



Community Schemes Law Reform

Position Paper



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Minister's message

The reform of strata and community scheme laws is a major project for the NSW Government. Together, these significant reforms will support communities to best manage the tens of thousands of strata and community schemes across our state, enabling them to run more effectively and efficiently.

This Government is committed to reducing red tape and making common sense changes that will modernise the operation of strata and community schemes.

The release of this Position Paper brings forward necessary changes to community scheme laws with a set of 58 reforms. These proposals seek to align the strata and community scheme legislation so they are more consistent and provide a more flexible and innovative development framework.

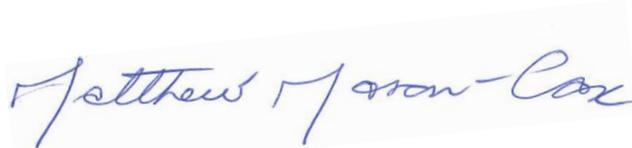
Importantly, at the very heart of the package, are measures that seek to better protect residents with a focus on ensuring transparency and accountability in decision making.

The sector provides accommodation and employment for a considerable number of people across the State. There are currently approximately 700 community schemes, 40 precinct schemes and 1,460 neighbourhood schemes in New South Wales.

In recognising the importance of these reforms for NSW, this Position Paper has been founded on extensive consultation. Over the last two years, the Government has spoken with many people, from those at the grass roots of the sector - owners volunteering on their management committee - right through to peak industry bodies.

I would like to thank members of the public and industry who attended roundtables and provided constructive feedback. More than 2,000 submissions, comments and letters were received, making it one of the largest reviews ever undertaken. Your feedback has helped the Government to design a considered set of reforms that will strengthen and foster growth in the sector for many years to come. This package represents another step towards making New South Wales number one again.

I look forward to your continued support as the Government seeks to deliver these important reforms into new legislation.



The Hon Matthew Mason-Cox MLC
Minister for Fair Trading



Introduction

In September 2012, the NSW Government launched a comprehensive review of the state's strata and community title laws with the release of the discussion paper, *Making NSW No. 1 Again: Shaping Future Communities*.

The discussion paper invited submissions and feedback from the community about options for creating a more modern, innovative and effective regulatory framework for strata and community schemes. Submissions were received from a broad cross-section of the community including owners, managing agents, caretakers, tenants and developers.

The community told us the current laws are outdated and do not meet the needs of the sector in an efficient and effective way. The laws are seen as overly formal and complex, creating unnecessary disputes and potentially hindering the future growth of the sector.

Strata Scheme Law Reform

On 14 November 2013, the NSW Government released a Strata Law Reform Position Paper outlining a comprehensive set of reforms to the strata scheme laws the Government intends to introduce. The reform package was developed following extensive consultation with the community and key stakeholders. The Strata Law Reform Position Paper is available from the Fair Trading website (www.fairtrading.nsw.gov.au).

Community Scheme Law Reform

This paper outlines proposed reforms to the community scheme laws: the *Community Land Management Act 1989* and the *Community Land Development Act 1973*.

The ***Community Land Development Act 1973*** ('CLDA') facilitates the subdivision and development of land with shared property. It deals with plan requirements and registration, changes to the subdivision, and dealings with the lots.

The ***Community Land Management Act 1989*** ('CLMA') provides a system for the management of community, precinct and neighbourhood schemes. This includes the management of funds and accounts, association and committee meetings, maintenance of association property, insurance, administration of and compliance with the management statement, and resolution of disputes.

The community scheme laws were modelled on the strata scheme laws, and many parallels exist. However, over the years, community scheme laws have not kept pace with strata scheme laws.

The management and administration of community schemes requires a sensibly structured regulatory framework that promotes self-governance and democratic decision making. Previous submissions to the strata and community scheme law reform process indicated strong support for raising awareness of rights and responsibilities, supporting democratic processes, encouraging participation and enhancing communication.

Every community scheme is different. Schemes vary in size, composition and complexity ranging from rural subdivisions with irrigation channels to large closed communities with private roads, high security and extensive recreational facilities such as marinas and golf courses.

Some of the dwellings in community schemes are detached houses with surrounding land that belong to the lot owner. There can also be one or more multi-unit strata buildings with significant common property owned by the strata owners corporation. The community schemes laws need to account for this diversity. The laws need to be flexible but at the same time ensure those who manage the scheme do so in an accountable and transparent way.

Wherever appropriate, the Government has sought to ensure consistency across the strata scheme and community scheme laws. As a result, many of the reforms listed in this paper mirror the proposed reforms for strata schemes.

The NSW Government decided to progress community title reforms as a broader package of well-integrated sector-wide reforms connected with the building industry, including strata title.

Community schemes

There are three types of schemes under the community land laws - community, precinct and neighbourhood schemes. As at July 2014, New South Wales had 709 community schemes, 30 precinct schemes and 1,459 neighbourhood schemes. It is anticipated that this number will rise in coming decades due to population growth, urban consolidation and lifestyle choices.

Parcels of land may be subdivided by community, precinct or neighbourhood schemes. The collective ownership model is a corporation called the 'association' and the communally owned property is known as 'association property'. This is indicated as 'lot 1' in a scheme's plan.

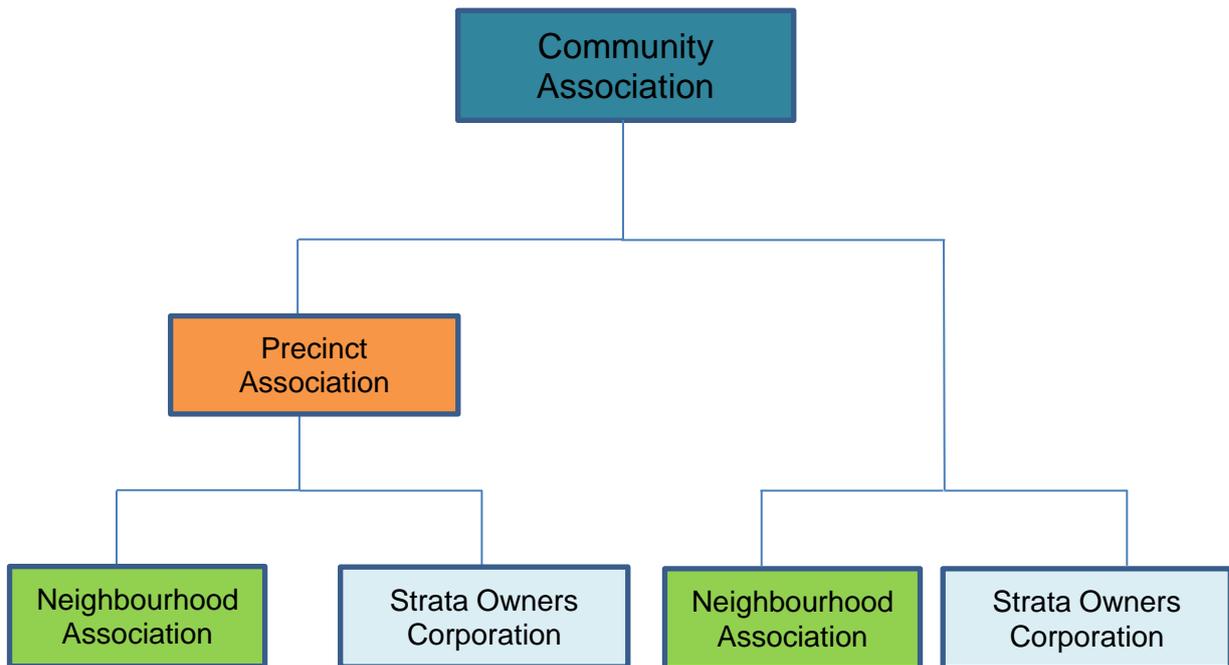
A **community scheme** must contain two or more development lots. Development lots are usually intended to be subdivided by a subsidiary scheme, being a precinct scheme, neighbourhood scheme or strata scheme. A community association is made up of one representative from each subsidiary scheme within the parcel, plus the owners of any development lots.

