

// New Tenure
// New Opportunities



Department of Planning,
Lands and Heritage



Introducing community titles

Community schemes were introduced to Western Australia on 30 June 2021 through the *Community Titles Act 2018*, delivering a new form of land tenure and subdivision to WA's property sector.

The state's newest land tenure provides an opportunity for contemporary developments which can more seamlessly integrate and manage a range of uses, such as shops, cafes, offices, residential properties and recreational facilities.

Previously, a single parcel of freehold land could only have one scheme attached to it (known as a strata titles scheme). A community scheme now allows this land to be subdivided in a way that can create multiple individual schemes (known as community titles schemes).

Through this multi-tier structure, community schemes can offer distinct capabilities across land use, shared infrastructure, governance arrangements and common property ownership.

It is through these distinctions that community schemes present an important land tenure alternative to strata titles for property developers and investors, as well as future owners and tenants.



WA's newest land tenure

5 distinctive features



1 The defining feature of a community scheme is that it allows a single parcel of freehold land to be subdivided into up to three tiers of schemes, called community titles schemes.

This multi-tiered structure will support unparalleled flexibility and customisation in the planning and management of new mixed-use developments in Western Australia.

It also allows for a diverse range of other development outcomes to be successfully met within one overarching scheme, overcoming some common limitations within strata titles.

2 Unlike strata titles, community titles allow both building and land schemes to exist within a single development.

This unique feature delivers additional flexibility and strategic opportunity within the management and staging of new developments.

For example, building scheme lots could be sold as apartments, while land scheme lots could be sold as vacant land.

3 A fair and targeted approach to common property, where people only contribute to the aspects of the development they use.

Some common property can belong to all the owners of lots in the community scheme, while other common property can be solely owned by the lot owners of the subsidiary schemes (the community titles schemes).

This is an appealing feature of community schemes for future owners and tenants, as it enables common property to be more clearly allocated through a 'user-pays model'.

4 Smart scheme governance happens when the right people are making the right decisions - community schemes have been designed with this in mind.

They support smart governance arrangements by providing for the most efficient, appropriate decision-making to occur across the multiple tiers of a community scheme.

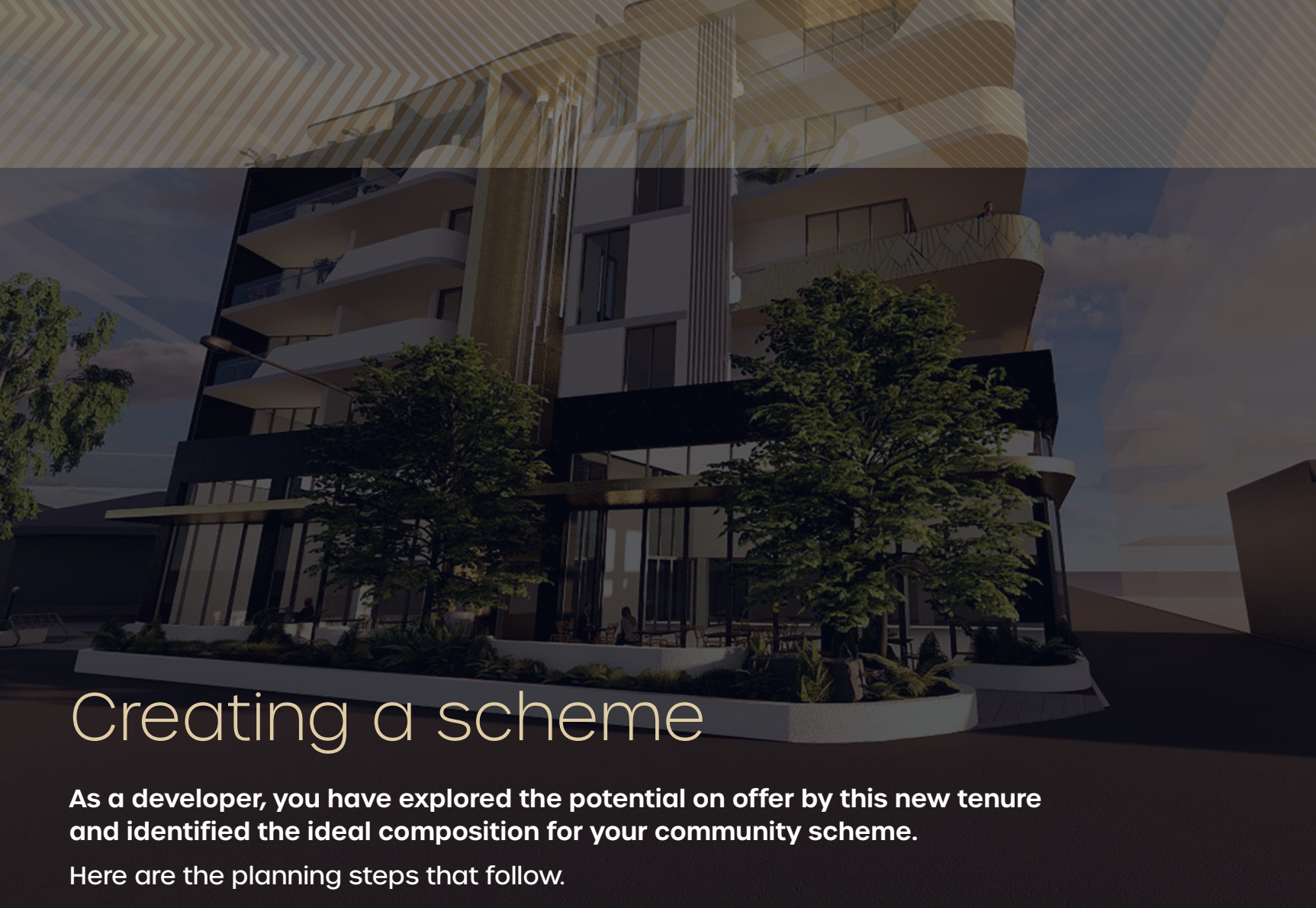
The community scheme and each of its subsidiary schemes (the community titles schemes) have their own community corporation (much like a strata company) and by-laws.

