

Asteco Seminar

Wednesday 4 June 2008

Dubai's New Strata Law



Gary Bugden

gbugden@mystrata.com.au

Copyright: Integrated Strata Solutions Pty Ltd

INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Program

10.00am – 10.30am	Overview of New Strata Law
10.30am – 10.55am	Master Community Declarations
10.55am – 11.00am	BREAK
11.00am – 11.15am	New Disclosure Requirements
11.15am – 11.40am	Overview of Owners Associations
11.40am – 12.00pm	Questions and Discussion



Overview of New Strata Law

30 Minutes



INNOVATION AND KNOWLEDGE FOR COMMUNITIES

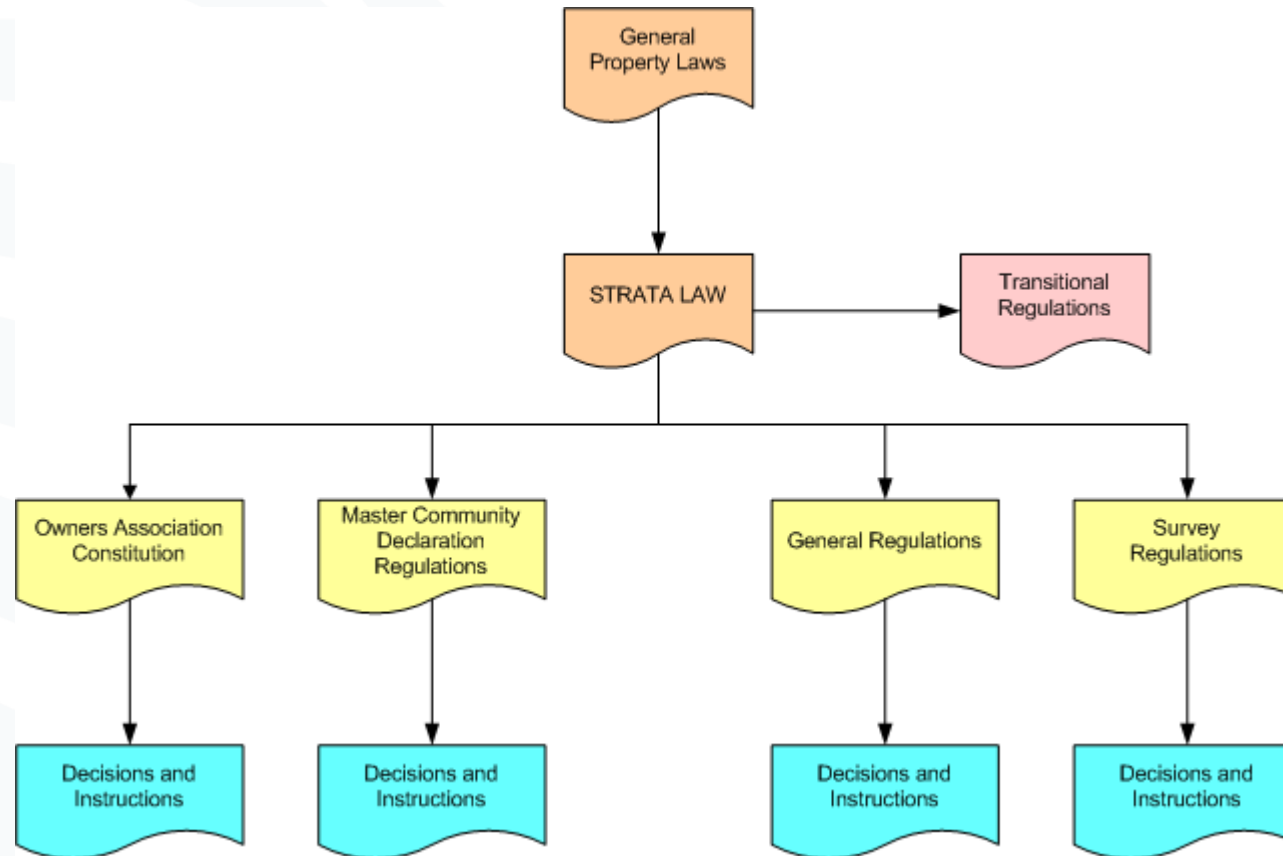
New Strata Law

- Commenced on 1 April 2008
- Regulations are still being finalized
- Developments with “jointly owned property” must be registered with the Land Department
- “Jointly owned property” is *Common Areas* designated on the Site Plan for *common use*
- This applies to existing and new developments
- Does not apply at Master Developer level
- Site Plan is key to flexibility



Dubai Strata Law

(Jointly Owned Property Law)



Mechanisms Introduced

- **Strata title subdivisions** (vertical)
 - Units and common areas
 - Owners association
- **Community title subdivisions** (horizontal)
 - Units and common areas
 - Owners association
- **Volumetric subdivisions**
 - Building management statement
 - No owners association