A **precinct scheme** is also made up of development lots intended to be further subdivided by a subsidiary scheme, being either a neighbourhood scheme or strata scheme. A precinct association is constituted by one representative from each subsidiary scheme within the parcel, plus each of the owners of any precinct development lots. A precinct scheme cannot be a standalone development and will always be situated within a community scheme.

A **neighbourhood scheme** comprises individual lots. Every neighbourhood lot owner is a member of the neighbourhood association. Neighbourhood schemes generally operate in a similar way to strata schemes, with individual lot owners attending meetings in person or by proxy. A neighbourhood scheme can exist without being a subsidiary scheme of a precinct or community scheme.

Within community land developments, there is often a tiered management structure where membership of community and precinct schemes comprises the subsidiary schemes and the owners of any development lots that are not subsidiary schemes. In practice, this means the individual lot owners within subsidiary schemes have collective representation and attend community and precinct association meetings by proxy.

An example of tiered management structure at a community scheme



Chapter One: Consistency in Strata and Community Scheme Laws

Feedback received during the consultation process made it clear that the current strata and community scheme laws had become outdated and were in need of refreshing to reflect modern practice. New community scheme laws need to be flexible enough to foster further growth and to ensure that schemes are managed in an accountable and transparent way.

There can be significant differences in the way individual community, precinct and neighbourhood associations function. For example, there are examples of community schemes that have not been further subdivided to create any subsidiary schemes. Such schemes are comprised solely of development lots with individual, free-standing homes on each lot and operate in a very similar way to strata schemes. In contrast, there are community schemes comprised of many subsidiary schemes, including strata, neighbourhood and precinct schemes.

Governance issues are regulated through 'management statements' which can also vary considerably. These management statements set out the by-laws and particulars that regulate the day-to-day maintenance and administration of each association. They also cover committee matters such as election of office-bearers, meetings, by-laws, voting on motions and record keeping.

The *Strata Scheme Law Reform Position Paper* (November 2013) proposed a suite of reforms to the strata legislation. Many of those reforms are relevant to community schemes and have been incorporated into the community scheme law reform package. Having more consistent laws will make it easier for residents to understand their rights and responsibilities.

The proposed reforms are designed to allow for a high degree of innovation and achieve the following positive outcomes for NSW residents of community schemes:

- Greater owner participation
- Strengthen transparency and accountability
- Reduce red tape
- Improve defect rectification, repairs and maintenance
- Enhance by-law enforcement
- Better dispute management

Greater owner participation

1.1 Allow associations to choose alternative methods of attendance at meetings including social media, video and teleconferencing or other methods which may become available in the future. Associations will also be allowed to accept postal or electronic votes.

The members of an owners corporation or an association can only attend a meeting and vote in person or by appointing a proxy. During the consultation process, many submissions supported the use of electronic communications, such as teleconferencing, to allow people who are unable to attend a meeting to participate and vote. This could significantly reduce barriers to participation, particularly for people who do not live in or near the scheme where they own a lot, or who may not be able to attend meetings due to the timing or location.

The use of alternative forms of attendance and voting will not be mandatory, and associations will have the flexibility to use these options voluntarily. The legislation will

include appropriate measures to ensure those who are not willing or able to use these electronic alternatives can continue to participate in decision making.

1.2 Provide greater recognition for modern forms of communication by allowing documents to be stored and distributed electronically.

The current laws can restrict the way that notices and other documents can be served on owners, residents and other parties. Generally, documents are required to be given to a person in hard copy, but schemes can adopt a specific by-law allowing other means for service of notices. However, it is clear that many committees and managing agents want to be able to hold records and distribute documents electronically, and that many residents have a strong preference for electronic communications.

The laws will be amended to allow for documents to be given to people electronically if the person has agreed to this form of communication. For example, owners who do not have access to email will still be able to choose to receive documents in hard copy.

1.3 Introduce procedures for conducting secret ballots.

Voting on motions at meetings is generally conducted by a simple show of hands. Some owners may choose not to vote on motions rather than risk harassment because of how they voted. Current laws do not specifically provide for anonymous voting through secret ballots.

The new laws will recognise voting on a motion by secret ballot. At least 25 percent of the members of an association attending a meeting would need to support a secret ballot being held. Associations could also choose to adopt a by-law outlining the matters or class of matters that are to be subject to a secret ballot.

Fair Trading will issue guidance material to help schemes understand the voting process, including the process for holding secret ballots. Associations will be able to choose to arrange their own secret ballots, or seek the assistance of election service providers.

1.4 Enhance opportunities for tenant participation in neighbourhood schemes, including by allowing tenants to attend association meetings and to elect a non-voting representative to the committee.

The strata scheme law reforms propose to give tenants the right to attend and participate in meetings of the owners corporation. It is also proposed that tenants be allowed to appoint a non-voting representative to the committee in circumstances where tenants occupy more than half the lots in a strata scheme.

The same reforms are proposed for the community scheme laws, but due to the representative nature of voting at precinct and community associations, this measure may only be relevant to neighbourhood schemes.

These new rights will be limited. Tenants will not have any rights to vote at meetings, and will only be able to address a meeting if the owners vote to allow this. It will also be possible for tenants to be asked to leave a meeting when specified matters, such as financial issues, are being discussed.

As will be the case with strata schemes, tenants in neighbourhood schemes will be allowed to elect a non-voting tenant representative to the neighbourhood committee, but only if tenants occupy more than half the lots in the scheme.

Strengthen transparency and accountability

1.5 Change the name of the 'executive committee' to 'community committee', 'precinct committee' or 'neighbourhood committee' to better reflect their function.

Executive committees are elected at annual general meetings. The role of the executive committee is make day-to-day management decisions on behalf of an association. While primary responsibility for maintenance and management of a scheme sits with the association, this overcomes the need for a general meeting to be held for every single matter.

While executive committee members play an important role in running a community scheme they do not have any special 'executive' status or authority over other owners in the scheme. Executive committees cannot make a decision if a majority of association members oppose that decision.

Changing the name of the committee may help change people's perceptions about the role of committee members and will better reflect the committee's purpose and function. Clearly stating if the committee is for a community, precinct or neighbourhood scheme may also improve understanding of the role and responsibilities of each committee.

1.6 Provide for written nominations for committee members ahead of the annual general meeting (AGM).

Currently, nominations for the executive committee can only be made at a general meeting. This can be a disadvantage for people who cannot attend the meeting, or who are attending by proxy. Allowing nomination ahead of an AGM is designed to improve transparency and will give association members time to consider the suitability of executive committee candidates ahead of the election.

The nominations will need to be sent out along with the notice of the AGM or otherwise before the meeting. It will still be possible to make nominations for executive committee positions at the AGM.

1.7 Provide that committee members are to carry out their functions without favour, for the benefit of owners of the scheme they represent, and to act with due care and diligence.

During the consultation process, submissions raised concerns that some executive committee members seek a position on the committee in order to influence the decision-making process in their own favour.

There is no specific 'duty of care' imposed on the executive committee, but committee members should not be seeking to gain personal advantage from their positions.

Clearly stating that committee members have an obligation to act in the best interests of the owners of the scheme will emphasise the standard of conduct expected.

1.8 Introduce an 'exclusion of personal liability' clause for committee members who act in good faith for the purpose of executing their functions.

Schemes have the option of taking out insurance to cover executive committee members' liability arising from performing their role in good faith. This means that while office bearers in some schemes have personal liability insurance, many do not.

It is understood that some people choose not to volunteer to be on a committee for fear that they will be held legally liable for the committee's decisions. This could be a significant disincentive to owners becoming committee members.

