Regulatory Impact Statement

Proposed Community Land Development Regulation 2021

A Regulation under the *Community Land Development Act 2021*

NSW GOVERNMENT

July 2021

Disclaimer

This information is correct at the date of publication; changes after the time of publication may impact upon the accuracy of the material.

Any enquiries relating to this publication may be addressed to Office of the Registrar General: ORG-Admin@customerservice.nsw.gov.au

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1. Background information

Why is the Regulation being made?

The *Community Land Development Regulation 2021* (the proposed Regulation) will support the new *Community Land Development Act 2021* (the Act) which is due to come into effect in late-2021.

The Act will repeal and replace previous community development legislation, with the objective to facilitate the subdivision and development of land with shared property. The Act also deals with other matters including:

- requirements for plans and instruments affecting community, precinct and neighbourhood schemes
- dealings with lots and association property
- development contracts
- amalgamation, variation and termination of schemes
- resumptions.

The Act has been developed following extensive consultation with industry and the wider community, set out more fully in **Appendix 1**. Key reforms in the Act include:

- simplifying the community development processes and aligning the community laws, including development contract provisions, with the strata laws in the *Strata Schemes Development Act 2015*;
- reducing red tape by removing the requirement for a development contract with every neighbourhood plan, and by allowing more schemes to access a simplified way of revising the schedule of unit entitlements when the scheme is complete, based on the Valuer General's values;
- providing more flexibility for community, precinct and neighbourhood associations to deal with association property with approval of the association, by special resolution; and
- allowing tiered community schemes to simplify their structure by amalgamating precinct or neighbourhood schemes with their parent community scheme.

Regulations are required to provide necessary administrative and operational detail so that the Act can commence and meet its objectives effectively. The proposed Regulation is made under the general regulation-making power in the Act (s115) and several other provisions that specifically allow regulations to be made to provide the specific detail necessary for the Act to operate.

This Regulatory Impact Statement (RIS) sets out the rationale and objectives of the proposed Regulation and various options for meeting those objectives. It also provides an assessment of the costs and benefits of each of the alternative options. Making the proposed Regulation is the preferred option.

The proposed Regulation is a draft. It has been released with this RIS so that interested parties can review it and provide comments. We are seeking feedback on any of the specific matters raised in this Statement, or otherwise contained in the proposed Regulation. All submissions will be considered, and any necessary changes will be made to address the issues identified before the final Regulation is published.

Matters outside the scope of this consultation

Matters covered by the Act are not part of this consultation process. This RIS focuses on matters within the scope of the proposed Regulation.

2. Consultation process

Public consultation on the proposed Regulation

The proposed Regulation and this RIS are available on the NSW Government's Have Your Say website at www.haveyoursay.nsw.gov.au/community-schemes.

The Department of Customer Service has published a notice about the release of the proposed Regulation and RIS in the NSW Government Gazette, the Daily Telegraph and the Sydney Morning Herald. Copies have also been provided directly to the key stakeholder groups organisations listed in **Appendix 2**.

How to make a submission

Interested individuals and organisations are invited to provide a submission on any matter relevant to the proposed Regulation, whether or not it is addressed in this Statement.

We prefer to receive submissions by email and ask that documents are provided in an 'accessible' format. Accessibility is about making documents easily available to all members of the public, including those who have an impairment (such as visual, physical or cognitive). Further information on how you can make your submission accessible is contained at webaim.org/techniques/word/.

Submissions can be made by:

- Uploading your written submission at: www.haveyoursay.nsw.gov.au/community-schemes
- Emailing your written submission to: communityscheme@customerservice.nsw.gov.au
- Posting your written submission to:

  Community Land Development Regulation 2021
  Office of the Registrar General
  McKell Building
  Level 7, 2-24 Rawson Place
  SYDNEY NSW 2000

Submissions close at midnight on Thursday 29 July 2021.

Confidential submissions

We will make all submissions publicly available on the Have Your Say website. If you do not want your personal details or any part of your submission published, please say this clearly in your submission and tell us why. Automatically generated confidentiality statements in emails are not enough.

