



Regulatory Impact Statement

Proposed Community Land Management
Regulation 2021

July 2021

Disclaimer

This publication avoids the use of legal language, with information about the law summarised or expressed in general statements. The information in this document should not be relied upon as a substitute for professional legal advice.

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1. Background information

Why is the Regulation being made?

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

The Act will provide a set of laws that modernise the way community land schemes operate and enable continued growth of community title in NSW. The Act seeks to:

- help community schemes become future-oriented through modern technology and digital communication
- update the trigger for the expiry of the initial period, to ensure an easier transition from the scheme's development phase to the management phase
- improve the accountability of managing agents
- provide simple and effective means for resolving disputes and compliance with community schemes laws
- improve the management of scheme finances including record keeping
- establish flexible administrative and management arrangements
- insert a head of power into the Act to enable a mandatory data reporting scheme to be established under the regulations.

The new Act requires regulations to provide necessary administrative and procedural detail. The proposed Regulation will cover this and ensure the objectives of the Act can be achieved efficiently and effectively. The proposed Regulation seeks to ensure the Act's objectives are met by:

- providing a mechanism for nomination and appointment of association committee members
- enabling modern forms of communication for voting on motions and elections
- prescribing matters to be included in the initial maintenance schedule for association property and buildings
- prescribing the necessary forms and fees.

This Regulation Impact Statement (RIS) sets out the rationale and objectives of the proposed Regulation and various options for achieving those objectives. It also provides an assessment of the costs and benefits of each of the alternative options. The proposed Regulation is the alternative which provides the greatest net public benefit.

This RIS contains a detailed discussion on aspects of the proposed Regulation which specifically relate to community land schemes and seeks feedback from stakeholders and the public. We are seeking submissions on any of the matters raised in the RIS or anything else 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 being reviewed as part of this consultation process. This RIS focuses on matters within the scope of the proposed Regulation, specifically those matters and provisions that are unique to community land schemes.

2. Consultation process

Public consultation on the proposed Regulation

The proposed Regulation and this RIS are publicly 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 organisations listed in **Appendix 3**.

How to make a submission

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

To assist you in making a submission, an optional online survey is available on the Have Your Say website at www.haveyoursay.nsw.gov.au/community-schemes. Alternatively, written submissions can be made via email.

We request 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/.

Make a submission by following **one** of these options:

- Completing the online survey at haveyoursay.nsw.gov.au/community-schemes
- Uploading your written submission via the webpage haveyoursay.nsw.gov.au/community-scheme
- Emailing your written submission to: communityscheme@customerservice.nsw.gov.au
- Posting your written submission to:

Community Land Regulation 2021
Policy & Strategy, Better Regulation Division
NSW Department of Customer Service
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

The closing date for submissions is **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 part of your submission published, please say this clearly in your submission and tell us why. Automatically generated confidentiality statements 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. If we need more information, we may consult with key stakeholders before finalising the Regulation.

Commencement of new Regulation

Once the Regulation has been finalised, the Department will submit it to the Governor for approval.

Prior to commencing, the final Regulation will be published on the NSW Legislation website at www.legislation.nsw.gov.au

We propose to commence the new Regulation on 1 December 2021.

3. Objective of the Act and proposed Regulation

Need for government intervention

It is necessary to make new regulations because:

- The current *Community Land Management Regulation 2018* made under the *Community Land Management 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 community lands living. 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. It is integral to the Act's effective operation and to ensure it can achieve its aims. The main purpose of the Act is to:

- provide for the management of community, precinct and neighbourhood schemes, and
- provide for the resolution of disputes arising from those schemes.

It recognises the high level of governance and decision-making required to successfully run and operate a scheme. It provides owners with the powers required to hold democratic elections, set levies and undertake legal action where appropriate.

The Act is designed to find a balance between freedom and flexibility for schemes to make collective decisions while ensuring measures are in place to prevent unfair practices.

The primary objective of the proposed Regulation is to provide the legislative support and administrative detail necessary for the operation of the Act, enabling it to function efficiently and allow for the effective management of community land schemes.

The proposed Regulation will provide details for many features of the Act including:

- the functions of associations which may be delegated to the association committee or managing agent
- procedures for the election of association committees and tenant representatives
- voting procedures for associations and association committees including secret ballots, electronic and remote voting, and pre-meeting voting
- management of financial matters including:

- requirements for accounting records
- expenditure on legal services for which association approval is not required
- overdue contribution payment plans
- statements of key financial information
- additional details for the initial maintenance schedule and exceptions to the occupancy limits by-laws
- insurance requirements for associations
- the treatment of electronic voting records and restricting access to voting records during record inspections
- additional details for the handling of alternative dispute resolution by NSW Fair Trading.
- clarification on limits for gifts to managing agents.

Options for achieving objectives

Submissions are welcome on any aspect of the proposed Regulation or any other relevant issues, whether or not raised in this RIS. However, the following discussion points provide more explanation of some provisions in the Regulation and explore some regulatory options, costs and benefits of those provisions.

The objective of the proposed Regulation is to provide operational and administrative detail to support the Act. In determining how best to achieve the Act's objectives, the following options were considered:

Option 1 - Maintain the status quo: do not make the proposed Regulation, and instead remake the Regulation to be identical to the existing Regulation.

Option 2 – No action: allow the existing Regulation to lapse with the repeal of the *Community Land Management Act 1989* and do not make any replacement Regulation.

Option 3 - Make the proposed Regulation: the provisions of the Regulation will provide updated legislative support and administrative detail for the Act.

4. Impact assessment of options

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 3 – Make the proposed regulation**. The proposed Regulation will provide the legislative support and administrative detail needed to facilitate the operation of the Act, with considerable benefits to the community, industry and the government.

A summary of the costs and benefits for all three options is shown in **Table 1**.

Table 1: Summary of costs and benefits of each option

	Option	Costs	Benefits	Overall benefit
1	Maintain status quo	Low	Low	Negative
2	Take no action	High	Low	Negative
3	Make proposed Regulation	Medium	High	Positive

Detailed assessment of options

Assessment of Option 1 – Maintain the status quo

Costs

This option would remake the existing *Community Land Management Regulation 2018* and therefore would be unlikely to impose new direct costs on the sector. There would be no additional costs for association members, associations, managing agents or the Government. Systems and procedures would not need to be modified and community land schemes would not need to adapt to many of the changes in the Act.

However, the Government has identified the need for modern community land policy that facilitates growth and development in the sector to ensure it remains sustainable. Since the laws were enacted in NSW in 1989, the number of community land schemes has been growing. 228 community land plans and 651 neighbourhood land plans were registered in NSW at 31 December 2000. By 16 April 2021, this number had increased to 1,026 community land plans, 69 precinct land plans and 1861 neighbourhood land plans. These numbers are expected to rise as community schemes become an increasingly popular form of living. The Act will support this growth and provide a framework for schemes to operate effectively and efficiently by aligning with existing strata scheme laws.