Strata scheme law reforms propose that the law give appropriate protection to committee members who make decisions while acting in good faith. The same protection will be provided for community scheme committee members who make decisions while acting in good faith.

Similar protections are already in place in other Australian jurisdictions and in other laws of the State.

1.9 Restrict the amounts a committee can spend on legal advice and services, or legal action, without obtaining the approval of the association.

Strata scheme laws already limit the amount an executive committee can spend on legal advice or services or legal action without obtaining the approval of the owners corporation. The limits under strata scheme laws were introduced to provide greater safeguards for the interests of all owners of a scheme. There have been cases when the costs of legal services or action have been quite significant and have become a huge financial burden before owners were made aware of the amounts involved.

The same limits will be introduced for community schemes and will be modelled on the limits applying to strata schemes. Both current and proposed exemptions to the expenditure limits under the strata scheme laws will be mirrored in the community scheme laws.

The current limits in the Strata Scheme Management Regulation are \$1,000 per lot or a total of \$12,500, whichever is the lesser amount. However, legal action to recover unpaid levies is exempt from these limits.

Under the strata legislation, there has been uncertainty about whether failure to get owners corporation approval invalidates any legal subsequent action taken by the strata committee. In many cases, where the legal action is in the interests of the owners corporation, the other party to the proceedings has used this requirement to get approval to have a case dismissed. This has adversely impacted on some owners corporations, which was not the original intent of the relevant provisions. To ensure this same issue does not arise in community schemes, the legislation will clarify that a failure to obtain approval does not affect the validity of any proceedings or legal action taken by the committee.

1.10 Clearly define the roles of chairperson, treasurer and secretary.

Although the positions of chairperson, treasurer and secretary can carry significant responsibilities, there are no definitions of these roles in the community schemes laws to provide basic guidance and information as to what functions they could entail. These roles can be further defined and clarified in a scheme's management statement.

The duties of the chairperson, treasurer and secretary will be clearly defined and will mirror the corresponding strata scheme law reforms. However, to ensure ongoing flexibility for community schemes, the definitions will only apply if these roles are not set out in a scheme's management statement.

1.11 Limit the number of proxies able to be held by any person to five per cent of the lots if the scheme has more than 20 lots, or one proxy vote per person if the scheme has 20 lots or less.

Many submissions to the review identified proxy voting arrangements as a concern for their scheme. There was a call for measures to address the issue of 'proxy farming', where an individual or small group of owners gathers large numbers of proxy votes in order to gain control of the decision making process. This allows a small group to subvert the proper operation and management of a scheme to better serve their own interests.

Limiting proxy votes as stated above has also been proposed for strata schemes. However, due to the representative nature of voting at precinct and community associations this reform may only be practical for strata and neighbourhood schemes to implement.

However, it is acknowledged that many schemes find it difficult to reach a quorum at meetings and the proxy voting system helps them to do so. Other reforms to be implemented will make it easier for schemes to declare a quorum and will boost participation, which will reduce reliance on proxies (see reforms 1.1 and 1.25).

Similar restrictions already operate under Queensland's strata scheme laws.

1.12 Require all motions considered at general meetings to be accompanied by a short explanatory note that also identifies the person who submitted the motion.

This reform is designed to ensure that individuals who submit motions are accountable for the matters that they want put to a vote. Providing this information in advance of the meeting will enable more time for other owners to consider the proposal before a vote is called. Owners will also know which person to direct queries to for further information on the subject of the motion.

1.13 Limit the matters for which a priority vote can be held.

Priority voting powers are held by certain parties such as mortgagees or covenant charges. This means that the owner's vote doesn't count if the priority vote holder exercises their right to vote in place of the owner. Currently, a priority vote can be exercised for any matter, even if it is a minor decision, or the matter doesn't impact on the relevant lot.

To ensure that priority votes are only used in reasonable and appropriate circumstances, the use of priority votes will be limited to budgeting, insurance, fixing of levies, and for matters exceeding a certain financial limit or requiring a special or unanimous resolution.

1.14 Require committee members to disclose any conflicts of interest in a matter to be considered by the committee.

Disclosing conflicts of interest is an important aspect of democratic decision-making and will help to ensure confidence in the committee and the decisions it makes on behalf of the owners. As with the proposed 'duty of care' for executive committee members (reform 1.7), this disclosure requirement will emphasise the standard of conduct expected.

Committee members who have a conflict of interest will be excluded from any vote unless the committee (without the conflicted person having a vote) decides that the conflict does not warrant this.

Failure to disclose conflicts of interest will be an offence under the Act and may result in a penalty.

1.15 Prohibit non-owners with a financial interest in the scheme (for example, managing agents and letting agents) from being a member of the neighbourhood, precinct or community committee.

Some concerns have been raised about non-owners, who have a financial interest in a scheme, being appointed as committee members. It is possible that this may give rise to conflicts of interest.

This measure is proposed for strata schemes, and is designed to improve transparency, accountability and trust in association committees. Managing agents and other parties will still be able to attend and run committee meetings but only at the invitation of the committee, and only in an advisory capacity. They will not be able to vote on any matters that come before the committee.

This will not apply to owners at a scheme who have a financial interest in the scheme because they are the managing agent or letting agent.

1.16 New disclosure and accountability regime for managing agents.

For strata and community schemes, concerns have been expressed at the receipt of third-party commissions by managing agents. Some argue that such commissions represent a conflict of interest for the agent in their management role that can lead to mistrust between agents and owners. As such, it is vital that owners corporations and associations are provided all necessary information about third party commissions and are empowered to make a decision as to whether this practice is appropriate for the scheme.

Commissions paid by insurance companies are the most common form of third party payment in the sector, though other service providers also engage in this practice. It is likely that insurers and service providers who pay commissions pass on this cost to the owners corporations or associations by charging higher prices for products and services. While these arrangements may allow the managing agent to charge lower service fees, it may also provide an incentive to put the managing agent's interest ahead of the owners corporation or association.

To address this concern the reforms will introduce a new regime of disclosure and accountability to ensure owners corporations and associations are informed about the amount and nature of commissions received by a managing agents and make regular decisions as to whether they should proceed.

This will be achieved by:

- requiring the managing agent to disclose at each AGM the circumstances, dollar amount and services provided in respect of any commissions received during the previous 12 months;
- requiring the managing agent to disclose at each AGM a best estimate of the circumstances, dollar amount and services to be provided in respect of any commissions to be received in the next 12 months;

- requiring the managing agent to disclose at each AGM a fee for service based model (free of commissions), outlining the costs of services to be provided in the next 12 months;
- requiring owners corporations to decide at each AGM whether the managing agent is allowed to receive commissions (including in which circumstances) for the next 12 months;
- banning agents from receiving non-monetary benefits and gifts from third parties; and
- requiring the managing agent to get at least three quotes for certain products (for example, insurance) to ensure competition and choice for the owners corporation.

This regime will ensure there is transparency, accountability, choice and competition in this area of the strata and community schemes marketplace. Appropriate sanctions will apply for misleading disclosures.

1.17 Provide that the term of a management contract cannot be longer than three years.

Owners have consistently raised concerns that it is difficult to dismiss managing agents despite poor performance.

Fair Trading receives regular complaints about long-term contracts being entered into at the first AGM with agents who have essentially been chosen by the developer. In this situation, conflicts of interests could arise for an agent when the views and concerns of the new owners do not accord with those of the developer.

Due to the staged development of many community schemes, the initial period can last for a long time. This can mean that the first AGM is not held for several years after the first residents move in. Furthermore, although agency agreements automatically terminate at the first AGM, associations report they often feel pressured by the developer into accepting a particular agent, and feel that they have little opportunity to identify potential alternative agents. These factors can hinder owners from changing managing agents, even if removal of the agent would be justified.

