

Guide to Community Titles in Western Australia

Published 30 June 2021
strata.wa.gov.au



Using this guide

This guide is produced by Landgate - the Western Australian Land Information Authority - to provide you with a basic understanding of community titles.

- Information is presented under the following key themes to help you find the information that you are looking for:
 - **Understanding community schemes**
 - **Creating community schemes**
 - **How a community scheme operates**
 - **Scheme decision-making**
 - **Scheme by-laws**
 - **Community corporation's functions**
 - **Resolving scheme disputes**
 - **Buying and selling a lot in a community scheme**
 - **Where to get assistance**
 - **Lodging documents at Landgate**
- You can easily return to the contents page at any time by selecting the following button at the bottom of each page
- You may find it helpful to have a copy of this guide with you when contacting Landgate ([Contact Landgate](#)) or the Department of Planning, Lands and Heritage (DPLH) ([Contact DPLH](#)) for further information.
- [Landgate's webchat](#) support service is especially useful if you like to keep reading while asking questions.

This Guide is a summary of the law as at 30 June 2021 and should not be taken as a precise guide to the law on community titles or in any way regarded as legal advice.

You should refer to the *Community Titles Act 2018* and the *Community Titles Regulations 2021* for details, available at www.legislation.wa.gov.au. In all matters, readers may wish to seek legal advice from an independent legal practitioner.

Throughout this guide:

- The *Community Titles Act 2018* will be referred to as the 'Act.'
- The *Community Titles Regulations 2021* will be referred to as the 'Regulations.'
- The State Administrative Tribunal will be referred to as 'SAT.'

Contents

Community schemes in WA	4
Glossary of terms	5
Sections	
1 Understanding community schemes	8
1.1 Key concepts to understand	8
1.2 Community scheme example	13
1.3 Other considerations to help you understand your rights and obligations as a lot owner/occupier in a community titles scheme	27
2 Creating community schemes	31
2.1 Community Development Statement	31
2.2 Assessment process by Western Australian Planning Commission for a Community Development Statement	31
2.3 Registering a community titles scheme	32
3 How a community scheme operates	33
3.1 Community corporations	33
3.2 Community corporation's council	36
3.3 Scheme managers	38
3.4 Volunteer scheme managers	42
4 Scheme decision-making	44
4.1 Voting on proposed resolutions	44
4.2 Meetings	50
5 Scheme by-laws	53
5.1 Application of scheme by-laws	53
5.2 Exclusive use by-laws	57
6 Community corporation's functions	59
6.1 Managing personal property and common property	59
6.2 Managing scheme finances	60
6.3 Managing scheme insurance	64
6.4 Scheme recordkeeping	65
6.5 Making information available	67
6.6 Execution of documents	69
6.7 Arranging utility connections	69
7 Resolving scheme disputes	70
7.1 Can SAT resolve the dispute?	70
7.2 Making an application to SAT	72
7.3 Declarations by SAT	73
7.4 Orders by SAT	74
7.5 Internal review of orders and declarations	78
7.6 Enforcing scheme by-laws	78
7.7 Prosecution of offences under the Act	80
8 Buying and selling a lot in a community scheme	81
8.1 Pre-contractual disclosure statement to the buyer	81
8.2 Compulsory pre-contractual information	82
8.3 Notifiable variations	84
8.4 Circumstances around settlement delay or avoidance of contract	86
8.5 Buying off-the-plan	87
8.6 Obtaining information from the community corporation	88
9 Where to get assistance	89
9.1 Information and support from Landgate	89
9.2 Information and support from Department of Planning, Lands and Heritage and the Western Australian Planning Commission	90
9.3 Other information and support	91
10 Lodging documents at Landgate	93
Appendix 1 – Items for consideration in the 10 year plan	94
Disclaimer of liability	95

Community schemes in WA

The ***Community Titles Act 2018*** introduces community titles schemes into Western Australia (WA).

A community scheme is a new form of land subdivision that enables the division of a single parcel of freehold land into multiple schemes, called 'community titles schemes.' The individual community titles schemes that subdivide the freehold parcel of land, collectively, make up the community scheme. The title to the land in each of the lots in a community titles scheme is called a 'community title.'

While new to WA, community schemes already exist in New South Wales, South Australia and Queensland, although there are differences between WA's community titles law and the corresponding law in each of these States.

For those of you who are familiar with strata titles principles, as you learn about community schemes, you will notice that they include some of the features that strata and survey-strata titles schemes in WA have, which continue to operate under the *Strata Titles Act 1985*.

However, community schemes also offer many important distinctions and benefits. The key difference is that strata titles schemes only allow for one scheme to be created on a single freehold parcel of land. In comparison, community schemes allow for a freehold parcel of land to be subdivided in a way that creates several individual schemes (community titles schemes) in a single community scheme. This is possible as a

lot in a community titles scheme is permitted to be subdivided to create another community titles scheme. Up to three tiers of community titles schemes can be created within a community scheme.

Other notable differences between a community scheme and a strata titles scheme include scheme types, scheme by-laws, management of common property and the body corporate, all of which are concepts that will be explained in this guide.

This guide will explain the tiered structure of a community scheme and how the tiers allow for a more flexible approach to the subdivision of land by community titles schemes. As a result of this increased flexibility, community schemes are expected to generate more opportunity in WA for the management of developments which include mixed-use elements – such as retail outlets, commercial offices, recreational facilities and residential properties.

Community schemes will also support autonomy and efficiency in scheme management by enabling the most appropriate governance and decision-making to take place at an individual community titles scheme and community scheme level.

Glossary of Terms

Belong

In a community scheme, lots and common property belong to the community titles scheme under which they are created. A tier 2 or tier 3 community titles scheme belongs to the scheme that contained the lot that was subdivided to create the community titles scheme. The lot subdivided by a community titles scheme is called a tier parcel.

The concept of belonging between schemes for a community scheme includes:

- A tier 2 parcel belongs to the tier 1 scheme.
- A tier 2 scheme belongs to the tier 1 scheme to which its tier 2 parcel belongs.
- A tier 3 parcel belongs to the tier 2 scheme under which the lot subdivided to become the tier 3 parcel is created.
- A tier 3 scheme belongs to the tier 2 scheme to which its tier 3 parcel belongs and to the tier 1 scheme to which that tier 2 scheme belongs.
- The tier 1, 2 and 3 schemes that together comprise a community scheme belong to the community scheme.

Common property

The common property in a community titles scheme is any part of the land in the scheme that is not part of a lot. It also includes temporary common property.

Section 12 of the Act outlines what comprises common property, regardless of the tier of the community titles scheme to which the common property belongs.

Community corporation

A body corporate is established on registration of a community titles scheme. It has perpetual succession, is capable of suing and being sued in its own name, and, subject to the Act, has all the powers of a natural person that are capable of being exercised by a body corporate. A community corporation will exist for each tier 1, tier 2 and tier 3 scheme that exists in the community scheme. For further details please refer to Section 17 of the Act.

Community Development Statement (CDS)

A document approved as a community development statement for a community scheme by the Planning Commission under Part 3 Division 2 of the Act.

Community scheme

A community scheme is a new form of subdivision that allows a single parcel of freehold land to be subdivided into no more than three tiers of schemes called community titles schemes. Each scheme within the subdivision is a community titles scheme.

Community Titles (Building) Scheme

A community titles scheme in which lots are defined with upper and lower boundaries as well as lateral boundaries, with at least part of each lot defined by reference to a building shown on the scheme plan. A community titles (building) scheme can exist at any tier level within the community scheme – for further details refer to Section 11(7) of the Act.

Community Titles (Land) Scheme

A community titles scheme in which lots are defined by reference to an area of land, regardless of whether or not there are buildings on the land. A community titles (land) scheme can exist at any tier level within the community scheme. However a community titles (land) scheme cannot be created from a lot in a community titles (building) scheme – for further details refer to Section 11(8) of the Act.

Original subdivision owner

An original subdivision owner is a person who owns, will own, or has owned the lots in a community titles scheme when first created on a subdivision of land, given effect by registration of the community titles scheme or an amendment of the community titles scheme.

Owner of a lot

An owner of a lot is the person registered as proprietor on the Certificate of Title for a particular lot in the community titles scheme.

Registration of a community titles scheme

Registration of scheme documents at Landgate by the Registrar of Titles to create a community titles scheme that may be a tier 1, tier 2 or tier 3 scheme.

Registration of an amendment of a community titles scheme

Includes but is not limited to an amendment of a scheme plan which modifies a lot, tier parcel or common property or creates or discharges an easement or restrictive covenant that benefits or burdens a lot, tier parcel or common property. This also includes an amendment to give effect to making, repealing or amending a scheme by-law.

Related

A community titles scheme is related to each community titles scheme to which it belongs or that belongs to it. The community corporations of the related schemes are related community corporations.

Scheme documents

Are the documents that are registered and incorporated into the Register under the *Transfer of Land Act 1893* to create a community titles scheme. The following documents are the scheme documents for a community titles scheme:

- Scheme notice
- Scheme plan
- Schedule of unit entitlements, and
- Scheme by-laws.

For further details refer to Section 15 of the Act.

Scheme manager

A scheme manager is an individual, partnership, or company engaged by a community corporation to perform specified scheme functions under a scheme management contract. A scheme manager can be a volunteer, however they must be an owner of a lot in the community scheme and be personally performing scheme manager functions to do so. A volunteer scheme manager may receive an honorary fee or reward from the community corporation not exceeding \$250 per calendar year for each lot and tier parcel in the community titles scheme that they manage.

Scheme plan

The scheme plan registered, or proposed to be registered, for a community titles scheme as a scheme document.

Special resolution

A resolution of a community corporation that requires three quarters the sum of the unit entitlements of all the lots and tier parcels in the community titles scheme to vote in favour of the resolution; or for a community corporation with only two or three members, two thirds.

Further details on special resolutions can be found in Section 106(7) of the Act.

Subdivision by a community scheme

A physical division of a parcel of land into two or more lots or two or more lots and common property.

The act of subdividing land by a community scheme is done either by the registration of a community titles scheme, or by registration of an amendment of a community titles scheme.

Registration of an amendment of a community titles scheme gives effect to a subdivision if it changes the boundaries of a lot that belongs to the scheme or the boundary of a tier parcel that belongs to the scheme or the boundary of the tier parcel of the scheme. For further details refer to Section 14 of the Act.

Tenant in common

A tenant in common in a property owns all the land jointly with all other lot owners, but who owns a proportional share of the land (i.e. you do not own a defined section of the land).

Tier parcel

A lot subdivided by a community titles scheme is referred to as a tier parcel. A tier parcel can be a tier 1 parcel, tier 2 parcel or tier 3 parcel.

A parcel of land subdivided by a tier 1 scheme is referred to as a tier 1 parcel, a tier 1 lot subdivided by a tier 2 scheme is referred to as a tier 2 parcel, and a tier 2 lot subdivided by a tier 3 scheme is referred to as a tier 3 parcel.

For further details refer to Section 8(2), 9(2) and 10(2) of the Act.

Tier 1 scheme

Is the first community titles scheme to be created on a parcel of freehold land and provides the overarching governance for all the tier 2 and tier 3 schemes which will belong to it.

On registration, a tier 1 scheme creates community titles on land so as to:

- Effect the subdivision of a parcel of land into two or more lots, or two or more lots and common property, and
- Allow for the lots to be owned, sold or otherwise dealt with separately (except for any lots that are subdivided by tier 2 schemes), and
- Require the common property to be administered by the community corporation that comes into existence when the community titles scheme is registered, and
- Limit how the common property may be dealt with.

For further details refer to Section 8 of the Act.

Tier 2 scheme

Is a scheme that subdivides a tier 1 lot into lots and common property or just lots and belongs to the tier 1 scheme.

On registration, a tier 2 scheme creates community titles on a tier 2 parcel of land so as to:

- Effect the subdivision of a tier 1 lot into two or more lots, or two or more lots and common property, and
- Allow for the lots to be owned, sold or otherwise dealt with separately (except for any lots that are subdivided by tier 3 schemes), and
- Require the common property to be administered by the community corporation that comes into existence when the community titles scheme is registered, and
- Limit how the common property may be dealt with.

For further details refer to Section 9 of the Act.

Tier 3 scheme

Is a scheme that subdivides a tier 2 lot into lots and common property or just lots and belongs to both the tier 2 scheme that contained the lot that was subdivided to create the tier 3 scheme and the tier 1 scheme that was created first.

On registration, a tier 3 scheme creates community titles on a tier 3 parcel of land so as to:

- Effect the subdivision of a tier 2 lot into two or more lots, or two or more lots and common property, and
- Allow for the lots to be owned, sold or otherwise dealt with separately, and
- Require the common property to be administered by the community corporation that comes into existence when the community titles scheme is registered, and
- Limit how the common property may be dealt with.

For further details refer to Section 10 of the Act.

1. Understanding community schemes

1.1 Key concepts to understand

1.1.1 Community scheme

A community scheme is a form of land subdivision in WA that enables a single parcel of freehold land to be subdivided into up to three tiers of schemes called **community titles schemes**.

It is the collective of each of the community titles schemes that together form a **community scheme**.

The title to land comprised in a lot in a community titles scheme, is called a **community title**.

1.1.2 Tiers of community titles schemes

Community schemes can have up to three tiers of community titles schemes:

- The initial community titles scheme that subdivides the freehold land is the tier 1 scheme.
- A community titles scheme that subdivides a tier 1 lot is a tier 2 scheme.
- A community titles scheme that subdivides a tier 2 lot is a tier 3 scheme.

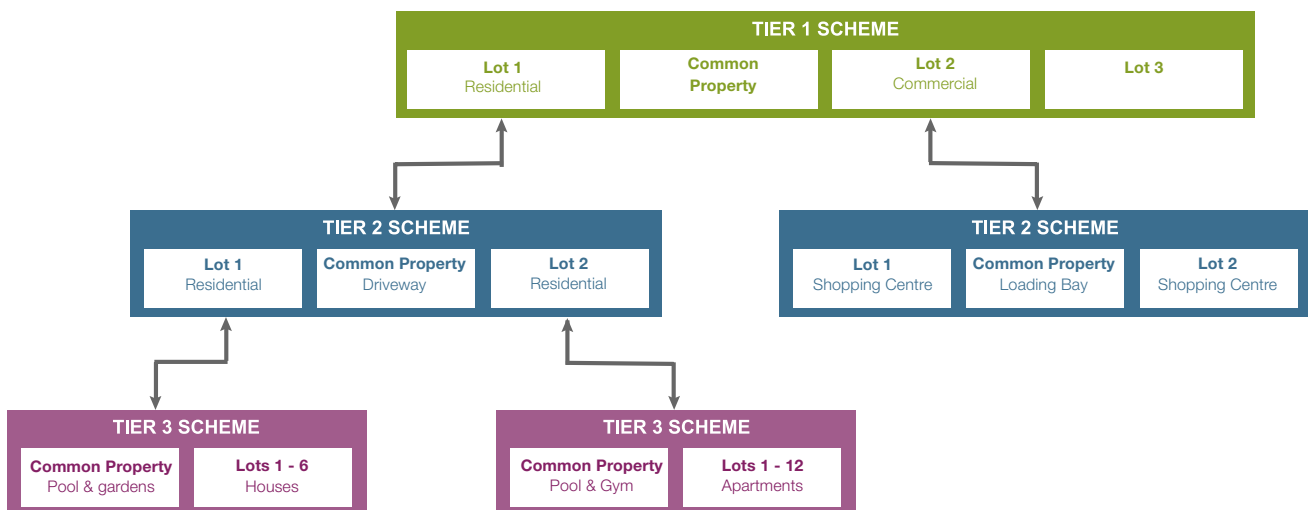


Diagram 1

Diagram 1 displays a hypothetical community scheme. Lot one in the tier 1 scheme (green block) has been subdivided to create a tier 2 scheme intended for residential purposes (blue block on the left-hand side). That tier 2 scheme is comprised of two lots intended for residential purposes which share a driveway as common property.

Lot one of the tier 2 scheme has then been subdivided into the tier 3 scheme (pink block on left-hand side), which is comprised of six lots for residential purposes that have been used to build houses, and which share a pool and gardens as common property.

Lot two of the tier 2 scheme has been subdivided into a tier 3 scheme (pink block on right-hand side), which is comprised of 12 lots for residential purposes that have been used to build apartments which share a pool and gym as common property.

Additionally, lot two in the tier 1 scheme (green block) has been subdivided to create a tier 2 scheme intended for commercial purposes (blue block on the right-hand side). That tier 2 scheme is comprised of two commercial lots that have been used to build shopping centres and which share a loading bay as common property.

You will notice that lot three in the tier 1 scheme (green block) has not yet been subdivided by a community titles scheme and that the tier 2 commercial scheme has not been further subdivided. This is allowed for in community titles schemes as, whilst up to three tiers of community titles schemes are permitted, it is not a requirement.

1.1.3 Tier parcel

A lot subdivided by a community titles scheme is referred to as a tier parcel. A tier parcel can be a tier 1 parcel, a tier 2 parcel, or a tier 3 parcel.

A parcel of land subdivided by a tier 1 scheme is referred to as a tier 1 parcel, a tier 1 lot subdivided by a tier 2 scheme is referred to as a tier 2 parcel, and a tier 2 lot subdivided by a tier 3 scheme is referred to as a tier 3 parcel.

For example:

- A lot in a tier 1 scheme subdivided to create a tier 2 scheme becomes a tier 2 parcel in the tier 1 scheme, and
- A lot in a tier 2 scheme subdivided to create a tier 3 scheme becomes a tier 3 parcel in the tier 2 scheme.

1.1.4 Relationships in and between community titles schemes

There are two terms used in the Act to describe relationships between community titles schemes, these being the terms 'belong' and 'related.'

A lot or common property belongs to the community titles scheme under which it was created:

- A tier 2 scheme belongs to the tier 1 scheme from which it was created.
- A tier 3 scheme belongs to the tier 2 scheme from which it was created, as well as the tier 1 scheme from which the tier 2 scheme was created.

A community titles scheme is related to each community titles scheme to which it belongs or that belongs to it. This means that a tier 2 scheme is related to the tier 1 scheme, which it belongs to, and the tier 3 scheme that belongs to it.

Understanding the terms 'belongs' and 'related' is important as they help to identify the responsibilities of different participants in the overall community scheme. Unlike in a strata titles scheme, the management and ownership of lots and common property within a community titles scheme depends on the tier level of that community titles scheme, as well as its relationship to the other community titles schemes. Therefore, knowing whether a community titles scheme belongs to another community titles scheme, and how the community titles schemes are related to each other, is essential.

In the example in Diagram 1, the tier 3 schemes do not belong to and are not related to the tier 2 commercial scheme.

1.1.5 Community corporations

A community corporation is the body corporate responsible for the overall running and management of the community titles scheme, for example, it is responsible for managing the scheme by-laws, common property, and scheme's finances.

A community corporation is automatically established when the scheme documents to create a community titles scheme are registered by the Registrar of Titles at Landgate.

Each community titles scheme in a community scheme has its own community corporation. As represented in Diagram 2, the community corporation for each community titles scheme is shown in the grey circle.

A community corporation is made up of the lot owners in the community titles scheme, as well as the community corporations (if any) of the community titles schemes that belong to it. This means that:

- The tier 1 community corporation comprises:
 - The owners of the tier 1 lots.
 - The community corporations of any tier 2 schemes that have subdivided tier 1 lots.
- The tier 2 community corporation comprises:
 - The owners of tier 2 lots in the tier 2 scheme.
 - The community corporations of any tier 3 schemes that have subdivided tier 2 lots in the tier 2 scheme.

Note: The tier 2 community corporation does not include the tier 1 community corporation to which it belongs.
- The tier 3 community corporation only comprises:
 - The lot owners in the tier 3 scheme.

Note: The tier 3 community corporation does not include the tier 1 or tier 2 community corporation(s) to which it belongs.

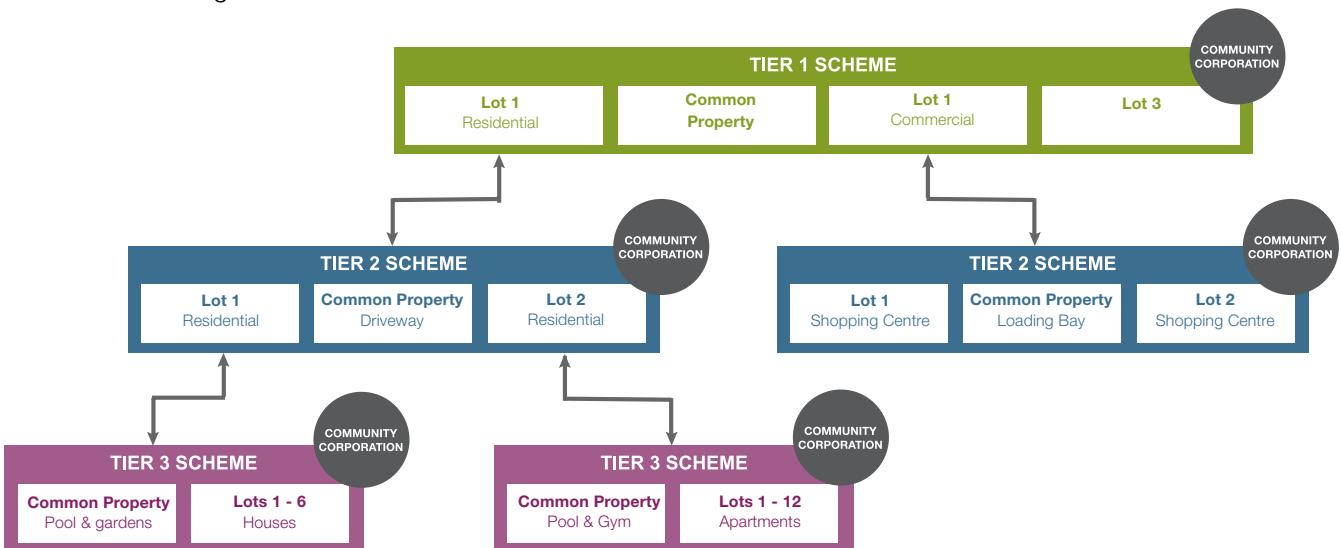


Diagram 2

Diagram 2 represents the members of the community corporation for each of the community titles schemes in this hypothetical community scheme example.

The members of the tier 1 scheme’s community corporation are:

- The community corporations for each of the tier 2 schemes, and
- The lot three owner.

The members of the tier 2 residential scheme’s community corporation are:

- The community corporations for each of the tier 3 residential schemes.

The members of the tier 2 commercial scheme's community corporation are:

- The owners of lots one and two in the tier 2 commercial scheme (neither of these lots has been subdivided by a tier 3 scheme).

The members of the two tier 3 residential schemes' community corporations are the lot owners in each of those schemes. This means:

- The owners of lots 1 – 6 (houses) in the tier 3 scheme are the members of the community corporation for that tier 3 scheme, and
- The owners of lots 1 – 12 (apartments) in the other tier 3 scheme are the members of the community corporation for that tier 3 scheme.

1.1.6 Lots in a community scheme

There are two types of community titles schemes: community titles (building) scheme and community titles (land) scheme.

In a community titles (building) scheme, lots are defined on a scheme plan with:

- Defined upper and lower boundaries,
- Defined lateral boundaries, and
- At least part of each lot is defined by reference to a building shown on the scheme plan (a scheme building).

For those familiar with strata titles principles, community titles (building) schemes are similar to 'built strata' where the boundaries of the lots are defined by reference to a building on the strata plan called a 'scheme building.'

In a community titles (land) scheme, lots are defined on a scheme plan with reference to an area of land, regardless of whether there are buildings on the land. A lot defined by reference to an area of land may include upper and lower boundaries, as well as lateral boundaries, provided the land above or below is common property.

For those familiar with strata titles principles, community titles (land) schemes are similar to 'survey-strata' where no buildings are shown on the survey-strata plan, and the boundaries of lots are surveyed by a licensed land surveyor.

Community titles (building) schemes and community titles (land) schemes can exist at any of the three tier levels within a community scheme. The only exception to this is that a community titles (land) scheme cannot be created from a lot in a community titles (building) scheme.



Community titles (building) scheme

The plan defines lots by reference
to a building shown on the plan



Community titles (land) scheme

The plan defines lots by reference
to an area of land

1.1.7 Common property

The common property in a community titles scheme is any part of the land in the scheme that is not part of a lot.

Every lot owner in a community titles scheme owns a share of the common property in their scheme as a tenant in common with the other lot owners. A lot owner's share in common property in their scheme is determined by the relative unit entitlement of their lot. The term 'unit entitlement' is explained below.

In addition, lot owners in tier 2 or tier 3 schemes own a share of the common property in the community titles schemes to which their scheme belongs.