Table 2: Community, precinct and neighbourhood plans registered

Date	Community	Precinct	Neighbourhood
Total registered at 31 December 2000	228	0	651
Total registered at 31 December 2010	602	23	1305
Total registered at 16 April 2021	1026	69	1861

If the Regulation is not updated to accommodate amendments in the Act, the new legislation would be left without the necessary administrative detail required to fully achieve its objectives. This means that there is a significant opportunity cost created by the option. Many of the amendments in the Act would not be able to operate effectively without the proposed Regulation. This would mean that the sector would not be able to benefit from key components of the reforms, such as allowing modern communication methods for meetings. This method was particularly important during the COVID-19 pandemic.

The proposed Regulation has been made to align with the provisions in the current Strata Schemes Management Regulation 2016. Not aligning these Regulations will cause confusion and an increase in regulatory costs.

Benefits

The primary benefit of this option is that associations and other stakeholders would not be required to update any systems or processes or adjust to the new legislative requirements in the Act. However, the current Regulation is outdated as it relied on an Act from 1989 that had not been kept up-to-date with technology and economic changes. It does not provide the flexibility and efficiency that the proposed Regulation offers. As a result, the associated benefits of this option are likely to be minimal for association members, associations and other stakeholders.

Conclusion

Option 1 is unlikely to have any substantial positive impact. The full benefits and objectives of the new Act cannot be realised without an updated Regulation. Consequently, the overall benefit of this option has been assessed as low for community land stakeholders.

Assessment of Option 2 – Take no action (allow the current Regulation to lapse)

Costs

The current Regulation has been in place since 2018 and would be automatically repealed on the commencement of the new Act.

Allowing the 2018 Regulation to lapse is likely to create confusion and disruption for stakeholders in the community land sector. Without a Regulation, the Act would not have the necessary legislative support to achieve its aims and operate effectively.

Similar to Option 1, there would be no support for the substantial reforms to the community land laws in the Act, creating a significant opportunity cost. To operate effectively, the Act relies on details to be prescribed in the Regulation. If the current Regulation lapses and is not replaced by the proposed Regulation, many of the Act's reforms will be inoperable.

This option would also incur similar costs to Option 1, arising from the non-alignment of strata and community land laws and the impacts of having divergent laws has on the sector.

Benefits

There are likely to be minimal benefits resulting from this option.

Conclusion

Allowing the Regulation to lapse without a replacement would likely result in costs for the sector and be unlikely to deliver any benefits. The overall benefit of this option is estimated to be low.

Assessment of Option 3 – Make the proposed Regulation

Costs

Commencing the new Act and the proposed Regulation is likely to lead to adjustment costs for stakeholders in the community land sector. Residents, association members, associations and service providers (e.g. managing agents, lawyers) will need to understand the provisions of the new Regulation and adjust their practices accordingly.

However, the proposed Regulation aligns with the existing Strata Schemes Management Regulation 2016. It does not include any new or complex regulations that are unique to the community land sector. The strata regulation has been in force for over four years, and given there is significant overlap between the strata and community lands sectors, it should be easy for community lands to adopt the changes.

NSW Fair Trading will provide additional information and education to help community land schemes understand their new rights and obligations.

This assistance should help community land schemes to adjust to the new laws and to mitigate the adjustment costs.

Benefits

The new Act includes a number of changes that will improve the way schemes are administered, allow for better enforcement of management statements and by-laws and improve accountability

and governance within community land schemes. The proposed Regulation will give effect to significant parts of this regulatory framework.

For example, the Act requires the preparation of an initial maintenance schedule by an original owner to ensure the association has all the necessary information it requires to effectively maintain the property. The proposed Regulation outlines what is to be included or attached to this schedule and will help associations to maintain any buildings and structures. It will also assist with estimates and the establishment of capital works funds for future work.

The reforms are also designed to increase accountability for associations regarding financial management and provide clearer information to association members. The Act requires associations to:

- prepare financial statements, and
- a statement of key financial information for each reporting period for the administrative and capital works funds and any other fund kept by the scheme.

These documents simplify the information contained in the scheme's financial statements and ensure association members can easily access a summary of the financial information. This will act as an alternative to distributing full financial statements to members which can often be detailed and difficult to understand.

The proposed Regulation provides options for modern electronic means of communication which allow associations and association committees to hold remote meetings and voting. This forward-thinking reform in the strata schemes laws meant owners corporations could easily adjust to meeting and conducting business remotely due to the COVID-19 pandemic. The proposed Regulation will allow associations to adopt these technologies and to continue to benefit from the temporary changes made to community land laws in 2020 in response to the pandemic.

Another benefit of the proposed Regulation is that it will complete the process of aligning community land laws with the strata schemes laws. There is significant cross over between the strata and community land sectors with similarities in how they operate and common support services (for example, managing agents, lawyers). Adopting similar laws for both sectors will make it easier to comply with a similar regulatory approach in both sets of laws.

Conclusion

The practical application of many parts of the new Act rely on the proposed Regulation being made. The benefits to stakeholders and to community land schemes of Option 3 have been assessed as high and are considered to substantially outweigh any costs to be borne by the Government and the sector.

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. We are seeking specific feedback on proposed regulations that are unique to community lands or where a different approach to that adopted in strata may be warranted.

Provisions in the proposed Regulation which are identical to equivalent provisions in the Strata Schemes Management Regulation 2015 are not included in this consultation. These provisions will be considered during the [statutory review of the strata schemes laws](#), and whether any recommended strata schemes reforms should also be applied to community schemes at the same time.

A summary of the proposed Regulation is provided at **Appendix 2**.

Commencement

Clause 2 – Commencement

The proposed Regulation includes a commencement date of 1 December 2021.

A balance needs to be found between commencing the new laws as soon as possible and providing the community lands sector with enough time to prepare for the changes.

- 1. Is the proposed commencement date of 1 December 2021 suitable? If not, what alternative date should be adopted and why?**

Management of schemes

Clause 6 – Agenda for the first annual general meeting (AGM)

The original owner must hold the first AGM within two months of the end of the initial period. A community, precinct or neighbourhood association starts when a community plan, precinct plan or neighbourhood plan is registered. This is known as the initial period for a scheme and ends at different times for each scheme. For community and precinct schemes it will now expire at an appropriate time rather than potentially continuing indefinitely. In most cases, the developer will be the only member of the association at this initial development stage. As lots are sold or subdivided, membership increases. When the initial period ends the developer has less control over the association.

In order to protect association members, the Act imposes limits on what the association can do during the initial period, for example: the amount of debt that can be taken on by the association; not borrow money; make, amend or repeal an association property rights by-law; or add land to the scheme, except as stated in any development contract for the scheme.