Even if you state that you do not want us to publish certain information, we may be required by law to release that information, for example, to comply with the *Government Information (Public Access) Act 2009*. The Department will also provide all submissions to the Legislation Review Committee of NSW Parliament. This is a statutory requirement.

Evaluation of submissions

The Department will carefully consider each submission. If necessary, we will amend the proposed Regulation to address issues raised in the consultation process. If we need more information, we may consult with key stakeholders before finalising the new Regulation.

Commencement of new Regulation

Once the new Regulation has been finalised, the Department will submit it to the Governor for approval. Prior to commencing, the new Regulation will be published on the NSW Legislation website at www.legislation.nsw.gov.au.

We expect that the new Regulation will commence on 1 December 2021.

3. Objectives of the Act and proposed Regulation

Need for government intervention

It is necessary to make new regulations because:

- The current *Community Land Development Regulation 2018* made under the *Community Land Development Act 1989* will cease to have effect when the new Act commences.
- The new Act will introduce significant changes through a new legislative framework for the development of community, precinct and neighbourhood schemes. Supporting regulations must be made to prescribe the necessary administrative detail so that the new Act can operate efficiently.
- Without supporting regulations, the new Act cannot be effectively administered or enforced.

Objectives

The proposed Regulation will support the Act, ensuring it can operate effectively and meet its objectives. The main purpose of the Act is:

To facilitate the subdivision of land into parcels for separate development or disposition:

- *with a common or shared property interest in associated land; and*
- *in conjunction with development of another parcel or parcels.*

The proposed Regulation provides for:

- the preparation and lodgment of community, precinct and neighbourhood plans
- the preparation and lodgment of other plans and instruments relating to community, precinct and neighbourhood schemes
- the preparation and ongoing administration of development contracts and management statements
- new requirements for applications to amalgamate schemes
- the valuation day for a schedule of unit entitlement for the purposes of the Act.

Options for achieving objectives

The objective of the proposed Regulation is to provide operational and administrative detail to support the Act. Options for achieving those objectives are:

Option 1 - Best practice procedures: Do not make the proposed Regulation, and instead implement best practice procedures and guidance material to enable industry self-regulation.

Option 2 - Include matters in the Lodgment Rules: Do not make the proposed Regulation, but instead include details in the Lodgment Rules made by the Registrar General under s12F of the *Real Property Act 1900*.

Option 3 - Include matters in the Act: Do not make the proposed Regulation, but instead include details in primary legislation or its Schedules.

Option 4 - Make the proposed Regulation: The provisions of the Regulation will set out updated legislative support and administrative detail for the Act.

4. Impact assessment of options

Criteria used to assess the regulatory options

The following criteria have been used to evaluate the above options:

- The extent to which the option:
    - supports the objectives of the Act and
    - does not impose unnecessary red tape or increase the regulatory burden.
- The cost effectiveness of each option, in terms of costs and benefits to business, consumers and government.

Summary and preferred option

After analysing the costs and benefits of each option to the community, industry and government, the option that supports the objectives of the Act and contributes to the overall efficiency of the regulatory system is **Option 4 – Make the proposed regulation**. The proposed Regulation will provide the administrative and operational detail needed for the Act to commence later in 2021.

A summary of the costs and benefits for all four options is shown in table 1.

Table 1: Summary of costs and benefits of each option

Option		Likely costs	Likely benefits	Overall benefit
1	Best practice procedures (self-regulation)	High	Low	Negative
2	Include matters in Lodgment Rules	Medium	Low	Negative
3	Include matters in the Act	Medium	Low	Negative
4	Make the proposed Regulation	Medium	High	Positive

A more detailed assessment of these options is provided in the below sections.

Detailed assessment of options

Assessment of Option 1 – Best practice procedures (self-regulation)

This option involves implementing best practice guidelines, enabling industry self-regulation. The Registrar General currently provides extensive guidance about the preparation of plans and other instruments for registration in the Torrens Register by way of Registrar General's Guidelines and other publications. However, these publications are supplementary to the matters in the Regulation.

