



Community Land Development Bill 2019 – Table of Reforms



December 2019

Published by

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Introduction

This publication is an accompanying document to the December 2019 Community Schemes Reform Explanatory Paper. It has been produced as a guide to industry and the community on the draft legislation, for the purposes of public consultation.

Reform proposals detailed below mostly correspond to proposals outlined in the 2014 Community Schemes Law Reform Position Paper (the Position Paper). Where the status of a reform proposal is 'unchanged', then the proposal is the same as originally outlined in the Position Paper.

Reform proposals with the status 'new reform' are reforms which has been developed since the Position Paper was published.

Reform proposal	Status	Comment	Bill Reference
1.1 Widen the application of s 72 of the CLDA to enable community schemes, precinct schemes and subsidiary neighbourhood schemes to be terminated by the Registrar General with the unanimous approval of all lot owners and mortgagees.	<u>Unchanged</u>	Section 72 of the CLDA provides a procedure for the Registrar General to terminate a stand-alone neighbourhood scheme with approval of all lot owners plus mortgagees. Community schemes and subsidiary schemes can only be terminated by application to the Supreme Court. Where all lot owners and mortgagees want to terminate, the termination can be carried out procedurally by the Registrar General without a court order.	cl 75
1.2 When registering a scheme, the unit entitlements for neighbourhood schemes must be determined based on a valuation by a qualified valuer (this is already required for precinct and community schemes).	<u>Unchanged</u>		Sch 4 cl 3(d)
1.3 Enable a community, precinct and neighbourhood association to deal with association property following approval of the association by special resolution.	<u>Unchanged</u>	<p>Actions that will be allowed include:</p> <ul style="list-style-type: none"> • taking a lease of additional land as association property; • granting a lease over association property; • converting a lot to association property; 	<p>Through the Bill</p> <ul style="list-style-type: none"> - cl 20(2)(c) - cl 21(2)(a)(i) - cl 18(2)(c) - cl 23(2)(a)(i)

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		<ul style="list-style-type: none"> • creating or releasing easements affecting association property; • acquiring additional association property. <p>Note - additional restrictions on dealing with association property during the initial period have been introduced for certain dealings with community and precinct association property.</p>	<ul style="list-style-type: none"> - cl 19(3)(c)
<p>1.4 Update the existing provisions dealing with community and precinct development contracts to make provisions consistent with those of the <i>Strata Schemes Development Act 2015</i>. Key features of the replacement staged development provisions will be to:</p> <ul style="list-style-type: none"> • allow a development contract to identify proposals as either “warranted development” or “authorised proposals”; • allow a developer to add land to a scheme provided the intention has been disclosed in the development contract; • allow a developer to vary the liability for expenses during the development stage by disclosing in the development contract how contributions will be calculated; • allow a developer to create additional community or precinct property upon appropriate disclosure in the development contract; and • introduce special procedures for meetings of an association called to consider development concerns identified by the development contract. 	<p><u>Unchanged</u></p>	<p>This will align the staged development provisions in the <i>Community Land Development Act</i> with the <i>Strata Schemes Development Act 2015</i>.</p>	<p>Part 4</p> <ul style="list-style-type: none"> - cl 29(2)(c) and cl 32 - cl 29(2)(b) - cl 31 - cl 38(1)(a) - cl 40 - cl 29(5)