The community corporation established for a community titles scheme is responsible for controlling and managing the common property in the community titles scheme for the benefit of the members of the community corporation, and if there are other community titles schemes that belong to the community titles scheme, the members of those other community corporations.

An example of who owns and is responsible for common property in a community scheme is set out in the hypothetical community scheme example in section 1.2 of this guide.

Common property also includes 'temporary' common property that may exist in a community titles scheme. Temporary common property comprises land that the community corporation has leased in accordance with the Act and which is registered as temporary common property on the scheme plan for the community titles scheme. Such land is required to adjoin the land in the community titles scheme, or be land that is only separated by a road, railway, or waterway.

Alternatively, a community corporation may lease land that is a lot in the community scheme. For example, the community corporation might lease adjoining land for use by the lot owners as parkland, or the community corporation might lease a lot in the community scheme for use by the lot owners as a recreation/games room. Section 78(1) of the Act sets out the provisions for temporary common property.

1.1.8 Unit entitlement

Unit entitlement is a measure of the value of a lot or tier parcel in a community titles scheme in relation to the sum of the value of all the lots and tier parcels in the community titles scheme. Unit entitlement is set and certified by a licensed valuer.

The schedule of unit entitlements for a community titles scheme shows:

- The unit entitlement of each lot in the scheme, and
- If one or more lots have been subdivided by a community titles scheme, the tier parcel in respect of those schemes.

Unit entitlement is an important aspect of the financial management of community corporations, as the unit entitlement attached to a lot or tier parcel in a community titles scheme determines:

- The contributions a member must pay to the community corporation (subject to scheme by-laws).
- The voting rights on resolutions of the community corporation.
- The lot owner's share in the ownership of the common property.

1.1.9 Community Development Statement

A community development statement (CDS) is a new planning instrument introduced specifically for community schemes.

The Western Australian Planning Commission (Planning Commission) will need to approve the CDS for the subject land and determine that a community scheme is an appropriate form of subdivision before the land can be subdivided by a community titles scheme.

A CDS has a binding effect on planning decision-makers, owners and developers, and the subdivision and development of a community scheme must be completed consistently with the CDS. A CDS can be amended with approval of the Planning Commission. More information regarding the CDS is set out in Section 2, 'Creating community schemes.'

1.2 Community scheme example

The easiest way to understand community schemes is by reference to an example of what a community scheme might look like. Below is a hypothetical community scheme, which is being developed to create a mix of residential types of dwellings, a communal outdoor area and a commercial shopping precinct.

1.2.1 Freehold parcel of land

To create a community scheme, you are required to begin with a single freehold parcel of land. This means that an existing strata titles scheme cannot be directly converted to a community titles scheme, rather the strata titles scheme would first have to be terminated (refer to Landgate's [Land Transaction Toolkit STP-17](#) for information on the termination of a strata titles scheme). Also note that crown land cannot be subdivided by a community scheme.



Diagram 3

The large grey blank area in Diagram 3 represents a parcel of freehold land.

1.2.2 Subdivision of freehold land to create a tier 1 community titles scheme

The first step is for the Planning Commission to determine whether subdivision in the form of a community scheme is appropriate and then approve a CDS for the subject land.

Once the CDS is approved, the next step is for the freehold parcel of land to be subdivided by a community titles scheme to create the tier 1 community titles scheme.

For a subdivision by community titles scheme approved by the Planning Commission to take effect to subdivide land by a community titles scheme, the approved form, '[Application to register a community titles scheme](#)' needs to be lodged at Landgate with the following documents: CDS, scheme notice, tier 1 scheme plan, schedule of unit entitlements and scheme by-laws for the tier 1 scheme.

Note. A parcel of freehold land subdivided by a tier 1 scheme is referred to as a tier 1 parcel.

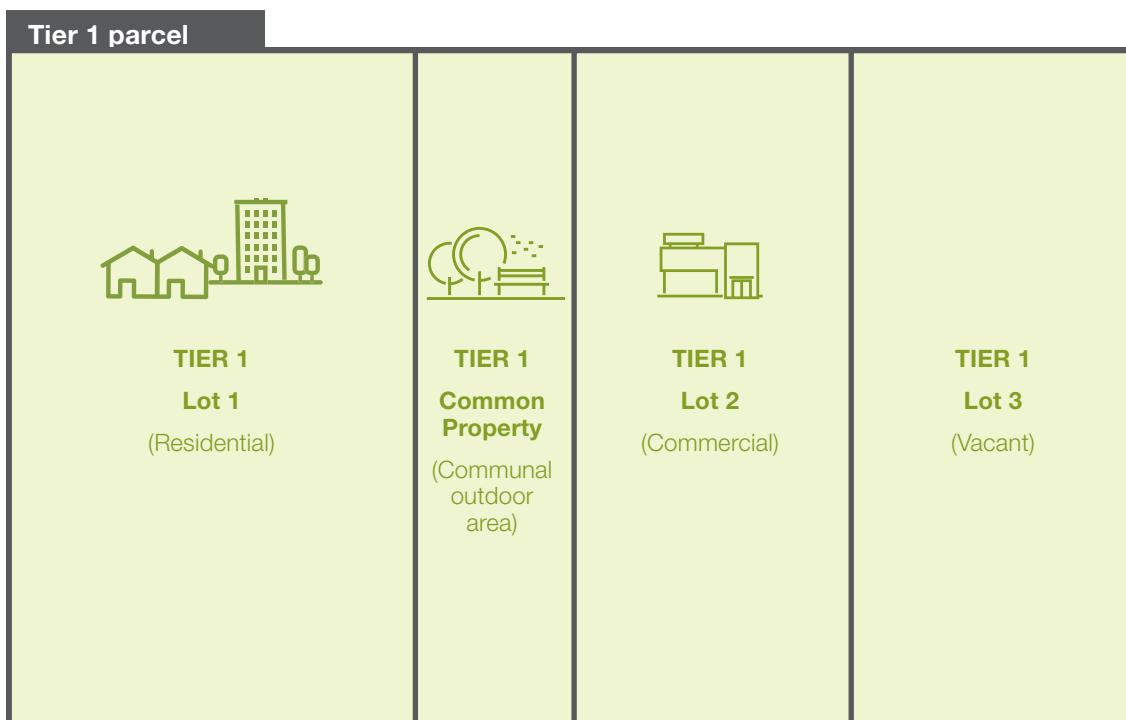


Diagram 4

Diagram 4 illustrates an example subdivision of a parcel of freehold land by a tier 1 community titles (land) scheme. It displays that:

- Lot 1 on the left-hand side has been earmarked for future residential development.
- The common property in the centre is a communal outdoor area, which is tier 1 common property.
- Lot 2 on the right-hand side has been earmarked for future commercial development, such as for a shopping precinct.
- Lot 3 on the right-hand side has been earmarked for development at a later date.

1.2.3 Subdivision of tier 1 lots to create tier 2 community titles schemes

Following creation of the tier 1 community titles scheme, additional tiers of community titles schemes can then be created in sequence. A tier 2 community titles scheme subdivides a tier 1 lot into lots and common property, or just lots. A tier 2 scheme belongs to the associated tier 1 scheme.

To create a tier 2 scheme, in addition to the process to seek approval for the subdivision, an ‘**Application to register a community titles scheme**’ needs to be lodged at Landgate with the following documents: CDS, scheme notice, tier 2 scheme plan, schedule of unit entitlements and scheme by-laws for the tier 2 scheme. Only one CDS is required for the entire community scheme. However, amendments to the CDS may be required to support registration of a tier 2 scheme if that scheme is inconsistent with the CDS.

Note. A tier 1 lot subdivided by a tier 2 scheme is referred to as a tier 2 parcel.

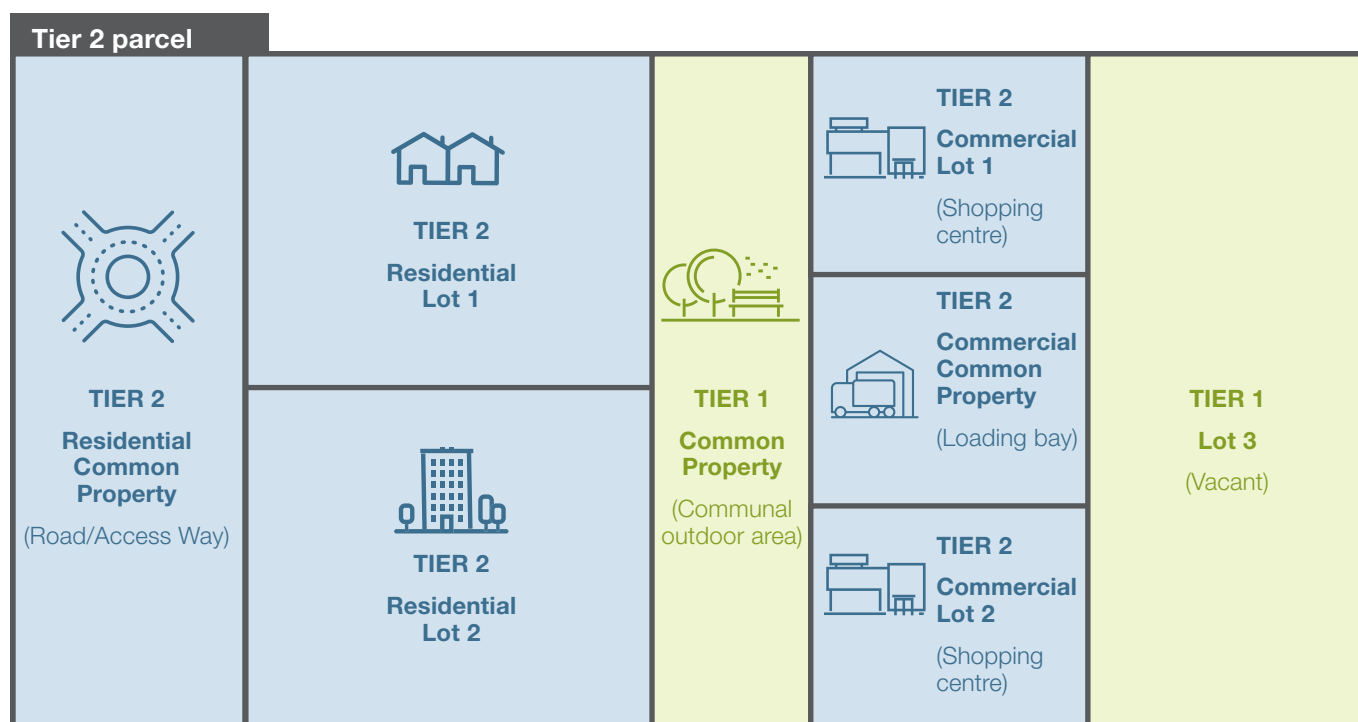


Diagram 5

Diagram 5 illustrates an example subdivision of both tier 1 lots by two tier 2 community titles (land) schemes. It displays:

- On the left-hand side of the diagram (shown in blue), the tier 1 lot for residential purposes has been subdivided by a tier 2 scheme comprising two lots earmarked for residential development and tier 2 common property earmarked for use as a driveway with a roundabout to allow residents to access their lots. All of this is displayed in blue on the left-hand side of the diagram.
- In the centre of the diagram is the tier 1 common property which remains a communal outdoor area (shown in green).
- On the right-hand side of the diagram (shown in blue) the tier 1 commercial lot (lot two) has been subdivided by a tier 2 scheme into two tier 2 lots earmarked for commercial development as a shopping centre, and tier 2 common property that is earmarked for use as a loading bay for both shopping centres to use.

1.2.4 Subdivision of tier 2 lots to create tier 3 community titles schemes

A tier 3 scheme is created when a tier 2 lot is subdivided by a tier 3 community titles scheme. The tier 3 scheme belongs to both the tier 2 scheme from which it is created, and to the tier 1 scheme that first created that tier 2 scheme.

To register a tier 3 scheme, the following documents are required to be registered by the Registrar of Titles at Landgate: scheme notice, tier 3 scheme plan, schedule of unit entitlements and scheme by-laws for the tier 3 scheme. A separate CDS is not required for a tier 3 scheme if the tier 3 scheme is consistent with the CDS. However, if the tier 3 scheme is not consistent with the CDS, an amendment to the CDS must be lodged with the Planning Commission.

Note. A tier 2 lot subdivided by a tier 3 scheme is referred to as a tier 3 parcel.

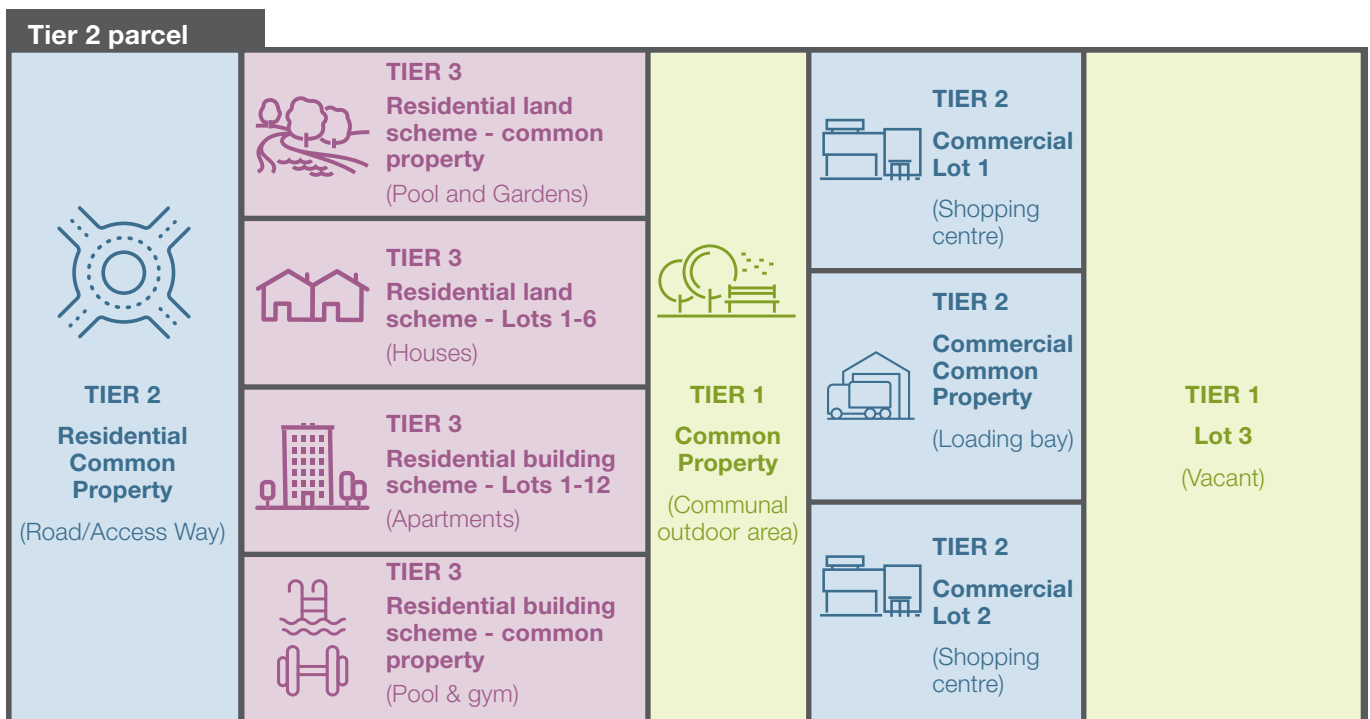


Diagram 6

Diagram 6 illustrates an example subdivision of both tier 2 lots by two tier 3 schemes.

It displays:

- The two tier 2 lots for residential purposes have been further subdivided to create two tier 3 schemes that will be used for residential development (houses and apartments).
 - The residential scheme shown in the pink blocks at the top of the diagram is a community titles (land) scheme. It includes common property (it may contain communal facilities such as a pool and gardens etc), and is comprised of six lots that will be used to build freestanding houses.
 - The residential scheme shown in the pink blocks at the bottom of the diagram is a community titles (building) scheme, and is comprised of 12 lots that will be used to build apartments and includes common property (pool and gym).

- The tier 2 residential common property remains, as displayed in blue on the left-hand side of the diagram.
- The tier 1 common property used as a communal outdoor area remains, as displayed in green in the centre of the diagram.
- The two tier 2 commercial lots have not been further subdivided, as displayed on the right-hand side of the diagram.

1.2.5 Application of the example: understanding your rights and obligations as a lot owner or occupier in a community titles scheme

It is important for an owner of a lot in a community titles scheme to understand what they own, which common property they, or an occupier of the lot are permitted or not permitted to use, and which rules (scheme by-laws) apply to them or an occupier of the lot.

For example, let's say that you are an owner of a lot in the tier 3 residential scheme that has been used to build a house, as illustrated in Diagram 7.

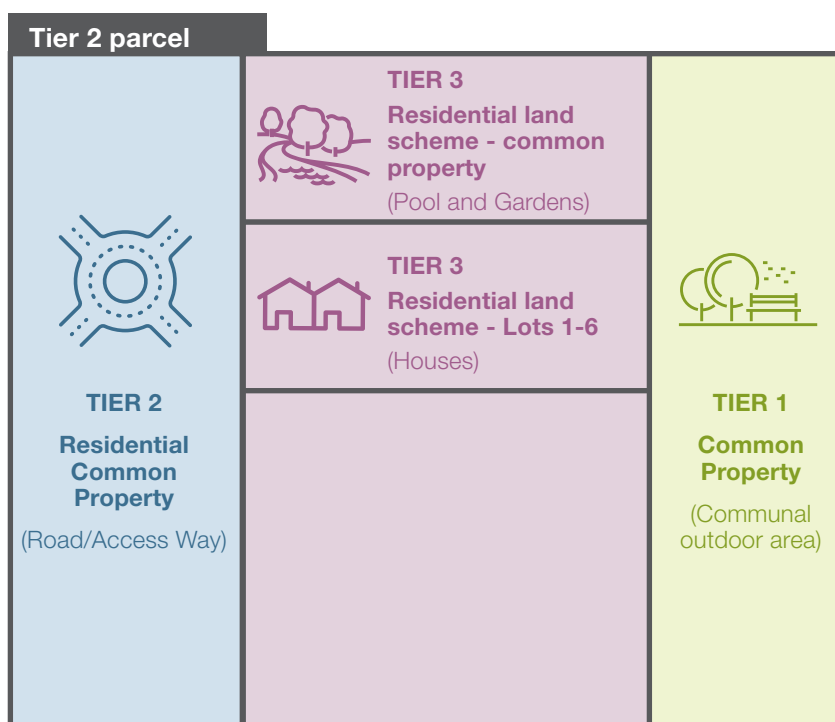


Diagram 7

What you own

- Your own house.
- Your lot in the tier 3 community titles (land) scheme.
- An undivided share in the tier 3 common property (which may contain features such as a pool and gardens). This means that you own the tier's common property in common with the other lot owners in the tier 3 community titles (land) scheme.
- An undivided share in the tier 2 common property (the driveway) shared with all the lot owners in both of the tier 3 residential community titles schemes.
- An undivided share in the tier 1 common property (the communal outdoor area) shared with all of the lot owners in the entire community scheme.

The common property that you can use

It is important to understand that you can use the common property that you own, subject to any restrictions in the scheme by-laws of the relevant community titles scheme. You will also need to pay for your share of contributions in respect of that common property, with levies based on unit entitlement.



Diagram 8

Diagram 8 represents the entire community scheme and sets out the common property that is shared across the community titles schemes at the different tier levels.

As an owner of a lot in the tier 3 residential land scheme (freestanding house), what can I use?

- The tier 3 residential scheme common property (the pool and gardens)
- The tier 2 common property (the road/access way)
- The tier 1 common property (the communal outdoor)

The exception to use of the above-mentioned common property is when there are specific scheme by-laws which set out different rules. For example, it is possible for an exclusive use by-law to exist in community titles schemes, which may exclude your use of common property. For information regarding exclusive use by-laws, refer to Section 5, Scheme By-Laws of this guide.

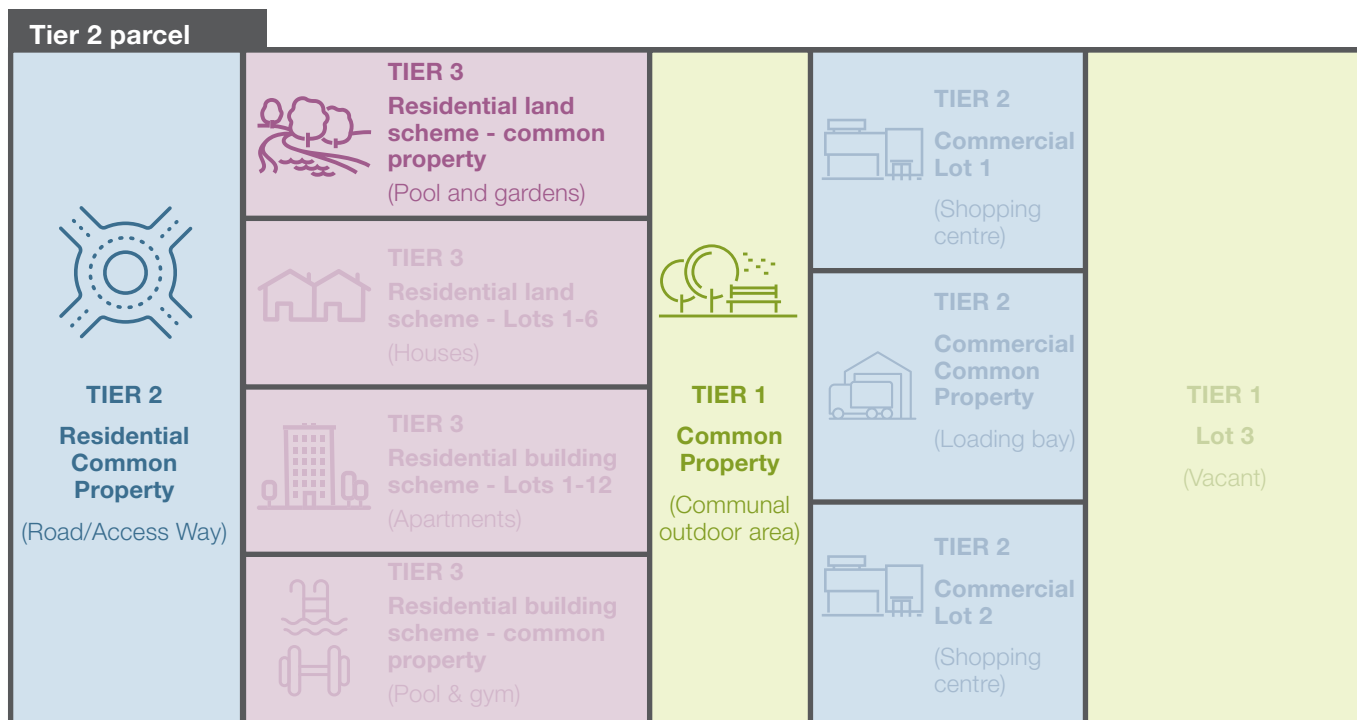


Diagram 9

Diagram 9 highlights the common property that you can use.

As an owner of a lot in the tier 3 residential land scheme (freestanding house), what am I not allowed to use?

You are not permitted to use common property in a community titles scheme that your community titles scheme does not belong to. In this example, your residential tier 3 community titles scheme was not created from the other tier 3 community titles scheme and therefore your community titles scheme does not 'belong' to it.

As previously mentioned, exclusive use by-laws or scheme by-laws that allow use of certain common property may change this position.