Allowing stakeholders (including developers, surveyors, legal practitioners) or the general community to adopt their own standards in preparing plans and associated documents, rather than conforming to regulatory requirements, will lead to inconsistencies and substandard titling information. Without standardised requirements, the plans and associated documents provided for by the Act would vary in quality, accuracy, and effectiveness.

Costs

This option represents a significant cost to Government in establishing an alternate method for dealing with the matters currently addressed by regulation. Without regulations setting technical requirements, there is a substantial risk that plans and related instruments lodged for registration with the land registry will be inconsistent, incomplete or will not be in an approved form. This will result in:

- an increase in requisitions
- delays in registration
- financial implications for developers and potential purchasers waiting on registration to enable construction of new homes.

Inconsistent and inaccurate plan documents also pose considerable risk to the integrity of the Torrens Register and state cadastre, and a potential cost to Government by way of claims on the Torrens Assurance Fund.

Benefits

The primary benefit of this option is that it would allow more flexibility for industry to design plan standards and develop other forms. However, this flexibility does not apply for other types of plans not governed by the Act (eg strata plans), and there is significant benefit in having standardised plans that can be readily interpreted and understood.

Conclusion

Option 1 is not considered viable. Accepted standards provide the community with a cost-effective and efficient way of ensuring timely registration. Many of the provisions in the Act will be unworkable if this option were to be adopted, meaning the Act would not achieve its objectives. This option poses considerable risk to the integrity of the land titles register and cadastre.

Assessment of Option 2 – Include matters in the Lodgment Rules

The Registrar General can make Lodgment Rules under section 12F of the *Real Property Act 1900* which sets out requirements for the form and lodgment of various land registry instruments, including some plans and associated documents. The Regulations refer to the Lodgment Rules where appropriate.

Some technical requirements for strata plans and other instruments already appear in the Lodgment Rules. Requirements for community scheme plans and other related instruments could be incorporated in the Lodgment Rules rather than in Regulations. However, the proposed Regulation provides for matters not specifically relating to lodgment requirements. This would mean that these aspects (like the valuation day for schedules of unit entitlements) would lack the necessary detail required for implementation, impacting the ability for the Act to achieve its objectives.

Costs

Changing the Lodgment Rules to include matters relating to community land schemes would pose a cost to Government related to advertising and additional communications, alerting industry stakeholders to a new regulatory framework for community scheme plans. Currently, industry is familiar with requirements for community schemes appearing in regulations, and industry feedback has suggested the introduction of Lodgment Rules for other types of plan requirements is unnecessarily complex. Moving existing requirements to Lodgment Rules may lead to confusion and industry non-compliance, with plans and associated documents being prepared incorrectly. This will lead to an increase in requisitions and delayed registrations, a cost to industry and the community.

Benefits

The primary benefit in moving provisions to the Lodgment Rules is that technical requirements for the preparation and lodgment of plans and associated documents would be held in the one location. However, there are other matters set out in the proposed Regulation that are not within the scope of the Lodgment Rules and could not be included in that instrument.

Conclusion

Option 2 is not considered viable. Technical and administrative matters for community land schemes already appear in the existing Regulation.

Remaking provisions in the proposed Regulation is more efficient than to create new Lodgment Rules to address community schemes and will ensure that matters not within the scope of the Lodgment Rules are still covered, allowing the Act to commence and meet its objectives.

Assessment of Option 3 – Include matters in the Act

It may be possible to include the matters prescribed by the proposed Regulation in the Act or its Schedules. However, technical and administrative matters currently set out in the proposed Regulation are continually reviewed and changed where necessary to meet the evolving needs of industry and the community. This may not easily occur if the provisions were in the primary legislation.