5 Tailored for mixed-use developments in Western Australia, community schemes offer a clear, contemporary alternative to other land tenures.

A community scheme could come in the form of a multi-storey building, a large-scale land development or a wide range of developments in between.

The scale of opportunity presented by this new tenure holds considerable promise for those ready to explore its potential.





Creating a scheme

As a developer, you have explored the potential on offer by this new tenure and identified the ideal composition for your community scheme.

Here are the planning steps that follow.

> A parcel of freehold land must first be subdivided by a community titles scheme.

- > For this subdivision to occur a **community development statement** must be submitted to and approved by the Western Australian Planning Commission (WAPC) and relevant planning approvals must be obtained.
- > To register this scheme over the land, a scheme notice, scheme plan approved by WAPC, schedule of unit entitlements and scheme by-laws must be lodged with the Registrar of Titles, together with the approved community development statement, for incorporation into the Register.

> When the first community titles scheme is registered over the land, the community scheme comes into existence.

- > From here, further subdivision of the land in the community scheme must be approved by planning decision-makers such as WAPC. Subdivision applications must be approved if they are consistent with the community development statement and within the timeframes set out in the *Community Titles Act 2018*.
- > There can be up to three tiers of community titles schemes in a community scheme.
- > A certificate of title - for each community title lot in the scheme - is created and registered under the *Transfer of Land Act 1893*.



Introducing the community development statement

A new planning requirement that is unique to community schemes.

A community development statement sets out planning, design and development information for a community scheme, giving a clear expectation of outcomes. It is required before a community scheme can be registered.

The community development statement must be submitted to the Western Australian Planning Commission (WAPC) for consideration. The submission should demonstrate why a community scheme is an appropriate form of subdivision for the land in question.

The community development statement must identify the location of the land and may set out how the community scheme will be subdivided and developed. This could include matters like the subdivision, development, land use purposes, staging, sequencing and other relevant matters.

The WAPC's decision will be informed by the relevant planning context, such as state planning policies, planning schemes and interim development orders, and the preservation of the amenity of the locality.

See page 25 for the resources that are available to help you prepare this statement.



Managing a scheme

Developers can create an efficient, high-functioning management structure across a community scheme. This new tenure enables smart governance arrangements by facilitating decision making on matters affecting all owners in the scheme, while allowing autonomous decision making for owners on matters specific to their scheme. The benefits of this smart, multi-tier management structure extend into common property ownership, for example creating opportunities for shared infrastructure between schemes.

- Community corporations**
 Each community titles scheme will have its own community corporation, which is the body corporate that manages the scheme by-laws, common property and finances of the community titles scheme.
- Relationships between schemes**
 A community titles scheme is related to each community titles scheme to which it belongs or that belongs to it. Community corporations are related in the same way.
- Unit entitlements**
 Community titles scheme unit entitlements are the main factor in the relative ownership of common property, the proportion of levies payable, and the relevant weight of a vote when it comes to a resolution. This is similar to the role of unit entitlements in strata titles schemes.

