

Information Session 1 – Introducing community titles and creating a scheme

Opening address

Good morning, everyone. Thanks for joining us so early on this nice wintry morning in the middle of November. Can I start by acknowledging that we're meeting today on the lands of the Whadjuk Noongar people and we pay our respects to their Elders past, present and emerging. It's particularly worth noting that we're meeting in NAIDOC week. This week is NAIDOC week, where we celebrate the history, culture and achievements of Aboriginal and Torres Strait Islander people. So please keep that in mind throughout the day, and throughout the week.

Today, we're here to talk about community titles. This has been a long journey for Landgate, but we're getting to the pointy end and what we're here to do today, is to engage fully with you, and to get your input into making a great success of community titles. I'll leave it up to the team to explain the details, and then the draft regulations will be available in the next couple of days. That will give you all the detail that you need to be able to drill down into, so that you can help us by providing some really constructive feedback into those draft regulations.

Landgate, as you may know, is Western Australia's Land Information Authority. Our job is to deliver location information, property valuations and land titling services for the State. We're also responsible for strata reform, and in November 2018, we passed two legislative packages, the Strata Titles Amendment Act and the Community Titles Act. The first phase of this reform was the strata titles reform, and I'm sure that many of you were probably engaged in the consultation we did on that around 18 months ago I guess it would have been, maybe a bit longer. The second phase is our focus on community titles. This a partnership, and our team at Landgate is working very closely with our colleagues from Department of Planning, Lands and Heritage (DPLH), who are here today, and we thank them for their participation in this event and for the hard work that both teams are doing on this really important piece of legislation and these draft regulations.

Yesterday, the Minister for Lands announced the release of the consultation draft for the Community Titles Regulations, officially opening the month of consultation which closes on 9 December. Please take the opportunity to look at what's proposed and provide feedback through the State government strata reform website, which is strata.wa.gov.au. The purpose of today's session is to support your consideration of the consultation draft regulations to help you get a better understanding of community titles, and what you can expect from community schemes as a new form of land tenure in our State.

I'll leave the details of how community titles are proposed to work to the team because they are infinitely better placed to explain to you the ins and outs. But what I would like to say before we ask Kelly Whitfield to join us to start the presentation, is that this has been a really well thought through, deeply considered piece of work by Landgate's policy team and DPLH's policy team. But we're at the point where we need your input, and that's what we're here for today, and that's what the next month is about, to make sure that we get the best result for the broader community and the best result for the State. So, with that, I'll hand you over to Kelly, and thank you all for your time.

Presentation

Slide 1 – Community Titles Session 1

Thanks for that Travis. Today we're going to find out a little bit more about community titles. Consider this presentation as something to support your consideration of the regs, if you're going to have a look at them.

Slide 2 – Session topics

So, in this first session, I'm going to, well actually, just for starters – my name is Kelly Whitfield. I'm the Senior Manager of Legislation and Policy at Landgate. I'm also joined here today by my colleagues from the Department of Planning, Lands and Heritage. Jacquie and Lucy will be joining me later for a Q&A session, and we'll also be joined by my colleague, Alison Fleming, who's done a lot of work with Parliamentary Counsel in preparing these regulations. So, save your questions to the end, and we'll have a bit of a panel and then we'll be taking questions.

So today I'm going to talk about introducing community schemes; how to understand community schemes; I'll give an example of what one might look like and dive down into a little bit of the detail of how a tier three residential land scheme might look. I'll talk about how you create a community title scheme, and then at the end, how you can find out more and have your say.

Slide 3 – Introducing community schemes

Community titles is a new form of land tenure for Western Australia. But why did we introduce it? Well, for example, we've had strata titles for a really long time, but they are subject to a bit of a limitation when it comes to creating mixed uses like retail, residential, commercial. You can have a mix of uses in strata but it can be a little bit difficult. For example, in strata if there's common property, it's owned in common by all of the owners in the scheme, and that means it can be quite difficult for mixed uses to share the common property nicely, or to have some

people who use the common property in a certain way and other people who aren't allowed to use the common property. It can be done in strata, but often through the use of complex legal agreements, and we've heard of cases where those legal agreements break down because you know, "This section, that's our common property, don't you use our common property, we're paying for it" and they put up fences and all sorts of things like that. So, community titles should really support the use of different common property for different parts of the scheme and also allow for different rules or different by-laws to apply to different people in the scheme. So that's one of the real advantages of community title.