Costs

Incorporating the regulatory provisions into the primary legislation is likely to result in inflexibility, which may have negative financial impacts for industry, government, and the community. This is because operational and administrative provisions need to adapt quickly to changing needs, including to support the continual development of electronic plan lodgment and to keep up as technology evolves. Regulations are regularly reviewed and can be updated much more quickly than the primary legislation, allowing Government to meet the community's needs more efficiently.

Benefits

This option is expected to provide minimal benefits to industry, Government, or the community.

Conclusion

Option 3 is not considered viable. Regulations are a recognised and customary part of legislation and are intended to contain details of a technical and ancillary nature. The proposed Regulation achieves this purpose. Keeping the regulatory matters separate from the Act and in the proposed Regulation is the preferred option.

Assessment of Option 4 – Make the proposed Regulation

Costs

Commencing the new Act and proposed Regulation may result in some implementation costs to industry and to community title groups. Overall, the implementation costs should not be great as many of the provisions reflect existing requirements understood by industry, or align provisions with strata legislation which has been in place since 2016.

The Act aligns the development contract provisions with the equivalent strata provisions under the *Strata Schemes Development Act 2015*. The proposed Regulation supports this change by allowing the operation period for certain development contracts to be extended.

The Act also allows tiered schemes to simplify their structure by amalgamating neighbourhood and precinct schemes with the parent community scheme. The proposed Regulation supports this by introducing new lodgment requirements for instruments relating to the amalgamation of schemes. The Act provides more flexibility to the way schemes can deal with association property after registration of the initial scheme plan. The proposed Regulation supports this.

Benefits

The new Act and proposed Regulation provide benefits to industry and the broader community, by ensuring greater flexibility and resolving existing limitations in the current laws. The provisions give more options to developers and greater transparency to purchasers and owners through improved development contract provisions. The new Act and Regulations collectively remove unnecessary barriers, offering community schemes more flexibility to deal with association property and add land to a scheme, while simplifying the way that unit entitlements are revised after the development phase is complete.

The proposed Regulation continues to provide recognised and understood standardised requirements for the lodgment of community, precinct and neighbourhood plans. This includes matters relating to the form and content of plan forms, administration sheets and other documents lodged with community title plans.

Conclusion

Option 4 is the preferred option. Various sections of the Act provide for regulations to set out specific detail necessary to support its operation. The proposed Regulation represents an improved and simplified regulatory scheme to best serve the objectives of the Act, ensuring that recognised requirements are maintained and enforced and providing support for new reforms introduced.

5. Discussion of the proposed Regulation

Submissions are welcome on the whole proposed Regulation, or on specific provisions, or any other relevant issue.

The following discussion points provide context for some key provisions in the proposed Regulation. A summary of all provisions in the proposed Regulation is also set out in the table on page 16.

Development contracts – Clause 20 Matters that must be addressed in a development contract

Part 7 of the Act allows a development contract to accompany a community, precinct or neighbourhood plan where the scheme will be completed in stages. The development contract must identify development that is warranted, being proposals that must be completed, and development that the developer is authorised to carry out but cannot be compelled to complete.

Where a development contract is provided it must be prepared in the approved form and must contain certain mandatory provisions. Section 46 of the Act sets out the detail that is required, including:

- a concept plan,
- a description of the amenities proposed to be provided,
- details of access and construction zones, working hours and any related rights over association property,
- an undertaking by the developer to minimise inconvenience to lot owners and to repair any damage to association property.

The Regulations can prescribe other matters that must be addressed in a development contract. Clause 20 of the proposed Regulation proposes four additional items that must be included, being:

- a description of things proposed to be built or provided on association property,
- details of proposed easements that will burden or benefit association property,
- details of proposed restrictions on use or positive covenants that will burden or benefit association property,
- if land is to be added to the scheme, whether the land will be added as a lot or as association property.

Provided the mandatory matters are addressed, the developer can include other provisions in the development contract.

1. **Are there any other matters that should be mandatory to address in a development contract lodged with a community, precinct or neighbourhood plan? Please explain your answer.**

Development contracts - Clause 23 Conclusion date for a community development contract - up to 20 years

Section 58(2) of the Act says that a development contract must specify an end date for the contract, being no later than 10 years after the date of its registration. The Regulation can specify a later date by which a contract must conclude.

