

Chapter 6

UNIT AND COMMON PROPERTY BOUNDARIES

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UNIT AND COMMON PROPERTY BOUNDARIES

601 DEFINITION OF A UNIT

The Strata Titles Act, 1988 defines a unit as being an area shown on a strata plan as being a unit; in other words, described as a unit on the plan. This must be read in conjunction with the Section 32 (1)(d) of the Development Act which provides that a council must approve any unit for separate occupation and Section 5 (6) of the Strata Titles Act that provides for various items contained within the common property to be considered as part of a unit.

← SEE STA SS. 3 (1)
(definition of a unit)

← SEE PARA 614

A unit should be reasonably self contained for the land use for which it is designed and development approval given. Eg., residential, commercial, recreational, etc. Only lateral boundaries (walls, fences, etc.) are shown on the plan. Boundaries such as roofs, ceilings, & floors are assumed to adopt the statutory boundaries of the Act. Where vertical boundaries differ from this, an annotation as to their nature must be made on the panel of the plan.

← SEE CHAPTER 7
"PLANNING
APPROVALS",
GENERALLY

602 BOUNDARY AND IDENTIFIER REQUIREMENTS OF A STRATA PLAN

Whereas land division allotments have boundaries defined (monumented) by survey marks (pegs, etc) and lineal measurements to display their direction and extent, a strata plan will delineate units by description to a monument formed by a structure, or part thereof. Eg., wall, ceiling, floor, fence, etc.

Units are not fixed by data as the Act requires the extent of a unit to be defined by a structure that substantially surrounds and/or covers it. It is not practical to attempt to define an irregularly shaped object by lineal data, however, circumstances where a mixture of lineal data and part of a structure is necessary to define a unit/unit subsidiary are explained later in this chapter.

← SEE S.5 (4) AND
PARA 604

← SEE PARA 604 and
Figures 21, 22, 24
to 26, 28

A strata plan must:

- show unit and common property boundaries in a manner that allows them to be ascertained;
- assign a number to each unit. This is the equivalent of an allotment number on a plan of division. Unit numbers should always start with the number 1 unless a dispensation to this is given by the Registrar-General where the scheme is intended to be amalgamated later as part of staged development. A written request (by the surveyor) for dispensation should accompany the plan
- show outer boundaries of the land (as approved on the outer boundary survey plan).
- show the relationship between the external lateral boundaries of all buildings on the site and the outer boundaries of the land.

← SEE S.5 (3)(a)

← SEE S.5 (3)(b)

← SEE PARA 1202

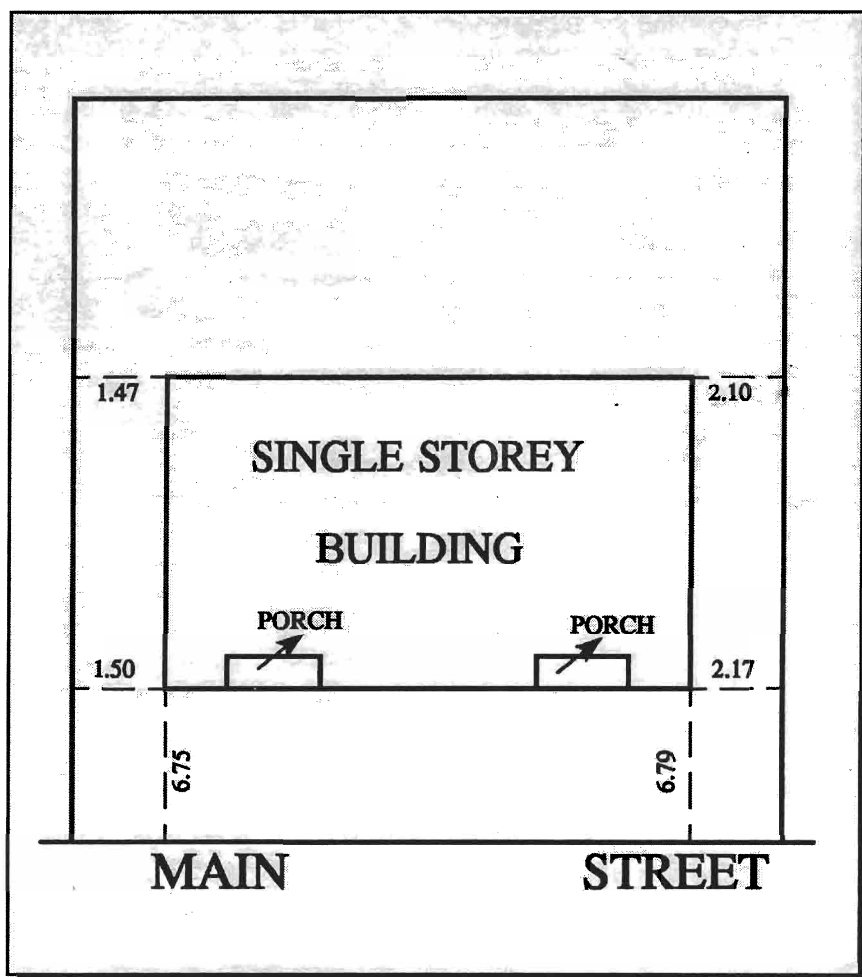
← SEE S.5 (3)(d)

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- (602) This is achieved on the plan by showing the outline of all buildings on the site (which includes the main structure, out buildings, barbecues, swimming pool, etc.) and fixed by data cursorily to the outer boundary of the land comprising the site. ← SEE S. 5 (3)(e)

Figure 18 gives an illustration of this.



