



**Land and Environment
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of New South Wales

**PRACTICE NOTE –
STRATA SCHEMES DEVELOPMENT PROCEEDINGS**

Name and commencement of Practice Note

1. This Practice Note is to be known as Practice Note – Strata Schemes Development Proceedings. It commences on 30 November 2016.

Application of Practice Note

2. This Practice Note applies to the following appeals, applications and proceedings under the *Strata Schemes Development Act 2015* that may be made to the Land and Environment Court:
 - (a) in Class 2 of the Court's jurisdiction:
 - (i) an appeal under s 66 of the Strata Schemes Development Act against a decision of a local council to refuse an application for a strata certificate or to issue the strata certificate subject to a restrictive use condition (“s 66 appeal”);
 - (ii) an appeal under s 85 of the Strata Schemes Development Act against a decision of a planning authority to refuse an amendment of a strata development contract (“s 85 appeal”);
 - (iii) proceedings under s 86 of the Strata Schemes Development Act for approval of an amendment of a strata development contract that is not supported by a resolution of an owners corporation in accordance with s 84 of the Strata Schemes Development Act (“s 86 proceedings”);
 - (iv) proceedings under s 92 of the Strata Schemes Development Act for an order for extension or conclusion of a development scheme (“s 92 proceedings”); and



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- (b) in Class 3 of the Court's jurisdiction: proceedings under s 179 of the Strata Schemes Development Act in which application is made for an order to give effect to a strata renewal plan for the collective sale or redevelopment of a strata scheme ("s 179 proceedings");
3. These appeals, applications and proceedings are collectively referred to as "Strata Scheme Development proceedings".

Purpose of Practice Note

4. The purpose of this practice note is to set out the case management procedures for the just, quick and cheap resolution of Strata Scheme Development proceedings.

Responsibility of parties, legal practitioners and agents

5. It is the responsibility of each party, its legal representatives and agents (as applicable) to consider the directions appropriate to be made in the particular case to facilitate the just, quick and cheap resolution of the real issues in the proceedings.
6. If a party reasonably considers that compliance with this practice note will not be possible, or will not be conducive to the just, quick and cheap resolution of the proceedings, the party should apply to be relieved from compliance on the basis that an alternative proposed regime will be more conducive to such resolution. In that event, the party is to notify other parties of the proposed alternative regime as soon as practicable and is to provide the Court with short minutes of proposed directions reflecting that alternative regime.

Legal practitioners and agents of parties to be prepared

7. Each party not appearing in person shall be represented before the Court by a legal practitioner (or an agent authorised by the party in writing to whom leave of the Court has been granted to appear for the party) familiar with the subject matter of the proceedings and with instructions sufficient to enable all appropriate orders and directions to be made.
8. Parties are to communicate prior to any attendance before the Court with a view to reaching agreement on directions to propose to the Court and



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preparation of agreed or competing short minutes recording the proposed directions.

Commencing Strata Scheme Development proceedings

9. Strata Scheme Development proceedings are to be commenced by filing in the Court an application in the form “Application Class 1, 2, 3” (Form B).
10. The application is to be made:
 - (a) in Class 2 of the Court’s jurisdiction for a s 66 appeal, s 85 appeal, s 86 proceedings and s 92 proceedings; and
 - (b) in Class 3 of the Court’s jurisdiction for s 179 proceedings.
11. The application is to be accompanied by the documents and information required by the Strata Schemes Development Act, including:
 - (a) for a s 66 appeal:
 - (i) the application for the strata certificate made to the local council (including any supporting documents and information lodged with the application);
 - (ii) any notice given by the local council under s 65 of the Strata Schemes Development Act; and
 - (iii) any notice given by the local council under s 54 of the Strata Schemes Development Act.
 - (b) for a s 85 appeal:
 - (i) the proposed amendment of the strata development contract for a strata scheme in the approved form; and
 - (ii) any notice given by the planning authority refusing the amendment of the strata development contract;