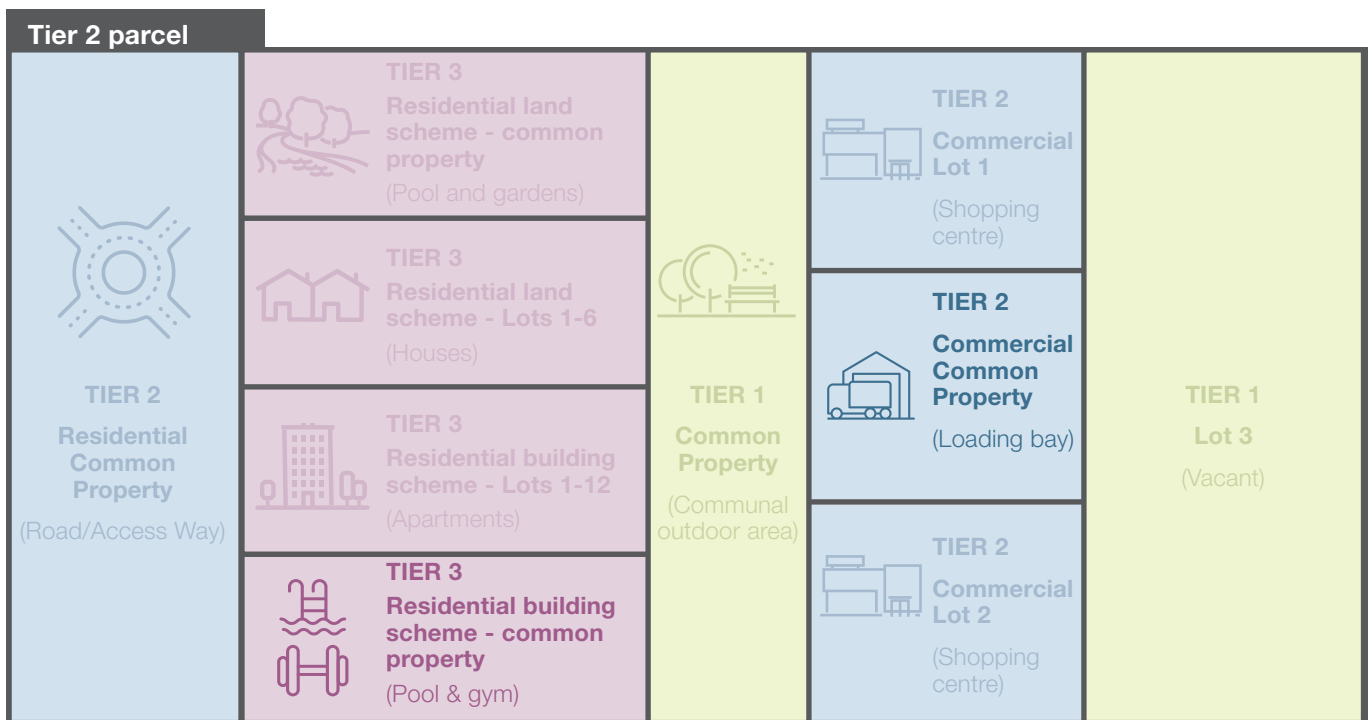


Diagram 10

Diagram 10 illustrates the common property that you cannot use.

In this example, this includes:

- The tier 3 residential building scheme common property (the pool and gym) – this is because your tier 3 land scheme does not belong to the tier 3 residential building scheme.
- The tier 2 commercial common property (the loading bay) – this is because your tier 3 land scheme does not belong to the tier 2 commercial scheme.

The benefit to you of common property that you do not own is that you do not have to pay a share of contributions in respect of that common property, even though it is part of the community scheme.

Scheme by-laws that apply to you as an owner of a lot in the tier 3 residential land scheme (freestanding house)

Scheme by-laws are the rules established by the community corporation to regulate itself.

A lot owner or occupier in a community titles scheme is required to abide by the scheme by-laws of the community titles scheme that their lot is in. This means that you have to abide by the scheme by-laws for the tier 3 residential land scheme.

A lot owner or occupier in a community titles scheme is also required to abide by the scheme by-laws of the other community titles schemes that their community titles scheme belongs to. This means that you have to also abide by the scheme by-laws for the:

- Tier 2 community titles (land) scheme that your tier 3 community titles scheme belongs to, and
- The tier 1 community titles scheme.

The enforcement of scheme by-laws is the responsibility of the community corporation that created those scheme by-laws. Therefore, if you breach a scheme by-law set by the tier 2 community corporation, then the tier 2 community corporation has responsibility to enforce the scheme by-law.

For more information about scheme by-laws, refer to Section 5, Scheme By-Laws of this guide, below.

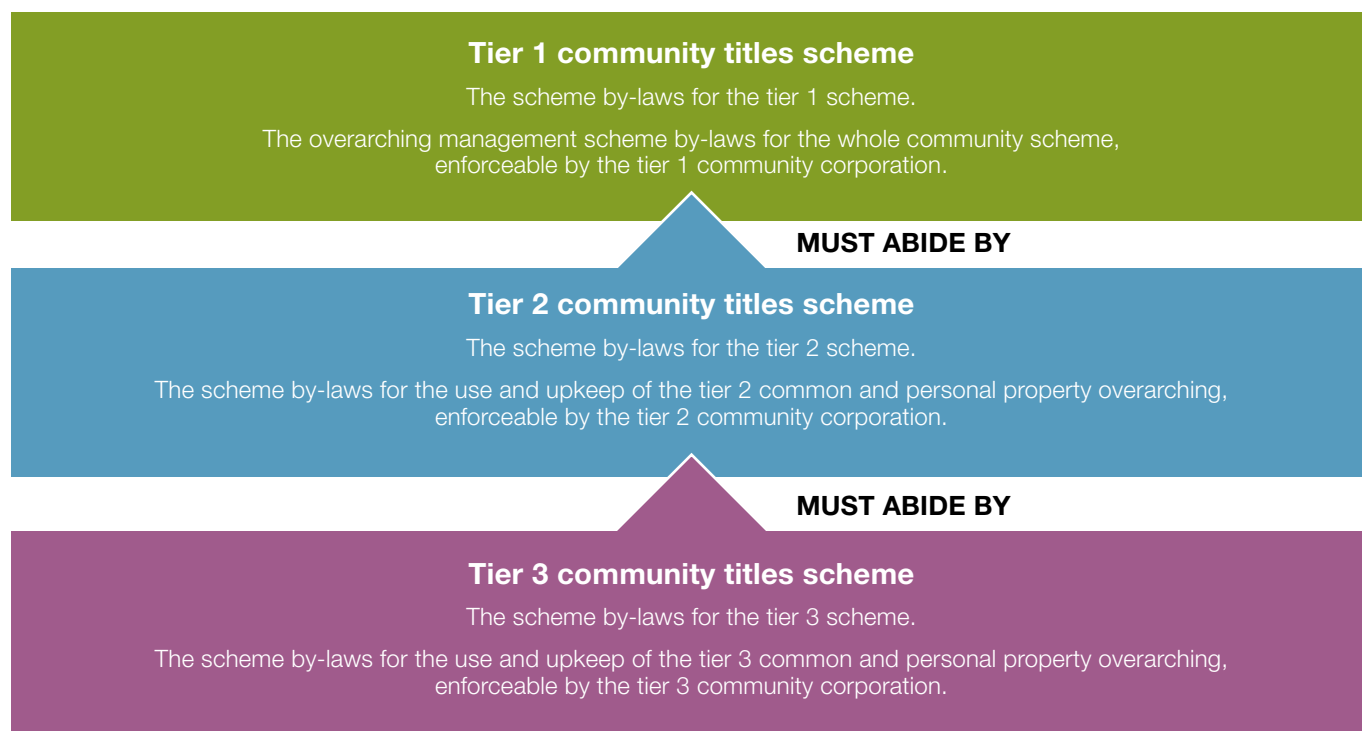


Diagram 11

1.2.6 Application of the example: relative unit entitlement

The Act refers to 'relative unit entitlement' (relative UE). The relative UE of a lot or tier parcel means the proportion that the UE of the lot or tier parcel bears to the sum of the UE of all the lots and tier parcels in the community titles scheme to which the lot or tier parcel belongs. For the purposes of this hypothetical example, this section explains the relative UE values applicable.

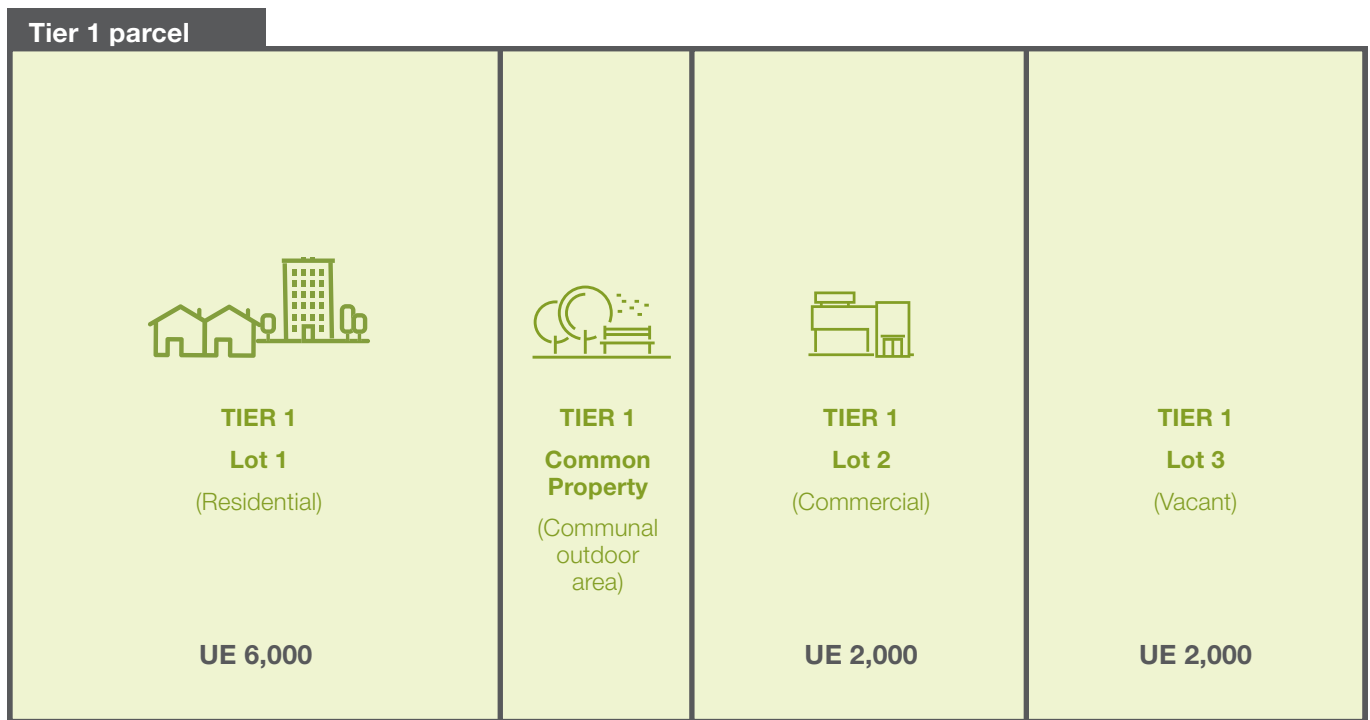


Diagram 12

The licensed valuer has determined the unit entitlement of each lot in the tier 1 land scheme as follows:

- Lot one has a UE of 6,000.
- Lot two has a UE of 2,000.
- Lot three has a UE of 2,000.

The sum of the UE's of all lots and tier parcels in the tier 1 land scheme is 10,000.

The relative UE of:

- Lot one is 6,000 of 10,000.
- Lot two is 2,000 of 10,000.
- Lot three is 2,000 of 10,000.

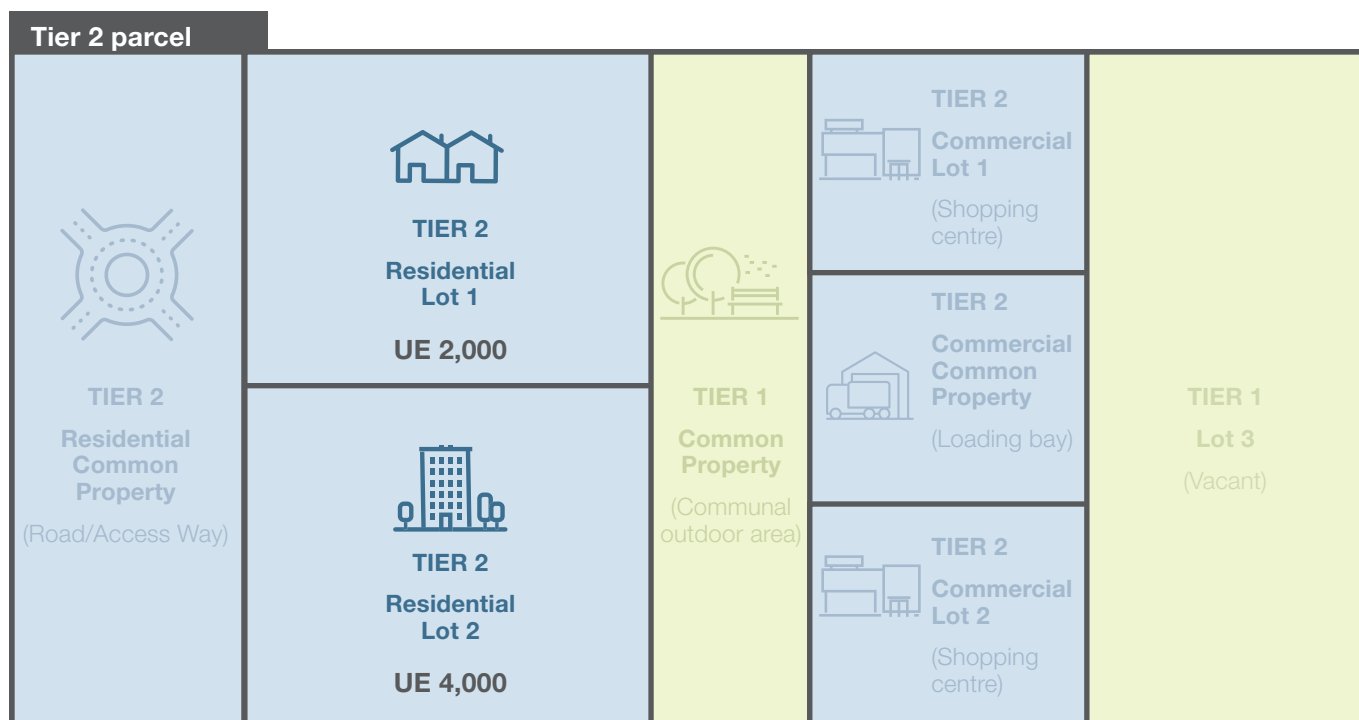


Diagram 13

Focusing on lot one in the tier 1 land scheme, you will recall that it has been subdivided to create a tier 2 scheme with two lots for residential purposes.

The licensed valuer has determined the UE of lot one as 4,000 and the UE of lot two as 2,000.

The sum of the UE's in the tier 2 land scheme is 6,000.

The relative UE of:

- Lot one is 4,000 of 6,000.
- Lot two is 2,000 of 6,000.

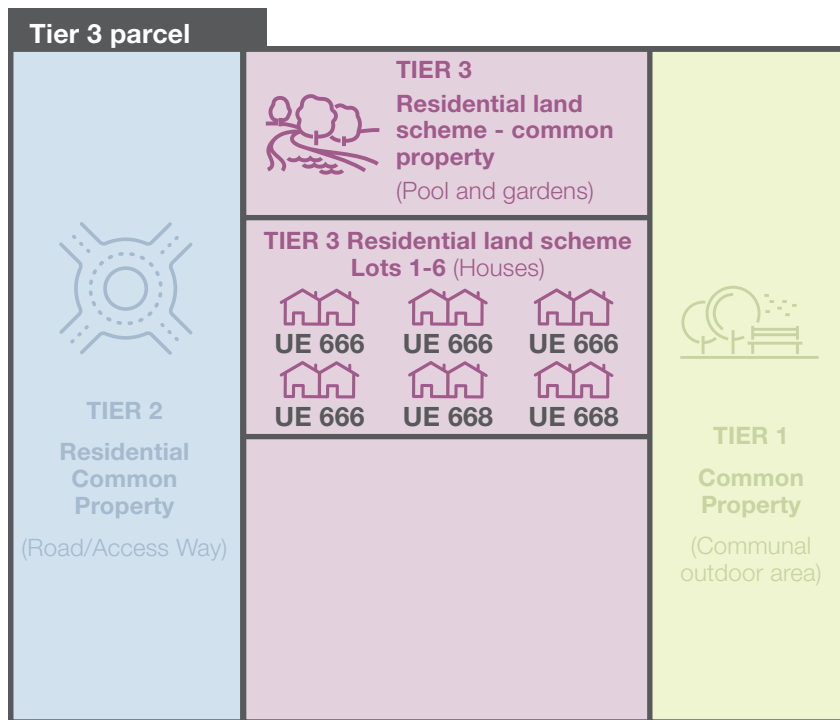


Diagram 14

You will recall that lot one in the tier 2 land scheme has been subdivided to create a tier 3 land scheme, comprised of six lots for residential development (freestanding houses).

The licensed valuer has determined the unit entitlement of each lot in the tier 3 land scheme as set out in the table below.

Lot	UE
1	666
2	666
3	666
4	666
5	668
6	668

The sum of the UEs in the tier 3 land scheme is 4,000.

The relative UE of:

- Lot one is 666 of 4,000.
- Lot two is 666 of 4,000.
- Lot three is 666 of 4,000.
- Lot four is 666 of 4,000.
- Lot five is 668 of 4,000.
- Lot six is 668 of 4,000.

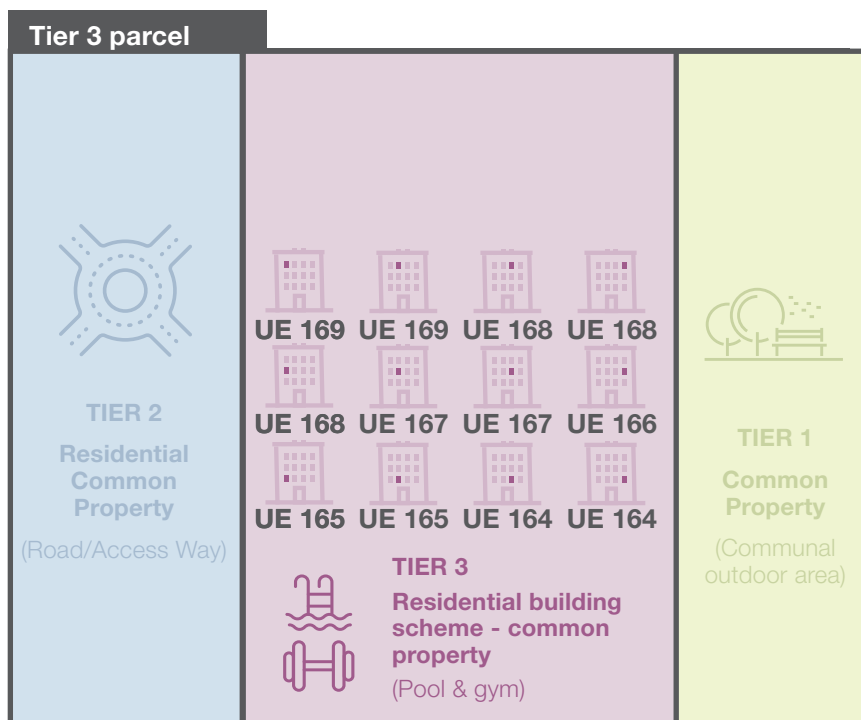


Diagram 15

You will recall that lot two in the tier 2 land scheme has been subdivided to create a tier 3 building scheme, comprised of 12 lots for residential development (apartments).

The licensed valuer has determined the UE of each lot in the tier 3 scheme building as set out in the table below.

Lot	UE
1	169
2	169
3	168
4	168
5	168
6	167
7	167
8	166
9	165
10	165
11	164
12	164

The sum of the UEs of all lots in the tier 3 building scheme is 2,000.

The relative UE of:

- Lot one is 169 of 2,000.
- Lot two is 169 of 2,000.
- Lot three is 168 of 2,000.
- Lot four is 168 of 2,000.
- Lot five is 168 of 2,000.
- Lot six is 167 of 2,000.
- Lot seven is 167 of 2,000.
- Lot eight is 166 of 2,000.
- Lot nine is 165 of 2,000.
- Lot ten is 165 of 2,000.
- Lot eleven is 164 of 2,000.
- Lot twelve is 164 of 2,000.

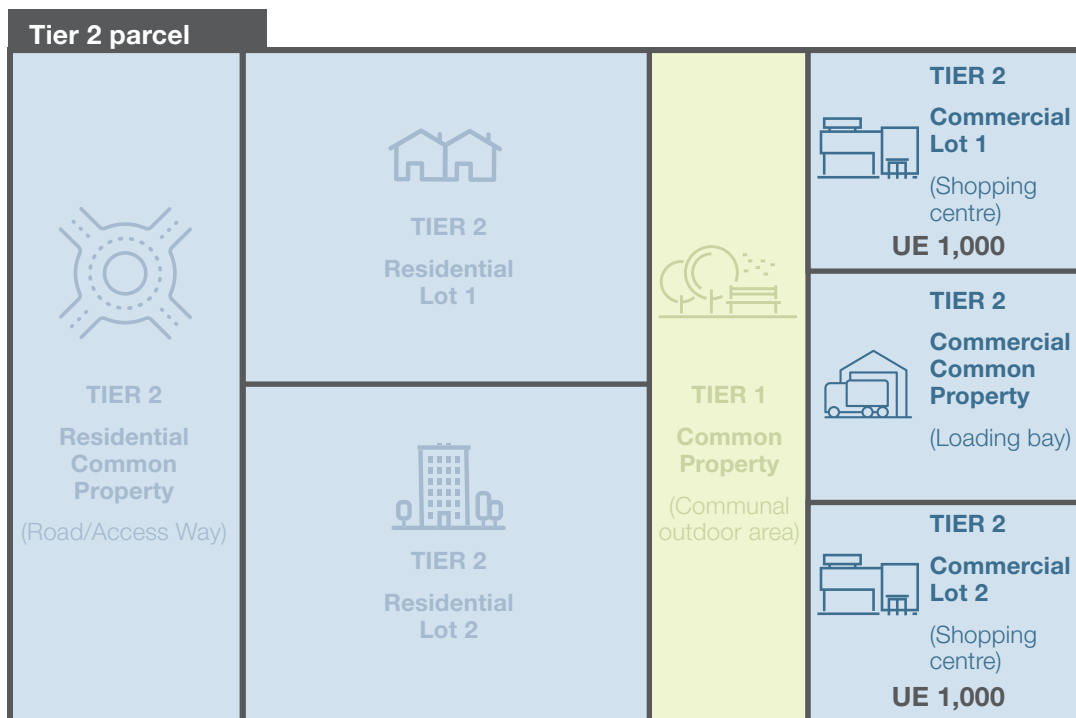


Diagram 16

Focusing on lot two in the tier 1 land scheme, you will recall that it has been subdivided to create a tier 2 land scheme, comprised of two lots for commercial purposes.

The licensed valuer has determined the UE of lot one as 1,000 and lot two as 1,000.

The sum of the UEs in the tier 2 land scheme for commercial purposes is 2,000.

The relative UE of:

- Lot one is 1,000 of 2,000.
- Lot two is 1,000 of 2,000.

1.3 Other considerations to help you understand your rights and obligations as a lot owner/occupier in a community titles scheme

1.3.1 Easements

An easement can be created over land in several ways, including by deed, creation on a plan, or by statute. Examples of easements include shared driveways, drainage, vehicle access, and power lines.

A simple definition of an easement is a right attached to a parcel of land, allowing the owner of that parcel to:

- Use the land of another person, in a particular manner (benefited land); or
- Restrict the use to a particular extent (burdened land).

Easements may be registered against freehold land or Crown land under the *Transfer of Land Act 1893*. The easement is registered against the benefited land and burdened land as the case requires.

1.3.1.1 Statutory easements

The Act creates certain easements, called statutory easements, which benefit and burden lots and common property in the community titles scheme. However, these statutory easements are not registered on the certificates of title for the lots or on the scheme plan.

Easement for support, shelter, and projections

- **See Sections 54 and 55 of the Act**



Every lot and common property in a community scheme is automatically benefited and burdened by easements for support from below and either side of the lot or common property (subjacent and lateral support).

Additionally, every lot and common property in a community scheme that is a community titles (building) scheme is automatically benefited and burdened for the right to be sheltered by all such parts of the building that are capable of affording shelter. This easement entitles the owner of the lot or community corporation as relevant, benefited by the easement to examine, maintain, repair, modify and replace the support, shelter or projection to which the easement relates. For example, such shelter or projections could include structures such as a roof, balcony or eave.

Utility service easement

- **See Section 56 of the Act**



A utility service easement exists for each lot and the common property in a community scheme. This allows for utility services such as water, electricity, sewerage or telephone services to be provided to each lot and the common property.

A utility service easement entitles each community corporation and each owner of a lot, in the community scheme to:

- Install and remove utility conduits.
- Examine, maintain, repair, modify and replace utility conduits.

A utility conduit is a conduit for provision of a utility service, including pipes, wires, cables and ducts.

The location of utility service easements is important information for efficient running of the community titles schemes in a community scheme. Accordingly, if a community corporation or lot owner comes into possession of documents specifying the location of utility services, the lot owner must ensure that the documents are provided to the community corporation and the community corporation must keep such documents it receives from a lot owner or which otherwise comes into its possession.

Common property infrastructure easement

• See Section 57 of the Act



It is possible to install sustainability infrastructure, such as solar panels, or utility infrastructure on common property within a community titles scheme.