Some agency contracts also include terms such as automatic rollovers that significantly extend the length of the contract and make it hard for owners to replace the agent. Under the new laws, automatic rollovers will not be allowed.

To further improve accountability, managing agents will be required to disclose any links to the developer and any other potential conflicts of interest.

1.18 Require realistic levies to be set in the initial period and for the first year after the initial period ends.

Developers will be required to set appropriate annual levies during the initial period and for the first year after the initial period ends. Associations will also be allowed to take the developers to the Tribunal if it can be shown unrealistic levies were set.

The Tribunal will be given the power to make an order that the developer owner be required to pay compensation to an association if it is determined the budget and levy amounts were inadequate.

1.19 When registering a scheme, unit entitlements for neighbourhood schemes are to be determined based on an independent valuation.

Currently, unit entitlements for community and precinct schemes must be determined by independent valuation, but developers are responsible for determining the unit entitlements for neighbourhood schemes and strata schemes. Unit entitlements are the basis for determining levies that must be paid by the owners of each lot.

It is appropriate to introduce the same process for determining unit entitlements for community, precinct, neighbourhood and strata schemes. This will enhance consistency across the strata and community scheme laws.

1.20 Require committees to prepare and distribute a one page summary of key financial information to all owners ahead of each AGM.

Currently, a full copy of the last financial statement must be provided with meeting notices ahead of each AGM. The amount of financial information contained in these statements can be overwhelming, and production costs can be significant. The simplified key financial information will enable schemes to reduce costs and will be easier for lot owners to understand, encouraging more owners to read it.

The new laws will require that copies of the full financial statements be made available to owners who request them, so there will be no reduction in available information. Associations will also have flexibility and will be able to continue to provide the full financial statements if this is preferred by the association members.

1.21 Require handover documents to be provided to an association in a reasonable time after it is registered.

Developers must currently deliver a range of important documents for the operation of a scheme, such as plans, specifications, certificates and insurance policies, at the first AGM after the end of the initial period. Due to the length of the initial period at some community schemes, which could be 10 years or more, these documents are not always provided to a subsidiary scheme until long after it is completed and is fully occupied. This can pose difficulties for the effective management of a scheme and could impact on the proper maintenance and repair of property.

This proposal will require developers to deliver the specified documents to the association of a subsidiary scheme within a set time after the subsidiary scheme is completed. Given the significant differences between individual community schemes, the timing of the document handover deadline will be the subject of further industry consultation.

1.22 Large schemes or schemes with an annual budget of more than \$250,000 will be required to have their accounts audited each year.

Although community schemes can have substantial budgets, there is no legal requirement for the accounting records and financial accounts to be audited. It is up to each association to decide whether or not an audit is required.

In line with strata scheme law reforms, mandatory budget auditing requirements will be introduced for large schemes or schemes with an annual budget of more than \$250,000.

A large scheme will be defined as a scheme comprising more than 100 lots (total aggregated across all development lots and lots in subsidiary schemes).

Reduce red tape

1.23 Change certain unanimous resolutions to special resolutions to simplify the decision making process.

At community schemes, unanimous resolutions are currently required for:

- any change to the basic architectural or landscaping design, or essence of a theme;
- for payment of money in relation to association property;
- for the distribution of surplus association funds; and
- for any dealing that will affect or alter association property, such as the granting of a lease or the creation of an easement.

However, a unanimous resolution can be an insurmountable obstacle to justifiable or warranted changes, as a single dissenting voice is enough to defeat any proposal.

For strata schemes, special resolutions are now the maximum approval threshold required for most matters. A special resolution is passed if no more than 25% of votes cast at a meeting oppose the motion.

A special resolution stills require a high approval threshold and effectively represent the will of a significant majority of lot owners regarding important matters.

1.24 Give associations more flexibility about when they hold their AGMs.

The current requirement for meetings to be held within one month of the anniversary of the first AGM will be removed. It is understood this requirement is not always observed due to impracticality.

Provided that meetings are held on a regular basis (including to approve an annual budget), there appears to be no reason for mandating such strict timeframes. The new laws will simply require an AGM to be held each financial year. This will enhance flexibility while retaining accountability.

1.25 Allow the chairperson to declare a quorum if, after 30 minutes, a quorum is not present.

Under current laws, a meeting quorum is more than one-quarter the number of members of the community association, or members holding more than one-quarter the total unit entitlement for the community scheme are present in person or by proxy. If quorum is not present 30 minutes after the scheduled start time, the meeting must be adjourned for at least seven days. This can create additional costs and time delays for important decisions, and can be very inconvenient for those who make the effort to attend. However, at the adjourned meeting, the chairperson can deem quorum present after 30 minutes.

To overcome the costs, time delays and other difficulties, the requirement for a second or adjourned meeting to be called before a quorum can be declared is being amended. The chairperson will be able to deem quorum 30 minutes after the first meeting scheduled start time.

It will not be mandatory to declare a quorum at the first meeting, as this will be up to the chairperson to determine. It will still be possible for the chairperson to adjourn the meeting for seven days.

1.26 Allow for income earned to be paid into either the administrative fund or sinking fund.

Some schemes earn income from external sources, such as from rent for use of association property. For example, a scheme could lease association property for a mobile telephone tower. Currently, the amounts earned from such external sources can only be paid into the sinking fund.

This can lead to a situation where the amount in the sinking fund exceeds what is required, but the excess amounts cannot be permanently transferred to the administrative fund which would reduce the levies to be paid into that fund and reduce overall costs to owners.

This income will be allowed to be paid into either the administrative fund or the sinking fund as required, which will provide schemes with the flexibility to direct funds to where they are most needed.

1.27 Enable schemes to hold a trademark.

Some schemes have a distinct name and logo, but cannot formally register the name and logo for their use as trademark for internal management and communication and in their dealings with external parties.

This is because of the current exemption for schemes from the *Federal Corporations Act 2001* and *Australian Securities and Investments Commission Act 2001*. The impact of this exemption means schemes are unable to hold a trademark.

The new laws will allow schemes to hold a trademark, such as the name of a scheme, for use in their operations.

Improve defect rectification, repairs and maintenance

1.28 Restrict the right of the developer and people connected to the developer from voting on matters relating to building defects.

If association seeks to take action to assess, investigate or rectify building defects, the proposed action would be subject to a vote at a general meeting. Sometimes developers (also called the original owners) use the influence they retain, due to voting rights for unsold development lots, to stop a scheme from taking appropriate action to deal with defects.

To remove this potential conflict of interest from the decision making process, developers will be specifically excluded from voting on a matter concerning building defects or defect rectification.

1.29 Require the builder/developer to prepare a maintenance schedule at registration and supply it to the association.

The maintenance schedule will deal with the association's property and buildings that are likely to require servicing or maintenance over the coming years. For example, information about how often the swimming pool filtration system needs to be serviced and when protective treatments should be renewed. This information will help associations to assess future costs more accurately and could significantly improve forward budgeting. NSW Fair Trading will prepare guidance material to assist developers/builders prepare a maintenance schedule.

The maintenance schedule will be prepared primarily for the information of the relevant association. Adherence to the maintenance schedule will not be compulsory after the initial period and non-adherence by an association cannot remove a builder or developer's liability for any building defects. However, the maintenance schedule can be used as evidence in any subsequent Tribunal or court hearing. The maintenance schedule will also help associations when setting the annual budgets and levies.

1.30 Provide that, when an owner-resident causes damage to the association property, the association may seek an order from the Tribunal requiring the damage be rectified or to recoup repair costs.

Generally, the scheme's management statement requires the association to repair any damage to association property. This could apply even if the association property is damaged by an owner's negligence.

This measure will give associations the option of seeking an order for the repairs to be made by the party who caused the damage. If the party doesn't comply with the Tribunal order, they will face a fine of up to \$5,500.

