

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. of 2020.

Strata Title Bill 2020.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. of 2020.

Strata Title Bill 2020,

Being an Act to unify the law relating to the strata titles, and for related purposes.

PART 1 – PRELIMINARY

Section 1 – Name of Act

This Act is the Strata Title Act 2020

Section 2 – Interpretation

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

Section 3 – Notes

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

PART 2 - KEY CONCEPTS

DIVISION 1 STRATA TITLE DEVELOPMENTS

Section 4 – Parcel

A “parcel” is land –

- (a) Proposed (in a strata title application) to be subdivided under this Act; or
- (b) Comprising the whole of the land subdivided under this Act (as shown in a registered strata plan.

Section 5 – Strata Title Application

A strata title application is an application under section 18 for the subdivision of land under this Act.

Section 6 – Strata Plan

- (1) After a strata title application has been approved, there is a strata plan consisting of the following documents mentioned in section 36 (Endorsement of strata plan for registration):
 - (a) Diagrams showing the subdivision;
 - (b) If the application provides for a staged development – the development statement;
 - (c) The schedule of unit entitlement;
 - (d) Schedules of rent and lease provisions.
- (2) After those documents have been registered, the strata plan consists of the registered documents as amended from time to time under this Act.

Section 7 – 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 this Act, the total unit entitlement under a schedule of unit entitlement must be 10, 100, 1,000, 10,000 or 100,000.

Section 8 – Units

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

Section 9 – 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.

Note A strata title application must show a class A unit as part of a building bounded by reference to floors, walls and ceilings (see section 19)

Section 10 – 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.

Note A strata title application must show a class B unit as land unlimited in height, except to the extent of any encroachment, whether at, above or below ground level, by another part of the parcel (see section 19).

Section 11 – 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.

Section 12 – Permissible unit subsidiaries

- (1) A strata title application may show as a unit subsidiary a part of the relevant parcel –
 - (a) That is a building, or part of a building, consisting of any of the following:
 - (i) Balcony;
 - (ii) Corridor;
 - (iii) Garage or carport;
 - (iv) Gazebo;
 - (v) Laundry;
 - (vi) Pergola;
 - (vii) Porch;
 - (viii) Stairway;

- (ix) Shed;
 - (x) Storeroom;
 - (xi) Utility room;
 - (xii) Verandah;
 - (xiii) Any other part of the parcel approved by the Department under subsection (2); or
- (b) That is suitable for 1 or more of the following purposes:
- (i) A garden, lawn or yard;
 - (ii) A carspace or parking area;
 - (iii) A recreation area;
 - (iv) Any other purpose approved by the Department under subsection (2).
- (2) When approving a strata title application under section 21, the Department may approve a part of the parcel for paragraph (a)(xiii) or a purpose for paragraph (b)(iv).

Section 13 – Meaning of annexed

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 is taken to appurtenant to the unit, common property or estate.

Note Property in a unit subsidiary or easement that is, at law, ‘appurtenant’ to a unit, common property or a leasehold estate is transferred with that estate when the unit, common property or lease is transferred.

Section 14 – 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.

Note A strata title application must show as common property all parts of the parcel that are not shown as units or unit subsidiaries (see section 18(3)(c)).

DIVISION 2 BOUNDARIES

Section 15 – Common boundaries (internal)

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.

Section 16 – Common boundaries (external)

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.

Section 17 – 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 criteria apply:

- (a) The change would not involve any change of the boundaries of the parcel;
- (b) The change would not substantially change the strata plan, or the proposed strata plan;

- (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 3 – STRATA TITLE APPLICATIONS

DIVISION 3 APPROVAL OF STRATA TITLE APPLICATIONS

Section 18 – Strata title applications (general requirements)

- (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 Department 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
 - (b) For developments of class A units, the boundary floors, walls and ceiling of each unit have 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 3 months old; and
 - (b) A plan prepared by a registered surveyor showing anything prescribed by Division 3.2 of this Act.
- (7) If the application provides for a staged development, it must include –
 - (a) A development statement prepared in accordance with section ?; 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.

Section 19 – Strata title application (class A units and class B units)

- (1) A strata title application must show any class A unit as part of a building, with boundaries defined by reference to the floors, walls and ceilings of the building as shown in the application.
- (2) A strata title application must show any class B 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.

Section 20 – Strata title applications (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 12; or
 - (b) A building, or part of a building, or land, that is suitable for a purpose prescribed by section 12.