The infrastructure can be owned by:

- The community corporation (as personal property).
- All the owners jointly (as common property).
- One or some of the owners.
- A third party (such as a renewable energy supplier).

If the infrastructure is owned by a third party or one/some of the owners, the community corporation can enter into an infrastructure contract with the third party or owner(s) under which the person owns and operates the infrastructure.

If the infrastructure is sustainability infrastructure or utility infrastructure, the community corporation can pass an ordinary resolution that has the effect of applying the statutory common property infrastructure easement to the infrastructure in the contract.

In any other case, the community corporation can pass a special resolution to apply the statutory common property infrastructure easement to the infrastructure in the contract.

The owner of the infrastructure will have access to the infrastructure through the statutory easement. The easement entitles the infrastructure owner to:

- Install and remove the infrastructure specified in the contract.
- Operate the infrastructure.
- Examine, repair, maintain, modify, and replace the infrastructure.

The easement ceases to exist if the infrastructure contract is terminated or otherwise ceases to exist.

Notice requirements for accessing statutory easements

- **See Section 58 of the Act**



A community corporation has a right to enter the common property of its community titles scheme to exercise its rights under a statutory easement without providing notice to any person.

In comparison, a person (including a community corporation) must give notice of entering a lot or common property in order to exercise rights under a statutory easement in the following circumstances:

- For entry to a lot – notice must be provided to the occupier of the lot.
- For entry to common property other than special common property – notice must be provided to the community corporation for the community titles scheme to which the common property belongs.
- For special common property – notice must be provided to:
 - The occupiers of the special lots who have exclusive use and enjoyment of, or special privileges over the special common property under an exclusive use by-law, or
 - The community corporation for the community titles scheme if the special lots are all of the lots in that community titles scheme.

Note. For information regarding ‘special common property’ or ‘special lots’ please refer to section 5.2 ‘Exclusive use by-laws’ of this guide.

Notice by a person (including a community corporation) is not required to be provided in the following circumstances:

- In an emergency if there is insufficient time to give notice.
- For entry to a lot, if the occupier of the lot dispenses with the requirement for notice.
- For entry to common property, other than special common property, if the person has the right to enter and enters only for the purposes of inspection, or the community corporation dispenses with the requirement for notice.
- For entry to special common property, if the requirement for notice is dispensed with by the occupiers of the special lots, or the community corporation for the community titles scheme if the special lots are all of the lots in that community titles scheme.

An approved form, **[‘Notice of entry under statutory easement’](#)**, for providing the required notice is available on the Landgate website. Further information regarding providing notice, including the required period of notice is set out in the **[associated form guide](#)**.

1.3.1.2 Short form easements and restrictive covenants

• See Section 38 of the Act and Part 6 of the Regulations



A scheme plan for a community titles scheme may contain a short form easement or restrictive covenant that benefits or burdens land in the tier parcel. The description of the easement or restrictive covenant is set out in a short form wording on the scheme plan.

The types of short form easements permitted under the Act and the short form descriptions of those easements are set out in the Regulations. These include easements such as an easement for access to, or use of, light and air, an easement for pedestrian access, and an easement for the right of a building to intrude into another lot or common property.

The types of restrictive covenants permitted under the Act are also set out in the Regulations and include a right of way restrictive covenant, land use restrictive covenant, conservation restrictive covenant, building envelope restrictive covenant and fire restrictive covenant. These restrictive covenants burden lots and common property and always benefit a local government, public authority or utility service provider.

A short form easement or restrictive covenant comes into force when the scheme plan, or an amendment of the scheme plan, for the community titles scheme containing the easement or the restrictive covenant is registered.

The rights and liabilities of short form easements and restrictive covenants are set out in the Regulations. Some of the rights and liabilities in the Regulations can be overridden by the terms and conditions set out in the scheme plan or a memorial or other instrument that is lodged with the scheme plan (short form document). However, some rights and liabilities set out in the Regulations prevail over the rights set out in a short form document.

A short form easement or restrictive covenant runs with the land and is binding to the extent that:

- Common property is benefited or burdened by the easement or restrictive covenant, on the owners, from time to time, of lots in the community titles scheme, or in a community titles scheme that belongs to the scheme, and
- Lots are benefited or burdened by the easement or restrictive covenant, on the owners, from time to time, of those lots.

The same notice requirements for accessing statutory easements set out above in section 1.3.1.1 apply to accessing some of the short form easements identified in the Regulations. As previously mentioned, the approved form, **['Notice of entry under statutory easement'](#)** is available on the Landgate website.

For further information regarding short form easements and restrictive covenants, please refer to **[Landgate's Policy and Procedure Guide, EAS-01 Easements](#)**.

2. Creating community schemes

As demonstrated in the community scheme example in Section 1 'Understanding community schemes', to create a community scheme, a parcel of freehold land must be subdivided by a community titles scheme.

The Department of Planning, Lands and Heritage (DPLH) and the Western Australian Planning Commission (Planning Commission) are responsible for determining applications for subdivision associated with creating community titles schemes in Western Australia.

For the Planning Commission to approve a subdivision by a community scheme:

- A Community Development Statement (CDS) must be submitted to the Planning Commission for determination, including determining whether subdivision by a community scheme is appropriate, and
- The relevant planning and development approvals must be obtained under the *Planning and Development Act 2005*.

2.1 Community Development Statement

A community development statement (CDS) is a planning instrument that has been introduced specifically for community schemes. A CDS may be prepared by the owner of the subject land or their authorised agent.

A CDS may control the subdivision of land by a community scheme, development of land subdivided by the community scheme, purposes for which the land subdivided by a community scheme may be used and staging and sequencing of this subdivision and development, as well as other matters relevant to a community scheme.

The key distinction of a CDS in comparison to other statutory planning instruments (such as a local structure plan) is that the CDS can bind planning decision-makers, owners, and developers, whereas other planning instruments cannot. The binding nature of the CDS, which will be explained in section 2.1.2 below, ensures that while a CDS is in force for a community scheme, any subdivision applications made to the Planning Commission before or during the development period for the community scheme, must be approved by the Planning Commission if they could be carried out consistently with the CDS. This enables certainty to be provided to people buying into a community scheme about what will be developed when, as well as setting clear expectations for developers and planning officials.

All community schemes are required to have an approved CDS. The approved CDS is registered by the Registrar of Titles at Landgate when the scheme documents for the tier 1 scheme are registered.

The CDS applies to the community scheme as a whole. This means that if a community scheme is comprised of multiple community titles schemes, a separate CDS is not required for the registration of the tier 2 or tier 3 community titles scheme. In some instances however, it may be necessary to lodge an amendment of the CDS in connection with registration of a tier 2 or tier 3 scheme.

2.2 Assessment process by Western Australian Planning Commission for a Community Development Statement

The Planning Commission has developed an [**Operational Policy 1.11: Community Schemes and Community schemes guidelines**](#), which outlines details regarding the CDS and the CDS approval process.

You should refer to the Planning Commission's Operational Policy for detailed information.

2.3. Registering a community titles scheme

To register the tier 1 community titles scheme, an '[Application to register a community titles scheme](#)' must be lodged at Landgate, together with the scheme documents and the CDS approved by the Planning Commission must be incorporated in the Register by the Registrar of Titles.

The scheme documents for a community titles scheme comprise the scheme notice, scheme plan, schedule of unit entitlements and scheme by-laws.

When the tier 1 community titles scheme is registered over the freehold parcel of land, the community scheme will come into existence. A certificate of title (for each community title for a lot in the scheme) will then be created and registered in accordance with the *Transfer of Land Act 1893* and the tier 1 community corporation will be established for the tier 1 scheme.

For information on how to apply to the Registrar of Titles at Landgate for registration of a community titles scheme, please refer to [Landgate's Policy and Procedure Guide, CTS-07 Registration of community titles schemes](#).

3. How a community scheme operates



Diagram 17

Community schemes operate most effectively when all participants understand their roles and responsibilities, the roles and responsibilities of each other, as well as the rules and processes which govern their conduct. This section sets out the key participants involved in the daily operation and management of community schemes.

3.1 Community corporations

- See Section 17 of the Act



Each community titles scheme must have a community corporation to manage its affairs, such as by having meetings, setting levies and maintaining the common property of that scheme.

As outlined in section 1 'Understanding community schemes' of this guide, a community corporation for a community titles scheme is made up of all the lot owners in the community titles scheme, as well as the community corporations (if any) of the community titles schemes that belong to it, being tier 2 or tier 3 community corporations as relevant.

Upon registration of the community titles scheme by the Registrar of Titles at Landgate, a community corporation is established by a name that clearly identifies the community corporation. The name must include the scheme number. The scheme number is the number of the scheme plan for the scheme. For example, 'Tranquil Waters 12345.' The scheme name will be displayed on the **Scheme notice**, approved form and **form guide**.

The members of a community corporation have a right to take part in decision-making that affects their community titles scheme. In addition, the members can pass resolutions on matters that their community corporation carries forward to a vote at meetings of a scheme that the community corporation is a member of. For information on voting, refer to Section 4, 'Scheme decision making' of this guide.

If you are a lot owner, it is important that you understand your rights and responsibilities as a member of the community corporation, and how you can have a say and be involved in the scheme's decision-making.

3.1.1 Community corporation's functions under the Act

A community corporation is responsible for the overall management of the community titles scheme, including:

- Repairs and maintenance of common property.
- Repairs and maintenance of personal property owned by the community corporation.
- Scheme finances.
- Scheme insurance.
- Scheme recordkeeping.
- Complying with scheme by-laws and enforcing compliance with scheme by-laws.

For information about a community corporation's functions under the Act, please refer to Section 6 'Community corporation's functions' of this guide.

A community corporation has all the powers of a natural person (individual) to undertake its responsibilities. However, the Act imposes some limitations on a community corporation's exercise of powers. For example, some functions can only be performed if authorised by a resolution of the community corporation. There are two types of resolution: ordinary resolution and special resolution. Information regarding these resolutions is set out in Section 4 'Scheme decision-making' of this guide.

Other limitations are that a community corporation is not permitted to:

- Acquire or dispose of land, or an interest in land, except as authorised under section 78 or 79 of the Act.
- Mortgage common property.
- Act as a guarantor.
- Establish a corporation or subsidiary of a corporation, as detailed in the *Corporations Act 2001*.

Note. The Regulations may restrict activity that a community corporation can engage in, but presently no such restrictions are set out in the Regulations.

The Act allows a community corporation to appoint a person or organisation as a scheme manager to perform certain scheme functions under a scheme management contract if it chooses to do so. Information regarding scheme managers and scheme management contracts is set out in section 3.3.3 of this guide.

A community corporation may sue and be sued in its own name for rights and liabilities. For example, in connection with a contract the community corporation enters into with a third party. Note that there is no requirement to register a community corporation with the Australian Securities and Investments Commission. *The Corporations Act 2001* does not apply to a community corporation.

Although the community corporation for a community titles scheme does not own the common property in the scheme, it may enter into transactions related to the common property as if it were the owner and occupier of the common property, subject to appropriate resolutions and consents.

3.1.2 Participating in the community scheme

- **See Section 89 and 90 of the Act**



If a community corporation is a member of another community corporation in the community scheme, it is required to:

- Participate in meetings of that other community corporation.
- Ensure relevant matters are communicated to its members.
- Ensure directions are obtained as to how it should vote or make representations at meetings of the other community corporation.
- Participate on the council of the other community corporation if required under the Act or the scheme by-laws for the other community corporation.
- Stand for election as a member of that council if that is permitted under the scheme by-laws for the other community corporation.

A community corporation is also required to cooperate with each other community corporation in the community scheme, especially in coordinating voting or meetings of its community corporation with voting or meetings of the other community corporations, in order to facilitate participation and decision making of all tiers of the community titles schemes in the community scheme.

3.1.3 Community corporation's objective

A community corporation has the objective of implementing processes and achieving outcomes that are not unfairly prejudicial to or discriminatory against a person, or oppressive or unreasonable. In achieving this objective, the Act requires a community corporation to:

- Take into account any failure of a person to act consistently with the Act or the scheme by-laws.
- Consider the merits of any proposal put to it and the options reasonably available in any particular circumstances.
- Be aware that a resolution or other conduct may be overturned for failure to meet the objective, even if it reflects the will of the majority of members of a community corporation expressed through their voting powers.
- Be aware that the fact a person has chosen to become the owner of a lot does not prevent that person from challenging the performance of a community corporation's function, for failure to meet the objective.

3.2 Community corporation's council

- **See Section 111 of the Act**



The Act recognises that, in some schemes, it may be impractical for all members of a community corporation to participate in the day-to-day running and management of the scheme, and therefore enables a community corporation to be operated by a community corporation's council.

Unless the scheme by-laws provide otherwise, the council of a community corporation is comprised of the community corporations of the community titles schemes that belong to the scheme, as well as the owner of each lot in the scheme. Subject to the scheme by-laws, where the owner of a lot is a body corporate or if there are joint owners, then a nominee of the owner will sit on the council.

Under the Act, certain people are not eligible to be council members of a community titles scheme. For example, a scheme manager of any community corporation in the community scheme, or a person whose affairs are under insolvency laws is not permitted to be a council member. For any period that a member of a community corporation is unfinancial, the member or nominee cannot vote on any matter as a council member.

The council of a community corporation and an officer of a community corporation cannot delegate their functions under the Act.

3.2.1 Role of the community corporation's council

The council of a community corporation is responsible for performing the functions of the community corporation subject to the Act, the scheme by-laws and any ordinary resolution of the community corporation.

If the performance of a function of a community corporation requires an ordinary or special resolution, the council can only perform the function if the community corporation has voted on the proposed resolution and it is passed as an ordinary or special resolution as appropriate. For example, money cannot generally be spent outside the budget unless that is authorised by special resolution of the community corporation, or under the Regulations or by a court or tribunal under section 87 of the Act.

To ensure that your scheme is managed efficiently, it is imperative to form an effective council. This will make sure the duties of the community corporation are carried out. If the community corporation engages a scheme manager to carry out some of the duties of the community corporation, the community corporation's council is responsible for effectively instructing and monitoring the scheme manager's conduct in performing their authorised functions under the scheme management contract.

3.2.2 Officers of a community corporation

The scheme by-laws for a community corporation must assign specific functions to specified officers of the community corporation. For example, the procedural functions of presiding at meetings of the community corporation and making decisions on quorum or other procedural matters at those meetings is required to be assigned to an officer of the community corporation.

An officer of a community corporation (e.g. chairperson, treasurer and secretary) is required to be a member of the community corporation's council.

Additionally, it is important to note that the scope of an officer of a community corporation's role may increase to facilitate participation with other community titles schemes in the community scheme. For example, the scope of the secretary's role in a community titles scheme may increase in order to coordinate correspondence, meetings and voting of members of its community corporation and related community corporations.

3.2.3 Duties of council members to the community corporation

The Act imposes statutory duties on council members, including the duties to:

- At all times act honestly and in good faith in the performance of their functions as a member of the council or officer of the community corporation.
- At all times exercise the degree of care and diligence in the performance of those functions that a person, in their position and in the circumstances of the community corporation, would reasonably be expected to exercise.
- Not improperly use their position to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the community corporation or a member of the community corporation.
- Disclose as soon as possible in writing any direct or indirect pecuniary or other benefit the council member has that conflicts or may conflict with the member's function as a council member or officer of the community corporation.
- Not vote on a matter that requires disclosure of a conflict or possible conflict of interest.

If a council member breaches any of their statutory duties, they may be removed from the council by an order of SAT.

3.2.4 Protections from liability

No civil liability attaches to a council member or officer of a community corporation for anything that they have done or have omitted to be done, in good faith:

- In the performance of a function under the Act or the scheme by-laws, or
- In the reasonable belief that the act or omission was in the performance of a function under the Act or the scheme by-laws.

However, the community corporation can be held liable for such acts or omissions of a council member or officer of a community corporation.

3.3 Scheme managers

- See Section 117-129 of the Act



The Act allows a community corporation to appoint a person or organisation as a scheme manager to perform specified scheme functions under a scheme management contract.

Scheme managers are likely to have broader functions than strata managers under the *Strata Titles Act 1985* due to the tiered nature of community titles schemes, which will require scheme managers to interact with other schemes that belong to or are related to the scheme that they manage.

If a scheme manager is authorised to perform a function of a community corporation that requires a special or ordinary resolution before it can be performed, then the scheme manager may only perform the function if the relevant resolution has been passed. Any authorisation of functions is subject to the conditions specified by the community corporation and may be varied or revoked by resolution of the community corporation.

Under the Act, there are some functions that a scheme manager cannot be authorised to perform, regardless of the scheme by-laws. These functions include:

- Authorising a person to perform a scheme function other than as an agent, employee, or contractor of the scheme manager.
- Determining contributions.
- Entering into a contract with another scheme manager, varying, extending or terminating such a contract or making a decision relating to such a contract or the meaning of such a contract.
- The functions of a community corporation as a member of the council or an officer of another community corporation.
- Terminating a contract for services or amenities under section 102 of the Act.
- Commencing proceedings on behalf of the community corporation in SAT or in a court or other tribunal.
- Authorising the community corporation's common seal to be applied to a document.
- Authorising a person to sign documents on behalf of the community corporation or on behalf of the council or an officer of the community corporation.
- A scheme function declared by the Regulations to be a scheme function that may not be performed by a scheme manager.

3.3.1 Duties of scheme managers

- See Section 120 of the Act



The Act imposes a comprehensive set of statutory duties on scheme managers, which are enforceable by the community corporation.

These duties include that a scheme manager of a community corporation must:

- Act honestly and in good faith in the performance of their functions.
- Exercise a reasonable degree of skill, care, and diligence in the performance of their functions.
- Have a good working knowledge of the Act.
- Not make improper use of information acquired as the community corporation's scheme manager, to gain (directly or indirectly) an advantage for themselves or someone else, or to cause a detriment to the community corporation or a member of the community corporation.
- Take reasonable steps to ensure that the scheme manager's agents, employees, and contractors comply with the Act when performing the scheme manager's functions.
- Inform the community corporation in writing of any direct financial or other interest that they have, which conflicts or may conflict with the performance of their functions as scheme manager, as soon as is practicable after they become aware of the relevant facts.
- Inform the community corporation in writing of the amount or value of any remuneration or other benefit that they receive (or have a reasonable expectation of receiving) in connection with the performance of the scheme manager's functions, as soon as is practicable after becoming aware of the relevant facts.

Note. The Regulations provide that this requirement to disclose of remuneration or other benefit does not apply if the amount of the remuneration or other benefit is less than \$100, or the total amount of remuneration or other benefit received from the same person during the calendar year is less than \$100.

3.3.2 Requirements to be met by scheme managers

The Act imposes a number of requirements to be met by scheme managers. These requirements include that:

- A written scheme management contract is in force between the scheme manager and the community corporation.
- The scheme manager and each agent, employee or contractor of the scheme manager engaged in scheme functions satisfies the educational qualifications set out in the Regulations.
- The scheme manager and each agent, employee or contractor of the scheme manager engaged in the scheme functions has undergone the required criminal record checks as set out in the Regulations.
- The scheme manager maintains professional indemnity insurance as required by the Regulations.
- The scheme manager accounts separately for money they are paid or that they receive on behalf of a community corporation. A scheme manager is required to pay all money received on behalf of a community corporation into one of the following accounts:
 - A separate and authorised deposit-taking institution (ADI) trust account for the community corporation.
 - A pooled ADI trust account operating solely for a number of community corporations for which they are a scheme manager.
 - An ADI account of the community corporation nominated to the scheme manager for the purpose of the use of the community corporation.
- The scheme manager lodges a periodic return at Landgate which contains aggregated information about a community titles scheme that they manage, this being information that is ordinarily kept by a scheme manager and that is readily available. The approved form for providing this information is contained on the Landgate website and is titled '[Scheme manager – provision of information about industry](#)'.

Note. The first return is due to Landgate no later than 31 March 2024.

3.3.3 Scheme management contracts

- **See Section 119 of the Act**



The functions that a community corporation authorises a scheme manager to undertake must be set out in a written scheme management contract. A scheme management contract cannot contain provisions that exclude or restrict the scheme manager provisions set out in the Act, or contain a waiver of any right, remedy or benefit conferred under those provisions.

Content of the scheme management contract

- State the scheme manager's name and address for service.
- State the community corporation's name and address for service.
- State the Australian Company Number or Australian Business Number of each party with such a number.
- Specify when the contract starts and ends.
- Specify each scheme function to be performed by the scheme manager under the contract.
- Specify any conditions that are to apply to the performance of the functions.
- Provide that the scheme manager must give the community corporation written reports about the scheme manager's performance of functions under the contract and set out the reporting requirements as to content and timing of the reports.
- Specify the remuneration that is payable under the contract or the manner in which the remuneration that is payable under the contract is to be calculated.

- Specify the accounts to be used under section 122 of the Act.
- Set out the text of, or give notice drawing attention to section 125 of the Act.
- Provide for any other matter that is required by the Regulations.

3.3.4 Termination of a scheme management contract

• See Section 125 of the Act



Under the Act, there are proper grounds for termination of a scheme management contract if:

- The scheme manager contravenes the Act.
- The scheme manager contravenes the scheme management contract.
- The scheme manager is bankrupt or a person whose affairs are under insolvency laws (in accordance with section 13D of the *Interpretation Act 1984*).
- The scheme manager is a Chapter 5 body corporate within the meaning given in section 9 of the *Corporations Act 2001* (Commonwealth).
- The scheme manager (or a Director or Chief Executive of the scheme manager) is convicted in WA of an offence punishable by imprisonment for 12 months or longer, and the community corporation is reasonably satisfied that the offence affects the scheme manager's suitability to perform the scheme manager's functions.
- The scheme manager (or a Director or Chief Executive of the scheme manager) is convicted outside of WA (in Australia or elsewhere) of an offence that, if it had been committed in WA, would be punishable by imprisonment for 12 months or longer, and the community corporation is reasonably satisfied that the offence affects the scheme manager's suitability to perform the scheme manager's functions.

To terminate a scheme management contract, a community corporation must comply with the steps required to be undertaken by the Act. Those steps include:

- Providing a written show cause notice to the scheme manager, which includes:
 - A statement that the community corporation proposes to terminate the contract and specifies the grounds for this proposed termination.
 - Particulars of the facts relied on as evidence of the grounds it proposes to terminate the contract on.
 - Invitation to the scheme manager to make written submissions to the community corporation as to why the scheme management contract should not be terminated, and specifies the period (being at least 14 days after the date of the notice) within which the written submissions must be received by the community corporation.
- Giving proper consideration to any written submissions it receives from the scheme manager within the period specified in the show cause notice.
- Providing the scheme manager with a written notice of termination, which specifies the date on which the termination will take effect (minimum of 28 days after the date of the notice) and informs the scheme manager of their right to apply to SAT for a review of the community corporation's decision.

Following termination of a scheme management contract, the scheme manager has an obligation under the Act to return certain items to the community corporation within 28 days after the day on which their scheme management contract is terminated by the community corporation. This applies even if the scheme manager has made an application for review by SAT of the community corporation's decision to terminate the contact.

The items required to be returned to the community corporation include:

- All records of the community corporation, including records of account, in the scheme manager's possession or control.
- All keys and other property of the community corporation in the scheme manager's possession or control.

A scheme manager cannot exercise any claim or lien against, or on, the property of a community corporation that the scheme manager is required to return to the community corporation under the Act.

The Act also provides for the recovery of property where a community corporation has given written notice to a person, requiring that person to deliver all records, keys, or other property of the community corporation that they have in their control to a specified person within a specified period. If the person fails to deliver the property in their control in accordance with the notice received, it is an offence under the Act which carries a penalty of \$3,000.

3.4 Volunteer scheme managers

- **See Section 125 of the Act**



- **See regulation 9 of the Regulations**



Some of the duties on scheme managers do not apply to the owner of a lot in the community scheme who serves as a scheme manager for a community titles scheme in the community scheme, if they perform the work personally:

- For no fee, reward, or benefit, or
- For an honorary fee or reward not exceeding \$250 per calendar year for each lot and tier parcel in the community titles scheme that they manage.

3.4.1 Exemptions for volunteer scheme managers

Volunteer scheme managers are not required to have a scheme management contract in force between the scheme manager and community corporation. They are also exempt from the requirements to obtain criminal record checks, educational qualifications and professional indemnity insurance.

However, a volunteer scheme manager is still required to operate under an authorisation from the community corporation and that authorisation may be subject to conditions. For example, a community corporation could make it a condition of the authorisation that the volunteer scheme manager provides a criminal record check to the community corporation at regular intervals.

3.4.2 Protection from liability

No civil liability attaches to a volunteer scheme manager for anything they have done or omitted to do in good faith:

- In the performance of a function under the Act or the scheme by-laws, or
- In the reasonable belief that the act or omission was in the performance of a function under the Act or the scheme by-laws.

