted by land, the combined value of the land and all buildings on the land;
- “interest”, in a unit or common property, means a legal or equitable estate or interest (whether registered or unregistered) in the lease of the unit or of the common property;

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“interested nonvoter” means a person with an interest in a unit or the common property in relation to an application under this Act if -

- (a) the interest was shown on the corporate register (or known to an executive member) when the application was made; and
- (b) either -
  - (i) the person’s interest was in a unit (otherwise than as mortgagee) or the common property when the resolution authorising the application was passed, but the person was not entitled to vote on the resolution; or
  - (ii) the person’s interest was as mortgagee in a unit when the resolution authorising the application was passed, but the mortgagee was not entitled to vote on the resolution through a mortgagee’s representative;

“lease” means -

- (a) for a unit, the lease of the unit under -
  - (i) Section 34; or
  - (ii) Section 67; or
  - (iii) Section 65 of the *Land Act 1996*; and
- (b) for common property, the lease of the common property under -
  - (i) Section 34; or
  - (ii) Section 65 of the *Land Act 1996*; and
- (c) for a parcel, the lease of the parcel -
  - (i) granted under the *Land Act 1996*; or
  - (ii) arising under Section 59;

“lessee” means -

- (a) for a unit, the owner of the unit; or
- (b) for the common property, the owners’ corporation; or
- (c) for a parcel, the registered proprietor of the lease of the parcel;

“maintenance”, of a building, a facility for a utility service or a utility conduit, means maintenance in good repair and working order, and includes repair, replacement, renewal and restoration;

“member” of an owners’ corporation means the owner of a unit in a strata plan and includes part-owners of a unit in a strata plan;

“minor boundary change” means a minor boundary change described in Section 13;

“ordinary resolution” means a resolution by a simple majority of the owners’ corporation;

“owner” means -

- (a) for a unit, the registered proprietor of the lease of the unit; and
- (b) for the common property, the owners’ corporation;

“owners’ corporation” means a corporation that is established when a strata plan is registered under the *Strata Title (Management) Act 2022*;

“parcel” means land proposed (in a strata title application) to be subdivided under this Act, or comprising the whole land subdivided under this Act (as shown in a registered strata plan);

“proprietor” of an interest in land and includes anyone who is entitled to exercise the rights of the proprietor in relation to the land;

“provisional building damage order” means an order issued by the National Court under Section 53;

“provisions”, of a lease means the provisions, covenants and conditions subject to which the lease is held;

“registered” means registered with the Registrar of Titles under the *Land Registration Act 1981*;

“schedule of unit entitlement”, in relation to a strata plan, means the schedule of unit entitlement forming part of the plan under Section 5;

“special resolution” means a resolution by an absolute majority of the owners’ corporation;

“stage” means a development stage identified in the development statement;



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- “staged development”, in relation to a strata title application, means a strata development that takes place in stages where each stages require separate approval;
- “strata plan” means the strata plan under Section 4.
- “strata title application” means an application under Section 3;
- “strata title assessment report” means a report required under Section 22;
- “strata title easement rights” means the easement rights under Section 35;
- “unanimous resolution” means a resolution that is agreed to by all the members of the owners’ corporation;
- “unit” means a part of a parcel described under Section 6;
- “unit entitlement” means a unit entitlement described under Section 5;
- “unit entitlement authority” means the authority granted under Section 39;
- “unit owner” means the registered proprietor of the lease of the unit;
- “unit subsidiary” means a part of a parcel that is annexed to a unit;
- “unopposed resolution” means a resolution that is not opposed by any member of the owners’ corporation;
- “utility services” means utility services provided by municipal authorities and includes -
- (a) the collection and passage of stormwater; and
  - (b) the supply of water (for drinking or any other use); and
  - (c) sewerage and drainage services; and
  - (d) garbage collection services; and
  - (e) gas, electricity and air services (including air-conditioning and heating); and
  - (f) communication services (including telephone, radio, television and internet).

### **PART II. - KEY CONCEPTS.**

#### *Division 1. - Strata Title Developments.*

#### **3. STRATA TITLE APPLICATION.**

A strata title application is an application under Section 15 for the subdivision of land under this Act.

#### **4. STRATA PLAN.**

(1) After a strata title application has been approved, a strata plan consisting of the following documents as required under Section 33 must be submitted for registration:

- (a) diagrams showing the subdivision; and
- (b) if the application provides for a staged development, the development statement; and
- (c) the schedule of unit entitlement; and
- (d) schedules of rent and lease provisions.

(2) After the documents in Subsection (1) are registered, the strata plan shall consist of the registered documents as amended from time to time.

#### **5. UNIT ENTITLEMENT.**

(1) The schedule of unit entitlement forming part of a strata plan is a schedule indicating, by numbers assigned to each unit, the improved value of each unit relative to each other unit (the unit’s unit entitlement).

(2) For the purposes of this Act, the total unit entitlement under a schedule of unit entitlement must be 10, 100, 1 000, 10 000 or 100 000.

#### **6. UNITS.**

(1) A unit is a part of a parcel shown in a unit title application or a strata plan as a unit.

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(2) After a strata plan is registered, a “unit” of the strata plan includes any unit subsidiary shown on the strata plan as annexed to the unit.

### **7. CLASS A UNITS.**

(1) A Class A Unit is a unit that is identified as a Class A Unit -

- (a) before a strata plan is registered in the relevant strata title application; or
- (b) after the relevant strata plan is registered in the strata plan.

(2) After a strata plan is registered, a Class A Unit of the strata plan includes any unit subsidiary shown on the strata plan as annexed to the unit.

### **8. CLASS B UNITS.**

(1) A Class B Unit is a unit that is identified as a Class B Unit -

- (a) before a strata plan is registered in the relevant strata title application; or
- (b) after the relevant strata plan is registered in the strata plan.

(2) After a strata plan is registered, a Class B Unit of the strata plan includes any unit subsidiary shown on the strata plan as annexed to the unit.

### **9. UNIT SUBSIDIARIES.**

A unit subsidiary is a part of a parcel identified as a unit subsidiary annexed to a unit -

- (a) before a strata plan is registered in the relevant strata title application; or
- (b) after the relevant strata plan is registered in the strata plan.

### **10. PERMISSIBLE UNIT SUBSIDIARIES.**

(1) An application under Section 14 must provide details showing a unit subsidiary in the relevant part of the parcel -

- (a) that is a building, or part of a building, consisting of any of the following:
  - (i) balcony; or
  - (ii) corridor; or
  - (iii) garage or carport; or
  - (iv) gazebo; or
  - (v) laundry; or
  - (vi) pergola; or
  - (vii) porch; or
  - (viii) stairway; or
  - (ix) shed; or
  - (x) storeroom; or
  - (xi) utility room; or
  - (xii) verandah; or
  - (xiii) any other part of the parcel approved by the Departmental Head under Subsection (2); or
- (b) that is suitable for one or more of the following purposes:
  - (i) a garden, lawn or yard; or
  - (ii) a car space or parking area; or
  - (iii) a recreation area; or
  - (iv) any other purpose approved by the Department under Subsection (2).