- (2) The application must show any 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 any 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.

Section 21 – Strata title applications (approval)

- (1) The Department may approve a strata title application if satisfied on reasonable grounds 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 Department may approve a stage of the development (a development stage) as if the stage were a strata title application.
- (3) The Department may approve a development stage only if satisfied –
 - (a) The development has approval under the Physical Planning Act 1989, part 7; and
 - (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 Department may refuse to approve the application if the lessee is in breach of the lease, or a provision of (or requirement under) the Physical Planning Act 1989.
- (5) The Department may refuse to approve the application if –
 - (a) The applicant is required to provide the Department with a strata title assessment report under section 18 and,
 - (i) has not provided a strata title assessment report; or
 - (ii) has provided a strata title assessment report that is more than 3 months old;or
 - (b) The Department has asked for further information under section 29 and the applicant has not provided some or all of the information by –
 - (i) the end of the period stated in the request; or
 - (ii) if the Department has extended the period within which the further information must be provided – the end of that period.

Section 22 – Strata title applications (reasonable rent)

- (1) If the Department considers that the rent proposed in a strata title application to be reserved for the lease of 1 or more units is not reasonable in the circumstances, the authority 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 Department's determination, must not exceed the rent payable under the lease of the parcel when the determination is made.

Section 23 – Strata title applications (amendment of development statement by Department)

If a strata title application provides for a staged development, the Department may, before approving the application under section 21, amend the development statement if the Department considers it reasonable to do so to minimise the adverse effect of the development on anyone's amenity while it is taking place.

DIVISION 4 SURVEY PLAN REQUIREMENTS

Section 24 – Diagrams (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;
- (b) Any unit subsidiary or subsidiaries annexed to each unit;
- (c) The number of each unit;
- (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;
- (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.

Section 25 – 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;
 - (ii) The extremities of each building on the parcel at (or projected to) ground level;
 - (iii) The boundaries of any class B units
 - (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.
 - (c) If the application provides for a building to be subdivided in 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) Any unit subsidiary consisting of a building or part of a building as of 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 5 STRATA TITLE ASSESMENT REPORT FOR STRATA TITLE APPLICATIONS

Section 26 – Strata title assessment reports

- (1) An applicant under section 18 (the applicant) must submit to the Department a strata title assessment report.
- (2) The application and strata title assessment report must include any details or material prescribed by this Act.

Section 27 – Contents of strata title assessment report

- (1) The following contents of a strata title assessment report are prescribed:
 - (a) The allotment and section number, street name and number, and town and province of the parcel to be subdivided;
 - (b) If the parcel is in a district –
 - (i) That is divided into divisions – the division name; or
 - (ii) That is not divided into divisions – the district name;
 - (c) The following particulars of the applicant:
 - (i) The full name, postal, email and telephone contact details;
 - (ii) If the applicant is a company – the company's registration number.
 - (d) The date the report is prepared;
 - (e) The signature if the applicant or, if the applicant is not a natural person, the signature of the applicant's authorised representative;
 - (f) A certificate of completion issued under the *Building Regulation 1994* for the building or buildings which are the subject of the application;
 - (g) A 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 3 months old;
 - (h) A copy of any relevant development approvals along with a statement from the applicant that the development approval has been complied with.
 - (i) A site plan for that parcel prepared by a registered surveyor that is not more than 3 months old;
 - (j) A floor plan for the parcel prepared by a registered surveyor that is not more than 3 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;

Section 28 – Strata title applications (Department may require further information)

- (1) This section applies if –
 - (a) An applicant has provided a strata title assessment report under section 18; and
 - (b) Further information is needed for the Department to be able to decide the application under section 21; and

- (c) The Department believes on reasonable grounds that the further information will help the Department to decide the application.
- (2) The Department may, by written notice, ask the applicant to give the Department stated further information in relation to the application.

Section 29 – Strata title application (contents of request for further information)

- (1) A request under section 28 must –
 - (a) State the period within which the further information asked for must be provided; and
 - (b) If the further information is not a document – state that the further information must be provided in writing; and
 - (c) State that the applicant need not provide the further information, but if the applicant fails to provide some or all of the information in accordance with the request, the Department may refuse to approve the strata title application under section 21.
- (2) The period stated under subsection (1)(a) must be at least 20 working days.
- (3) The Department may, on application before the end of the period stated under subsection (1)(a), extend the period within which the further information must be provided once only, for a period not longer than 20 working days.