1.31 Establish processes, similar to those that exist under residential tenancies law, for dealing with abandoned goods.

A process similar to that which applies under residential tenancies legislation is being extended to the strata scheme laws, and will also be extended to community scheme laws. This will provide lawful means for associations to deal with abandoned property, for example, when goods are left behind or dumped on association property when a resident moves out.

Under residential tenancies laws, landlords can dispose of perishable goods straight away. Non-perishable goods must be stored for two weeks, but the cost of storage can be recovered from the tenant, or if unclaimed the goods can be sold. Personal documentation must be kept for 90 days and if unclaimed must be returned to the issuing authority or otherwise lawfully disposed of.

Enhance by-law enforcement

1.32 Establish a regulatory framework that allows schemes to better manage parking disputes, including establishing conditions of use and issuing penalties for non-compliance.

Unauthorised parking can be a significant problem for strata and community schemes. This includes residents misusing visitor parking, parking on sections of association property that are not parking spaces, or people who are neither residents nor visitors parking within the scheme as if it were public parking.

To better manage unauthorised parking, community schemes will be able to enter into arrangements with their local council for the issuing of penalty notices to owners of offending vehicles. Authorised council officers will be allowed to enter private property to issue penalty notices. These arrangements would be voluntary both for schemes and councils and would need to be developed on commercial terms. Signage and access arrangements to the property will need to form part of any agreement and associations may need to pass by-laws to allow enforcement of parking restrictions.

NSW Fair Trading will issue guidance material to assist associations better understand what options are available for managing parking on the association property.

1.33 Provide that, if a by-law has been repeatedly breached and the Tribunal has imposed a penalty in the last twelve month period, an association can apply directly to the Tribunal for a further penalty without having to issue a new notice to comply or undertake mediation.

In order to seek the imposition of a penalty, an association must have issued a 'notice to comply' to the resident who has breached the by-law. The application for a penalty must be lodged within 12 months of the notice being issued. Another 'notice to comply' must be issued before a further penalty may be sought.

This new process will allow associations to seek further penalties for repeat breaches of the same by-law after one 'notice to comply' has been issued. This will give schemes streamlined means to enforce breaches of by-laws by repeat offenders.

1.34 Increase penalties for by-law breaches.

The current maximum penalty is \$550 (5 penalty units). Higher penalties will be introduced to encourage compliance with the by-laws. The maximum penalty will be \$1,100 (10 penalty units).

1.35 Provide that penalty payments are to be payable to an association rather than the Commissioner for Fair Trading, and penalties incurred by an owner can be added to the owner's levy account.

Penalties are generally paid to the Commissioner for Fair Trading, but the Tribunal can order that amounts be paid to the applicant. As explained in reform 1.33, an association must issue a 'notice to comply' to the resident who has breached the by-law before applying for a penalty order.

It is considered that payment of penalties to an association is more appropriate as enforcing by-laws is a matter between an association and a resident. The Government is not involved in the dispute and there is usually no broader community impact associated with the breach.

The Tribunal will still be able to require the penalty be paid to the Government in extenuating circumstances.

It will also be possible for a penalty to be added to an owners levy account which will provide additional ways for associations to recover these amounts.

Better dispute management

1.36 Enable the NSW Civil and Administrative Tribunal (the Tribunal) to make orders with respect to management and caretaker/building manager agreements for community, precinct and neighbourhood schemes, similar to Tribunal orders relating to caretaker agreements under section 183A of the *Strata Schemes Management Act 1996*.

This will allow the Tribunal to make orders where the managing agent, caretaker or building manager has refused or failed to perform their duties in accordance with the agreement or has performed unsatisfactorily, the charges payable by the association under the agreement are unfair, or the agreement is otherwise harsh, oppressive, unconscionable or unreasonable. Currently the laws are silent in this regard.

1.37 Recognise internal dispute resolution mechanisms within schemes.

Many schemes have internal dispute resolution process, which can provide a quick and effective means to deal with disagreements or conflicts. However, these processes are not recognised under the community scheme laws.

This reform will make it possible for schemes to formally establish internal dispute resolution procedures.

Establishing these procedures will be voluntary and participation will be optional. Fair Trading will develop a model process in guidance material that schemes can adopt or modify for their particular needs.

1.38 Further encourage attendance at mediation by allowing the Tribunal to issue cost orders against the party that does not attend.

Mediation has proven to be a successful and cost-effective way to resolve many disputes. The success rate of mediation run by Fair Trading is close to 70 percent. While mediation is compulsory, a respondent can currently refuse to participate for any reason without consequence.

The Tribunal will be allowed to order a person who has agreed to attend a scheduled mediation but fails to turn up to pay any costs associated with the mediation, unless the person has a reasonable excuse.

1.39 Remove certain provisions relating to Tribunal processes and how matters are heard from the community scheme laws and include them in the Tribunal's laws.

Many of the Tribunal's laws are duplicated in the community scheme laws. As far as possible, provisions relating to applications, orders and the hearing of disputes will be removed as these matters are dealt with under the Tribunal's laws.

This reform will allow the Tribunal more consistency and flexibility in the way it deals with disputes.

All reference to adjudication will be removed from the community scheme laws and replaced with Tribunal applications and orders. Provisions relating to procedural or administrative matters, including the hearing of disputes, will be removed in favour of the provisions set out in the Tribunal's laws.

1.40 Extend the Tribunal's jurisdiction to deal with the majority of disputes.

The jurisdiction of the Tribunal will be expanded to allow it to make orders to deal with additional matters such as the recovery of outstanding levies from owners, claims for the cost of repairing damage caused to the association property, or disputes about residents causing a nuisance and hazard.

1.41 Remove the assumed right to legal representation in mediation and the Tribunal. Instead, allow parties to apply for leave to be legally represented, consistent with Tribunal legislation.

It is often assumed that parties to a Tribunal matter have an automatic right to legal representation, but this is not the case. This will help to keep costs associated with mediation

and Tribunal hearings to a minimum and establish a consistent approach to legal representation across all divisions of the Tribunal.

The law will also clarify each party to mediation must pay for their own costs.

1.42 Enable the Commissioner for Fair Trading to issue penalty notices for appropriate offences.

Penalty notices can be a useful tool for ensuring compliance with the law. They are suitable for offences that involve clear physical elements that an enforcement officer can easily apply to make a reliable and objective assessment of guilt.

Chapter Two: Community Land Development

The *Community Land Development Act 1973 (CLDA)* provides a lot of flexibility in the way land can be subdivided and dealt with. This enables different arrangements for structuring schemes to best meet the needs of individual communities. However, stakeholders have suggested that certain prohibitions prevent the law from being used to its best advantage. There is general agreement that the legislation should be more flexible to provide for more innovative schemes.

Under the reforms to the CLDA, the development contract provisions will be modelled on strata development laws. This will make the development contract a more useful tool in the development of staged schemes, which will deliver benefits for purchasers and developers.

Community schemes will be provided with greater flexibility to add land to the scheme after the initial plan has expired. There will be a means for a subsidiary neighbourhood scheme to amalgamate with a parent community scheme. It will also be possible for a community or precinct association, or a subsidiary neighbourhood association or strata corporation, to subdivide part of its association or common property.

The reforms are intended to provide:

- More transparency through development contracts
- Red tape reduction
- More flexibility to deal with association property
- Better structuring of schemes

More Transparency through development contracts

Community and precinct development contracts

There is currently no requirement for a development contract to be registered with a community or precinct plan. There is no proposal to change this. The provision of a development contract will remain optional.

Where a community or precinct development contract is provided, the legislation will be amended so the requirements more closely follow the requirements for development contracts in the strata laws. Some of the key elements of these reforms are set out below.

2.1 A development contract must identify proposals as either 'warranted development' or 'authorised proposals'.

An approved form for a community or precinct development contract will be prescribed. It will require the developer to classify proposals as either 'warranted development' or 'authorised proposals'. Warranted development is development the developer warrants will be carried out and can be compelled to complete. An authorised proposal is development a developer is authorised to complete but cannot be compelled to carry out.

