

Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 2) 2024

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Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 2) 2024

Made by the Governor in Executive Council.

Part 1 — Preliminary

1. Citation

These regulations are the *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 2) 2024*.

2. Commencement

These regulations come into operation as follows —

- (a) Part 1 — on the day on which these regulations are published on the WA legislation website;
- (b) the rest of the regulations — on the day after that day.

Part 2 — Community Titles Regulations 2021 amended

3. Regulations amended

This Part amends the *Community Titles Regulations 2021*.

[The following text is the Community Titles Regulations 2021 Parts 1 and 11 showing proposed amendments in track changes. All of the proposed amendments are in Part 11; Part 1 is included for reference, as it contains definitions of many of the terms used in Pt 11. A formal amending instrument will be drafted at a later stage.]

Part 1 — Preliminary

1. Citation

These regulations are the *Community Titles Regulations 2021*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Community Titles Act 2018* section 187 comes into operation.

3. Terms used

In these regulations —

administrator has the meaning given in the *Guardianship and Administration Act 1990* section 3(1);

calendar year means a period of 12 months beginning on 1 January;

commencement day means the day on which the *Community Titles Act 2018* section 187 comes into operation;

easement area has the meaning given in regulation 30(2);

guardian has the meaning given in the *Guardianship and Administration Act 1990* section 3(1);

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1;

independent advocate has the meaning given in section 146(1);

local legal practitioner has the meaning given in the *Legal Profession Uniform Law Application Act 2022* section 3(1);

section means a section of the Act;

Survey Regulations means —

- (a) the *Licensed Surveyors (General Surveying Practice) Regulations 1961*; and
- (b) the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961*; and
- (c) the *Transfer of Land (Surveys) Regulations 1995*; and
- (d) any other rules or regulations, including any directions, instructions or guidelines issued under any of those rules or regulations, for the time being in force for the guidance of surveyors when practising under the *Transfer of Land Act 1893*;

termination proposal process has the meaning given in regulation 108;

vulnerable person has the meaning given in regulation 136(1).

[Regulation 3 amended: SL 2022/116 r. 4.]

Part 11 — Scheme managers

Division 1 — Preliminary

90. Terms used

In this Part —

assistant scheme community manager, in relation to a community titles scheme, means an individual —

(a) who is an agent, employee or contractor of the scheme manager; and

(b) who, under the terms of the employment or engagement, performs authorised scheme functions together with, and under the supervision and direction of, a principal or a scheme community manager;

authorised scheme function, in relation to a community titles scheme, means a scheme function that a scheme manager is authorised to perform by a scheme management contract relating to the scheme;

course means a VET accredited course as defined in the *National Vocational Education and Training Regulator Act 2011* (Commonwealth) section 3;

criminal record statement has the meaning given in regulation 94(1);

~~*designated person*, in relation to a scheme manager, means an individual who is an agent, employee or contractor of the scheme manager and who is authorised or expected to perform, or does perform, a scheme function that the scheme manager is authorised to perform;~~

~~*educational qualifications*, in relation to an individual, means the educational qualifications to be met by the individual under regulation 96;~~

experience qualifications, in relation to an individual, means the experience qualifications to be met by the individual under regulation 97A;

~~*key role* has the meaning given in regulation 91;~~

national criminal record check means a document issued by the Police Force of Western Australia, the Australian Federal Police or another body or agency approved by the community corporation that sets out, or summarises in a manner acceptable to the community corporation, the criminal convictions of an individual for offences under the law of the Commonwealth, a State or a Territory;

National Register has the meaning given in the *National Vocational Education and Training Regulator Act 2011* (Commonwealth) section 3;

~~*prescribed educational qualification*, has the meaning given in regulation 96(1);~~

~~*prescribed experience qualification*, has the meaning given in regulation 97A(1);~~

principal means an individual who is —

- (a) a scheme manager; or
- (b) a director of a body corporate that is a scheme manager; or
- (c) a partner in a partnership that is a scheme manager; or
- ~~(d) a designated person who meets the educational qualifications set out in item 1 or 2 of the Table to regulation 96;~~

~~(d) employed or engaged as a scheme community manager who, under the terms of the employment or engagement, supervises and directs others in the performance of authorised scheme functions;~~

property or dishonesty offence means an offence (whether committed inside or outside the State) —

- (a) that involves dishonesty, deception, fraud, stealing, robbery, extortion, burglary, bribery, property laundering, receiving stolen property or perjury; and
- (b) for which the penalty specified by a written law is or includes imprisonment for 3 months or more;

qualified person means —

- (a) an individual who holds a licence as a real estate agent under the *Real Estate and Business Agents Act 1978* or who has obtained the necessary qualifications to hold that licence; or
- (b) a local legal practitioner; or
- (c) an individual who holds a CPP40307 Certificate IV in Property Services (Real Estate); or
- (d) an individual who holds a CPP40611 Certificate IV in Property Services (Operations); or
- (e) an individual who holds a CPP41419 Certificate IV in Real Estate Practice or superseding qualification;

relevant body corporate has the meaning given in regulation 93(1);

relevant partnership has the meaning given in regulation 93(1);

scheme community manager, in relation to a community titles scheme, means an individual —

- (a) who is employed or engaged as an agent, employee or contractor of the scheme manager; and
- (b) who, under the terms of the employment or engagement —
 - (i) performs authorised scheme functions; and
 - (ii) may be supervised or directed in performing those functions by a principal of the scheme manager;

superseding qualification means a Certificate IV in a ~~VET accredited~~ course ~~(as defined in the *National Vocational Education and Training Regulator Act 2011 (Commonwealth) section 3*)~~ entered on the National Register as superseding a CPP41419 Certificate IV in Real Estate Practice.

91. — Key role

- ~~(1) In this Part, a designated person has a *key role* in performing a scheme function for a community titles scheme if the designated person performs, or is expected to perform, 1 or more of the following scheme functions, with no supervision or minimal supervision by a principal —~~
- ~~(a) liaise with or report to the community corporation for the community titles scheme;~~
 - ~~(b) attend or conduct meetings of the community corporation, or meetings of the council of the community corporation, for the community titles scheme;~~
 - ~~(c) prepare or supervise the preparation of documents and correspondence associated with the management of the community corporation for the community titles scheme;~~
 - ~~(d) perform or supervise the carrying out of a scheme function under a scheme management contract including, without limitation, any of the following functions —~~
 - ~~(i) collecting contributions on behalf of the community corporation for the community titles scheme;~~
 - ~~(ii) obtaining or renewing insurance on behalf of the community corporation for the community titles scheme;~~
 - ~~(iii) making or attending to claims against insurance on behalf of the community corporation for the community titles scheme;~~
 - ~~(iv) keeping the scheme contacts register of the community corporation for the community titles scheme up to date.~~
- ~~(2) A designated person does not have a *key role* in performing a scheme function for a community titles scheme if the designated~~

~~person's primary role is to provide assistance, administrative support or other support services to the principal, or to another designated person who does have a key role in performing scheme functions, under the supervision of that principal or other designated person.~~

Division 2 — Criminal record checks

92. Application of Division

This Division applies for the purposes of section 118(1)(b)(i).

93. Scheme manager must obtain national criminal record checks

(1) In this regulation —

relevant body corporate, in relation to a scheme manager, means a body corporate that is an agent or contractor of the scheme manager;

relevant partnership, in relation to a scheme manager, means a partnership that is an agent or contractor of the scheme manager.

(2) A scheme manager must, if the scheme manager is an individual —

- (a) obtain a national criminal record check in respect of the individual; and
- (b) obtain a new national criminal record check in respect of the individual at least once every 3 years.

(3) A scheme manager must, if the scheme manager is a body corporate or partnership —

- (a) obtain a national criminal record check in respect of each of its directors or partners (whichever case applies); and
- (b) obtain a new national criminal record check in respect of each of its directors or partners (whichever case applies) at least once every 3 years.

- (4) A scheme manager must not employ or engage, or continue to employ or engage, a ~~designated~~ person as a scheme community manager or an assistant scheme community manager unless —
- (a) the scheme manager obtains a national criminal record check in respect of the ~~designated~~ person; and
 - (b) the scheme manager obtains a new national criminal record check in respect of the ~~designated~~ person at least once every 3 years; and
 - (c) the ~~designated~~ person consents to the scheme manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any community corporation for which the scheme manager performs functions as a scheme manager.
- (5) A scheme manager must not authorise, or continue to authorise, a relevant body corporate or a relevant partnership to perform a scheme function that the scheme manager is authorised to perform unless the scheme manager —
- (a) obtains a national criminal record check in respect of —
 - (i) if the authorisation is for a relevant body corporate — each of the directors of the relevant body corporate; and
 - (ii) if the authorisation is for a relevant partnership — each of the partners in the relevant partnership; and
 - (iii) any employees of the relevant body corporate or the relevant partnership (whichever case applies) who may be authorised or expected to perform the scheme function;and
 - (b) obtains a new national criminal record check at least once every 3 years in respect of —

- (i) if the authorisation is for a relevant body corporate — each of the directors of the relevant body corporate; and
 - (ii) if the authorisation is for a relevant partnership — each of the partners in the relevant partnership; and
 - (iii) any employees of the relevant body corporate or the relevant partnership (whichever case applies) who may be authorised or expected to perform the scheme function;
- and
- (c) if a national criminal record check has been obtained in respect of a person described in paragraph (a)(i), (ii) or (iii) or a person described in paragraph (b)(i), (ii) or (iii) — obtains the consent of that person to the disclosure of the particulars of the national criminal record check in a statement to any community corporation for which the scheme manager performs functions as a scheme manager.