← SEE S. 5 (4)(a)

Figure 18 STRUCTURE FIXINGS ON A SITE PLAN

603 WHAT MUST A UNIT CONSTITUTE

A strata unit must consist of or include the whole or part of a building.

A building, by definition in the Act, includes a structure. This enables structures that not normally identified by developers and planning authorities as a building in the strict sense of the word, as being the defined as a unit in a strata scheme. Under the repealed legislation several proposals failed because the planning authorities would not give a Land Division Certificate on this ground. Carports were the main problem under that Act. The current legislation enables structures such as boat marinas, car parking spaces, air-conditioning plants, etc, to be shown as units on a strata plan.

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(603) A unit may need not be wholly within one or more buildings.
It is not uncommon for a unit to be split between buildings or within the same building.

← SEE S. 5 (4)(b)

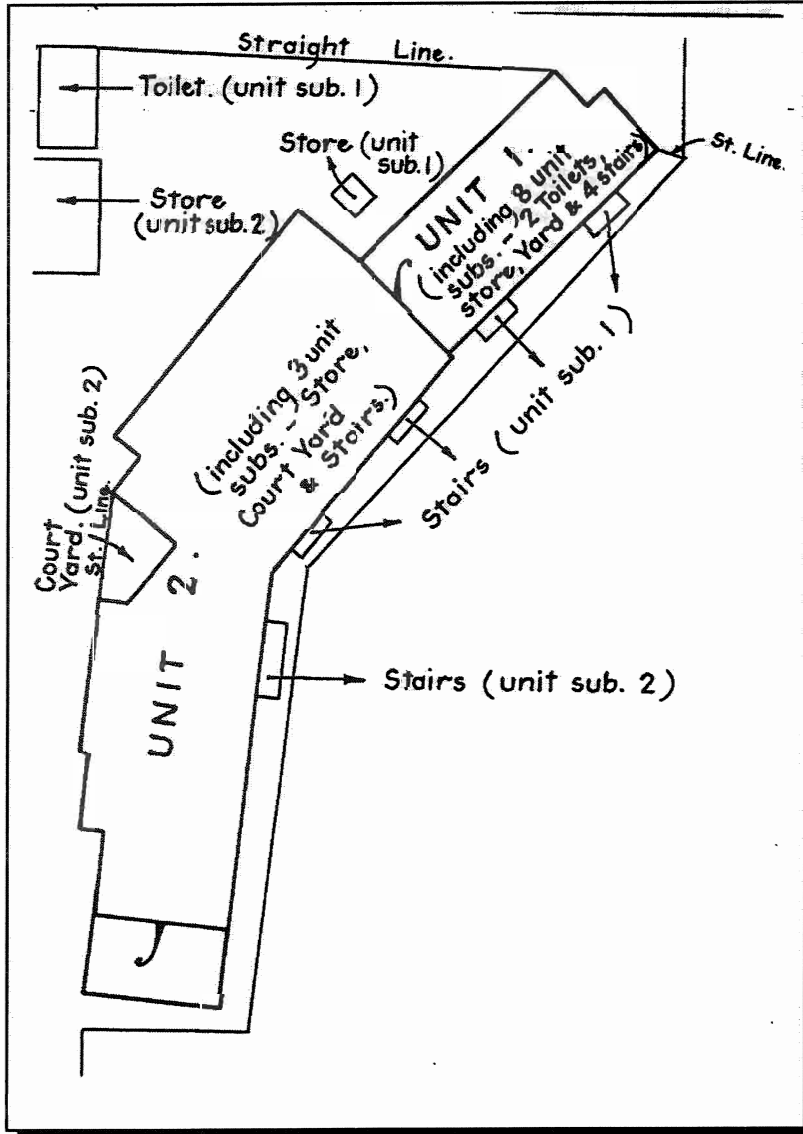


Figure 19 shows a strata scheme in which the units form a grand stand at a suburban oval. Unit 1 is comprised of two portions as indicated by the split vinculum on the plan. A vinculum is the character shown thus-

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In a case such as this, it is preferred to repeat the designation of Unit 1 in each part of the unit.

Figure 19 PLAN SHOWING A LATERALLY SPLIT UNIT

The Act also provides that units may be below, on or above the surface of the land, or may be on one or more storey of a building.

← SEE S.5 (4)(c)&(d)

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604 UNIT BOUNDARIES

Unit boundaries have a statutory definition that may be changed (with one exception) by an explicit statement on the plan.

The statutory boundaries are:-

- a boundary defined as a wall or fence, the inner surface of the wall or fence; ← SEE S. 5(5)
- the lower level being a floor is defined as being the upper surface of the floor; and
- the upper level being a ceiling or roof is defined as being the under surface of the ceiling or roof.