However, the community corporation may be held liable for acts or omissions of a volunteer scheme manager for the community corporation.

3.4.3 Operation of accounts

If a community corporation has a volunteer scheme manager, the community corporation must have an authorised deposit-taking institution (ADI) account, as described in Section 3.3.2 'Requirements to be met by scheme managers' above. The volunteer scheme manager must pay all money received on behalf of the community corporation into an ADI account of the community corporation.

4. Scheme decision-making

All members of a community corporation are entitled to participate in the decision-making of the scheme, through attending meetings of the community corporation and voting on proposed resolutions.

4.1 Voting on proposed resolutions

4.1.1 Resolutions

- **See Section 106 of the Act and Regulation 87**



Resolutions are a formal vote by the community corporation on a proposed matter.

Under the Act, there are two types of resolutions: ordinary and special resolutions.

Note. A termination resolution under Part 11, Division 1 of the Act has different requirements.

- **Ordinary resolution:** One vote may be cast for each lot and tier parcel in the scheme, and the value of the vote is based on the unit entitlement of the lot or tier parcel.

An ordinary resolution is passed if the value of the votes cast in favour of a proposed resolution is more than the value of the votes against – i.e. a simple majority.

- **Special resolution:** One vote may be cast for each lot and tier parcel in the scheme, and the value of the vote is based on the unit entitlement of the lot or tier parcel.

A special resolution is passed by a community corporation if:

- The value of the votes cast in favour of a proposed resolution total more than three quarters of the sum of the unit entitlements of all the lots and tier parcels in the community titles scheme, or
- The community corporation has only two or three members, and the value of the votes cast in favour of a proposed resolution total more than two thirds of the sum of the unit entitlements of all the lots and tier parcels in the community titles scheme.

A proposed resolution can be put to the members of a community corporation either at a general meeting or outside of a general meeting. A resolution can only be proposed by a member of a community corporation who is entitled to vote on the resolution.

How do you put a proposed resolution to the members of the community corporation?

- Prepare a written notice and give it to all members. The notice must include the terms of the proposed resolution and details of the voting system to be used, including:
 - How the vote will be conducted.
 - How a vote may be submitted.
 - The opening and closing dates for submitting a vote.
 - How the owner of a lot will know if their vote has been cast.
 - How the results of the vote will be published.
 - Whether the proposed resolution is to be passed as an ordinary or special resolution.
 - Whether the proposed resolution is a matter for voting on by a tier 1 and/or tier 2 corporation.
- The written notice must be given to all members at least 14 days prior to the date of the meeting where the vote will be taken, or for votes conducted by other means (i.e. electronically) at least 14 days prior to the opening of that voting period.

4.1.2 Voting

The vote attached to a lot:

- Is exercisable by the owner of the lot.
- Is exercisable only through the owners jointly appointing a proxy, if two or more persons own the lot.

The vote attached to a tier parcel:

- Is exercisable by the community corporation for the community titles scheme that subdivides the tier parcel.
- Is exercisable only if the vote of the community corporation is cast according to an ordinary resolution of the members of the community corporation.

Example of a tier parcel:

- A lot in a tier 1 scheme subdivided to create a tier 2 scheme becomes a tier 2 parcel in the tier 1 scheme.
- A lot in a tier 2 scheme subdivided to create a tier 3 scheme becomes a tier 3 parcel in the tier 2 scheme.

A decision about how a community corporation is to vote in respect of its tier parcel on a proposed resolution of a community corporation, of which it is a member, can be made by ordinary resolution, even though the proposed resolution is required to be a special resolution.

Community corporations must organise meetings and voting arrangements to enable resolutions to be decided, and can organise the same resolution to be considered and voted on by all relevant community corporations.

Unfinancial members

Owners and members of community corporations that owe contributions (or other amounts to the community corporation) are sometimes called “unfinancial members.” Such members may be prohibited by scheme by-laws from casting a vote on an ordinary resolution. However, scheme by-laws cannot exclude a member of a community corporation from voting on a matter that requires a special resolution to be passed.

Voting on a motion relating to building defects

Under section 68 of the Act, where a resolution is put to the community corporation for a community titles (building) scheme regarding a defect in a scheme building or a resolution is put to the community corporation of any community titles scheme concerning infrastructure on common property, an original subdivision owner (usually the developer) and people who are associates of an original subdivision owner are excluded from voting on this resolution. This restriction remains in place for a period of 10 years after completion of the infrastructure or a scheme building.



An **original subdivision owner** for a subdivision means the person who owns, will own or owned the lots in a community titles scheme when first created on a subdivision of land given effect by registration of the scheme or an amendment of the scheme.

Electronic voting

Voting may be conducted via electronic means, such as via email, teleconference or videoconference. Minutes and notices can also be distributed electronically. The voting system, whether it is electronic or by other means must enable votes to be cast in a manner designed to protect the integrity of the voting system and satisfy the requirements of the Act and Regulations.

4.1.1 Example of voting on a proposed resolution

Below is an example of voting on a proposed resolution in a hypothetical scheme - the same one that was introduced in Section 1 'Understanding community schemes'.

For the purposes of this example, the member of the tier 1 community corporation representing the residential interests has put forward a proposal to build a naturescape playground on the tier 1 common property (communal outdoor area).

The amount of money required to build the naturescape playground set out in the budget for the tier 1 community corporation exceeds the amount set in the Regulations. Accordingly, a special resolution is required under section 87(5)(b) of the Act to approve the budget of the tier 1 community corporation at the tier 1 community corporation's annual general meeting.

The community corporations for the tier 2 and tier 3 community titles schemes will also get to vote on the resolution. To be successful, this would require an ordinary resolution to be passed by the tier 2 and tier 3 community corporations.

Voting on a 'naturescape' playground for the tier 1 common property

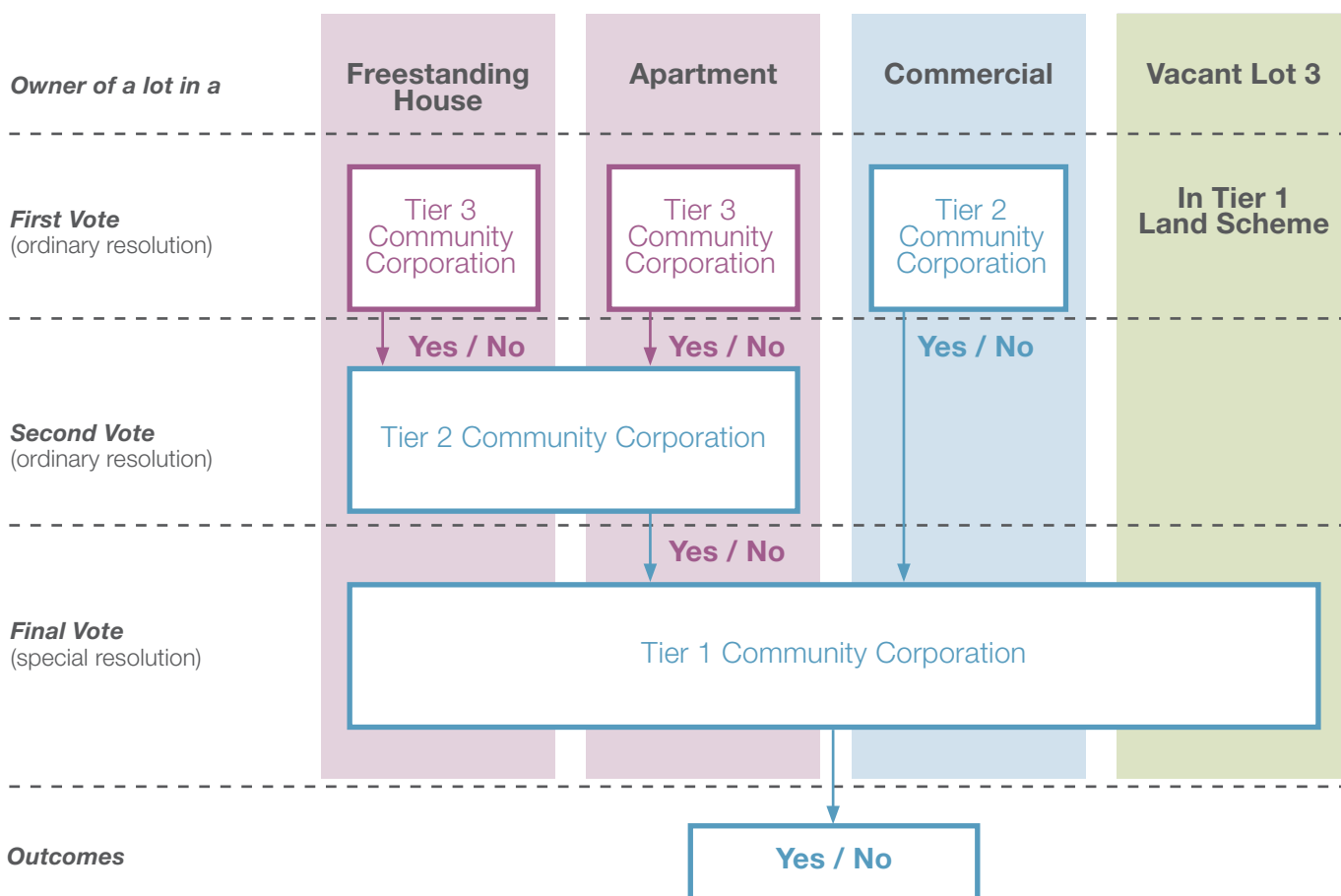


Diagram 18

Diagram 18 represents how voting by the different community corporations may be conducted in practice.

First vote

Voting commences at the tier 3 community corporation level.

The members of the community corporation for the tier 3 community titles (land) scheme which is comprised of six lots (freestanding houses) cast the vote for their lots on the resolution.

The value of each vote is the unit entitlement of the lot. Using the values from example 1.2.6 of this guide, this means that the value of each vote is as follows:

- Lot 1 – 666 of 4,000
- Lot 2 – 666 of 4,000
- Lot 3 – 666 of 4,000
- Lot 4 – 666 of 4,000
- Lot 5 – 668 of 4,000
- Lot 6 – 668 of 4,000

An ordinary resolution is sufficient. For example, if lots one to four each vote in favour of the resolution, the resolution will be passed as an ordinary resolution.

The members of the community corporation for the tier 3 community titles (building) scheme which is comprised of 12 lots (apartment buildings) cast the vote for their lots on the resolution.

The value of each vote is the unit entitlement of the lot. Using the values from example 1.2.6 of this guide, this means that the value of each vote is as follows:

- Lot 1 – 169 of 2,000
- Lot 2 – 169 of 2,000
- Lot 3 – 168 of 2,000
- Lot 4 – 168 of 2,000
- Lot 5 – 168 of 2,000
- Lot 6 – 167 of 2,000
- Lot 7 – 167 of 2,000
- Lot 8 – 166 of 2,000
- Lot 9 – 165 of 2,000
- Lot 10 – 165 of 2,000
- Lot 11 – 164 of 2,000
- Lot 12 – 164 of 2,000

An ordinary resolution is sufficient. For example, if lots one to six vote in favour of the resolution, the resolution is passed as an ordinary resolution.

The tier 3 community corporations will carry the outcome of their scheme's vote to the meeting of the community corporation for the tier 2 community titles (land) scheme for residential purposes where the vote on the resolution is taken. In this example, each tier 3 community corporation would carry a 'Yes' vote to the meeting.

Second vote

At the meeting of the community corporation for the tier 2 community titles (land) scheme for residential purposes, the vote will be taken on the resolution.

The members of the community corporation for the tier 2 community titles (land) scheme for residential purposes, being the community corporations for the two tier 3 schemes, will cast the vote attached to their tier parcels in the tier 2 scheme in accordance with the outcome of the vote of their tier 3 scheme.

The weight attached to the vote of each tier 3 community corporation in the vote on the resolution of the tier 2 community corporation is the unit entitlement attached to their tier parcel in the tier 2 scheme. In this example, this means:

- The weight of the 'Yes' vote cast by the tier 3 community corporation for the residential community titles (land) scheme (freestanding houses) is 4,000/6,000 (67%), and
- The weight of the 'Yes vote' cast by the tier 3 community corporation for the residential community titles (building) scheme (apartments) is 2,000/6,000 (33%).

An ordinary resolution is sufficient. With both tier 3 community corporations voting in favour of the proposal, this resolution is achieved.

The tier 2 community corporation for the tier 2 land scheme for residential purposes, will then carry the outcome of the vote to the meeting of the tier 1 community corporation. The weight of the vote carried is based on the unit entitlement of the tier 2 residential parcel in the tier 1 scheme, this being 6,000/10,000 (60%).

At the meeting of the community corporation for the tier 2 community titles (land) scheme for commercial purposes comprising two lots, the lot owners cast the vote for their lots on the resolution. The value of each vote is the unit entitlement of the lot. Using the values from example 1.2.6 of this guide, this means that the value of each vote is as follows:

- Lot one – 1,000 of 2,000
- Lot two – 1,000 of 2,000

An ordinary resolution is sufficient. For example, if lot one votes in favour of the proposal and lot two votes against the proposal, an ordinary resolution will not be achieved.

The tier 2 community corporation will carry the outcome of the vote to the meeting of the tier 1 community corporation. In this case, a "No" vote would be carried as the ordinary resolution was not achieved. The weight of the vote carried is based on the unit entitlement of the tier 2 commercial parcel in the tier 1 scheme, this being 2,000/10,000 (20%).

Final vote

The final vote will be taken at the meeting of the community corporation for the tier 1 community titles scheme where the tier 2 community corporation for the tier 2 community titles (land) scheme for residential purposes and the tier 2 community corporation for the commercial scheme cast their votes for their tier parcels based on the unit entitlement attaching to those parcels in the tier 1 scheme.

The owner of lot three in the tier 1 land scheme will also cast the vote for their lot. The value of the vote is based on the unit entitlement of the lot, this being 1,000 of 10,000 (10%).

A special resolution is required to be passed for the resolution to be successful (75% vote in favour of the resolution). This means that in this example, for the resolution to be successful, the lot three owner must cast the vote for their lot in favour of the resolution.

4.2 Meetings

- See Sections 108 – 109 of the Act



A community corporation for a community titles scheme has a duty to organise meetings to enable decisions and resolutions to be made by its members.

A community corporation for a community titles scheme must hold an annual general meeting (AGM) once in each 12 months and not later than 15 months after its previous AGM. Additional general meetings can be held when necessary to decide the general running of the community titles scheme and to address any issues which arise.

4.2.1 Annual General Meeting

- See Sections 108 – 109 of the Act



The agenda of the community corporation's AGM must include the following items. These items are required to be included in addition to the items specified below for inclusion in the agenda for a general meeting.

- A presentation of the statement of accounts for the previous financial year.
- A presentation of the budget, including estimates of income and expenditure for the current financial year, to be approved.
- A presentation of the 10 year plan for the reserve fund.
- Presentation of schedules and certificates relating to the insurance required for the community titles scheme for the current financial year (or any part of that year).
- As necessary, the appointment or election of members of the council of the community corporation or officers of the community corporation.

4.2.2 General Meeting

- See Sections 109 – 110 of the Act and Regulation 89



The agenda of a general meeting must include:

- Motion confirming the minutes of the previous general meeting.
- Terms of any resolutions to be put to the members of the community corporation at the meeting. If the resolution is required to be a special resolution, a statement to this effect must be included.
- For a proposed resolution, a statement as to whether the resolution relates to:
 - A matter within the community titles scheme;
 - A community titles scheme in which the community corporation is a member; or
 - A community titles scheme that belongs to the community titles scheme of the community corporation.
- Other items of business that have been notified in writing to the council of the community corporation in time for it to be reasonable for them to be included in the agenda.
- For an item of business, the contact details for a person who can provide further information about the item and a statement as to whether the item relates to:
 - A matter relating to the community titles scheme,
 - A matter for discussion by the community corporation as a member of another community corporation in the community scheme, or
 - A community titles scheme that belongs to the community titles scheme of the community corporation.

- A list of any documents or information associated with a proposed resolution or other item of business that has been prepared or supplied by:
 - The council of the community corporation that is convening the meeting,
 - The scheme manager of the community corporation that is convening the meeting, or a community corporation that is a member of the community corporation that is convening the meeting.
- If the agenda includes such a list of any documents or information set out above, it must also specify where the documents or information may be inspected or obtained.

Convening a General Meeting

A general meeting of the members of a community corporation may be convened by the council of the community corporation.

The council must convene a general meeting on the written request of a member(s) of the community corporation with lots or tier parcels with an aggregate relative unit entitlement of 25% or more.

If within 21 days of the written request being made, the council does not take steps to convene the general meeting, then any of the members making the request may convene the general meeting within three months after the date of the request.



How to convene a general meeting:

1. Prepare a written notice addressed to the community corporation which:
 - Specifies the day, time and place of the meeting (this must be fixed taking into account what might be reasonably expected to be convenient to a majority of the members of the community corporation).
 - Sets out the agenda for the meeting.
2. Provide the written notice to all members of the community corporation at least 14 days prior to the date of the meeting.

4.2.3 Quorum

There must be a quorum present at the meeting before any business may be transacted or any motion voted on.

A quorum is constituted by persons entitled to cast votes for:

- Lots or tier parcels that have a combined relative unit entitlement of 50% or more, or
- If those persons are not present after 30 minutes from the meeting start time, by the persons present at that time who are entitled to vote.

A special resolution cannot be passed at a meeting if a quorum is constituted only by persons present within 30 minutes from the meeting start time.

4.2.4 Facilitating meetings via electronic methods

A meeting of the community corporation can be held with all members or some members (including proxies) participating via remote connection (i.e. telephone, video conferencing, or other electronic means). Use of technology to hold and vote in meetings can be specified in the scheme by-laws.

Minutes and notices can also be distributed electronically.

When using technology, the community corporation needs to consider record keeping methods to ensure the record keeping requirements of the Act are met.

5. Scheme by-laws

- See Section 43 of the Act.



Every community titles scheme is required to have scheme by-laws. Scheme by-laws are the rules established by the community corporation to regulate itself. The scheme by-laws in the approved form, '**Community titles scheme by-laws**' is one of the scheme documents lodged at Landgate with the application to register a community titles scheme. The Registrar of Titles is not permitted to register a community titles scheme if there are no scheme by-laws accompanying the application for registration of the scheme.

Unlike strata titles schemes in WA (which operate under the *Strata Titles Act 1985*), the Act makes no distinction between governance and conduct by-laws, and does not include a standard set of by-laws. This allows scheme by-laws to be tailored to the needs of individual community titles schemes in the community scheme and to provide for the relationships of schemes belonging to and related to each other.

Under the Act, the registered scheme by-laws will be taken to have been made by the community corporation for the community titles scheme.

The Act provides the community corporation with broad powers to make, amend and repeal scheme by-laws for their community titles scheme by special resolution.

The Act sets out requirements regarding the validity of scheme by-laws, for example, scheme by-laws cannot be inconsistent with the Act, the Regulations, or any other written law. Further, the scheme by-laws of a community corporation cannot be inconsistent with the scheme by-laws of any other community titles scheme that they belong to in the community scheme.

The Act also prohibits scheme by-laws from being unfair, discriminatory, oppressive or unreasonable against one or more owners. Any disputes that arise regarding the consistency or validity of scheme by-laws may be resolved by SAT.

5.1 Application of scheme by-laws

- See Section 44 of the Act



The scheme by-laws for a community titles scheme may apply to a range of persons, including:

- The community corporation for the community titles scheme (scheme).
- A member of the community corporation for the scheme (i.e. the owner of a lot in the scheme or a community corporation for a community titles scheme that belongs to the scheme).
- The members of a community corporation for a community titles scheme that belongs to the scheme.
- An occupier or lessee of a lot in the scheme.
- An occupier or lessee of common property in the scheme.
- An occupier or lessee of common property in a community titles scheme that belongs to the scheme.

In other words, a lot owner or occupier in a community titles scheme must abide by:

- The scheme by-laws of the community titles scheme that the lot or common property is in, and
- The scheme by-laws of other community titles schemes that their scheme belongs to.

If a scheme by-law applies to you, then you must comply with it and it can be enforced against you by the community corporation and other members of the relevant scheme. Information regarding the enforcement of scheme by-laws is set out in Section 7.6 of this guide.

Scheme by-laws are not by-laws or subsidiary legislation within the meaning of the *Interpretation Act 1984*, and if they create interests (i.e. an exclusive use by-law), such interests do not have effect as an interest registered under the *Transfer of Land Act 1893*.

Whether you are an owner, occupier or lessee of a lot or common property in the community titles scheme, you must take all reasonable steps to ensure that every person you permit to use or invite onto the lot or common property, also complies with the scheme by-laws that apply to you. Additionally, any lease of a lot or common property in the community titles scheme is taken to contain an agreement that the lessee will also comply with the scheme by-laws.

5.1.1 Application of scheme by-laws example

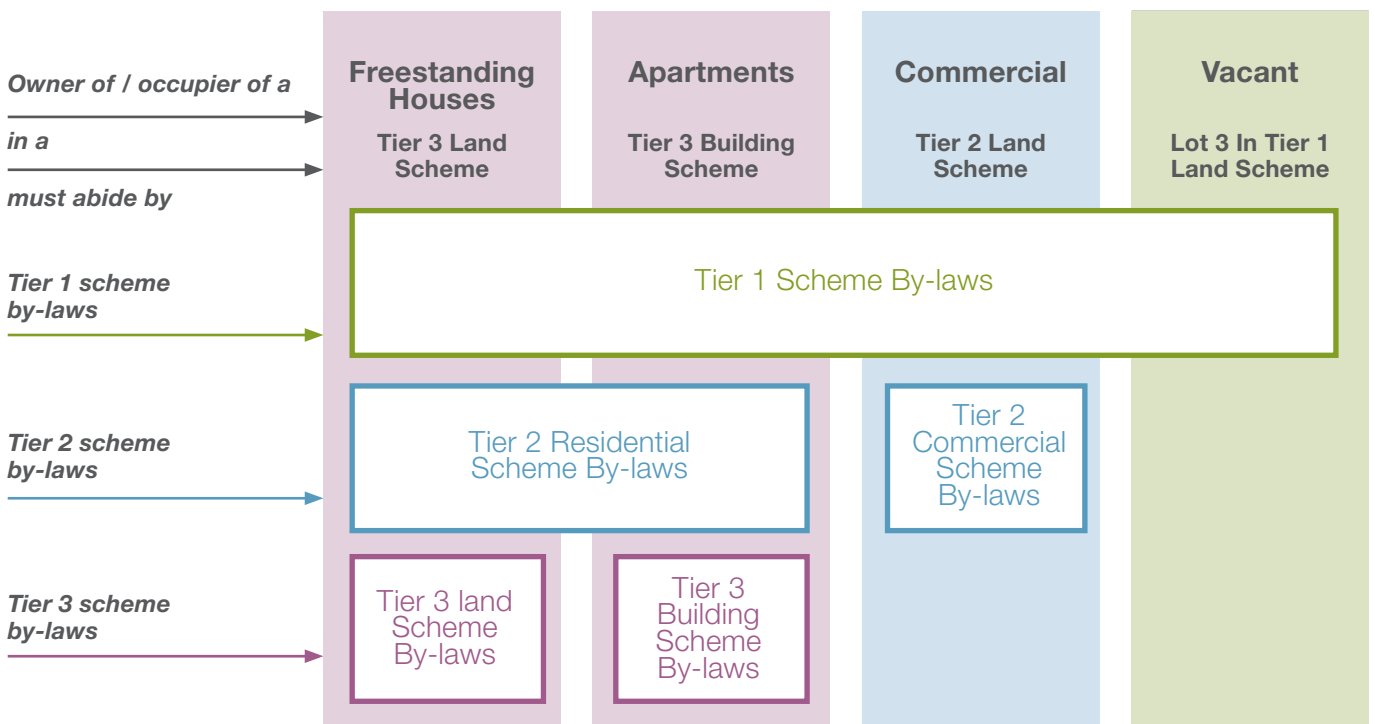


Diagram 19

Using the hypothetical community scheme example from Section 1, ‘Understanding community schemes’ of this guide, Diagram 19 represents the scheme by-laws that apply to the lot owners or occupiers in each of the community titles schemes.

5.1.2 Content of scheme by-laws

When designing a community scheme, it is important that developers think about how the community scheme will be run and managed, and that they develop scheme by-laws that will effectively serve and benefit the individual community titles schemes, as well as the community scheme as a whole from its inception.

The number of community titles schemes within the community scheme that will be developed, and their use type (e.g. residential, retail, commercial or industrial use) will influence the specific scheme by-laws of those community titles schemes.

Although the Act does not provide standard or default scheme by-laws, it provides guidance around matters that can and cannot be dealt with through scheme by-laws. These matters are summarised below.

