



Exclusive use areas

How are these allocated & who is responsible

Training by Leigh Maingard – 24 July 2023

Discussion points

- Definition of exclusive use areas (EUA)
- Types of EUAs
- Ownership of EUAs & selling EUAs
- Identifying EUAs on sectional title plans
- Use & changing the use of an EUA
- Levies chargeable to EUAs
- Maintenance & insurance of EUAs

Types of EUAs

- Parking bays, storerooms, passages, garages
- Balconies, terraces, decks, patios
- Roofs – solar installations (new)
- Portions of walls – external signage
- Gardens

Definition of exclusive use areas

Sectional Title Schemes Management Act & Sectional Titles Act

means *part or parts of the common property* for the exclusive use by the owner or owners of one or more sections

Fundamentally an agreement amongst all the owners in the scheme that an identified portion of their jointly-owned property will be used only by a specified owner, or a defined group of owners.

Ownership & selling of EUAs

Real right of ownership (section 27 of the Act):

- “If a part or parts of common property is or are *delineated on a sectional plan for a specific purpose...*”
- “...may transfer his or her interest in such right to the *owner of another section in the scheme...*”
- “...by the registration of a unilateral notarial deed in their favour.”
- May be subject to a mortgage bond or lease agreement

Ownership & selling of EUAs

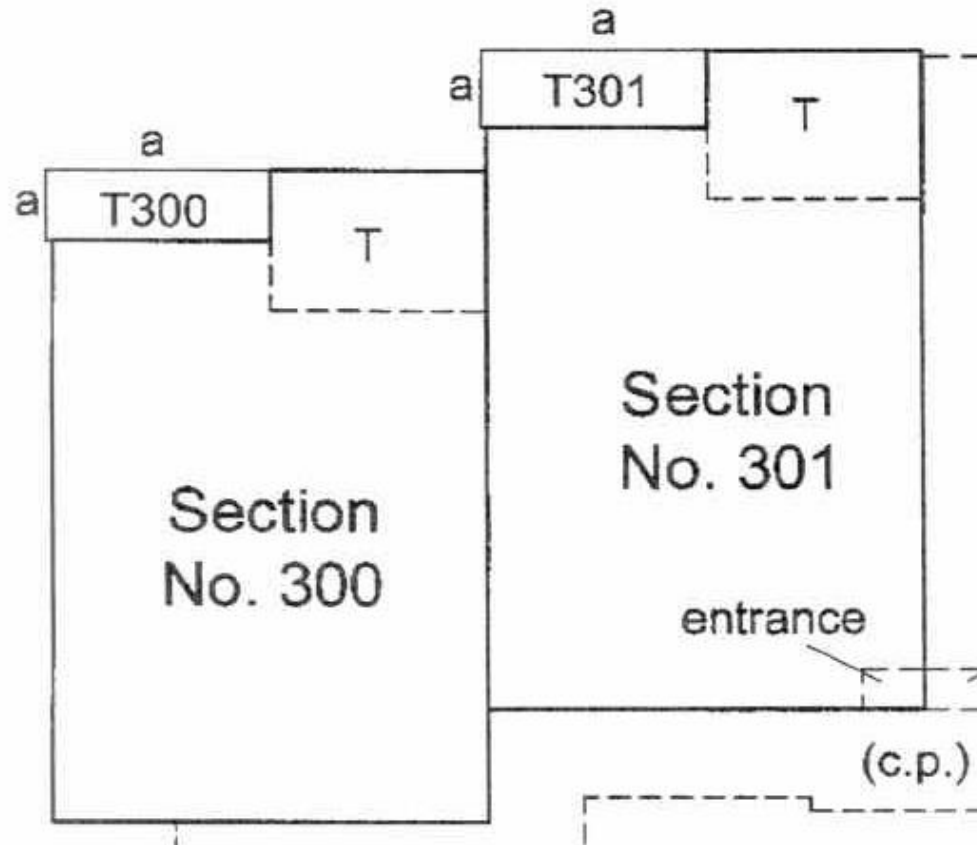
- If an owner ceases to be a member of the body corporate
 - “...any right to an exclusive use area still registered in his or her name vests in the body corporate free from any mortgage bond...”
- May be cancelled by way of a deed of cancellation by registrar of Deeds
 - Agreement between holder of the right & the body corporate
 - Special resolution required

Ownership & selling of EUAs

Right of use into the scheme **rules** (section 27 of PMR)

- “...whether the rights to each area are conferred in terms of section 27 of the Sectional Titles Act or in terms of a *rule*...”
- “...a prominent reference to *any rules* that confer *exclusive use rights*...”
- Must be indicated on a plan as an annexure to the rules
- Must indicate which section has the right of use
- On transfer the use is ceded to the purchaser
- Cannot be sold or be subject to a mortgage bond

Identifying EUAs on sectional title plans



EXCLUSIVE USE AREA SCHEDULE	
EXCLUSIVE USE AREA NO.	AREA (square metres)
T300	5
T301	6

Identifying EUAs in scheme rules

ANNEXURE B 2

SHOP FRONT AREAS

<u>Allocated to owner of Section:</u>	<u>Shop Front Area</u>	<u>Extent (sq. m)</u>
1	SF1	8,3
1	SF2	11,2
1	SF3	17
1	SF4	35
2	SF5	74
2	SF6	32
2	SF7	22
2	SF8	4
3	SF9	4
3	SF10	9,4
4	SF11	6
4	SF12	5,5
4	SF13	8,3
227	SF14	15,8

Use & changing the use of EUAs

- “...use a section or exclusive use area so as to cause a nuisance...”
- Contravene any “...law or by-law relating to the use of a section or an exclusive use area...”
- Contravene any “...conditions of title applicable to sections or exclusive use areas...”
- “...make alterations to a section or an exclusive use area that are likely to impair the stability of the building or enjoyment thereof...”
- “...do anything to a section or exclusive use area that has a material negative affect on the value or utility of any other section or exclusive use area...”

Use & changing the use of EUAs

- “...use a section or exclusive use area for a purpose other than for its intended use as —
 - shown expressly or by implication on a *registered sectional plan* or an approved building plan ;
 - can reasonably be inferred from the provisions of the applicable town planning by-laws or the *rules of the body corporate*; or
 - is obvious from its construction, layout and available amenities”
- Place or construct any structure that constitutes an extension of the section

Use & changing the use of EUAs

- Use of a real right EUA (registered on ST plans)
 - All the members must approve
- Use ito scheme rules
 - If in conduct rules – special resolution
 - If in management rules – unanimous resolution

Levies chargeable to EUAs

STSMA – Functions of bodies corporate

- Require owners to make contributions
- Owners of sections entitled to the use of exclusive use areas
- Whether the right is registered or conferred by the scheme rules
- To defray costs such as rates, insurance, maintenance, electricity & water
- Unless owners responsible by the rules of the scheme
- Calculation of levies different to section levies
- Budget allocation for EUA levies

Maintenance & insurance of EUAs

Maintenance

- Water heating installation – on common property & insured by the body corporate
 - Owner maintain, repair & replace even when serving EUA
- Keep EUA in a clean and neat condition
- When is the BC responsible?

Insurance

- BC policy must specify replacement value of all EUAs
- Valuations must indicate replacement values of EUAs (minimum every 3 years)

THANK YOU