Unless an explicit statement is made on the plan to the contrary, all boundaries of a unit are as defined by the Act. Thus the structure (apart from walls etc., internal to a unit) is common property.

It should be noted that the statutory boundaries are designed to keep complaints between neighbours to a minimum. Under the previous Act, many disputes between neighbours or with a strata corporation were caused by the statutory definition of boundaries (the centre line of a wall) in that Act creating a split ownership between adjoining unit holders or with strata the corporation. Any change to the statutory boundary definitions of the current Act should occur only where it is considered necessary with a good reason in mind. There may be occasions where a unit has insufficient structure to accurately define a unit. In this case a combination of structure and data is necessary. This is acceptable provided the data is related to the structure only and does not attempt to fix the structure to the title boundaries.

← SEE Figures 21, 22, 24 to 26, 28 FOR EXAMPLES

Any variation to the statutory boundaries must be made by describing the change as follows:-

- (a) where only some boundaries are affected, by reference on the plan diagram. The boundary marked (B) in Figure 20 shows portion of a strata plan with a change to that boundary.

or

- (b) where all or a large majority are affected, by annotation in the panel of the plan. In this case an appropriate note may read;

"The boundaries of the units hereon are defined as the centre line of walls and fences (except where otherwise shown on the diagram)".

The exception to the Act lies in the fact that a wall or fence forms a boundary between a unit and a unit subsidiary to that unit, forms part of the common property unless the plan contains an explicit statement to the contrary. The boundary marked (A) in Figure 20 is a boundary to which this provision applies.

← SEE S.5 (7)

STRATA FACTS

605 IDENTIFYING A UNIT ON THE PLAN

A unit is identified on a strata plan by reference to the unit number and the number of unit subsidiaries and their nature in the following manner.

Eg., within the unit the annotation "UNIT 1 (incl. 2 unit subs. Yard and Porch)" is made.

Figure 20 shows the manner in which units should be designated.

606 PLAN ABBREVIATIONS.

For the purposes of plan clarity the following abbreviations may be used in respect to identifying a unit or common property on a strata plan:-

← SEE SECTION 21
"MANUAL OF
SURVEY PRACTICE"
VOL. 1

"incl" for including or inclusive,

"sub(s)." for subsidiary(ies),
"prod" for production.

Other abbreviations permitted are outlined in Section 1 of the "Manual of Survey Practice", Vol.1.

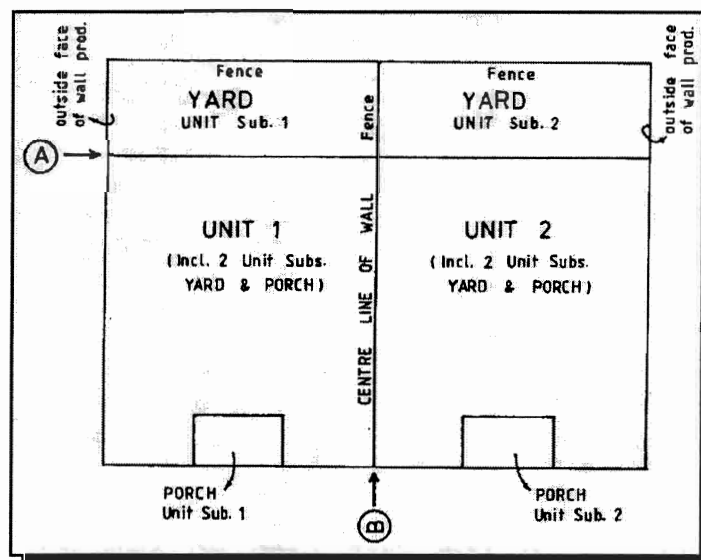


Figure 20 ILLUSTRATION OF UNIT BOUNDARIES

607 UNIT SUBSIDIARIES

A unit subsidiary is an area or part of a structure that is set aside for the use of the occupier of a unit. The Act describes the unit subsidiary as being appurtenant to the portion of the unit designed for separate occupation. The unit subsidiary is hence part of the unit. The unit may therefore be comprised of at least two portions, one being the area which is designed and approved for occupation according to a particular land use, the other, the unit subsidiary, being an area designed for the separate use of the occupant of the unit. Eg., a yard, garage, garden, carport, verandah, balcony, rain water tank etc.

← SEE S. 5 (4)(e)

A problem in the manner in which a unit subsidiary can be fixed can occur when there is little structure to which it can be fixed on the plan.

For example, a yard may have no solid base, no structure covering it and only scant structure surrounding it. Figure 21 shows three suggested methods in which the surrounding boundaries may be displayed on the plan.