Matters that can be dealt with through scheme by-laws

- **See Section 44 of the Act**



The Act requires scheme by-laws to assign the following functions to a specified officer in the community corporation:

- The function of presiding at meetings of the community corporation and making decisions on quorum or other procedural matters at those meetings.
- The function of presiding at meetings of the council of the community corporation and making decisions on quorum or other procedural matters at those meetings.
- The following functions relating to financial matters:
 - Receiving, acknowledging, banking and accounting for money paid to the community corporation.
 - Keeping proper accounting records and preparing financial statements and budgets for the community corporation.
- The following functions relating to matters of administration:
 - Notifying members of the community corporation of contributions to be raised from them under the Act.
 - Keeping the records of the community corporation and of the council of the community corporation, and making them available for inspection as required under the Act.
 - Arranging meetings of the community corporation and of the council of the community corporation.
 - Preparing and distributing minutes of meetings of the community corporation and of the council of the community corporation.
 - Giving and receiving notices on behalf of the community corporation under the Act.
 - Answering communications addressed to the community corporation or to the council of the community corporation.
 - Attending to matters of an administrative or secretarial nature in connection with the functions of the community corporation or the council of the community corporation.

Scheme by-laws must also establish a scheme for the appointment or election of each officer of a community corporation who is assigned a function.

The Act also sets out that scheme by-laws may:

- Determine the membership of the council of the community corporation and establish a scheme for the appointment or election of members of the council of the community corporation.
- Determine the procedures of the council of the community corporation, including how it holds meetings and how it makes decisions.
- Specify arrangements for the day-to-day control and management of the common property in the scheme, including infrastructure on the common property.
- Specify arrangements for the day-to-day control and management of utility services subject to a utility service easement.
- Provide for other matters as contemplated by the Act, or as necessary or expedient:
 - For the management, control, use or enjoyment of a lot or common property in the community titles scheme.
 - To govern the functions or procedures of the community corporation.
 - To manage the relationships between the community corporation, related community corporations and their members.
- Without limiting the matters described above, scheme by-laws may:
 - Prohibit or regulate the conduct of a person on the land in the community titles scheme.
 - Require the taking of particular safety or security measures by members of the community corporation.
 - Provide for, and make rules about, the provision of services or amenities to owners or occupiers of lots in the community titles scheme or in a related community titles scheme, including for the payment of fees and charges for the services or the use of the amenities.
 - Prohibit or regulate the construction or modification of buildings or improvements on a lot or common property in the community titles scheme.
 - Provide for a method of apportioning contributions between members of the community corporation other than according to the relative unit entitlements of their lots and tier parcels for all specified purposes.
 - Include exclusive use by-laws.
 - Provide for parking arrangements, keeping of pets, smoking, short term rental accommodation arrangements, and the financial year for the community corporation.
 - Scheme by-laws required under a planning (scheme by-laws) condition that may include a requirement to approve any amendment or repeal of the by-law by the Planning Commission or the planning approval decision-maker.

5.1.3 Validity of scheme by-laws

- **See Section 47 of the Act**



The Act sets out a range of circumstances where a scheme by-law will be deemed invalid, including where:

- There is no power to make the by-law.
- The by-law is inconsistent with the Act or any other piece of legislation.
- The by-law is inconsistent with the community development statement for the community scheme.
- The by-law is inconsistent with a restricted use condition on the scheme plan or amendment of scheme plan for the community titles scheme that restricts the purposes for which the whole or part of the parcel of land on the plan may be used (restricted use condition).

- The by-law is inconsistent with the scheme by-laws for a community titles scheme that the community titles scheme belongs to, such as:
 - The community titles scheme is a tier 2 scheme, and its by-laws are inconsistent with the scheme by-laws of the tier 1 scheme to which the tier 2 scheme belongs.
 - The community titles scheme is a tier 3 scheme, and its scheme by-laws are inconsistent with the scheme by-laws of the tier 2 scheme to which the tier 3 scheme belongs.
- The by-law denies or limits a member of a community corporation's right to vote on a proposed resolution (except the prevention of a member from voting on an ordinary resolution if the member has outstanding contributions to the community corporation).
- The by-law prohibits or restricts the devolution or other dealing with a lot.
- The by-law discharges or modifies an easement or restrictive covenant.
- The by-law is unfairly prejudicial or unfairly discriminatory against one or more owners of the lots or is oppressive or unreasonable.
- The by-law prohibits or restricts the keeping on a lot of an animal that is needed as an assistance animal by a person with a disability.
- The by-law prohibits or restricts the use (on a lot or on common property) of an assistance animal by a person with a disability.

5.1.4 Making, amending and repealing scheme by-laws

Scheme by-laws may be made, amended or repealed by special resolution of the community corporation, but have no effect until registered by the Registrar of Titles.

A community corporation must apply to the Registrar of Titles for registration of an amendment of the community titles scheme to register the scheme by-laws as soon as reasonably practicable and, in any event, within three months of making, amending or repealing the scheme by-law. The application to register, amend or repeal a scheme by-law is an approved form available on the Landgate website, titled '[Community titles scheme by-laws](#)'.

The Registrar of Titles may, but is not obliged to, check the scheme by-laws for compliance with the Act. The Act provides that registration of the scheme by-laws does not mean they are valid or enforceable, and the enforceability of scheme by-laws is not guaranteed by the State.

5.2 Exclusive use by-laws

- **See Section 46 of the Act**



It is possible to create by-laws granting individual lot owners or occupiers exclusive use and enjoyment of, or special privileges in respect of common property in the community titles scheme.

The common property, or specified common property which is the subject of the exclusive use or special privileges, is referred to in the Act as 'special common property.'

The lots that have the benefit of the rights and privileges over the special common property are known as 'special lots.' The special lots may include:

- A specified lot or lots in the community scheme, or
- All lots in a specified community titles scheme belonging to the community scheme.

Note. A special lot can be in a community titles scheme different to the scheme where the special common property is.

Occupiers for the time being and from time to time of the special lots enjoy the exclusive use or other rights and privileges over the special common property.

For exclusive use by-laws to be registered by the Registrar of Titles at Landgate, a sketch plan of the special common property needs to accompany the approved form, '**Community titles scheme by-laws**' when applying to Landgate to register, amend or repeal a scheme by-law. It is recommended that the sketch plan identifying the special common property is prepared by a licensed land surveyor.

5.2.1 Content of exclusive use by-laws

The Act provides that exclusive use by-laws may include:

- Terms and conditions on which the occupiers of special lots may use the special common property.
- Particulars relating to access to the special common property and the keeping of any key necessary for such access.
- Particulars of the hours during which the special common property may be used.
- Provisions relating to the condition, maintenance, repair, renewal or replacement of the special common property.
- Provisions relating to insurance of the special common property to be maintained by the owners of special lots, or a community corporation if all lots in a community titles scheme are special lots.
- Matters relating to the determination of amounts payable to the community corporation by the owners of the special lots, or by a community corporation if all lots in a community titles scheme are special lots, and the imposition and collection of the amounts.
- Provision for the expiry of the by-laws.

5.2.2 Written consent required for exclusive use by-laws

Due to the obligations that may be imposed on the owners of special lots, or on the community corporation if all lots in a community titles scheme are 'special lots,' exclusive use by-laws may only be made or amended with the consent of the owner of each lot proposed to be a special lot, or the community corporation as relevant. However, this consent is not required to repeal an exclusive use by-law.

Exclusive use by-laws may displace the management and control obligations of a community corporation in respect of special common property. A community corporation can recover an unpaid amount in respect of an exclusive use by-law as if the unpaid amount were a contribution levied on the person as a member of the community corporation.

6. Community corporation's functions

6.1 Managing personal property and common property

- See Section 75-77 of the Act



A community corporation's principal function is to control and manage the common property in the community titles scheme for the benefit of its members. If the scheme has other community titles schemes that belong to it, the common property must also be managed for the benefit of the members of the community corporations for those schemes.

In respect of common property, a community corporation has an obligation to keep common property in good and serviceable repair, and properly maintained, as well as to renew and replace common property (including its fixtures and fittings) as necessary because of damage or deterioration arising from fair wear and tear, inherent defects or any other cause.

The community corporation also has a power to improve or alter the common property, and to use or allow the use of the common property for any lawful purpose (including a commercial purpose).

Subject to the community corporation complying with other legislation, for example, the requirement to obtain approval of development under the *Planning and Development Act 2005*, a community corporation may also:

- Install and remove infrastructure on the common property.
- Operate infrastructure on the common property.
- Examine, maintain, repair, modify and replace infrastructure on the common property.
- Take other action as necessary for the performance of its function of controlling and managing the common property.
- Enter into a contract with a person under which the person owns and operates infrastructure on common property to which a statutory common property infrastructure easement applies (if authorised by ordinary resolution in the case of sustainability or utility infrastructure and by special resolution in any other case).
- Enter into specified transactions in respect of common property by special resolution. For example, transferring common property out of the scheme and acquiring land for the purposes of adding to the common property.
- Create temporary common property by accepting a lease pursuant to a special resolution and, by special resolution, surrender a lease of temporary common property.

A community corporation is also responsible for managing the personal property it owns. Personal property might include items such as motor vehicles for owner/occupier use, bicycles, computers and software, or sports equipment. A community corporation must fund the up-keep of personal property so that it is in good and serviceable repair, properly maintained and, if necessary, renew and replace it as required.

To effectively fulfil its obligations of managing and controlling common property and personal property for the benefit of the community titles scheme, sound financial management is required by a community corporation. A community corporation must ensure that it identifies its costs and expenses, properly budgets for them, and levies contributions on its members appropriately.

6.2 Managing scheme finances

- See Section 85 of the Act and Regulation 76



A community corporation must establish two types of fund:

1. An **administrative fund** from which the community corporation's operating costs are paid. For example, insurance premiums, administrative costs of meetings and notices, and scheme manager fees.
2. A **reserve fund** for accumulating funds to meet contingent expenses (other than routine in nature) and major expenses likely to arise in the future (i.e. replacing a lift, or re-surfacing a private road).

Note. There are no exemptions in the Act from the requirement to have an administrative or reserve fund.

6.2.1 Ten year plan

- See Section 85 of the Act and Regulation 76



All community corporations must have a 10 year plan for their reserve fund which sets out the estimated costs for the maintenance, repair, renewal or replacement of the common property and personal property to which the plan relates, and the other information specified in Regulation 76 of the Regulations.

A community corporation must ensure the plan is revised at least once every five years to cover the 10 year period following revision. The first 10 year plan for a community corporation must be submitted for approval at the first AGM of the community corporation.

Under Regulation 76 of the Regulations, the type of information required to be included in the 10 year plan for the reserve fund includes:

- Core details, such as:
 - The name of the community corporation,
 - Address of the scheme for which the community corporation is established,
 - The type of community titles scheme (i.e. building scheme or land scheme), and
 - Plan or investment strategy for monies in the reserve fund.
- Details of 'relevant property' which is the common property and personal property of the community corporation that is anticipated to require maintenance, repair, renewal or replacement (other than of a routine nature) in the period covered by the plan, including:
 - A statement as to whether the relevant property includes infrastructure and if so, a description of the infrastructure. **Note.** Infrastructure includes utility infrastructure, sustainability infrastructure, public infrastructure, transport and traffic control infrastructure and infrastructure associated with community and recreational facilities and bushfire management.
 - A report about the condition of the relevant property and the anticipated maintenance, repair, renewal or replacement requirements of the relevant property in the period covered by the plan (a condition report).
 - The method by which the estimated costs for the anticipated maintenance, repair, renewal or replacement of the relevant property set out in the plan were determined, including any assumptions underlying that determination.
 - A plan or recommendation for the funding of the estimated costs of the anticipated maintenance, repair, renewal or replacement of the relevant property.

- Details of anticipated contingent or major expenses, including:
 - If any common property or personal property is a registered place as defined in section 4 of the *Heritage Act 2018*, the estimated costs for the preservation of the registered place,
 - If the acquisition of adjoining land for common property or temporary common property is anticipated, the required details such as a description of the land and estimated costs and timing of the anticipated acquisition, and
 - If the acquisition of computer systems or technology is anticipated, the required details such as a description of the hardware or software and the estimated costs and timing of the anticipated acquisition.
- If the community corporation anticipates it will improve or alter common property or personal property, the required details such as the description of the improvement or alteration, and estimated costs and timing of the improvement or alteration.

A community corporation may choose to prepare the 10 year plan themselves, or employ or engage a person to prepare the 10 year plan. If the community corporation chooses to employ or engage a person to prepare the 10 year plan, they may decide what qualifications (if any) are appropriate for that role.

You may also find it useful to refer to [Appendix 1](#) to this guide, which sets out items for the purposes of a community corporation's 'relevant property.' Please note that the list is not exclusive.

6.2.2 Budget

- **See Section 87 of the Act and Regulations 77 – 78**



A community corporation must prepare a budget for the scheme for each financial year and submit it for approval to its AGM. In practice, the budget is often prepared by the authorised scheme manager under the scheme management contract.

The budget must be prepared to take into account the 10 year plan and any requirements set out in the Regulations and scheme by-laws. The budget details the anticipated income and expenditure for the upcoming financial year of the scheme. The anticipated income includes the contributions that members will be required to pay. Anticipated expenditure will include the contributions the community corporation is required to pay to a scheme in which it is a member.

Members should always give careful consideration to the prepared budget and raise any questions at their AGM. The budget may be approved by ordinary resolution at the AGM or at a subsequent general meeting with or without modification. The approved budget may be varied by ordinary resolution.

If a budget or budget modification provides for expenditure on an improvement or alteration to common property (other than sustainability infrastructure) that exceeds the amount specified in the Regulations, then:

- The community corporation must provide information to its members regarding that expenditure, and
- The budget or budget variation must be approved by special resolution.

Under the Act, a community corporation may only spend funds that have been authorised under an approved budget, except for:

- Expenditure of an amount not exceeding the amount fixed by special resolution of the community corporation for each lot or tier parcel in the community titles scheme (in a financial year).
- If the community corporation has not fixed the amount by special resolution, expenditure of an amount not exceeding \$500 for each lot or tier parcel in the community titles scheme (in a financial year).
- Expenditure required by a court or tribunal, or by a notice or order given under a written law to the community corporation.

Keep in mind that the requirements set out in the Act have effect subject to any Regulations or scheme by-laws that require a special resolution or other steps to be taken for expenditure of a particular class.

6.2.3 Contributions

- **See Section 88 of the Act and Regulation 79**



The principal way that a community corporation raises revenue to pay for the annual operating costs and to accumulate funds in the reserve fund for contingent expenses, is by contributions collected from members that are informally called ‘levies.’

By ordinary resolution at its AGM or at any other general meeting, a community corporation can:

- Fix the amount it requires by way of contributions from its members.
- Fix the amount of contributions received that are to be credited to either its administrative fund or its reserve fund.
- Fix the intervals at which it requires a member’s contribution to be paid (i.e. monthly, quarterly, half-yearly or annually).
- Allow a contribution to be paid in instalments specified in the resolution.
- Inflate the contribution or instalment payable to allow for a discount if a contribution or instalment is paid on or before the due date.
- If the contribution or instalment is not inflated and discounted, fix a maximum rate of 11% per annum for interest payable for a contribution, or an instalment of a contribution, that is in arrears.
- Determine not to charge interest or to charge a lesser rate of interest in a particular case or in a class of cases.

Apportionment of contributions

Contributions must be apportioned between the members of the community corporation according to the relative unit entitlements of their lots or tier parcels. However, scheme by-laws may provide for a different method of apportionment.

Reminders:

- **“Relative unit entitlement”** refers to the proportion that the unit entitlement of the lot or tier parcel bears to the sum of the unit entitlements of all the lots and tier parcels in the community titles scheme to which the lot or tier parcel belongs.
- Scheme by-laws may be made by special resolution.

A contribution payable by a community corporation that is a member of another community corporation must be apportioned between its members according to the relative unit entitlements of their lots or tier parcels. However, scheme by-laws may provide for a different method of apportionment.

A contribution, or an instalment of a contribution, is payable on the date specified for payment in a notice served by the community corporation on the member of the community corporation.

The notice must be served at least 14 days before the date for payment and specify:

- The amount of the contribution or instalment.
- The date for payment.
- If a contribution, instalment, or interest is in arrears, the amount outstanding.
- The amount that will become payable if the contribution or instalment is not paid on or before the due date or the rate of interest payable on any amount in arrears.
- The apportionment of the contribution and any interest between the administrative fund and the reserve fund.

It is recommended that members keep records of notices received for contributions and the payments that they make to minimise queries regarding contributions.

Payment of a contribution, instalment or interest is enforceable jointly and severally against the members of a community corporation and the subsequent members of the community corporation. A contribution, instalment or interest may be recovered as a debt in a court of competent jurisdiction.

Interest paid on contributions is subject to the same apportionment between the administrative and reserve funds as contributions are.

If a community corporation is the respondent to a successful appeal to the Supreme Court of Western Australia from SAT by a member of the community corporation, the community corporation cannot levy a contribution on the member towards the expenses of the community corporation on the appeal.

6.2.4 Operation of accounts

- **See Section 85 of the Act**



All money received by the community corporation must be credited to either its administrative fund or its reserve fund, and must:

- Be paid into an authorised deposit-taking institution (ADI) account in the name of the community corporation, or
- Be paid into a trust account of a scheme manager of the community corporation under section 122 of the Act.

Interest on money in the administrative fund must be paid into that fund and interest on money in the reserve fund must be paid into that fund.

6.2.5 Accounting records and statement of accounts

- See Sections 86 and 3(1) of the Act



A community corporation must keep proper accounting records of its income and expenditure and prepare a statement of accounts for each financial year showing:

- The assets and liabilities of the community corporation at the end of the financial year.
- The income and expenditure of the community corporation for the financial year.

A presentation of the statement of accounts is required to be made to the members of the community corporation

Financial year for a community corporation means:

- If the scheme by-laws are silent on the matter, the period of 12 months ending on 30 June; or
- If the scheme by-laws specify a period of 12 months ending on a different date as the financial year for the scheme, the period specified in the by-laws.

6.3 Managing scheme insurance

- See Sections 83 - 84 of the Act and Regulation 5



The community corporation is responsible for ensuring that all insurable assets of the scheme are insured against fire, storm and tempest (excluding damage by sea, flood or erosion), lightning, explosion and earthquake.

Insurance cover must be for the replacement value of the asset or the reasonable replacement value up to the maximum amount allowed for a specified event in the contract of insurance.

Insurable assets include:

- The common property of the scheme (including the fixtures and improvements on the common property).
- Parts of a scheme building that comprise the lots in the scheme building (community titles (building) schemes).
- Carpet and floor coverings that are not temporary, on and within common property.
- Buildings on the tier parcel of a community titles (building) scheme, whether or not shown on the scheme plan.

The Regulations also provide that temporary wall, floor and ceilings coverings are not considered to be insurable assets.

Note. The community corporation for a community titles (land) scheme is not responsible for insuring buildings and infrastructure on lots or for obtaining public liability insurance in relation to these lots. The responsibility of securing insurance in relation to a lot in a community titles (land) scheme lies with the lot owner.

6.3.1 Public liability insurance

A community corporation is responsible for obtaining public liability insurance against damage to property, death, bodily injury or illness for which the community corporation could become liable. The amount of cover to be maintained must be not less than the amount specified in the Regulations, which is \$10,000,000.

6.3.2 Obtaining insurance on reasonable terms

The Act makes allowances for when a community corporation has taken all reasonably practicable steps to obtain the required insurances, however, no insurer is willing to provide the required insurance on reasonable terms. In these circumstances, a community corporation must obtain whatever insurance it can obtain on reasonable terms, that most closely meets the insurance requirements of the Act.

The Regulations also make provision for instances where a community corporation is unable to obtain required insurance on reasonable terms due to the presence of infrastructure which is the subject of an infrastructure contract on common property.

In this case, a community corporation may give written notice to an infrastructure owner requiring the infrastructure owner to do one or more of the following in relation to the community corporation obtaining required insurance:

- Take specified action within a specified period.
- Refrain from taking specified action.
- Pay a specified amount to the community corporation within a specified period which is an amount equal to the part of the premium payable by the community corporation for the required insurance that is attributable solely to the risk associated with the presence of the infrastructure on the common property.

A community corporation may seek exemption from insurance requirements on application to SAT.

6.4 Scheme recordkeeping

- **See Section 91 of the Act and Regulations 80 – 82**



A community corporation for a community titles scheme has a responsibility to keep a copy of various types of records. For example, it must keep a copy of the community development statement in force for the community scheme, and the current scheme documents in force for its scheme.

A community corporation is also required to make and retain specific records. Records that they are required to make include items such as minutes of its general meetings and records of its resolutions and decisions of its council. Additionally, if the community corporation is a member of another community corporation or another community corporation's council in the community scheme, it will need to keep additional records such as minutes of those other community corporation's general meetings or resolutions.

There are certain records that a community corporation is required to keep in a manner that facilitates access to the information, particularly for use by the members of the council and officers of the community corporation. These types of records include:

- The terms of any current resolution about the use of the common seal of the community corporation or authorising persons to execute documents on its behalf.

- The current balance of the administrative fund and the reserve fund of the community corporation.
- The current budget (showing estimated income and expenditure) of the community corporation.
- The terms of the most recent resolution determining contributions, the period for which they are determined, the basis on which the contributions are apportioned amongst the members of the community corporation and the date on which they fall due.
- The most recent 10 year plan.
- Any termination proposal submitted to the community corporation that remains current.

The Regulations specify the period that records are required to be kept by the community corporation. In most instances, records are required to be kept by a community corporation for seven years, however a longer period applies for other types as set out in the Regulations.

Please refer to section 91 of the Act and Regulations 80-82 for full details regarding the records required to be made and kept by a community corporation and the period of time for retention of the records.

6.4.1 Scheme contacts register

• See Section 92 of the Act



A community corporation for a community titles scheme is required to maintain a scheme contacts register which contains:

- The contact details of each related community corporation.
- The contact details of each member of the community corporation, the unit entitlement of the member's lot or tier parcel, and if the member is an original subdivision owner, that fact.
- As notified to the community corporation, the contact details of an agent of a member of the community corporation.
- The contact details of each member of the council of the community corporation and each officer of the community corporation.
- The contact details of each scheme manager of the community corporation.
- The contact details of a person (other than a member of the community corporation) who is the owner of a special lot or holds a lease or licence over the common property, or otherwise occupies common property, in the scheme. For information regarding a 'special lot' please refer to section 6.2 of this guide.
- As notified to the community corporation, the contact details of:
 - A mortgagee of a lot in the community titles scheme.
 - A person who leases a lot in the community titles scheme.
 - A person who occupies (other than as the owner) a lot in the community titles scheme.
- If there is a common property infrastructure easement, the contact details of the infrastructure owner.

6.5 Making information available

- See Sections 94 - 98 of the Act and Regulations 83 – 86



A person with a proper interest in information about a community titles scheme may apply in writing to the community corporation:

- For information that is contained in the scheme contacts register, which is maintained by the community corporation.
- To inspect the scheme contacts register, information and records that the community corporation must keep or any other documents in the possession or control of the community corporation.
- For certification of specified contractual or common property related matters.

Who has a proper interest in information about a community titles scheme?

- A member of the community corporation for the community titles scheme.
- A related community corporation or a member of a related community corporation.
- A buyer who has entered into a contract for the sale and purchase of a lot in the community titles scheme or related community titles scheme.
- A mortgagee of a lot in the community titles scheme or a related community titles scheme.
- A person in any of the following classes:
 - A person appointed as a guardian or administrator in respect of the owner of a lot in the community titles scheme or a related community titles scheme.
 - If the tier parcel (whole or a part) is or is intended to be used or occupied as a retirement village:
 - A resident of the retirement village.
 - A person who has entered into a residence contract in relation to the retirement village.
 - A person who has been appointed as a guardian or administrator in respect of a person who is a resident of the retirement village or a person who has entered into a residence contract in relation to the retirement village.
 - A person acting under a power of attorney including an enduring power of attorney or a person acting under an enduring power of guardianship, in respect of:
 - The owner of a lot in the community titles scheme or a related community titles scheme
 - A resident of the retirement village (if applicable).
 - A person who has entered into a residence contract in relation to the retirement village (if applicable).

6.5.1 Fees for applications

A community corporation may, but is not obliged to, provide a copy of any material requested by a person with a proper interest in the information and may charge a fee for these copies of an amount that does not exceed the amount specified in the Regulations.

A summary of the application fees set out in the Regulations is contained in the below table.