There are good reasons to limit the length of a development contract. Purchasers need certainty about the scheme they are buying into. Residents will not want disruption from drawn out, sporadic construction or proposed facilities that remain undelivered for long periods. On the other hand, some large community schemes are master planned with extensive, integrated amenities and are released for sale over numerous stages. These larger developments take longer to complete.

To accommodate the longer timeframes needed for community schemes, clause 23 of the proposed Regulation allows a community development contract to specify a conclusion date that is 10 to 20 years after registration of the contract. To obtain the longer period, the developer must satisfy the Registrar General that the development cannot be completed in less than 10 years. The developer will need to apply to the Registrar General with supporting information, including:

- the number of proposed lots and subsidiary schemes
- the proposed number of stages and the timing of those stages
- details of the planning approvals granted for the development.

2. **Is it appropriate to allow up to 20 years for conclusion of a development contract in larger, more complex community schemes? Please explain your answer.**
3. **Is the information required to be submitted to the Registrar General in support of an extended conclusion date sufficient? Please explain your answer.**

Management statements - Clause 28 amendments to management statements in consolidated form

Community, precinct and neighbourhood plans are lodged for registration with a management statement that sets out the by-laws for the scheme. Any amendments made to the management statement by the association must be lodged for registration within two months of the passing of the amending resolution.

Currently, the Registrar General records amendments to a management statement as separate notations on the folio of the association property. Amendments are imaged and recorded as annexures to the original management statement. Over time, as multiple amendments are made, the management statement can become bulky and difficult to follow.

The registered management statement for a scheme should contain a complete, amalgamated list of all by-laws, given its important role in regulating the use and enjoyment of the lots and association property. To achieve this, clause 28 of the Regulation requires amendments to be lodged for registration in a consolidated version of the management statement that incorporates the amendments. The Registrar General can waive this requirement:

- if satisfied that is would be too onerous for a consolidated version to be lodged, and
- no more than five separate changes have been recorded on the folio for the association property.

This provision aligns with the process under the *Strata Scheme Development Regulation 2016* for registering changes to strata by-laws.

4. Is the proposed process for requiring amendments to a management statement to be lodged for registration in consolidated form appropriate? Please explain your answer.

Schedule of unit entitlement - Clause 31 valuation day

The schedule of unit entitlements lodged with a scheme plan or any subsequent scheme plan of subdivision must be based on the comparative market value of the lots, as determined by a qualified valuer. Schedule 3 of the Act requires that valuations be determined at 'the valuation day' being the date prescribed by the Regulation.

Except where a scheme plan of subdivision affects association property, the valuation day for a scheme will remain constant so that all lots are valued at the same base date. Where a subdivision affects association property, or where land will be added, the schedule of unit entitlement for the whole scheme will need to be revised, allowing a more recent valuation date to be used.

Clause 31 of the proposed Regulation prescribes the valuation day to be, for a:

- **Scheme plan** – a day within two months before an application is made for a subdivision certificate.
- **Scheme plan of subdivision that subdivides or creates association property or adds land to a scheme** – a day within two months before an application is made for a subdivision certificate.

- **Scheme plan of subdivision that does not alter association property or add land to a scheme** – the valuation day for the original scheme plan, or, if there has been a subsequent subdivision affecting the association property, the most recent valuation day.
- **Schedule of unit entitlement accompanying an acquisition plan** – a day within two months before an application is made for a subdivision certificate, **or**, if a subdivision certificate is not required, two months before the date of the transfer of the relevant land.
- **Schedule of unit entitlement accompanying an amalgamation, where the unit entitlement for the community scheme will be revised** - a day within two months before an application is made for the consent of the planning authority required by s 61(1)(d) of the Act.