Community title is introduced through the *Community Titles Act 2018*. Think of community titles as a new form of subdivision. If you think of those little Russian dolls that split apart, and there's another little Russian doll inside, it's a bit like that – think of a little strata, in a middle sized strata, in a larger strata. So, it's stratas nested within one another, and that structure allows for a lot more flexibility in how you treat the common property, and how you can have different by-laws that apply to different people.

These community titles, they're new to WA but they're already in use in New South Wales, South Australia and Queensland, as well as overseas.

Slide 4 – Law and regulations

The *Community Titles Act 2018* is the governing legislation. It sets out how community titles schemes are to be created, managed, and even terminated – of course, we need to create some first – and includes how disputes will be resolved in the community scheme. The Act was brought into Parliament in 2018, but it's not live yet. What needs to be done before it can go live? These regulations, so that's what we're working on at the moment. The Community Titles Regulations provide some of the detail about how community schemes are to be managed.

Yesterday, the Minister for Lands had a media statement that officially launched the one-month public consultation period, and today is the public launch of that. So please take the opportunity to look at the regulations, because we have got a nice window of opportunity to make changes if there's something that would be better changed to make it more workable.

Slide 5 – Current timeline (subject to change)

Here are current timeframes, and here we are in the consultation phase. We've got the regs out, that's good. Landgate and the Department of Planning, Lands and Heritage have been working very hard on finishing the regulations. We're really delighted that they're actually finished. They're published on our strata.wa.gov.au website. So, please download a copy and read it and give us feedback before the ninth of December.

The next step after that is that Landgate and DPLH will review the feedback that we receive, and consider the extent that it should be incorporated into the regulations, and then we'll finalise the regulations, and they'll be published and tabled in Parliament. The view is that we will then set a date for the commencement of community titles, which is looking like it will be 30 June 2021.

Slide 6 – Understanding community schemes

Understanding community titles. Firstly, it has to be said that community titles are going to be very, very similar to strata titles. So, if you're familiar with the Strata Titles Act, and you know and love the Strata Titles Act - the Community Titles Act is actually really very similar, like as much as possible, we've kept it the same. But it does have differences throughout due to the tiered nature of community schemes, but wherever possible, we've kept it pretty much the same.

Slide 7 – What is a community scheme?

What is a community scheme? Okay, so if you look at this diagram, a community scheme is a new form of subdivision. It allows a single parcel of freehold land to be subdivided into up to three tiers of community titles schemes. If you look at the diagram, each of the different coloured blocks that you can see is a community titles scheme. The green tier one on top; is a community title scheme. It's then subdivided into two, tier two schemes underneath – the blue ones. And then if you look on the left-hand side, one of those tier two blue blocks, has been subdivided again into two tier three blocks. Together, you call the whole thing a community scheme, but each of those individual blocks, you call a community titles scheme.

Slide 8 – They can have up to three tiers

Community schemes can have up to three tiers. They do not have to go to three tiers, but we have provided for that structure. If you look at the diagram, each of the different coloured blocks, again, community title scheme, so the green one on top, and the lots created at this level are tier one lots. If you look at the left, there is a lot one, that is a tier one lot. Just beside it in the middle, that's tier one common property – you do not have to have common property. You do not have to have common property, but you can have common property at each level. And then over to the right there. We have got another tier one lot. So, if we just work off the left-hand side, that lot one at the top tier is subdivided to create a tier two scheme underneath, and then at that level we have a lot. At the tier two level, there's tier two common property, and another lot at the tier two level. It is got these tiers. And then on the left-hand side, one lot has been subdivided again, into the tier three scheme, and again, we have got a tier three lot, and

that is where we have got some townhouses built. And on the other side, that tier also has some common property. You will notice that on the right-hand side, the tier one lot has been subdivided once to create a tier two scheme, but they stopped there – they did not go down to tier three. You can have up to three tiers, but you do not have to.

Slide 9 – Community scheme terminology

There is some special terminology that helps you understand community titles. It is worth spending a little bit of time trying to understand it, because it makes things a bit clearer later on.