Application type	Maximum fee
Information in the scheme contacts register under section 95 of the Act	\$10
Inspection of material under section 96 of the Act	\$1 for a person who has a proper interest in information about a community titles scheme \$100 for a person authorised in writing by the person who has a proper interest in information about a community titles scheme
Copies of material under section 96 of the Act	<ul style="list-style-type: none">• For the supply of a copy of the material on a portable data storage device provided by the community corporation, \$50 plus the actual cost of the device• For photocopies of the material, \$50 for the first 5 pages plus \$1 for each extra page of the photocopy• For the supply of an electronic copy of the material by email or other electronic transmission, \$50
Certificate under section 97 of the Act	\$140

Note. If the community corporation is required to remit GST for the provision of the service that the fee is payable for, then the maximum fee amount can be increased by 10% (refer to Regulation 84(3) and Regulation 86(3)).

A community corporation may specify requirements for the taking of extracts from or making copies of material that a person inspects. A community corporation cannot prevent a person from taking extracts of copies using their own device and cannot charge a person a fee in those circumstances.

Failure to make information available for inspection

The failure of a community corporation to make information available for inspection or provide a certificate in accordance with the requirements of the Act, is an offence under the Act which carries a penalty of \$3,000.

Legal professional privilege and defamation

A community corporation is not required to give or certify any information that is the subject of legal professional privilege. A community corporation also does not have to make available a document or part of a document if that would disclose information that is the subject of legal professional privilege.

It is a defence to an action for defamation if the defendant proves that:

- The defamatory matter was contained in information or a document that the community corporation is required to keep, and
- The publication of the information or document consisted of giving or certifying the information, or making a document available in accordance with the Act.

6.6 Execution of documents

- See Section 104 of the Act



A community corporation can execute a document by either of the following:

- Applying the community corporation's common seal to the document.
- Having the documents signed by a person who is authorised by ordinary resolution of the community corporation to sign documents on its behalf. That person could be a member of the council of the community corporation, members of the council acting jointly, or a scheme manager.

If a community corporation has a common seal, the seal may only be used as authorised by ordinary resolution of the community corporation, and its use must be attested by the signatures of two members of the council of the community corporation.

6.7 Arranging utility connections

With the increasing use of solar photovoltaic panels, lot owners in a community titles scheme may have queries about how to arrange the appropriate utilities connections.

A community scheme may have a single connection point to the Western Power network that determines the total allocation of available electricity supply and generation capacity to be shared by lot owners in all community titles schemes in the community scheme. It may also be the case that individual community titles schemes in the community scheme have further connection points to the Western Power network to be shared by lot owners in their community titles scheme.

As connection points have a fixed capacity, it is important for lot owners and prospective purchasers to be aware of the arrangements and obligations relating to the connection. The capacity of a connection point may restrict a lot owner's ability to install equipment such as home EV charging stations, rooftop solar panels and batteries.

The community corporation is ultimately responsible for the management of the common connection to the Western Power network and the common electrical distribution system within the community titles scheme or community scheme.

Before applying to connect or install home EV charging stations, rooftop solar panels, or batteries, lot owners must first consult the community corporation for their community titles scheme. Scheme by-laws may also deal with or apply to the connection of this type of equipment and should also be consulted. This will ensure more effective management of this shared resource to allow the benefits of renewable energy solutions to be shared by all lot owners.

For further information please contact the community corporation for your community titles scheme in the first instance. Additional information can also be provided by Western Power on 13 10 87.

7. Resolving scheme disputes

The Act gives the State Administrative Tribunal (SAT) the statutory powers to efficiently resolve scheme disputes arising under the Act, however parties are encouraged to resolve the dispute between themselves in the first instance.

If direct resolution does not work, the matter could be the subject of a community corporation/council meeting, or resolution of the community corporation in a general meeting. The scheme by-laws may have a dispute resolution process. Parties can also consider mediation services. Using these options may resolve the matter and avoid the need to take the matter to SAT. This way, both parties can gain an appreciation of the issues under dispute and decrease the likelihood of ongoing conflict between the parties.

When disputes cannot be resolved informally, there is a formal process of dispute resolution provided through SAT. Mediation is regularly used by SAT to assist the parties in resolving the issues in dispute.

7.1 Can SAT resolve the dispute?

- **See Section 162 of the Act**



SAT has the power to resolve many kinds of disputes under the Act, including disputes between scheme participants. Scheme participants include:

- A community corporation in the community scheme.
- A person who is appointed as an administrator of a community corporation in the community scheme.
- A member of a community corporation in the community scheme.
- The occupier of a lot in the community scheme.
- The registered mortgagee of a lot in the community titles scheme.
- A member of the council of a community corporation, or an officer of a community corporation, in the community scheme (who is not a member of the community corporation).

A dispute between scheme participants may be about:

- The community development statement.
- The scheme documents (i.e. scheme notice, scheme plan, schedule of unit entitlements and scheme by-laws), including the validity of scheme by-laws.
- The performance of, or the failure to perform, a function conferred or imposed on a person by the Act or scheme by-laws.
- An alleged contravention of the Act (other than an offence).
- A resolution or decision of a community corporation or the council of a community corporation, including its validity.
- The appointment or election of a member of the council or an officer of a community corporation, including its validity.
- Any other matter arising under the Act or the scheme by-laws.

Other scheme disputes may include:

- A dispute between an applicant for the registration of a community titles scheme or amendment of a community titles scheme and a person whose consent to the application is required, or who may object to the application, relating to the consent or objection.
- A dispute between a person (other than the Planning Commission or a local government) and the community corporation regarding that person's refusal to provide approval or consent to amend or repeal certain scheme by-laws (other than exclusive use by-laws), in circumstances where their approval or consent is required.

- A dispute between an infrastructure owner and a community corporation about a matter connected with a common property infrastructure easement (refer to section 57 of the Act for infrastructure owner and common property infrastructure easement).
- A dispute between an original subdivision owner and a community corporation about a matter arising under Part 6 of the Act (refer to section 8(1) of the Act for meaning of original subdivision owner).
- A dispute between an applicant under section 94 and the community corporation about a matter arising under Part 8 Division 1 Subdivision 6 of the Act (Provision of information to a person with a proper interest in information).
- A dispute between a scheme manager, or former scheme manager, of a community corporation and the community corporation about:
 - A matter arising under Part 9 of the Act (Scheme managers).
 - The scheme management contract.
 - The performance of, or the failure to perform, a function conferred or imposed on the scheme manager.
- A dispute between a buyer or prospective buyer of a lot in a community scheme and the seller of the lot about a matter arising under Part 10 of the Act (Protection of buyers).
- Disputes described in the Regulations, including:
 - Disputes relating to disclosure of information (Regulation 168), including:
 - Disputes relating to the disclosure of personal information by an independent advocate or a person employed or engaged to assist an independent advocate that is required to be kept confidential under Regulation 112(3), and
 - Disputes relating to the disclosure of personal information by a trustee or a person employed or engaged to assist the trustee that is required to be kept confidential under Regulation 154(1).
 - Occupier disputes relating to termination proposals (Regulation 169).
 - Disputes about trustee's performance (Regulation 170).
 - Disputes between an owner of a lot and the proponent of a termination proposal concerning the owner as a vulnerable person (Regulation 171).
- A dispute between the occupier of a lot or common property in a community titles scheme and the proponent of a termination proposal for which a termination resolution has been passed under section 149(6) of the Act.
- A dispute between an owner of a lot and the occupier of a lot in respect of a termination resolution passed under section 149(6) of the Act.
- A dispute between an occupier of a lot or common property, in a community titles scheme and the owner of all lots in the community scheme about the owner's termination of all the community titles schemes in a community scheme under section 161 of the Act.

The Act also specifies particular disputes which do not constitute scheme disputes, these include:

- A dispute with the Planning Commission or some other planning authority.
- A dispute that can be the subject of a review under Part 14 of the *Planning and Development Act 2005*.
- A dispute with the Registrar of Titles, the Valuer-General or a rating or taxing authority.
- A dispute about a contract of mortgage insurance.
- A contractual dispute, or a dispute about an estate or interest in land, between:
 - A scheme participant and a person who is not a scheme participant (other than a dispute arising out of a termination of a contract under section 102 of the Act).
 - The owner of a lot and a buyer, mortgagee or prospective buyer or mortgagee of the lot (other than a dispute regarding the supply of information or protection of buyers).
- A dispute about an amount owed as a debt.

7.2 Making an application to SAT

7.2.1 Who can apply to SAT?

An application for resolution of a scheme dispute can be made to SAT by a party to the dispute.

The occupier of a lot in a community titles scheme can only apply for resolution of a scheme dispute involving another scheme participant if the dispute is about:

- The scheme by-laws.
- A resolution or decision of the community corporation that directly affects the occupier.
- An obligation or right of the occupier under the Act or scheme by-laws.

However, there may be occasions where a member of a community corporation (e.g. a lot owner) in the scheme may make an application to SAT on behalf of the community corporation, if SAT is satisfied that the community corporation has unreasonably refused to make an application to SAT.

7.2.2 How do I submit an application to SAT?

The easiest way to apply to SAT is by visiting their website: www.sat.justice.wa.gov.au.

Depending on the type of application you are making, there may be a time limit on applying to SAT. You should check the Act to see whether there is a time limit for your dispute, as well as the [Time Limits](#) page on the SAT website for more information.

In special circumstances, such as when an applicant lives in a remote location, SAT's Executive Officer may agree to the application being emailed or faxed. If you have special requirements, please contact SAT to discuss.

7.2.3 What happens once the application is lodged with SAT?

Once SAT accepts your application, you will be required to give a copy of the application and all the documents, which you submit with it to each respondent named in your application.

Refer to the section on SAT's website '[Serving the Application](#)' for further details.

Note that if the community corporation is a party to the dispute:

- The following parties are entitled to a copy of, or notice of the application:
 - Each member of the community corporation,
 - Each mortgagee of a lot who has given written notice of the mortgagee's interest to the community corporation, and
 - Each occupier of a lot that would be affected by an order of SAT.
- If the applicant is not the community corporation, the obligation to provide the copy or notice of an application to SAT falls on the community corporation rather than the applicant.

The next step in the process is usually a directions hearing to decide how to move forward. However, on some occasions, SAT may dismiss an application.

Dismissing an application

Using its powers under section 47 of the *State Administrative Tribunal Act 2004* (SAT Act), SAT may dismiss an application brought under the community titles legislation, if it believes the proceeding is:

- Frivolous, vexatious, misconceived or lacking in substance,
- Being used for an improper purpose, or
- An abuse of process.

The Act provides that SAT may also use its power under section 47 of the SAT Act to dismiss an application under the Act:

- If it is satisfied that:
 - The nature and gravity of the dispute is such that it is reasonable to expect the parties to resolve the dispute without recourse to SAT.
 - The purpose of the application is to harass or annoy, or to cause delay or detriment, or is otherwise wrongful.
- If it is not satisfied that:
 - The nature of the dispute is more than trivial.
 - The applicant's interest in the matter is more than trivial and warrants recourse by the applicant to SAT.

Summary decision

SAT may make a final decision in proceedings under the Act at a directions hearing, if it considers that appropriate.

7.3 Declarations by SAT

- **See Section 164 of the Act**



SAT may make a declaration concerning a matter in the proceeding. Without limitation, SAT may make a declaration that:

- A specified person has or has not contravened a specified provision of the Act or scheme by-laws.
- A specified scheme by-law is or is not invalid.
- A specified decision or resolution of a community corporation is or is not invalid.
- A specified appointment or election of a member of a council of a community corporation, or an officer of a community corporation is or is not invalid.
- A settlement date for a contract for the sale and purchase of a lot was, or was not, validly postponed under the Act.
- A contract for the sale and purchase of a lot was, or was not, validly avoided under the Act.

Only a legally qualified member of SAT (or a Tribunal made up of a legally qualified member and other members) can make a declaration.

7.4 Orders by SAT

• See Section 165 of the Act



In a proceeding under the Act, SAT may make any orders it considers appropriate to resolve the dispute. Without limitation, the orders SAT may make include:

- Requiring a scheme document to be amended in a specified manner.
- Requiring a structural element by reference to which a lot in a community titles (building) scheme is defined to be reinstated following its damage, destruction, or removal (Note. This order can only be made by a legally qualified member of SAT).
- Determining the form and location of utility conduits to provide specified utility services subject to a utility service easement.
- Requiring an original subdivision owner to pay a specified amount to a community corporation, being the whole or a part of the remuneration or the value of a benefit that the original subdivision owner failed to disclose as required under the Act.
- Determining action that must be taken or refrained from being taken by a member of a community corporation in response to a written notice from the community corporation under section 84 of the Act to enable a community corporation to obtain required insurance on reasonable terms.
- Authorising a specified person to convene and preside at a general meeting of a community corporation as the first AGM, to appoint or elect members of the council or officers of the community corporation, or for some other specified purpose.
- Order authorising a specified person to convene and preside at a meeting of the council of a community corporation to appoint or elect officers of the community corporation or for some other specified purpose.
- Removing a specified person from office as a member of the council of a community corporation or as an officer of a community corporation.
- Appointing a specified person as a member of the council of a community corporation or as an officer of a community corporation to replace a person removed from office.
- Varying or terminating a scheme management contract.
- Requiring a scheme manager to pay a specified amount to a community corporation, being the whole, or part of the remuneration or the value of a benefit that the scheme manager failed to disclose as required under the Act.
- Requiring a community corporation to take specified action or to refrain from taking specified action in the performance or exercise of its functions, including orders to:
 - Sell or acquire real or personal property.
 - Enter into, vary or terminate a contract, including a contract for services or amenities to the community corporation or its members.
 - Pursue an insurance claim.
 - Vary the amount of insurance cover.
 - Allow the keeping of an animal on specified conditions, or prohibit the keeping of an animal on a lot or common property.
- Requiring a person to take or refrain from taking specified action to remedy or prevent further contraventions of the Act, scheme by-laws or a scheme management contract.
- That the community corporation is taken to have passed or not to have passed a specified resolution required under the Act or the scheme by-laws as an ordinary resolution or special resolution.

- Requiring a party to the proceedings to pay money to:
 - A person specified in the order by way of compensation for any pecuniary loss or damage suffered.
 - Another party to a contract for the purpose of adjusting the position or rights of the parties; consequentially, on the termination or variation of the contract under the order.
- If a declaration is made that a contract for the sale and purchase of a lot was validly avoided under the Act, requiring a person who is holding a deposit or other moneys in trust to pay the deposit or other moneys to the former buyer.
- Appointing an administrator of a community corporation (being a person who has given written consent to the appointment) to perform some or all scheme functions.

In relation to orders made by SAT, the Act also allows for:

- SAT to prohibit a scheme manager or original subdivision owner from seeking or enforcing an indemnity from the community corporation or another party for the payment of money SAT ordered to be paid by a scheme manager or original subdivision owner.
- The order to specify that it is to be taken to come into effect on a date that is earlier than the date the order is made.
- An order to be expressed to remain in force for a specified period, until a specified event or until a further order is handed down by SAT.
- An order to be made to take effect on default being made in complying with some other order made by it.

In relation to orders requiring an amendment of a scheme document, the order:

- Must specify the extent to which the amendment is subject to obtaining approvals and consents that would otherwise be required under the Act, and
- Does not take effect until the Registrar of Titles registers the amendment of the scheme document.

If an order made by SAT is inconsistent with scheme by-laws in force when the order is made, the order prevails to the extent of the inconsistency.

7.4.1 Interim orders by SAT

- **See Section 166 of the Act**



SAT may make an interim order if it is satisfied that it should do so by reason of urgent circumstances of the case.

An interim order remains in force for the period specified in the order (not exceeding three months), and may be renewed by a further order of the SAT for subsequent periods (not exceeding, in any case, three months).

7.4.2 Limitations on orders SAT can make

• See Section 169 of the Act



In a proceeding under the Act the SAT cannot make an order:

- Requiring a community development statement to be amended.
- Requiring an amendment to the schedule of unit entitlements for a community titles scheme unless it is satisfied that, if unit entitlements were to be allocated at the time of the order, the schedule of unit entitlements would require amendment.
- That the community corporation is taken to have passed a resolution for:
 - Termination of the scheme.
 - Fixing or varying contributions unless satisfied that the contributions fixed by the community corporation are inadequate or excessive.
 - Fixing or varying the interest rate applicable to contributions unless satisfied that the interest rate fixed by the community corporation is unreasonable.
 - Determining arrangements for payment of contributions in instalments unless satisfied that the arrangements allowed by the community corporation are unreasonable.
- That the amount of insurance cover be varied unless satisfied that the amount is inadequate or excessive.
- To allow the keeping of an animal on specified conditions or prohibit the keeping of an animal on a lot or common property, unless satisfied that the community corporation has acted unreasonably.
- For compensation for personal injury or death.
- For the payment of money to resolve a dispute between a buyer or prospective buyer and the seller of a lot about a matter arising under Part 10 of the Act (other than to order repayment of the deposit or other money).
- Make an order in circumstances prohibited under the Regulations.

7.4.3 Order by SAT appointing an administrator of a community corporation

• See Section 170 of the Act



An order of SAT appointing an administrator of a community corporation may specify conditions of appointment, such as limiting the functions the administrator is authorised to perform.

If an administrator is appointed, no person other than the administrator may perform a function that the administrator is authorised to perform while the order is in force. The performance of the function has the same effect as if carried out by the person who would have been entitled or required to perform the function if the order had not been made.

SAT may vary or revoke the appointment of an administrator.

An administrator of a community corporation appointed by SAT must, after performing a function under the order:

- Make a written record specifying the function and the manner of its performance.
- Serve the record on the community corporation.

If applying to SAT for the appointment of an administrator, carefully consider the scope of the functions the administrator should be authorised to perform and appropriate conditions of appointment.

7.4.4 Order by SAT regarding contributions for money payable by community corporation

- See Section 171 of the Act



If SAT makes an order that requires a community corporation to pay money on the application of a party to the proceedings or on its own initiative, it may:

- Direct that the money (and any expenses and costs of making the payment) must be paid out of contributions levied in relation to the lots or tier parcels and in the proportions, specified in the order.
- Direct the community corporation to levy contributions in accordance with the order.
- Prohibit the community corporation from levying a contribution that would be payable by another party to the dispute.

7.4.5 Ordering a person to act for a lot owner

SAT may make orders where the owner of a lot cannot be located or the owner lacks capacity to vote or consent to a matter.

The application for such orders may be made by the community corporation or a person who SAT considers has a proper interest in the matters.

These orders can be to:

- Dispense with the requirement for the owner to vote or consent on a matter.
- Authorise the Public Trustee under the *Public Trustee Act 1941* or another specified person (with that person's consent) to exercise all or specified powers of the person under the Act as the owner of a lot.

7.5.6 Enforcement of order to act

- See Section 172 of the Act



Orders made by SAT must be complied with and are enforceable as if made by a Court.

If a SAT order has not been complied with, the way you can seek to enforce the order will depend on what type of order it is. For example, a non-monetary order made by SAT may be enforced through the Supreme Court of Western Australia. For information on how to enforce a SAT order, please refer to the [SAT website](#).

However, it is also worth noting that in some circumstances, the Act allows for an application to be made directly to SAT for an enforcement of the order. This avenue is available to a person who was the applicant in a proceeding under the Act in respect of which SAT made an order to act.

If SAT is satisfied that an order to act has not or has been only partially complied with by the person to whom the order was given, it may:

- Vary, revoke or substitute the order to act.
- Make an order that the person to whom the order to act was given, pay the applicant money as compensation for the failure to act or refrain from acting.

7.5 Internal review of orders and declarations

- See Section 175 of the Act



If SAT is constituted in a proceeding without a judicial member and makes an order or declaration of a class specified in the Regulations, a party to the proceeding may apply for internal review of the order or declaration.

The Regulations specify an order made by SAT where SAT is not constituted by a legal qualified member, is an order capable of internal review. However, an application for this kind of review can only be made if:

- Leave is given by SAT, and
- The application is made within 28 days after the order or declaration is made, or within an extension of that period given by the President of SAT.

An internal review of an order or declaration requires SAT to consist of:

- A judicial or senior member who is a legally qualified member, and
- Such other members, if any, as the President of SAT considers appropriate.

On an internal review of an order or declaration, SAT may affirm, vary, or set aside the order or declaration and substitute it with another.

7.6 Enforcing scheme by-laws

The breach of any scheme by-law may result in SAT ordering the person who breached the by-law to pay a penalty to the community corporation.

7.6.1 Enforcement of scheme by-laws by community corporation

- See Section 48 of the Act



The two ways in which a community corporation can enforce scheme by-laws are outlined below.

1. By serving written notice of the breach on any person or member of a community corporation bound by the by-laws

- See Schedule 1 of the Regulations



A written notice alleging contravention of the scheme by-laws must include:

- The particular by-law that is alleged to have been contravened.
- The facts relied on as evidence of the alleged contravention.
- The action that must be taken, or refrained from, in order to stop contravening, or furthering the contravention of, the particular by-law.
- Explanation of the effect of section 48 of the Act as set out in Schedule 1 of the Regulations. You might wish to attach a copy of Schedule 1 to the written notice.

2. By applying to SAT for an order to enforce scheme by-laws

• See Schedule 1 of the Regulations



An application to SAT can only be made on the grounds that:

- The contravention of a by-law has had serious adverse consequences for another person, or
- The person has allegedly contravened the particular by-law on at least three separate occasions, or
- The person has been given written notice by the community corporation and has contravened the notice.

7.6.2 Enforcement of scheme by-laws by other parties

Applications to SAT to enforce scheme by-laws can also be made by:

- A member of the community corporation of the community titles scheme for which the scheme by-laws are registered.
- A mortgagee of a lot in the community titles scheme.
- An occupier of a lot in the community titles scheme.

In respect of exclusive use by-laws, the owner of a lot that is a special lot or, where all of the lots in a community titles scheme are special lots, the community corporation for that scheme may also apply to SAT to enforce scheme by-laws. The grounds on which such an application can be made are:

- A person other than the community corporation has received written notice under the Act of their alleged contravention of the scheme by-laws, and contravenes the notice, or
- The contravention has had serious adverse consequences for a person other than the person alleged to have contravened the scheme by-laws, or
- The person has contravened the particular scheme by-law on at least three separate occasions.

7.6.3 Orders that can be made by SAT for scheme by-law breaches

• See Section 48 of the Act and Schedule 1 of the Regulations



If SAT is satisfied that a person has contravened the scheme by-laws, it may order the person to do one or more of the following:

- Pay a specified amount to the community corporation by way of penalty.
- Take specified action within a period stated to remedy the contravention or prevent further contraventions.
- Refrain from taking specified action to prevent further contraventions.

The maximum amount that can be imposed by SAT by way of penalty under the Regulations is \$2,000. Note that a penalty cannot be imposed on a community corporation that has contravened the scheme by-laws.

Any amount ordered to be paid to the community corporation, may be recovered by the community corporation with interest payable on any outstanding amount as if:

- The person ordered to pay the penalty was a member of the community corporation (which may be the case if the order relates to a contravention of exclusive use by-laws), and
- The amount payable was an unpaid contribution levied on the person ordered to pay the penalty as a member of the community corporation.

The Regulations may specify circumstances in which a daily penalty may be imposed for a continuing contravention and a maximum amount that may be imposed as a daily penalty. The Regulations currently do not specify any such circumstances or daily penalty.

Any amount ordered to be paid by way of penalty for breach of scheme by-laws is recoverable as a debt in a court of competent jurisdiction.

7.7 Prosecution of offences under the Act

There are a small number of provisions in the Act which set out circumstances that constitute a criminal offence under the Act, punishable by a monetary amount. A summary of these provisions is set out in the table below.

Relevant section	Offence	Prescribed penalty
Section 70	An owner or occupier of a lot in a community titles scheme commits an offence if the owner or occupier uses, or permits to be used, an area or space in a manner that contravenes a restricted use condition set out in the scheme plan for the scheme.	<ul style="list-style-type: none"> • A fine of \$10,000, and • A daily penalty of a fine of \$1,000 for each day or part of a day during which the offence continues.
Section 82	Where a community corporation gives written notice to a person requiring the person to deliver all records, keys or other property of the community corporation in the person's possession or control to a specified person within a specified period, a person commits an offence if the person fails, without reasonable excuse to deliver property in their possession or control as required by the notice.	A fine of \$3,000
Section 95	A community corporation commits an offence if, on application under section 94 of the Act, it does not provide information in its scheme contacts register as soon as reasonably practicable, and in any event, within 14 days.	A fine of \$3,000
Section 96	A community corporation commits an offence if, on application under section 94 of the Act, it does not make material to which this section applies available for inspection by the applicant at a place and time agreed between the community corporation and the person, or if agreement is not reached within three days after the community corporation is given the application, specified in a written notice given by the community corporation to the person.	A fine of \$3,000
Sections 97 – 98	A community corporation commits an offence if it does not, within 14 days after being given an application under section 94 of the Act, provide the applicant with the required certificate certifying, as at the date of the certificate, the matters required to be certified under the relevant section of the Act.	A fine of \$3,000

SAT does not have the jurisdiction to deal with criminal offences under the Act.