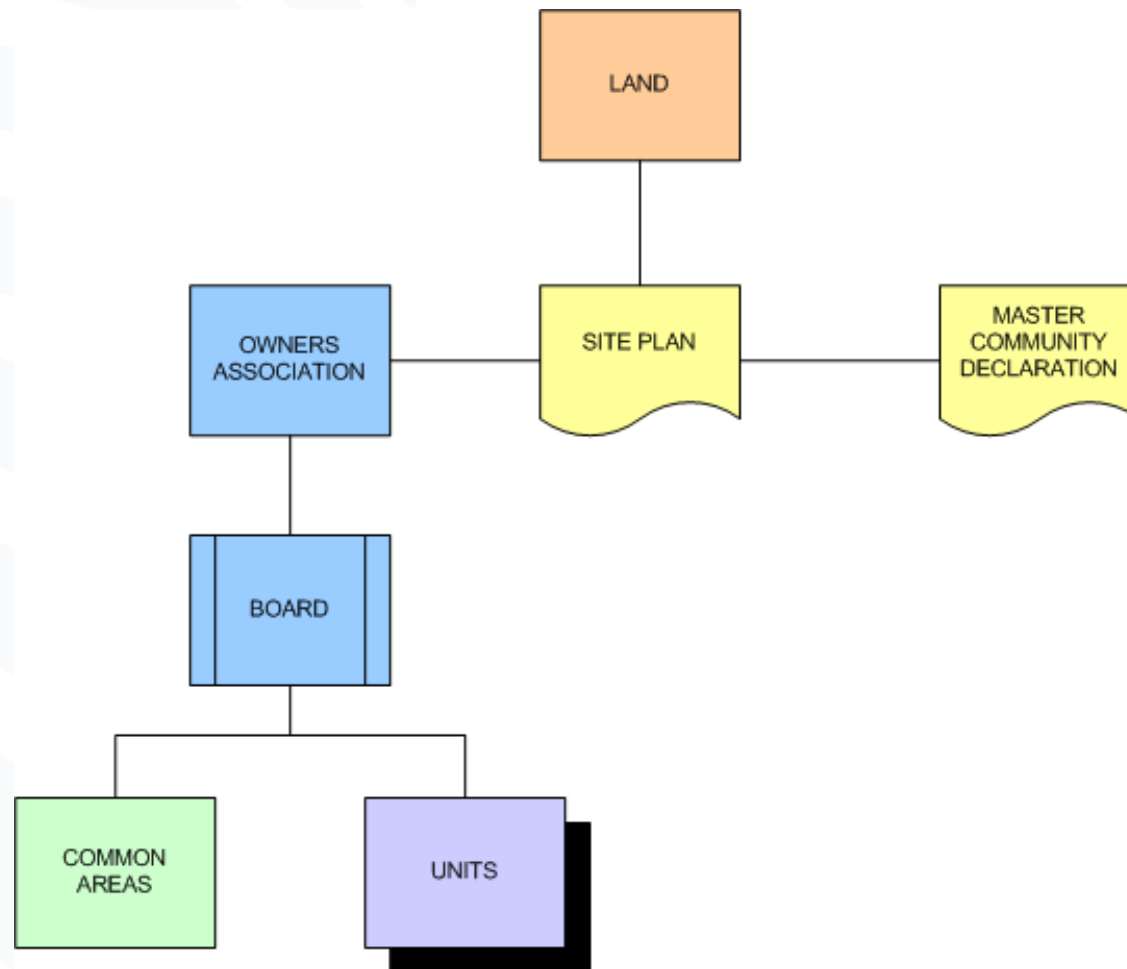


Volumetric Subdivisions

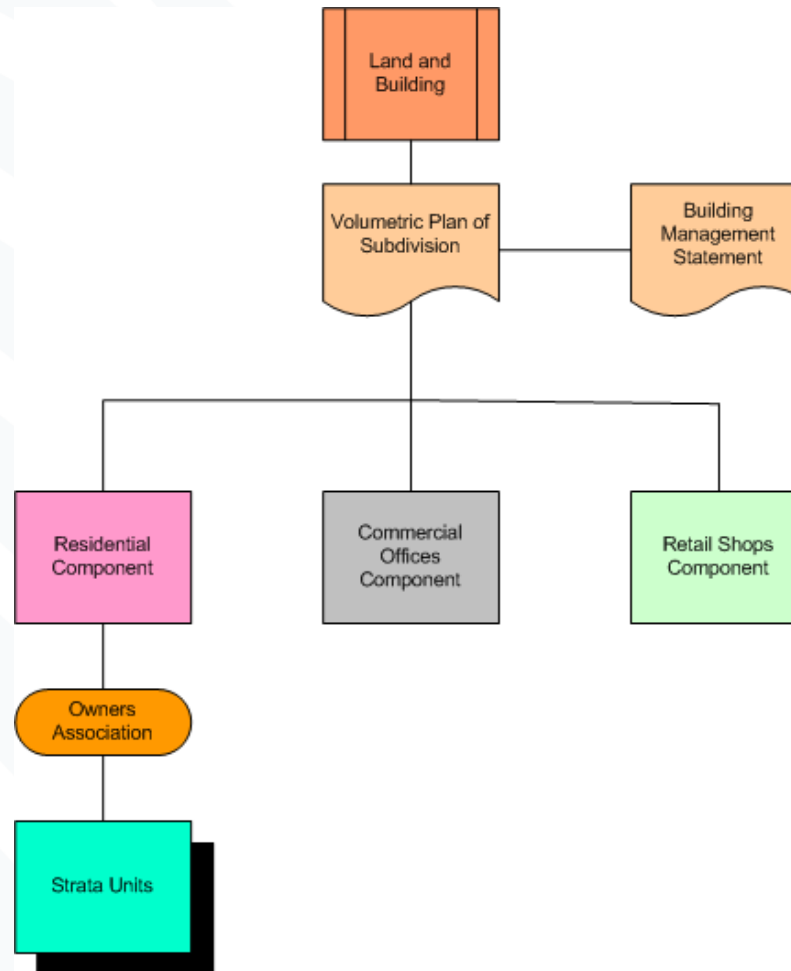
- Also known as “Airspace” and “Stratum”
- Define boundaries three dimensionally using spatial co-ordinates
- Used to subdivide a building by separately defining different component use areas
- No Owners Association involved
- Allows a component use area to be owned outside an Owners Association structure
- A component use area may be “strata” subdivided