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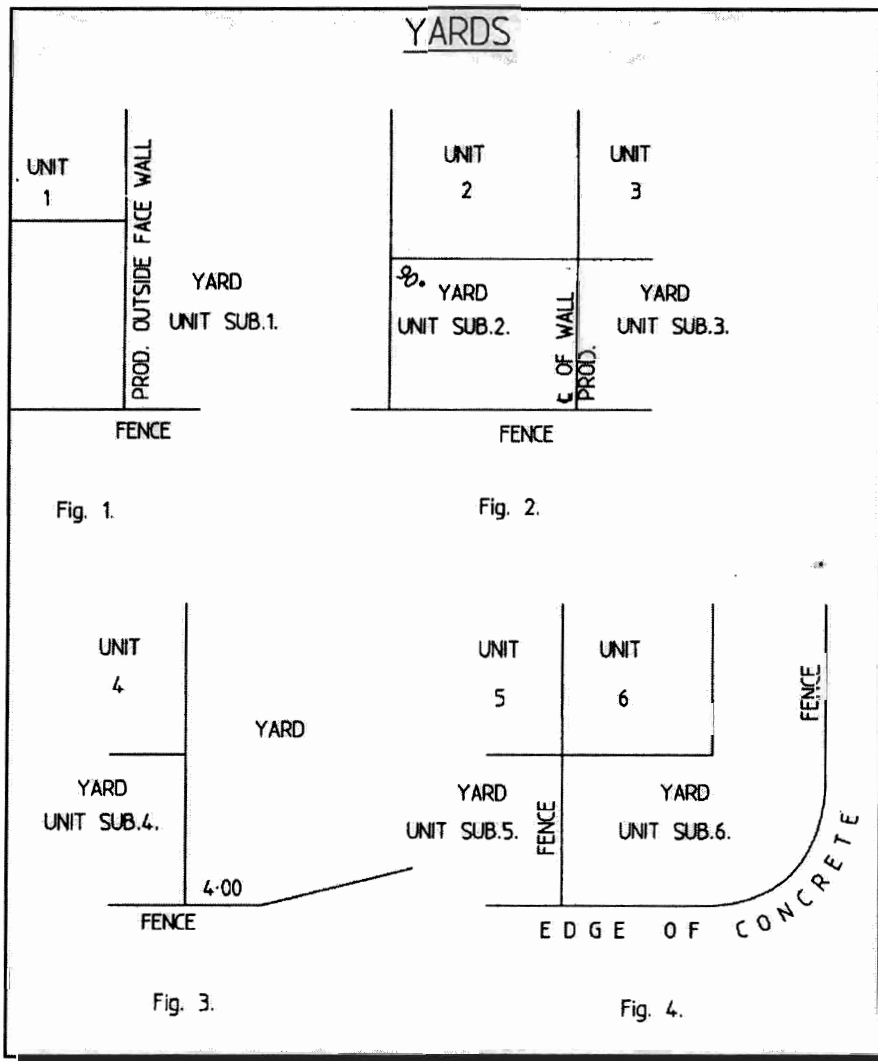


Figure 21 YARD UNIT SUBSIDIARY BOUNDARIES

Upper and lower limits of a Unit Subsidiary such as a yard must be given by explicit statement in the panel of the plan.

Eg., ***"The lower and upper limits of Yard unit subsidiaries are 0.30 metres below ground level and 3.00 metres above ground level (except where overhanging eaves exist), respectively"*** .

Alternative limits to this are existing ground level or perhaps if a more precise datum is necessary, reference to Australian Height Datum (AHD) can be used.

A lower limit below ground level is recommended in the case of a yard to cover root growth of plants, otherwise it could be considered necessary to seek corporation approval to plant flowers, vegetables, etc., in the common property below the yard. It would be interesting here to determine who owns the carrots and who owns the leaves.

The lower limit should not be so deep as to allow the planting of large plants such as trees, etc., without strata corporation approval.

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607 Some of the less common lateral boundary definitions are:-

- "edge of paving bricks"
- "join in concrete"
- "edge of railway sleepers"
- "brass strip in concrete"

WARNING: boundary structures such as railway sleepers and brick paving are often set in the ground in a manner which allows them to be easily removed.

Unit owners must realise that removal constitutes an interference with the boundary and any change must be approved by the planning authorities, the strata corporation and the change registered on the plan in the Lands Titles Registration Office of the Lands Services Group of the Department of Environment and Natural Resources.

Developers should make every effort to ensure that boundary structures such as these are immovable.

Figure 22 shows two recommended methods of fixing the lateral boundaries of carports.