94. Scheme manager must give criminal record statement to community corporation

- (1) A scheme manager must make a statement (a *criminal record statement*) and give a copy of the statement to any community corporation before entering into, or renewing, a scheme management contract with the community corporation.
- (2) In the criminal record statement, the scheme manager must —
 - (a) declare that the scheme manager has obtained the national criminal record checks that the scheme manager must obtain under regulation 93; and
 - (b) declare that each of those national criminal record checks is less than 3 years old; and
 - (c) if a national criminal record check has revealed that a person has been convicted of a property or dishonesty

- offence — disclose particulars of the conviction in accordance with subregulation (4); and
- (d) declare that the national criminal record checks obtained by the scheme manager do not reveal any convictions for property or dishonesty offences, other than those (if any) that have been disclosed by the scheme manager.
- (3) A criminal record statement must be in the form of a statutory declaration made in accordance with the *Oaths, Affidavits and Statutory Declarations Act 2005* by 1 of the following persons —
- (a) the scheme manager;
 - (b) if the scheme manager is a body corporate — a director of the body corporate;
 - (c) if the scheme manager is a partnership — a partner in the partnership.
- (4) A scheme manager who must disclose particulars of a conviction for a property or dishonesty offence must disclose to the community corporation —
- (a) the identity of the person convicted; and
 - (b) the role of the person in the business of the scheme manager; and
 - (c) particulars of the offence or offences concerned.

Division 3 — Educational and experience qualifications

95. Application of Division

- (1) This Division applies for the purposes of section 118(1)(b)(ii).
- (2) This Division does not apply in relation to a volunteer scheme manager.

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Division 3 Educational and experience qualifications

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96. ~~Educational qualifications that must be met by particular individuals~~ Scheme manager to ensure educational qualifications are met

(1) In this regulation —

prescribed educational qualification, for an individual, means the qualification set out in column 2 of the Table opposite each description set out in column 1 of the Table that applies to the individual.

(2) A scheme manager must ensure that each individual who is a principal of the scheme manager, and each individual who is employed or engaged by the scheme manager as a scheme community manager or an assistant scheme community manager, meets the prescribed educational qualification.

~~The qualifications set out in column 2 of the Table are the educational qualifications that must be met by the individual described in column 1 of the Table.~~

Table

<u>Item</u>	<u>Column 1 Individual</u>	<u>Column 2 Qualification</u>
<u>1.</u>	<u>A principal who is a qualified person</u>	<u>Have completed 4 units in CPP40521 Certificate IV in Strata Community Management</u>
<u>2.</u>	<u>A principal who is not a qualified person</u>	<u>Hold —</u> <u>(a) CPP40521 Certificate IV in Strata Community Management; or</u> <u>(b) CPP51122 Diploma of Property (Agency Management - Strata)</u>

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<u>Item</u>	<u>Column 1 Individual</u>	<u>Column 2 Qualification</u>
3.	<u>A scheme community manager who is a qualified person</u>	<u>Have completed 4 units in CPP40521 Certificate IV in Strata Community Management</u>
4.	<u>A scheme community manager who is not a qualified person</u>	<u>Hold CPP40521 Certificate IV in Strata Community Management</u>
5.	<u>An assistant scheme community manager who is a qualified person</u>	<u>Not later than 2 years after commencing employment or engagement as an assistant scheme community manager, have completed 2 units in CPP40521 Certificate IV in Strata Community Management</u>
6.	<u>An assistant scheme community manager who is not a qualified person</u>	<u>Not later than 2 years after commencing employment or engagement as an assistant scheme community manager, have completed 4 units in CPP40521 Certificate IV in Strata Community Management.</u>

Table

Item	Column 1 Individual	Column 2 Qualification
1.	A principal who is a qualified person	(a) The following 4 units in CPP40516 Certificate IV in Strata Community Management —

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Item	Column 1 Individual	Column 2 Qualification
		<p>(i) CPPDSM3017 Work in the strata community management sector, or CPPDSM4009 Interpret legislation to complete work in the property industry;</p> <p>(ii) CPPDSM3020 Source and extract information from strata plans;</p> <p>(iii) CPPDSM4085 Handle strata community funds held on trust;</p> <p>(iv) CPPDSM4086 Oversee preparation of strata community budgets;</p> <p>— and</p> <p>(b) at least 2 of the following units in CPP40516 Certificate IV in Strata Community Management —</p> <p>(i) CPPDSM4084 Administer insurance for strata communities;</p> <p>(ii) CPPDSM4087 Facilitate operation of owners committee;</p> <p>(iii) CPPDSM4082 Monitor service requirements of owners and occupiers in strata communities;</p>

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Item	Column 1 Individual	Column 2 Qualification
		<p>(iv) CPPDSM4045 Facilitate meetings in the property industry;</p> <p>(v) CPPCMN4008 Read plans, drawings and specifications for residential buildings.</p>
2.	A principal who is not a qualified person	CPP40516 Certificate IV in Strata Community Management
3.	A designated person in relation to a scheme manager who has a key role in performing scheme functions who is not a principal and not a qualified person	<p>(a) The following 4 units in CPP40516 Certificate IV in Strata Community Management —</p> <p>(i) CPPDSM3017 Work in the strata community management sector, or CPPDSM4009 Interpret legislation to complete work in the property industry;</p> <p>(ii) CPPDSM3020 Source and extract information from strata plans;</p> <p>(iii) CPPDSM4085 Handle strata community funds held on trust;</p> <p>(iv) CPPDSM4086 Oversee preparation of strata community budgets;</p> <p>— and</p>

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Item	Column 1 Individual	Column 2 Qualification
		<p>(b) at least 4 of the following units in CPP40516 Certificate IV in Strata Community Management —</p> <ul style="list-style-type: none"> (i) CPPDSM4084 Administer insurance for strata communities; (ii) CPPDSM4087 Facilitate operation of owners committee; (iii) CPPDSM4082 Monitor service requirements of owners and occupiers in strata communities; (iv) CPPDSM4045 Facilitate meetings in the property industry; (v) CPPCMN4008 Read plans, drawings and specifications for residential buildings.
4.	A designated person in relation to a scheme manager who has a key role in performing scheme functions who is not a principal but is a qualified person	<p>(a) The following 4 units in CPP40516 Certificate IV in Strata Community Management —</p> <ul style="list-style-type: none"> (i) CPPDSM3017 Work in the strata community management sector, or CPPDSM4009 Interpret legislation to complete work in the property industry;

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Item	Column 1 Individual	Column 2 Qualification
		<p>(ii) CPPDSM3020 Source and extract information from strata plans;</p> <p>(iii) CPPDSM4085 Handle strata community funds held on trust;</p> <p>(iv) CPPDSM4086 Oversee preparation of strata community budgets;</p> <p>— and</p> <p>(b) at least 1 of the following units in CPP40516 Certificate IV in Strata Community Management —</p> <p>(i) CPPDSM4084 Administer insurance for strata communities;</p> <p>(ii) CPPDSM4087 Facilitate operation of owners committee;</p> <p>(iii) CPPDSM4082 Monitor service requirements of owners and occupiers in strata communities;</p> <p>(iv) CPPDSM4045 Facilitate meetings in the property industry;</p> <p>(v) CPPCMN4008 Read plans, drawings and specifications for residential buildings.</p>

97. Supercession of courses

- (1) If, according to the National Register, the CPP40521 Certificate IV in Strata Community Management is superseded by a Certificate IV of a different title or a different code, for the purposes of this Division that new Certificate IV is taken to be a CPP40521 Certificate IV in Strata Community Management.
- (2) If, according to the National Register, the CPP51122 Diploma of Property (Agency Management - Strata) is superseded by a diploma of a different title or a different code, for the purposes of this Division the new diploma is taken to be a CPP51122 Diploma of Property (Agency Management - Strata).

~~97. Changes to titles or units~~

~~For the purposes of this Division —~~

- ~~(a) if, according to the National Register, a CPP40516 Certificate IV in Strata Community Management is superseded by a Certificate IV of a different title (the *new Certificate IV*), the new Certificate IV is taken to be a CPP40516 Certificate IV in Strata Community Management; and~~
- ~~(b) a person is taken to have completed a unit of a particular title in CPP40516 Certificate IV in Strata Community Management if the person has completed —~~
- ~~(i) a unit in CPP40516 Certificate IV in Strata Community Management of a different title that supersedes it according to the National Register; or~~
- ~~(ii) a unit in CPP40516 Certificate IV in Strata Community Management of a different title that was superseded by it according to the National Register.~~

97A. Scheme manager to ensure experience qualifications are met

- (1) In this regulation —

industry experience means experience gained as a principal, agent, employee or contractor of a scheme manager or a strata manager, carrying out duties relating to the management of community titles schemes or strata titles schemes, other than —

- (a) repairing, maintaining, renewing, replacing, altering or improving the common property or any personal property owned by a community corporation or strata company; or
- (b) work that assists a community corporation or strata company to perform its scheme functions and which the community corporation or strata company, or a scheme manager or strata manager, as the case may be, is not ordinarily qualified to carry out, such as legal work, accounting work, auditing work, building work, plumbing work or electrical work;

prescribed experience qualification means —

- (a) for an individual who is a principal — have at least 2 years of industry experience; and
- (b) for a scheme community manager — have at least 1 year of industry experience;

strata company has the meaning given in *Strata Titles Act 1985* section 3(1);

strata manager has the meaning given in *Strata Titles Act 1985* section 143(1);

strata titles scheme has the meaning given in *Strata Titles Act 1985* section 3(1).