(2) When approving a strata title application under Section 14, the Departmental Head may approve a part of the parcel for Paragraph (a)(xiii) or for a purpose under Paragraph (b)(iv).

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### **11. COMMON PROPERTY.**

Common property is all the parts of a parcel identified as common property -

- (a) before a strata plan is registered in the relevant strata title application; or
- (b) after the relevant strata plan is registered in the strata plan.

#### *Division 2. - Boundaries.*

### **12. COMMON BOUNDARIES.**

(1) For the purpose of a common internal boundary, if a floor, wall or ceiling separates a Class A Unit or a unit subsidiary from common property or another unit or unit subsidiary, the common boundary lies along the centre of the floor, wall or ceiling, unless otherwise specified in the relevant strata title application or strata plan.

(2) For the purpose of a common external boundary, if a Class A Unit or a unit subsidiary is bounded by an external wall of the building containing the units, then, unless otherwise indicated in the relevant strata title application or strata plan -

- (a) the boundary of the unit or unit subsidiary lies along the centre of the wall; and
- (b) the part of the wall outside the boundary is common property.

### **13. MINOR BOUNDARY CHANGES.**

A minor boundary change is a change to the boundaries between units, or between units and the common property, to which all of the following apply:

- (a) the change would not involve any change of the boundaries of the parcel; and
- (b) the change would not substantially change the strata plan, or the proposed strata plan; and
- (c) the change would not result in any inconsistency arising with the provisions of the lease under which any of the units, or common property, is held; and
- (d) approval under this Act would still have been given if the proposals for the subdivision of the parcel under this Act, or any other relevant development proposals, had shown the boundaries as they are proposed to be changed.

## **PART III. – STRATA TITLE APPLICATIONS.**

### *Division 1. – Approval of Strata Title Applications.*

### **14. GENERAL REQUIREMENTS FOR STRATA TITLE APPLICATIONS.**

- (1) This section applies to a parcel if the remaining term of the parcel's lease is at least 50 years.
- (2) The lessee of the parcel may apply to the Departmental Head for the approval of the subdivision of the parcel under this Act.
- (3) The application must provide for the subdivision of the parcel into -
  - (a) Class A Units or Class B Units, but not both; and
  - (b) unit subsidiaries (if any are provided for in the application); and
  - (c) common property (for the remaining parts of the parcel).
- (4) The application may provide for the development of all or some of the units and unit subsidiaries (their staged development) after the approval of the application.
- (5) An application for a staged development may only be approved if -
  - (a) the development has development approval under the *Physical Planning Act 1989*; and

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- (b) for developments of Class A Units, the boundary floors, walls and ceiling of each unit has already been built in accordance with the development statement.
- (6) The application must include -
  - (a) a strata title assessment report that is not more than three months old; and
  - (b) a plan prepared by a registered surveyor showing anything prescribed by Division 2.
- (7) If the application provides for a staged development, it must include -
  - (a) a development statement prepared in accordance with Section 30; and
  - (b) on the completion of each stage of the development, the documents mentioned in Subsection (6).
- (8) In this section “stage” of a development means a stage identified in the development statement.

### **15. STRATA TITLE APPLICATIONS FOR CLASS A AND CLASS B UNITS.**

(1) A strata title application for a Class A Unit must show the unit as part of a building, with boundaries defined by reference to the floors, walls and ceilings of the building to be included in the application.

(2) A strata title application for a Class B Unit must show the unit as land that has boundaries unlimited in height except to the extent of any encroachment at, above or below ground level by another part of the parcel.

### **16. STRATA TITLE APPLICATIONS FOR UNIT SUBSIDIARIES.**

- (1) A strata title application must show any unit subsidiary as -
- (a) a building, or part of a building, of a kind prescribed by Section 10; or
  - (b) a building, or part of a building, or land, that is suitable for a purpose prescribed by Section 10.

(2) The application must show a unit subsidiary consisting of a building or part of a building with boundaries defined by reference to the floors, walls and ceilings of the building.

(3) The application must show a unit subsidiary consisting of land as having boundaries unlimited in height except to the extent of any encroachment at, above or below ground level by another part of the parcel.

(4) The application must show unit subsidiaries as annexed to a particular unit, but need not show unit subsidiaries as adjoining the unit.

### **17. APPROVAL OF STRATA TITLE APPLICATIONS.**

- (1) The Departmental Head may approve a strata title application if he is satisfied that -
- (a) the application is in accordance with this Act; and
  - (b) each unit is, or will be, suitable for separate occupation, and for a use that is not inconsistent with the lease of the parcel; and
  - (c) the proposed schedule of unit entitlement is reasonable, having regard to the prospective relative improved value of the units.

(2) If a strata title application provides for staged development, the Departmental Head may approve a stage of the development (a development stage) as if the stage were a strata title application.

- (3) The Departmental Head may approve a development stage only if it is satisfied that -
- (a) the development has approval under the *Physical Planning Act 1989*; and

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- (b) for a staged development of Class A Units, the boundary floors, walls and ceiling of each unit in the development stage have been built in accordance with the development statement.

(4) The Departmental Head may refuse to approve the application if the lessee is in breach of the lease of the parcel, or a provision of, or requirement under, the *Physical Planning Act 1989*.

- (5) The Departmental Head may refuse to approve the application if the applicant -
  - (a) has not provided a strata title assessment report under Section 14(6); or
  - (b) has provided a strata title assessment report under Section 14(6) that is more than three months old; or
  - (c) has not provided some or all of the information requested by the Departmental Head under Section 26 within the time -
    - (i) stated in the request; or
    - (ii) if the Departmental Head has extended the period within which further information must be provided, by the end of that period.

### **18. REASONABLE RENT IN STRATA TITLE APPLICATIONS.**

(1) If the Department considers that the rent proposed in a strata title application to be reserved for the lease of one or more units is not reasonable in the circumstances, the Departmental Head must determine what rent is reasonable for the relevant unit or units.

(2) The total rent for all units, worked out in accordance with the Departmental Head's determination, must not exceed the rent payable under the lease of the parcel when the determination is made.

### **19. AMENDMENT TO DEVELOPMENT STATEMENT BY DEPARTMENT IN STRATA TITLE APPLICATIONS.**

If a strata title application provides for a staged development, the Departmental Head may, before approving the application under Section 17, amend the development statement if the Departmental Head considers it reasonable to do so to minimise the adverse effect of the development on any person's amenity while it is taking place.