Strata/Community Subdivisions



Volumetric Subdivision



THIS SHEET DEFINES BOUNDARIES GENERALLY AT LEVEL 1

DIAGRAM 1
SCALE 1:100

PT 47

DIAGRAM 2
SCALE 1:100

PT 47

DIAGRAM 3
SCALE 1:100

PT 49

DIAGRAM 4
SCALE 1:100

PT 49

DIAGRAM 5
NOT TO SCALE

NOTE 1
PT 57

(AA) BURDENS
PT 57

(AB) BURDENS
PT 57

CONSTRUCTION JOINT

PT 47

PT 48

NOTE:
PART LOTS 44, 50, 51, 52, 53, 55, 56 & 57 ARE STRATUM LOTS
LIMITED IN HEIGHT & /OR DEPTH BY THE LEVEL & SLOPING PLANES
DEFINED ON THE PLANS, SECTIONS & NOTES.

NOTE:
VERTICAL BOUNDARIES GENERALLY 0.1 BELOW
TOP OF STRUCTURAL FLOOR SLAB

LEVEL KEY
LH RL - DENOTES PT LOT LIMITED IN HEIGHT TO THE NOMINATED LEVEL PLANE
LH PL - DENOTES PT LOT LIMITED IN DEPTH TO THE NOMINATED LEVEL PLANE
LH - DENOTES PT LOT UNLIMITED IN DEPTH
LH - DENOTES PT LOT UNLIMITED IN HEIGHT
UNLIMITED - DENOTES PT LOT UNLIMITED IN HEIGHT & DEPTH

(F) EASEMENT FOR SUPPORT (F) - LIMITED IN
HEIGHT TO THE LEVEL & SLOPING PLANES
FORMING THE LOWER LIMITS OF LOTS 47, 48,
& 49 AS SHOWN ON SHEETS 6, 7 & 8 AND
UNLIMITED IN DEPTH - BURDENING THOSE
PARTS OF LOTS 51, 52, 55, 56, 57, 58,
61, 63 & 64 LOCATED BELOW.

EASEMENT CONTINUED:
(L) EASEMENT FOR ACCESS TO SUBSTATION (L)
(AN) EASEMENT TO PERMIT ENCROACHING
STRUCTURE TO REMAIN (AN)
(AV) EASEMENT FOR SUPPORT & SHELTER (AV) - SEE NOTE 2
(AB) EASEMENT FOR SUPPORT (AB)
(AV) EASEMENT FOR PUBLIC ACCESS (AV)
(AN) EASEMENT FOR ACCESS (AN)