- (2) A scheme manager must ensure that each individual who is a principal of the scheme manager, and each individual who is employed or engaged by the scheme manager as a scheme community manager, meets the prescribed experience qualification.

Division 4 — Professional indemnity insurance

98. Application of Division

This Division applies for the purposes of section 118(1)(c).

99. Scheme manager must obtain and maintain professional indemnity insurance

- (1) A scheme manager must maintain professional indemnity insurance that provides —
 - (a) adequate insurance cover of not less than \$1 000 000 for any 1 claim during the period of cover; and
 - (b) an option to obtain an extension of cover, where the period of extended cover is at least 6 years from the date on which the policy is issued or renewed (as applicable).
- (2) For the purposes of subregulation (1)(a), **adequate insurance cover** is an amount of insurance cover that is adequate to insure a scheme manager against any potential liability of —
 - (a) the scheme manager in the performance of scheme functions as a scheme manager; and
 - (b) any person who is authorised or expected to perform, or does perform, scheme functions that the scheme manager is authorised to perform.
- (3) A scheme manager must, before ceasing to be the scheme manager of a community corporation —
 - (a) exercise the option to obtain an extension of cover; and
 - (b) provide evidence to the community corporation that the option was exercised.

Division 5 — Scheme management contracts

100. Additional matters to be included in scheme management contract

Subject to regulation 101, for the purposes of section 119(1)(k), a scheme management contract must include the matters listed in the Table.

Table

Item	Matters to be included in contract
1.	A warranty that the scheme manager will — (a) obtain a national criminal record check as required by regulation 93; and (b) not employ or engage, or continue to employ or engage, a scheme community manager or an assistant scheme community manager designated person contrary to regulation 93(4); and (c) not authorise, or continue to authorise, a relevant body corporate, a relevant partnership or an employee of the relevant body corporate or relevant partnership contrary to regulation 93(5).
2.	A warranty that the scheme manager will — (a) notify the community corporation, in writing, as soon as practicable if the scheme manager becomes aware that the scheme manager or a person in relation to whom the scheme manager must obtain a national criminal record check has been convicted of a property or dishonesty offence; and

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Division 5 Scheme management contracts

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Item	Matters to be included in contract
	(b) disclose the particulars of the conviction in accordance with regulation 94(4).
3.	<p>A warranty that the scheme manager will ensure that each individual person who is a principal <u>of the scheme manager, or who is employed or engaged by the scheme manager as a scheme community manager or an assistant scheme community manager</u> or a designated person in relation to the scheme manager and who has a key role in performing scheme functions —</p> <p>(a) holds-meets the <u>prescribed</u> educational qualifications; and</p> <p>(b) will hold-meet the <u>prescribed</u> educational qualifications for the duration of the scheme management contract.</p>
4.	<p>A warranty that the scheme manager will, on the written request of the community corporation, provide evidence to the community corporation that each person <u>individual</u> who is a principal <u>of the scheme manager or who is employed or engaged by the scheme manager as a scheme community manager or an assistant scheme community manager</u> or a designated person in relation to the scheme manager and who has a key role in performing scheme functions <u>holds-meets</u> the <u>prescribed</u> educational qualifications.</p>
4A.	<p><u>A warranty that the scheme manager will ensure that each individual who is a principal of the scheme manager, or who is employed or engaged by the scheme manager as a scheme community</u></p>

Item	Matters to be included in contract
	manager, meets the prescribed experience qualifications.
5.	A warranty that the scheme manager holds, and will continue to hold for the duration of the scheme management contract, professional indemnity insurance at the level required by regulation 99.
6.	A warranty that the scheme manager will, on the written request of the community corporation, provide evidence to the community corporation of the following — <ul style="list-style-type: none"><li data-bbox="619 835 1182 909">(a) the amount of professional indemnity insurance cover;<li data-bbox="619 925 1230 999">(b) the type of claims that are covered by the professional indemnity insurance;<li data-bbox="619 1014 1241 1050">(c) the option to obtain an extension of cover;<li data-bbox="619 1066 1046 1102">(d) any exclusions from cover;<li data-bbox="619 1120 1182 1193">(e) the amount of excess to be paid in the event of a claim.

101. Savings and transitional provision for educational qualification requirements

(1) In this regulation and in regulation 101A —

commencement day means the day on which the *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 2) 2024* [regulation 3](#) comes into operation;

former regulations means the *Community Titles Regulations 2021* as in force before commencement day.

(2) For the purposes of section 118(1)(b)(ii), a person who immediately before commencement day is a principal of a

scheme manager, or is employed or engaged by a scheme manager —

(a) is taken to meet the prescribed educational qualifications for a principal if, immediately before commencement day, the person meets the educational qualification requirements for a principal set out in regulation 96 of the former regulations; and

(b) is taken to meet the prescribed educational qualifications for a scheme community manager or an assistant scheme community manager if, immediately before commencement day, the person meets the educational qualification requirements for a designated person set out in regulation 96 of the former regulations.

(3) In relation to a principal, a scheme community manager or an assistant scheme community manager, a scheme manager is taken to comply with the warranty required by item 3 of the Table to regulation 100 if the principal, scheme community manager or assistant scheme community manager, as the case may be, is taken under subregulation (2) to meet the prescribed educational qualifications.

~~101. Transitional provision for compliance with educational qualification requirements~~

~~(1) In this regulation —~~

~~*transitional period* means the period of 3 years and 5 months beginning on commencement day.~~

~~(2) This regulation applies to a scheme management contract entered into during the transitional period.~~

~~(3) If a scheme manager is unable to comply with the warranty set out in item 3 of the Table to regulation 100 in respect of a designated person in relation to the scheme manager who has a key role in performing scheme functions, the scheme management contract must include the following —~~

- ~~(a) a warranty that the scheme manager will ensure that, by the end of the transitional period, each person who is a designated person in relation to the scheme manager and who has a key role in performing scheme functions —~~
- ~~(i) will hold the educational qualifications; and~~
- ~~(ii) will hold the educational qualifications for the duration of the scheme management contract;~~
- ~~(b) a warranty that, after the end of the transitional period, the scheme manager will, on the written request of the community corporation, provide evidence to the community corporation that each person who is a designated person in relation to the scheme manager and who has a key role in performing scheme functions holds the educational qualifications.~~

~~[Regulation 101 amended: SL 2024/50 r. 4.]~~

101A. Transitional provision for experience requirements

(1) For the purposes of section 118(1)(b)(ii) —

- (a) a person who immediately before commencement day is a principal of a scheme manager is taken to meet the prescribed experience qualifications for a principal until the day that is 2 years after commencement day; and
- (b) a person who immediately before commencement day is an employed or engaged by a scheme manager (other than as a principal) is taken to meet the prescribed experience qualifications for a scheme community manager until the day that is 1 year after commencement day.

(2) A scheme manager is taken to comply with the warranty required by item 4A of the Table to regulation 100 —

- (a) in relation to a principal — if the principal is taken under subregulation (1)(a) to meet the prescribed experience qualifications for a principal; and

(b) in relation to a scheme community manager — if the scheme community manager is taken under subregulation (1)(b) to meet the prescribed experience qualifications for a scheme community manager.

Division 6 — Financial provisions relating to scheme managers

102. Disclosure of remuneration and other benefits

- (1) For the purposes of section 121(2), section 121(1) does not apply to any remuneration or other benefit received from a person in connection with the scheme manager's performance of scheme functions for the community corporation if —
 - (a) the amount of the remuneration or other benefit is less than \$100; and
 - (b) the total amount of remuneration or other benefit received from that person in connection with the scheme manager's performance of scheme functions for the community corporation during the calendar year is less than \$100.
- (2) If any remuneration or other benefit is non-monetary, the amount of the remuneration or other benefit is the value of the remuneration or other benefit.
- (3) Remuneration or other benefit received includes any remuneration or other benefit reasonably expected to be received.
- (4) Remuneration or other benefits are received from the same person if the same person is responsible for payment of the remuneration or other benefits (whether or not they are paid through different intermediaries).

103. Scheme manager to provide periodic return

- (1) For the purposes of section 127, a scheme manager (other than a volunteer scheme manager) must lodge a periodic return, in the approved form, at the office of the Authority.

Note for this subregulation:

See regulation 4 for the requirements of the approved form.