#### *Division 2. - Survey Plan Requirements.*

### **20. DIAGRAMS ON MANNER OF SUBDIVISION.**

A strata title application must be accompanied by diagrams showing how the parcel is to be subdivided, including the following details -

- (a) the classification of the units as Class A Units or Class B Units; and
- (b) a unit subsidiary or subsidiaries annexed to each unit; and
- (c) the number of each unit; and
- (d) the number of each unit subsidiary, consisting of the letter "S" followed by the number of the unit to which the unit subsidiary is annexed, followed by any further number necessary to distinguish the subsidiary from any other subsidiaries annexed to that unit; and
- (e) if the proposals provide for a Class B Unit, or a unit subsidiary other than a subsidiary that is a building or part of a building, with a projection above or below ground level by another part of the parcel -
  - (i) a statement to the effect that the unit or subsidiary is limited in vertical dimensions by such a projection; and
  - (ii) a statement of the nature of that projection.

**21. BOUNDARY DIAGRAMS.**

- (1) A strata title application must be accompanied by the following diagrams -
  - (a) a boundary diagram showing the following and their relationship to each other:
    - (i) the boundaries of the parcel; and
    - (ii) the extremities of each building on the parcel at, or projected to, ground level; and
    - (iii) the boundaries of any Class B Units; and
  - (b) if the application provides for a building to be subdivided so that any Class A Unit is completely or partly above another Class A Unit, a separate diagram for each floor of the building showing -
    - (i) sufficient particulars, at floor level, to allow the vertical boundaries of each unit on that floor to be worked (without necessarily stating any bearings or dimensions); and
    - (ii) the approximate area of each unit; and
  - (c) if the application provides for a building to be subdivided into Class A Units otherwise than as mentioned in Paragraph (b), a diagram showing -
    - (i) sufficient particulars, at floor level, to allow the vertical boundaries of each unit on that floor to be worked out (without necessarily stating any bearings or dimensions); and
    - (ii) the approximate area of each unit.
- (2) The diagrams mentioned in Subsection (1)(a) and (c) may be combined.
- (3) The diagrams required by this section must also show -
  - (a) a unit subsidiary consisting of a building or part of a building as if the subsidiary were a Class A Unit; and
  - (b) any other unit subsidiary as if the subsidiary were a Class B Unit; and
  - (c) the position of boundary fences and boundary walls; and
  - (d) the site and nature of any existing or proposed easements affecting the parcel.

***Division 3. - Strata Title Assessment Report for Strata Title Applications.***

**22. STRATA TITLE ASSESSMENT REPORTS.**

An application under Section 14 must provide a strata title assessment report containing all information as prescribed under Section 23, including any details or materials prescribed by this Act.

**23. CONTENTS OF STRATA TITLE ASSESSMENT REPORTS.**

- (1) An applicant for a strata title must provide the following information in the strata title assessment report:
  - (a) allotment and section number, street name and number, and town and province of the parcel to be subdivided; or
  - (b) if the parcel is in a district that is -
    - (i) divided into divisions, the division name; or
    - (ii) not divided into divisions, the district name; and
  - (c) the following particulars of the applicant:
    - (i) the full name, postal, email address and telephone number; or
    - (ii) if the applicant is a company, the company's registration number; and
  - (d) the date the report is prepared; and
  - (e) the signature of the applicant or, if the applicant is not a natural person, the signature of the applicant's authorised representative; and
  - (f) the certificate of completion issued under the ***Building Regulation 1994*** for the building or buildings which are the subject of the application; and

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- (g) the certificate of unit entitlements prepared by a registered valuer with the total number of unit entitlements shown on the certificate to be 10, 100, 1 000, 10 000 or 100 000 which is not more than three months old; and
- (h) a copy of any relevant development approvals along with a statement from the applicant that the development approval has been complied with; and
- (i) a site plan for that parcel prepared by a registered surveyor that is not more than three months old; and
- (j) a floor plan for the parcel prepared by a registered surveyor that is not more than three months old.

(2) If the strata title assessment report is in relation to a stage of a staged development, the applicant need only report on those matters mentioned in Subsection (1) that relate to the stage.

### **24. REQUEST FOR FURTHER INFORMATION ON THE STRATA TITLE ASSESSMENT REPORT.**

(1) The Departmental Head may request, in writing, for further information to be provided by the applicant in the strata title assessment report, before the approval is granted under Section 9.

(2) Subject to Subsection (3), an applicant must provide all the information requested under Subsection (1) within 20 working days, failing which, the Departmental Head may refuse to grant approval.

(3) Before the expiry of the 20 working days under Subsection (2), an applicant may apply to the Departmental Head for an extension for a further period of 20 days, which shall be not more than once, to comply with the request for further information.

### ***Division 4. - Development Statements.***

### **25. CONTENTS OF DEVELOPMENT STATEMENTS.**

(1) An applicant for a strata title must provide the following information in the development statement:

- (a) a description of the land consisting of the parcel; and
- (b) a copy of the plans relating to the development, and any amendment of the plans, as approved in the development approval under the *Physical Planning Act 1989*; and
- (c) state how the staged development is to be carried out, including -
  - (i) a description of the work (including common property amenities) to be completed in each stage of the development; and
  - (ii) a schedule of commencement and completion dates for each stage; and
  - (iii) the arrangements for access to the parcel during the development stage; and
  - (iv) the permitted uses of the common property during the development stage; and
  - (v) landscaping of the parcel; and
- (d) state that the developer must pay the reasonable expenses incurred by the owners' corporation -
  - (i) in repairing any damage to the common property, or to units, in the completed stages of the development that is caused in carrying out the development; and
  - (ii) for any water, sewerage, drainage, gas electricity, oil, garbage, conditioned air or telephone service used in carrying out the development; and
- (e) state that the developer must make good, as soon as practicable, any damage to the common property or units in the completed stages of the development caused in carrying out the development; and

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- (f) state that the standard of materials used, finishes effected, common property improvements, landscaping, roadways and paths to be carried out in the development must not be inferior to or substantially different from those of the buildings and other works in the completed stages of the development; and
- (g) include as a requirement that after the completion of any stated stages of the development, and after the completion of the entire development, the Departmental Head must be provided with a report by a registered surveyor about the position of fully or partially completed building in relation to the boundaries of the units and of the parcel.

(2) The development statement may apportion the liability for the expenses for the use or maintenance of the common property of the staged development differently from the way that liability would otherwise be apportioned by the schedule of unit entitlement.

(3) An apportionment under Subsection (2) has effect despite the current schedule of unit entitlement, but does not apply to any liability for the use or maintenance of the common property after the development is completed.

### **26. AMENDMENT OF DEVELOPMENT STATEMENTS BEFORE REGISTRATION.**

(1) After a strata title application providing for a staged development is approved under Section 17 and before the strata plan is registered, the lessee of the parcel may apply to the Departmental Head for the amendment of the development statement.

(2) The Departmental Head may amend the development statement as applied for after being satisfied on reasonable grounds that -

- (a) the applicant has obtained the written agreement to the amendment of each person with an interest in the parcel (except any interested person to whom Subsection (3) applies); and
- (b) any change of unit or common property boundaries provided for by the amendment is a minor boundary change.