DIVISION 6 DEVELOPMENT STATEMENTS

Section 30 – Contents of development statements

- (1) A development statement must –
 - (a) Include a description of the land consisting of the parcel; and
 - (b) Include 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; and
 - (iv) The permitted uses of the common property during the development; 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
 - (f) State that the standard of materials use, 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 a requirement that after the completion of any stated stages of the development, and after the completion of the entire development, the Department 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.

Section 31 – Amendments of development statements before registration

- (1) After a strata title application providing for a staged development is approved (under section 21) and before the strata plan is registered, the lessee of the parcel may apply to the Department for the amendment of the development statement.
- (2) The Department may amend the development statement as applied for is 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) The Department 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 everyone with interests in the parcel.
- (4) The Department may refuse to amend the development statement if, in the Department'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.

Section 32 – 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 immediately before registration may apply to the Department for the amendment of the development statement.
- (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 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 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 everyone with interests in that part of the parcel comprising the uncompleted stages of the development.
- (4) If subsection (2) does not apply. The Department may amend the development statement as applied for if satisfied on reasonable grounds that –
- (a) The application is authorised by a special resolution of the owners' corporation made within 3 months before the day the application is given to the Department; and
- (b) The applicant has obtained the written agreement of each interested non-voter (except any interested non-voter 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.
- (5) The Department may amend the development statement under subsection (4) despite the applicant's failure to obtain an interested non-voter's agreement if the authority is satisfied on reasonable grounds that –
- (a) The applicant has made reasonable efforts to obtain the agreement; and
- (b) Either –
- (i) The interested non-voter 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 everyone with interests in the units and the common property.
- (6) The Department may refuse to amend the development statement if, in the Department'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 Department 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.
- (8) If the Department authorises the amendment of the schedule of unit entitlement under this section –
- (a) The authority 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.

Section 33 – Effect of registration of amendment

- (1) On the registration of an amended development statement, and any amended schedule of unit entitlement lodged under section 32 –
 - (a) The strata plan is amended accordingly; and
 - (b) If unit or common property boundaries are changed – the land covered by each affect lease is the area of land indicated by the boundaries as changed.

DIVISION 7 ENDORSEMENT OF STRATA PLANS FOR REGISTRATION

Section 34 – Notice of approval of strata title applications

- (1) If the Department approves a strata title application for a parcel, the Department must give the lessee of the parcel –
 - (a) Written notice of the approval including –
 - (i) If the application provides for a staged development – a copy of the development statement, signed by the Department, as amended (if at all) under section 23; 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) indicated in the application or as decided by the Department under section 22 (Strata title applications – reasonable rent).

Section 35 – Rent for common property lease

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

Section 36 – Endorsement of strata plan for registration

- (1) If the Department has approved a strata title application, the lessee of the parcel may submit to the Department for endorsement under this section a strata plan consisting of the following documents:
 - (a) Diagrams showing the subdivision as approved;
 - (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 31 - the development statement as amended;
 - (c) The schedule of unit entitlements as approved;

- (d) The schedules of rent and lease provisions given to the lessee under section 24 (1) (b) and (c).
- (2) The documents must comply with the sections of this Act which relate to those documents.
- (3) The Department must approve the documents as the strata plan in accordance with this Act unless –
 - (a) There has been any development on the parcel since the application was approved by the Department (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 Department are not in accordance with the application as approved, or do not comply with this section.

Section 37 – Lapse of endorsement after 3 months

- (1) An endorsement of a strata plan (under section 36) ceases to have effect –
 - (a) 3 months after it was made, unless the strata plan has been lodged with the Registrar of Titles for registration under the Land Registration (Strata Titles) Act 1981; or
 - (b) If the strata plan is lodged within 3 months after the endorsement was made, and is subsequently withdrawn under that Act, section 24 – when the endorsement under that section is made by the Registrar of Titles.
- (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 Department for endorsement under section 36.
- (3) If the lessee of the parcel again submits the strata plan to the Department for endorsement under section 36, that section and this section apply as if the previous endorsement had not been made.

PART 4 – REGISTRATION OF STRATA PLANS

DIVISION 8 SUBDIVISION, UNIT LEASES AND COMMON PROPERTY LEASE

Section 38 – 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.