- (2) The periodic return is required —
 - (a) for the calendar year that is the 2nd calendar year to start on or after commencement day; and
 - (b) for each of the next 3 calendar years after that.
- (3) The periodic return must be lodged within 3 months after the end of the calendar year to which it relates.
- (4) The periodic return must include the following information (current as at 31 December in the calendar year to which the return relates) —
 - (a) the total number of community titles schemes for which the scheme manager provides services as a scheme manager, divided into the following categories —
 - (i) small schemes, being community titles schemes with fewer than 6 lots;
 - (ii) medium schemes, being community titles schemes with more than 5 lots and fewer than 21 lots;
 - (iii) large schemes, being community titles schemes with more than 20 lots and fewer than 51 lots;
 - (iv) very large schemes, being community titles schemes with more than 50 lots;
 - (b) the total number of lots in each of the categories referred to in paragraph (a);
 - (c) the total number of each of the following schemes for which the scheme manager provides services as a scheme manager —
 - (i) tier 1 schemes;
 - (ii) tier 2 schemes;
 - (iii) tier 3 schemes;

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- (d) the total number of tier 2 schemes and tier 3 schemes for which the scheme manager provides services as a scheme manager that belong to a tier 1 scheme recorded for the purposes of paragraph (c)(i);
- (e) an estimate of the total amount of money held, in accordance with section 122(1), by the scheme manager on behalf of all the community titles schemes for which the scheme manager provides services as a scheme manager;
- (f) a general description of the types of services the scheme manager provides in respect of community titles schemes.

**Part 3 — Strata Titles (General) Regulations 2019
amended**

4. Regulations amended

This Part amends the *Strata Titles (General) Regulations 2019*.

[The following text is the Strata Titles (General) Regulations 2019 Parts 1, 13 and 18 and Schedule 4, showing proposed amendments in track changes. All of the proposed amendments are in Parts 13 and 18 and Schedule 4; Part 1 is included for reference, as it contains definitions of many of the terms used. A formal amending instrument will be drafted at a later stage.]

Part 1 — Preliminary

1. Citation

These regulations are the *Strata Titles (General) Regulations 2019*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day on which the *Strata Titles Amendment Act 2018* section 4 comes into operation.

3. Terms used

In these regulations, unless the contrary intention appears —
calendar year means a period of 12 months beginning on 1 January;

commencement day means the day on which the *Strata Titles Amendment Act 2018* section 4 comes into operation;

GST has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Commonwealth) section 195-1;

Licensed Surveyors (General) Regulations means the *Licensed Surveyors (General Surveying Practice) Regulations 1961*;

Licensed Surveyors (TLA) Regulations means the *Licensed Surveyors (Transfer of Land Act 1893) Regulations 1961*;

local legal practitioner has the meaning given in the *Legal Profession Uniform Law Application Act 2022* section 3(1);

local planning scheme means a local planning scheme in force under the *Planning and Development Act 2005*;

personal information has the meaning given in the *Freedom of Information Act 1992* Glossary clause 1;

property type of a lot means the property type classification of the lot as residential, commercial or industrial land;

public authority means —

- (a) a public authority within the meaning given in the *Transfer of Land Act 1893* section 4(1); or
- (b) a public authority within the meaning given in the *Community Titles Act 2018* section 3(1); or
- (c) a utility service provider;

R-Codes means the planning codes entitled Residential Design Codes prepared by the Planning Commission under the *Planning and Development Act 2005*, as amended from time to time;

section means a section of the Act;

Survey Regulations means the Licensed Surveyors (General) Regulations, the Licensed Surveyors (TLA) Regulations and the *Transfer of Land (Surveys) Regulations 1995* or any other rules or regulations, including any directions, instructions or guidelines issued under any of those rules or regulations, for the time being in force for the guidance of surveyors when practising under the *Transfer of Land Act 1893*.

[Regulation 3 amended: SL 2022/116 r. 8; SL 2024/18 r. 6.]

4. Notes and examples not part of regulations

A note or example set out at the foot of a provision of these regulations is provided to assist understanding and does not form part of these regulations.

Consultation Draft

Part 13 — Strata managers

90. Terms used

In this Part, ~~unless the contrary intention appears~~ —

assistant strata community manager, in relation to a strata titles scheme, means an individual —

(a) who is an agent, employee or contractor of the strata manager; and

(b) who, under the terms of the employment or engagement, performs authorised scheme functions together with, and under the supervision and direction of, a principal or a scheme community manager;

authorised scheme functions, in relation to a strata titles scheme, means scheme functions that a strata manager is authorised to perform by a strata management contract relating to the scheme;

criminal record statement — see regulation 93;

~~*designated person*, in relation to a strata manager, means an individual who is an agent, employee or contractor of the strata manager and who is authorised or expected to perform, or who does perform, any of the scheme functions that the strata manager is authorised to perform;~~

~~*key role* — see regulation 96;~~

local employee, of a body corporate, means an employee of the body corporate who is authorised or expected to perform, or who does perform, scheme functions in relation to a strata titles scheme that is located within this State;

national criminal record check means a document issued by the Police Force of Western Australia that sets out the convictions of an individual (if any) for offences under a law of this State, the Commonwealth or any other State or a Territory;

prescribed educational qualifications — see regulation 95;

prescribed experience qualification — see regulation 97B(1);

principal means an individual who is —

- (a) a strata manager; or
- (b) a director of a body corporate that is a strata manager; or
- (c) a partner in a partnership that is a strata manager; or
- (d) employed or engaged as a strata community manager who, under the terms of the employment or engagement, supervises or directs others in the performance of authorised scheme functions;

property or dishonesty offence means —

- (a) an offence of theft, robbery, larceny, stealing, receiving or similar crime; or
- (b) an offence of fraud, money laundering, extortion, bribery or similar crime; or
- (c) an offence of perjury or giving a false or misleading statement; or
- (d) any offence, crime or misdemeanour that is usually motivated by financial gain;

qualified person means —

- (a) an individual who holds a licence as a real estate agent under the *Real Estate and Business Agents Act 1978* or who has obtained the necessary qualifications to hold that licence; or
- (b) a local legal practitioner; or
- (c) an individual who holds a CPP40307 Certificate IV in Property Services (Real Estate); or
- (d) an individual who holds a CPP40611 Certificate IV in Property Services (Operations); or
- (e) an individual who holds a CPP41419 Certificate IV in Real Estate Practice or superseding qualification;

repair or maintenance work means work involved in repairing, maintaining, renewing, replacing, altering or improving the common property or any personal property owned by a strata company;

specialist work means any work that assists a strata company to perform its scheme functions and which the strata company or a strata manager is not ordinarily qualified to carry out, such as legal work, accounting work, auditing work, building work, plumbing work or electrical work;

strata community manager means, in relation to a strata titles scheme, an individual —

(a) who is employed or engaged as an agent, employee or contractor of the strata manager; and

(b) who, under the terms of the employment or engagement —

(i) performs authorised scheme functions; and

(ii) may be supervised or directed in performing those functions by a principal of the strata manager.

91. Repair or maintenance work and specialist work excluded

- (1) A person who is employed or engaged by a strata company, or by a strata manager on behalf of the strata company, to supervise or carry out repair or maintenance work, or specialist work, is not, because of that employment or engagement, authorised to perform any scheme functions of the strata company.
- (2) Accordingly, section 143 does not apply to that employment or engagement or to work done under that employment or engagement.

Note for this regulation:

Section 143 enables a strata company to delegate its scheme functions to a strata manager. The object of this regulation is to clarify that a strata company, or a strata manager for a strata company, does not delegate or sub-delegate scheme functions of the strata company by employing or engaging persons to supervise or carry out repair or maintenance work or specialist work that assists the strata company to perform its scheme functions.

~~92. Strata manager must obtain national criminal record checks~~

~~(1) A strata manager must, if the strata manager is an individual —~~

~~(a) obtain a national criminal record check in relation to the strata manager; and~~

~~(b) obtain a new national criminal record check in relation to the strata manager at least every 3 years.~~

~~(2) A strata manager must, if the strata manager is a body corporate —~~

~~(a) obtain a national criminal record check in relation to each of its directors; and~~

~~(b) obtain a new national criminal record check in relation to each of its directors at least every 3 years.~~

~~(3) A strata manager must not employ or engage, or continue to employ or engage, a designated person unless —~~

~~(a) the strata manager obtains a national criminal record check in relation to the designated person; and~~

~~(b) the strata manager obtains a new national criminal record check in relation to the designated person at least every 3 years; and~~

~~(c) the designated person consents to the strata manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any strata company for which the strata manager performs functions as a strata manager.~~

~~(4) A strata manager must not authorise, or continue to authorise, a body corporate to perform any of the scheme functions the strata manager is authorised to perform unless —~~

~~(a) the strata manager obtains a national criminal record check in relation to each of the directors of the body corporate and its local employees; and~~

~~(b) the strata manager obtains a new national criminal record check in relation to each of the directors of the~~

~~body corporate and its local employees at least every 3 years; and~~

- ~~(c) the directors and local employees consent to the strata manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any strata company for which the strata manager performs functions as a strata manager.~~

92. Strata manager must obtain national criminal record checks

- (1) A strata manager must, if the strata manager is an individual —
- (a) obtain a national criminal record check in relation to the strata manager; and
 - (b) obtain a new national criminal record check in relation to the strata manager at least every 3 years.
- (2) A strata manager must, if the strata manager is a body corporate or a partnership —
- (a) obtain a national criminal record check in relation to each of its directors or partners; and
 - (b) obtain a new national criminal record check in relation to each of its directors or partners at least every 3 years.
- (3) A strata manager must not employ or engage, or continue to employ or engage, a person as a strata community manager or an assistant strata community manager unless —
- (a) the strata manager obtains a national criminal record check in relation to the person; and
 - (b) the strata manager obtains a new national criminal record check in relation to the person at least every 3 years; and
 - (c) the person consents to the strata manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any strata company for which the strata manager performs functions as a strata manager.