The first AGM is particularly important as it is when association members gain more control over the association and significant agenda items are considered. This includes the number of members of the association committee, whether a managing agent should be appointed and the handover of important documents from the original owner.

Section 13 sets out the agenda for the first AGM and provides for additional items to be prescribed in the Regulation. Clause 6 sets out the additional item of nominating a tenant representative where the scheme is a neighbourhood scheme.

2. Are there any more items that should be mandatory on the agenda of the first AGM of the association?

Clause 7 – Documents and records to be provided to association at first AGM

Under section 14 of the Act, the list of documents that must be handed over to the association by the original owner at the first AGM has been updated. The original owner is obliged to hand over documents such as plans, specifications, planning approvals, fire safety certificates, the certificate of title for the association property, a diagram illustrating the situation of all service lines, and the initial maintenance schedule.

Clause 7 lists additional documents and records that must be provided at the first AGM and includes valuations of any buildings obtained for insurance purposes, maintenance and service manuals, all service agreements relating to the supply of gas, electricity or other utility to the scheme parcel, copies of building contracts, and the most recent BASIX certificate issued for each building on the scheme parcel.

These documents help the association make informed decisions about its scheme and how the buildings and facilities should be maintained. The original owner is required to provide these documents to the scheme either at the first AGM, or not later than three years after the date of registration of the scheme, whichever occurs first.

If the original owner does not supply the required documents to the first AGM, or three years after the registration of the scheme, a maximum penalty of \$11,000 may be imposed by the Tribunal.

3. Are there any more documents or records that the original owner should be obliged to provide the association at the first AGM, or 3 years after the registration of the scheme?

Property management

Clause 25 – Initial maintenance schedule

The Act requires original owners to give the association an initial maintenance schedule.

This helps associations understand their obligations and costs to maintain association property. It is also used to set annual budgets and levies during the initial period.

Clause 25 details the items of the common property that a maintenance schedule must address such as air conditioning systems, fencing, electrical and mechanical systems, pools, and embedded networks.

The clause also details what is to be included or attached to the initial maintenance schedule such as warranties for systems and equipment, manuals or maintenance requirements provided by manufacturers and the name and contact details of the manufacturer and installer of any of those items.

4. Is the list of property assets provided in clause 25(2) appropriate for a maintenance schedule? Should any other items be included?

Any other comments

The provisions in the proposed Regulation are designed to align with equivalent provisions in the Strata Schemes Management Regulation 2016. As community schemes also involve strata schemes, we're aiming to align the two and make scheme operations consistent. We're aligning with the Strata Schemes Management Regulation 2016 where appropriate.

Some of the provisions in the proposed regulation either apply only to community schemes or warrant special consideration when applied within community lands, and specific questions have been asked about those provisions above.

Feedback is welcome on any or all other aspects of the proposed Regulation before it is finalised.

5. Do you have any other feedback on the proposed Regulation not covered by the specific questions above?

Appendix 1 – Summary of regulation making powers

Regulation making power in the Act	Scope of the proposed Regulation
<p>Section 6(1)(f) Connected persons</p> <p>Permits the Regulation to expand the connection or association with the principal person for determining what is a <i>connected person</i>.</p>	<p>Clause 4</p> <p>Prescribes that a person that is a corporation (the principal person) is connected with another person if the other person:</p> <ul style="list-style-type: none"> • is a related body corporate or an associated entity of the principal person, or • holds an executive position on a related body corporate or an associated entity of the principal person, or • holds or will hold a relevant financial interest in the principal person and because of the interest is or will be able to exercise a significant influence over or in relation to the management or operation of the principal person, or • is or will be entitled to exercise a relevant power, whether in the person’s own right or on behalf of another person, in the principal person’s business, and because of the power able to exercise a significant influence over the management or operation of the principal person. <p><i>Associated entity</i> has the same meaning as in the <i>Corporations Act 2001</i> (Cth).</p> <p><i>Relevant financial interest</i> means:</p> <ul style="list-style-type: none"> • shares in the capital of the principal person, or • an entitlement, whether at law or in equity or otherwise, to receive income derived from a business carried on by the principal person or another financial benefit or advantage from carrying on that business. <p><i>Relevant power</i> means a power to participate in or to elect or appoint a person to, a director, manager or executive position in the principal person, whether the power is exercisable:</p> <ul style="list-style-type: none"> • by voting or otherwise and • alone or in association with others.
<p>Section 11(1)(h) Functions that may only be delegated to member of association committee or managing agent</p>	<p>Clause 5</p> <p>Prescribes other functions of an association that may be delegated only to association committee member or managing agent:</p>

<p>Permits the Regulation to include additional functions be added to those functions listed in the Act.</p>	<ul style="list-style-type: none"> • ensuring that the association complies with relevant requirements under the <i>Work Health and Safety Act 2011</i> • entering into contracts for maintenance of association property or providing services to the association property, other than contracts about a parcel • arranging for inspections of records and other documents under section 173 of the Act, • giving certificates under section 174 of the Act.
<p>Section 12(1) Meeting procedures of the first AGM</p> <p>The first AGM of the association must be held in accordance with the Act and the Regulations.</p>	<p>Nil – meeting procedures/directions contained in Schedule 1 of the Act and in Part 2 of Regulation</p>
<p>Section 13(o) Agenda for first AGM</p> <p>Permits the Regulation to include additional items that must be considered at the first AGM.</p>	<p>Clause 6</p> <p>Provides that the agenda for the first AGM of an association includes an item to nominate a tenant representative for the neighbourhood committee if a tenant representative has been nominated for the neighbourhood committee under section 36 of the Act.</p>
<p>Section 14(1)(f) Documents and records to be provided to association at the first AGM</p> <p>Permits the Regulation to require other documents and records be provided to the association at the first AGM.</p>	<p>Clause 7</p> <p>Prescribes the following documents and records obtained or received by the original owner or lessor and relating to the scheme parcel concerned, or to building, plant or equipment on the parcel to be provided at first AGM:</p> <ul style="list-style-type: none"> • details of whether a building is required to be insured under Part 9, Division 1 of the Act, a valuation of the building • maintenance and service manuals • all service agreements about the supply of gas, electricity or other utilities to the scheme parcel • copies of building contracts for the scheme parcel, including any variations • the most recent BASIX certificate for each building on the scheme parcel.
<p>Section 35(1)(e) Persons who are not eligible to be elected to the association committee</p> <p>Permits the Regulation to list additional persons who are not eligible to be appointed,</p>	<p>Nil – no additional persons proposed.</p>