Section 39 – 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.
- (5) The estate of which a person or the owners' corporation becomes the holder under this section –
 - (a) Is subject to any mortgage mention in the Land Registration (Strata Titles) Act 2020 section 7; and
 - (b) Is subject to, and has annexed to it, and any easement mentioned in that section; and
 - (c) Is subject to, and has annexed to it, the easements given by this Act, section 41.
- (6) In this section “former lessee” means the person who was the lessee of the parcel immediately before registration.

DIVISION 9 EASEMENTS

Section 40 – Strata title easement rights

This division applies to the following rights (strata title easement rights) that the owner of a benefited estate may have against the owner of a burdened estate:

- (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;
- (b) Rights to utility services, and to their provision by any reasonable form utility conduit (including rights for the collection, passage and drainage of rainwater by encroaching gutters, downpipes or similar structures);
- (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; and
 - ii) Facilities for any utility service on the estate; and
 - iii) Any utility conduit on the estate.

Note “Estate” is defined in the dictionary as a unit or common property in this context.

Section 41 – Easements given by this Act

- (1) On and after the registration of a strata plan, the owner of an estate (a benefited estate) has against the owner of another estate (the burdened estate) and 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.

Section 42 – 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 an estate (a benefited estate) has against the owner of another estate (the burdened estate) any strata title easement rights that are necessary for the reasonable support and maintenance of an encroachment of a kind prescribed by this Act
- (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 of each affected estate.

Section 43 – Registration (easements declared by owners’ corporations)

A resolution of an owners’ corporation under section 42 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 5 – AMENDMENT OF STRATA PLANS

DIVISION 10 AMENDMENT OF SCHEDULE OF UNIT ENTITLEMENT

Section 44 – Unit entitlement authority-grant

- (1) An owners’ corporation may apply to the Department for authority (a unit entitlement authority) for the amendment of the schedule of unit entitlement.
- (2) The Department may, by written notice to the owners’ corporation, grant a unit entitlement authority if satisfied on reasonable grounds that –
 - (a) The application is authorised by a special resolution of the owners’ corporation made within 3 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 Department 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 3 months, the Department 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.

Section 45 – Unit entitlement authorities (period of effect)

- (1) A unit entitlement authority remains in force for –
 - (a) 3 months after it is given, or after an event stated in the authority happens; or
 - (b) An extended period allowed under section 44 (4).
- (2) A unit entitlement authority must state the period for which it is in force.

Section 46 – Unit entitlement authorities (registration)

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

Note a unit entitlement authority may be registered with the Registrar of Titles under the Land Registration (Strata Titles) Act 2020 on lodgement by the owners' corporation within the period of effect of the authority.

DIVISION 11 MINOR BOUNDARY CHANGES

Section 47 – Boundary authority (grant)

- (1) An owners' corporation may apply to the Department for authority (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 Department may grant a boundary authority if satisfied on reasonable grounds that –
 - (a) The application is authorised by a unanimous resolution of the owners' corporation made within 3 months before the application is made; and
 - (b) The corporation has obtained the written agreement of each interested non-voter (except an interested non-voter 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 strata 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 Department may grant a boundary authority despite the owners corporation's failure to obtain an interested non-voter's agreement if the Department is satisfied on reasonable grounds that –
 - (a) The corporation has made reasonable efforts to obtain the agreement; and
 - (b) Either –
 - i) The interested non-voter would not suffer an 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 everyone with interests 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 3 months, the Department 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.

Section 48 – Boundary authority (period of effect)

- (1) A boundary authority remains in force for –
 - (a) 3 months after it is given; or
 - (b) Any extended period allowed under section 47(4).
- (2) A boundary authority must state the period for which it is in force.

Section 49 – Boundary authorities (registration)

- (1) 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.

Note A boundary authority may be registered with the Registrar of Titles under the Land Registration (Strata Titles) Act 2020 on lodgement within the period of effect of the authority.

DIVISION 12 BUILDING DAMAGE SCHEMES

Section 50 – What is a 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
- (b) The elimination of any class A unit that is damaged or destroyed (unless the unit is to be reinstated); and
- (c) The consequential amendment of the unit's 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 anyone else who may be adversely affected by the scheme.

Section 51 – Building damage orders (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;
 - (b) A unit owner, or another person with an interest in a unit, or the common property, that is recorded on the corporate register;
 - (c) An insurer who has insured a building on the parcel for the Strata Title (Management) Act 2020 section 100;
 - (d) The Department.

Note A unit owner or the owners' corporation may apply for a provisional building damage order (see section 52(2)). The applicant for a provisional building damage order may apply for a final building damage order (see section 55(2)).