5. Is the process for determining the valuation day appropriate? Please explain your answer.

General comments

The provisions in the proposed Regulation largely reflect existing requirements for the preparation and lodgment of plans and associated instruments affecting community, precinct and neighbourhood schemes set out in the 2018 Regulation, and are otherwise intended to align with equivalent provisions in the strata development legislation.

Key issues being introduced by this Regulation are considered above, but feedback is welcome on any or all other aspects of the proposed Regulation before it is finalised.

6. Do you have any other feedback on the proposed Regulation not covered by the specific questions above? Please explain your answer.

Summary of the proposed Regulation

Part 1	Preliminary
Clause 1	provides the name of the proposed Regulation.
Clause 2	provides the date of commencement of the Regulation as 1 December 2021.
Clause 3	sets out definitions for terms used in the Regulation (*access way plan* and *detailed survey information*).
Clause 4	provides that the Regulation applies in addition to provisions of the *Conveyancing General Regulation 2018* (Part 3 and Schedule 1), regulations and lodgment rules made under the *Real Property Act 1900*, but in the event of an inconsistency, the Regulation prevails.
Part 2	**Scheme Plans**
Clause 5	sets out requirements for a location plan to be included in a scheme plan for the purposes of **Schedule 1, cl1(2)(b)** of the Act.
Clause 6	sets out requirements for a detail plan included in the scheme plan for the purposes of **Schedule 1, cl1(2)(b)** of the Act.
Clause 7	sets out requirements for association property plan in included in the scheme plan of **Schedule 1, cl1(2)(b)** of the Act.
Clause 8	sets out further requirements for the schedules of unit entitlement for the purposes of **s115(2)(c)** of the Act, in addition to matters set out in **Schedule 3** to the Act.
Part 3	**Additional sheets and replacement schedules**
Clause 9	sets out requirements for an additional sheet of a detail plan for the purposes of **Schedule 1, cl1(2)(b)** of the Act.
Clause 10	sets out requirements for a replacement sheet of an association property plan for the purposes of **Schedule 1, cl1(2)(b)** of the Act.
Clause 11	sets out further requirements for a replacement schedule of unit entitlement for the purposes of **s115(2)(c)** of the Act, in addition to matters set out in **Schedule 3** to the Act.
Part 4	**Plans and instruments**

Clause 12	sets out requirements for a scheme plan of subdivision (including additional sheet on the detail plan and replacement schedule of unit entitlement) for the purposes of **Schedule 1, cl1(2)(b)** of the Act.
Clause 13	clarifies that a scheme plan of subdivision may dedicate association property as a public road, public reserve or drainage reserve, (as specified in **Schedule 1, cl1(2)(b)** of the Act). Section 15 requires that the plan dedicating association property must be accompanied by an association certificate and must not be registered unless the initial period has expired or the plan has been authorised by the Tribunal.
Clause 14	sets out requirements for a scheme plan of consolidation (including additional sheet on the detail plan and replacement schedule of unit entitlement) for the purposes of **Schedule 1, cl1(2)(b)** of the Act.
Clause 15	sets out requirements for a boundary adjustment plan (including additional sheet of detail plan and administration sheet required to accompany the plan). Requires a surveyor's report to be lodged with the boundary adjustment plan and sets out requirements for that report. Requires an amendment to the access way plan and management statement to be registered where the adjustment causes the position of an open or public access way to move.
Clause 16	sets out requirements for the form, preparation and lodgment of an acquisition plan for the purposes of **s95** of the Act.
Part 5	**Instruments of conversion and severance**
Clause 17	sets out further requirements for the replacement schedule of unit entitlement required to be lodged with an instrument under **s19** severing a development lot, for the purposes of **s115(2)(c)** of the Act. This clause supports general requirements set out in **Schedule 3, clause 8** to the Act.
Clause 18	sets out further requirements for the additional sheet of the detail plan and replacement schedule of unit entitlement that must be lodged with an instrument of conversion referred to in **s24** of the Act, which enables the conversion of development lots or neighbourhood lots to association property. The additional sheet of the detail plan may be compiled from information in the community, precinct or neighbourhood plan unless the Registrar General requires a survey plan to be lodged. This clause supports general requirements set out in **Schedule 3, clauses 9, 10 and 11** of the Act.
Part 6	**Development contracts**

