

Unit Living - Title Types



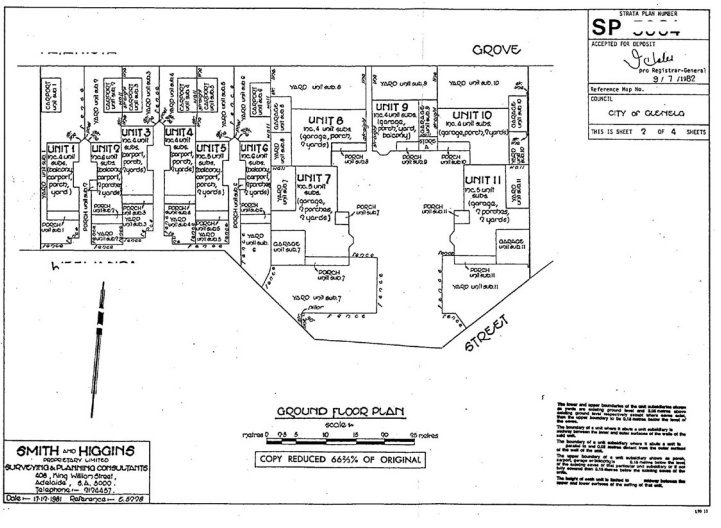
Strata or Community Title?

In South Australia there are two types on titles for multiple occupancy of land.

1: A strata title is created by the division of a structure into separate units. The boundaries of a unit are defined by reference to the structural divisions in a building, not by reference to the land. There must be an area of common property, for which the Strata Corporation (all owners) are responsible. The law concerning strata titles is outlined in the Strata Titles Act 1988. www.unitcare.com.au/aop.html

2: A community title is created by the division of land into lots. The boundaries are in reference to land, not in reference to buildings. There is an area of common property, for which the Community Corporation (all owners) are responsible. The law concerning community titles is spelt out in the Community Titles Act 1988. Some Community Titles are designated a Strata Division. These have a vertical boundary such as in a block of 2 storey flats with 1 unit above another. The Community Corporation owns and maintains the buildings - similar to strata titles. In these cases the boundaries include reference to buildings.

Titles are assigned a number by the Lands Titles Office. All groups designated with a number less than 20,000 are Strata Titles eg: Strata Plan 1256. All those groups with a number equal or greater than 20,000 are Community Titles, eg: Community Plan 21453. See the following pages for more information.



Buying into a Strata or Community Title:

If you are thinking of buying a strata titled home unit or community titled lot we suggest that before signing a contract you make sure you understand the operations and finances of the corporation. This information must be supplied to a prospective buyer by the corporation, through the selling agent or broker/conveyancer. The information (search) provides the following:

- meeting minutes (committee & general) from the last two years
- state of the finances for both the Corporation and the unit for sale ie: money in the bank, liabilities and unit levies owing now and any known future levy
- the current set of Articles (strata title) and approvals for pets, air conditioners, pergolas etc.

In the case of a community lot:

- set of by laws
- scheme description, if greater than 6 lots in group

Important things to consider

Unit ownership offers benefits, but it does not suit everyone. Before you buy a unit or lot, think carefully about what is involved. You will be living in close proximity to others, possibly sharing walls and some facilities. This works well for owners who value a sense of community and those who spend little time at home, or just want an investment unit to rent.

Each group of units or lots, no matter how big or small, has a Corporation, which is a legal entity like a company. All unit owners are automatically members of their corporation, and are bound by the rules (the Articles or By Laws) of their corporation.

Strata Titled Unit or Community Strata Lot - Your corporation is responsible for the maintenance and repairs of the common areas of the building and gardens.

Community Titled (non Strata) Lot - You are responsible for the maintenance and insurance of your lot and all buildings thereon.

Hint: Engage a conveyancer or lawyer to act on your behalf. Do not accept advice from the vendor's or developer's conveyancer without first checking with your conveyancer or lawyer.

