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Planning, Development and Infrastructure (General) (Community Title Land Division) Amendment Regulations 2025.

Dear Stakeholder

The *Planning, Development and Infrastructure (General) (Community Title Land Division) Amendment Regulations 2025* (Amendment Regulations) have now been made. The changes will give Councils legislative power to require security for the construction of a common driveway for community title developments in circumstances where a driveway is not constructed prior to the issue of a land division certificate.

Consultation on the Amendment Regulations was open from 27 November 2024 until 20 December 2024 through a dedicated page on the PlanSA portal, with stakeholders being invited to prepare written submissions.

Thank you to those who provided valuable feedback, which has been carefully considered in the progression of the Amendment Regulations.

In summary the Amendment Regulations provide the following:

- a new prescribed condition under regulation 85A, requiring that the construction of common property comprising a driveway or private road must be completed before the State Planning Commission (the Commission) issues its land division certificate.
- Amendment to regulation 88 to allow the Commission to issue its land division certificate where the above condition has not been satisfied if the applicant enters into a binding agreement with the relevant local Council that is supported by adequate security. The security may be held by Council or another entity and can be transferred to the community corporation at the end of the developer control period so that Councils aren't left to facilitate construction of private infrastructure.
- Amendment to regulation 88(2) to include community plan (in addition to strata plan) under the *Community Titles Act 1996* (as the case requires).
- Amendment to Schedule 8 to require an application for community title land division proposing the construction of a common driveway or private road, to be accompanied by details of the design of the driveway or road and the costs associated with the construction of the driveway or road, to assist Councils in determining the amount required to be held as security. This provision only applies where the applicant intends to enter into a binding arrangement with the Council.

The Amendment Regulations do not apply where the plan of community division does not create more than 6 community lots to avoid unnecessary impacts or delays to smaller developments, given they generally have a smaller common driveway. Under the *Community Titles Act 1996*, divisions of allotments greater than 6 require a scheme description, which has prompted this threshold.


The Amendment Regulations are not intended to regulate how common driveways are constructed (noting the varying nature in which they may be delivered) but rather seek to mandate when they are constructed to ensure provision of access to dwellings that have been sold. The Amendment Regulations provide that where an applicant intends to enter into a binding agreement with the Council, the design of the driveway or road, including width and construction material, are to be provided by the applicant/developer when lodging a development application.

To reduce concerns that Councils would be required to facilitate construction of private infrastructure, the Amendment Regulations allow security attached to binding agreements to be held by another entity (rather than by the Councils) and transferred to the community corporation at the end of the developer control period.

Further to this important body of work, the Department is also considering requirements regarding provision of other infrastructure (such as electrical infrastructure) and whether reforms to regulations are required. This is being considered separately as it applies more broadly than to just community title land division.

These are important reforms that provide mechanisms to protect consumers and ensure suitable access to community lots is provided.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sally Smith', written in a cursive style.

SALLY SMITH
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