<p>nominated or elected as members of the association committee.</p>	
<p>Section 36(4)(d) Tenant representatives on neighbourhood committees</p> <p>Permits the Regulation to specify additional financial matters where a tenant representative is not permitted to be present during its discussion or determined.</p>	<p>Nil – no additional financial matters proposed.</p>
<p>Section 36(5) Tenant representatives on neighbourhood committees</p> <p>Permits the Regulation to provide procedures for the nomination and election of a tenant representative.</p>	<p>Clause 8</p> <p>Provides for the procedures for nomination of a tenant representative on a neighbourhood committee:</p> <ul style="list-style-type: none"> • (1) A person (the <i>convenor</i>) who is entitled to convene an AGM of a neighbourhood scheme that has tenants in at least half of lots in the scheme must convene a meeting of eligible tenants (a <i>tenants meeting</i>) to nominate a person for the position of tenant representative on the committee. • (2) The convenor must give notice of the tenants meeting to each eligible tenant at least 14 days before the AGM. • (3) The tenants meeting may be held before the AGM, but may not be held earlier than seven days after notice of the tenants meeting is given. • (4) Notice may be given in one of the following ways— <ul style="list-style-type: none"> ▪ by prominently displaying a copy of the notice on a notice board required to be kept by the by-laws on the association property, or ▪ by written notice given to each eligible tenant. • (5) The convenor of the meeting, or a tenant nominated by the eligible tenants present at the meeting, is to chair the tenants meeting. • (6) An eligible tenant may propose themselves, or nominate another eligible tenant for, nomination as the tenant representative at the meeting. • (7) The tenant representative is to be determined by majority vote of tenants present at the meeting. • (8) The quorum for the meeting is 1 eligible tenant. • (9) The term of a tenant representative commences at the end of the AGM at which the nomination is received.

	<ul style="list-style-type: none"> • (10) A person is an <i>eligible tenant</i> if the tenant is a tenant notified in a tenancy notice given in accordance with the Act. <p>Clause 9</p> <p>Provides for the vacation of office by tenant representatives of neighbourhood committees:</p> <ul style="list-style-type: none"> • (1) A tenant representative ceases to be a tenant representative — <ul style="list-style-type: none"> ▪ if the person ceases to be an eligible tenant, or ▪ when the secretary of the neighbourhood association receives from the person written notice of the person’s resignation as the tenant representative, or ▪ at the end of the next meeting at which a new neighbourhood committee is elected by the neighbourhood association, or ▪ if the person dies. • (2) If a tenant representative ceases to be a tenant representative before the next meeting at which a new neighbourhood committee is elected, the secretary of the neighbourhood association is to convene a further tenants meeting under clause 8 to nominate a person for the position of tenant representative on the neighbourhood committee. • (4) The term of a replacement tenant representative is for the remainder of the term of the representative that the person replaces.
<p>Section 45(5) Association committee to appoint officers</p> <p>Permits the Regulation to provide procedures for association committee to appoint officers.</p>	<p>Clause 10</p> <p>Prescribes the procedures for the election of association committees:</p> <ul style="list-style-type: none"> • At an association meeting where its association committee is to be elected, the chairperson must — <ul style="list-style-type: none"> ▪ announce the names of the nominated candidates in writing, and ▪ call for oral nominations of candidates eligible for election. • A written or oral nomination is ineffective if it is made by a person other than the nominee unless it is supported by the consent of the nominee given— <ul style="list-style-type: none"> ▪ in writing, if the nominee is not present at the meeting, or

- orally, if the nominee is present at the meeting.
- After the chairperson declares that nominations have closed, the association is to decide, in accordance with the Act, the number of members of its association committee.
- If the number of candidates –
 - is the same as, or fewer than, the number of members of the association committee decided on—those candidates are to be declared by the chairperson to be elected as the association committee, or
 - is greater than the numbers decided on – a ballot is to be held.

Clause 11

Prescribes for ballot for association committees:

- (1) If a ballot for membership of the association committee of an association is required, the person presiding at the meeting of the association must—
 - announce the name of each candidate, and
 - provide each person present and entitled to vote with a blank ballot paper for each vote the person is entitled to cast.
- (2) For a vote to be valid a ballot paper must be signed by the voter and completed by the voter writing on it—
 - the names of the candidates, with no name repeated, that the voter wishes to vote for, the number of names written being no more than the number determined by the association as the number of members of its association committee, and
 - the capacity in which the voter is exercising a right to vote, whether—
 - as owner, first mortgagee or covenant chargee of a specified lot, or
 - as a company nominee, or
 - by proxy, and
 - if the vote is being cast by proxy— the name and capacity of the person who gave the proxy.
- (3) The completed ballot paper must be returned to the chairperson.

- (4) Until all places for membership of the association committee have been filled, the chairperson is to declare elected successively each candidate who has a greater number of votes than all other candidates who have not been elected.
- (5) If only one place remains to be filled but there are two or more eligible candidates with an equal number of votes, the candidate to fill the place is to be decided by a show of hands of those present and entitled to vote.
- (6) Subclause (5) is subject to a resolution referred to in clause 14(1)(a).

Clause 12

Prescribes for the nominations for officers of association committees:

- (1) A call for nominations for chairperson, secretary and treasurer of the committee is to be included in the written notice of the first meeting of an association committee after the appointment of the committee.
- (2) A member of the association committee may nominate another member for election as any or all of chairperson, secretary or treasurer of the committee.
- (3) The nomination is to be in writing given to the person convening the meeting and states the name of—
 - the person nominated, and
 - the person making the nomination and that the person nominated consents to the nomination.
- (4) The person convening the meeting must include any prior nominations in the meeting notice at which the election is to take place. Notice of any subsequent nominations received is to be given by the convenor at the meeting.
- (5) A nomination may be made at any time before the election is held and may be made at the meeting.
- (6) If a ballot for the election of a person as chairperson, secretary or treasurer of the committee is required, the election is to be conducted by a show of hands of persons at the meeting.
- (7) Subclause (6) is subject to a resolution referred to in clause 14(1)(a).

Clause 14

Prescribes for other means of voting for associations and association committees:

- (1) An association or association committee may, by resolution, adopt the following means of voting on a matter to be determined by the association or association committee—
 - voting by teleconference, video-conferencing, email or other electronic means while participating in a meeting from a remote location,
 - pre-meeting electronic voting.
- (2) If a matter may be determined partly by pre-meeting electronic voting, the meeting notice must include a statement that the relevant motion may be amended by a further motion given at the meeting after the pre-meeting electronic voting takes place and therefore the pre-meeting vote may have no effect.
- (3) A motion that is to be determined wholly by pre-meeting electronic voting may not be amended at the meeting where the pre-meeting electronic voting takes place.
- (4) A motion that is to be determined partly by pre-meeting electronic voting must not be amended at the meeting where the pre-meeting electronic voting takes place if the amendment changes the subject matter of the original motion.
- (5) If a motion that is to be determined wholly or partly by pre-meeting electronic voting is amended at the meeting where the pre-meeting electronic voting takes place, the minutes of the meeting given to lot owners or the members of the association must also include notice of the change and a statement setting out the power to make a qualified request for a further meeting under section 17 of the Act.
- 'Pre-meeting electronic voting' means voting on a matter to be determined by the association or association committee by email or other electronic means before the meeting. If the meeting does not involve an election, the association or committee can determine whether it may require a voting website and allow votes to be taken according to the directions on the website.