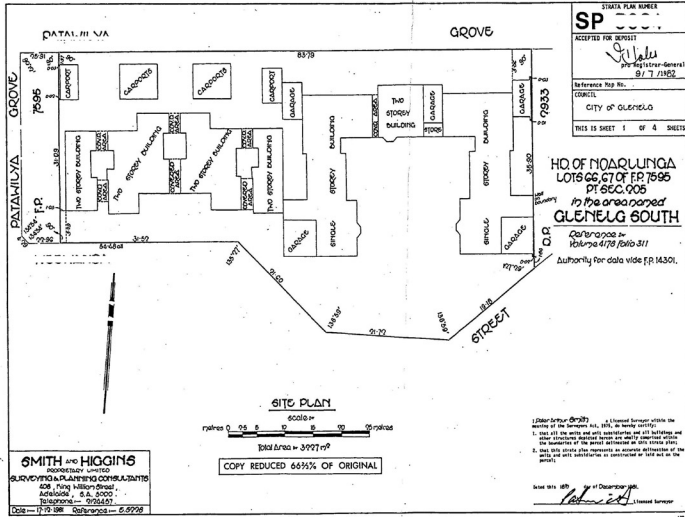
www.unitcare.com.au
 Ph 08 8333 5200 Fax 08 8333 5210
 Email mail@unitcare.com.au

Strata Title Groups...

Who Owns What, The Corporation, The Strata Plan, Meetings, Voting

Living in units has many benefits. These are best realised when all unit owners in your Corporation are well informed and cooperate. This environment can make for goodwill and good decisions.

The following notes may assist you to better understand the benefits and responsibilities of buying, owning and living in a unit.



The Strata Plan

The units, common property and all boundaries are defined in the Strata Plan which is deposited in the Land Titles Office, identified by a number. The Plan shows the following:

- The building boundaries.
- Each unit and its subsidiaries.
- Unit entitlements.

Your Corporation Officers or Manager can show you a Plan or you can get one from the Lands Titles Office (101 Grenfell St, ph 1300 653 345). The Certificate of Title to your unit will not show a plan as do most other titles. Instead it refers to the Strata Plan which defines the boundaries of your unit.

Unit Boundaries

Your unit has definite boundaries. These can vary but usually are - (extracts from the Strata Titles Act Section 5)

- Where a boundary is defined by reference to a wall or fence - the boundary is the inner surface of the wall or fence.
- Where a boundary is defined by reference to a floor - the boundary is the upper surface of the floor
- Where a boundary is defined by reference to a ceiling or roof the boundary is the undersurface of the ceiling or roof.

Common Property

Each group of Strata Titled units has a Common Property title. This title is issued in the name of the Strata Corporation. The Corporation holds the Common Property in trust, and through meetings of its members, administers necessary business. Each unit owner has an interest in the Common Property together with the other unit owners according to the unit entitlement. Your interest in the common property cannot be dealt with separately.

The Law

There are two documents which determine (by South Australian law) how your Units are managed.

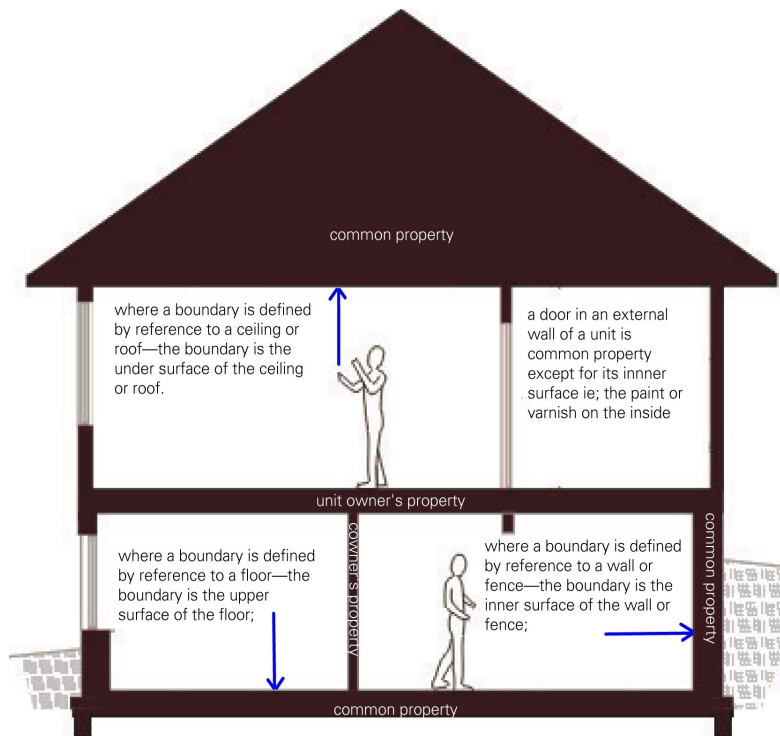
The first, is the Strata Titles Act 1988, which applies to all groups and the second is the Strata Corporation Articles, which apply to your group specifically, describe the conditions under which a unit is owned and occupied. Many groups follow the standard Articles (see over), but others have made additions and alterations over time. (Check with the Lands Titles Office for any amendments)