There is the term 'belongs to'. A lot or common property 'belongs to' the scheme from which it was created. You could think of this 'belongs to' as being the relationship between a child and its parent. If you look at the bottom, the tier three scheme on the left belongs to the tier two scheme it came from, it also belongs to the tier one scheme that both came from. The 'belongs to' term is the relationship of the smaller lot to the larger lot that it came out of. The reason this is important – there's many references to this in the Act – it has a bearing on, who has to adhere to those by-laws. I'll go into a bit more detail with it later.

Slide 10 – Community scheme terminology

Another important term is: 'related to'. A community title scheme is related to each scheme, to which it belongs, or which belongs to it. What does that mean? It's just a family relationship. It's in relation to this tier three scheme on the bottom, it's related to its tier two parent, and that tier two parent is also related to the tier three lot. It is just the relationship that goes both ways. But it's only if it's in a direct line. You will note there is two tier three schemes on the bottom here. Those two tier three schemes are not related to each other, because one did not come out of the other. That is worth noting, because again, it has to do with whose by-laws you have to follow. for example.

Slide 11 – Community corporations

For example, each community title scheme has its own community corporation. It might be helpful to think of the community corporation as being like the strata company in a strata scheme. It manages the scheme by-laws, common property and finances of the community title scheme.

A community corporation is made up of the lot owners in the scheme, and the community corporations, if any, of the schemes that belong to that scheme. The community corporation includes the owners at that level, and any community corporations at a lower level. I'll go into

that in a little bit more detail in the next session, the management session, so don't worry too much about it now.

Slide 12 – Lots in a community scheme

Lots in a community scheme. There are basically two types of lots in a community scheme. There's a community titles building scheme, and a community titles land scheme. Which one it is depends on how the lots are defined on the plan.

For a community titles building scheme, the plan defines a lot in reference to a building. The lot has height, depth and width, it's a cubic lot. These sorts of lots you can stack one on top of the other. For example, like an apartment. They're valued by capital value, and they're really the equivalent to built strata – so quite the same as that.

In comparison is a community titles land scheme. This is the equivalent to survey strata in the strata world. They're valued by site value. They're defined just by the boundary, and the plan doesn't depict any buildings on them, is not defined in reference to a building, and they're two dimensional, so you can't stack them one on top of each other.

Slide 13 – High-level: creating a community scheme

Firstly, I'll just give you a high-level look at how you create one of these community title schemes. Then I'll give you a couple of hypothetical examples of what a community scheme might look like, and after that, I'll go into a little bit more detail about what's involved in completing a Community Development Statement. But first, a broad overview.

Slide 14 – Community Development Statement (CDS)

There's this new thing called a Community Development Statement. It sets out the planning, design and development information for a community scheme. The Community Development Statement or CDS must be approved by the West Australian Planning Commission prior to subdivision and development. A CDS binds the activity of the planning decision makers, owners and developers, and the subdivision and development of a community scheme must be done in accordance with the CDS. A CDS can be amended with the approval of the Planning Commission.

Slide 15 – Creating a tier 1 scheme

So just briefly, I'll talk about how you create a tier one scheme.

To subdivide land by a community scheme, the following documents must be registered. The Community Development Statement, which is this special document, which is crucial to the nature of the scheme. After that, the documents are really similar to what must be registered to create a strata scheme. You have a scheme notice, a tier one scheme plan, a schedule of unit entitlements, and the scheme by-laws for that community title scheme. You only need one Community Development Statement for the whole community scheme.

Slide 16 – Creating more tiers

So once you've created that first tier, you can then create more tiers in sequence – it's got to be in sequence, like the big mother Russian doll, first, she's created and then you get to the other tiers coming out of it. After you create the tier one scheme, you can create a tier two scheme and that can be registered just with the documents that are similar to strata, so you don't need another Community Development Statement. You need a scheme notice, tier two scheme plan, schedule of entitlements and scheme by-laws for that community title scheme. So essentially the same documents as for strata.

Then lastly, if you do go down into the tier three, it's those same documents again. Although you don't need another CDS. It is possible to lodge an amended CDS when one of these things is being subdivided, of course with the approval of the Planning Commission.

Slide 17 – Example of a community scheme

Okay, so let's run through an example of what a community scheme might look like. Let's say you want to have a development and it's going to have a mix of residential types of dwelling. You're thinking that a big sales feature might be a big parkland that's in the centre, and you're going to have a shopping precinct. So how could community titles help you to deliver that?