Clause 15

	<p>Provides for a ballot for determining a matter by an association or association committee that is to be conducted by pre-meeting electronic voting:</p> <ul style="list-style-type: none"> • The secretary of the association must ensure that the form for the electronic ballot paper contains— <ul style="list-style-type: none"> ▪ instructions for completing the ballot paper, and ▪ the question to be determined, and ▪ the means of indicating the voter’s choice on the question to be determined. • The secretary of the association must, at least seven days before the meeting where the matter is to be determined, give each person entitled to vote— <ul style="list-style-type: none"> ▪ access to an electronic ballot paper, or to a voting website or electronic application containing an electronic ballot paper, that complies with this clause, and ▪ (b) access to information about— <ul style="list-style-type: none"> (i) how the ballot paper must be completed, and (ii) the closing date of the ballot, and (iii) if voting is by email, the address where the ballot paper is to be returned, and (iv) if voting is by other electronic means, how to access the electronic voting system and how the completed electronic ballot paper is to be sent to the secretary, and ▪ access to an electronic form of declaration requiring the voter to state— (i) the voter’s name, and (ii) the capacity in which the voter is entitled to vote, and (iii) if the matters requires a special resolution, the voter’s unit entitlement, and (iv) if the vote is a proxy vote, the name and capacity of the person who gave the proxy. • Each person entitled to vote must vote according to the instructions contained in the information. • If the ballot is a secret ballot, the secretary of the association must ensure that— the identity of the voter cannot be determined from the form of the electronic ballot paper, and the declaration by the voter is dealt with so that it is not capable of being used to identify the voter. • An electronic ballot paper and the form of declaration must be sent to the secretary
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of the association no later than the close of the ballot.

- The secretary of the association must ensure that all electronic ballot papers are stored securely until the counting of the votes begins.
- 'Close of the ballot' means—
 - for a matter to be determined by the association, is 24 hours before the start of the meeting at which the matter is to be determined, or
 - for a matter to be determined by an association committee, immediately before the start of the meeting at which the matter is to be determined.

Clause 16

Prescribes for informal votes:

- A ballot paper of a voter who votes by pre-meeting electronic voting is informal if the voter has failed to record a vote according to the information given by the secretary of the association concerned.
- If voting is carried out by pre-meeting electronic voting using a voting website or other electronic application, the website or application is to provide a warning message to a person casting an informal vote that the proposed vote is informal.

Clause 17

Prescribes for determining results of pre-meeting electronic voting:

- After the close of a ballot conducted by pre-meeting electronic voting, the secretary of the association must—
 - review all information and reports about the electronic ballot, and
 - reject any votes, as informal, if they do not comply with the requirements of the Regulation, and
 - determine the result of the electronic ballot.
- The secretary of the association must, at the meeting to consider the matter for which the pre-meeting electronic voting was held, inform the persons present of the result of the ballot.

<p>Section 61(3)(c) Breaches by managing agent</p> <p>Permits the Regulation to set a minimum value for gifts or other benefits received by a managing agent that is not a breach by the managing agent.</p>	<p>Clause 38</p> <p>Prescribes \$60 as the limit for gifts to managing agents for the purposes of section 61(3)(c) of the Act.</p>
<p>Section 79(1) Investment of money in administrative or capital works funds</p> <p>Permits the Regulation to set out types of permitted investments that money in the administrative and capital works funds can be invested in.</p>	<p>Nil – no specified investments proposed.</p>
<p>Section 90(1) Interest and discounts on contributions and payment plans</p> <p>Permits the Regulation to prescribe a different interest rate to the Act to apply to late contributions.</p>	<p>Nil – no alternative interest rate proposed.</p>
<p>Section 90(7) Interest and discounts on contributions and payment plans</p> <p>Permits the Regulation to prescribe the requirements for payment plans.</p>	<p>Clause 18</p> <p>Provides that a payment plan for payment of overdue contributions must be in writing and contain the following:</p> <ul style="list-style-type: none"> • the name of the member of the association and the title details of the lot • the address for service of the member • the amount of overdue contributions • the amount of the interest payable for overdue contributions and the way in which it is calculated • the schedule of payments for the amounts owing and the period for which the plan applies • the payment method • contact details for a member of the association committee or a managing agent who is to be responsible for matters arising in relation to the payment plan • a statement that a further plan may be agreed to by the association by resolution • a statement that notes that although the payment plan exists it does not limit a right of the association to take action to recover the amount of the unpaid contributions. <p>If an association member who has entered into a payment plan makes a request, the association committee must give the lot owner a written statement for each calendar month, or a longer period specified by the member, of the plan that</p>

	sets out the payments made during the month and the amount of unpaid contributions and interest owing.
<p>Section 91(6)(c) Recovery of unpaid contributions and interest</p> <p>Permits the Regulation to require other matters that need to be included on a notice of recovery action for unpaid contributions and interest.</p>	<p>Clause 19</p> <p>Provides that a notice of proposed action to recover an amount of contributions, interest or expenses must include the following:</p> <ul style="list-style-type: none"> • the date the amount was due to be paid • the payment method • whether a payment plan may be progressed • other action that may be taken to arrange for payment of the amount.
<p>Section 99(1) Auditing of accounts and financial statements</p> <p>Permits the Regulation to prescribe a different amount when an audit of accounts and financial statements is required.</p>	Nil – no alternative amount proposed.
<p>Section 99(4) Auditing of accounts and financial statements</p> <p>Permits the Regulation to specify the manner in which the annual budget of the association is to be determined.</p>	<p>Clause 20</p> <p>The amount of the annual budget is to be the sum of the following:</p> <ul style="list-style-type: none"> • the amount of contributions levied for the year concerned, whether or not they have been paid • income of the association from other sources • other amounts held by the association for the association.
<p>Section 99(5) Auditing of accounts and financial statements</p> <p>Permits the Regulation to modify the standards issued by the Australian Accounting Standards Board.</p>	Nil – no modifications of the standards are proposed.
<p>Section 100(4) Accounting records must be kept by association</p> <p>Permits the Regulation to require certain accounting records to be kept by an association.</p>	<p>Clause 21</p> <p>The accounting records required to be kept are:</p> <ul style="list-style-type: none"> • receipts consecutively numbered • a statement of deposits and withdrawals for the account of the association • a cash record • a levy register. <p>Clause 22</p>