The Strata Corporation

Here are some of the Corporation's more important duties:

- To control, manage, administer and hold in Trust the Common Property and do all things reasonably necessary for the enforcement of its Articles.
- To insure all buildings and improvements for their full replacement value, along with cover for public liability.
- To keep in a state of good and serviceable repair and properly maintain the Common Property.
- To hold an Annual General Meeting (within 15 months of last AGM).

Some groups engage a professional Body Corporate Manager to assist with these matters.



Unit Entitlement

Each unit has assigned to it a "Unit Entitlement" and this is shown on the last sheet of the Strata Plan. It is based upon the capital value of each unit as a proportion of the capital value of all of the units. This figure is used to calculate each owner's contribution to the Maintenance Fund, unless owners unanimously agree otherwise.

Unit Subsidiaries

These consist of carports, garages or parking areas, porches, balconies, gardens or yards, as shown on the Strata Plan. Whilst they may not be physically attached to your unit, they are nonetheless deemed to be part of it. Where any of these have no obvious

height limits the ownership is limited to a height above ground designated on the Strata Plan.

Unit subsidiaries can only be used for the purpose for which they have been created, e.g.; a carport cannot be converted for any other purpose without the appropriate planning and Strata Corporation approval. In other words, the character of the unit and its subsidiaries must not be altered without approval.

Meetings

The Corporation must call a general meeting of all owners once a year. Officers of the Corporation (Presiding Officer, Secretary, Treasurer) are elected at this meeting. A Management Committee of officers and owners may also be elected. The committee can be very useful for decisions between AGMs. Minutes must be kept and maintained. Any officers must own a unit in the group. (exceptions apply to commercial groups)

Voting

Each unit has one vote regardless of how many people own the unit. A vote may be by proxy. Unfinancial members; that is owners behind in their payments, cannot vote except on matters requiring a Unanimous Resolution. In non residential groups (commercial & industrial strata) the voting arrangements may vary in accord with unit entitlement and tenants may be elected as officers and committee members. See sections 23(1a) and 34(2) of the Strata Titles Act for details.

The Maintenance Fund

The Maintenance Fund is to cover the costs of the management

and maintenance of the Common Property. Typically the fund provides for payment of:

- Lawn cutting and grounds maintenance.
- Drain and gutter cleaning.
- Insurance premiums.
- Management fees.
- Exterior painting (Sinking Fund).

Animals

You can only keep animals (except for guide & disability dogs) with the consent of the Corporation or unless the Articles say otherwise. The management committee can give consent.

Alterations & Additions

The Strata Titles Act (Section 29) requires that unit holders to obtain approval (a Special Resolution) from the Strata Corporation before starting any building or structural work, or generally altering the external appearance of a unit. Examples: pergolas, air conditioners, sheds, awnings and satellite dishes. Check with your manager or strata secretary. Some groups have standard approvals in place.

Articles

You need to enquire if these are the current Articles in force at your group. Unless stated otherwise your Strata group will have this default set of Articles. The Corporation, owners and occupiers are all bound by the Articles. They are, generally speaking, the conditions under which a unit is owned and occupied.

1. A unit holder must:

- maintain the unit in good repair;
- carry out any work ordered by a council or other public authority in respect of the unit.
- the occupier of a unit must keep it in a clean and tidy condition.

