

30 April 2021

Ms Lucy Gunn
Manager Projects and Policy
Strata Reform – Community Titles Schemes
Department of Planning, Lands and Heritage
Locked Bag 2506
Perth WA 6001

Via email: StrataReform@dplh.wa.gov.au

Dear Lucy

Draft Operational Policy 1.11 Community Schemes

Thank you for the opportunity to provide feedback on the above Policy and supporting guidelines and for agreeing to a short extension to the public consultation period. The Urban Development Institute of Australia (UDIA) WA is the peak body representing the property development industry in Western Australia. UDIA is a membership-based organisation with members drawn from the residential, commercial and industrial property development sectors. UDIA members include both private and public sector organisations. Our industry represents approximately 10.1% of Western Australia's Gross State Product, contributing \$27.8 billion annually to the Western Australian economy and \$270.5 billion nationally. As well as helping to create sustainable and liveable communities, the industry employs a total of 205,100 Western Australians and 2.023 million Australians across the country.

General Comments

UDIA fully supports the establishment of Community Title Schemes in Western Australia which are essential to facilitating the State Government's development aspirations and enhancing the liveability of our communities. The positive outcomes are significant including better integration of different land uses, together with the provision of more diverse housing, and more innovative delivery models for community infrastructure. To support the delivery and uptake of community schemes, it is vital that the regulatory framework provides sufficient flexibility and supports innovation as well as providing appropriate levels of certainty to individual lot owners and developers. Therefore, the planning and community scheme approval process should not replicate or duplicate any process, information, public consultation, or referral agency requirements.

Whilst UDIA is strongly supportive of community titles, the unfamiliarity of this new form of land tenure and regulatory framework amongst approval agencies, developers, the community, together with changing community living preferences mean that unforeseen challenges are likely to arise. Therefore, it is imperative that ongoing monitoring of the performance and effectiveness of the

Community Titles Act, Regulations and supporting policy controls is undertaken as the regulations come into operation enabling the framework to be amended promptly if required.

Specific Comments

Developer contributions

A key benefit of community schemes is that it provides an alternative funding model for the provision and maintenance of community and sustainability infrastructure. As has been demonstrated in New South Wales and Queensland, the direct ownership of infrastructure by communities has facilitated the provision of infrastructure above and beyond that which local governments are willing to provide and maintain. It is important that the policy recognises this and does not duplicate infrastructure/developer contributions where this infrastructure is provided by a community scheme. UDIA strongly recommends that where community schemes provide infrastructure that benefits the lots within a community scheme and broader local community, credit should be afforded for that infrastructure provision. As such, where local infrastructure is fully provided by the scheme, contributions should be sought by local governments for regional infrastructure only. This is particularly important to ensure that housing within community schemes remains affordable, recognising that council rates exemptions are unlikely to apply to community schemes despite the level of infrastructure potentially provided and operated at no cost to local government.

Public Open Space

Section 5.1.14 should be modified to allow common property within a community scheme that is for community benefit and subject to a public access easement to be counted towards the public open space contribution for that particular land parcel. A public access easement ensures the community benefit common property remains accessible to the public and for the benefit of the public. Similarly, in accordance with *DC2.3 Open Space in Residential Areas*, credit or public open space contributions should be provided for public utility uses and community facilities where appropriate. It is inequitable for lot owners in community schemes to pay for the maintenance of land that benefits the broader community.

Subdivision and development

This section lacks clarity as to how the WAPC will consider the servicing of multiple stages of development. For example, if a staged development is to take place over ten years, is traffic to be assessed on historic transport use or will identified trends in transport use with less cars expected on the road in the future (as per the trends of the past few years) be considered? Rather than the current business as usual approach, UDIA suggests that a more forward-thinking approach is required given the 10-year development horizon with assessments allowing for innovation and modal shifts which reduce traffic infrastructure over time.

UDIA queries the requirement to demonstrate adaptable reuse and parking provisions “accommodated to address potential changing trends”. The market still demands a link between a lot and dedicated car parking even if we expect private car usage to fall over time. Given these market

realities, it is an unrealistic aspiration to expect car parking to unbundled and disconnected from individual lots.

Staging

Given that a developer is required to provide funds, land and or infrastructure as part of its Tier 1 subdivision obligations, where this forms part of a multi-stage development, will there be linkages and arrangements put in place to ensure that the provision of infrastructure by the relevant authority aligns with a developer's delivery of the development?

Similarly, where land is ceded early in a development, will there be mechanisms in place to ensure that if a developer seeks to amend an approval for a future stage, that the developer can rely on the original land parcel size that may allow more plot ratio flexibility?

Waiver of other requirements

The Guidelines note that under section 20 of the Community Titles Act the WAPC may, by instrument in writing, waive requirements for the preparation of particular plans or instruments under a planning scheme for land that has been or is proposed to be subdivided by a community scheme. However, section 5.2.5 of the Policy states that the WAPC will not waive the requirement for a structure plan where it is required by the local planning framework. To avoid unnecessary duplication, the WAPC should waive the requirement for other planning instruments, such as a local structure plan where appropriate.

WAPC Assessment Timeframes

UDIA is concerned that whilst 120-day assessment period includes extensive referral timeframes (35 days for local government and 28 days for public authorities and utilities), in practice this is unlikely to be achieved. Referral agencies frequently request and receive extensions to timeframes (as developers have little choice but to agree to an extension to progress a decision), which in effect means that there is not any real statutory time limit. UDIA suggests that mechanisms and processes need to be in place to help facilitate development within the statutory assessment timeframe to ensure that community schemes are an attractive proposition.

Further, a more streamlined assessment timeframe and process (less than the standard 120 days) should be adopted where a community development statement (CDS) is lodged following development approval or where a CDS seeks to implement subdivision and/or a development proposal in accordance with a local structure plan. Similarly, a more streamlined assessment timeframe should be adopted for CDS amendments and in particular minor amendments to CDS. To facilitate this, referral requirements to local government and utility services providers should be reduced and or removed where appropriate. Careful consideration should be given to any CDS public consultation and referral agency requirements which should not repeat or duplicate any referral or consultation undertaken as part of a structure plan, local development plan, other statutory planning instrument, or as part of an approved development application.

Where a Community Scheme may be applied and consistency with the Regulations

Whilst section 4.1 of the guidelines notes that a CDS for a community scheme may be lodged where a proponent has an existing approved development application, to provide appropriate flexibility, regulation 14(1) of the draft Community Titles Regulations 2020 should be amended to include development approvals within the list of documents that can be referred to or incorporated within a CDS either in its entirety or in part.

Similarly, for consistency with section 25(3) of the Community Titles Act 2018, regulation 14(2) of the regulations should be amended to include documents referred to or incorporated into a CDS may be:

- a. the document as in force at the time of the application (as currently provided);
- b. the document as in force at a specified time (as currently provided); or
- c. the document as in force from time to time.

Should the Department require any assistance or further information regarding these comments UDIA would be delighted to assist, please contact Chris Green, Director Policy and Research at cgreen@udiawa.com.au or 9215 3400.

Yours sincerely



Tanya Steinbeck
Chief Executive Officer