	<p>Requires that the levy register to be kept must include a separate section:</p> <ul style="list-style-type: none"> • For a register kept: <ul style="list-style-type: none"> ○ By a community association – each development lot and former development lot. ○ By a precinct association – each development lot and former development lot. ○ By a neighbourhood association – each neighbourhood lot. • Each section must specify the following in relation to each contribution levied, and must indicate whether the entries are debits or credits and balances for: <ul style="list-style-type: none"> ○ Date on which the contribution is due and payable. ○ Type of contribution and period in relation to which it is to be made. ○ Amount of the contribution levied shown as a debit. ○ Amount of each payment shown as a credit. ○ Date on which each payment is made. ○ Whether a payment was made in cash, cheque or other specified way. ○ Whether amount comprised full or part payment. ○ Details of any discounts given for early payment. ○ Balance of the account.
<p>Section 101(2) Receipts</p> <p>Permits the Regulation to require certain information that must be included on receipts issued by the association treasurer.</p>	<p>Clause 23</p> <p>Prescribes that each receipt issued by the treasurer of the association must include:</p> <ul style="list-style-type: none"> • the date of issue of the receipt • the amount of money received • the form, being cash, cheque, postal order or other, in which the money was received • the name of the person on whose behalf the payment was made • if the payment is for a contribution to the administrative or capital works fund— (i) a statement that the payment was made regarding that contribution, and (ii) the lot number regarding the contribution, and (iii) the period regarding the payment made, if relevant, and (iv) details of any discount given for early payment, • if the payment is not a payment referred to above, particulars of the transaction regarding the payment is received

	<ul style="list-style-type: none"> • if the payment is received regarding more than one transaction—the way in which the payment is apportioned between transactions.
<p>Section 106(2)(b) Legal services</p> <p>An association or association committee can obtain legal services without approval if it does not exceed a certain amount. This section permits the setting of a different amount to that prescribed in the Act.</p>	<p>Clause 24</p> <p>Prescribes the amount of \$15,000 for obtaining legal services without approval.</p>
<p>Section 106(3)(c) Legal services</p> <p>Permits the prescribing of other legal actions that do not require approval.</p>	<p>Clause 24</p> <p>Prescribes that approval for legal services costs is not required to take other legal action if:</p> <ul style="list-style-type: none"> • the matter is not urgent, and • the cost of the legal services does not exceed \$3,000.
<p>Section 112(6)(d) Open and private access ways</p> <p>Permits the Regulation to include additional persons within the definition of <i>authorised person</i>.</p>	<p>Nil – no additional persons are proposed.</p>
<p>Section 115(1) – Initial maintenance schedule must be prepared</p> <p>Permits the Regulation to set out those matters that must be included in the initial maintenance schedule to be prepared by the original owner.</p>	<p>Clause 25</p> <ul style="list-style-type: none"> • Prescribes that the initial maintenance schedule for the maintenance of the association property of a scheme must contain maintenance and inspection schedules for items on association property if the maintenance and inspection is reasonably required to avoid damage to the item or a failure to function properly for its intended purpose. • Without limiting the matters to be included in the initial maintenance schedule, maintenance and inspection schedules must be included for the following— (a) exterior walls, guttering, downpipes and roof, (b) pools and surrounds, including fencing and gates, (c) air conditioning, heating and ventilation systems, (d) fire protection equipment, including sprinkler systems, alarms and smoke detectors, (e) security access systems, (f) embedded networks and micro-grids. • The following are to be included with or attached to the initial maintenance schedule— (a) all warranties for systems, equipment or other items referred to in the

	<p>schedule, (b) manuals or maintenance requirements provided by manufacturers for the systems, equipment or other items, (c) the name and contact details of the manufacturer and installer of the systems, equipment or other items.</p> <ul style="list-style-type: none"> • The schedule may be in hard copy or in an electronic form that the association can access.
<p>Section 125(1)(d) Financing and installation of sustainability infrastructure</p> <p>Permits the Regulation to include additional matters that must be considered before approving a sustainability infrastructure resolution.</p>	<p>Nil – no additional matters are proposed.</p>
<p>Section 125(2)(g) Financing and installation of sustainability infrastructure</p> <p>Permits the Regulation to include additional purposes for which changes to association property are within the definition of sustainability infrastructure.</p>	<p>Nil – no additional purposes are proposed.</p>
<p>Section 129(3)(b) Occupancy limits</p> <p>Permits the Regulation to set out exceptions to the effects of by-laws limiting the number of occupants.</p>	<p>Clause 26</p> <p>Prescribes occupancy limits exemptions:</p> <ul style="list-style-type: none"> • a by-law that limits the number of adults who may reside in a lot has no effect if all the adults who reside in the lot are related to each other. • a person is related to another person who resides in a lot if— (a) the person is a relative of the other person, or (b) the person is a relative of the other person's spouse or de facto partner or former spouse or de facto partner, or (c) the person is the spouse or de facto partner of the other person, or (d) the person is the carer of, or is cared for by, the other person, or (e) the person is Aboriginal or Torres Strait Islander also related to another person if the person is, or has been, part of the extended family or kin of the person according to the indigenous kinship system of the person's culture. • 'relative' means a parent, guardian, grandparent, son, daughter, grandchild, brother, sister, uncle, aunt, niece, nephew or cousin.
<p>Section 129(5) Occupancy limits</p>	<p>Nil – no circumstances proposed.</p>

Permits the Regulation to provide for the circumstances when a person is a resident for the purposes of an occupancy by-law.	
Section 129(6) Occupancy limits Permits the Regulation to provide when a room is considered a bedroom for the purposes of an occupancy by-law.	Nil – no additional rooms proposed.
Section 148 Association to insure buildings and structures on association property Permits the Regulation to specify additional occurrences for which a building or structure is to be insured for.	Nil – no additional occurrences proposed.
Section 149(a) Requirements for damage policy The Regulation is to provide a means for determining how much a building or structure is to be insured for.	Clause 28 Prescribes for the manner of calculation of insurance limit under damage policy: <ul style="list-style-type: none"> • The minimum amount for which a building is to be insured is to be not less than the sum of the following amounts— <ul style="list-style-type: none"> ▪ The estimated cost, as at the start date of the damage policy, of— (i) carrying out the work that a damage policy is required to provide for under section 149, and (ii) making the payments that a damage policy is required to provide for under section 149. ▪ The estimated amount by which expenditure referred to in the preceding paragraphs may increase during the period of 24 months following the start date of the damage policy. • The amounts referred to above are to be calculated to include any applicable taxes, fees and charges, including taxes, fees and charges of the Commonwealth.
Section 150(2) Valuations to be obtained for the purpose of insurance Permits the Regulation to prescribe the qualifications of a person who may carry out the valuation.	Clause 29 Prescribes the qualifications referred to in paragraphs (a)-(d) of the definition of qualified valuer in the Dictionary to the <i>Community Land Development Act 2021</i> .
Section 152(1)(f) Other mandatory insurance requirements for associations	Nil – no additional classes of insurance proposed.