Buying and selling a lot

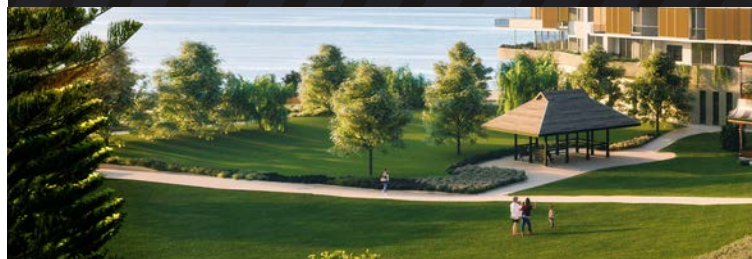
Owning a lot in a community titles scheme will offer buyers unique benefits relating to common property management and scheme governance, as well as being part of a vibrant mixed-use development. The relative autonomy of each scheme provides an attractive prospect to buyers keen to ensure the specific needs of their usage type (for example, residential, retail or commercial) are well-catered to.

- Buying a lot**
 The buyer of a lot in a community titles scheme is buying into a community environment, where their scheme is likely to be one of several community titles schemes in the overall community scheme. Therefore, buying a lot comes with shared ownership of common property in that community titles scheme, as well as shared ownership of the common property in the schemes to which the buyer's scheme belongs. It also comes with an obligation to comply with the scheme by-laws for their scheme and any other community titles schemes to which their scheme belongs.
- Selling a lot**
 The seller must provide the buyer with information prior to the buyer signing a contract for the purchase of a lot in a community titles scheme, which relates to:
 - the community titles scheme
 - the lot
 - the common property.
 Additional information requirements apply when the seller of a lot is the original subdivision owner. Disclosure requirements are broadly equivalent to what must be provided when selling a strata titled lot. However, some additional disclosures are required due to the tiered structure of community schemes and the relationships between them.

Theoretical applications for community schemes in Western Australia

Disclaimer: the information and images in these theoretical scenarios are intended as a general introduction to community schemes and are intended for information purposes only. The scenarios provided are of a hypothetical nature. Any proposed community scheme would be considered on its merits by the Western Australian Planning Commission, in accordance with the *Community Titles Act 2018* and the relevant planning context.

Mixed subdivision: land and building Scenario 1



Community titles are used to create a vibrant and sustainability-focused development, which applies the flexibility of this tenure to effectively stage a large, complex development.

Mixed-use building scheme Scenario 2



Community titles are used to transform a heritage building into a contemporary mixed-use development.

Two towers sharing a separate building as common property Scenario 3



Community titles are used to create a mixed-use development of two freestanding towers, sharing a low rise building between them as common property with multiple facilities.

Mixed subdivision: land and building Scenario 1

Community titles are used to create a vibrant and sustainability-focused development, which applies the flexibility of this tenure to effectively stage a large, complex development.

This scenario showcases how land and building schemes can be combined in a single site and features a variety of built form to suit all types of buyers.

It also demonstrates how a community development statement can support a unified scheme design across a multi-stage development.



Development intentions

- Access the flexibility that community schemes offer to combine both land and building schemes and effectively stage a large, complex development.
- Deliver a wide range of property options (apartments, freestanding houses and vacant lots) that offer a diversity of housing choice to future residential owners.
- Create a cohesive community environment which embraces environmental sustainability and attracts like-minded owners, by applying strong environmental and sustainability principles within the community development statement and scheme by-laws.

Subdivision profile

- This freehold land parcel is subdivided by three tier-one lots and common property.
- One of the tier-one lots will be subdivided by a tier-two community titles (building) scheme.
- The remaining tier-one lots will both be subdivided by a tier-two community titles (land) scheme.
- One of these will be further subdivided into two tier-three community titles schemes (one land scheme and one building scheme).
- A three-tier structure was chosen here to allow common property to be shared between the land scheme and building scheme - a driveway and roundabout which is only for their use.

The subdivision involved:

- The freehold land parcel being subdivided by three tier-one lots and common property.
- The three tier-one lots being further subdivided by tier-two community titles schemes:
 - Lot A, a tier-two community titles (building) scheme for a 10-storey apartment building with 100 lots.
 - Lot B, a tier-two community titles (land) scheme will be divided into 24 lots.
 - Lot C, a tier-two community titles (land) scheme with two lots and a large area of common property (which will be a driveway and roundabout). This will be further subdivided into:
 - A tier-three community titles (building) scheme for a four-storey building with 12 lots.
 - A tier-three community titles (land) scheme, creating 10 lots, on which houses will be built.