(3) Subject to a notice being given in the daily newspapers for such amendment proposed to be done by the Departmental Head within a specified period for objections and where none is received, the Departmental Head may amend the development statement despite the applicant's failure to obtain an interested person's agreement, if the Department is satisfied on reasonable grounds that -

- (a) the applicant could not reasonably be aware of that interest, or has made reasonable efforts to obtain the agreement; and
- (b) either -
  - (i) the interested person would not suffer any substantial long-term detriment because of the proposed amendment; or
  - (ii) despite that failure, it is desirable to authorise the amendment having regard to the overall interests of every person with interests in the parcel.

(4) The Departmental Head may refuse to amend the development statement if, in the Departmental Head's opinion based on reasonable grounds, the amendment would result in the development having a significantly adverse effect on anyone's amenity while it is taking place.

### **27. AMENDMENT OF DEVELOPMENT STATEMENTS AFTER REGISTRATION.**

(1) After a strata plan that is subject to a staged development has been registered, and before the development is completed, the lessee of the parcel may, immediately before registration, apply to the Department for the amendment of the development statement.



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(2) If the amendment of the development statement only affects an uncompleted stage of a staged development, the Department may amend the development statement as applied for if the Department is satisfied, on reasonable grounds that -

- (a) the applicant has obtained the written agreement to the amendment of each person with an interest in a unit in that part of the parcel comprising the uncompleted stages of the development (except any interested person to whom Subsection (3) applies); and
- (b) any change of unit or common property boundaries provided for by the amendment is a minor boundary change under Section 13 within the uncompleted stages of the development.

(3) The Department may amend the development statement under Subsection (2) despite the applicant's failure to obtain an interested person's agreement if the Department is satisfied on reasonable grounds that -

- (a) the applicant could not reasonably be aware of that interest, or has made reasonable efforts to obtain the agreement; and
- (b) either -
  - (i) the interested person would not suffer any substantial long-term detriment because of the proposed amendment; or
  - (ii) despite that failure, it is desirable to authorise the amendment having regard to the overall interests of every person with an interest in that part of the parcel comprising the uncompleted stages of the development.

(4) If Subsection (2) does not apply, the Departmental Head may amend the development statement as applied for if the Departmental Head is satisfied, on reasonable grounds that -

- (a) the application is authorised by a of the owners' Departmental Head corporation made within three months before the day the application is given to the; and
- (b) the applicant has obtained the written agreement of each interested nonvoter (except any interested nonvoter to whom Subsection (5) applies); and
- (c) any change of unit or common property boundaries provided for by the amendment is a minor boundary change as described under Section 13.

(5) The Departmental Head may amend the development statement under Subsection (4) despite the applicant's failure to obtain an interested nonvoter's agreement if the Departmental Head is satisfied on reasonable grounds that -

- (a) the applicant has made reasonable efforts to obtain the agreement; and
- (b) either -
  - (i) the interested nonvoter would not suffer any substantial long-term detriment because of the proposed amendment; or
  - (ii) despite that failure, it is desirable to authorise the amendment having regard to the overall interests of every person with interests in the units and the common property.

(6) The Department may refuse to amend the development statement if, in the Departmental Head's opinion based on reasonable grounds, the amendment would result in the development having a significantly adverse effect on anyone's amenity while it is taking place.

(7) The Departmental Head may authorise the amendment of the schedule of unit entitlement to reflect a change of boundaries if -

- (a) the amendment of the development statement requires the change of boundaries; and
- (b) the Department is satisfied, on reasonable grounds, that the amendment is necessary to reflect accurately a change in the relative improved values of the units.

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(8) If the Departmental Head authorises the amendment of the schedule of unit entitlement under this section -

- (a) the Department must -
  - (i) endorse the amended schedule of unit entitlement; and
  - (ii) give a notice of authorisation to the lessee; and
- (b) the lessee must lodge with the Registrar of Titles -
  - (i) the endorsed amended schedule of unit entitlement; and
  - (ii) the notice of authorisation.

(9) If the Department amends the development statement under this section -

- (a) the Department must endorse the amended development statement; and
- (b) the lessee must lodge with the Registrar of Titles the endorsed amended development statement.

### **28. EFFECT OF REGISTRATION OF AMENDMENT.**

On the registration of an amended development statement, and any amended schedule of unit entitlement lodged under Section 27 -

- (a) the strata plan is amended accordingly; and
- (b) if a unit or common property boundary is changed, the land covered by each affected lease is the area of land as indicated by the boundaries as amended.

#### *Division 5. - Endorsement of Strata Plans for Registration.*

### **29. NOTICE OF APPROVAL OF STRATA TITLE APPLICATIONS.**

(1) If the Departmental Head approves a strata title application for a parcel, the Departmental Head must give the lessee of the parcel -

- (a) written notice of the approval, including, a copy of the development statement, signed by the Department, as amended (if at all) under Section 19, if the application provides for a staged development; and
- (b) a schedule setting out the rent to be reserved under the lease of each unit and the provisions subject to which the lease of the unit is to be held; and
- (c) a schedule setting out the provisions subject to which the lease of the common property is to be held.

(2) The rent reserved under the lease of a unit as indicated in the schedule mentioned in Subsection (1)(b) is the rent for that unit (including any unit subsidiary annexed to the unit) as indicated in the application or as decided by the Departmental Head under Section 18.

### **30. RENT FOR COMMON PROPERTY LEASE.**

The rent reserved under a lease of common property is 5 toea per year payable if and when demanded.

### **31. ENDORSEMENT OF STRATA TITLE REGISTRATION.**

(1) If the Departmental Head has approved a strata title application, the lessee of the parcel must submit to the Departmental Head for endorsement under this section, a strata plan consisting of the following documents:

- (a) diagrams showing the subdivision as approved; and
- (b) if the application provides for a staged development -
  - (i) the development statement as approved; or
  - (ii) if the development statement has been amended under Section 26, the development statement as amended; and
- (c) the schedule of unit entitlements as approved; and

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- (d) The schedules of rent and lease provisions given to the lessee under Section 29(1)(b) and (c).
- (2) The documents must comply with the sections of this Act which relate to those documents.
- (3) The Departmental Head must endorse the documents as the strata plan in accordance with this Act if -
  - (a) there has been no development on the parcel since the application was approved by the Departmental Head (except any part of a staged development carried out in accordance with the development statement); or
  - (b) the lessee is in breach of the lease, or of a provision of (or requirement under) the *Physical Planning Act 1989* or the *Land Act 1996* that applies because the lessee is the lessee of the parcel; or
  - (c) the documents submitted to the Departmental Head are not in accordance with the application as approved, or do not comply with this section.

### **32. LAPSE OF ENDORSEMENT AFTER THREE MONTHS.**

- (1) An endorsement of a strata plan under Section 31 ceases to have effect -
  - (a) after three months of its endorsement, if the strata plan is not lodged with the Registrar of Titles for registration under the *Land Registration Act 1981*; or
  - (b) if the strata plan is lodged within three months after the endorsement was made, and is subsequently withdrawn under the *Land Registration Act 1981*.
- (2) If an endorsement of a strata plan ceases to have effect, the lessee of the parcel may again submit the strata plan to the Departmental Head for endorsement under Section 31.

