



Department of **Planning,
Lands and Heritage**

LGPA Legal Update

Community Titles Bill 2018

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Disclaimer

This presentation has been prepared for the purposes of consulting with stakeholders on the nature and scope of proposed strata and community title reforms to legislation in WA. **Legislation is subject to government consideration and Parliamentary processes.** Every effort has been made to ensure the information presented is accurate at the time of publication. Because it avoids the use of legal language, information about the law may have been summarised or expressed in general statements. **This information should not be relied upon as a substitute for professional legal advice or as a reference to current legislation, nor relied on as a guide for future legislation relating to strata or community title** in Western Australia, or in relation to current or future subdivision or development proposals, commercial transactions or dealings in strata or community title.



Introduction & background

Strata titles originally introduced in WA in 1966.

Current Strata Titles Act ('STA') dates from 1985.

Main variants:

- 'built';
- survey-strata.

Features:

- subdivision in a co-ownership environment;
- management (body corporate);
- rules ('by-laws').

Legislative package

- Introduced into Parliament 28 June 2018;
- 3 Bills, including:
 - *Strata Titles Amendment Bill 2018*;
 - *Community Titles Bill 2018*;
- Legislative framework;
- Main Bills include consequential changes to other legislation inc.:
 - PD Act;
 - LAA;
 - Heritage Act;
 - etc.

Western Australia

LEGISLATIVE ASSEMBLY

Community Titles Bill 2018

A Bill for

An Act —

- to provide for the subdivision of land by community schemes, the creation of community titles, and the governance and operation of community schemes; and
- to make consequential and related amendments to other Acts; and
- for related purposes.

The Parliament of Western Australia enacts as follows:



Key proposals (planning & development)

- Community title schemes (CTS);
- Leasehold strata;
- Termination of strata schemes;
- Staged strata;
- 'Built' strata conditions.