Scheme features

- Unique integration of land and building schemes.
- Focus on sustainability and environmental outcomes through green landscaping, building design and waste disposal across the development.
- Green common property which strengthens ecological outcomes at every tier in the development.



4 storey residential apartment building with 12 lots



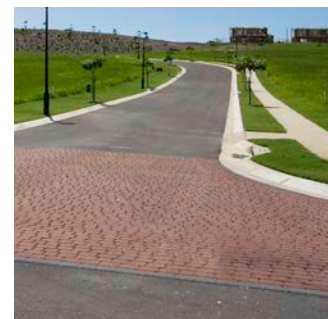
10 freestanding houses



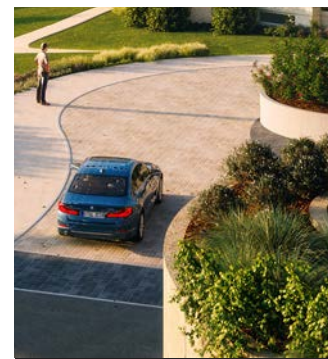
10-storey residential apartment building with 100 units



Established mature trees



24 vacant lots (identified for housing)



Driveway and roundabout

Unique integration of land and building schemes

Combining community titles (land) schemes with a community titles (building) scheme delivers flexibility across the design and staging of proposed development.

The developer can design the staging – as set out in the community development statement – to maximise return on investment. For example, one of the tier-three community titles schemes could be sold to another developer, releasing the funding to enable the other tier-three community titles scheme to be developed, or provide the necessary resources to commence construction on the 10-storey tower.

The mix of land schemes and building schemes within the development has the potential to create a vibrant mix of residential options. Building scheme lots are sold as apartments. A choice of one, two and three bedroom apartments would make the apartments attractive to a wider market, including single people and people on lower incomes. The design principles in the apartment building include building layout, window design and insulation aimed at lowering the cooling and heating costs and minimising ongoing expense.

Land scheme lots could be sold as vacant land. This could, for example, allow a young family to buy a block of land on which they can design and build their dream home. To ensure that green outcomes are achieved right down to the level of the single lot, scheme by-laws are created which set out design guidelines to ensure that every home that is built must achieve water and energy efficiency. These lots could also be developed and sold with buildings on them.

These diverse offerings have the potential to cater to a wide range of residents such as singles, couples, and families.



Focus on sustainability and environmental outcomes

This scheme aims to achieve a range of sustainability outcomes through landscaping, building design and waste disposal arrangements which will be set out in the community development statement.

Developers who buy into the scheme must follow the community development statement for the duration of the development, ensuring that owners can be confident that the green features that attracted them to invest in the first place will be delivered.

Ecologically-friendly features on the tier-one common property can be enjoyed by all owners in the scheme, and include:

- Retained mature trees which make a positive contribution to local biodiversity.
- An embedded solar network which operates as shared common property across the scheme.
- A community bore which provides an irrigation supply for use in both common property and private gardens.

The community development statement in this example sets out that each of the community titles schemes must include water sensitive landscaping.

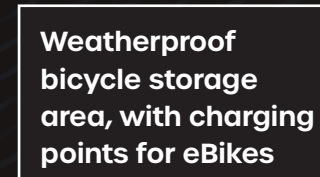
Each of the community titles (land) schemes will have design guidelines incorporated into the scheme by-laws to assist buildings achieve the reduction in water and energy usage which is central to the vision of the development. By-laws will set out how the community corporation is to monitor this.



Pergola and communal entertaining space



Solar power network



Weatherproof bicycle storage area, with charging points for eBikes



Water-sensitive landscaping



Community bore



Community garden

Green common property at every tier

In addition to the tier-one common property already noted, each community titles scheme includes common property with ecological benefits.

For example:

- The land scheme with the 24 vacant lots captures water runoff from the whole scheme to create an area of common property which will be planted with native plants.
- A community garden within the scheme provides local produce for residents of the 10-storey apartment building.
- The roundabout which is shared by the two tier-three schemes has been planted with rare native plants that were once common in the area.
- A pergola and communal entertaining space built on the roof of the four-storey apartment building (tier-three scheme) is made with recycled timber and materials.
- Charging points for eBikes included in the weatherproof bicycle storage area of the apartment buildings.

Mixed-use building scheme

Scenario 2

Community titles are used to transform a heritage building into a contemporary mixed-use development.