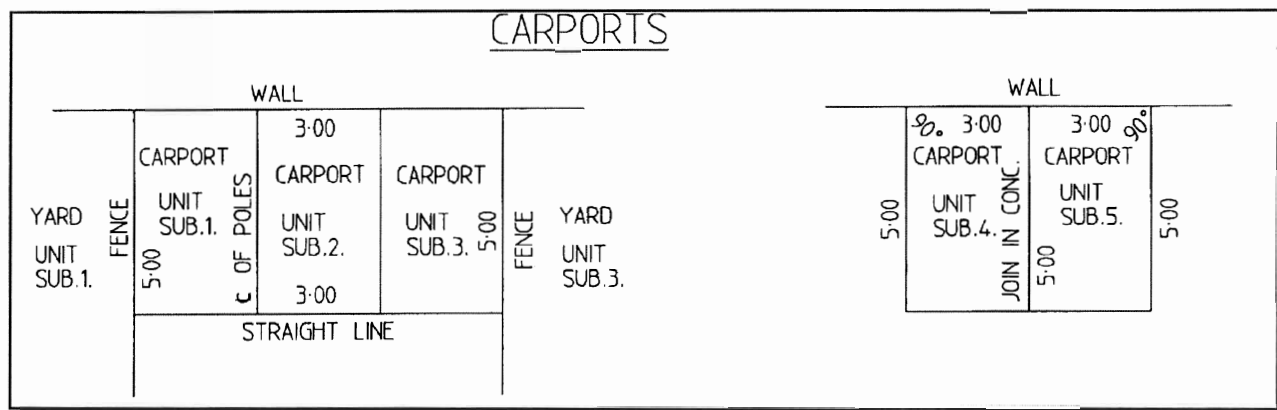


Figure 22 CARPORT BOUNDARIES

608 UNIT SUBSIDIARY DEFINITION PROBLEMS

Some unit subsidiaries have boundaries that are extremely difficult to define. Eg., a freestanding carport having a concrete base, a flat roof and four supports, one on each corner causes a problem as to where the dividing line exists between that unit subsidiary and adjoining unit subsidiaries or common property. As a consequence, arguments as to ownership and maintenance expenses arise that are difficult to solve.

Others are of a nature require absolute ownership through common sense.

It is strongly recommended that unit subsidiaries that are difficult to define should, by explicit statement on the plan, be identified as being the entire structure. This will put the arguments to rest as the unit owner must meet all costs .

Unit subsidiary structures that are recommended for this approach also include a garden shed, swimming pool, barbecue, air-conditioner, pergola, fish pond, etc.

It would be unfair to require other unit owners to share the expense of repairing the walls of a Unit Subsidiary Rainwater Tank that springs a leak.

← SEE S.27 (6)

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608 Although the Act provides that this expense can be apportioned to a particular owner, good forward planning on behalf of the developer can avoid future possible conflicts within a scheme by ensuring that unit subsidiaries of this nature include the entire structure. In the case of attached carports, a precise dividing line should be indicated on the plan.

Figure 23 shows grain silos that are unit subsidiaries in an industrial scheme that would be best shown as comprising the entire structure.

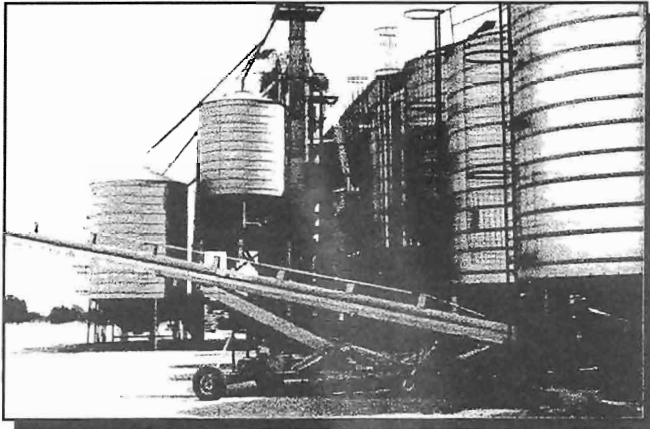


Figure 23 **UNIT SUBSIDIARIES**
GRAIN SILOS

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609 NON CONVENTIONAL MONUMENTATION OF BOUNDARIES IN STRATA SCHEMES.

The Strata Titles Act, 1988 has enabled the strata titling of structures other than the traditional building suitable for human occupation. We are now seeing a trend towards the creation of units designed for recreational and business purposes not previously contemplated.

A question that arises concerns the nature and extent of monument that must exist to enable planning authorities to issue a Land Division Certificate and the Lands Titles Registration Office to deposit a strata plan for developments such as marinas and carparking stations.

The spirit of the Act requires monument to substantially surround or cover a unit and unit boundaries should be easily discernible by sight.

Problems have been encountered in trying to determine a policy that is consistent for the abovementioned types of schemes. The following criteria should be followed for determining such monumentation:

610 BOAT MARINAS.

The problem with a boat marina is that the boundaries may lie within the water and are not obvious to the observer.

The manoeuvrability of the craft becomes an important factor in determining the extent of the minimum allowable monument. To differentiate craft are divided into 2 types, depending on their manoeuvrability; Eg,

- a) craft of low manoeuvrability, and
- b) craft of high manoeuvrability.

611 CRAFT OF LOW MANOEUVRABILITY

Craft of low manoeuvrability such as a houseboat or a vessel totally reliant on sail will need more room to manoeuvre into a berth than a conventional power boat.

The extent of the monument defining the unit may need to be substantially shorter than for a conventional boat.

This is acceptable provided those portions of the submerged boundaries that are undefined by monument are capable of being located from a survey co-ordination traverse placed on shore in relation to the established monument and showing lineal and angular data to those boundaries.

A recommended method of this is shown in Figure 24. A photograph of berths in this category is shown in Figure 29.

612 CRAFT OF HIGH MANOEUVRABILITY

Craft of high manoeuvrability such as power boats are capable of being berthed in units fixed by more extensive monumentation.

In this case the unit, or a pair of units, should be surrounded on 3 sides by a structure extending to at least the length of the vessel. Any exception to this rule should include a survey co-ordination traverse as discussed above. The use of lineal data to fix unit boundaries where they lie between monuments, may be necessary.