Permits the Regulation to provide additional classes of mandatory insurance.	
<p>Section 152(2) Other mandatory insurance requirements for associations</p> <p>The Regulation is to provide an amount for calculating or determining the mandatory insurance to be taken out by the association.</p>	<p>Clause 30</p> <p>Prescribes that the minimum insurance cover that must be taken out under section 152(1) is:</p> <ul style="list-style-type: none"> • for section 152(1)(b), \$20,000,000 for each event in respect of which a claim is made, or • the amount determined by resolution of the association concerned.
<p>Section 169 Retention of records for prescribed period</p> <p>Permits the Regulation to provide an additional period for which records are to be retained.</p>	<p>Clause 31(1)</p> <p>Prescribes that an association is required to retain voting papers referred to in section 169(a)-(j) for 13 months, but only if they relate to secret ballots.</p>
<p>Section 169(j) Retention of records for prescribed period</p> <p>Permits the Regulation to provide for other documents that are to be retained by the association.</p>	<p>Clause 31(2)</p> <p>Provides that records relating to electronic voting for motions for resolutions by an association must be retained by the association.</p>
<p>Section 171(2) Requests of inspection of records and certificates about associations</p> <p>Permits the Regulation to provide for a fee that is to be paid when requesting to inspect association records.</p>	<p>Clause 39 and Schedule 1</p> <p>Schedule 1 prescribes the types of fees and the fee amounts.</p> <p>Provides for a fee of \$109 for giving a certificate under section 171 of the Act if the request is an initial request, or request made more than three months after a previous request by the same person in respect of the same lot.</p> <p>If the request is made not more than three months after a previous request by the same person in respect of the same lot, the fee is \$94.</p>
<p>Section 172(l) Inspection of records</p> <p>Permits the Regulation to provide for additional records of the managing agent that must be made available for inspection.</p>	<p>Clause 32</p> <p>Provides that the association must make the accounting records and other records relating to the association scheme that are kept by the managing agent, available for inspection.</p>
<p>Section 180(2) Matters that may be subject to mediation</p> <p>The Regulation is to provide for the circumstances in how applications for mediation are to be handled by the Secretary.</p>	<p>Clauses 33, 34, 35, 36, 37</p> <p>Prescribes for alternate dispute resolution and that this part of the Regulation applies to mediation conducted under section 180 of the Act.</p>

	<p>Subject to the Act and this Regulation, the Secretary may give written directions for regulating and prescribing the practice and procedure to be followed relating to a mediation session, including the preparation and service of documents.</p> <p>A mediation session must be attended by each party, or a representative of the party, if all other parties consent to the representation.</p> <p>Other persons may attend a mediation session with the leave of the mediator.</p> <p>The parties to a mediation are to pay their own costs associated with the mediation.</p> <p>A mediator may terminate a mediation at any time. A party may terminate a mediation at any time by giving notice of the termination to the mediator and each other party.</p>
<p>Section 210(2) Penalty notices</p> <p>Permits the Regulation to prescribe the offences that are penalty notice offences.</p>	<p>Clause 40 and Schedule 2</p> <p>Schedule 2 prescribes penalty notice offences and penalty amounts.</p> <p>For the purposes of section 210 of the Act—</p> <ul style="list-style-type: none"> • each offence created by a provision specified in Column 1 of Schedule 2 is an offence for which a penalty notice may be served, and • the penalty prescribed for each offence is the amount specified opposite the provision in Column 2 and 3 of Schedule 2. <p>If the reference to a provision in Column 1 of Schedule 2 is qualified by words that restrict its operation to specified kinds of offences, an offence created by the provision is a prescribed offence, only if it is an offence of a kind so specified or committed in the circumstances specified.</p>
<p>Section 210(4) Penalty notices</p> <p>The amount payable under a penalty notice is to be set at the amount prescribed in the Regulation and not exceed the maximum amount of penalty that could be imposed for the offence by a court.</p>	<p>Schedule 2</p> <p>Schedule 2 prescribes penalty notice offences and penalty amounts.</p>
<p>Section 218(b) Delegation by Secretary</p>	<p>Nil – no additional persons or classes of persons are proposed to be delegated to.</p>

Permits the Regulation to authorise any additional person or classes of persons to be delegated the functions of the Secretary.	
<p>Section 233(1) Regulations</p> <p>Permits the Governor to provide for matters that are required or permitted to be prescribed by the Act, or that are necessary or convenient to be prescribed to give effect to the Act and that are not inconsistent with the Act.</p>	Nil.
<p>Section 233(2)-(3) Regulations</p> <p>Permits the Regulation to make provision for measures to require persons to provide information about associations to the Secretary.</p>	<p>Nil – no provision for these measures are proposed at this time.</p> <p>This refers to the proposed Strata Portal currently under development by the Department of Customer Service. The obligations regarding this portal will apply to both strata and community land schemes.</p> <p>The NSW Government will consult on proposed provisions under this power in the future.</p>
<p>Schedule 1, clause 23(2) (b) Priority votes</p> <p>Permits the Regulation to provide an amount that when exceeded a priority vote can be exercised.</p>	<p>Clause 13</p> <p>Provides that a priority vote may be cast on a motion if the motion would require expenditure that exceeds an amount calculated by multiplying \$1,000 by the number of lots in the scheme concerned.</p>
<p>Schedule 1, clause 25(1) Appointment of proxies</p> <p>A proxy is to be appointed by an instrument in the approved form.</p>	Nil – no approved form proposed.
<p>Schedule 1, clause 27(2) Manner of voting for association meetings</p> <p>Permits the Regulation to make provision for the means of voting that may be adopted by an association, the procedures for voting by those means and prohibiting the use of specified means of voting.</p>	<p>Clauses 14, 15, 16, 17</p> <p>As above</p>
<p>Schedule 1, clause 28(2) Secret ballots – neighbourhood schemes</p> <p>Permits the Regulation to make provision for the procedures of a secret ballot.</p>	<p>Clauses 15 (5)</p> <p>Provides that in a secret ballot, the secretary of the association must ensure that the identity of the voter cannot be established from the electronic ballot paper, and the declaration of the voter is dealt with so it cannot be used to identify the voter.</p>

<p>Schedule 2, clause 8(2) Manner of voting for association committees</p> <p>Permits the Regulation to make provision for the means of voting that may be adopted by a committee.</p>	<p>Clauses 14, 15, 16, 17</p> <p>As above</p>
<p>Schedule 3, clause 1 Savings or transitional regulations</p> <p>Permits the Regulation to contain provisions of a savings or transitional nature on commencement of an Act or an amendment to the Act.</p>	<p>Clauses 41</p> <p>Provides that the seal of an association existing before the commencement of this clause may continue to be used as its seal for the purposes of the Act or another purpose, unless replaced by the association.</p>
<p>Dictionary – Approved insurer</p> <p>Permits the Regulation to provide for other persons to be within the definition of an <i>approved insurer</i>.</p>	<p>Clause 27</p> <p>Prescribes that within the definition of an ‘approved insurer’ is a Lloyd’s underwriter authorised to carry on insurance business, or exempted from authorisation, under the <i>Insurance Act 1973</i> (Cth).</p> <p>Lloyd’s underwriter has the same meaning as in the <i>Insurance Act 1973</i> (Cth).</p>

Appendix 2 – Summary of the clauses of the Regulation

Part 1 - Preliminary

Clauses 1 and 2 provide the name and commencement of the Regulation.