APC 2.185 R. 850.055
CH. 166'10" 2.185

DP1014625

Registered: 13/04/2000

This is sheet 4 of my plan in 12 sheets
dated 30-5-2000

Raymond

Surveyor registered under Surveyors Act 1929

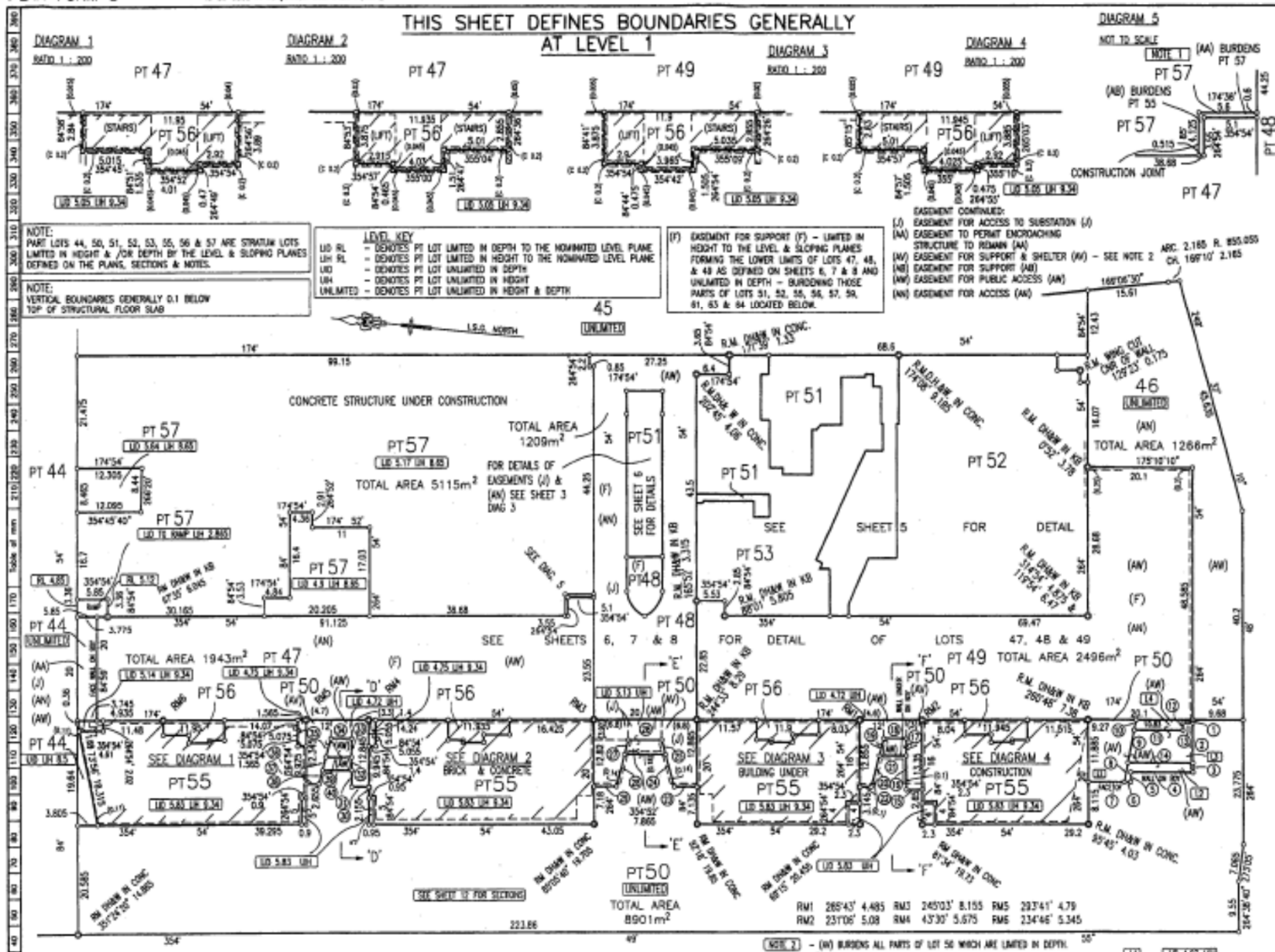
This is sheet 4 of the plan of 42
sheets covered by my Certificate No. 12-01-00

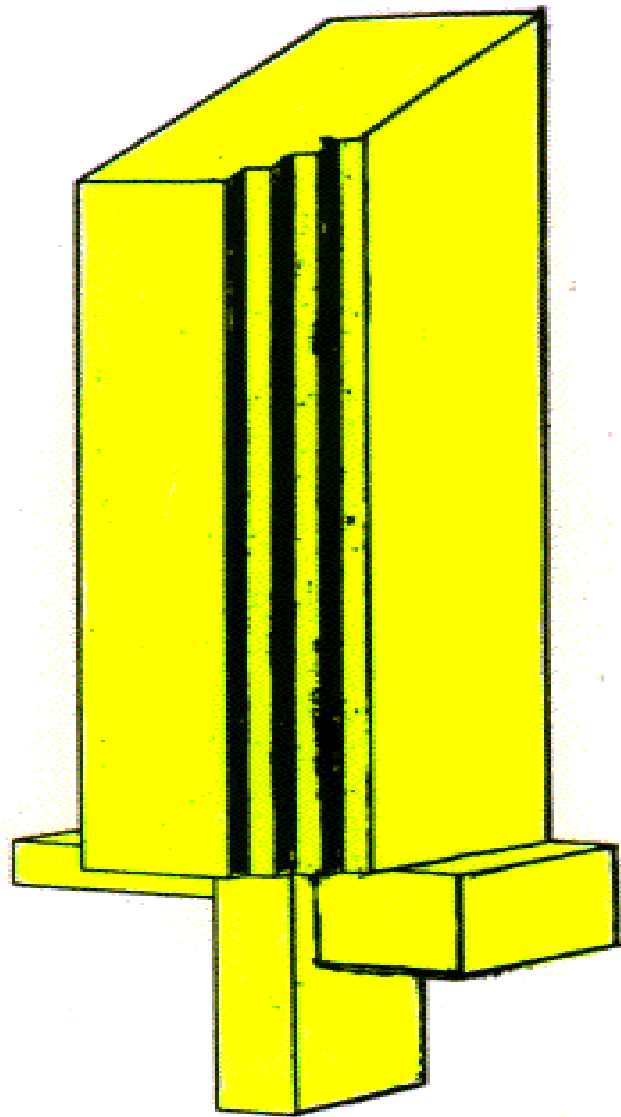
13-4-00

Robert Black

General Manager/Authorised Person

For use where space is insufficient in any panel on Plan
Form 2.