A development that seamlessly integrates retail, residential and commercial uses, while preserving and renewing an important heritage asset.

It showcases the versatility of subdividing a whole building with a number of building schemes, highlighting the flexible allocation of common property and an efficient governance structure.



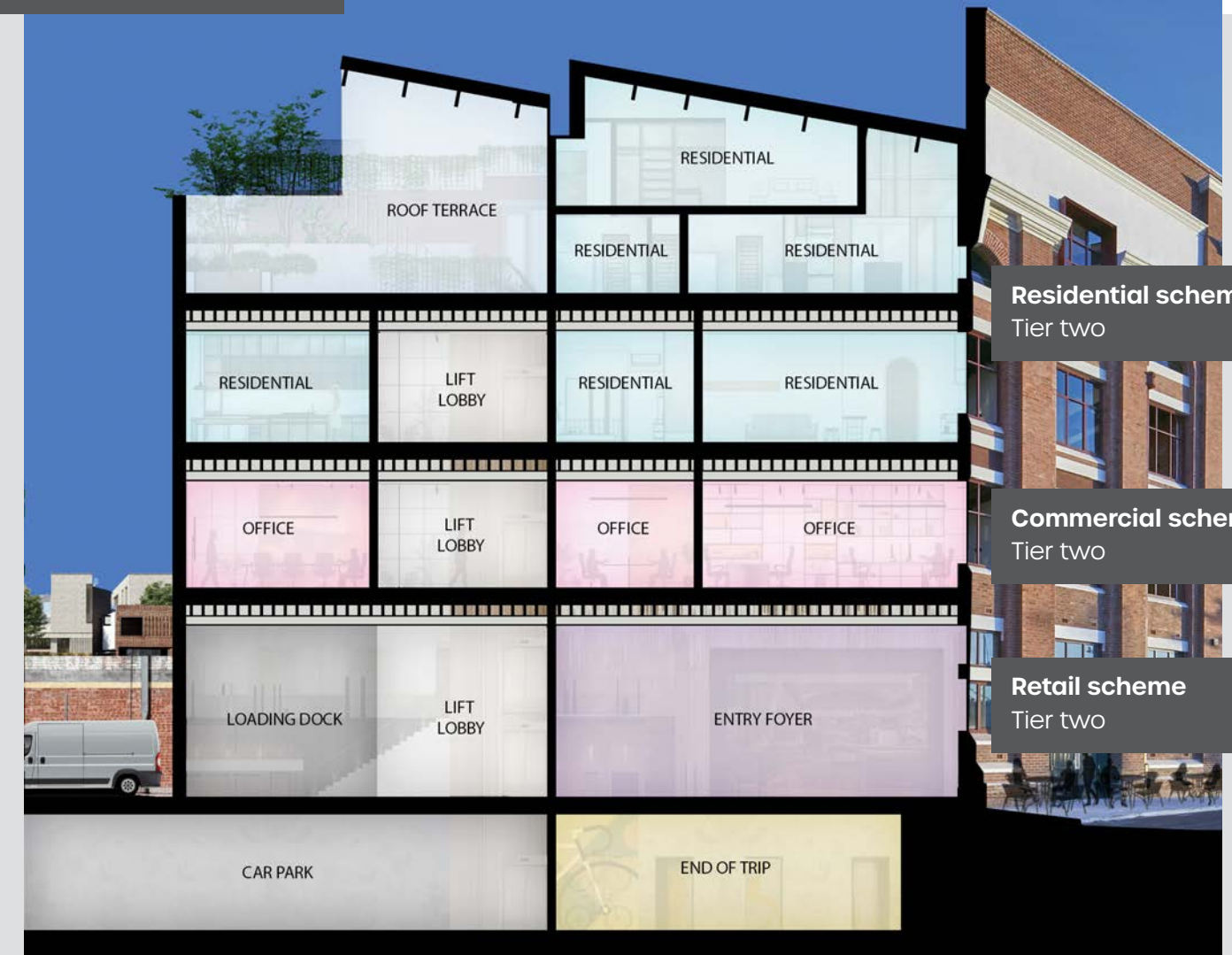
Development intentions

- Convert a heritage-listed warehouse into a vibrant mixed-use community scheme that responds to local market demand and integrates retail, residential and commercial land uses.
- Allocate common property in a way that is fair and relevant to each user type, supporting a harmonious arrangement for future occupants.
- Deliver a unique shared community, where different use types effectively co-exist through a smart subdivision and governance structure that allows each to manage their own affairs.