A recommended method of fixing units of this type is shown in Figure 25. A photograph showing a berth in this category is shown in Figure 30.

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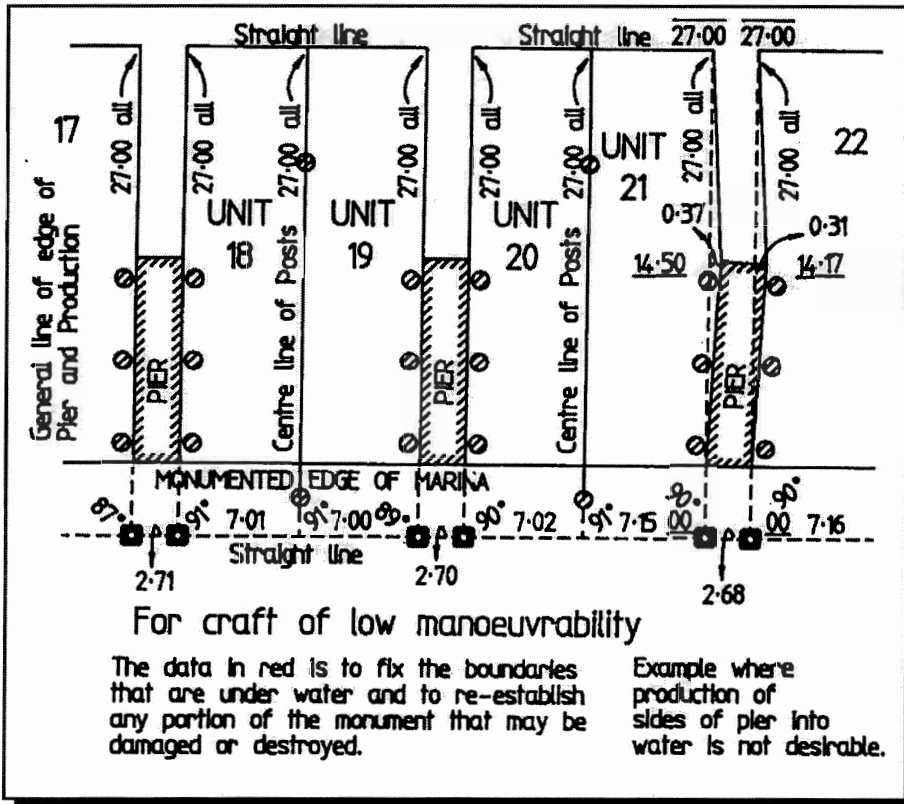


Figure 24 UNITS FOR CRAFT OF LOW MANOEUVRABILITY

In Figure 24, the lineal data, tie lines and survey marks (shown thus: \blacksquare) fix the boundaries that are under water and to re-establish any portion of the monument that may be damaged or destroyed.

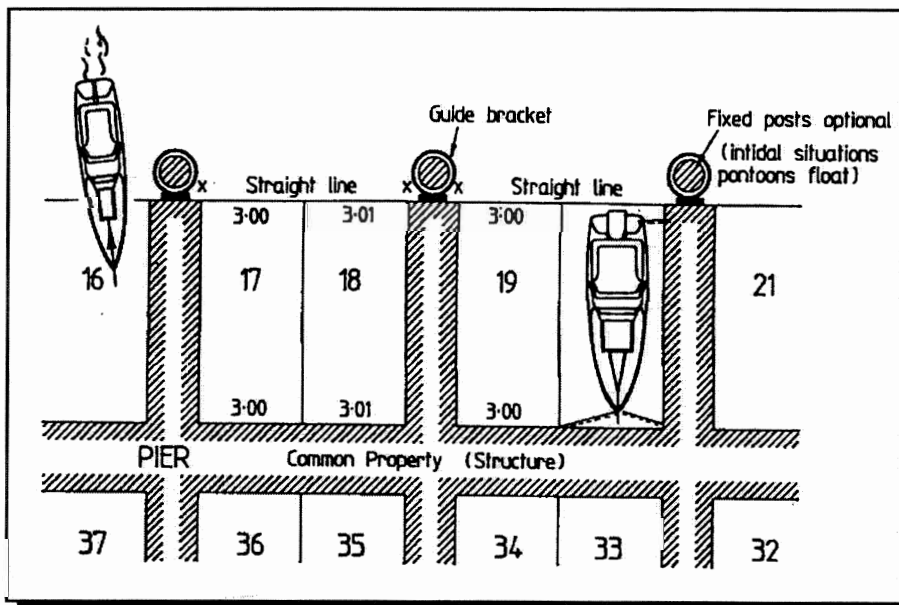
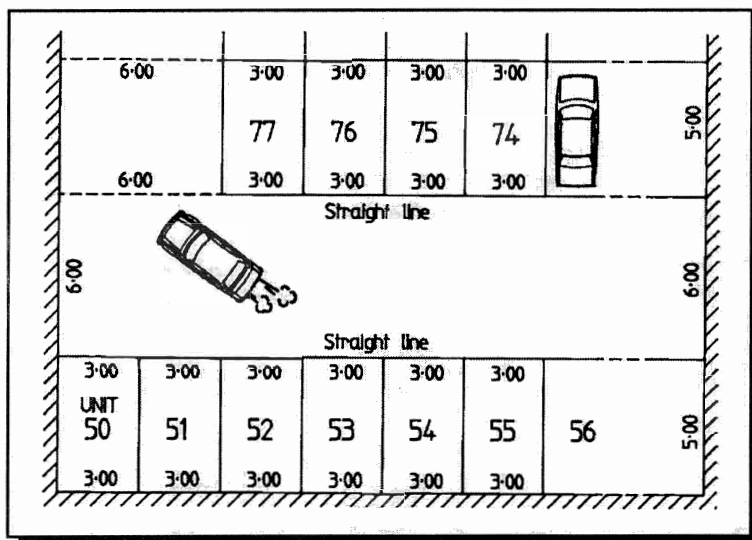