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

Note 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. Other forms of service are also permitted see the Strata Title (Management) Act 2020 section 124.

- (3) A person who has a right to appear may be represented by a lawyer or someone else.

Section 52 – 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, the owners' corporation authorised by an ordinary resolution, or a unit owner, may apply to the Supreme Court for an order (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.

Section 53 – Provisional building damage order (approval of scheme)

- (1) The Supreme Court may make a provisional building damage order on application under section 52 if 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
 - (b) It is just and equitable to do so.
- (2) The Supreme Court may make any ancillary order necessary or convenient for giving effect to a provisional building damage order.

Section 54 – Provisional damage order (period of effect)

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

- (a) The period (not longer than 3 months) stated in the order; or
- (b) An extended or further extended period stated in a Supreme Court order for extension made on application by the applicant for the provisional building damage order while the provisional building damage order (or the ancillary order) is in force.

Section 55 – Final building damage order (amendment of strata plan)

- (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 Supreme Court may make an order (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 Supreme Court may make a final building damage order only if 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 Supreme Court may make any ancillary order necessary or convenient for giving effect to a final building damage order.

Section 56 – Final building damaged order (period of effect)

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

- (a) The period (not longer than 3 months) stated in the order; or
- (b) An extended or further extended period stated in a Supreme Court order for extension made on application by the applicant for the final building damage order while the final building damage order (or the ancillary order) is in force.

Section 57 – Final building damage order (registration)

- (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 unit or common property boundaries are changed – the land covered by each affected lease of the area of land indicated by the boundaries as changed.
- (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 6 – CANCELLATION OF STRATA PLANS

DIVISION 13 CANCELLATION AUTHORITY

Section 58 – Cancellation authority (grant by Department)

- (1) An owners' corporation may apply to the Department for authority (a cancellation authority) for the cancellation of the strata plan.
- (2) On application for a cancellation authority, the Department may –
 - (a) Grant the cancellation authority; or
 - (b) Refuse to grant the cancellation authority.
- (3) The Department may grant a cancellation authority only if satisfied that –
 - (a) The application is supported by a unanimous resolution of the corporation made within 3 months before the application is made; and
 - (b) The corporation has obtained the written agreement of each interested non-voter (except any interested non-voter to whom subsection (4) applies).
- (4) The Department may grant a cancellation authority despite the owners' corporation's failure to obtain an interested non-voter's agreement if the Department is satisfied on reasonable grounds that –
 - (a) The corporation has made reasonable efforts to obtain the agreement; and
 - (b) Either –
 - i) The interested non-voter 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 everyone with interests 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 3 months, the Department may, in authorising cancellation, if satisfied that an extended period is justified –
 - (a) Allow the extended period applied for; or
 - (b) Allow a shorter extended period.

Section 59 – Cancellation authority (period of effect)

- (1) A cancellation authority remains in force for –
 - (a) 3 months after it is given; or
 - (b) Any period allowed under section 58(5).
- (2) A cancellation authority must state the period for which it is in force.

DIVISION 14 CANCELLATION ORDERS

Section 60 – Cancellation orders (Supreme Court powers)

- (1) An owners' corporation may apply to the Supreme Court for an order (a cancellation order) authorising the cancellation of the strata plan.
- (2) On application for a cancellation order, the Supreme Court may –
 - (a) Make a cancellation order; or
 - (b) Make a provisional cancellation order under section 60; or
 - (c) Dismiss the application.
- (3) The Supreme Court may make a cancellation order only if satisfied that it is just and equitable to make the order (including any directions, or a declaration, mentioned in subsection (4)) having regard to the interests of everyone with interests of everyone with interests in the units.
- (4) A cancellation order may include directions to be complied with after cancellation of the strata plan.
- (5) A direction in subsection (4) may be enforced as if it were a judgement of the Supreme Court obtained by someone for whose benefit the direction was given against the person required to comply with the direction.
- (6) A cancellation order remains in force for the period stated in the order.

Section 61 – Cancellation orders (provisional orders)

- (1) On an application for a cancellation order for a strata plan, the Supreme 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 Supreme Court may make a provisional cancellation order for a strata plan, only if satisfied that –
 - (a) It is necessary for either or both of the following purposes:
 - i) To protect the interests of the State;
 - ii) To adjust the rights and duties of everyone 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 everyone with interests in the in the units.
- (3) A provisional cancellation order remains in force for the period stated in the order.