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- (c) for s 86 proceedings:
- (i) the proposed amendment of the strata development contract for a strata scheme in the approved form;
 - (ii) any notice given by the planning authority approving or refusing the amendment of the strata development contract;
 - (iii) the notice of intention to move a motion supporting the amendment of the strata development contract given to a meeting of the owners corporation of the strata scheme;
 - (iv) any resolution of the owners corporation defeating the motion supporting the amendment of the strata development contract; and
 - (v) any refusal to consent to the amendment of the strata development contract of a mortgagee, chargee, covenant chargee or lessee of a lot in the strata scheme.
- (d) for s 92 proceedings: information in the application as to the time at which the development scheme would otherwise be concluded under s 89 of the Strata Scheme Development Act and the time to which the applicant applies to defer the conclusion of the development scheme or which the applicant applies to fix for the conclusion of the development scheme.
- (e) for s 179 proceedings:
- (i) a copy of the strata renewal plan;
 - (ii) a copy of each support notice that is in effect under Part 10 of the Strata Schemes Development Act for the strata renewal plan;
 - (iii) the names of each dissenting owner and each registered mortgagee and covenant chargee of a dissenting owner's lot;
 - (iv) a declaration given by the owners corporation identifying the steps taken in preparing the plan and obtaining the required level of



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support in accordance with Part 10 of the Strata Schemes Development Act;

- (v) if the strata renewal plan is for a collective sale of a strata scheme:
 - i. a declaration given by the purchaser, if known, disclosing the nature of any relationship, whether personal or commercial, the purchaser may have with the owner of any lot in the scheme; and
 - ii. a report of an independent valuer that includes details of the market value of the whole building and its site (at its highest and best use) and details of the compensation value of each lot;
- (vi) if the strata renewal plan is for a redevelopment of a strata scheme:
 - i. a declaration given by the developer disclosing the nature of any relationship, whether personal or commercial, the developer may have with an owner of any lot in the scheme,
 - ii. a document specifying the amount to be paid to each dissenting owner for the owner's lot,
 - iii. a report of an independent valuer that includes details of the market value of the whole building and its site (at its highest and best use) and details of the compensation value of each dissenting owner's lot, and
 - iv. a document detailing enough financial information to show there is a secure source of finance for the carrying out of the proposed redevelopment under the strata renewal plan; and
- (vii) any other information or document about the proposed collective sale or redevelopment prescribed by any regulations made under the Strata Schemes Development Act.



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Parties to be named in the application commencing proceedings

12. The persons who are entitled to be an applicant commencing Strata Scheme Development proceedings are:
 - (a) for a s 66 appeal: the applicant for an application for a strata certificate made to a local council;
 - (b) for a s 85 appeal and s 86 proceedings: the applicant for an amendment of a strata development contract made to a planning authority;
 - (c) for s 92 proceedings: any person bound by a strata development contract;
 - (d) for s 179 proceedings: the owners corporation seeking an order to give effect to a strata renewal plan.

13. The persons who need to be named as respondents to Strata Scheme Development proceedings are:
 - (a) for a s 66 appeal: the local council to whom the application for a strata certificate has been made;
 - (b) for a s 85 appeal: the planning authority to whom the application for amendment of a strata development contract has been made;
 - (c) for s 86 proceedings and s 92 proceedings: no person need be named as a respondent in the application commencing the proceedings (but certain persons on whom the application must be served are entitled to become respondents to the proceedings: see s 86(4) and s 92(3));
 - (d) for s 179 proceedings: no person need be named as a respondent in the application commencing the proceedings (but certain persons on whom the application must be served under s 179(2) may apply to be joined as a party to the proceedings under s 181(6)).



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Application to extend time for appeal

14. If the period for making a s 66 appeal or s 85 appeal has expired, an applicant who wishes to make a s 66 appeal or a s 85 appeal may apply to the Court in the application filed for an order extending the period for making the appeal (see s 66(4) and s 85(3) of the Strata Scheme Development Act). The application for extension of time to appeal is to be accompanied by an affidavit in support explaining the reasons for the delay and why time to appeal should be extended.