Subdivision profile

- This heritage building was subdivided by a tier-one community titles (building) scheme with three lots. The tier one common property includes the fabric of the building.
- Each of the three tier-one lots were then subdivided by a tier-two community titles scheme. Each of the tier-two community titles schemes has its own common property. The creation of the tier-two schemes creates all the individual lots in the building. Each of these tier-two community titles schemes has by-laws which supports the needs of each use type.

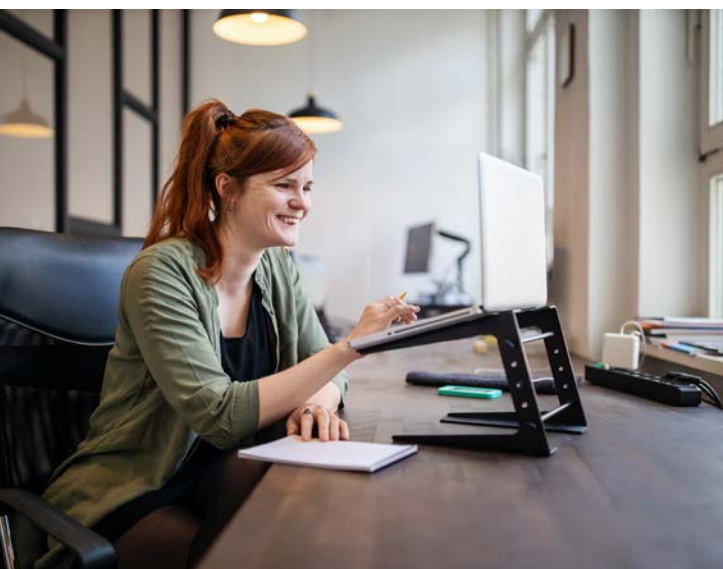
The community scheme Tier one



Residential scheme
Tier two

Commercial scheme
Tier two

Retail scheme
Tier two



Subdividing this scheme to two tiers was ideal for this development because it ensures all owners have responsibility for maintaining the fabric of the building as tier-one common property, while providing each of the tier-two community titles schemes with its own common property. In this example, it also allows each tier to have its own community corporation to manage its affairs.

This was sufficient to create the mix of common property and governance arrangements that best suited the proposed use of the building, so there was no need to add a third tier.

The subdivision involved:

- A tier-one community titles scheme subdividing the freehold land and building into three lots and common property, creating the community scheme and establishing the tier-one community corporation.
- Subdivision of the three tier-one lots follows, to create three separate, tier-two schemes, which belong to the tier-one scheme.

Each of the three community titles (building) schemes has its own specific use type:

- A retail scheme.
- A commercial scheme.
- A residential scheme.

Effective integration of multiple land uses

The multiple land uses of this community scheme span retail, residential and commercial premises and respond to both the shared and individual needs of its diverse future community.

They do this by offering:

- Car parking and secure bike storage for the use of all owners in the community scheme, as tier-one common property.
- A vibrant residential opportunity for future apartment owners who can enjoy their elevated position in this unique building, with their own dedicated elevator opening to a small courtyard as part of their tier-two common property. They also have the benefit of by-laws giving them exclusive use of digital parcel lockers in the building's lobby and an outside BBQ area (these areas being tier-one common property).
- Commercial spaces that deliver an attractive option for future owners and occupants. These offer a distinctive work environment with ownership of valued conveniences such as end-of-trip facilities, with showers and a changing room. Office workers will have access to the nearby café for refreshments, and a wine bar for socialising after work.
- Contemporary retail premises on the ground floor of this beautiful heritage building, offering a promising customer base from within the building itself, with residents and office workers filling the remaining floors of the building. The café and wine bar share an open dining area which can be used by customers. They also have the benefit of by-laws giving them exclusive use of a loading bay for truck deliveries, this area being tier-one common property.



Flexible common property allocation

Owners will be attracted to this scheme by the appeal of only having to contribute to common property that they use.

Community schemes provide exceptional flexibility for common property to be owned by the community titles scheme that uses it - without the need for complex legal arrangements. This offers a distinct advantage over strata titled developments.

Tier-one common property can be used by all owners in the entire community scheme, except where it is subject to tier-one by-laws giving exclusive use to certain owners in the scheme - like the loading bay in this example, which is only for the use of the retail owners.

Common property in a tier-two scheme can be used by the owners in that specific tier-two community titles scheme. As illustrated, because common property is owned by the relevant tier-two scheme, it not only benefits that scheme but it also benefits lot owners in the remaining tier-two schemes by relieving them of the responsibility to contribute to common property they will not use.