## **PART IV. - REGISTRATION OF STRATA PLANS.**

### *Division 1. - Subdivision, Unit Leases and Common Property Leases.*

### **33. SUBDIVISION OF PARCEL MADE BY REGISTRATION.**

On and after the registration of a strata plan, the parcel is subdivided as specified in the diagrams in the strata plan.

### **34. LEASES OF UNITS AND COMMON PROPERTY.**

- (1) On the registration of a strata plan, the lease of the parcel ends.
- (2) On the registration of the strata plan, the former lessee of the parcel becomes the holder of an estate in leasehold in each unit for the term fixed under Subsection (4), subject to the provisions in the strata plan for each unit, as is a separate lease of that unit for that term and subject to those provisions had been granted to the former lessee by the State under the *Land Act 1996*.
- (3) On the registration of the strata plan, the owners' corporation becomes the holder of an estate of leasehold in the common property for the term fixed under Subsection (4), subject to the provisions set out in the strata plan for the common property, as if, a lease of the common property for that term and subject to those provisions had been granted to the corporation by the State under the *Land Act 1996*.
- (4) The term of the leases of the units and of the common property begins on the registration of the strata plan and ends on the date stated in the strata plan, when, apart from the operation of this section, the term of the lease of the parcel would have ended.

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- (5) The estate of which a person or the owners' corporation becomes the holder under this section -
- (a) is subject to any mortgage mentioned in Section 7 of the *Land Registration Act 1981*; and
  - (b) is subject to, and has annexed to it, any easement mentioned in that section; and
  - (c) is subject to, and has annexed to it, the easements given by Section 36 of this Act.

(6) In this section "former lessee" means the person who was the lessee of the parcel immediately before registration.

### *Division 2. - Easements.*

#### **35. STRATA TITLE EASEMENT RIGHTS.**

- (1) This division applies to the rights (strata title easement rights) that the owner of a benefited estate may have against the owner of a burdened estate.
- (2) These rights in Subsection (1) includes the following:
- (a) rights of support, shelter and protection (including rights for shelter provided by encroaching eaves, awnings or similar structures) -
    - (i) provided by the burdened estate at the time of the registration of the strata plan, or at the time of the latest amendment (if any) of the plan after its registration; and
    - (ii) that will be provided by the burdened estate on compliance by its owner with a building and development provision (if any) in the lease of the burdened estate; and
  - (b) rights to utility services, and to their provision by any reasonable form of utility conduit (including rights for the collection, passage and drainage of rainwater by encroaching gutters, downpipes or similar structures); and
  - (c) all ancillary rights necessary to make the rights mentioned in Paragraphs (a) and (b) effective, including a right of entry by the owner of the benefited estate at all reasonable times on the burdened estate for the inspection and maintenance of -
    - (i) any building on the estate; or
    - (ii) facilities for any utility service on the estate; or
    - (iii) any utility conduit on the estate.

#### **36. EASEMENTS GIVEN BY THIS ACT.**

- (1) On and after the registration of a strata plan, the owner of a benefited estate has, against the owner of a burdened estate, all strata title easement rights that are necessary for the reasonable use and enjoyment of the benefited estate.
- (2) A strata title easement right under this section is an easement annexed to the benefited estate.
- (3) An easement given by this section exists even if the same person is the owner of both the benefited and burdened estates.
- (4) A person carrying out work in the exercise of a strata title easement right under this section must make good any damage done in carrying out the work.

#### **37. EASEMENTS DECLARED BY OWNERS' CORPORATIONS.**

- (1) An owners' corporation may, by ordinary resolution, with the consent of the owners of each affected estate, declare that the owner of a benefited estate has, against the owner of a burdened estate, all strata title easement rights that are necessary for the reasonable support and maintenance of an encroachment of a kind prescribed by this Act.

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(2) A strata title easement right declared by an owners' corporation under this section is an easement annexed to the benefited estate.

(3) An easement declared by an owners' corporation under this section exists even if the same person is the owner of both the benefited and burdened estates.

(4) A person carrying out work in the exercise of a strata title easement right under this section must make good any damage done in carrying out the work.

(5) An easement declared by an owners' corporation under this section may only be revoked -  
(a) by special resolution of the owners' corporation; and  
(b) with the consent of the owners' corporation of each affected estate.

### **38. REGISTRATION OF EASEMENTS DECLARED BY OWNERS' CORPORATIONS.**

A resolution of an owners' corporation under Section 37 declaring or revoking an easement takes effect on the registration of the easement, or of a memorandum of extinguishment of the easement, together with written evidence of the consent of the owners of each affected estate.

## **PART V. - AMENDMENT OF STRATA PLANS.**

### *Division 1. - Amendment of Schedule of Unit Entitlement.*

### **39. AUTHORITY TO GRANT UNIT ENTITLEMENT.**

(1) An owners' corporation may apply to the Departmental Head for a unit entitlement authority for the amendment of the schedule of unit entitlement.

(2) The Departmental Head may, by written notice to the owners' corporation, grant a unit entitlement authority if the Department is satisfied, on reasonable grounds that -

- (a) the application is authorised by a special resolution of the owners' corporation made within three months before the day the application is made; and
- (b) the amendment is necessary to reflect accurately the current relative improved values of the units, or a change in those values that is anticipated after a particular event happens.

(3) The Departmental Head may grant a unit entitlement authority subject to the condition that it is to take effect only when a stated event happens.

(4) If the owners' corporation applies for a unit entitlement authority that is to remain in force for longer than three months, the Departmental Head may, in authorising the unit entitlement amendment, if satisfied that an extended period is justified -

- (a) allow the extended period applied for; or
- (b) allow a shorter extended period.

### **40. EFFECTIVE PERIOD OF UNIT ENTITLEMENT AUTHORITY.**

(1) A unit entitlement authority remains in force for -

- (a) a period of three months after it is granted, or after an event stated in the authority happens; or
- (b) an extended period allowed under Section 39 (4).

(2) A unit entitlement authority must state the period for which it is in force.

### **41. REGISTRATION OF UNIT ENTITLEMENT AUTHORITY.**

On the registration of a unit entitlement authority, the strata plan is amended accordingly.

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### *Division 2. - Minor Boundary Changes.*

#### **42. GRANT OF BOUNDARY AUTHORITY.**

(1) An owners' corporation may apply to the Departmental Head for a boundary authority for the change of any unit or common property boundaries, together with any consequential amendment of the schedule of unit entitlement.

(2) The Departmental Head may grant a boundary authority if the Departmental Head is satisfied, on reasonable grounds that -

- (a) the application is authorised by a unanimous resolution of the owners' corporation made within three months before the application is made; and
- (b) the corporation has obtained the written agreement of each interested nonvoter, except an interested nonvoter to whom Subsection (3) applies; and
- (c) the authorised boundary change is a minor boundary change; and
- (d) if an amendment to the schedule of unit entitlement is authorised, the amendment is necessary to reflect accurately a change in the relative improved values of the units because of the change of boundaries as authorised.