Service

15. A copy of the application and any accompanying documents and information are to be served within 7 days of filing.
16. The application and any accompanying documents and information are to be served on the persons specified in the Strata Schemes Development Act, being:
- (a) for a s 66 appeal: the respondent local council;
 - (b) for a s 85 appeal: the respondent planning authority;
 - (c) for s 86 proceedings:
 - (i) each owner of a lot in the strata scheme, other than the developer,
 - (ii) each person, other than the applicant, who is the owner of a development lot,
 - (iii) each registered mortgagee, chargee, covenant chargee and lessee of a lot in the scheme,
 - (iv) if the strata scheme is a leasehold strata scheme - the lessor (unless the lessor is the developer),
 - (v) the owners corporation, and
 - (vi) the planning authority.
 - (d) for s 92 proceedings:
 - (i) the developer,



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- (ii) each owner of a lot in the strata scheme, other than the developer,
 - (iii) each registered mortgagee, chargee, covenant chargee and lessee of a lot in the scheme,
 - (iv) if the strata scheme is a leasehold strata scheme - the lessor (unless the lessor is the developer),
 - (v) the owners corporation,
 - (vi) the planning authority,
 - (vii) the Registrar-General, and
 - (viii) any other person directed by the Court.
- (e) for s 179 proceedings:
- (i) each owner of a lot in the strata scheme,
 - (ii) each registered mortgagee or covenant chargee of a dissenting owner's lot,
 - (iii) if the strata renewal plan is for a collective sale of a strata scheme - the proposed purchaser (if known),
 - (iv) if the strata renewal plan is for a redevelopment of a strata scheme - the local council and the proposed developer (if known), and
 - (v) any other person directed by the Court.

Proof of service

17. The applicant who serves the application is to complete an affidavit of service in accordance with Pt 35 r 35.8 of the *Uniform Civil Procedure Rules 2005* and Form 41: Affidavit of Service, establishing that the application has been served on each person required to be served. The affidavit is to include:
- (a) the date service was effected;
 - (b) the method of service;
 - (c) the name, address and occupation of the person serving the application;



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- (d) if the application was served personally, the person to whom it was delivered;
 - (e) if the application was served by post:
 - (i) the information (and the source of such information) the person relied on in obtaining the address to which it was posted, and
 - (ii) the time and place of posting,
 - (f) if the application was served by facsimile:
 - (i) the information (and the source of such information) the person relied on in obtaining the facsimile number to which it was sent, and
 - (ii) the date on which advice confirming successful transmission of the application was received,
 - (g) if the application was served by electronic communication (other than facsimile):
 - (i) the information (and the source of such information) the person relied on in obtaining the email address to which it was sent, and
 - (ii) the date on which the email was sent.
18. The applicant is to file the affidavit of service in the Court before or at the first directions hearing.

Return date of the application

19. The application will be given a return date before the Court at least 5 weeks after it is filed. On the return date, the first directions hearing will occur before the Registrar.

Notice of appearance by persons

20. The following persons on whom the application is required to be served may enter an appearance in the proceedings by filing a notice of appearance (in the approved Form 6A):



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- (a) for a s 66 appeal: the respondent local council;
 - (b) for a s 85 appeal: the respondent planning authority;
 - (c) for s 86 proceedings: each person entitled to be served with the application under s 86(3) of the Strata Schemes Development Act (see s 86(4)); and
 - (d) for s 92 proceedings: each person entitled to be served with notice of the application under s 92(2) of the Strata Schemes Development Act (see s 92(3)).
21. The time limited by Pt 6 r 6.10 of the *Uniform Civil Procedure Rules 2005* for entering an appearance is on or before the return date of the application.
22. Any person who enters an appearance, in accordance with para 18 of this Practice Note, in s 86 proceedings or s 92 proceedings will be joined as a respondent to the proceedings upon filing a notice of appearance.