The costs of insuring common property are fairly apportioned to the owners who benefit from using it.

Smart governance arrangements

The retail, commercial and residential owners can operate each of their tier-two schemes autonomously. But each of these tier-two schemes gets a vote in matters affecting the scheme as a whole, for example management and upkeep of the tier-one common property, such as the structure of the building.

This targeted approach to governance will support a more harmonious coexistence between schemes in this mixed-use development and is a significant advantage on offer through community schemes.

Exclusive use by-laws will set out that owners who have exclusive use of tier-one property will pay for the maintenance and insurance of those areas.



Explaining exclusive use by-laws

Just like in a strata titles scheme, a community titles scheme can make an exclusive use by-law in favour of any of its own lots. However, exclusive use by-laws are much more flexible in community schemes than they are in strata. In strata, it is not possible to create a by-law which is binding on any external entity because by-laws are like an agreement between the owners and occupiers of lots within that strata scheme. In a community scheme, by-laws can bind any community titles scheme or lot within the whole scheme. This means that each community titles scheme can grant an exclusive use by-law to another community titles scheme or to any lot or lots within the whole community scheme.

Two towers sharing a separate building as common property

Scenario 3

Community titles are used to create a mixed-use development of two freestanding towers, sharing a low rise building between them as common property with multiple facilities.

A vibrant 'city village' has been created by subdividing a parcel of freehold land into two towers with a freestanding building between them which provides a connecting community destination.

This development scenario benefits from its capacity to integrate multiple land uses, deliver affordable residential living and use common property flexibly to provide for different levels of access, generate profit and share expenses with multiple users.



Development intentions

- Build two towers in a central city location, each having its own distinctive style and separate management structure.
- Develop one as a premium north facing tower with office spaces and some high-end residential units and the other as an east-facing tower offering more basic residential options.
- Between the two towers is a three-storey central low-rise building with a range of facilities, including retail outlets, a community space, gymnasium and pool.

Subdivision profile

- The site was subdivided to create two tier-one lots and common property. The low rise shared facility building is constructed on the tier-one common property.
- Each of the tier-one lots was then subdivided by a tier-two community titles (building) scheme to create two freestanding towers, each tower having its own common property.

Subdividing this scheme into two tiers was ideal for this development because it allowed the two towers to be autonomous in their day-to-day management, each having their own tier-two community corporation. However, both towers benefit from the low rise shared facility building which is part of the tier-one common property, and is managed by the tier-one community corporation (whose members are the two tier-two community corporations).

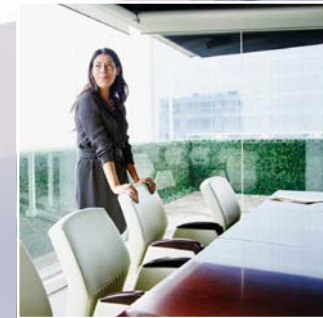
- The freehold land parcel was subdivided by a community titles (land) scheme, creating two tier-one lots and common property.
- On one lot, a premium north facing tower is built. On completion, this tier-one lot is subdivided by a tier-two community titles (building) scheme.
- On the other lot, an east facing residential tower is built. On completion, this tier-one lot is subdivided by a tier-two community titles (building) scheme.
- The low-rise building is constructed on the tier-one common property. This will include facilities which can be shared between the two towers.

Scheme features

- Shared infrastructure usage and costs.
- Flexible options for both the buyer and developer.
- Smart common property and governance arrangements.

Tower 1

A north facing office tower, with commercial spaces and a limited number of penthouse-level residential units



A central building

Delivering shared facilities to the community scheme.



Tower 2

An east facing residential tower



Shared infrastructure usage and costs

This development uses a community scheme to create shared facilities which will appeal to property buyers seeking a wide range of amenities close to their home or work.

The hub of these shared facilities is a central low-rise building between the two towers, which is tier one common property. Some of this tier-one common property is for the use of all owners. But in other instances, this development uses the full flexibility of exclusive use by-laws by creating different common property areas for the benefit of:

- one of the towers only; and
- one of the lots only.

For example, the ground floor of the low-rise building includes a shopping outlet with retail shops and a café. The rental income from these is allocated to whoever owns the penthouse suite in the north-facing building, via an exclusive use by-law over the tier-one common property – making this suite very attractive to an investor. The owner benefiting from this exclusive use by-law must pay for the costs associated with these areas. This ensures that all other owners in the community scheme do not have to pay for facilities they don't use.