(4) A strata manager must not authorise, or continue to authorise, a body corporate or a partnership to perform any of the scheme functions the strata manager is authorised to perform unless —

(a) the strata manager obtains a national criminal record check in relation to each of the directors of the body corporate or each of the partners in the partnership, as the case may be, and its local employees; and

(b) the strata manager obtains a new national criminal record check in relation to each of the directors or partners and the local employees at least every 3 years; and

(c) the directors or partners and the local employees consent to the strata manager obtaining the national criminal record check and disclosing the particulars of the national criminal record check to any strata company for which the strata manager performs functions as a strata manager.

93. Strata manager must provide criminal record statement to strata company

- (1) A strata manager must make a statement (a *criminal record statement*) and provide a copy of the statement to any strata company that authorises the strata manager to perform scheme functions before entering into a strata management contract with the strata company.
- (2) In the criminal record statement, the strata manager must —
 - (a) declare that the strata manager has obtained the national criminal record checks that the strata manager is required to obtain under regulation 92; and
 - (b) declare that each of those national criminal record checks is less than 3 years old; and
 - (c) if a national criminal record check has revealed that a person has been convicted of a property or dishonesty offence, disclose particulars of the conviction in accordance with subregulation (5); and
 - (d) declare that the national criminal record checks obtained by the strata manager do not reveal any convictions for property or dishonesty offences, other than those (if any) that have been disclosed by the strata manager.
- (3) A criminal record statement must be in the form of a statutory declaration made by the strata manager or, if the strata manager is a body corporate, by a director of the strata manager, in accordance with the *Oaths, Affidavits and Statutory Declarations Act 2005* section 12.
- (4) For the purposes of section 145(1)(k), a strata management contract must provide for the following —
 - (a) the strata manager warrants that the strata manager will obtain national criminal record checks when required by regulation 92; and
 - (b) the strata manager must notify the strata company, in writing, as soon as practicable if the strata manager

becomes aware that the strata manager or a person in relation to whom the strata manager is required to obtain a national criminal record check has been convicted of a property or dishonesty offence and disclose particulars of the conviction in accordance with subregulation (5).

- (5) A strata manager who is required to disclose particulars of a conviction for a property or dishonesty offence must disclose to the strata company —
- (a) the identity of the person convicted; and
 - (b) the role of the person in the business of the strata manager; and
 - (c) particulars of the offence or offences concerned.
- (6) This regulation does not apply to a volunteer strata manager or to a strata management contract that is a volunteer agreement with a volunteer strata manager.

94. Volunteer strata manager to table criminal record check

- (1) A volunteer strata manager must table a national criminal record check obtained in relation to the strata manager at a meeting of the strata company or the council of the strata company at least once every 3 years.
- (2) If a volunteer strata manager is convicted of a property or dishonesty offence, the volunteer strata manager must, as soon as practicable, notify the strata company in writing of the particulars of the conviction.

95. Strata manager to ensure educational qualifications are met

- (1) In this regulation —

prescribed educational qualification, for an individual, means the qualification set out in column 2 of the Table opposite each description set out in column 1 of the Table that applies to the individual.

(2) A strata manager must ensure that each individual who is a principal of the strata manager, and each individual who is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager, meets the prescribed educational qualification.

(3) This regulation does not apply in relation to a volunteer strata manager.

Note for this regulation:

The requirement to hold the prescribed educational qualifications does not apply until the end of a 4-year and 6-month transitional period set out in Part 18.

Table

<u>Item</u>	<u>Column 1 Individual</u>	<u>Column 2 Qualification</u>
<u>1.</u>	<u>A principal who is a qualified person</u>	<u>Have completed 4 units in CPP40521 Certificate IV in Strata Community Management</u>
<u>2.</u>	<u>A principal who is not a qualified person</u>	<u>Hold — (a) <u>CPP40521 Certificate IV in Strata Community Management</u>; or (b) <u>CPP51122 Diploma of Property (Agency Management - Strata)</u></u>
<u>3.</u>	<u>A strata community manager who is a qualified person</u>	<u>Have completed 4 units in CPP40521 Certificate IV in Strata Community Management</u>
<u>4.</u>	<u>A strata community manager who is not a qualified person</u>	<u>Hold CPP40521 Certificate IV in Strata Community Management</u>

<u>Item</u>	<u>Column 1</u> <u>Individual</u>	<u>Column 2</u> <u>Qualification</u>
<u>5.</u>	<u>An assistant strata community manager who is a qualified person</u>	<u>Not later than 2 years after commencing employment or engagement as an assistant strata community manager, have completed 2 units in CPP40521 Certificate IV in Strata Community Management</u>
<u>6.</u>	<u>An assistant strata community manager who is not a qualified person</u>	<u>Not later than 2 years after commencing employment or engagement as an assistant strata community manager, have completed 4 units in CPP40521 Certificate IV in Strata Community Management.</u>

96. Supercession of courses

- (1) If, according to the National Register, the CPP40521 Certificate IV in Strata Community Management is superseded by a Certificate IV of a different title or a different code, for the purposes of this Division that new Certificate IV is taken to be a CPP40521 Certificate IV in Strata Community Management.
- (2) If, according to the National Register, the CPP51122 Diploma of Property (Agency Management - Strata) is superseded by a diploma of a different title or a different code, for the purposes of this Division that new diploma is taken to be a CPP51122 Diploma of Property (Agency Management - Strata).

~~**95. Strata manager to ensure prescribed educational qualifications are completed**~~

- ~~(1) In this regulation~~

~~*prescribed educational qualifications means*~~

~~———— (a) — for a principal of the business of a strata manager — the qualifications specified in Schedule 4 clause 2; and~~

~~———— (b) — for a designated person in relation to a strata manager who has a key role in performing scheme functions (but is not a principal of the business of the strata manager) — the qualifications specified in Schedule 4 clause 3.~~

~~———— (2) — A strata manager must ensure that each of the following persons holds the prescribed educational qualifications —~~

~~———— (a) — the principal of the business of a strata manager or, if there is more than one principal of the business of the strata manager, each of them;~~

~~———— (b) — a designated person in relation to the strata manager who has a key role in performing scheme functions (but who is not a principal of the business of the strata manager).~~

~~———— (3) — This regulation does not apply to a volunteer strata manager.~~

~~———— Note for this regulation:~~

~~———— The requirement to hold the prescribed educational qualifications does not apply until the end of a 4-year and 6-month transitional period set out in Part 18.~~

~~———— [Regulation 95 amended: SL 2024/50 r. 6.]~~

96. — Key role

~~———— (1) — A designated person has a *key role* in performing scheme functions if the designated person performs, or is expected to perform, one or more of the following tasks, with no supervision or minimal supervision by the principal of the business of the strata manager —~~

~~———— (a) — liaise with or report to a strata company or the council of a strata company;~~

~~———— (b) — attend or conduct meetings of a strata company or meetings of the council of a strata company;~~

- ~~— (c) — prepare or supervise the preparation of documents and correspondence associated with the management of a strata company;~~
- ~~— (d) — perform or supervise the carrying out of scheme functions under a strata management contract including, without limitation, any of the following functions —~~
 - ~~— (i) — collecting contributions on behalf of the strata company;~~
 - ~~— (ii) — obtaining or renewing insurance on behalf of the strata company;~~
 - ~~— (iii) — making or attending to claims against insurance on behalf of the strata company;~~
 - ~~— (iv) — keeping the roll of the strata company up to date.~~
- ~~— (2) — A designated person does not have a key role in performing scheme functions if the designated person’s primary role is to provide assistance or support services to the principal of the business of the strata manager, or to another designated person who does have a key role in performing scheme functions, under the supervision of that principal or other designated person.~~
- ~~— (3) — The following services are examples of assistance or support services —~~
 - ~~— (a) — data entry;~~
 - ~~— (b) — archiving and filing of documents;~~
 - ~~— (c) — bookkeeping.~~
- ~~— (4) — A designated person who carries out repair or maintenance work, or specialist work, or both, and no other work, does not have a key role in performing scheme functions.~~

97. Strata manager must warrant prescribed educational qualifications are held

- (1) For the purposes of section 145(1)(k), a strata management contract must provide for the following —

- (a) the strata manager warrants that each ~~person individual~~ who is a principal of ~~the business of~~ the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager ~~a designated person in relation to the strata manager who has a key role in performing scheme functions~~, ~~holds~~ meets the prescribed educational qualifications;
- (b) the strata manager must, for the duration of the strata management contract, ensure that each ~~person individual~~ who is a principal ~~of the business of~~ the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager ~~a designated person in relation to the strata manager who has a key role in performing scheme functions~~, meets ~~holds~~ the prescribed educational qualifications;
- (c) the strata manager must, on the written request of the strata company, provide evidence to the strata company that each ~~person individual~~ who is a principal ~~of the business of~~ the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager ~~a designated person in relation to the strata manager who has a key role in performing scheme functions~~, ~~holds~~ meets the prescribed educational qualifications.
- (2) This regulation does not apply to a strata management contract that is a volunteer agreement with a volunteer strata manager.