Landgate, as the agency responsible for administering the Act, has the ability to commence prosecution against a person or community corporation for an offence under the Act. For further information regarding the prosecution of offences under the Act, please contact Landgate.

8. Buying and selling a lot in a community scheme

Every buyer of a lot in a community titles scheme or proposed community titles scheme must be given certain information about the lot, and the community titles scheme in the community scheme that the lot is in, before they sign a contract for the sale and purchase of the lot.

It is essential that the right information is provided to a buyer, so that they understand the different rights and responsibilities associated with owning a lot in a community titles scheme, and being part of a broader community scheme.

It is important that potential buyers understand that:

- They are buying into a community environment, where the community titles scheme may be one of several community titles schemes in the community scheme.
- Buying a lot in a community titles scheme comes with shared ownership of common property in that scheme, as well as shared ownership of the common property in the schemes to which their scheme belongs.
- They will have the obligation to comply with the scheme by-laws for both their scheme and the community titles schemes to which their scheme belongs.
- They will have a liability to pay contributions to the community corporation established for the community titles scheme in which their lot is located. Those contributions may include a proportion of the community corporation expenses for each of the other community titles schemes to which their scheme belongs.
- The buyer protection provisions in the Act aim to:
 - Provide the most relevant information to a buyer about the lot they are buying, the scheme that the lot is in and information about the broader community scheme.
 - Set out the information in a clear way.
 - Ensure the buyer knows where they can get more information.
 - Ensure the obligation on the seller to provide information is reasonable.
 - Clarify on what grounds a buyer can avoid the contract under the Act if the seller fails to provide the information to the buyer or provides it late.

8.1 Pre-contractual disclosure statement to the buyer

A **Precontractual disclosure statement** to the buyer is available on the Landgate website. It is an approved form under the Act, which sets out the compulsory information requirements from Section 130 of the Act that the seller must give a buyer, before a buyer signs a contract for the sale and purchase of a lot in a community titles scheme.

The form is in two parts:

- Part 1 details information about the seller, community titles scheme and lot, as well as information about schemes to which the lot's scheme belongs.
- Part 2 contains a Buyer's Guide which explains why the information disclosed in the form is important to the buyer, information about notifiable variations that the seller must disclose to the buyer and the buyer's rights under the Act to avoid the contract in certain circumstances.

It is the seller's obligation to provide the information in the approved form before the buyer signs the contract for the sale and purchase of the lot. It is also the seller who must prove that the required information and statements were given in any tribunal or court proceedings connected with a contract for the sale and purchase of a lot.

Buyers and prospective buyers are strongly recommended to read the Precontractual disclosure statement to the buyer, including the Buyer's Guide, and make enquiries they consider appropriate before signing the contract for the sale and purchase of a lot.

[A Sellers Guide - Information Obligations for the Seller](#) is also available on the Landgate website. The information contained in this guide is not required under the Act, but it is strongly recommended that sellers refer to this guide to help them understand their obligation to provide the compulsory information under the Act.

8.2 Compulsory pre-contractual information

- **See Section 130 of the Act**



Prior to a buyer signing a contract for the purchase of a lot in a community titles scheme, the seller is obliged to provide the buyer with information about:

- The community titles scheme.
- The lot.
- The common property.

If the seller of a lot is the original subdivision owner, there are also additional information requirements to be satisfied. The original subdivision owner is defined in section 3(1) of the Act as the person who owns, will own or owned the lots in a community titles scheme when first created on a subdivision of land given effect by registration of the scheme or an amendment of the scheme.

8.2.1 Information which must be provided about the community titles scheme that the lot is located in (lot's scheme)

- The name and address of the seller.
- The community development statement, if there is one in force for the community scheme (a community development statement is in force when approved by the Planning Commission).
- The scheme documents (scheme notice, scheme plan, scheme by-laws, including those not yet registered and schedule of unit entitlements) for the lot's scheme and for any community titles scheme to which the lot's scheme belongs.
- The name and address for service of the community corporation for the lot's scheme and of each related community corporation.
- Either of the following:
 - The minutes of the most recent AGM and any extraordinary general meetings held since then of the community corporation for the scheme in which the lot is located.
 - A statement of why the seller has been unable to obtain the minutes.
- Either of the following:
 - The statement of accounts last prepared by the community corporation for the scheme in which the lot is located.
 - A statement of why the seller has been unable to obtain a statement of accounts.
- A copy of the notice of a current termination proposal for the lot's scheme received from the community corporation (if applicable).

Information which must be provided about the lot

For a lot that has been created:

- The location of the lot on the scheme plan, or an extract from the scheme plan for the community titles scheme.
- The definition (boundaries) of the lot, as contained in the scheme plan.
- The unit entitlement of the lot and the sum of the unit entitlements of all the lots and tier parcels in the lot's scheme.
- The amount and due date of the contributions payable by the lot owner, if contributions have been determined by the community corporation within the previous 12 months.
- A reasonable estimate of the amount of the contributions likely to be payable for the 12 months following the proposed settlement date, if contributions have not been determined.
- Details of any debt owed by the owner of the lot to the community corporation for the lot's scheme including how the debt arose, the date on which it arose and the amount outstanding.
- Details of any exclusive use by-laws that apply to the lot.

For a lot that has not yet been created:

- The latest version of the draft community development statement, amendment of the community development statement, scheme document or amendment of scheme document, relevant to the lot proposed to be created.
- A reasonable estimate of the contributions payable for the lot.
- A reasonable expectation of lease, licence, special privilege or any other matter relevant to the proposed lot.

8.2.2 Information that must be provided about the common property in the lot's scheme (or any related community titles schemes in the community scheme)

- Details of the terms and conditions of any lease or licence over common property.
- Details of the terms and conditions of any right of exclusive use and enjoyment or special privilege over common property.
- Details of any proposed lease, licence, right of exclusive use and enjoyment or special privilege over common property.

8.2.3 Additional information that must be provided if the seller is the original subdivision owner

Circumstances where the additional information requirements apply:

- If the lot's scheme has not been registered.
- If the first AGM of the community corporation for the lot's scheme has not been held.
- If the original subdivision owner owns lots in the lot's scheme with an aggregate relative unit entitlement of 50% or more.
- If the relative unit entitlement of a tier parcel in the lot's scheme is 50% or more and the original subdivision owner owns lots in the community titles scheme of that tier parcel with an aggregate relative unit entitlement of 50% or more.
- If the original subdivision owner otherwise controls 50% or more of the voting power of members of the community corporation for the lot's scheme.

Additional information that must be provided if any of the above circumstances apply:

- A statement of the estimated income and expenditure of the community corporation for the lot's scheme for the 12 months after the proposed settlement date.
- Details of any disclosure the original subdivision owner must make to the community corporation for the lot's scheme (in relation to remuneration or other benefit arising from a contract, lease or licence entered into).
- Details of any existing or proposed contract for the provision of services or amenities to the community corporation for the lot's scheme or its members, entered into or arranged by the original subdivision owner or by the community corporation. These include its terms and conditions, the consideration and the estimated costs to the members of the community corporation.

8.2.4 Further pre-contractual information under the Regulations

- **See Regulation 104(2)**



The Regulations set out additional information that is required to be provided. This information includes the following:

- If the contract contains any voting right restrictions — a statement that the contract restricts the buyer's right to vote as an owner of the lot and that sets out particulars of the voting right restrictions.
- The approved form of a pre-contractual disclosure statement (buyer's guide) as previously mentioned above.
- A copy of any notice received by the seller from the community corporation in relation to any current termination proposal for a community titles scheme in the community scheme.
- The particulars of any debts owed by the seller to a community corporation in the community scheme.

8.3 Notifiable variations

- **See Section 131 of the Act**



If certain changes (variations) occur after the buyer has signed a contract for the sale and purchase of a lot in a community titles scheme, and before settlement, the seller must give the buyer specific information about the variation by notice in writing.

These are called 'notifiable variations.' The two types of notifiable variations are outlined below.

8.3.1 Type 1 notifiable variation

A type 1 notifiable variation means any of the following variations that occur after a contract for the sale and purchase of a lot in a community titles scheme is entered into, but before the settlement date for the contract:

- The area or size of the lot or proposed lot is reduced by 5% or more from the area or size notified to the buyer before the buyer entered the contract.
- The relative unit entitlement, or a reasonable estimate of the relative unit entitlement, of the lot is increased or decreased by 5% or more from the relative unit entitlement, or the estimate of the relative unit entitlement, of the lot notified to the buyer before the buyer entered into the contract. (Relative unit entitlement of a lot or tier parcel means the proportion that the unit entitlement of the lot or tier parcel bears to the sum of the unit entitlements of all the lots and tier parcels in the community titles scheme to which the lot or tier parcel belongs).

- Anything relating to a proposal for the termination of the lot's scheme that is served on the seller by the community corporation.
- Any other event classified by the Regulations as a type 1 notifiable variation.

8.3.2 A type 2 notifiable variation

A type 2 notifiable variation means any of the following variations that occur after a contract for the sale and purchase of a lot in a community titles scheme is entered into but before the settlement date for the contract and that do not give rise to a type 1 notifiable variation:

- The community development statement or proposed community development statement or amendment of the community development statement is modified.
- The scheme plan, proposed scheme plan or amendment of the scheme plan, for the scheme or a community titles scheme to which the scheme belongs is modified in a way that affects the lot or the common property in which the owner of the lot has an undivided share.
- The schedule of unit entitlements, proposed schedule of unit entitlements or amendment of the schedule of unit entitlements, for the scheme is modified in a way that affects the lot.
- The scheme by-laws or proposed scheme by-laws for the scheme or a community titles scheme to which the scheme belongs, are modified.
- The community corporation for the lot's scheme or original subdivision owner for the subdivision which created the lot does either of the following:
 - Enters a contract for the provision of services or amenities to the community corporation or to members of the community corporation, or a contract that is otherwise likely to affect the rights of the buyer.
 - Varies an existing contract of that kind in a way that is likely to affect the rights of the buyer.
- A lease, licence, right or privilege over the common property in the lot's scheme or a community titles scheme to which the scheme belongs is granted or varied.
- Any other event classified by the Regulations as a type 2 notifiable variation.

8.3.3 Sufficient information about a notifiable variation

The seller must give the buyer details of the notifiable variation, that a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether they have been materially prejudiced by the variation.

If the seller becomes aware of a notifiable variation less than 15 working days before the settlement date, they must give the buyer a notice in writing about the variation as soon as practicable. In any other case the seller must notify the buyer no later than 10 working days after becoming aware of the variation.

In a court or tribunal proceeding that arises in relation to a notifiable variation which occurs after a contract is signed, it is the seller who must prove that proper notice in writing was given to the buyer.

The seller is not obliged to provide a written notice of a notifiable variation to the buyer where:

- The contract has included a proposed action or a matter that would be a notifiable variation.
- The action or matter when completed does not differ from that described in the contract.
- The seller has given written notice to the buyer of completion of the action or matter with details that a reasonable person would consider sufficient to enable the buyer to make an adequately informed assessment as to whether the action or matter as completed, differs from that described in the contract.

If the seller becomes aware of completion of the action or matter less than 15 working days before the settlement, they must give the notice of completion of the action or matter under the contract to the buyer as soon as practicable. In any other case, the notice of completion must be given no later than 10 working days after the seller becomes aware of completion of the action or matter.

8.4 Circumstances around a settlement delay or avoidance of contract

8.4.1 Delay in settlement

- See Section 132 of the Act



A buyer may, by written notice to the seller, postpone the settlement date for a contract of sale and purchase if the seller has not met their disclosure obligations in respect to information to be provided before and after the buyer signs the contract.

The buyer can postpone the settlement by no more than 15 working days after the latest date on which the seller complies with their disclosure obligations.

8.4.2 Avoidance of contract for failure to give the pre-contractual information to the buyer

- See Section 133 of the Act



The buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date, if the seller fails to provide the buyer with the information required to be provided prior to signing the contract and if the information was to be provided by the seller, it would disclose material prejudice to the buyer (proof of which lies on the buyer).

If the seller provides the buyer with the required pre-contractual information after the contract is signed, but before the buyer avoids the contract, the buyer may still avoid the contract if the information provided discloses material prejudice to the buyer and the buyer avoids the contract within 15 working days after the seller's notice is given to the buyer.

8.4.3 Avoidance of contract in respect of notifiable variations

- See Section 134-136 of the Act



A buyer may avoid a contract for the sale and purchase of a lot at any time within 15 working days after the seller provides notice of a notifiable variation if the buyer is materially prejudiced by the variation (proof of which lies on the buyer) and the notifiable variation is not one to which section 131(4) of the Act applies.

Failure to disclose type 1 variations

A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date if a type 1 notifiable variation occurs and the seller does not notify the buyer of the variation within the timeframe required in the Act (no need to prove material prejudice).

If the seller provides the notice of the variation outside the timeframe required by the Act but before the buyer avoids the contract for non-disclosure of the type 1 notifiable variation, the buyer may still avoid the contract within 15 working days of the seller's notification.

Failure to disclose type 2 variations

A buyer may avoid a contract for the sale and purchase of a lot at any time before the settlement date if a type 2 notifiable variation occurs and the following apply:

- The seller does not notify the buyer of the variation within the timeframe required in the Act, and
- If the notice was to be provided by the seller, the buyer would receive information or a document that would disclose material prejudice to them (proof of which lies on the buyer).

If the seller provides the notice of the variation outside the timeframe required by the Act but before the buyer avoids the contract for non-disclosure of the type 2 notifiable variation, the buyer may still avoid the contract within 15 working days of the seller's notification.

Buyer's obligation when avoiding a contract

The buyer's notice of avoidance of a contract for the sale and purchase of a lot in a community titles scheme must be given in writing to the seller and specify the grounds on which the contract is avoided, including details of the material prejudice to the buyer, where that is required as grounds for avoidance.

Effect of avoidance of contract

- **See Section 138 of the Act**



Where a contract is avoided, the buyer may recover from the seller as a debt any money paid by the buyer under the contract. Any person holding a deposit or other money for the contract on behalf of the buyer must repay that money to the buyer less any amount due to the seller for rent while the buyer occupied or was otherwise entitled to profits of the lot.

Contracting out of the buyer protection provisions provided under the Act is prohibited and any purported waiver of a right, remedy or benefit conferred on the buyer under these buyer protection provisions is of no effect.

8.5 Buying off-the-plan

- **See Section 137 of the Act**



Where a buyer is entering into a contract for the sale and purchase of a lot in a community titles scheme, before the lot is created by the registration of either the scheme or an amendment of the scheme, the contract must:

- Require any deposit or other amount payable by the buyer prior to registration of the scheme or scheme amendment to be paid to an Australian legal practitioner, real estate agent or settlement agent to be held on trust for the buyer until the scheme is registered.
- Specify the practitioner or agent to whom payment is to be made and how payment is to be made.

The buyer may avoid the contract at any time before registration of the scheme or a scheme amendment if the contract does not comply with the above requirements. The buyer may also avoid the contract if the lot is not created within a period after the date of the contract, agreed to by the buyer and seller in writing. In the absence of such agreement, within 6 months after the date of the contract.

8.6 Obtaining information from the community corporation

• See Section 94 of the Act



A buyer who has entered into a contract for the sale and purchase of a lot in a community titles scheme or a related community titles scheme is classified under section 94 of the Act as a person who has a proper interest in information about a community titles scheme.

As such, a buyer can make a written application under section 94 of the Act to the community corporation to:

- Receive information under section 95 of the Act.
- Inspect material under section 96 of the Act.
- Receive a certificate under section 97 of the Act.

A community corporation may charge a fee for an application for information or a certificate, but that fee must not exceed the amount fixed by the Regulations.

9. Where to get assistance

9.1 Information and support from Landgate

General information

Landgate can provide scheme registration information, including copies of scheme documents registered with Landgate. These include the scheme plan, schedule of unit entitlements, scheme notice, scheme by-laws, community development statement for a community scheme and amendments of the community development statement.

Registration information can be obtained from Landgate by:

Tel: +61 (0)8 9273 7373

Regional Australia: 1300 365 288

Email: customerservice@landgate.wa.gov.au

Website: landgate.wa.gov.au

Publications

Landgate produces a number of community titles-related publications.

These booklets are available from the Landgate website at landgate.wa.gov.au, in particular in the “Land Transactions toolkit” section.

Forms and documents

The forms and documents required to register community titles schemes and amendments to community titles schemes and/or obtain copies of scheme plans and other documents are available from Landgate’s website.

Copies of scheme plans, other scheme documents and related documents (such as notification to amend by-laws) can also be obtained from Landgate’s online support section at:

Tel: +61 (0)8 9273 7373

Email: customerservice@landgate.wa.gov.au

Website: landgate.wa.gov.au

Please see the forms and fees section of Landgate’s website for the schedule of fees payable for copies of community titles scheme plans and related documents: landgate.wa.gov.au/for-individuals/forms-and-fees.

9.2 Information and support from Department of Planning, Lands and Heritage and the Western Australian Planning Commission

The Department of Planning, Lands and Heritage (DPLH) is responsible for planning and managing land and heritage for Western Australia.

The Western Australian Planning Commission (Planning Commission) has state-wide responsibility for urban, rural and regional integrated strategic and statutory land use planning and land development. The Planning Commission operates with support from DPLH which provides professional and technical expertise, administrative services and corporate resources to assist its decision-making.

In relation to community titles, the Planning Commission is responsible for determining applications for subdivision associated with community titles schemes in Western Australia, and determining a community development statement for a community scheme. DPLH administers the assessment process on behalf of the Planning Commission.

Determination of the proposed developments or land uses within community schemes is still subject to the same processes that apply to development or land uses on land subject to other tenures. This includes determinations by the relevant determining authority such as local governments, Joint Development Assessment Panels, Development WA and the State Development Assessment Unit.

General information

For general information and advice on subdivision aspects of community titles schemes, please contact DPLH via phone on 6551 8002 or email to info@dplh.wa.gov.au.

For enquiries about development please contact the relevant local government authority.

Publications

Underpinning every community titles scheme will be a Community Development Statement that sets out how the community scheme is to be subdivided and developed.

The Planning Commission has developed an Operational Policy and Guidelines which set out the general principles and basic requirements that will be used by the Planning Commission to clarify the procedure for assessing and determining a statement of grounds and community development statement, and establish criteria for the consideration of a community development statement and the subsequent subdivision and development proposals, as provided for by the *Community Titles Act 2018* and the Community Titles Regulations 2021.

These publications are accessible via the DPLH website:

- [Operational Policy 1.11 Community Schemes](#)
- [Community Schemes guidelines](#)

9.3 Other information and support

Valuation advice

If you require valuation advice for your community titles lot, you may require the services of a licensed valuer (for example to create a schedule of unit entitlements or determine if the entitlements of the lots and tier parcels should be changed).

The WA division of the Australian Property Institute may be able to assist you to contact a licensed valuer.

They can be contacted by:

Tel: +61(0)8 9381 7288

Website: api.org.au

Subdivision advice

If you are making enquiries about the subdivision of your property (by community titles) a licensed surveyor will be able to assist you in the subdivision process (required to submit the scheme plans with Landgate). The copy of the scheme plan for your scheme will have the details of the surveyor who lodged the plan and it is possible that they will still be contactable. Alternatively, to find a licensed surveyor consider an internet search. Otherwise, surveyors' details are held by:

The Land Surveyors Licensing Board of WA which can provide a list of licensed surveyors in WA.

Website: lslb.wa.gov.au/find-a-surveyor

Legal information and advice

Landgate and the Department of Planning, Lands and Heritage are unable to provide you with legal advice on community titles scheme matters.

You may wish to seek legal advice to guide you on a community titles matter from an independent legal practitioner:

The Law Society of WA has an online database with contact details of lawyers providing legal services.

Website: lawsocietywa.asn.au

Strata Community Association (Western Australia) (SCA(WA)) can supply contact details for legal practitioners who are also members of SCA(WA).

Tel: +61 (0)8 9381 7084 (Please note: this number cannot be called for general or legal advice on community titles.).

Website: www.wa.strata.community

The Citizens Advice Bureau of WA may be able to provide contact details for legal practitioners. Contact details are:

Tel: +61 (0)8 9221 5711 – lines open Monday – Friday 9.30am – 4.00pm

(excluding public holidays)

Website: cabwa.com.au

Scheme consultants

Some strata professionals (strata consultants/strata managers) may wish to also provide consultancy services for community titles.

SCA(WA) can provide contact details for consultants who are members of SCA(WA).

Visit SCA(WA) at:

Tel: + 61 (0)8 9381 7084 (please note this number cannot be called for community titles advice)

Website: www.wa.strata.community

Dispute resolution

If you have not been able to resolve the dispute directly with another lot owner or the community corporation, including following any dispute resolution process in the scheme by-laws, mediation may be of assistance to resolve disputes in community titles schemes.

The Citizens Advice Bureau of WA may be able to provide information.

Contact details are:

Tel: +61 (0)8 9221 5711

Website: cabwa.com.au

Landgate is not given any powers under the Act to assist in dispute resolution.

If mediation has not been successful or not considered, you may wish to avail yourself of the dispute resolution process provided by SAT (not for advice other than how to lodge an application).

Contact details are:

Level 6

565 Hay Street

PERTH WA 6000.

Tel: +61 (0)8 9219 3111

Facsimile: +61 (0)8 9219 3115

Website: sat.justice.wa.gov.au

10. Lodging documents at Landgate

Consistent with the Government's Tariffs, Fees and Charges policy, Landgate has a schedule of approved fees payable when lodging your documents. Please visit Landgate's website to see the schedule or contact a Customer Service Officer by telephone on +61 (0)8 9273 7373 if you have a query.

Office hours for lodgment of documents are 8.30 am to 4.30pm Monday to Friday excluding public holidays. Our offices are located at:

MIDLAND

1 Midland Square
Corner of Great Northern Highway and Morrison Road
Midland WA 6056

PERTH CBD

200 St Georges Tce Plaza Level
PERTH WA 6000

Postal lodgments can be sent to:

Landgate
Document Lodgment Section PO Box 2222
MIDLAND WA 693

Appendix 1

Items for consideration in the 10 year plan

A community corporation may wish to consider the following list of items as a guide, to help it determine what items of common property and personal property in their scheme may need repair or replacement in their 10 year plan.

Please note this list is not exhaustive, and the items required to be included in the 10 year plan for a community titles scheme will depend on the nature of the scheme, its common property and personal property. A community corporation or a person engaged by a community corporation to prepare a 10 year plan will need to ensure that they satisfy the requirements set out in the *Community Titles Act 2018* and Community Titles Regulations 2021 in relation to the 10 year plan.

• Roofs and gutters
• Walls
• Floors
• Ceilings
• Windows
• Eaves
• Flashings
• Soffits and windowsills
• Downpipes
• Foundations of buildings
• Driveways
• Footpaths
• Steps
• Stairs and stair railings
• Doors and doorways (including fire doors)
• Lighting
• Storage or plant rooms
• Fencing and gates
• Balconies, railings and balustrades

• Lifts
• Ventilation
• Fire services, fire alarms and fire hoses
• Air conditioning systems
• Building and ancillary structures
• Utility conduits and services
• Garbage disposal
• Hot water systems
• Electrical systems
• Post boxes
• Security components
• Swimming pools, spas and pumps or filters
• Water bores and water tanks
• Back flow devices and pumping devices
• Car stackers
• Roof access safety equipment
• Solar and other sustainability infrastructure
• Disability access facilities

Disclaimer of liability

This guide is produced by the Western Australian Land Information Authority (Landgate) to provide the community with a basic understanding of community titles principles. It is a general information source only, it is not legal advice and should not be taken as legal advice on community titles. You should refer to the legislation available on the WA government legislation website www.legislation.wa.gov.au.

To the extent permitted by law, Landgate will in no way be liable to you or anyone else for any loss or damage, however caused (including through negligence), which may be directly or indirectly suffered in connection with use of this document. This general disclaimer is not restricted or modified by any of the following specific disclaimers.

Various factors beyond the control of Landgate can affect the quality or accuracy of the information and products. While every effort has been made to ensure accuracy and completeness, no guarantee is given, nor responsibility taken by Landgate for errors or omissions in the guide. Landgate does not accept any liability for any loss or damage incurred as a result of the use of, or reliance upon the information provided in this guide or incorporated into it by reference.



1 Midland Square, Midland WA 6056

PO Box 2222, Midland WA 6936

Telephone: +61 (0)8 9273 7373

Facsimile: +61 (0)8 9250 3187

TTY: +61 (0)8 9273 7571

Email: customerservice@landgate.wa.gov.au

Website: landgate.wa.gov.au