Clause 3 provides references to definitions included in the Regulation.

Clause 4 provides for the purposes of section 6(1)(f) additional connections with a *principal person* where that person is a corporation.

Part 2 – Management of schemes

Clause 5 sets out the functions that may only be delegated to an association committee member or managing agent by the association.

Clause 6 sets out the additional matters that must be included in the agenda for the first AGM of the association.

Clause 7 prescribes the additional documents and records that the original owner must provide to the association at the first AGM of the association.

Part 3 – Associations and association committees

Clause 8 sets out the nomination procedures for the appointment of a tenant representative.

Clause 9 sets out the circumstances when a tenant representative will cease to be a tenant representative of a neighbourhood committee, and the procedures for replacing that representative.

Clause 10 sets out the procedures for the nomination and election of the members of the association committee by the association.

Clause 11 sets out the procedures if a ballot is required for the election of members of the association committee by the association.

Clause 12 sets out the procedures for nomination of officers of the association committee.

Clause 13 provides that a priority vote may be cast on a motion if the motion would require expenditure that exceeds the amount calculated by multiplying \$1,000 by the number of lots in the scheme concerned.

Clause 14 sets out the other means of voting that an association or association committee may adopt by resolution, including telephone, video conferencing, email or other electronic means, and pre-meeting electronic voting.

Clause 15 sets out the procedures that must be followed in relation to pre-meeting electronic voting by means of email or accessing a voting website.

Clause 16 sets out when a vote is informal and the consequences of such a vote.

Clause 17 sets out the responsibilities of the secretary of the association after the close of a pre-meeting electronic vote.

Part 4 – Financial management

Clause 18 sets out the requirements for payment plans for the payment of overdue contributions.

Clause 19 sets out the information that must be included in a notice of recovery action for unpaid contributions, interest or expenses.

Clause 20 provides that for the calculation of the amount of the annual budget for the purposes of section 99(4) of the Act.

Clause 21 sets out the accounting records required to be kept for the purposes of section 100(4) of the Act.

Clause 22 sets out the information that must be recorded in the levy register.

Clause 23 sets out the information that each receipt issued by the treasurer of the association must contain, as required by section 101(2) of the Act.

Clause 24 provides that for the purposes of section 106(2)(b) the association or association committee can obtain urgent legal advice without approval if the costs do not exceed \$15,000. It also provides for the purposes of section 106(3)(c) that approval for non-urgent legal advice is not required if the cost does not exceed \$3,000.

Part 5 – Property management

Clause 25 sets out the items that an initial maintenance schedule for the maintenance of the association property must contain in accordance with section 115 of the Act.

Part 6 – Management statements and by-laws for associations

Clause 26 provides that for the purposes of section 129(3)(b) of the Act, a by-law that limits the number of adults who may reside in a lot has no effect if all of the adults who reside in the lot are related to each other.

Part 7 – Insurance

Clause 27 provides that a Lloyd's underwriter authorised to carry on insurance business, or exempted from authorisation, under the *Insurance Act 1973* of the Commonwealth is an approved insurer for the purposes of paragraph (b) of the definition of **approved insurer** in the Dictionary to the Act.

Clause 28 provides the method of calculation of the minimum amount for which a building is to be insured under a damage policy.

Clause 29 provides that for the purposes of obtaining a valuation of a building or structure for insurance the valuation is to be carried out by a **qualified valuer** as defined in the Dictionary of the *Community Land Development Act 2021*.

Clause 30 provides for the purposes of section 152(1)(b) the amount of coverage for each claim for damage to property, death or bodily injury for which the association could become liable is \$20,000,000 or another amount determined by resolution of the association.

Part 8 – Records and information about associations

Clause 31 provides for the purposes of section 169 (a)-(j) of the Act, voting papers, records and other documents are required to be retained for 13 months by the association if the voting papers or records relate to secret ballots. It also requires that records relating to electronic voting for motions for resolutions by an association must be retained by the association.

Clause 32 provides that for the purposes of section 172 of the Act, the association must make available for inspection the accounting records and other records relating to the association scheme that are kept by the managing agent.

Part 9 – Alternative dispute resolution

Clause 33 provides that Part 8 applies to mediations conducted under section 180 of the Act.

Clause 34 provides that subject to the Act and the Regulation, the Secretary may give written directions for regulating and prescribing the practice and procedure to be followed in connection with a mediation session, including the preparation and service of documents.

Clause 35 sets out the attendance and representation requirements for persons participating in a mediation session.

Clause 36 provides that the parties to a mediation are to pay their own costs associated with the mediation.

Clause 37 provides that a mediator may terminate a mediation at any time, and that a party to a mediation may also terminate a mediation at any time by giving notice of the termination to the mediator and each other party.

Part 10 – Miscellaneous

Clause 38 provides that for the purposes of section 61(3)(c) of the Act, the amount prescribed as the limits for gifts to managing agents is \$60.

Clause 39 provides that the fees payable under the Act are set out in Schedule 1.

Clause 40 provides that for the purposes of section 210 of the Act, the penalty notice provisions, including the offences created listed in Column 1, and the penalty amounts for each offence are as set out in Column 2 and Column 3 in Schedule 2 respectively.

Clause 41 provides a saving provision relating to the seals of the association.

Schedule 1 sets out the fees payable to the association.

Schedule 2 sets out the offences under the Act for which penalty notices apply in column 1, and the penalty amounts that apply to each offence in column 2 and column 3.

Appendix 3 – List of targeted stakeholders

A copy of the proposed Regulation and this RIS has been provided to key stakeholder groups and organisations, including:

- Strata Community Association (NSW)
- Owners Corporation Network
- Real Estate Institute of New South Wales
- Law Society of New South Wales
- Urban Development Institute of Australia (NSW)
- Property Council of Australia
- Australian College of Strata Lawyers
- City of Sydney
- Tenants' Union of New South Wales
- City Futures Research Centre, UNSW
- PICA Group
- Breakfast Point Community Association
- Insurance Council of Australia
- Institution of Surveyors NSW Inc
- Association of Consulting Surveyors NSW.