Clause 19	sets out general requirements for development contracts, including that a development contract lodged in paper form must comply with Schedule 2 of the Lodgment Rules, and where lodged in electronic form, must comply with Schedule 6 of the Lodgment Rules. This provision also applies to an instrument setting out amendments to sheets of proposed development contracts. Other general requirements for these documents appear in **s46** of the Act.
Clause 20	requires that, in addition to matters set out in **s46** of the Act, a development contract must make provision for: • a description of buildings, services, facilities, or infrastructure that are to be built, installed, or provided on the relevant association property; • full details of any easements, restrictions on the use of land or positive covenants that are to be created burdening or benefiting the relevant association property; or • for any land that is to be added to the scheme, whether the land is to be added as a lot or as association property. This clause also requires that the development contract also list and separately deal with authorised proposals and warranted development.
Clause 21	requires that a dealing, plan or other instrument executed by a developer on behalf of an association for the purposes of giving effect to a development concern under **s56(4)(b)** of the Act must be in the approved form and accompanied by a statutory declaration setting out the circumstances of the association's approval.
Clause 22	supports **s57** of the Act which requires that motions that would give effect to a *development concern* must be identified as such and moved separately from other kinds of matters. *Development concerns* are defined in **s55** of the Act to include adding to association property or adding land to a scheme pursuant to a development contract, or carrying out any other development permitted under a development contract (except as provided by s55(2)). This clause specifically identifies: • a notice served on the secretary of an association requiring inclusion of the motion in the agenda of the next general meeting of the association; and • a qualified request made under s17 *Community Land Management Act 2021* requesting a general meeting to be convened to consider the motion; and • a request, made under s 43 of *the Community Land Management Act 2021*, requesting a meeting of the association committee that is to be convened to consider the motion as being required to comply with s57 requirements for motions relating to development concerns.
Clause 23	supports **s58(2)** of the Act relating to the time for conclusion of the development contract, by permitting a date later than 10 years after the registration of the contract (as required by the Act), in some cases.

	This clause responds to feedback from the development industry, allowing the Registrar General to approve the registration of a development contract for a community scheme with a conclusion date later than 10 years, but no later than 20 years, after the registration of the development contract. An application by a developer must include supporting information justifying the extended date, including: • the proposed number of lots and subsidiary schemes expected to be created before conclusion of the development contract • the proposed number of stages and timing of those stages • details of planning approvals granted for the community scheme development.
Clause 24	supports **s47**, **s50** and **s53** of the Act, which require the planning authority to certify as to planning approval on a development contract and to approve amendments to the development contract. This clause requires that planning authority approvals must be in the approved form.
Part 7	**Management statements**
Clause 25	sets out general requirements for management statements and amendments to management statements, including that a management statement lodged in paper form must comply with Schedule 2 of the Lodgment Rules, and where lodged in electronic form, must comply with Schedule 6 of the Lodgment Rules. Other general requirements for these documents appear in **Schedule 2** to the Act.
Clause 26	sets out requirements for a prescribed diagram creating a statutory easement to be registered as part of the management statement for a scheme under **s34** of the Act. This clause reflects existing requirements for the works plan required under clause 23 of the 2018 Regulation, but updates terminology to align with **Division 2** of the new Act.
Clause 27	sets out requirements for an access way plan required under **s41(3)** of the Act to be included in a management statement, where association property is to be set apart for an open or public accessway. This clause reflects existing requirements for the access way plan required under clause 23 of the 2018 Regulation.
Clause 28	requires that amendments to management statements must be lodged with the Registrar General in a consolidated version that incorporates the amendment. The clause allows the Registrar General accept amendments to management statement not in consolidated form if the Registrar General is satisfied that it would be too onerous for a consolidated version to be lodged, and there are no more than five separately recorded changes on the relevant folio of the register. This is a **new provision** which aligns with requirements for strata by-laws to be lodged in consolidated form under cl24 of the *Strata Schemes Development Regulation 2016.*