Current practice: Emu Brewery site



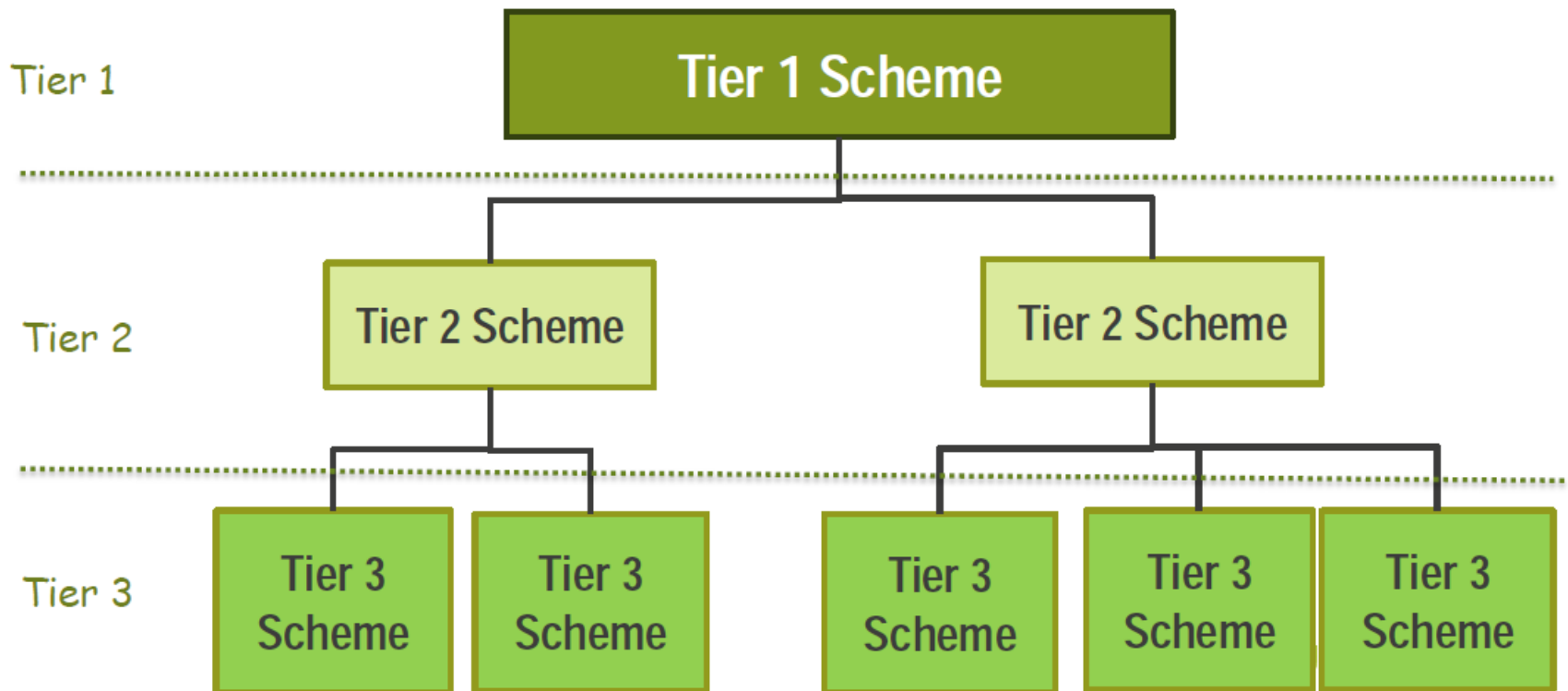


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Current practice: Claremont Quarter



CTS: concept



NSW Practice - Breakfast Point (Sydney)



Features of Breakfast Point

- 52 hectares, \$566 Million
- 2,500 dwellings; staged development
- Master Plan approved 1999. Long development period. 2005 Development Control Plan adds more detail re building footprints, locations, heights
- Over 50 strata schemes
- 94-page Management Statement. No Development Statement
- Three tiers of management –
 - community
 - precinct
 - neighbourhood



Legislative challenges – planning controls

- Reconciling highly discretionary planning system with nature of property rights arising under new form of land tenure - community title schemes;
- Providing for ‘land’ and ‘building’ CTS;
- Providing for documentation of land use and development intentions and controls within a CTS; and
- Identifying appropriate review mechanisms.

Legislative challenges – implementation

- Providing for multiple concurrent planning approvals within a community title environment;
- Providing for single or multiple developers within a community title scheme;
- Providing for staged subdivision and/or development;
- Providing for multiple different areas of ‘common property’;
- Ensuring consistency of decision-making for a community titles scheme