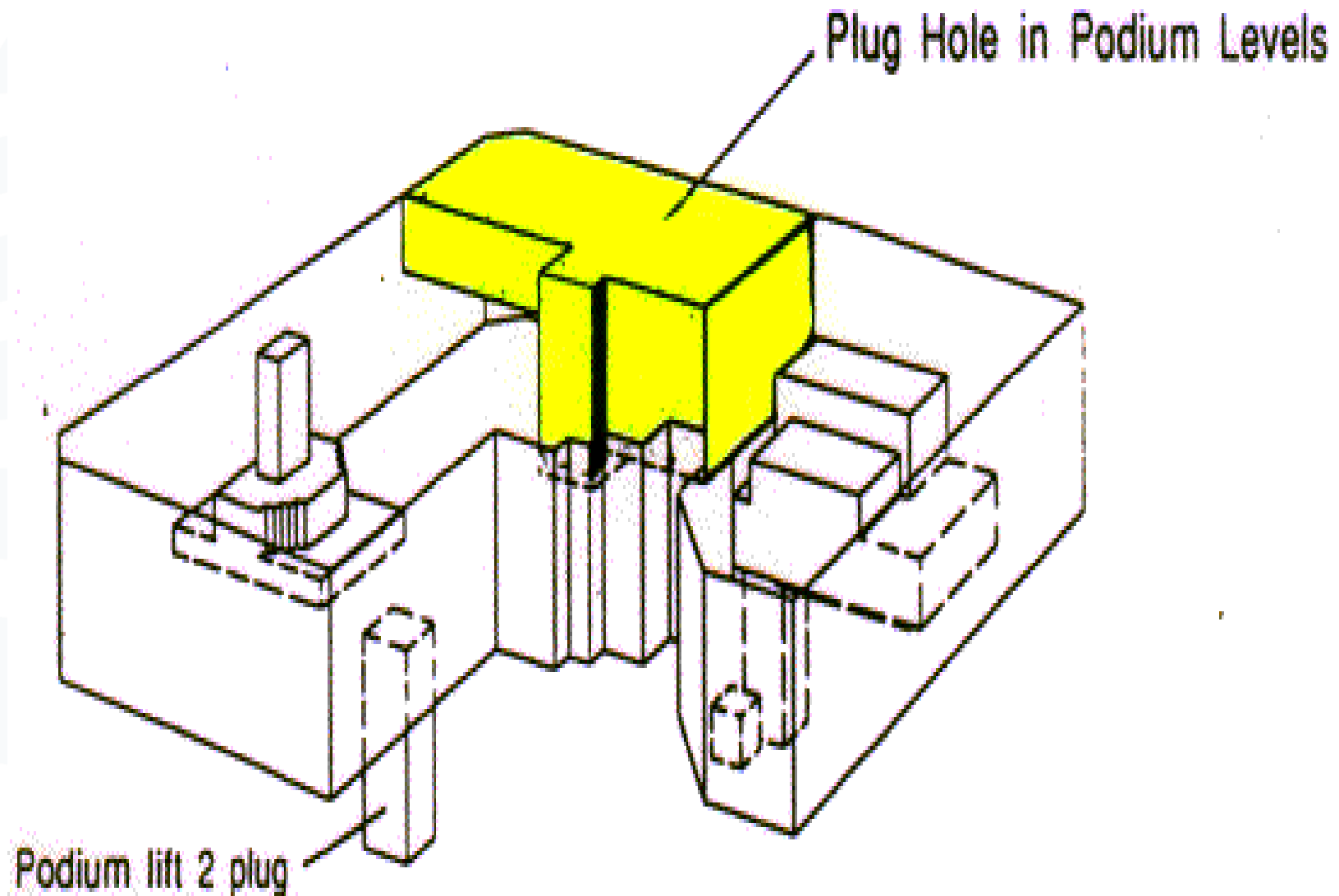


Tower & Plug


INTEGRATED STRATA SOLUTIONS

Copyright - Integrated Strata Solutions

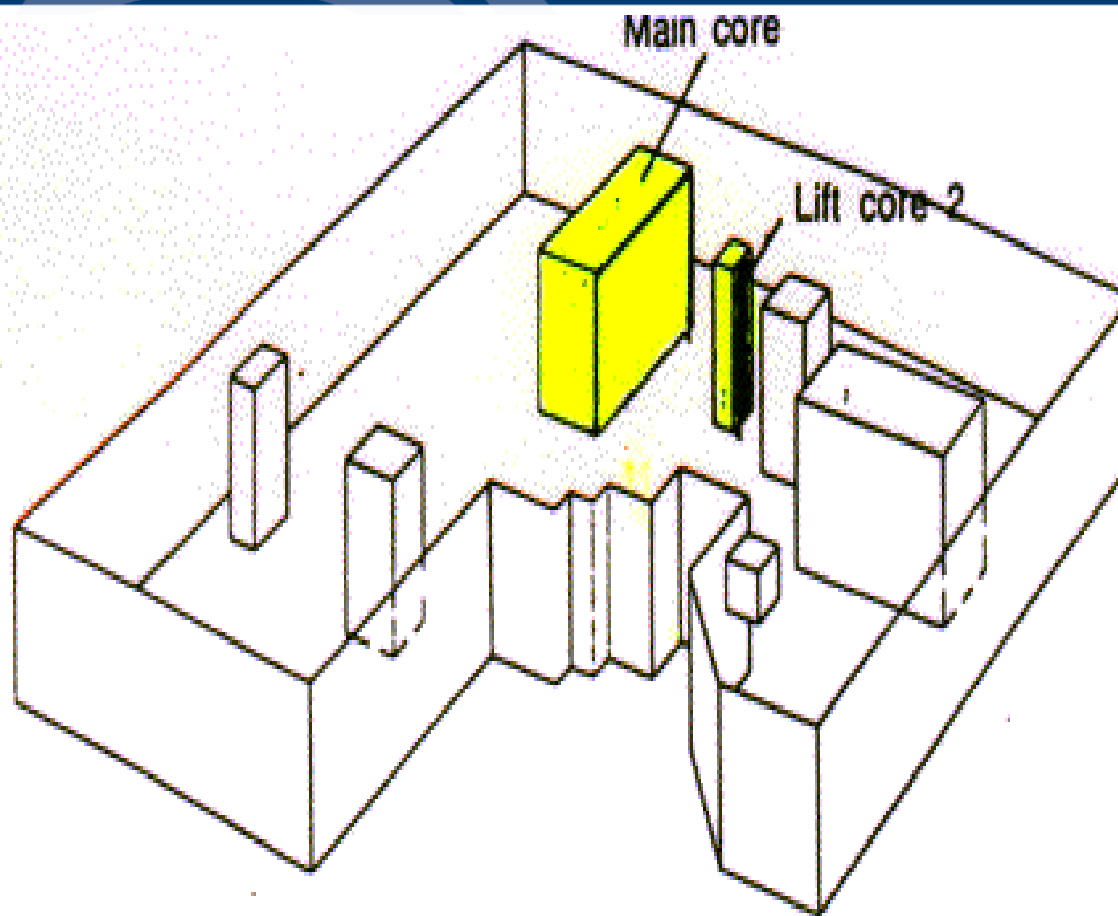
INNOVATION AND KNOWLEDGE FOR COMMUNITIES



INTEGRATED STRAIN SOLUTIONS

Copyright - Integrated Strain Solutions

INNOVATION AND KNOWLEDGE FOR COMMUNITIES



Plug Holes in
Basement Levels

INTEGRATED STRATA SOLUTIONS

Copyright - Integrated Strata Solutions

INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Building Management Statement

- Only apply to buildings
- Must be filed – if JOP is confined to part of a building and no MCD for whole building
- May be filed if –
 - No MCD for whole building
 - Volumetric subdivision
 - Potential for MCD for a component