Slide 18 – Community scheme example

Okay, to start with this big blank area represents a parcel of freehold land. Now, I have to clear up here a very common question we get: "Can you convert an existing-strata over to community title"? No, not directly. First, you'd have to terminate the strata scheme, because to create a community scheme, you first have to start with a parcel of freehold land. Sorry, first, you have to terminate your strata scheme. Here we have a big parcel of freehold land.

Slide 19 – Community scheme example

The next step. This is where we've created a tier one scheme. At the tier one, we've got a lot over to the left that we've earmarked for future residential development in the centre is that big parkland – that's going to be the big selling feature. That's tier one common property. Because it's tier one common property, what that means is that every lot created later in the scheme, everyone can use that common property, it's their common property. And over to the right-hand side, we've got a lot that's earmarked for future commercial development. That's the first step.

Slide 20 – Community scheme example

Now let's go to creating some tier two schemes. Okay, each of the tier one lots has been subdivided. In this case by two tier two schemes, the tier two parts are in blue. You can see that big strip down the centre is still the common property parkland. So that sort of remains as tier one common property.

On the left, we have a scheme with two lots for residential development. The strip running vertically down the far-left hand side is common property. That's going to be a roundabout in a driveway allowing the residents to access their common property.

On the right, the second scheme is going to be two shopping centres, and in between, there's some common property – that's going to be a loading bay, which both shopping centres will be able to use.

Slide 21 – Community scheme example

Okay, next step. This, I don't know if you've noticed, is sort of similar to the flowchart I was showing you before, it's the same scheme, this is just a different way of representing it. The two tier two residential lots have been further subdivided to create two tier three schemes, and that's the purple blocks on the left-hand side.

The first two blocks are representing a residential land scheme. The purple box on top represents the common property of that land scheme, which is a pool and some gardens. Underneath that represents the lots in the land scheme. I don't know if you remember, but the land scheme is just lots. It's not represented as buildings, but there's going to be some townhouses built on them, and people will be able to choose their own townhouse that they're going to build on that.

The two blocks underneath, that is the tier three building scheme that's represented by our little apartment building. Let's say that's going to be an apartment block; it's going to have six slots. Each lot is defined as being in part of the building because it's a building scheme. The little building, that represents our six slots, and underneath that is a block where there's going to be a lovely rooftop pool, and they're also going to have a gym and that's their common property.

Slide 22 – Key questions: tier 3 residential land scheme

Okay, let's say that you own one of the townhouses in the land scheme.

Slide 23 – What do I own?

Okay, so you built your own townhouse, you chose the colours. That was why you wanted to buy into the land scheme. You own your own townhouse. You also own your own lot, which is out to the boundary. You own an undivided share of the common property of that tier's pool and gardens. Undivided share means you own it in common with the other owners in your tier three scheme. You own an undivided share in the tier two common property, that was the driveway and the road. One of the big selling features of community schemes is that you can share the cost of common property - potentially, more expensive common property, amongst more people. Okay, so you also own an undivided share in the tier one common property, the parkland. This brings us to an important principle of community titles – that you can have common property that you own, you also have to pay your share of the upkeep of that common property at the different levels. In terms of how the costs are shared, they are shared in proportion to your unit entitlement. Okay, so those are the things that you can use in the scheme.

Slide 24 – Which common property am I not allowed to use?

What are you not allowed to use? Okay, remember, before I said that the two tier three schemes weren't related to each other. You can't use the rooftop pool or the gym in the other tier three scheme. The good news is you don't have to pay any of the expenses, but you can't use their equipment. You also can't use the loading bay that's on the other side of the commercial development. That scheme is not related to yours. Your scheme doesn't belong to it. You're not allowed to use that, and you don't have to pay for it either. One thing that is a bit special about community schemes is that we do have exclusive use by-laws that can go across schemes. I don't know why, but if you wanted to use the commercial loading bay for some reason, you could set up an exclusive use by-law, so that you had the use of that particular common property. Of course, it's expected that that exclusive use by-law would then say that you have to pay for some of the upkeep of that particular common property.

Slide 25 – Which rules apply to me?

Okay, which rules are going to apply to you? A lot owner or occupier in a community title scheme must abide by the by-laws of the tier that their lot is in. This is the equivalent to what you have in strata – you have your own community corporation, your own area, and that sets out by-laws. For example, about appropriate standards of behaviour or may be special by-laws about how the expense of the garden will be apportioned.