Section 62 – Cancellation orders (after provisional order is made)

- (1) This section applies if –
 - (a) The Supreme Court makes a provisional cancellation order for a strata plan on an application under section 59; and
 - (b) The owners' corporation subsequently applies for a cancellation order under that section.
- (2) The Supreme Court may make a cancellation order under section 59 if satisfied that the conditions and directions stated in the provisional cancellation order have been complied with.

Section 63 – Cancellation orders (right of appearance)

- (1) The following have a right to appear on an application for a cancellation order for a strata plan:
 - (a) The owners' corporation;

- (b) A unit owner;
 - (c) Someone else with an interest in a unit, or the common property, that is recorded on the corporate register;
 - (d) An insurer who has insured a building on the parcel for the Strata Title (Management) Act 2020 section 100;
 - (e) The Department.
- (2) An owners' corporation that applies for a cancellation order must serve a copy of the application on everyone else 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 someone else.
- (4) The registrar of the Supreme Court must give a copy of an application for a cancellation order to the Department.

DIVISION 15 EFFECTS OF CANCELLATION

Section 64 – Cancellation of strata plans (effects)

On the registration of a cancellation authority or cancellation order –

- (a) The strata plan is cancelled; and
- (b) The owners' corporation is dissolved (see section 65); and
- (c) The lease of the common property and the lease of each of the unit's end; and
- (d) The land covered by those leases forms 1 parcel of land; and
- (e) A new lease arises over that parcel in the terms provided by section 64

Section 65 – Cancellation of strata plan (new lease over parcel)

- (1) The new lease arising under section 63(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, 2 or more people were the owners of a unit, 2 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 in the Land Registration (Strata Title) Act 2020 section 17.

Section 66 – Dissolution of owners' corporation

- (1) On the dissolution of an owners' corporation (on 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 dissolution order under section 66.

Section 67 – Dissolution of owners' corporation (Supreme Court powers)

- (1) On an application by an owners' corporation authorised by an ordinary resolution, or a person with an interest in a unit, the Supreme Court may, if it considers that it is just and equitable to do so –
 - (a) By order (a cancellation dissolution order), vary the operation of section 65(1) on the corporation and its members; and
 - (b) Make any orders that are necessary or convenient for giving effect to the cancellation dissolution order.
- (2) The application may only be made before the strata plan is cancelled (on registration of the cancellation authority).
- (3) The following have the right to appear on the application:
 - (a) The owners' corporation;
 - (b) A unit owner;
 - (c) Someone else with an interest in a unit, or the common property, that is recorded on the corporate register;
 - (d) An insurer who has insured a building on the parcel for the Strata Title (Management) Act 2020 section 100; 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 someone else.
- (6) The registrar of the Supreme Court must give a copy of the application to the Department.

PART 7 – GRANTS OF FURTHER LEASES AND EXPIRY AND TERMINATION OF UNIT LEASES

DIVISION 16 GRANTS OF FURTHER LEASES

Section 68 – Grants 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 (a further lease notice) 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 17 EXPIRY AND FORFEITURE OF UNIT LEASES

Section 69 – 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
 - (c) For each unit, the State is liable to pay a share of the value of the buildings on the parcel (on the date of expiry) 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 2 or more people 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 subsection (6) on the owners' corporation may be varied by expiry dissolution order (under section 69).

Section 70 – Dissolution of owners' corporation on lease expiry (Supreme Court powers)

- (1) On application by an owners' corporation authorised by an ordinary resolution, or a person with an interest in a unit, the Supreme Court may, if it considers that it is just and equitable to do so –
 - (a) By order (and expiry dissolution order), vary the operation of section 168 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 (on the expiry of the terms of the leases and common property).
- (3) The following have a right to appear on an application:
 - (a) The owners' corporation;

- (b) A unit owner;
 - (c) Someone else with an interest in a unit, or the common property, that is recorded on the corporate register;
 - (d) An insurer who has insured a building on the parcel for the Strata Title (Management) Act 2020;
 - (e) The Department.
- (4) The applicant must serve a copy of the application on everyone else who has a right to appear, except the Department.
- (5) A person who has a right to appear may be represented by a lawyer or someone else.
- (6) The registrar of the Supreme Court must give a copy of the application to the Department.