Objection to application for an order to give effect to strata renewal plan

23. In s 179 proceedings, a dissenting owner and any person on whom notice of the application for an order to give effect to the strata renewal plan must be served under s 179(2)(b)–(e) of the Strata Schemes Development Act who wishes to file an objection to the application is, within 21 days after notice of the application is served on the person, to file the objection in the Court and serve the objection on the owners corporation bringing the proceedings.
24. The objection should:
- (a) specify the grounds of objection to the application; and
 - (b) address the matters of concern to the person in s 182(1) of the Strata Schemes Development Act with which the Court needs to be satisfied in order to make an order giving effect to the strata renewal plan.



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Application for joinder as a party to s 179 proceedings

25. A person who has filed an objection to the application may apply to the Court to be joined as a party to the s 179 proceedings. The application to be joined as a party is to be by notice of motion. The notice of motion is to be accompanied by an affidavit of the person explaining why the person should be joined as party to the proceedings. The person is to serve the notice of motion and affidavit on the parties to the proceedings.

The matters before the first directions hearing

26. Before the first directions hearing the parties are to discuss and endeavour to agree upon the estimated hearing time and the directions that the Court should make at the first directions hearing.

At the first directions hearing

27. The first directions hearing will be on the return date of the application. It will usually be conducted by the Registrar in a courtroom in the Court building at 225 Macquarie Street, Sydney. The location of the courtroom and the time of day the first directions hearing is listed should be shown on the Court Lists posted on a notice board in the foyer of the building and on the Court's website under Court Lists in the afternoon of the day before the directions hearing.
28. For proceedings concerning land outside the Sydney metropolitan area, the first directions hearing may be held by means of a telephone conference between the Court and the parties. A party who seeks for the first directions hearing to be held by means of a telephone conference may apply to the Court, by letter or through online court, at least 7 days before the date of the first directions hearing, for this to occur. The Registrar of the Court will determine the application in chambers and, if granted, make the appropriate arrangements for the telephone conference.
29. At the first directions hearing the Court will usually make directions in accordance with the usual directions for the applicable type of Strata Scheme Development proceedings in Schedule A hereto.



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30. At the first directions hearing the parties are to hand to the Court agreed or competing short minutes of the directions they propose the Court should make.
31. Any party who wishes to issue a subpoena or notice to produce should advise the Court at the first directions hearing. A party who is not represented by a solicitor needs to obtain the leave of the Court to issue a subpoena (see r 7.3(1) of the *Uniform Civil Procedure Rules 2005*). Any application for leave to issue a subpoena will be dealt with at the first directions hearing or otherwise the Court will fix a date for hearing the application. If subpoenas or notices to produce are issued, the usual directions may need to be adjusted to accommodate these processes.
32. For a s 66 appeal and s 85 appeal, the parties are to inform the Court whether there is any reason for the proceedings not to be fixed for a conciliation conference under s 34 of the *Land and Environment Court Act 1979*. If the Court arranges a conciliation conference, the usual directions may need to be adjusted.
33. For s 86 proceedings, s 92 proceedings and s 179 proceedings, the parties are to inform the Court whether it is appropriate to refer the proceedings for mediation under s 26 of the *Civil Procedure Act 2005*. If proceedings are referred for mediation the usual directions may need to be adjusted.
34. If it is appropriate to arrange a conciliation conference or refer proceedings for mediation, the proceedings will usually be fixed for the conciliation conference or mediation:
 - (a) for short matters, before the Duty Commissioner on the next available Friday or
 - (b) for other matters, within 14 days,subject to the availability of the Court.
35. If the parties are in dispute as to any proposed directions, they are to briefly inform the Court of the nature of the dispute and their estimate of how long a hearing of the dispute will take. If practicable, the Court will determine the



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dispute at that directions hearing or otherwise it will fix a date for the hearing of the dispute.

36. Any application for an extension of time to make a s 66 appeal or s 85 appeal will, if practicable, be dealt with by the Court at the first directions hearing or otherwise the Court will fix a date for hearing the application.
37. Any application for joinder of a person as a party to s 179 proceedings will, if practicable, be dealt with by the Court at the first directions hearing or otherwise the Court will fix a date for the hearing the application.