Part 8	Amalgamation of schemes
Clause 29	sets out further requirements for the detail plan and replacement schedule of unit entitlement required as part of an application for amalgamation of schemes under **s61** of the Act and requires planning authority consent to the amalgamation to be in the approved form. General requirements are otherwise set out in **Schedules 1 and 3** to the Act. **Part 8** of the Act introduces a new process for precinct or neighbourhood schemes forming part of a community scheme to amalgamate with the parent community scheme, and sets out requirements for and consequences of an application for amalgamation.
Part 9	**Miscellaneous**
Clause 30	requires a certificate in the approved form evidencing the expiry of the initial period to be included on the administration sheet for a plan, or accompanying a dealing lodged for registration. This clause supports various provisions in the Act and *Community Land Management Act 2021* which restrict certain actions during the initial period.
Clause 31	prescribes the valuation day at which the comparative market value of lots is to be made, for the purposes of the schedule of unit entitlement set out in **Schedule 3** to the Act. For a scheme plan, a scheme plan of subdivision that subdivides or creates association property or adds land to a scheme, and an application for amalgamation where a revision of the unit entitlements is proposed, the valuation day is a day that is before, but no more than two months before, the relevant action (e.g. for a scheme plan, that action is the making of an application for the subdivision certificate). For a scheme plan of subdivision *not* affecting association property, the valuation day is that day nominated in the original scheme plan or, if there has been a subsequent subdivision altering association property, the most recent nominated valuation day. For an acquisition plan, the valuation day is a day that is before, but no more than two months before an application is made for any relevant subdivision certificate required by Schedule 1 clause 4(b), or, if no relevant subdivision certificate is required, two months before the date of the transfer.
Clause 32	sets out the list of prescribed public authorities for the purposes of the Act. This provision replicates existing clause 25 of the 2018 Regulation.

Appendix 1 – Background information

The new Act and the proposed Regulation completely rewrite NSW community land laws together with the new *Community Land Management Act 2021* and proposed *Community Land Management Regulation 2021*. This legislation aligns with the major 2015 strata scheme reforms and will modernise the laws. The proposed Regulation is the final stage in major reform process that commenced in 2011.

The NSW Government has previously consulted extensively with the public and the industry on strata and community land law reforms, including:

- December 2011 to February 2012: Online Consultation by Global Access Partners
- September 2012 to November 2012: discussion paper inviting comment on reform options and online survey
- 2013: roundtable meetings with industry and strata experts
- November 2013: strata position paper released, outlining proposed reforms
- September 2014: community lands position paper released
- 2015 - 2016: new strata laws were introduced and implemented
- December 2019 to February 2020: proposed community land Bills were released for public consultation.

The law reform process is ongoing with a statutory review of the strata scheme laws commencing in November 2020. A discussion paper on possible reforms to the strata laws was released for public consultation from December 2020 to March 2021. A report on this statutory review recommending possible changes to the strata laws will be tabled in each House of Parliament in November 2021. The report will also consider and identify any of the changes that should also be made for community lands where appropriate.

Appendix 2 – List of stakeholders

The following stakeholders have been provided with a copy of the proposed Regulation and this Regulatory Impact Statement:

- Strata Community Association (NSW)
- Owners Corporation Network
- Real Estate Institute of NSW
- Law Society of NSW
- NSW Land Registry Services
- Urban Development Institute of Australia (NSW)
- Property Council of Australia
- Australian College of Strata Lawyers
- City of Sydney
- Tenants Union of NSW
- City Futures Research Centre, UNSW
- PICA Group
- Breakfast Point Community Association
- Insurance Council of Australia
- Australian Institute of Conveyancers (NSW Division)
- Institution of Surveyors NSW Inc
- Association of Consulting Surveyors NSW
- Australian Property Institute
- Department of Planning Industry and Environment
- Office of Local Government