- Compulsory and optional provisions are specified



BMS Compulsory Content

- **Identify –**
 - Components use areas
 - Common Elements
- **Specify –**
 - Owners of Common Elements
 - Rights of access
 - Rights of support and shelter
 - Responsibility for maintenance
 - Cost sharing arrangements
 - Insurance arrangements



BMS Optional Content

- **Management group**
- **Maintenance charge arrangements**
- **Architectural standards**
- **Environmental management requirements**
- **Rules for use of Common Elements**
- **Administrative arrangements**
- **Matters to protect owner and occupier interests**



Master Community Declarations (“MCD”)

25 Minutes



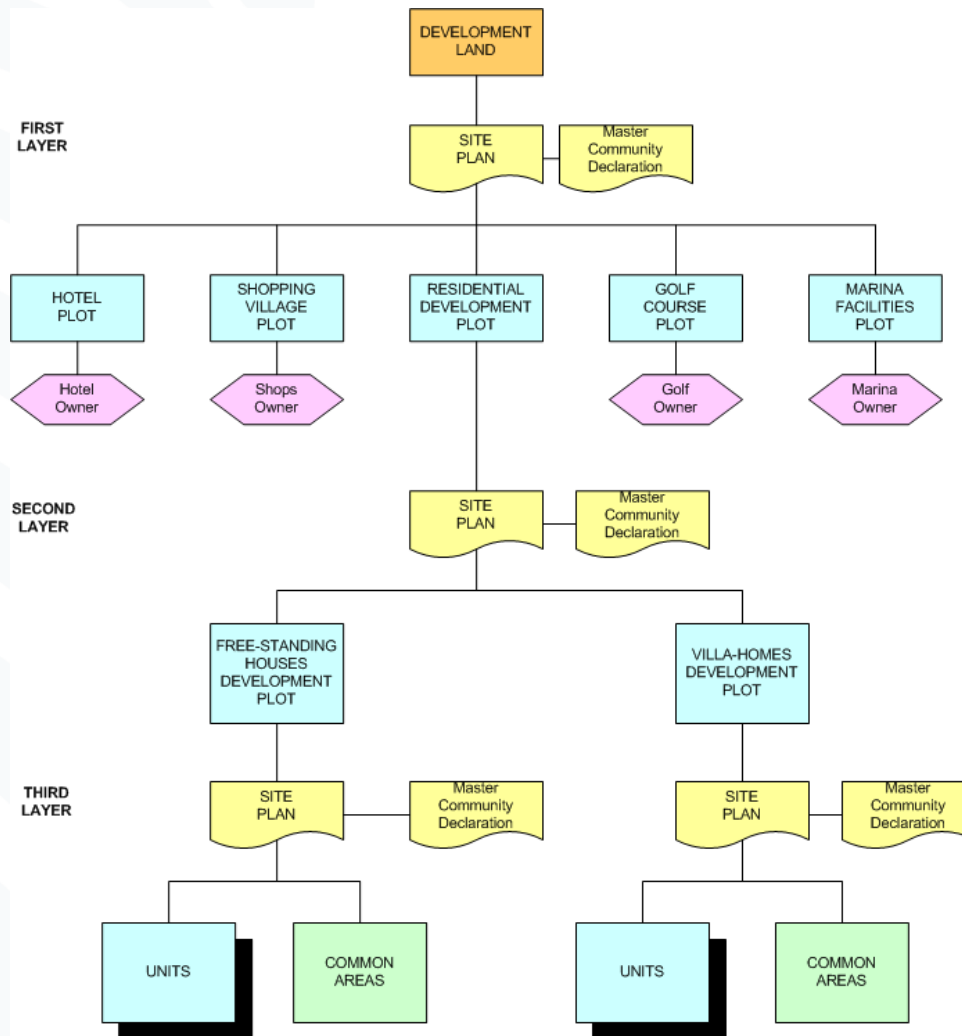
INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Master Community Declarations