Note for this regulation:

The requirement to hold the prescribed educational qualifications does not apply until the end of a 4-year and 6-month transitional period set out in Part 18. Part 18 provides for an alternative wording for strata management contracts that are entered into before the end of the 4-year and 6-month transitional period, if the strata manager does not wish to warrant that the prescribed educational qualifications are held by the principal, a strata community manager or an assistant strata community manager ~~or a designated person~~.

[Regulation 97 amended: SL 2024/50 r. 7.]

97A. Saving provision for former prescribed educational qualifications

(1) In this regulation —

commencement day means the day on which the *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 2) 2024* regulation 4 comes into operation;

former regulations means the *Strata Titles (General) Regulations 2019* as they were in force before commencement day.

(2) For the purposes of regulation 95, a person who immediately before commencement day is a principal, or is an agent, employee or contractor of a strata manager —

(a) is taken to meet the prescribed educational qualifications for a principal if, immediately before commencement day, the person meets the prescribed educational qualifications for a principal set out in Schedule 4 clause 2 of the former regulations; and

(b) is taken to meet the prescribed educational qualifications for a strata community manager or an assistant strata community manager if, immediately before commencement day, the person meets the prescribed educational qualifications for a designated person set out in Schedule 4 clause 3 of the former regulations.

(3) In relation to a principal, a strata community manager or an assistant strata community manager, a strata manager is taken to comply with the warranty required by regulation 97(1)(a) if the principal, strata community manager or assistant strata community manager, as the case may be, is taken under subregulation (2) to meet the prescribed educational qualification requirements.

r. 97B

97B. Strata manager to ensure experience qualifications are met

(1) In this regulation —

community corporation has the meaning given in *Community Titles Act 2018* section 3(1);

community titles scheme has the meaning given in *Community Titles Act 2018* section 3(1);

industry experience means experience gained as a principal, agent, employee or contractor of a strata manager or a scheme manager, carrying out duties relating to the management of strata titles schemes or community titles schemes, other than —

(a) repairing, maintaining, renewing, replacing, altering or improving the common property or any personal property owned by a strata company or a community corporation; or

(b) work that assists a strata company or a community corporation to perform its scheme functions and which the strata company or community corporation, or a strata manager or scheme manager, as the case may be, is not ordinarily qualified to carry out, such as legal work, accounting work, auditing work, building work, plumbing work or electrical work;

prescribed experience qualification means —

(a) for an individual who is a principal — have at least 2 years of industry experience; and

(b) for a strata community manager — have at least 1 year of industry experience;

scheme manager has the meaning given in the *Community Titles Act 2018* section 117(1).

(2) A strata manager must ensure that each individual who is a principal of the strata manager, and each individual who is employed or engaged by the strata manager as a strata community manager, meets the prescribed experience qualification.

(3) This regulation does not apply in relation to a volunteer strata manager.

97C. Strata manager must warrant prescribed experience qualifications are held

(1) For the purposes of section 145(1)(k), a strata management contract must provide for the following —

(a) the strata manager warrants that each person who is a principal of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager, holds the prescribed experience qualifications;

(b) the strata manager must, for the duration of the strata management contract, ensure that each person who is a principal of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager, holds the prescribed experience qualifications.

(2) This regulation does not apply to a strata management contract that is a volunteer agreement with a volunteer strata manager.

97D. Transitional provision for experience requirements

(1) In this regulation —

commencement day means the day on which the *Lands Regulations (Community and Strata Titles) Amendment Regulations (No. 2) 2024* regulation 4 comes into operation.

(2) For the purposes of section 144(1)(b)(ii) —

(a) a person who immediately before commencement day is a principal of a strata manager is taken to meet the prescribed experience qualifications for a principal until the day that is 2 years after commencement day; and

(b) a person who immediately before commencement day is employed or engaged by a strata manager (other than as a principal) is taken to meet the prescribed experience

qualifications for a strata community manager until the day that is 1 year after commencement day.

(3) A scheme manager is taken to comply with the warranty required by regulation 97B(2) —

(a) in relation to a principal — if the principal is taken under subregulation (2)(a) to meet the prescribed experience qualifications for a principal; and

(b) in relation to a strata community manager — if the strata community manager is taken under subregulation (2)(b) to meet the prescribed experience qualifications for a strata community manager.

98. Strata manager must obtain professional indemnity insurance

- (1) A strata manager must obtain and maintain professional indemnity insurance in relation to the strata manager's performance of functions as a strata manager of not less than \$1 000 000 for any one claim.
- (2) This regulation does not apply to a volunteer strata manager.

Note for this regulation:

Under section 144(2), a volunteer strata manager is not required to maintain professional indemnity insurance.

99. Strata manager must warrant professional indemnity insurance in contract

- (1) For the purposes of section 145(1)(k), a strata management contract must provide for the following —
 - (a) the strata manager warrants that the strata manager holds, and will continue to hold for the duration of the contract, professional indemnity insurance at the level required by regulation 98;
 - (b) the strata manager must, on the written request of the strata company, provide evidence to the strata company of the following —

- (i) the amount of cover;
 - (ii) the type of claims that are covered by the professional indemnity insurance;
 - (iii) any exclusions from cover.
- (2) This regulation does not apply to a strata management contract that is a volunteer agreement with a volunteer strata manager.

100. Disclosure of remuneration and other benefits

- (1) For the purposes of section 147(2), section 147(1) (the requirement to inform the strata company of remuneration or other benefits) does not apply to any remuneration or other benefit received from a person in connection with the strata manager's performance of functions for the strata company if —
- (a) the amount of the remuneration or other benefit is less than \$100; and
 - (b) the total amount of remuneration or other benefits received from that person in connection with the strata manager's performance of functions for the strata company during the calendar year is less than \$100.
- (2) If any remuneration or other benefit is non-monetary, the amount of the remuneration or other benefit is the value of the remuneration or other benefit.
- (3) Remuneration or other benefits received includes any remuneration or other benefits reasonably expected to be received.
- (4) Remuneration or other benefits are received from the same person if the same person is responsible for payment of the remuneration or other benefits (whether or not they are paid through different intermediaries).

101. Operation of trust accounts

- (1) In this regulation —
trust account means —
- (a) a separate ADI trust account for a strata company, as referred to in section 148(1)(a); or
 - (b) a pooled ADI trust account for more than one strata company, as referred to in section 148(1)(b).
- (2) A strata manager must ensure that any trust account operated by the strata manager is a type of account that cannot be overdrawn.
- (3) If a trust account operated by a strata manager is a separate ADI trust account for a strata company, the strata manager must ensure that the words “trust account” are a prefix to the account name (followed by any other necessary identifying information).
- (4) If a trust account operated by a strata manager is a pooled ADI trust account for more than one strata company, the strata manager must ensure that —
- (a) the name of the strata manager is a prefix to the account name (followed by any other necessary identifying information); and
 - (b) the account name includes the words “trust account”; and
 - (c) the arrangements with the ADI are that any fees, charges or other amounts charged by the ADI in respect of the trust account (including government fees or charges) are charged by the ADI to a separate account held with the same ADI, and not to the pooled ADI trust account.
- (5) Subregulation (4)(c) does not prevent a strata manager from requiring any fees, charges or other amounts charged by the ADI, or a proportion of those fees, charges or other amounts, to

be paid by a strata company in accordance with a strata management contract.

- (6) A trust account may be an interest-bearing account.

Notes for this regulation:

1. This regulation applies only to trust accounts referred to in section 148(1)(a) and (b). A strata manager may, instead of operating a trust account, pay money received on behalf of a strata company into the strata company's own ADI account (as referred to in section 148(1)(c)).
2. The purpose of subregulation (4)(c) is to ensure that a pooled ADI trust account (in which funds are held for more than one strata company) is not used to pay fees or charges for which a single strata company may be responsible.

102. Strata manager to provide annual return

- (1) A strata manager must lodge an annual return, in the approved form, at the office of the Authority.
- (2) An annual return is required —
 - (a) for the calendar year that is the first calendar year to start on or after commencement day; and
 - (b) for each of the next 4 calendar years after that.
- (3) An annual return must be lodged within 3 months after the end of the calendar year to which it relates.
- (4) The annual return must include the following information (current as at 31 December in the calendar year to which the return relates) —
 - (a) the total number of strata titles schemes for which the strata manager provides services as a strata manager, divided into the following categories —
 - (i) small schemes, being strata titles schemes with less than 6 lots;
 - (ii) medium schemes, being strata titles schemes with more than 5 lots and less than 21 lots;

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- (iii) large schemes, being strata titles schemes with more than 20 lots and less than 51 lots;
 - (iv) very large schemes, being strata titles schemes with more than 50 lots;
 - (b) the total number of lots in each of those categories;
 - (c) an estimate of the total amount of money held by the strata manager on behalf of all those strata titles schemes under section 148;
 - (d) a general description of the types of services the strata manager provides in respect of strata titles schemes.
- (5) This regulation does not apply to a volunteer strata manager.