2. A person bound by these Articles:

- must not obstruct the lawful use of the common property by any person;
- must not use the common property in a manner that unreasonably interferes with the use and enjoyment of the common property by the other members of the strata community, their customers, clients or visitors;
- must not make, or allow his or her customers, clients or visitors to make, undue noise in or about any unit or the common property; and
- must not interfere, or allow his or her customers, clients or visitors to interfere, with others in the enjoyment of their rights in relation to units or common property.

3. A person bound by these Articles must not use the unit, or permit the unit to be used, for any unlawful purpose.

4. Subject to the Strata Titles Act, 1988, a person bound by these Articles must not, without the Strata Corporation's consent, keep any animal in, or in the vicinity of, a unit.

5. A person bound by these Articles:

- must not park a motor vehicle in a parking space allocated for others or on a part of the common property on which parking is not authorised by the Strata Corporation; and
- must take reasonable steps to ensure that his or her customers, clients or visitors, do not park in parking spaces allocated for others or on parts of the common property on which parking is not authorised by the Strata Corporation.

6. A person bound by these Articles must not, without the consent of the Strata Corporation:

- damage or interfere with any lawn, garden, tree, shrub, plant or flower on the common property; or
- use any portion of the common property for his or her own purposes as a garden.

7. A person bound by these Articles must not:

- bring objects or materials on to the site of a kind that are likely to cause justified offence to the other members of the strata community; or
- allow refuse to accumulate so as to cause justified offence to others.

8. A person bound by these Articles must not, without the consent of the Strata Corporation, display any sign, advertisement, placard, banner or any other conspicuous material of a similar nature:

- on part of his or her unit so as to be visible from outside the building; or
- on any part of the common property.

9. The occupier of a unit may, without the consent of the Strata Corporation, paint, cover, or in any other way decorate the inside of any building forming part of the unit and may, provided that unreasonable damage is not caused to any common property, fix locks, catches, hooks, screens and other similar items to that building.

10. The occupier of a unit used for residential purposes must not, without the consent of the Strata Corporation, use or store on the unit or on the common property any explosive or other dangerous substance.

11. A person bound by these Articles:

- must maintain within the unit, or on a part of the common property set apart for the purpose by the Strata Corporation, a receptacle for garbage adequately covered;
- must comply with all council by-laws relating to the disposal of garbage.

12. A unit holder must immediately notify the Strata Corporation:

- of any change in the ownership of the unit, or any change in the address of an owner or
- of any change in the occupancy of the unit.



Primary Strata Schemes:

The adjacent photograph and survey plan are of a primary strata community plan.

In a community strata plan the lot boundaries must be defined by reference to parts of the building, this is similar to a strata title. There must be at least one lot that exists above another unless the plan was previously a strata plan under the Strata Titles Act, and has converted by resolution, to adopt the Community Titles Act.

The structure itself is common property and it is therefore the responsibility of the corporation to maintain and insure it. In this regard, community strata plans are very similar to strata titled unit groups. The group adjacent, has one unit above another and consequently is a community strata plan

The internal walls and lot subsidiaries are not common property but are the owner's to maintain.

The Corporation is responsible for maintaining the common property. Common property includes land that is not within a lot, and infrastructure (driveways, water, sewer, electricity etc.) that do not serve single lots, are common property and the Corporation's to maintain.

In the case of a community strata plan this includes: the external walls and floors, walls dividing lots, the foundations, the roof, the space in the roof, gutters and eaves immediately below the gutters. This does not include the owner's fixtures and fittings such as kitchens and bathrooms.

Section 19 of the CTA explains the nature of Community Strata Schemes.

Legislation

Section 19: Special provisions relating to strata plans

(1) A strata plan must divide the building on the community parcel (or, if there is more than one building, at least one of them) so as to create at least one lot that is situated above another lot in the building.

(2) Subsection (1) does not apply to a strata plan that was originally deposited in the Lands Titles Registration Office under the Strata Titles Act 1988 and has become a strata plan under this Act by virtue of an election under clause 2 of the Schedule.

(3) A strata lot—

- (a) may be below, on or above the surface of land; and
- (b) may be wholly on one storey or partly on one storey and partly on another or others; and
- (c) must have upper and lower boundaries as well as lateral boundaries that are defined by reference to parts of the building; and
- (d) may include an area (a lot subsidiary) within the building or comprising land outside the building to be used for a purpose that is ancillary to the purpose for which the rest of the lot is to be used.

