

3. Interpretation

(1) In this Act unless the contrary intention appears —

“**administrator**” means an administrator appointed by a referee under section 102;

“**building**” means a building or buildings shown on a strata plan;

“**Commission**” means Western Australian Planning Commission established under the *Western Australian Planning Commission Act 1985*;

“**common property**” means —

(a) so much of the land comprised in a strata plan as from time to time is not comprised in a lot shown on the plan;

(b) any leasehold interest acquired by a strata company under section 18; and

(c) the lot or lots shown on a survey-strata plan as common property;

“**council**” means the council of a strata company constituted or deemed to have been constituted under this Act;

“**floor**” includes a stairway or ramp;

“**floor area**” in relation to a cubic space, means the area occupied on a horizontal plane by the base of that cubic space;

“**floor plan**” means a plan, consisting of one or more sheets, which —

(a) defines by lines (in paragraph (c) referred to as “**base lines**”) the base of each vertical boundary of every cubic space forming the whole of a proposed lot, or the whole of any part of a proposed lot, to which the plan relates;

(b) shows —

(i) the floor area of any such cubic space; and

(ii) where any such cubic space forms part only of a proposed lot, the aggregate of the floor areas of every cubic space that forms part of the proposed lot;

and

(c) where proposed lots or parts thereof to which the plan relates are superimposed on other proposed lots or parts thereof to which the plan relates —

(i) shows the base lines in respect of the proposed lots or parts thereof that are so superimposed separately from those in respect of the other proposed lots or parts thereof upon which they are superimposed; and

(ii) specifies, by reference to floors or levels, the order in which that superimposition occurs;

“**land**” means land that is under the operation of the *Transfer of Land Act 1893* and held by the registered proprietor of the land in fee simple;

“**licensed surveyor**” means a surveyor licensed under the *Licensed Surveyors Act 1909*;

“**licensed valuer**” means a licensed valuer licensed under the *Land Valuers Licensing Act 1978*;

“**local government**” means the local government of the district in which the parcel in question is situated;

“location plan”, in relation to a strata plan, means a plan, consisting of one or more sheets, which relates to land and delineates the perimeter of that land and, in relation to that perimeter, the location of any building erected on that land and of any proposed lots or part of proposed lots not within any such building;

“lot”, in relation to a strata scheme, means one or more cubic spaces forming part of the parcel to which a strata scheme relates, the base of each such cubic space being designated as one lot or part of one lot on the floor plan forming part of the strata plan, plan of re-subdivision or plan of consolidation to which that strata scheme relates, being in each case, but subject to section 3AB, cubic space the base of whose vertical boundaries is as delineated on a sheet of that floor plan and which has horizontal boundaries as ascertained under subsection (2), but does not include any structural cubic space except where —

- (a) the boundaries of the cubic space are fixed under section 3AB; or
- (b) the boundaries are not so fixed and that structural cubic space —
 - (i) has boundaries described in accordance with the regulations; and
 - (ii) is shown in that floor plan as part of a lot;

“lot”, in relation to a survey-strata scheme, means land that is shown as a lot consisting of one or more parts on the plan for that scheme, but does not include —

- (a) a lot shown as common property; or
- (b) land shown as being set aside for a road or reserve;

“mortgage” includes a charge for securing money or money’s worth;

“occupier” in relation to a lot, means a person in lawful occupation of that lot;

“open space” means the area of a lot that is not occupied by any building and is to be calculated in such manner as is prescribed;

“original proprietor” in relation to a scheme, means the person by whom the parcel that is the subject of that scheme is held in fee simple at the time of registration of the strata/survey-strata plan to which the scheme relates;

“parcel” means the land comprised in a strata/survey-strata plan;

“permitted boundary deviation” for the purposes of the definition of “single tier strata scheme” and other provisions, means a part of a lot that is above or below another lot in circumstances allowed by the regulations;

“person concerned” means —

- (a) a person appearing by the Register to have an estate or interest in the common property; and
- (b) a person having an estate or interest (other than a charge for a tax, rate or other statutory liability) that has been notified to the strata company;

“plot ratio”, in relation to a lot or parcel, means the ratio of the gross total of the areas of all floors in any building on the lot or parcel to the area of the lot or parcel, and is to be calculated in such manner as is prescribed;

