

COMMUNITY SCHEMES GUIDE

The factory site will be organized as a community scheme with one or more individual strata schemes, individual development lots and community property.

What is a community scheme?

A community scheme is like an umbrella organization. It is created by the registration of a community plan which allows the registration of multiple individual lots under the umbrella of the community scheme. Those individual lots may include one or more strata schemes and/or individual development lots. Each individual lot is owned either by the strata scheme or the individual owner of the development lot, but they also all share ownership of the community schemes common property and facilities known as community property.

The community property is owned and managed by a body corporate known as the community association, the members of which are the owners corporations of the strata schemes and the individual owners of the development lots.

The community association is responsible for the maintenance, repair and replacement of community property. The strata schemes within the community scheme are responsible for the maintenance, repair and replacement of the common property that is part of their individual scheme.

In many ways, a community scheme works in a manner similar to a strata scheme, whereby the scheme has a set of rules which are contained within the Community Management Statement. These rules are known and referred to as by-laws and are binding on all owners and occupiers within the community scheme.

What is a Community Management Statement?

A community management statement is a legal document lodged with the community plan for registration. The community management statement runs with the land and applies to the whole scheme. The document itself contains specific provisions relating to the property which are in the form of by-laws. These by-laws are divided into 5 parts being:

1. By-laws fixing details of the development;
2. Restricted property by-laws;
3. Mandatory matters;
4. Optional matters; and
5. Public authority by-laws.

In summary:

Part 1 sets out the essence or theme of the community scheme. These types of by-laws could be in the form of setting a standard building code for the scheme. Part 1 by-laws may only be amended or revoked by a unanimous resolution of the community association.

Part 2 by-laws create a restricted use of a certain area of association property or create an exclusive use of a certain part of the association property. These by-laws may only be amended by special resolution after the initial period has expired.

Part 3 by-laws cover things like access, permitted uses and special facilities on association property, internal fencing, garbage, services, insurance and the executive committee. These by-laws may be amended by a special resolution of the community.

Part 4 by-laws include any other by-laws that the developer wishes to add, such as the keeping of animals, laundry, safety and security measures, noise control and trading activities that a developer may wish to address. These by-laws may be amended or revoked by a special resolution of the community.

Part 5 by-laws are included at the request of a public authority, which may include a local council, a Commonwealth or State instrumentality or a corporation prescribed by the regulations as a public authority. These by-laws may be amended or revoked with the consent of the particular authority and a special resolution of the community.

The community management statement may be amended by holding a meeting of the association. This is done by giving all owners on the community roll notice of the meeting by posting a copy of the written notice of the meeting to all owners and providing a copy of the agenda which will include all the matters to be discussed and voted on at the meeting.

Overview of the Community Management Statement drafted for this scheme?

In summary, the community management scheme which applies to this scheme is broken down as follows:

Part 1 - By-Laws Fixing Details of Development

The by-laws included in part 1 of the community management statement are the architectural code and building works. The architectural code mandates that a specific standard of architecture and landscape be used for the scheme which relates to the external appearance of lots and community property within the scheme. The specific requirements are explained in annexure A to the community management statement.

The building work by-law mandates that no building work be carried out and no sign or air conditioning unit be installed on a lot, community property or property of any subsidiary scheme which would be visible from outside the lot without prior written approval from the association any other relevant body.

Part 2 - Restricted Community Property

This part only contains one by-law giving the developer exclusive use to carry out and complete development activities. The by-law also mandates that any damage made to community property whilst carrying out the development activities will be the developer's responsibility to repair and or replace if need be.

Part 3 - Mandatory Matters

This part includes and regulates private access ways, internal fencing, garbage disposal, services, insurances, and the functions of the executive committee.

Part 4 - Optional Matters

This part includes and regulates a range of matters including:

- use of lots;
- behaviour
- preservation of fire safety;
- prevention of hazards;
- storage of liquids & materials;
- parking;
- obstruction of and damage to community property;
- keeping animals;
- provision of amenities or services; and
- rules.

All requirements for the above matters are explained in detail within the community management statement. These by-laws as mentioned above are by-laws which the developer chose to apply to the scheme to regulate the use and safety for all owners and occupiers.

What effect does this have on the members?

Members within the community scheme including all owners and occupiers for the time being of the lots, have a binding obligation to follow and comply with all by-laws in the community management statement. They also have a binding obligation to follow the community management statement or by-laws of their own subsidiary schemes.

What effect does this have on my Lot?

The effect on your lot will be that, as a member or occupier of the community scheme, you will be required to follow all by-laws within the community management statement.

If any applicable by-law is not complied with, the association may request your compliance and if necessary, may apply to the NSW Civil and Administrative Tribunal to enforce that compliance.

What property am I as an owner responsible for?

You as an owner are responsible for the maintenance, repair, and replacement of lot property within your lot.

What is maintained and managed by the appointed community manager?

The association property is maintained and managed by the association, in particular, the community manager appointed by the association. The association property is everything other than your individual lot, other lots and the common property owned by strata schemes within the community schemes and/or the association property relating to the Neighborhood schemes.

What will my levies cover?

Your levies are contributions towards the maintenance and upkeep of the association property, which may include private roads, a main security gate for the complex, perimeter fencing for the common areas, street lighting and any other association property included within the scheme. Your levies will also cover insurance premiums and meet other regular expenses the scheme requires.