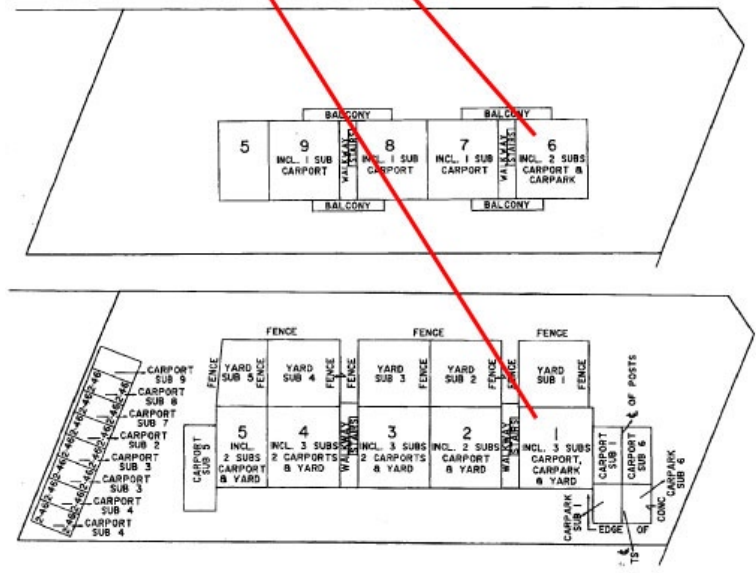
(4) Subject to any explicit statement to the contrary in a strata plan, the following principles apply to the definition of a lot by strata plan.

- (a) where a boundary is defined by reference to a wall or fence, the boundary is the inner surface of the wall or fence;
- (b) where a boundary is defined by reference to a floor, the boundary is the upper surface of the floor;



Primary strata plan

buildings are common property



Community Strata - Lot Boundaries:

Your unit has definite boundaries. These can vary but usually are - (extracts from the community Titles Act Section 19)

(4) Subject to any explicit statement to the contrary in a strata plan, the following principles apply to the definition of a lot by strata plan—

- (a) where a boundary is defined by reference to a wall or fence—the boundary is the inner surface of the wall or fence;
- (b) where a boundary is defined by reference to a floor—the boundary is the upper surface of the floor;
- (c) where a boundary is defined by reference to a ceiling or roof—the boundary is the under surface of the ceiling or roof.

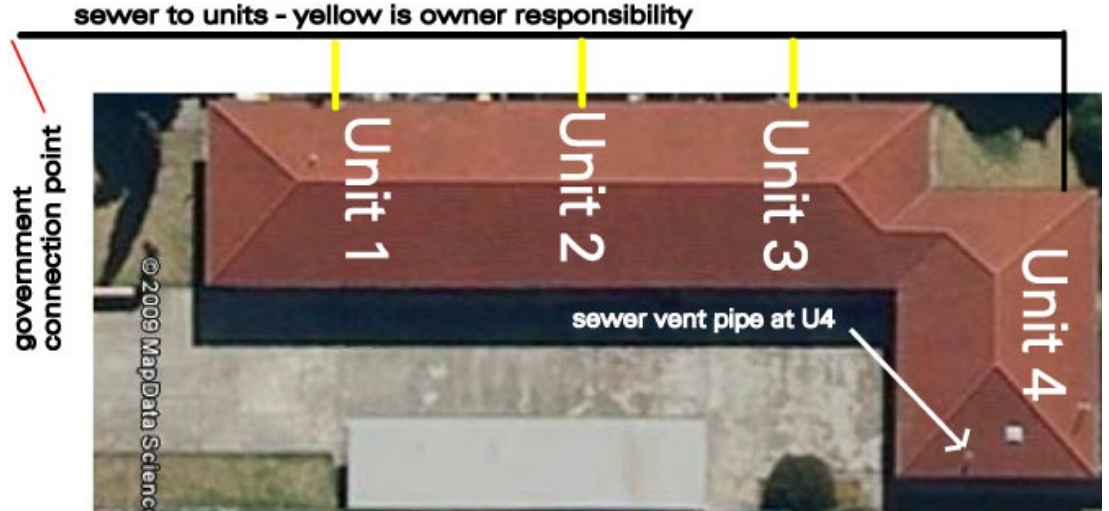
Please see the Boundary diagram on Page 2 for an illustration.