(3) The Departmental Head may grant a boundary authority despite the owners' corporation's failure to obtain an interested nonvoter's agreement if the Departmental Head is satisfied, on reasonable grounds that -

- (a) the corporation has made reasonable efforts to obtain the agreement; and
- (b) either -
  - (i) the interested nonvoter would not suffer a substantial long-term detriment because of the proposed change; or
  - (ii) despite that failure, it is desirable to authorise the change, having regard to the overall interests of every person with an interest in the units and the common property.

(4) If the owners' corporation applies for a boundary authority that is to remain in force for longer than three months, the Departmental Head may, in authorising the change, if satisfied that an extended period is justified -

- (a) allow the extended period applied for; or
- (b) allow a shorter extended period.

#### **43. EFFECTIVE PERIOD OF BOUNDARY AUTHORITY.**

- (1) A boundary authority remains in force for -
- (a) three months after it is granted; or
  - (b) any extended period allowed under Section 42(4).

(2) A boundary authority must state the period for which it is in force.

#### **44. REGISTRATION OF BOUNDARY AUTHORITY.**

On registration of a boundary authority -

- (a) the strata plan is amended accordingly; and
- (b) the land covered by each affected lease is the area of land indicated by the boundaries as changed.

### *Division 3. - Building Damage Scheme.*

#### **45. BUILDING DAMAGE SCHEME.**

A building damage scheme for a strata plan is a scheme for -

- (a) the reinstatement of any building on the parcel that is damaged or destroyed; and

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- (b) the elimination of any Class A unit that is damaged or destroyed, if the unit will not be reinstated; and
- (c) the consequential amendment of the strata plan; and
- (d) the application of any insurance amount paid or payable for the damage or destruction to any building on the parcel; and
- (e) the payment of compensation or other money to the owner of any unit, and any person who may be adversely affected by the scheme.

### **46. RIGHT OF APPEARANCE.**

(1) The following have a right to appear on an application for a provisional building damage order or a final building damage order:

- (a) the owners' corporation; and
- (b) a unit owner, or any person with an interest in a unit, or the common property, that is recorded on the corporate register; and
- (c) an insurer who has insured a building on the parcel under the *Strata Title (Management) Act 2022*; and
- (d) the Departmental Head.

(2) The applicant must serve a copy of the application on every person who has a right to appear, except the Department.

(3) A person who has a right to appear may be represented by a lawyer or any person allowed under law.

### **47. PROVISIONAL DAMAGE ORDER APPLICATION.**

(1) This section applies if -

- (a) after the registration of a strata plan, a building on the parcel is damaged or destroyed, unless the damage or destruction happens in the course of demolition or development of the building; and
- (b) a cancellation authority or cancellation order for the strata plan is not in force; and
- (c) an application for a cancellation authority or cancellation order for the strata plan is not pending.

(2) If this section applies -

- (a) the owners' corporation, authorised by an ordinary resolution; or
- (b) a unit owner,

may apply to the National Court for a provisional building damage order, approving a building damage scheme incorporating unit redevelopment.

(3) The application must be accompanied by the proposed building damage scheme.

(4) On application by the applicant for the provisional damage order, if the Department is satisfied that approval under this Act or any other relevant law for the unit redevelopment would still have been given if the proposals for the subdivision of the parcel under this Act, or any other relevant development proposals, had shown the strata plan as it is proposed to be altered by the unit redevelopment, the Department must give the applicant a certificate to that effect.

### **48. PROVISIONAL BUILDING DAMAGE ORDER AND ANCILLARY ORDERS.**

(1) The National Court may make a provisional building damage order on application under Section 52 if the Court is satisfied that -

- (a) the damage or destruction to the building did not happen in the course of the development or demolition of the building; and

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(b) it is just and equitable to do so.

(2) The National Court may make any ancillary order necessary or convenient for giving effect to a provisional building damage order.

### **49. EFFECTIVE PERIOD OF PROVISIONAL DAMAGE ORDER.**

A provisional building damage order, or any ancillary order, remains in force for -

- (a) a period of three months as stated in the order; or
- (b) an extended period as ordered by the National Court on application by the applicant.

### **50. FINAL BUILDING DAMAGE ORDER.**

(1) This section applies while a provisional building damage order approving a building damage scheme is in force.

(2) On application by the applicant for the provisional building damage order, the National Court may make a final building damage order, authorising the amendment of the strata plan in accordance with the building damage scheme approved under the provisional damage order.

(3) The National Court may make a final building damage order only if the Court is satisfied that -

- (a) the approved building damage scheme has been carried out as far as practicable; and
- (b) any order ancillary to the provisional building damage order has been complied with.

(4) The National Court may make any ancillary order necessary or convenient for giving effect to a final building damage order.

### **51. EFFECTIVE PERIOD OF FINAL BUILDING DAMAGE ORDER.**

A final building damage order, or any ancillary order, remains in force for -

- (a) a period of three months as stated in the order; or
- (b) an extended period as ordered by the National Court on application by the applicant.

### **52. REGISTRATION OF FINAL BUILDING DAMAGE ORDER.**

(1) On registration of a final building damage order -

- (a) the strata plan is amended in accordance with the approved building damage scheme; and
- (b) if the unit or common property boundaries are amended, the land covered by each affected lease of the area of land indicated by the boundaries is changed accordingly.

(2) In addition, on registration of a final building damage order authorising the elimination of a unit -

- (a) the lease of the eliminated unit ends; and
- (b) the land covered by the lease of the unit, immediately before the registration of the order, is included in the land covered by the lease of the common property.

## **PART VI. - CANCELLATION OF STRATA PLANS.**

### ***Division 1. - Cancellation Authority.***

### **53. GRANT OF CANCELLATION AUTHORITY BY THE DEPARTMENTAL HEAD.**

(1) An owners' corporation may apply to the Departmental Head for a cancellation authority for the cancellation of a strata plan.



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- (2) On application for a cancellation authority, the Departmental Head may -
  - (a) grant the cancellation authority; or
  - (b) refuse to grant the cancellation authority.
  
- (3) The Department may grant a cancellation authority only if the Departmental Head is satisfied that -
  - (a) the application is supported by a unanimous resolution of the owners' corporation made within three months before the application is made; and
  - (b) the corporation has obtained the written agreement of each interested nonvoter, except any interested nonvoter to whom Subsection (4) applies.
  
- (4) The Departmental Head may grant a cancellation authority despite the owners' corporation's failure to obtain an interested nonvoter's agreement if the Departmental Head is satisfied, on reasonable grounds that -
  - (a) the corporation has made reasonable efforts to obtain the agreement; and
  - (b) either -
    - (i) the interested nonvoter would not suffer any substantial long-term detriment because of the proposed cancellation; or
    - (ii) despite that failure, it is desirable to authorise the cancellation, having regard to the overall interests of every person with an interest in the units and the common property.
  