Service of directions on absent party

38. If a party is absent when directions are made, the party who is present is to serve a copy of the directions on the absent party within three working days. Unless the Court otherwise directs, the party who is present is also to file an affidavit of service at least one working day before the matter is next listed before the Court, except where the party who is present mentioned the matter on behalf of the absent party.

Parties to seek directions before adducing expert evidence

39. A party intending to adduce expert evidence at the hearing of any Strata Scheme Development proceeding must apply for directions from the Court under Pt 31 r 31.19 of the *Uniform Civil Procedure Rules 2005* permitting the adducing of expert evidence. The application is to specify the expert evidence sought to be adduced and the directions sought, including any directions under r 31.20 of the *Uniform Civil Procedure Rules 2005*.
40. The application for directions is to be by notice of motion. The notice of motion is to be accompanied by an affidavit explaining the expert evidence sought to be adduced and why the use of that expert evidence should be permitted, including why that expert evidence relates to a real issue in the proceedings and is reasonably required to resolve that issue.
41. If practicable, the Court will determine the application for directions at the first directions hearing or otherwise it will fix a date for hearing the application.



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42. A party may not adduce expert evidence at the hearing of any Strata Scheme Development proceeding unless the Court has given directions permitting the adducing of that expert evidence and the adducing of that expert evidence is in accordance with those directions.

The hearing

43. All issues the subject of the appeal or proceedings are to be dealt with at the hearing. No issue will be separately determined unless the Court so orders.

Breach of the Court's directions

44. If there is any significant breach of the Court's directions sufficient to cause slippage in a timetable, the parties must promptly, by Online Court request or fax to the Registrar, restore the matter to the next directions hearing list before the Registrar. The party in breach or a legal practitioner with knowledge of the reasons for the breach must serve an affidavit no later than 4.00pm on the preceding day which identifies the breach, explains the reasons for the breach and proposes directions to be made in consequence of the breach. The party must file the affidavit in Court at that directions hearing.
45. A failure by one party to comply with the Court's directions will not be considered an adequate excuse for any failure to comply by another party. If proposed directions vary an existing timetable there must also be a direction to vacate previous directions that can no longer be maintained, including for dates for directions hearings or the hearing of motions.

Liberty to restore

46. Parties have general liberty to restore the proceedings to the Court on three working days' notice, or less if urgency requires it. A party seeking to do so is to make prior arrangements with, or give appropriate notice to, any other party, and send an Online Court request or fax to the Registrar.

Adjournments

47. Proceedings will not be adjourned generally. They will only be adjourned to a specific date.



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Applications to vacate hearing dates

48. Hearing dates will not generally be vacated and will not be vacated merely because the parties consent to the vacation. Applications to vacate hearing dates are to be by notice of motion, with an affidavit in support explaining the circumstances of the application and the reasons the hearing date should be vacated.

Application for final orders by consent of parties

49. Any application for consent final orders in Strata Scheme Development proceedings will be listed before the Court for determination. The parties will be required to present such evidence as is necessary to allow the Court to determine whether it is lawful and appropriate to make the consent final orders under the Strata Schemes Development Act.

Co-operation

50. The Court expects parties and legal practitioners to work cooperatively to implement this Practice Note in a practical and sensible way to ensure that it achieves its intended purpose.

Costs

51. If a breach of the Court's directions or this Practice Note causes costs to be thrown away, a party or legal practitioner responsible for the breach may be ordered to pay those costs.
52. The cost of unnecessary photocopying and assembly of documents is unacceptable. Legal practitioners for the parties are to consider carefully the documents necessary to be tendered. Excessive documents may attract adverse costs orders.

***The Honourable Justice Brian J Preston
Chief Judge
Date: 31 October 2016***



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SCHEDULE A

USUAL DIRECTIONS

A. For a s 66 appeal:

1. The appeal is listed for hearing on [date not less than 8 weeks to accommodate directions below] at [location of hearing].
2. The appeal is listed for a conciliation conference under s 34 of the *Land and Environment Court Act 1979* on [date] at [location].
3. By [date 7 days], the respondent local council is to file and serve its statement of facts and contentions in accordance with Schedule B.
4. By [date 14 days], the applicant is to file and serve any statement of facts and contentions in reply. This statement is not to repeat any facts not in dispute.
5. By [date 21 days], the applicant is to file and serve the evidence on which the applicant will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
6. By [date 5 weeks], the respondent local council is to file and serve the evidence on which it will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
7. By [date 6 weeks], the applicant is to file and serve any evidence in reply.
8. The applicant, at least 7 days before the hearing, is to file and serve an outline of submissions.