Figure 25 UNITS FOR CRAFT OF HIGH MANOEUVRABILITY

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Note: This diagram is illustrative only and does not intend to display how the actual plan is drawn.

Figure 26 CARPARKS WITHIN A BUILDING

613 CAR PARKS WITHIN A BUILDING.

Units designed for car parking should be fixed similarly to that for craft of high manoeuvrability.

A carpark, or group of carparks, can be fixed by lineal data from the inner surface of walls either external or internal and/or columns within the structure.

Measurements must not be fixed to certificate of title boundaries.

A recommended method of fixing units designed for car parking is shown in Figure 26.

614 COMMON PROPERTY

Common property is defined as any land or space that is not within a unit with the exception of those items outlined in the Act. E.g.,

← SEE S.5(6)

- any pipe, cable, wire, duct or drain that is not for the exclusive use of a unit,
- any structure that is not for the exclusive use of a unit installed before the deposit of the strata plan,
- any structure installed by a strata corporation as part of the common property, and
- any other structure on the site committed to the care of a strata corporation as part of the common property.

The effect of this provision is to give clear guidelines as to responsibility of maintenance of services to units. Under the previous legislation the need to repair a pipe, etc, that exists outside of a unit was often the source of dispute between unit owners. Figure 27 illustrates service pipes etc., and their ownership.

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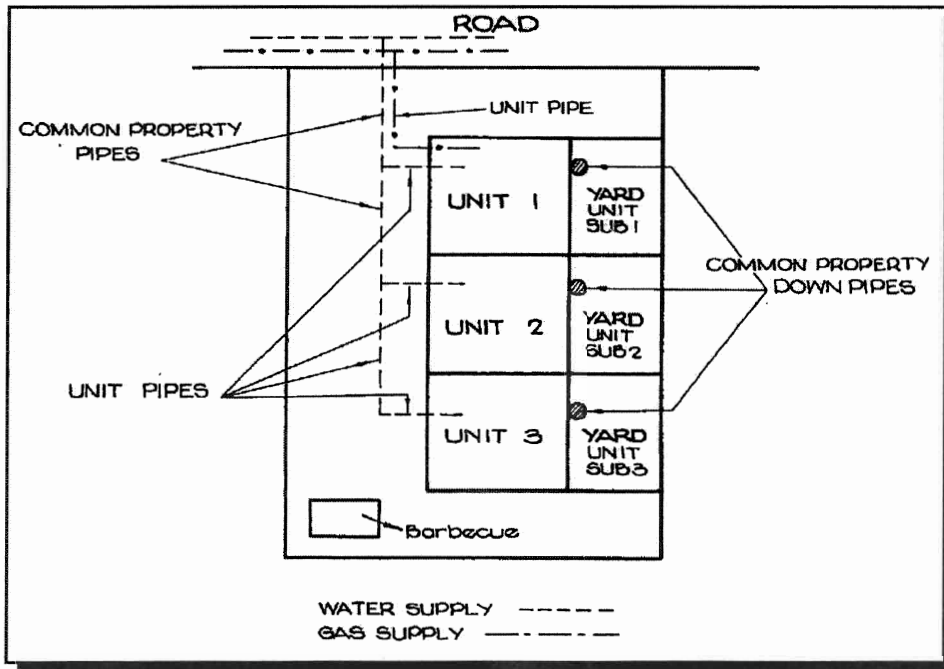


Figure 27 ILLUSTRATION OF UNIT/Common PROPERTY SERVICES

615 IDENTIFYING COMMON PROPERTY ON THE STRATA PLAN

In the most simplest of terms, common property is any area or item shown on a strata plan that is not designated as a unit or unit subsidiary. This includes all of the structure(s) not contained within a unit (under the statutory definitions of boundaries some internal walls, etc., may not be common property), open space on the plan and any artefact that is designated on the plan and not assigned to a unit.

← SEE S. 5(6)

Figure 28 shows a representation of a strata scheme floor plan showing common property areas. The items and areas marked with letters are common property and are often lettered to enable the strata corporation to lease or licence their use to a particular unit owner or owners.

For example, the carparks marked "A", "B", "C" and "D" could each be assigned to a particular unit for an area for their visitors to park off street. This could well be a condition of development approval by a council.

Other common property areas include the swimming pool, barbecue, shed, laundries, pergola and the un-designated open areas.