Part 18 — Repeal, savings and transitional

172. Terms used

In this Part —

4-year and 6-month transitional period means the period starting on the commencement day and ending on the day that is 4 years and 6 months after the commencement day;

4-year transitional period means the period starting on the commencement day and ending on the day that is 4 years after the commencement day;

5-year transitional period means the period starting on the commencement day and ending on the day that is 5 years after the commencement day;

6-month grace period means the period of 6 months after the commencement day;

2018 amending Act means the *Strata Titles Amendment Act 2018*;

prescribed educational qualifications has the meaning given in Part 13.

[Regulation 172 amended: SL 2024/50 r. 8.]

173. Strata Titles General Regulations 1996 repealed

The *Strata Titles General Regulations 1996* are repealed.

174. Open space and plot ratio changes

The *Strata Titles General Regulations 1996* regulation 35 continues to apply to applications served under section 7B before the commencement day (as if that regulation had not been repealed).

175. Phasing-in of financial year requirements

- (1) The amendment to section 3(1) made by the 2018 amending Act that inserts the definition of **financial year for a strata company**

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does not apply to a strata company until the end of the 5-year transitional period.

- (2) During the 5-year transitional period, the financial year for a strata company is taken to be —
 - (a) if a financial year is specified in the scheme by-laws of the strata company — that period; or
 - (b) if paragraph (a) does not apply — the period of 12 months used by the strata company as its financial year before the commencement day; or
 - (c) if neither paragraph (a) nor (b) applies — the period of 12 months ending on the day before the anniversary of registration of the strata titles scheme, or the period of 12 months ending on 30 June, whichever period the strata company chooses.
- (3) During the 5-year transitional period, a strata company that, under subregulation (2)(b) or (c), uses or chooses to use as its financial year a period of 12 months ending on a different date from 30 June may make a by-law that specifies that period as its financial year.
- (4) Such a by-law has effect for the purposes of the definition of ***financial year for a strata company***, as inserted by the 2018 amending Act, if it is made by ordinary resolution of the strata company and is taken to be a governance by-law.

Note for this regulation:

If a strata company makes a by-law before the end of the 5-year transitional period specifying the financial year it uses or chooses to use under subregulation (2)(b) or (c) as its financial year, it will be able to continue to use that period as its financial year at the end of the 5-year transitional period under the definition of ***financial year for a strata company*** as inserted by the 2018 amending Act.

176. Scheme notice for strata titles schemes continued by 2018 amending Act

- (1) The Registrar of Titles may create and register a scheme notice for any strata titles scheme that continues in existence under

Schedule 5 clause 2(1) of the Act to facilitate the registration of amendments to the scheme notice under the Act.

- (2) The scheme notice must contain the information that is taken to be specified in a scheme notice for the strata titles scheme by Schedule 5 clause 3 of the Act.

177. Applications lodged before commencement day

- (1) In this regulation —

pending registration application means an application for registration of a strata plan or survey-strata plan under section 4 as in force immediately before the commencement day that was lodged but not finally dealt with by the Registrar of Titles before the commencement day.

- (2) The Registrar of Titles may register and otherwise deal with a pending registration application in accordance with the Act as in force immediately before the commencement day if a strata plan or survey-strata plan was lodged in connection with the application before the commencement day and the Registrar of Titles is satisfied that —

- (a) the Planning Commission issued a certificate for the plan, or endorsed the plan, under the Act or the *Planning and Development Act 2005* before the commencement day in a manner that would have enabled it to be registered under the Act as in force at the time of lodgement of the plan or the plan was, at the time of lodgement, exempt from the requirement to be approved by the Planning Commission for registration; and
- (b) the plan was approved by the relevant local government before the commencement day (if applicable).

- (3) A pending registration application that is not dealt with as provided for by subregulation (2) is taken to have been lodged under section 56 and is to be dealt with accordingly.

- (4) The Registrar of Titles may treat an application referred to in subregulation (3) as having been made in compliance with

section 56 if the Registrar is satisfied that the scheme plan that is lodged in connection with the application meets the requirements for registration under the Act, as amended by the 2018 amending Act.

- (5) The Registrar of Titles may treat an application that, under Schedule 5 clause 7(1) of the Act, is taken to have been lodged under section 56 as an application for registration of amendment of a scheme plan as having been made in compliance with section 56 if the Registrar is satisfied that the scheme plan that is lodged in connection with the application meets the requirements for registration under the Act, as amended by the 2018 amending Act.
- (6) The Registrar of Titles may treat an application for registration of a strata titles scheme or an amendment of a strata titles scheme that is lodged on or after the commencement day in relation to a strata plan or survey-strata plan that was lodged before the commencement day as having been made in compliance with section 56 if satisfied that —
 - (a) the Planning Commission issued a certificate for the plan, or endorsed the plan, under the Act or the *Planning and Development Act 2005* before the commencement day in a manner that would have enabled it to be registered under the Act as in force at the time of lodgement of the plan or the plan was, at the time of lodgement, exempt from the requirement to be approved by the Planning Commission for registration; and
 - (b) the plan was approved by the relevant local government before the commencement day (if applicable); and
 - (c) the plan meets the requirements for registration under the Act, as amended by the 2018 amending Act.
- (7) The Registrar of Titles may require a replacement scheme plan to be lodged in relation to an application referred to in subregulation (3), (5) or (6) if the plan lodged does not meet the requirements for registration under the Act, as amended by the 2018 amending Act.

- (8) Without limiting subregulation (7), the Registrar of Titles may require a replacement scheme plan to be lodged in relation to an application that updates references to provisions of the Act to reflect the changes made by the 2018 amending Act.

178. Staged subdivisions under pre-commencement by-laws

- (1) In this regulation —

pre-commencement re-subdivision by-laws means by-laws of a strata company made before the commencement day that —

- (a) are of a kind described in Schedule 2A item 8 of the Act, as in force immediately before the commencement day; and
- (b) continue to have effect under Schedule 5 clause 4(1) of the Act.
- (2) If an amendment of a scheme plan is required as a consequence of the completion of a stage of subdivision to which pre-commencement re-subdivision by-laws apply, and an application is made to the Registrar of Titles under section 56 for registration of the amendment to the scheme plan —
- (a) sections 35 and 36, and the regulations under section 36, do not apply to the application; and
- (b) section 8A(a)(ii) and 8A(i) and (j), as in force immediately before the commencement day, apply to the application and the scheme plan lodged for registration in connection with the application (as if those provisions had not been repealed); and
- (c) the regulations in force under section 8A(a)(ii)(II) immediately before the commencement day continue to apply for the purpose of determining whether the scheme plan sufficiently complies with the pre-commencement re-subdivision by-laws.

Note for this regulation:

Section 42 and Schedule 2A item 8 of the Act, as in force immediately before the commencement day, enabled by-laws to be made relating to any proposed re-subdivision in a scheme, subject to certain

requirements. Under section 8A(a)(ii)(II) of the Act, as in force immediately before the commencement day, a plan of re-subdivision lodged under the Act was required to confirm that it complied with those by-laws or sufficiently complied with those by-laws in a way that was allowed by the regulations. The *Strata Titles General Regulations 1996* regulation 36, as in force before its repeal by these regulations, set out the requirements relating to compliance with section 8A(a)(ii)(II) of the Act.

179. Requirement to have 10 year plan

A reference in regulation 77 to the first annual general meeting of a designated strata company is a reference to the first annual general meeting of the strata company to occur more than 12 months after the commencement day.

180. Compulsory changes to scheme by-laws

- (1) If Schedule 5 clause 4 of the Act applies to the by-laws of a strata company and, on or after the commencement day, an application for registration of an amendment of a strata titles scheme is made to give effect to the making, amendment or repeal of any by-laws of the strata company, the current copy of scheme by-laws that is lodged with the application must be an updated consolidated set of scheme by-laws that —
 - (a) includes any re-classification of the by-laws (as governance by-laws or conduct by-laws) that is taken to have been made by Schedule 5 clause 4(1) of the Act; and
 - (b) omits any by-laws that are taken to have been repealed by Schedule 5 clause 4(2) of the Act; and
 - (c) is otherwise consistent with Schedule 5 clause 4 of the Act.
- (2) A strata company may update its scheme by-laws in the manner set out in subregulation (1) but is not required to do so until it makes, amends or repeals any of its other scheme by-laws.
- (3) Any changes to scheme by-laws that are required by Schedule 5 clause 4 of the Act, and any renumbering of scheme by-laws

that are consequential on those changes, do not require a resolution of the strata company.

- (4) This regulation does not affect Schedule 5 clause 4(5) of the Act.

Note for this regulation:

Schedule 5 clause 4(2) of the Act provides that all by-laws that are in force immediately before the commencement day in the terms set out in Schedule 1 clauses 11 to 15, or Schedule 2 clause 5, of the Act as then in force are taken to be repealed on the commencement day.

181. Phasing-in of national criminal record check requirements

- (1) Regulation 92 does not apply in respect of a person who was employed or engaged by a strata manager before the commencement day until the end of the 6-month grace period.
- (2) Accordingly, a strata manager must obtain a national criminal record check as required by regulation 92 in relation to persons employed or engaged by the strata manager by the end of the 6-month grace period.
- (3) A strata manager must not, after the end of the 6-month grace period, continue to perform scheme functions under a contract between the strata manager and a strata company that was entered into before the commencement day (an *existing contract*) unless —
- (a) the strata manager makes a criminal record statement that complies with regulation 93 and provides a copy of the statement to the strata company before the end of the 6-month grace period; and
 - (b) the existing contract continues to have effect at the end of the 6-month grace period under Schedule 5 clause 13(3) of the Act.
- (4) To avoid doubt, the strata management contract requirements imposed by regulation 93 extend to contracts between a strata manager and a strata company that were entered into before

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commencement day, but not until the end of the 6-month grace period.