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9. The respondent local council, at least 4 days before the hearing, is to file and serve an outline of submissions.
10. The applicant, at least one day before the hearing, is to file and serve an outline of submissions in reply if the applicant considers a reply is needed.
11. The parties are to promptly notify the Court if there is any material slippage in the timetable and, if appropriate, relist the matter.
12. Liberty to restore on 3 working days' notice.

B. For a s 85 appeal:

1. The appeal is listed for hearing on [date not less than 8 weeks to accommodate directions below] at [location of hearing].
2. The appeal is listed for a conciliation conference under s 34 of the *Land and Environment Court Act 1979* on [date] at [location].
3. By [date 7 days], the respondent planning authority is to file and serve its statement of facts and contentions in accordance with Schedule B.
4. By [date 14 days], the applicant is to file and serve any statement of facts and contentions in reply. This statement is not to repeat any facts not in dispute.
5. By [date 21 days], the applicant is to file and serve the evidence on which the applicant will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).



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6. By [date 5 weeks], the respondent planning authority is to file and serve the evidence on which it will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
7. By [date 6 weeks], the applicant is to file and serve any evidence in reply.
8. The applicant, at least 7 days before the hearing, is to file and serve an outline of submissions.
9. The respondent planning authority, at least 4 days before the hearing, is to file and serve an outline of submissions.
10. The applicant, at least one day before the hearing, is to file and serve an outline of submissions in reply if the applicant considers a reply is needed.
11. The parties are to promptly notify the Court if there is any material slippage in the timetable and, if appropriate, relist the matter.
12. Liberty to restore on 3 working days' notice.

C. For s 86 proceedings:

1. The proceedings are listed for hearing on [date not less than 8 weeks to accommodate directions below] at [location of hearing].
2. The proceedings are referred to mediation under s 26 of the *Civil Procedure Act 2005* on [date] at [location].



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3. By [date 14 days], the applicant is to file in the Court and serve on each respondent the evidence on which the applicant will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
4. By [date 28 days], each respondent is to file and serve the evidence on which it will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
5. By [date 5 weeks], the applicant is to file in the Court and serve on each respondent any evidence in reply.
6. The applicant, at least 7 days before the hearing, is to file and serve an outline of submissions.
7. Each respondent, at least 4 days before the hearing, is to file and serve an outline of submissions.
8. The applicant, at least one day before the hearing, is to file and serve an outline of submissions in reply if the applicant considers a reply is needed.
9. The parties are to promptly notify the Court if there is any material slippage in the timetable and, if appropriate, relist the matter.
10. Liberty to restore on 3 working days' notice.

D. For s 92 proceedings:

1. The proceedings are listed for hearing on [date not less than 8 weeks to accommodate directions below] at [location of hearing].



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2. The proceedings are referred to mediation under s 26 of the *Civil Procedure Act 2005* on [date] at [location].
3. By [date 14 days], the applicant is to file in the Court and serve on each respondent the evidence on which the applicant will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
4. By [date 28 days], each respondent to file and serve the evidence on which it will rely, including any statements of evidence, expert reports and documents (the documents being collated in a bundle and paginated).
5. By [date 5 weeks], the applicant is to file in the Court and serve on each respondent any evidence in reply.
6. The applicant, at least 7 days before the hearing, is to file and serve an outline of submissions.
7. Each respondent, at least 4 days before the hearing, is to file and serve an outline of submissions.
8. The applicant, at least one day before the hearing, is to file and serve an outline of submissions in reply if the applicant considers a reply is needed.
9. The parties are to promptly notify the Court if there is any material slippage in the timetable and, if appropriate, relist the matter.
10. Liberty to restore on 3 working days' notice.