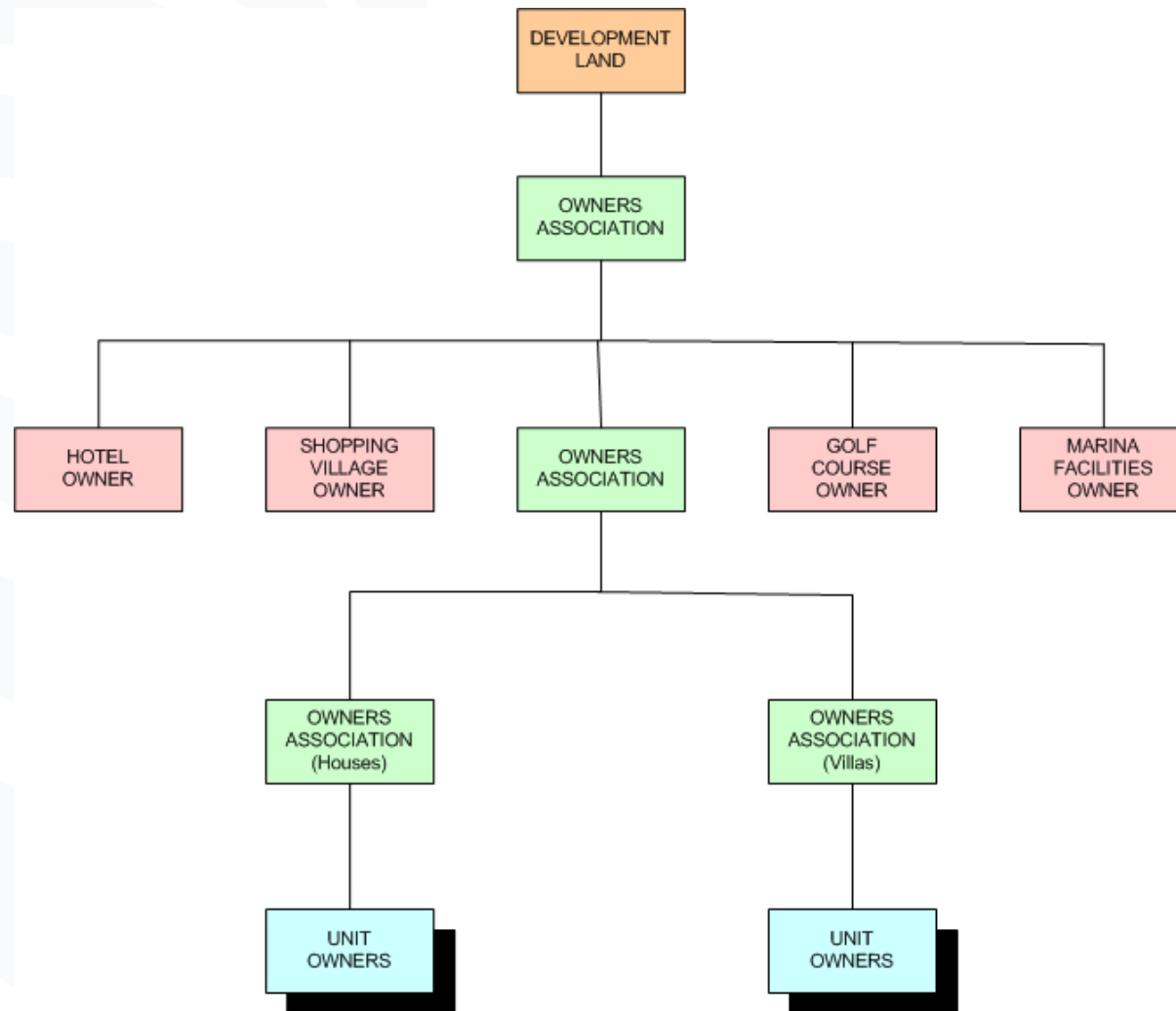
- Different to the old “Master Community Declarations”
- Filed at Land Department when first Unit sale is registered
- Set out certain operational matters for “jointly owned property”
- May relate to leasehold or freehold land, but not both together
- May relate to another jointly owned property plot (maximum of 3 tiers)