- (5) This regulation does not apply to a volunteer strata manager or to a volunteer agreement with a volunteer strata manager.

Note for this regulation:

Schedule 5 clause 13(3) of the Act provides that a contract or volunteer agreement with a strata company ceases to have effect 6 months after commencement day unless the contract or volunteer agreement then meets the requirements set out in section 145 (the strata management contract requirements).

182. Phasing-in of educational qualification requirements

- (1) Regulation 95 does not take effect until the end of the 4-year and 6-month transitional period.
- (2) Regulation 97 does not apply to a strata management contract entered into before the end of the 4-year and 6-month transitional period, if the contract provides for the matters required under subregulation (3).
- (3) For the purposes of section 145(1)(k), a strata management contract entered into before the end of the 4-year and 6-month transitional period that does not comply with regulation 97 must —
- (a) indicate that the strata manager is required by law to ensure that, by the end of the 4-year and 6-month transitional period, each person who is a principal ~~of the business~~ of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager ~~a designated person in relation to the strata manager who has a key role in performing scheme functions~~, holds the prescribed educational qualifications; and
- (b) indicate whether or not, at the time of entering into the contract, each person who is a principal ~~of the business~~ of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an

~~assistant strata community manager a designated person in relation to the strata manager who has a key role in performing scheme functions~~, holds the prescribed educational qualifications; and

- (c) if the duration of the strata management contract extends beyond the end of the 4-year and 6-month transitional period, specify that —
- (i) at the end of the 4-year and 6-month transitional period, the strata manager warrants that each person who is a principal ~~of the business~~ of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager ~~a designated person in relation to the strata manager who has a key role in performing scheme functions~~, will hold the prescribed educational qualifications; and
 - (ii) after the end of the 4-year and 6-month transitional period and for the remainder of the strata management contract, the strata manager must continue to ensure that each person who is a principal ~~of the business~~ of the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager ~~a designated person in relation to the strata manager who has a key role in performing scheme functions~~, holds the prescribed educational qualifications; and
 - (iii) after the end of the 4-year and 6-month transitional period, the strata manager must, on the written request of the strata company, provide evidence to the strata company that each person who is a principal of ~~the business of~~ the strata manager, or is employed or engaged by the strata manager as a strata community manager or an assistant strata community manager

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~~designated person in relation to the strata manager who has a key role in performing scheme functions~~, holds the prescribed educational qualifications.

- (4) To avoid doubt, the strata management contract requirements imposed by regulation 97 and this regulation extend to contracts between a strata manager and a strata company that were entered into before commencement day, but not until the end of the 6-month grace period.
- (5) This regulation does not apply to a volunteer strata manager or to a volunteer agreement with a volunteer strata manager.

Note for this regulation:

Schedule 5 clause 13(3) of the Act provides that a contract or volunteer agreement with a strata company ceases to have effect 6 months after commencement day unless the contract or volunteer agreement then meets the requirements set out in section 145 (the strata management contract requirements).

[Regulation 182 amended: SL 2024/50 r. 9.]

182A. Transitional provision for the *Lands Regulations (Community and Strata Titles) Amendment Regulations 2024*

- (1) This regulation applies to a strata management contract referred to in regulation 182 that was entered into before the commencement of the *Lands Regulations (Community and Strata Titles) Amendment Regulations 2024* regulation 9.
- (2) A reference in the contract to the end of the 4-year transitional period is taken to be a reference to the end of the 4-year and 6-month transitional period.

[Regulation 182A inserted: SL 2024/50 r. 10.]

183. Phasing-in of professional indemnity insurance requirements

- (1) Regulation 98 takes effect at the end of the 6-month grace period.

- (2) To avoid doubt, the strata management contract requirements imposed by regulation 99 extend to contracts between a strata manager and a strata company that were entered into before commencement day (other than volunteer agreements), but not until the end of the 6-month grace period.

Note for this regulation:

Schedule 5 clause 13(3) of the Act provides that a contract or volunteer agreement with a strata company ceases to have effect 6 months after commencement day unless the contract or volunteer agreement then meets the requirements set out in section 145 (the strata management contract requirements).

Schedule 4—Educational qualifications for strata managers and designated persons

[r. 95, 97]

1. Terms used

In this Schedule—

designated person means a designated person in relation to a strata manager who has a key role in performing scheme functions but who is not a principal of the business of the strata manager;

qualified person means—

- (a) a person who holds a licence as a real estate agent under the *Real Estate and Business Agents Act 1978* or who has obtained the necessary qualifications to hold that licence; or
- (b) a local legal practitioner; or
- (c) a person who holds a CPP40307 Certificate IV in Property Services (Real Estate); or
- (d) a person who holds a CPP40611 Certificate IV in Property Services (Operations); or
- (e) a person who holds a CPP41419 Certificate IV in Real Estate Practice.

2. Principal of business

(1) If the principal of the business of the strata manager is not a qualified person, the principal must hold a Certificate IV in Strata Community Management.

(2) If the principal of the business of the strata manager is a qualified person, the principal must have completed—

(a) the following 2 units in Certificate IV Strata Community Management

(i) CPPDSM3017 Work in the strata community management sector;

(ii) CPPCMN4008 Read plans, drawings and specifications for residential buildings;

and

- ~~— (b) at least 2 of the following units in Certificate IV Strata Community Management —~~
- ~~— (i) CPPDSM4084 Administer insurance for strata communities;~~
- ~~— (ii) CPPDSM4085 Handle strata community funds held on trust;~~
- ~~— (iii) CPPDSM4086 Oversee preparation of strata community budgets;~~
- ~~— (iv) CPPDSM4087 Facilitate operation of owners committee;~~
- ~~— (v) CPPDSM4082 Monitor service requirements of owners and occupiers in strata communities;~~
- ~~— (vi) CPPDSM4045 Facilitate meetings in the property industry;~~
- ~~— (vii) CPPDSM3020 Source and extract information from strata plans;~~
- ~~— (viii) BSBFIA412 Report on financial activity.~~

3. Designated person

- ~~— (1) If a designated person is not a qualified person, the designated person must have completed —~~
- ~~— (a) the following 2 units in Certificate IV Strata Community Management —~~
- ~~— (i) CPPDSM3017 Work in the strata community management sector;~~
- ~~— (ii) CPPCMN4008 Read plans, drawings and specifications for residential buildings;~~
- ~~— and~~
- ~~— (b) at least 6 of the following units in Certificate IV Strata Community Management —~~
- ~~— (i) CPPDSM4084 Administer insurance for strata communities;~~
- ~~— (ii) CPPDSM4085 Handle strata community funds held on trust;~~
- ~~— (iii) CPPDSM4086 Oversee preparation of strata community budgets;~~
- ~~— (iv) CPPDSM4087 Facilitate operation of owners committee;~~

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- ~~(v) CPPDSM4082 Monitor service requirements of owners and occupiers in strata communities;~~
- ~~(vi) CPPDSM4045 Facilitate meetings in the property industry;~~
- ~~(vii) CPPDSM3020 Source and extract information from strata plans;~~
- ~~(viii) BSBFIA412 Report on financial activity.~~
- ~~(2) If a designated person is a qualified person, the designated person must have completed —~~
 - ~~(a) the following 2 units in Certificate IV Strata Community Management —~~
 - ~~(i) CPPDSM3017 Work in the strata community management sector;~~
 - ~~(ii) CPPCMN4008 Read plans, drawings and specifications for residential buildings;~~
 - ~~and~~
 - ~~(b) at least 1 of the following units in Certificate IV Strata Community Management —~~
 - ~~(i) CPPDSM4084 Administer insurance for strata communities;~~
 - ~~(ii) CPPDSM4085 Handle strata community funds held on trust;~~
 - ~~(iii) CPPDSM4086 Oversee preparation of strata community budgets;~~
 - ~~(iv) CPPDSM4087 Facilitate operation of owners committee;~~
 - ~~(v) CPPDSM4082 Monitor service requirements of owners and occupiers in strata;~~
 - ~~(vi) CPPDSM4045 Facilitate meetings in the property industry;~~
 - ~~(vii) CPPDSM3020 Source and extract information from strata plans;~~
 - ~~(viii) BSBFIA412 Report on financial activity.~~

4. ~~Changes to titles of units~~

~~For the purposes of this Schedule, a person is taken to have completed a unit of a particular title in Certificate IV Strata Community Management if the person has completed—~~

- ~~(a) a unit in Certificate IV Strata Community Management of a different title that supersedes it, but only if the unit completed is equivalent according to the National Register on Vocational Education and Training (VET) in Australia; or~~
- ~~(b) a unit in Certificate IV Strata Community Management of a different title that was superseded by it, but only if the unit completed is equivalent according to the National Register on Vocational Education and Training (VET) in Australia.~~

Clerk of the Executive Council