Reform proposal	Status	Comment	Bill Reference
<ul style="list-style-type: none"> Not allow a development contract to provide for the subdivision of association property 			
<p>1.5 Remove the requirement for compulsory registration of a neighbourhood development contract and replace with new provisions allowing for an optional neighbourhood development contract similar to the provisions to be introduced for community and precinct development contracts.</p>	<u>Unchanged</u>	<p>This will remove red tape by only requiring a neighbourhood development contract where the neighbourhood scheme is intended to be developed in stages. It will align requirements for neighbourhood development contracts with those applying to community and precinct schemes.</p>	Part 4 and cl 10(1)(d)
<p>1.6 Enable a community association or a subsidiary precinct, neighbourhood or strata scheme to approve the addition of land to a scheme by special resolution.</p>	<u>Unchanged</u>	<p>Note that a restriction will be included to prevent land being added during the initial period of the relevant scheme.</p> <p>Land to be added:</p> <ul style="list-style-type: none"> must adjoin the scheme; Can be added as either association property or as a lot. <p>Where land is to be added as a lot, an updated schedule of unit entitlements for the scheme will be required.</p>	<p>cl 19(3)(c)</p> <p>cl 19(1) cl 14</p> <p>cl 14(c)</p>
<p>1.7 Introduce a mechanism to enable a subsidiary neighbourhood scheme to amalgamate with the parent community scheme.</p>	<u>Unchanged</u>	<p>Amalgamation can happen where all, or only some, subsidiary schemes elect to do so. An application for amalgamation will need to be approved by special resolution of:</p> <ul style="list-style-type: none"> The parent community scheme The amalgamating subsidiary schemes; All other subsidiary schemes not proposing to amalgamate The owner of any community development lot. <p>Following amalgamation:</p> <ul style="list-style-type: none"> The subsidiary scheme will be wound up. 	Part 7 and Sch 3

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		<ul style="list-style-type: none"> • All association property and any other assets and liabilities will vest in the parent community scheme, • Lots in the former neighbourhood scheme will become lots in the community scheme. <p>Subsidiary strata schemes will not be able to amalgamate with the community as a strata plan is a subdivision of a building not land. As the amalgamation will have limited impact on the individual neighbourhood lot owners there will be no need for each individual lot owner (or mortgagee) to sign the application</p>	
1.8 Amend section 36 of the CLDA to enable an association to take the benefit of a statutory easement.	<u>Unchanged</u>	Utility providers and the owners of lots who receive a utility service have the benefit of a statutory easement. However, there are occasions where the association provides utility services to the lots. In these circumstances, the association should be able to have the benefit of a statutory easement.	cl 24(6) and (8)
1.9 Enable community or precinct association property to be subdivided or created by registration of a community or precinct plan of subdivision.	<u>Unchanged</u>	Association property cannot be subdivided during the initial period of the relevant scheme.	cl 12(2) and (3) cl 13
1.10 Enable a subsidiary neighbourhood association to subdivide part of its association or common property.	<u>Unchanged</u>	Neighbourhood property cannot be subdivided during the initial period of the subsidiary neighbourhood scheme.	cl 13
1.11 Amend section 30 of the CLDA to enable a subsidiary precinct or neighbourhood association to lodge a revised schedule of unit entitlements without the need for the community association to do so.	<u>Unchanged</u>	A revised schedule of unit entitlements can be lodged by a stand-alone neighbourhood scheme or by a community scheme, who must lodge a revised schedule for itself and for each of its subsidiary schemes. It is proposed to extend the provision to allow subsidiary schemes to lodge a revised	Sch 4 cl 9

Reform proposal	Status	Comment	Bill Reference
		schedule on their own behalf where the subsidiary scheme is complete.	
2.1 Update the definition of the 'consent authority' and the consent approval process in line with amendments made to the <i>Environmental Planning and Assessment Act 1979</i> .	<u>New reform</u>		See definition of <i>planning authority</i> and <i>planning approval</i> in cl 4.
2.2 Amend the definition of "developer" in a community or precinct scheme to be the original owner, or the owner of a development lot that is bound (or allowed) to carry out a development contract	<u>New reform</u>		See the definition of <i>developer</i> in cl 4.
2.3 Remove the requirement to obtain a Supreme Court Order where land is resumed below the surface within a community, precinct or neighbourhood scheme	<u>New reform</u>	This exemption will only apply where s 62(2) of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i> applies, where land is resumed for a tunnel and there will be no disturbance to the surface	Part 6