Tiered Subdivision Structure



Tiered Management Structure



MCD Content

- **Compulsory and optional provisions**
- **Compulsory provisions vary –**
 - **Building or part building**
 - **Other land**
 - **Leasehold land or buildings**
- **Must not conflict with the Law**

MCD Compulsory Content

- Whether freehold or leasehold
- Name of Owners Association
- Numbering of units
- Schedule of unit areas (shareholding)
- Staging details
- Delivery and use of utility services
- Easements or covenants relating to Common Areas
- Community rules
- Explanation of any layered structure
- Forms of lease (Unit and Common Areas)



MCD Optional Content

- **Restrictions on use of Units**
- **Architectural/landscape Codes**
- **Common Areas use restrictions**
- **Rights of exclusive use of Common Areas**
- **Special management arrangements**
- **Duties and obligations of Sub-Developers**
- **Duties and obligations of owners and occupiers**
- **Duties and obligations of Developer**
- **Other things permitted by DG of Department**

BREAK

5 Minutes



INNOVATION AND KNOWLEDGE FOR COMMUNITIES

New Disclosure Requirements

15 Minutes



INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Underlying Philosophy

1. **Developers are given a relatively free hand**
2. **In exchange – complete disclosure, backed by a warranty as to accuracy**
3. **Purchasers will be –**
 - **Better educated**
 - **More fully informed**
4. **The market will then decide what is attractive and not attractive**



Disclosure Statement

- Only apply to “proposed Units”
- Must be given before contract is signed by a “Consumer”
- Must be in writing and signed by a representative of Developer or Sub-developer
- Must set out required information
- Information is backed by a 1 year warranty



Disclosure Statement Contents

- **Description of building or project** (includes intended uses, available common area facilities, chattels being acquired)
- **Copy Master Community Declaration**
- **Copy Building Management Statement**
- **Schedule of materials and finishes**
- **Copies of Supply Agreements**
- **2 year budget**
- **2 year service charge estimates**



Disclosure Statement Contents

(Continued)

- **Utility services arrangements –**
 - **Public providers**
 - **Private providers**
- **Owners Association utility on-sale arrangements**
- **Construction commencement and completion estimates**
- **Settlement date estimate**



Cost Shifting Prohibitions

- **Expenses prior to registration must be paid by developer**
- **Expenses after registration are responsibility of Owners association**
- **Shifting of expenses is prohibited**
- **Exceptions –**
 - Existing contractual provisions @ 1 April 2008
 - Insurance premiums for period beyond registration



Overview of Owners Associations

25 Minutes



INNOVATION AND KNOWLEDGE FOR COMMUNITIES

The Owners Association

- **Special corporate entity**
- **Not for profit**
- **Made up of Unit owners**
- **Formed upon registration of first Unit sale**
- **Has a Board elected by a General Assembly**
- **Responsible for management, maintenance and operation of Common Areas**
- **Constitution mandated**



Functions of Owners Association

- **Manage Common Areas & assets**
- **Repair and maintain**
- **Enforce MCD, BMS and Rules**
- **Promote harmony and goodwill**
- **Obtain licence**
- **Maintain records and provide statements**
- **Comply with Laws, etc.**



Powers of Owners Association

- **Contract and employ**
- **Remedy defects**
- **Enter Units to repair**
- **Own movable assets**
- **Sue**
- **Be shareholder or member of a company**
- **Effect insurances**
- **Borrow money**



Governance

- **Board is governing body**
- **3 – 7 members**
- **Non-paid role**
- **Responsibilities of Board –**
 - **Strategy**
 - **Monitoring management**
 - **Ensuring OA carries out functions**
- **Appoints a Chairman**
- **Makes its own rules & procedures**



General Assembly

- **Role is to elect Board and replace if necessary**
- **Meetings –**
 - Annual general assembly
 - Special general assembly
- **Resolutions –**
 - Simple (majority)
 - Special (2/3 value of votes)
- **May meet electronically**



Management

- **Executive officer – General Manager**
- **Individual or company**
- **Delegated powers and functions**
- **Responsible for administrative, secretarial and financial matters**
- **Liaises with Chairman**
- **Maximum 3 year appointment**



Finances

- **General Fund + Reserve Fund**
- **General – recurrent expenses**
- **Reserve – capital or non-recurrent expenses**
- **Must be kept separate**
- **Must be in a bank account**
- **General – annual budgeting**
- **Reserve – 10 year budgeting**
- **Service charges are raised**



Service Charges

- May be levied by installments
- Annual general assembly fixes
- Based on “entitlement”
- Raised by notice setting out detailed information
- Must be paid by due date
- 20% discount may be allowed for payment on time
- New owner is jointly liable
- Debt certificate is available



Prescribed Records

- Minute books
- Government communications file
- Other communications file
- Documents file
- Register of owners and occupiers
- Register of assets
- Finance books
- Others specified by the Department
- Provisions for service of notices
- Provision for due diligence access



Questions and Discussion

20 Minutes



INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Asteco Seminar

Wednesday 4 June 2008

Dubai's New Strata Law



Gary Bugden

gbugden@mystrata.com.au

INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Copyright - Integrated Strata Solutions