You also must abide by the by-laws of the schemes that your scheme belongs to. This is where the concept of 'belongs to' becomes useful. It's like the child has to follow the rules of the parent, and the rules of the grandparent. You have by-laws at each level that you have to follow. The enforcement of by-laws is the responsibility of the tier that created those by-laws. So, you could be in the tier three and maybe breach a by-law that's at the tier two level. That means that the tier two community corporation has to enforce that particular by-law. One thing that is a little bit special about the Community Titles Act is that it doesn't include a set of default or standard by-laws. If you're familiar with the Strata Titles Act, at the end, it's got Schedule one by-laws and Schedule two by-laws. There isn't an equivalent in community titles. One of the reasons we did that is that this is such a flexible tool and you can create so many different types of developments potentially, that really the developer who makes it in the first place has to think about the by-laws that would be most appropriate for that scheme. Also, because we don't have these default by-laws, we also don't have governance or conduct by-laws which are a feature of the Strata Titles Act.

Slide 26 – Community titles (building) scheme

Okay, I've gone through an example of what a development might look like over a wide block of land, but like I said, this is a very flexible tool and you could potentially do a community title subdivision just in a single standalone building.

Let's say you own a building. It's a freehold building, so the land and building are owned freehold, and you have the vision of creating a mixture of uses. You're going to have this retail, commercial, residential building, all within the one sort of thing. So how can community titles help you to develop that?

Slide 27 – Community titles (building) scheme

Okay, so here's our building, it's got three storeys above ground and it's got three basement levels. The first step. So, our strategy has been to create three, tier one lots. Each lot is a separate storey of the building. And there are three basement levels. And in this case, we're just going to keep them all as common property. That's the first step.

Slide 28 – Community titles (building) scheme

The next step, we've subdivided each of the tier one lots, creating three, tier two community title schemes. This subdivision has the effect of creating six retail lots on the ground floor, 16 commercial offices on the first floor, and 10 residential lots on the second floor. Moving to the basement level, it's still common property. However, we've created some exclusive use by-laws, which set aside parking so that the residence, offices and retail lots all have their own basement level for parking. You'll note that although there's three separate uses being catered for, we've only gone to the tier two level in this particular scheme. This is just one illustration of the many ways that you could use community titles schemes to deliver a development which is functional and attractive to a wide variety of users.

Slide 29 – More details on creating a community scheme

More details on creating a community scheme. That was the high-level overview. Now I'll dive into a little bit more detail about how to create a community scheme, explaining a bit more about what the Community Development Statement is, and also outline the process for approving an application for a Community Development Statement or an amendment of one.

Slide 30 – What is a Community Development Statement?

What is a Community Development Statement? As mentioned earlier, it's a new planning instrument setting out matters like the proposed community scheme subdivision, development, land use purposes, staging, sequencing and other relevant matters. The CDS sets a clear expectation of development outcomes and it binds the activities of planning decision makers, owners and developers.

Slide 31 – CDS requirements

A CDS is essential for the creation of community scheme. The CDS must be consistent with the existing planning framework, including State planning policies, planning schemes or interim development orders. It has to have enough information in it to persuade the Planning Commission that a community scheme is an appropriate form of subdivision for the area. When considering whether a community scheme is appropriate; there are other factors that the Planning Commission must consider. For example, the right relevant state planning policies or the planning elements which have effect in that area. The CDS must be approved by the Planning Commission. Subdivision of the community scheme cannot go ahead without that approval. For the would-be developer, the CDS as a tool in which they can set out enough information to be persuasive to the planning commission: that yes, a community scheme is an appropriate form of subdivision for the area.

At the same time as submitting the CDS, the applicant also has to include a statement setting out, that yes, community schemes is an appropriate form of development subdivision for the area. In considering the matter, the Planning Commission has to consider orderly and proper planning and the preservation of amenity in the area.

Slide 32 – Why introduce the CDS?

So why did we introduce the CDS? The CDS will be used to guide decision-making by the Planning Commission and local government, or relevant determining authority and guide design and coordination of infrastructure. Once approved – once the CDS is in force – subdivision applications made before or during the development period must be approved if they could be carried out consistently with CDS. This will provide certainty to buyers – people buying into a community scheme will be confident that their scheme will be developed in accordance with the CDS. It also gives certainty to developers and planning officials that the approved CDS can be used to guide decision making.