Also at ground-level is a community space subject to an exclusive use by-law in favour of the east facing tower. This space is for annual general meetings of the community corporation of the east facing tower but can also be booked by individual owners from that tower.

On the second floor of the central low rise building there are executive offices and a small commercial gymnasium, both of which are available to the general public. The income from these offsets the costs from the maintenance, operation and insurance of these areas. Owners from both towers can use these facilities at a substantial discount. As tier-one common property that is not subject to any exclusive use by-laws, management of this area is the responsibility of the tier-one community corporation and the cost or income is shared across the entire community scheme.

The top floor terrace area features a 25-metre solar heated pool, a pool deck area including a cabana, kitchen, BBQ facilities, and landscaped gardens. This area is available for the use of all owners in both towers.

At ground-level within the common property building there are communal facilities such as equipment for building safety and waste facilities, which are discreetly housed away from the retail areas and community spaces.

Maintenance and management of any tier-one common property that is not subject to an exclusive use by-law area is the responsibility of the tier-one community corporation, and costs are shared across the whole scheme.

Flexible options for both the buyer and developer

Depending on what is set out in the scheme's community development statement, the two towers and central low-rise building can be constructed concurrently or staggered over the longer term to suit the developer's rate of investment and cashflow objectives.

The developer's outlay may also be timed with key milestones in the property's 10 year maintenance plan.

The developments made possible under this community scheme scenario would likely be attractive to a range of buyers for their vibrancy, contemporary feel, and variety of facilities. Because the costs are shared by both towers, the common property within the low-rise building offers scheme owners access to facilities they may otherwise not be able to afford, such as the pool and BBQ area.

Owners can benefit from the common property that is specific to their tower. For example, the north facing tower's large, modern conference facility would be a valuable asset for the office-space owners; while the east facing tower's playground on the ground floor serves as a focal point to bring families together and create a sense of community.

Smart common property and governance arrangements

Common property exists for each individual tower, in particular the building infrastructure. Only the owners in the relevant tower pay for the insurance and maintenance of that tower.

The common property at tier-one is owned by both towers, with special arrangements put in place for certain areas by way of exclusive use by-laws.

Common-sense governance arrangements have also been applied across this community scheme development scenario. For example, separate by-laws apply at the tier-one level, to those at the tier-two level:

- Tier-one by-laws which all owners and occupants across the scheme must follow. These could establish, for example, certain standards of appropriate behaviour across the whole community scheme, such as acceptable noise levels.

In addition to the exclusive use by-laws that have already been identified, other tier-one by-laws could relate specifically to the low-rise building, establishing, for example:

- hours of use for the pool and BBQ area
- safety rules in relation to the pool.

- Each tower can have its own by-laws, so it can manage its own affairs. For example:
 - The north-facing tower could have by-laws which set out how the conference room is to be booked and establish a method so that each owner has fair access to it throughout the year.
 - The east-facing tower might decide to create a by-law to specify that moving furniture in the building is only allowed during certain hours.

Tier-one common property in the low rise building





The introduction of this new land tenure to Western Australia on 30 June 2021 was many years in the making, with extensive consultation influencing the shape of WA's new community titles law.

On behalf of Landgate and the Department of Planning, Lands and Heritage, I extend a sincere thank you to Western Australia's property sector and other key stakeholders for their contribution to the legislation and regulations.

Community schemes offer a flexible and innovative alternative to strata titles and unlock new opportunities for WA's property sector to explore.

I encourage you to access the full suite of resources that are available to help you explore what is possible through WA's new community titles law.



Graeme Gammie
Chief Executive
Landgate

Support and Resources



Visit landgate.wa.gov.au

For information and resources on community titles in Western Australia.

Read the [Guide to Community Titles](#)

A comprehensive guide which summarises WA's community titles law under easy-to-reference sections.

Available to view or download at landgate.wa.gov.au

Printed copies are also available on request to Landgate's customer service team.

Contact [Landgate customer service](#)

Do you need help? Landgate's customer service team is available to answer enquiries on community titles.

By phone: (08) 9273 7373

Webchat: landgate.wa.gov.au

Email: customerservice@landgate.wa.gov.au

Learn how to prepare a [community development statement](#)

Refer to the following resources from the Western Australian Planning Commission:

- The Operational Policy for Community Schemes
- The Community Scheme Guidelines

These resources are available via dplh.wa.gov.au.

Access the [Act and Regulations](#)

Visit legislation.wa.gov.au for the *Community Titles Act 2018* and Community Titles Regulations 2021.



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Scenario 1 images: GKA in association with SPH Architecture + Interiors

Western Australia images: Tourism Western Australia