- (5) If the owners' corporation applies for a cancellation authority that is to remain in force for longer than three months, the Departmental Head may, in authorising the cancellation, if the Departmental Head is satisfied that an extended period is justified -
  - (a) allow the extended period applied for; or
  - (b) allow a shorter extended period.

### **54. EFFECTIVE PERIOD OF CANCELLATION AUTHORITY.**

- (1) A cancellation authority remains in force for -
  - (a) three months after it is granted; or
  - (b) any period allowed under Section 53(5).
  
- (2) A cancellation authority must state the period for which it is in force.

### ***Division 2. - Cancellation Orders.***

### **55. NATIONAL COURT'S POWERS TO MAKE CANCELLATION ORDERS.**

- (1) An owners' corporation may apply to the National Court for a cancellation order authorising the cancellation of the strata plan.
  
- (2) On application for a cancellation order, the National Court may -
  - (a) make a cancellation order; or
  - (b) make a provisional cancellation order under Section 56; or
  - (c) dismiss the application.
  
- (3) The National Court may make a cancellation order only if the Court is satisfied that it is just and equitable to make the order, including directions, or declarations mentioned in Subsection (4), having regard to the interests of every person having an interest in the units.
  
- (4) A cancellation order may include directions or declarations to be complied with after the cancellation of the strata plan.

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(5) A direction or declaration in Subsection (4) may be enforced as if it were a judgment of the National Court obtained by a person for whose benefit the direction or declaration was made against the person who is required to comply with the direction or declaration.

(6) A cancellation order remains in force for the period stated in the order.

### **56. PROVISIONAL CANCELLATION ORDERS.**

(1) On an application for a cancellation order for a strata plan, the National Court may make a provisional cancellation order for the strata plan, imposing conditions or giving directions, or both, to be complied with before the court makes a cancellation order.

(2) The National Court may make a provisional cancellation order for a strata plan, only if the Court is satisfied that -

- (a) it is necessary for either or both of the following purposes:
  - (i) to protect the interests of the State; and
  - (ii) to adjust the rights and duties of every person who has registered interests in the units, between each other, to the extent that the rights and duties may be affected by the cancellation of the strata plan; and
- (b) it is just and equitable to make the order having regard to the interests of every person with interests in the units.

(3) A provisional cancellation order remains in force for the period stated in the order.

### **57. CANCELLATION ORDERS AFTER PROVISIONAL ORDER IS MADE.**

(1) This section applies if -

- (a) the National Court makes a provisional cancellation order for a strata plan on an application under Section 53; and
- (b) the owners' corporation subsequently applies for a cancellation order under that section.

(2) The National Court may make a cancellation order under Section 55 if the Court is satisfied that the conditions and directions stated in the provisional cancellation order have been complied with.

### **58. RIGHT OF APPEARANCE IN CANCELLATION ORDER APPLICATIONS.**

(1) The following have a right to appear on an application for a cancellation order for a strata plan -

- (a) the owners' corporation; and
- (b) a unit owner; and
- (c) a person with an interest in a unit, or the common property, that is recorded on the corporate register; and
- (d) an insurer who has insured a building on the parcel under the *Strata Title (Management) Act 2022*; and
- (e) the Department.

(2) An owners' corporation that applies for a cancellation order must serve a copy of the application on every person that has a right to appear, except the Department.

(3) A person who has a right to appear may be represented by a lawyer or other person allowed under law.

(4) The Registrar of the National Court must give a copy of an application for a cancellation order to the Department.

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**Division 3. - Effects of Cancellation.**

**59. EFFECTS OF CANCELLATION OF STRATA PLANS.**

On the registration of a cancellation authority or cancellation order -

- (a) the strata plan is cancelled; and
- (b) the owners' corporation is dissolved; and
- (c) the lease of the common property and the lease of each of the unit ends; and
- (d) the land covered by those leases forms one parcel of land; and
- (e) a new lease arises over that parcel in the terms provided by Section 58.

**60. NEW LEASE OVER PARCEL UPON CANCELLATION OF STRATA PLAN.**

(1) The new lease arising under Section 59(e) -

- (a) is held by -
  - (i) the owners of the units immediately before registration of the authority as tenants in common in shares proportional to their former unit entitlement; or
  - (ii) if there was a single owner of all the units immediately before the registration of the authority, by the owner; and
- (b) expires on the day each of the leases of the units, and the lease of the common property, would have expired if it were not for the cancellation of the strata plan; and
- (c) is otherwise governed by the provisions to which the lease of the parcel was subject immediately before the registration of the strata plan.

(2) If, immediately before the registration of the authority, two or more persons were the owners of a unit, two or more units or all of the units (whether as joint tenants or tenants in common), the share in the estate, or the whole estate, vests in them under Subsection (1)(a) -

- (a) if they were joint tenants, jointly; or
- (b) if they were tenants in common, as tenants in common proportional to their former shares in the unit or units.

(3) The share in the estate that vests in a person under Subsection (1)(a) is subject to any mortgage and easement mentioned under Section 17 of the *Land Registration Act 1981*.

**61. DISSOLUTION OF OWNERS' CORPORATIONS.**

(1) On the dissolution of an owners' corporation upon the cancellation of the strata plan -

- (a) all rights (at law or in equity) of the corporation, immediately before the dissolution, vest in the former members as tenants in common in shares proportional to their unit entitlement immediately before the dissolution; and
- (b) the former members are liable separately and together for all the liabilities of the corporation existing immediately before dissolution.

(2) For Subsection (1), a reference in a document to an owners' corporation that has been dissolved is taken to be a reference to the former members.

(3) The operation of Subsection (1) on the owners' corporation may be varied by cancellation or dissolution order under Section 61.

**62. POWERS OF THE NATIONAL COURT UPON DISSOLUTION OF OWNERS' CORPORATIONS.**

(1) On an application by an owners' corporation authorised by an ordinary resolution, or a person with an interest in a unit, the National Court may, if it considers that it is just and equitable to do so -

- (a) by a cancellation or dissolution order, vary the operation of Section 60(1) on the corporation and its members; and

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- (b) make any orders that are necessary or convenient for giving effect to the cancellation or dissolution order.
- (2) The application may only be made before the strata plan is cancelled.
- (3) The following have the right to appear on the application:
  - (a) the owners' corporation; and
  - (b) a unit owner; and
  - (c) someone else with an interest in a unit, or the common property, that is recorded on the corporate register; and
  - (d) an insurer who has insured a building on the parcel under the *Strata Title (Management) Act 2022*; and
  - (e) the Department.
- (4) The applicant may serve the application on a person who has a right to appear at the person's address for correspondence shown on the corporate register.
- (5) A person who has a right to appear may be represented by a lawyer or other person allowed under law.
- (6) The registrar of the National Court must give a copy of the application to the Department.