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E. For s 179 proceedings:

1. The proceedings are listed for hearing on [date not less than 9 weeks to accommodate directions below] at [location of hearing].
2. The proceedings are referred to mediation under s 26 of the *Civil Procedure Act 2005* on [date] at [location].
3. By [date 7 days], each respondent is to file in the Court and serve on the applicant a statement of facts and contentions identifying and giving particulars of:
 - (a) the grounds on which the respondent objects to the application for an order to give effect to the strata renewal plan;
 - (b) the matters of concern to the respondent in s 182(1) of the Strata Schemes Development Act; and
 - (c) the order or orders that the respondent contends that the Court should make, including to vary the strata renewal plan.
4. By [date 14 days], the applicant is to file in the Court and serve on each respondent any statement of facts and contentions in reply.
5. By [date 21 days], the applicant is to file in the Court and serve on each respondent the evidence on which the applicant will rely, including any statements of evidence and documents (collated in a bundle and paginated).



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6. By [date 5 weeks], each respondent is to file and serve the evidence on which it will rely, including any statements of evidence and documents (collated in a bundle and paginated).
7. By [date 6 weeks], the applicant is to file in the Court and serve on each respondent any evidence in reply.
8. The applicant, at least 7 days before the hearing, is to file and serve an outline of submissions.
9. Each respondent, at least 4 days before the hearing, is to file and serve an outline of submissions.
10. The applicant, at least one day before the hearing, is to file and serve an outline of submissions in reply if the applicant considers a reply is needed.
11. The parties are to promptly notify the Court if there is any material slippage in the timetable and, if appropriate, relist the matter.
12. Liberty to restore on 3 working days' notice.



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Schedule B

Requirements for statement of facts and contentions by respondent

1. The statement is to be as brief as reasonably possible.
2. The statement is to be divided into two parts – Part A Facts and Part B Contentions.
3. An authorised officer of the respondent is to sign and date the statement.

Part A Facts

4. In Part A Facts, the respondent is to:
 - (a) **the application:** identify the relevant application or any decision on the application, including the application number, the date of the application and the date of decision;
 - (b) **the land:** identify the land to which the application relates, including street address, lot and deposited plan, and strata plan (as relevant);
 - (c) **the applicable statutory provisions:** identify the particular statutory provisions relevant to the making and determination of the application, including any matters that are required to be considered or satisfied prior to the approving of any application;
 - (d) **actions of the respondent:** provide details of any notification process and its results, details of any inspection and its results, the decision of the respondent, the notice of the respondent's decision, and if the decision was a refusal, the grounds for refusal; and
 - (e) **compliance with statutory requirements:** provide details of each applicable statutory provision that the respondent agrees has been satisfied, including details of how it has been satisfied.
5. Part A Facts is not to include matters of opinion.



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Part B Contentions

6. In Part B Contentions, the respondent is to identify:
- (a) each fact, matter or circumstance that the respondent contends requires or should cause the Court, in exercising the functions of the respondent on the appeal, to refuse the application;
 - (b) in a s 66 appeal where a notice of the grounds of refusal was given under s 65 of the Strata Schemes Development Act, each ground of refusal that it continues to press;
 - (c) in a s 66 appeal where an application is taken to have been refused under s 66(2) of the Strata Schemes Development Act, the grounds on which the respondent contends the application should be refused;
 - (d) in a s 66 appeal concerning a restrictive use condition, each fact, matter or circumstance that the respondent contends requires the imposition of the condition; and
 - (e) in a s 85 appeal, each ground of refusal stated in the notice given under s 85(1) of the Strata Schemes Development Act that the respondent continues to press.
7. In Part B Contentions, the respondent is to:
- (a) focus on issues genuinely in dispute;
 - (b) have a reasonable basis for the contentions;
 - (c) present contentions clearly, succinctly and without repetition and not by way of submission; and
 - (d) where the respondent contends there is insufficient information to assess any relevant matter, list the information the respondent contends is required.