Where the statutory boundaries of the Act are used, the common property includes that part of the structure that does not fall within a unit. Although shown as a single line on a plan, the boundary lines between units/unit subsidiaries and units/common property, represents the walls and fences that define those boundaries.

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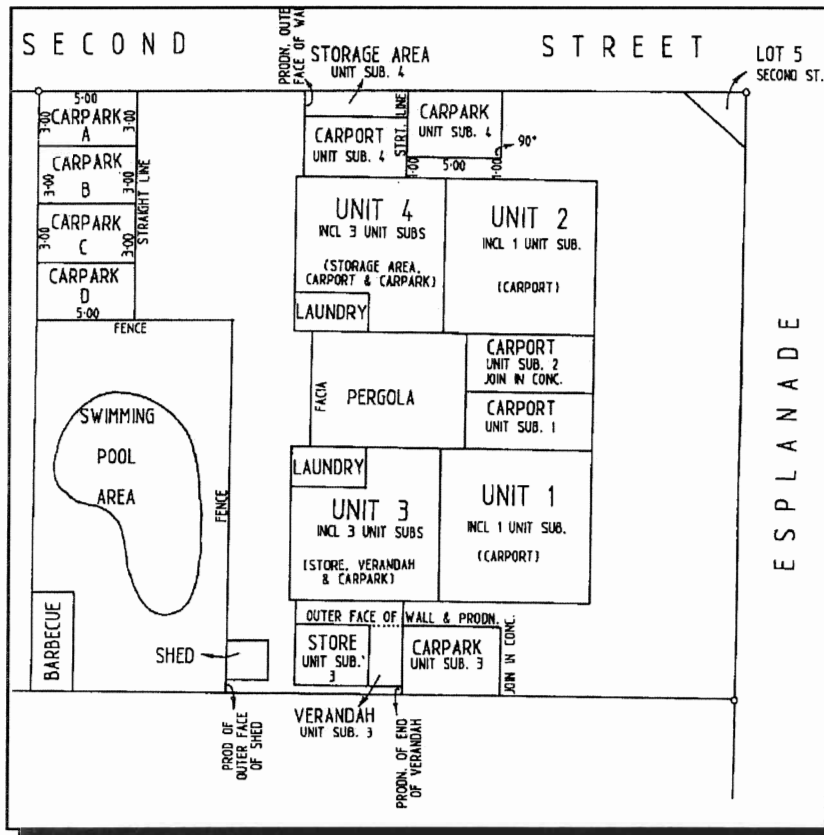


Figure 28 PLAN SHOWING COMMON PROPERTY AREAS AND ARTEFACTS

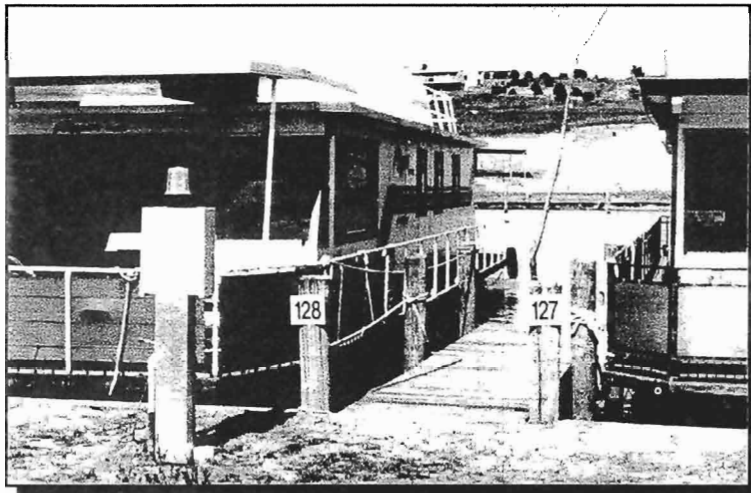


Figure 29 HOUSE-BOAT BERTHS OF LOW MANOEUVRABILITY

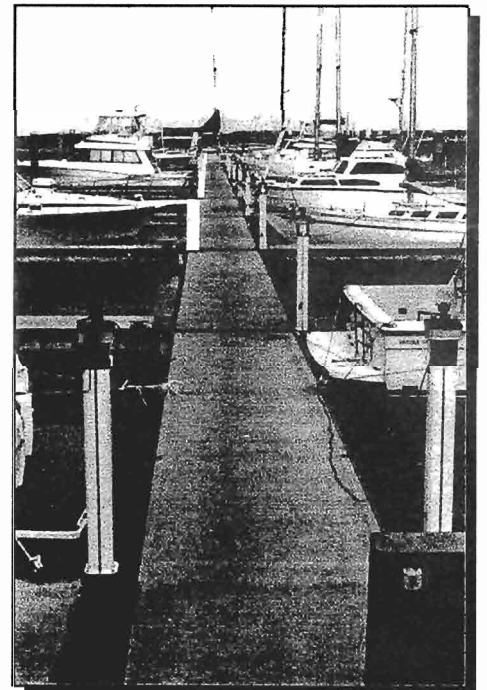


Figure 30 POWER-BOAT BERTH OF HIGH MANOEUVRABILITY