### **PART VII. - GRANT OF FURTHER LEASES AND EXPIRY AND TERMINATION OF UNIT LEASES.**

#### *Division 1. - Grant of Further Leases.*

#### **63. GRANT OF FURTHER LEASES GENERALLY.**

- (1) This section applies if the owners' corporation of a strata plan intends to apply for the grant of a further lease of the units and common property in the strata plan under the *Land Act 1996*.
- (2) The owners' corporation must -
  - (a) hold a general meeting; and
  - (b) include in the notice of the general meeting, a statement to the effect that -
    - (i) it intends to apply for the further leases; and
    - (ii) to allow the further leases to be granted, each owner of a unit in the strata plan must give the certificate of title for the lease of the unit to the Registrar of Titles; and
  - (c) at the meeting, seek authority by ordinary resolution, if the owners' corporation applies for the grant of the further leases -
    - (i) to notify the Registrar of Titles in writing about the application for a further lease and the notice must be accompanied by evidence of the resolution; and
    - (ii) to do anything else necessary on behalf of an owner of a unit to ensure the grant of the further leases.

#### *Division 2. - Expiry and Forfeiture of Unit Leases.*

#### **64. EFFECTS OF LEASE EXPIRY.**

- (1) On the expiry of the terms of the leases of the units and the common property in a strata plan -
  - (a) the strata plan is cancelled; and
  - (b) the owners' corporation is dissolved; and

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- (c) for each unit, the State is liable to pay a share of the value of the buildings on the parcel, proportional to the unit entitlement of the unit immediately before the expiry.
- (2) The State is liable to pay the amount mentioned in Subsection (1)(c) for a unit -
  - (a) to the person who owned the unit immediately before the expiry of the leases; or
  - (b) if the unit was owned by two or more persons immediately before the expiry of the lease, to each owner in proportion to the co-owner's former share in the unit.
- (3) The value of the amount mentioned in Subsection (1)(c) must be worked out under Section 120 of the ***Land Act 1996***.
- (4) On dissolution of an owners' corporation under Subsection (1) -
  - (a) all rights, at law or in equity, vested in the corporation immediately before the expiry are vested in the former member as tenants in common in shares proportional to their former unit entitlement; and
  - (b) the former members are liable separately and together for all the liabilities of the corporation existing immediately before the dissolution.
- (5) For Subsection (1), a reference in a document to an owners' corporation that has been dissolved is taken to be a reference to the former members.
- (6) The operation of this section on the owners' corporation may be varied by an expiry dissolution order under Section 65.

### **65. POWERS OF THE NATIONAL COURT IN RELATION TO DISSOLUTION OF OWNERS' CORPORATIONS UPON LEASE EXPIRY.**

- (1) On application by an owners' corporation, authorised by an ordinary resolution, or a person with an interest in a unit, the National Court may, if it considers that it is just and equitable to do so -
  - (a) by an expiry dissolution order, vary the operation of Section 64 on the corporation and its members; and
  - (b) make any orders that are necessary or convenient for giving effect to the expiry dissolution order.
- (2) The application may only be made before the dissolution of the owners' corporation upon the expiry of the terms of the leases and common property.
- (3) The following have a right to appear on an application under this section:
  - (a) the owners' corporation; and
  - (b) a unit owner; and
  - (c) someone else with an interest in a unit, or the common property, that is recorded on the corporate register; and
  - (d) an insurer who has insured a building on the parcel under the ***Strata Title (Management) Act 2022***; and
  - (e) the Departmental Head.
- (4) The applicant must serve a copy of the application on every person that has a right to appear, except the Department.
- (5) A person who has a right to appear may be represented by a lawyer or other person allowed under law.
- (6) The Registrar of the National Court must give a copy of the application to the Departmental Head.

**66. EFFECTS OF FORFEITURE OF A UNIT LEASE.**

(1) If the Registrar of Titles enters a memorial of the forfeiture of the lease of a unit on a strata plan under the *Land Registration Act 1981* -

- (a) the interest of the lessee in the unit ends; and
- (b) the land that was, immediately before the endorsement, covered by the lease continues to be a unit despite the forfeiture; and
- (c) the unit entitlement of the unit is omitted from the schedule of unit entitlement; and
- (d) the unit entitlement of each other unit is increased in proportion so that the total unit entitlement remains unchanged.

(2) After the forfeiture of the lease of a unit and until a further lease of that unit is granted -

- (a) the easements given by Section 36 continue, as they benefit or burden the unit; and
- (b) any easement declared under Section 37 and in effect at the time of forfeiture continues, as it benefits or burdens the unit; and
- (c) all those easements are enforceable by and against the Department as if the Department were the owner of the unit; and
- (d) a person authorised in writing by the Departmental Head, has the same rights to use the common property as the owner of the unit would have had if the lease had not been forfeited.

**67. NEW UNIT LEASE.**

(1) If, after the forfeiture of the lease of a unit, a person becomes entitled under this Act to the grant of a lease of the unit, the Department must -

- (a) lodge with the Registrar of Titles written notice of that fact; and
- (b) give the owners' corporation written notice accordingly.

(2) On entry on the strata plan of a memorial under the *Land Registration Act 1981*, the person entitled to the grant of the lease becomes the holder of an estate of leasehold in the unit for the term mentioned in Subsection (3) and subject to the provisions set out in the strata plan for the lease of that unit.

(3) The term of the lease begins on the registration of the notice and expires on the same day as stated in the strata plan as the terms of the leases of the other units.

(4) When a person becomes the holder of an estate in leasehold under this section -

- (a) the easements given by Section 36 continue, as they benefit or burden the unit; and
- (b) any easement declared under Section 37 to which the forfeited lease was subjected to, continues, as it benefits or burdens the unit.

**68. SCHEDULE OF ENTITLEMENTS OF NEW UNIT LEASE.**

(1) This section applies if, after the forfeiture of the lease of a unit, a person becomes entitled under the *Land Act 1996* to the grant of a lease of the unit.

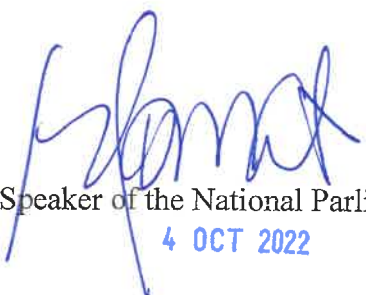
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(2) On the entry on the strata plan of memorials under Section 24 of the *Land Registration Act 1981*, the schedule of unit entitlement has the same effect as it had immediately before the entry was made on that schedule under that Act.

I hereby certify that the above is a fair print of the *Strata Title Act 2022*, which has been made by the National Parliament.

  
Clerk of the National Parliament.  
4 OCT 2022

I hereby certify that the *Strata Title Act 2022*, was made by the National Parliament on 23 March 2022, by an absolute majority in accordance with the *Constitution*.

  
Speaker of the National Parliament.  
4 OCT 2022