- “prescribed”** means prescribed by regulations;
- “proprietor”** means the person who is for the time being registered under the *Transfer of Land Act 1893* as proprietor of an estate in fee simple or an estate for life in a lot;
- “referee”** means a Strata Titles Referee appointed under section 71;
- “Register”** has the meaning given by the *Transfer of Land Act 1893*;
- “Registrar of Titles”** means the person appointed Registrar of Titles under the *Transfer of Land Act 1893* and includes any person appointed an Assistant Registrar under that Act;
- “resolution without dissent”** means a resolution that complies with sections 3AC and 3C and also has the meaning given by section 3CA;
- “re-subdivision”** has the meaning given by subsection (5) and section 8(1);
- “scheme”** means a strata scheme or a survey-strata scheme;
- “single tier strata scheme”** means a strata scheme —
- (a) in which no lot or part of a lot is above or below another lot; or
 - (b) which comes within paragraph (a) except for any lot that has a permitted boundary deviation;
- “special resolution”** means a resolution that complies with sections 3B and 3C and also has the meaning given by section 3CA;
- “strata company”** means a body corporate constituted under section 32 whether for a strata scheme or a survey-strata scheme;
- “strata/survey-strata plan”** means a strata plan or a survey-strata plan;
- “strata plan”** has the meaning given by section 4(1a);
- “strata scheme”** means —
- (a) the manner of division, from time to time, of a parcel into lots or into lots and common property under a strata plan and the manner of the allocation, from time to time, of unit entitlements among the lots; and
 - (b) the rights and obligations, between themselves, of proprietors, other persons having proprietary interests in or occupying the lots and the strata company, as conferred or imposed by this Act or by anything done under the authority of this Act and as in force from time to time;
- “structural cubic space”** means —
- (a) cubic space occupied by a vertical structural member, not being a wall, of a building;
 - (b) any pipes, wires, cables or ducts in a building; and
 - (c) any cubic space enclosed by a structure enclosing any such pipes, wires, cables or ducts,
- but, except where section 3AB applies, does not include any pipes, wires, cables or ducts that are for the exclusive use or enjoyment of one lot;
- “survey-strata plan”** has the meaning given by section 4(1b);
- “survey-strata scheme”** means —
- (a) the manner of division, from time to time, of a parcel into lots or into lots and common property under a survey-strata plan and the

manner of the allocation, from time to time, of unit entitlements among the lots; and

- (b) the rights and obligations, between themselves, of proprietors, other persons having proprietary interests in or occupying the lots and the strata company, as conferred or imposed by this Act or by anything done under the authority of this Act;

“take”, “taken” and “taking” have the same meanings as they have for the purposes of Parts 9 and 10 of the *Land Administration Act 1997* and include a reference to the compulsory acquisition of land under any Act of the Commonwealth authorising the compulsory acquisition of land;

“two-lot scheme” means —

- (a) a strata scheme in which there are not more than 2 lots; or
- (b) a survey-strata scheme in which there are not more than 2 lots, not including lots designated as common property lots;

“unanimous resolution” means —

- (a) a resolution that is passed unanimously at a duly convened general meeting of the strata company —
 - (i) of which at least 14 days’ notice specifying the proposed resolution has been given; and
 - (ii) at which all persons entitled to exercise the powers of voting conferred under this Act are present and vote, either personally or by proxy;

or

- (b) a resolution that is passed unanimously at a duly convened general meeting of the strata company by every person entitled to exercise the powers of voting conferred under this Act who is present and votes either personally or by proxy and agreed to, in writing signed by him, within 28 days after the day of the meeting by every other person who was entitled to exercise the powers of voting conferred under this Act at the meeting, or by every person who at the time of his signature was entitled to exercise those powers in place of such other persons;

“unit entitlement” in respect of a lot, means the unit entitlement of that lot shown on the schedule of unit entitlement registered with the Registrar of Titles;

“wall” includes a door, window or other structure dividing a lot from common property or from another lot.

- (2) Except where section 3AB applies, the boundaries of any cubic space referred to in paragraph (a) of the definition of “floor plan” in subsection (1) —

- (a) except as provided in paragraph (b) —
 - (i) are in the case of a vertical boundary, where the base of any wall corresponds substantially with any line referred to in paragraph (a) of that definition — the inner surface of that wall; and
 - (ii) are, in the case of a horizontal boundary, where any floor or ceiling joins a vertical boundary of that cubic space — the

upper surface of that floor and the under surface of that ceiling;

or

- (b) are such boundaries as are described on a sheet of the floor plan relating to that cubic space (those boundaries being described in the prescribed manner by reference to a wall, floor or ceiling in a building to which that plan relates or to structural cubic space within that building).

(2a) Notwithstanding subsection (2), where —

- (a) a strata plan creates a boundary external to a building; or
- (b) other prescribed circumstances apply,

the floor plan may include dimensions or survey information defining that boundary, in the prescribed manner, by reference to the parcel boundary.

(3) A reference in this Act to cubic space includes a reference to space contained in any three-dimensional geometric figure which is not a cube.

(4) The fact that any boundary is defined in a plan in terms of or by reference to —

- (a) a wall that is not vertical; or
- (b) a floor or ceiling that is not horizontal,

does not prevent that plan from being a floor plan.

(5) A reference in this Act to a re-subdivision of a lot or common property is a reference to the alteration of the boundaries of —

- (a) one or more lots so as to create only 2 or more different lots;
- (b) one or more lots so to create one or more different lots and common property;
- (c) one or more lots and common property so as to create one or more different lots or one or more different lots and common property; or
- (d) common property so as to create one or more lots,

but does not include a reference to the consolidation of 2 or more lots into one lot or the conversion of one or more lots into common property.

(6) Except in so far as the context or subject-matter otherwise indicates or requires, it is a sufficient compliance with any provision of this Act requiring an instrument to be accompanied by another instrument if that other instrument is endorsed on the first-mentioned instrument.

[Section 3 amended by No. 84 of 1994 s. 46(12); No. 58 of 1995 s. 5², 95 and 96; No. 14 of 1996 s. 4; No. 61 of 1996 s. 4 and 5; No. 79 of 1996 s. 28; No. 81 of 1996 s. 153(1); No. 74 of 2003 s. 112(2), (3).]