Section 71 – Effect of forfeiture of unit lease

- (1) If the Registrar of Titles, under the Land Registration (Strata Title) Act 2020 section 23, enters on a strata plan a memorial of the forfeiture of the lease of a unit –
- (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) These easements given by section 41 continue, as they benefit or burden the unit; and
 - (b) Any easement declared under section 42 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 Department 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.

Section 72 – New unit lease

- (1) 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, 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 (Strata Title) Act 2020 section 24, 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 (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 41 continue, as they benefit or burden the unit; and
 - (b) Any easement declared under section 42 to which the forfeited lease was subject continues, as it benefits or burdens the unit.

Section 73 – New unit lease (schedule of unit entitlement)

- (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.
- (2) On the entry on the unit's plan of memorials under the Land Registration (Strata Title) Act 2020 section 24, the schedule of unit entitlement has the same effect as it had immediately before the entry was made on that schedule under that Act, section 23 on the forfeiture of the previous lease.

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SCHEDULE 1 DICTIONARY

annexed see section 13.

appoint includes 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 see section 41 (Easements given by this Act) and section 42 (Easements declared by owners corporations).

boundary authority see section 47.

building includes –

- (a) A structure; and
- (b) Any other improvement (including fixtures, fittings and site improvements); and
- (c) As shown in a strata title application – a building, structure or improvement (including fixtures, fittings and site improvements) proposed to be erected, or as proposed to be altered or added to.

Examples of site improvements

- 1. A paved path
- 2. A paved barbeque area

building damage scheme see section 50.

burdened estate see section 41 (Easement given by this Act) and Section 42 (Easements declared by owners corporations).

cancellation authority see section 58.

cancellation dissolution order see section 67

cancellation order see section 60 (Cancellation orders – Supreme Court powers).

class A unit see section 9.

class B unit see section 10.

common property see section 14.

corporate register see the Strata Title (Management) Act 2020 section xx.

developer means the lessee of a parcel who applies for the approval of the subdivision of the parcel under section 18 (Strata title applications – general requirements).

development of a parcel, a unit or common property –

- (a) Means the erection, alteration or addition of a building on the parcel, unit or common property; and
- (b) For a strata title application – 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 includes 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 see section 70 (Dissolution of owners corporation on lease expiry – Supreme Court powers).

final building damage order see section 55.

former members of an owners' corporation that is dissolved, means the people who were the members of the corporation immediately before the dissolution.

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;
 - 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;
 - 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;
 - ii) For any subsidiaries annexed to the unit that are buildings or parts of buildings – the value of the buildings or parts of buildings;
 - 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.

interested non-voter a person with an interest in a unit or the common property is an interested nonvote 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 39 (2) (Leases of units and common property); or
 - ii) Section 72 (2) (New unit lease); or
 - iii) The Land Act 1996 section 65
- (b) For common property – the lease of the common property under –
 - i) Section 39 (3) (Leases of units and common property); or
 - ii) The Land Act 1996 section 65
- (c) For a parcel –
 - i) The lease of the parcel –
 - (A) Granted under the Land Act 1996; or
 - (B) Arising under section 64 (Cancellation of strata plan – effects) of this Act.

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 –

- (a) Repair; and
- (b) Replacement;
- (c) Renewal; and
- (d) Restoration.

member of an owners corporation – see Strata Title (Management) Act 2020.

minor boundary change see section 17.

ordinary resolution see the Strata Title (Management) Act 2020.

owner means –

- (a) For a unit – the registered proprietor of the lease of the unit; or
- (b) For the common property – the owners' corporation.

Owners' corporation see the Strata Title (Management) Act 2020.

parcel see section 4.

proprietor of an interest in land, includes anyone who is entitled to exercise the rights of the proprietor in relation to the land.

provisional building damage order see section 52.

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 or the Land Registration Act (Strata Title) 2020.

schedule of unit entitlement in relation to a strata plan, means the schedule of unit entitlement forming part of the plan under section 8.

special resolution see the Strata Title (Management) Act 2020.

staged development in relation to a strata title application – see section 18 (4) (Strata title applications – general requirements).

strata plan means the strata plan under section 6.

strata title application see section 5.

strata title assessment report see section 26.

strata title easement rights see section 40

unanimous resolution see the Strata Title (Management) Act 2020.

unit see section 8.

unit entitlement” see section 7.

unit entitlement authority see section 44.

unit owner means the registered proprietor of the lease of the unit.

unit subsidiary see section 11.

unopposed resolution see the Strata Title (Management) Act 2020.

utility services 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).