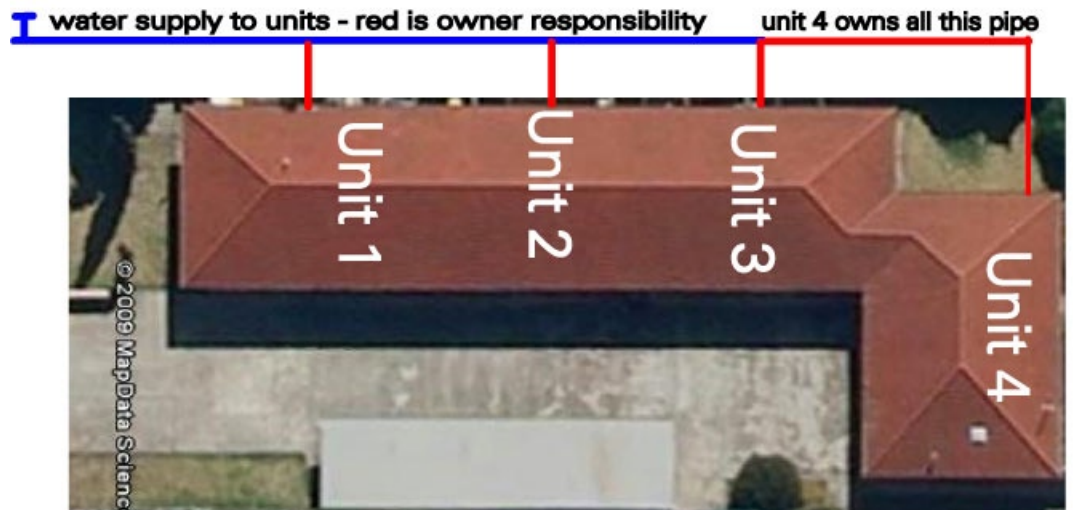
Who owns what - Common Services

Services that do not serve a single unit or lot, are the Corporation's common property. This equally applies to both Strata and Community Titled groups.

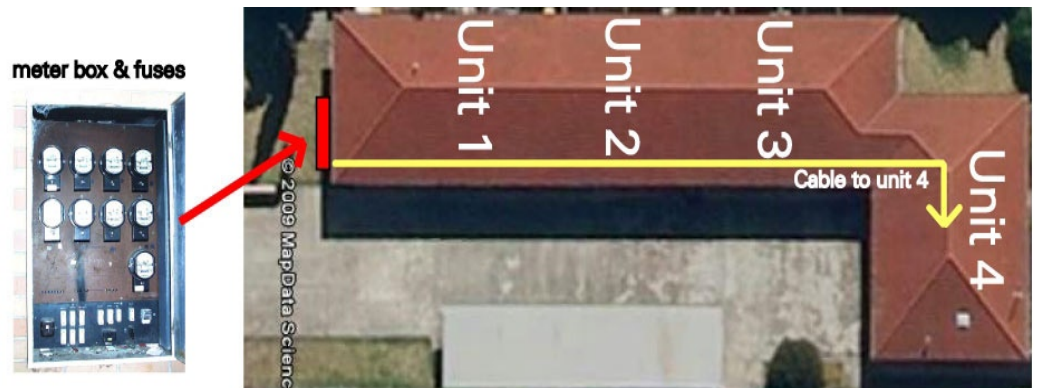
Services that do not serve a single unit or lot, are the Corporation's common property, this includes the sewerage disposal. The pipes shown in yellow are the owner's to maintain. Unit 4 has a sewer vent pipe that serves the common sewer. This means that the branch serving unit 4 is common; unlike those which serve units 1 to 3.



The Corporation is responsible for water pipes until they only serve a single unit as illustrated below. The pipes shown in red are the owner's responsibility to maintain.



The electrical supply until it meets the fuse serving only one unit ie: the meter box. The cable to unit 4 is the owner's to maintain despite it travelling through the common roof space.



Each owner is responsible for the electricity cable from their fuse in the meter box to their unit