2.2 A developer will be able to add land to a scheme provided the intention has been disclosed in the development contract.

At present, the CLDA does not allow land to be added to a community or precinct scheme, even during the development stage, where the developer may have intended additional land be included as part of the scheme but circumstances delayed acquisition of the whole of the site before construction had commenced.

It is proposed the development contract be allowed to be used as a device to add land to a scheme. This will ensure appropriate disclosure as purchasers will be aware up front of the possibility land may be added.

2.3 A developer will be able to vary the liability for expenses during the development stage by disclosing in the development contract how contributions will be calculated.

The contributions a proprietor must make towards expenses of the association are calculated in accordance with the unit entitlement allocated to each lot. In a community scheme, the unit entitlement is based on a valuation made by a registered valuer. During the early stages of a staged development, the developer retains the largest proportion of unit entitlements and is consequently liable to pay a corresponding proportion of the association expenses.

At present, developers use a variety of informal means to relieve the burden of high association levies during the development phase.

A more realistic way of adjusting contributions during this period could be to allow the developer to include a schedule of contributions with the development contract. The schedule will enable categories of anticipated association expenses to be itemised and apportioned to the developer and purchasers. The schedule will provide clear disclosure to purchasers of their liability to contribute during the development stage. Once the development stage is complete, the schedule will cease to have any effect and the liabilities will revert to being apportioned in accordance with the unit entitlement of each lot.

2.4 Additional community or precinct property will be able to be created after registration of the initial plan provided there is appropriate disclosure in the development contract.

Community association property is created in the initial community plan but cannot be created in a community plan of subdivision. After a community plan is registered, any further shared property that is required in the scheme must be created as association or common property in a subsidiary scheme.

In many situations, it would be more convenient for future shared property to be created as community property so it can be used and maintained by the community association. It is proposed to enable a development contract to identify land that will, or is proposed to be, created as community property on registration of a community plan of subdivision. By providing this option, the developer will be able to structure a scheme so it can be managed more efficiently after the development stage is complete.

The development contract will not enable existing association property to be subdivided.

2.5 Introduce special procedures for meetings of an association called to consider development concerns identified by the development contract.

Whenever a plan or dealing that will affect association property in any way is lodged for registration, the association is required to signify its consent by affixing its seal to the plan or dealing. The requirement for an association to execute a dealing or plan should not be dispensed with, even where the developer is proposing to give effect to actions disclosed in the development contract. Instead, special procedures should be put in place for association meetings called to consider actions identified as development proposals in the development contract.

Once the meeting has been called, the vote of the developer ought to be sufficient to pass a motion relating specifically to that development issue.

By requiring meetings to be called to consider these development issues, other lot owners will be kept informed of crucial stages in the development process. If the lot owners perceive any irregularity in the developer's actions, the developer's motion can be challenged in the Tribunal in accordance with the existing dispute resolution provisions in the CLMA.

Neighbourhood development contracts

2.6 Remove the requirement for compulsory registration of a neighbourhood development contract and replace it with new provisions allowing for an optional neighbourhood development contract, similar to the provisions to be introduced for community and precinct development contracts.

The CLDA currently requires that a neighbourhood development contract must be provided with every neighbourhood plan.

The purpose of this requirement was to ensure purchasers buying a lot in a neighbourhood plan knew whether the scheme was complete or there were further works to be finalised or facilities provided by the developer after the plan was registered. Where no further amenities are to be provided, the developer may complete an undertaking to this effect that is included as part of the neighbourhood development contract approved form.

Most development contracts lodged for registration with a neighbourhood plan contain the undertaking. The disclosure intended by the current provisions is not being provided and the neighbourhood development contract has very little purpose. Instead, the inclusion of this document unnecessarily complicates the plan. It is therefore proposed to remove the requirement for a neighbourhood development contract to be provided with every neighbourhood plan.

Red tape reduction

2.7 Enable a community, precinct or neighbourhood to deal with association property by special resolution.

The CLDA requires that a unanimous resolution be passed to enable an association to deal with association property (such as granting a lease, converting a lot to association property or creating an easement).

It is proposed to amend the legislation to enable an association to deal with its association property following the passing of a special resolution rather than a unanimous resolution. The requirement for a unanimous resolution is too onerous and hampers the ability of an association to act in the best interest of the majority of its members. It is also not consistent with the strata legislation, which only requires a special resolution to authorise these types of transactions.

It is not proposed to amend the resolution required to authorise termination of a scheme. A unanimous resolution will continue to be required before a community, precinct or neighbourhood scheme can be terminated.

2.8 Extend the power of the Registrar General to terminate community, precinct and subsidiary neighbourhood schemes where termination is approved with support of all lot owners and registered interest holders.

The CLDA allows a standalone neighbourhood scheme to be terminated by the Registrar General following a unanimous resolution of the association and with the support of all lot owners and mortgagees. This procedure is not available to community, precinct or subsidiary neighbourhood associations. All applications for termination of these schemes must be taken to the Supreme Court, even where there is unanimous agreement between all owners or where one owner owns all of the lots in the scheme. This adds unnecessary cost and delay.

It is proposed to allow the Registrar General to terminate any type of scheme provided that the termination has been approved by unanimous resolution and has the support of each lot owner and all registered interest holders. If the matter becomes too complex, the Registrar General will be able to require the termination to proceed by way of Supreme Court order.

2.9 Extend the current leasing powers of an association to enable it to lease land from within the relevant scheme.

Sometimes an association may want to lease a lot, or part of a lot, within the community or neighbourhood parcel. For example, an association may need a caretaker's residence or a letting agent office. There may also be circumstances where a community association needs to acquire a lease of land within a subsidiary scheme, such as for a utility room. This is currently not allowed. While the CLDA enables a community, precinct or neighbourhood association to take a lease of additional land to be used as association property, it cannot lease land within its own scheme.

2.10 Allow a lease of part of association property for more than five years.

It is proposed to resolve a technical prohibition within the *Conveyancing Act 1900* that prevents a lease of part of association property for more than five years.

2.11 Enable a subsidiary neighbourhood or precinct association to lodge a revised schedule of unit entitlement on completion of a scheme, independently of the community association.

When a community association considers a community scheme is complete, it may lodge a revised schedule of unit entitlements for the whole scheme under section 30 of the CLDA based on a table of values obtained from the Valuer General. This procedure enables a community association to update its schedule of unit entitlements without the expense of engaging a registered valuer to value the completed scheme.

The section does not allow a precinct association or subsidiary neighbourhood association to lodge a revised schedule. A subsidiary scheme's revised schedule must be lodged by the parent community association. A subsidiary association would save time and money if it could lodge a revised schedule, based on the Valuer General's table of values, on its own behalf.

2.12 Amend section 36 of the CLDA to enable an association to take the benefit of a statutory easement.

The CLDA provides a simplified means of creating easements. It enables service authorities connecting services within the community scheme to have the benefit of statutory easements. It has become common for associations to provide services such as intercom and security services, low voltage electricity, water recycling and drainage to lots within a scheme. It is proposed to clarify the legislation so an association can take the benefit of a statutory easement.

Greater flexibility to deal with association property

2.13 Enable a community association or a subsidiary precinct, neighbourhood or strata scheme to approve the addition of land to a scheme by special resolution.

The CLDA does not allow land to be added to a community or precinct scheme. Land can be added to a standalone neighbourhood, but only as association property.

There are occasions where it would be desirable for land to be added after registration of the initial plan. An established association may wish to expand its community facilities by purchasing adjoining land. Alternatively, a lot owner may want to increase the size of their land by buying some of a neighbour's land from outside the scheme.

It is generally agreed that, provided an appropriate resolution is passed by the relevant association, land should be able to be added to a scheme.