It is worth considering how staging can be achieved in strata schemes in comparison, because it's a different mechanism. Thinking of strata for a second, let's say you've got a developer, they don't have enough money to build the entire scheme at once. So, they do a stage one of the strata with the idea of doing a stage two in the future. In the Strata Titles Act, the way that buyer protections have been built in for people who bought into the first stage, is that it only allows quite a specifically defined amount of variation in the second stage. And if that's exceeded, the developer has to go back and get consent from all the people who bought in the first stage, and all of the mortgagees.

For example, in comparison that mechanism doesn't exist in the Community Titles Act. If what is proposed is consistent with the Community Development Statement, it goes ahead. Theoretically, this could give developers a lot more confidence in doing staging that as long as the staging proceeds in accordance with the CDS, they don't have to do the thing that they have to do in strata, which is, if it exceeds certain very narrowly defined parameters, they need to go get consents from everybody. It's a tool potentially giving more leeway to developers to still build what was proposed but to cope with minor variations.

Slide 33 – What does a CDS contain?

What does the CDS contain? The Community Titles Act doesn't actually specify too much about what must be in the CDS. In fact, the only thing I think that must be in the CDS is the location of the parcel. But there are a lot of things that the CDS may contain, and these are the elements which will really set out the information required for the Planning Commission to decide whether a community scheme is an appropriate form of subdivision for the area.

The CDS may specify requirements for subdivision, for example, number of lots, development, for example, height of buildings, utility services, and infrastructure, staging and sequencing of the development, planning scheme by-laws conditions, and other matters decided by the planning commission or by the regulations. The things that will absolutely be required, and my colleagues from DPLH can correct me if I'm wrong – those things that will satisfy the planning framework in the area in which the community scheme is being delivered, and that will be quite different according to where the proposed development is. For example, you could do a community scheme in Dongara to deliver short term holiday accommodation, or you could have a community scheme which is being delivered entirely in a 23 story building in the CBD area, or you could have a community scheme in the outer suburbs somewhere. The planning framework in each of those areas is actually going to be quite different, and what's in the CDS will depend. In some cases, you could have the case that the existing planning framework provides most of the necessary detail, in which case the CDS might be quite minimal. What is required is enough information for the Planning Commission to decide whether or not community scheme is an appropriate form of subdivision for the area.

Slide 34 – Amendment of a CDS

Amendment of CDS. As I mentioned before, a CDS can be amended. A person may apply to the Planning Commission for approval of an amendment of a CDS. To amend the CDS, it can be done at any time, including for a CDS which is approved but not yet registered. For an application to amend a CDS, the developer will need to provide a marked up version of the amended CDS so that it can be seen what changes are proposed, and a clean version of the CDS that is a consolidated version, evidence of a special resolution if applicable – so what that means is, if you've already had the tier one registered and a community corporation has been created, that community corporation has approved the amendment of the CDS by a special resolution – so you need some evidence with your application to amend the CDS that that community corporation agrees to the amendment. But if you want to find out more about that sort of management aspect, come to the second session, and I'll explain a bit more about that.

Slide 35 – Comment period – CDS (or amendment)

There's a comment period for the CDS or an amendment. Once an application has been made for approval of a CDS or an amendment, the Planning Commission must refer it to a local government and public authority or utility service providers within seven days. The referral will set out how comments are to be made and the time limit within which they must be made, and local government must advertise the CDS for public comment. It is at this stage that comments can be received on the proposed CDS. Any comment received by local government must be passed on to the Planning Commission, which must give them due regard within the period for

comment or such longer period as decided by the Planning Commission. Referral comments and public submissions received during this period must be given due regard.

Slide 36 – Determination by Planning Commission

Determination by the Planning Commission. The Planning Commission must decide if the subdivision is appropriate for that particular land, giving due regard to the relevant planning context, State policies, planning schemes, interim development orders, the preservation of the amenity of the locality, and whether some other form of subdivision or no subdivision would be more appropriate to achieve proper and orderly planning. The planning commission can't make a decision which conflicts with the relevant planning framework, and if the Planning Commission decides that a community scheme is not an appropriate form of subdivision for the area, they must refuse the application and give the applicant written notice explaining the reasons for the refusal.