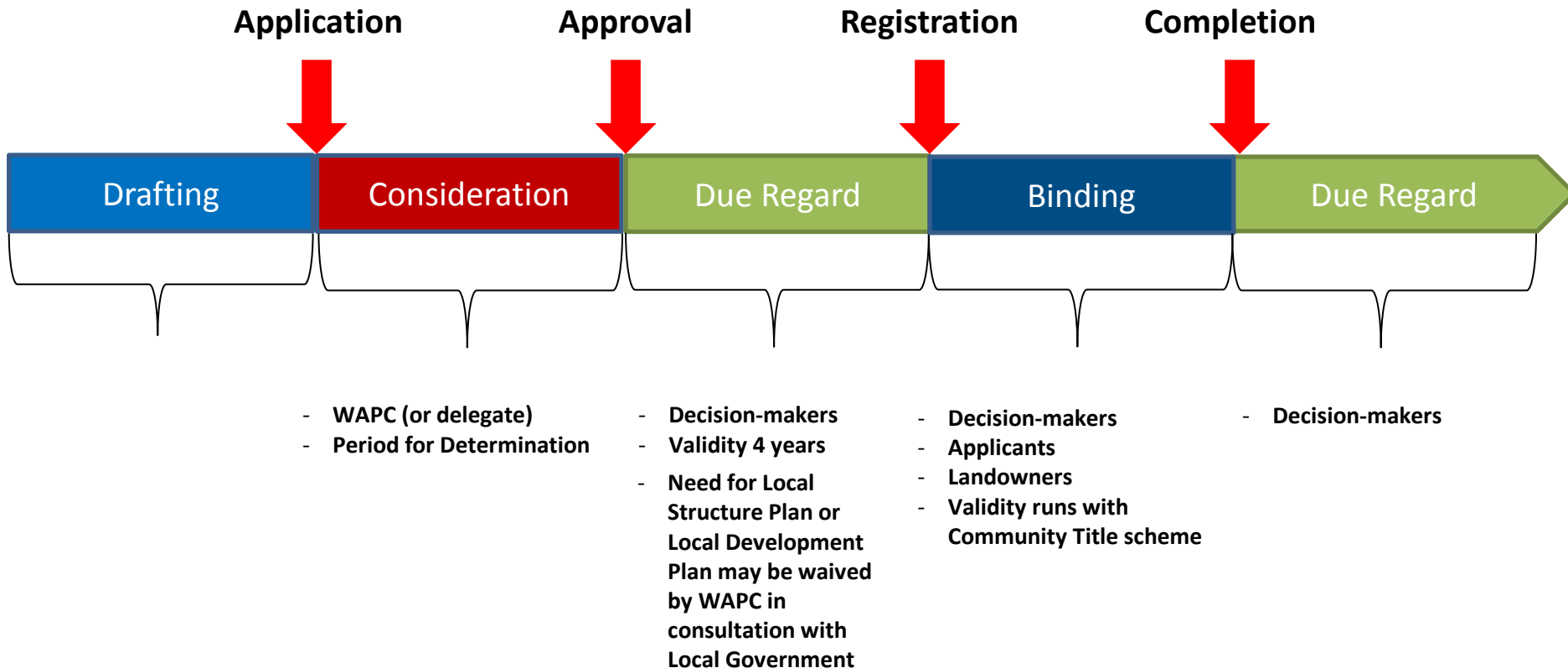
Key directions

- Adapting features of existing system for community title schemes:
 - Community Development Statement ('CDS');
 - Decision-making; &
 - Review opportunities.
- Part 3 of *Community Titles Bill 2018* ('CTB')

Community Development Statement (‘CDS’)

- Obligatory – CTB s 18 (1);
- Content – CTB s 25;
- Status – CTB s 19;
- Effect – CTB s 19 (1);
- Relationship to planning instruments? (ss 20, 24(1));
- Availability (publication)- CTB s 28.

Model: effect of CDS for Planning Decision-making



Decision-making

- What? – CDS & subdivision & development;
- By whom?:
 - CDS: WAPC – CTB s 21;
 - Subdivision and development: existing decision-makers – CTB s 29 (1);
- Appropriateness of land tenure?
 - CTB ss 18 (2) & 23;
- Relevant considerations? – CTB ss 23 (2) – (3);
- When? - CTB s 18;
- Review? – by SAT in usual way - CTB s 34



Conditions

CTB s 25 (1)(b)(v):

[CDS may specify] ... requirements for restricted use conditions (but not if the relevant planning scheme identifies the land as land that may be used for residential purposes, so as to prohibit the land being used for public housing or affordable housing)

CTB s 30 (e):

without limiting the conditions of an approval of a plan of subdivision or a development approval, the Act is to be read as providing that the conditions may include a planning (scheme by-laws) condition



Integration of subdivision and development (CTB Div 14):

Consequential amendment of PD Act:

- s 148 deleted; and
- new s 164A inserted:
 - provides for related applications (subdiv. or DA) to be required;
 - provides for requirement that related approvals be carried out.

‘Scheme plan’

- Content - CTB s 37
- Registration – CTB s 39:

Scheme plan must **not** be registered unless:

(d) the scheme plan is approved by the [WAPC]; and

(e) for a community titles (building) scheme, the scheme plan is accompanied by an occupancy permit or building approval certificate under the Building Act 2011 Part 4 Division 3 for each scheme building



Next steps

- Passage of legislation;
- Implementation actions, including:
 - Regs;
 - Policies;
 - Systems;
- Commencement.



More info:

Passage of legislation:

<http://www.parliament.wa.gov.au/parliament/bills.nsf/WebCurrentBills>

Landgate:

<https://www0.landgate.wa.gov.au/titles-and-surveys/strata-reform>