It is proposed to allow land to be added both as association property and as a lot in the scheme. In both cases, the association should agree to the addition by special resolution.

2.14 Enable community or precinct association property to be subdivided or created by registration of a community or precinct plan of subdivision.

A community plan of subdivision can subdivide a community development lot into two or more new lots. The plan cannot, however, subdivide association property. Nor can it be used to create additional association property.

Over time, an association may identify an underutilised area of association property that would be better used as part of adjoining community lots. Similarly, the association may wish to expand its association property by acquiring part of an adjoining community development lot. Provided that an appropriate resolution is passed, an association should be able to alter its association property by registration of a community plan of subdivision.

It is proposed to amend the CLDA to enable a community plan of subdivision to subdivide community development lots and/or community property to create additional development lots and/or community association property. Where association property is to be either subdivided or created, the approval of the community association would be required by way of special resolution.

2.15 Enable a subsidiary neighbourhood association or strata corporation to subdivide part of its association or common property.

Association property in a standalone neighbourhood scheme can be subdivided and created by registration of a neighbourhood plan of subdivision. However, for neighbourhood schemes

that form part of a community scheme, there is a prohibition preventing subdivision of neighbourhood association property. A similar prohibition applies to a subsidiary strata scheme.

It is proposed to amend the CLDA to enable a subsidiary neighbourhood plan of subdivision to subdivide and create association property with the approval of the neighbourhood association, signified by special resolution. A corresponding amendment will be made to the strata legislation to enable common property in a subsidiary scheme to be subdivided.

Better structuring of schemes

2.16 Introduce a mechanism to enable a subsidiary neighbourhood scheme to amalgamate with the parent community scheme.

One of the main features of the community schemes legislation is that a development may be staged by registration of a series of subsidiary neighbourhood plans. This gives the developer flexibility during the development period but can result in a management structure that is unnecessarily complicated. A neighbourhood association is created every time a neighbourhood plan is registered. If a developer chooses to complete the development in a number of small stages, the end result will be a large number of neighbourhood associations, the ongoing management of which can be unnecessarily costly and unwieldy.

It is proposed the legislation be amended to provide a mechanism for amalgamating subsidiary neighbourhood schemes with the parent community scheme after the development phase is complete.

Following amalgamation, the subsidiary association will be wound up. All association property and any other assets or liabilities will vest in the parent community scheme. Lots in the former subsidiary scheme will become lots in the community scheme. No changes will, however, be made to the boundaries of the former lots or the interests recorded on the folios for the former lots. In circumstances where amalgamation would be feasible, amalgamation would streamline the management arrangements and reduce duplication of expenses for items such as insurance and service charges. This will save both time and money.

Chapter Three: Table of Proposed Reforms

Chapter One: Consistency in Strata and Community Scheme Laws			
	Current laws	New laws	Most relevant to:
1.1	A vote can only be cast by proxy or in person at a general meeting of an association.	Associations will be allowed to hold meetings via social media, video and teleconferencing (or other methods which may become available in the future). Associations will also be allowed to accept postal or electronic votes from members who are unable to physically attend the meeting.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.2	Documents are generally served in hard copy, but can be served by any manner agreed between the parties. There are some provisions allowing electronic transmission of documents.	Associations will be allowed to store records and documents by electronic or other means. Associations will be able to send any documents and serve notices electronically if this form of communication has been agreed by the parties.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.3	The laws are silent about secret ballots.	Procedures for the conduct of optional secret ballots will be introduced.	Strata owners corporations Neighbourhood associations
1.4	The laws do not provide for any form of tenant participation.	Tenants will be allowed to attend AGMs, and elect a representative to a committee if tenants occupy more than half the lots in the scheme. Tenants will not be given any voting rights.	Strata owners corporations Neighbourhood associations
1.5	The 'executive committee' does not have any executive powers.	'Executive committee' will be renamed to 'neighbourhood committee', 'precinct committee', or 'community committee' to better reflect its role.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.6	Nominations for committee members are usually made at the AGM.	Written nominations for committee members will be allowed ahead of an AGM and distributed with the meeting notice. It will still be possible for nominations to be made at the AGM.	Strata owners corporations Neighbourhood associations Precinct associations Community associations

	Current laws	New laws	Most relevant to:
1.7	No specific obligation on committee members in undertaking their role.	Committee members will be required to carry out their functions without favour, for the benefit of their scheme and to act with due care and diligence.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.8	There is no provision to exclude personal liability. Associations can choose to take out personal liability insurance for executive committee members, but this is not compulsory.	An exclusion of personal liability clause will be introduced for committee members who act in good faith for the purpose of carrying out their functions.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.9	Community scheme laws are silent about legal costs.	Limits will be imposed on committees' expenditure on legal advice, services or action without the approval of the association.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.10	Chairperson role partly defined.	Roles of chairperson, treasurer and secretary will be defined, but law will also allow for management statement to define roles.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.11	No limits on the number of proxy votes that can be held by any one person.	The number of proxies able to be held by any person will be limited to five per cent of the lots if the scheme has more than 20 lots, or one if the scheme has 20 lots or less.	Strata owners corporations Neighbourhood associations
1.12	Motions are submitted to the secretary or managing agent before a general meeting with no need for an explanation or for the person moving the motion to be identified.	All motions to be considered at a meeting must be submitted in advance, circulated with the meeting notice, and accompanied by a short explanatory note that also identifies the person moving the motion.	Strata owners corporations Neighbourhood associations
1.13	There are no limits on the use of priority votes.	Priority votes will be limited to budgeting, insurance, levies, matters exceeding a certain financial threshold, or motions that require special or unanimous resolution.	Strata owners corporations Neighbourhood associations
1.14	Executive committee members do not have to disclose any conflict of interest.	Committee members will be required to disclose any conflict of interest in a matter to be considered by the committee.	Strata owners corporations Neighbourhood associations Precinct associations Community associations

	Current laws	New laws	Most relevant to:
1.15	No restrictions on who can serve on the committee providing they have been nominated by an association member.	Non-owners with a financial interest in the scheme will be prohibited from being committee members unless they are owners.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.16	No specific provisions for managing agents receiving commissions, benefits or gifts from third parties.	Managing agents will need to disclose commissions at AGMs and seek approval to continue receiving them. Agents will also be prohibited from receiving benefits or gifts.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.17	No limits on management contracts after initial period, and automatic roll-over clauses are allowed.	Management contracts will be limited to a maximum term of three years, with no automatic roll-over clauses allowed.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.18	There are no requirements for setting of levies for the first year of the scheme.	Developers will be required to set realistic levies in the initial period and first year of a scheme.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.19	For neighbourhood schemes, the original owner determines the allocation of unit entitlements. Precinct and community schemes have unit entitlements based on independent valuation.	When a neighbourhood scheme is registered, determination of unit entitlements will be based on an independent valuation.	Neighbourhood associations
1.20	General meeting notices must include the last set of financial statements.	Committees will be required to prepare and distribute key financial information to all owners ahead of each AGM. The full set of financial statements will be provided on request.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.21	Handover documents must be provided to an association at the first AGM.	Handover documents will have to be provided to the association of each subsidiary scheme within a reasonable timeframe after it is completed.	Neighbourhood associations Precinct associations Community associations
1.22	Only large strata schemes must have the accounts audited annually.	Large community, precinct or and neighbourhood schemes, and those with annual budgets over \$250,000, will be required to have their accounts audited each year.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.23	Unanimous resolutions required for various matters.	Reduce the matters that require unanimous resolutions by replace with a requirement for special resolution.	Strata owners corporations Neighbourhood associations Precinct associations Community associations