The planning commission may approve the CDS subject to conditions. And if that happens, the conditions would say, well, this needs to be modified in a certain way and returned to us in a particular time period. And if that happens the applicant must provide a copy of the modified draft, and again, if the tier one has already been created, that must include evidence that the community corporation supported the amendment. If all of that doesn't happen, then that approval subject to conditions ceases to have effect.

There's a right of review in the State Administrative Tribunal (SAT). The Planning Commission has 120 days to consider an application to approve or amend a CDS. If at the end of that 120 days they haven't approved it, then the applicant may give written notice of default to the Planning Commission and an applicant can apply to SAT for a review of a decision to refuse to approve the application. There is a couple of points where an applicant can actually apply to SAT and these include the decision that a community scheme is not an appropriate form of subdivision – so that can be appealed. And also, a refusal to extend the development period can be appealed on application to SAT, and a decision to approve a draft CDS or amendment subject to conditions – so somebody can object to the conditions that have been proposed.

Slide 37 – After CDS approval

Approval of the CDS. Once the CDS is approved, then the following must be approved under the Planning and Development Act. The plan of subdivision, the scheme plan after completion of the necessary works for the subdivision and the construction of a building if it's a community title's building scheme.

The subdivisions are as per the *Community Titles Act 2018* and must be approved if consistent with the CDS. One of the things we did in the CTA was make it so that an application to

subdivide land by a community scheme or amend a community title scheme is made under the Planning and Development Act. This is in comparison to strata where the application for subdivision approval had to be done under the Strata Titles Act, and was different if it was a built-strata, built-strata with a lot or survey strata. That was a little bit complex and we wanted to streamline things – as a consequence, there's a section in the Community Titles Act, which explains how sections of the Planning Development Act are to be read to allow for the approval processes for plans of subdivision, scheme plans and amendment of scheme plans to be done under the Planning and Development Act. For example, an application for a scheme plan for a community title scheme to subdivide the land is considered to be as if, it were a request for approval of a diagram or plan of survey under Section 145 of the Planning and Development Act.

Slide 38 – Validity of an approved CDS

Validity of the approved CDS. Once approved by the Planning Commission the applicant has four years to register the CDS with a tier one scheme with Landgate - this is known as the approval period. If the CDS is registered, creating the community scheme, the development period commences and that lasts for a 10-year period unless the regulations says otherwise.

The development period can be extended through application to the Planning Commission. If the CDS is not registered within four years, the approval lapses.

Slide 39 – Effect of CDS on planning approvals

The effect of the CDS on planning approvals. While a CDS is in force for a community scheme regardless of whether the scheme is registered, a subdivision applied for before commencement of the development period must be approved if it could be carried out consistently with a CDS. A subdivision applied for after the commencement of the development period, must be approved if it could be carried out consistently with the CDS and there's at least four years until the end of the development period. This is to allow for an application to be made for registration of a community titles scheme. A subdivision must not be approved if it's inconsistent with the CDS. Due regard must be given to the CDS in determining an application for approval of a subdivision or development in any other circumstances. At the end of the development period, the CDS becomes a due regard document in terms of applications for subdivision and development. Normal subdivision and development applications still apply to the land which is subject to the community scheme.

Slide 40 – Find out more and have your say

Okay, how to find out more and have your say.

Slide 41 – Visit strata.wa.gov.au

As I've said, this is a one-month consultation period. You can download the regs from the strata.wa.gov.au website, and that website also has a lot more information about community titles and how they will run.

Please have a look at the draft regulations and take this opportunity to have your say, and on that website, you can also subscribe for further updates on developments.

The consultation period runs now until the ninth of December.

As I've mentioned a couple of times, come along to session two where we'll talk a little bit about how community schemes will be managed, and also touch on the role of scheme managers, scheme by-laws and dispute resolution, as well as how to buy or sell a community scheme.

Slide 42 – Session 2

Session two will focus on what's involved in managing a scheme - including the role of scheme managers, scheme by-laws and dispute resolution, and the requirements of buying and selling a community titles scheme lot

Slide 43 – Disclaimer

This disclaimer here says that I've tried to explain some fairly complex things in plain English. Please don't base your future investment decisions on any of the information I've given you here today. That always gets a laugh, I suspect it's because everyone's relieved I've finished speaking. I'm not a lawyer, there's just no substitute for reading the hundreds of pages in the Act and the 120 pages in the regulations. It's a thrilling read – I really encourage you to do that.