	Current laws	New laws	Most relevant to:
1.24	AGMs must be held within one month (before or after) of the anniversary of the first AGM.	Schemes will be allowed to hold the AGM at any time during the financial year.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.25	If after 30 minutes, a quorum has not been achieved, the meeting is adjourned for one week. If there is no quorum 30 minutes into the second meeting, the chairperson can declare a quorum.	The chairperson will be allowed to declare a quorum, if after 30 minutes a quorum has not been achieved. The chairperson will still have the option of adjourning the meeting for one week.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.26	Any income earned by an association not specifically for the administrative fund must be paid into the sinking fund.	Certain income earned by an association can be paid into either the administrative fund or sinking fund.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.27	Schemes can hold personal property, but not intangible property such as trademarks.	Allow schemes to hold a trademark.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.28	The developer has the right to vote on defects matters, albeit with a reduced entitlement.	The right of developers or anyone connected to the developer to vote on matters relating to building defects will be removed.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.29	No requirement for preparation of maintenance schedules.	The builder/developer will be required to prepare a maintenance schedule for the association property and provide it to the association at the first AGM.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.30	Associations are generally required to repair any damage to association property.	Associations will be able to seek an order for the repairs to be made by the party who caused the damage.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.31	The law is silent about abandoned goods.	Processes will be established for dealing with abandoned goods similar to those that exist under residential tenancies law.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.32	Parking by-laws only apply to residents.	A framework will be established to allow schemes to better manage disputes about parking, including allowing agreements with local councils to issue penalties for non-compliance.	Strata owners corporations Neighbourhood associations Precinct associations Community associations

	Current laws	New laws	Most relevant to:
1.33	The owners corporation must serve a notice on a person requiring them to comply with a by-law before taking a matter to mediation and then to the Tribunal.	If a by-law has been breached and the Tribunal has imposed a penalty in the last twelve months, the owners corporation will be able to apply to the Tribunal for a further penalty without having to issue a new notice to comply or undertake mediation.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.34	The Tribunal can impose a penalty of up to five penalty units (\$550) for the breach of a by-law.	The Tribunal will be able to impose a penalty of up to 10 penalty units (\$1,100).	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.35	Penalties are usually paid to the Commissioner for Fair Trading.	The Tribunal will award most penalty payments directly to an association.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.36	The Tribunal only has power to appoint managing agents.	The Tribunal will be able to make orders about managing agent and caretaker/building manager contracts.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.37	The law does not formally recognise internal dispute resolution mechanisms.	Dispute resolution mechanisms within schemes will be formally recognised and guidance material issued to help schemes establish processes for resolving disputes internally.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.38	There is no penalty for failing to attend mediation.	Encourage attendance at mediation by allowing the Tribunal to issue cost orders against the party that does not attend when they have previously agreed to.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.39	Many of the Tribunal's processes are duplicated.	Provisions relating to Tribunal processes and how matters are heard will be moved to the Tribunal's legislation.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.40	Some disputes can be dealt with by the Tribunal, but other matters must be referred to the courts.	Extend the jurisdiction of the Tribunal to deal with the majority of disputes.	Strata owners corporations Neighbourhood associations Precinct associations Community associations
1.41	Parties have an assumed right to legal representation at mediation or in the Tribunal.	The implied right to legal representation will be removed. Instead, parties will be allowed to apply for leave to be legally represented.	Strata owners corporations Neighbourhood associations Precinct associations Community associations

	Current laws	New laws	Most relevant to:
1.42	The Commissioner for Fair Trading cannot issue penalty notices in relation to community schemes.	Allow the Commissioner for Fair Trading to issue penalty notices for appropriate offences.	Strata owners corporations Neighbourhood associations Precinct associations Community associations

Chapter Two: Community Land Development			
	Current laws	New laws	Most relevant to:
2.1	There is no approved form for a community or precinct development contract. Development contracts are very rarely given in community and precinct schemes, resulting in limited formal disclosure.	Formally allow disclosure of proposals the developer will guarantee to complete and others that are authorised, but cannot be compelled. This will make the development contract a more useful document and may encourage its use. It will align development contract provisions with the strata legislation.	Precinct associations Community associations
2.2	No land can be added to a community or precinct scheme.	Allow the developer to add land to a community or precinct scheme, provided there has been appropriate disclosure in the development contract.	Precinct associations Community associations
2.3	Contributions to levies are calculated according to unit entitlement. Developers currently use informal mechanisms of adjusting payment for expenses during this period.	Allow the developer to include a schedule of contributions in a development contract which will itemise expenses and identify who is responsible for payment.	Precinct associations Community associations
2.4	Community or precinct association property cannot be created in a community or precinct plan of subdivision.	Allow additional association property to be created by a community or precinct plan of subdivision, provided there has been appropriate disclosure in the development contract.	Precinct associations Community associations
2.5	Current legislation has no formal mechanism for giving effect to the matters identified in a development contract.	Require meetings to be called to authorise matters identified in a development contract as 'development concerns' (being things like the creation of easements). Provided matters have been fully disclosed, the vote of the developer will be sufficient to pass a motion.	Precinct associations Community associations
2.6	A development contract must be provided with all neighbourhood schemes, even though most neighbourhood schemes are not intended to be developed in stages.	Remove red tape by only requiring a neighbourhood development contract where the neighbourhood scheme is intended to be developed in stages. Align requirements for neighbourhood development contracts with those applying to community and precinct schemes.	Neighbourhood associations

	Current laws	New laws	Most relevant to:
2.7	Unanimous resolution required to authorise most transactions with association property	Allow an association to transfer, lease or otherwise deal with association property by special resolution. Termination will still require unanimous resolution.	Neighbourhood associations Precinct associations Community associations
2.8	Registrar General can only terminate a standalone neighbourhood schemes.	Extend the power of the Registrar General to terminate community, precinct and subsidiary neighbourhood schemes, with the approval of all owners.	Neighbourhood associations Precinct associations Community associations Subsidiary strata scheme
2.9	An association can lease additional association property, but only if the land is adjoining land, not part of the scheme.	Will allow an association to create additional association property for a temporary period by allowing the association to lease a lot within the scheme.	Neighbourhood associations Precinct associations Community associations
2.10	In effect, section 23G of the <i>Conveyancing Act 1919</i> prevents an association from leasing part of its property for more than five years.	Ensure an association can lease part of association property for more than five years.	Neighbourhood associations Precinct associations Community associations
2.11	A revised schedule, based on the Valuer General's schedule of values, can be lodged only by a community association, on behalf of all subsidiary schemes, or by a stand-alone neighbourhood association.	Allow subsidiary schemes to lodge a revised schedule of unit entitlements when development of the relevant scheme is complete.	Neighbourhood associations Precinct associations Community associations
2.12	Service authorities can take the benefit of a statutory easement.	Amend section 36 of the CLDA to enable an association to take the benefit of a statutory easement.	Neighbourhood associations Precinct associations Community associations
2.13	No land can be added to a community, precinct scheme or subsidiary neighbourhood scheme.	Allow land to be added as association property or as a lot in the scheme, following approval of the association by special resolution.	Neighbourhood associations Precinct associations Community associations Subsidiary strata scheme
2.14	Community or precinct association property cannot be created or subdivided by a community or precinct plan of subdivision.	Enable a community plan of subdivision to subdivide or create association property, by special resolution.	Precinct associations Community associations

	Current laws	New laws	Most relevant to:
2.15	A subsidiary neighbourhood association or strata scheme cannot subdivide association property or common property.	A neighbourhood scheme or strata scheme within a community scheme will be able to approve the subdivision of association property or common property, by special resolution.	Neighbourhood associations Subsidiary strata scheme
2.16	Legislation makes no provision for amalgamation of schemes. This can leave numerous small associations within a community association, increasing the burden of management.	Allow subsidiary neighbourhood schemes to be wound up and to vest association property in the parent community scheme. This will assist in streamlining management arrangements and reduce duplication of expenses.	Neighbourhood associations Precinct associations Community associations