

Governing the Compact City:

The role and effectiveness of strata management

Executive Summary



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Governing the Compact City

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Executive summary

An estimated three million people live in strata titled homes in Australia. The state of New South Wales (NSW) has the largest number of strata titled properties of all states and territories in the country and approximately 1.2 million people live in strata titled homes in the state. In the Sydney metropolitan area, almost a quarter of the population live in strata titled homes.

This means that for the first time in Australia's history large numbers of property owners find themselves in a legally binding relationship with their neighbours for the communal upkeep and maintenance of their property. The governance structures that mediate this community-based property ownership represent a new form of civic relationship.

With the development of increasing numbers of strata schemes, owners corporations, through their executive committees and the managing agents and other property professionals who support the sector, have become increasingly important in ensuring the maintenance and upkeep of significant parts of our cities. In effect, owners corporations act as a fourth tier of government that is democratically elected, with lawmaking, taxation and enforcement powers.

But despite the growing prevalence of strata title in our lives, relatively little is known about how well the strata system works *in practice* to meet the needs of those people who own and live in strata properties. The *Governing the Compact City* project¹ provides the first comprehensive assessment of how the strata title system is operating in regard to governance and management from the point of view of those who own, live in, and manage strata homes.

While it is focused on NSW, the report's findings have implications for the entire Australian strata market which is based on essentially the same governance and management arrangements.

The research project

The project had three major aims:

1. To explore the role, capacity and effectiveness of owners corporations as agencies of property governance and management in contemporary urban Australia.
2. To explore the capacity and effectiveness of strata managing agents as mediators of outcomes for residents and owners in the sector, and their role and function within the overall structure of management and governance.
3. To assess how well residential strata works from strata owners' points of view.

The research project focused on residential strata properties with three or more lots in NSW. The research was undertaken between 2009 and 2012 and included surveys² and interviews with strata owners, executive committee members and strata managing agents in NSW, as well as analysis of the NSW strata database and NSW strata schemes management legislation and interviews with peak body representatives around Australia. In total, the research consulted 1,550 individuals including 1,020 strata owners, 413 executive committee members, 106 strata managing agents and 11 peak body representatives.

This Executive Summary outlines the main findings of the research project and outlines five key challenges for further reform to improve the governance and management of a major form of housing provision in the 21st Century.

Governance in strata

Many people are not aware of their rights and responsibilities as strata owners.

Concern has previously been raised by the NSW Government that owners may not be aware of their rights with regard to the governance of their strata schemes³. The results of our surveys support these concerns. In the survey of strata owners, 36% of respondents said that the general understanding amongst other owners in their scheme was less than satisfactory and many respondents identified owners being unaware of their rights and responsibilities as a major problem.

Owner engagement and apathy is a problem in some schemes.

The majority of respondents to the survey of strata owners (75%) indicated that there was some, or significant, cooperation between owners in their scheme. However, a significant minority (18%) said that there was little or no cooperation, and a lack of engagement and apathy of owners was raised as a concern in both the owners and executive committee surveys.

In the survey of executive committee members, 37% of respondents said they had found it difficult to recruit people to sit on their executive committee. Common reasons given by respondents to the survey of owners who said that they did not want to join their executive committees were that they had insufficient time or competing commitments, they didn't want to get involved because of perceived problems with the way the committee operated and they felt excluded from joining the committee.

Our findings suggest that while many owners did not want to get involved in running their schemes, others were unable to exercise their right to have a say in their scheme because they did not know what their rights and responsibilities were, they had been bullied or intimidated by other owners or they felt that their vote would not make a difference.

Practical implementation of the strata schemes management legislation poses a major challenge for the volunteer committees of some schemes and existing government support is considered insufficient to support this process.

Many owners and executive committee members who were interviewed spoke about the challenges they faced in implementing the strata schemes management legislation in practice and some expressed frustration at the devolution of responsibility for representation and service delivery from government to owners corporations without sufficient accompanying governmental support.

Coming to an agreement in strata schemes can be a difficult and slow process.

Perhaps the greatest tension in managing a strata scheme is that between the individual property rights held by lot owners and their collective rights and responsibilities as members of the owners corporation. Often tensions arise between individuals and groups with different priorities. While the majority (58%) of executive committee survey respondents said there had not been any occasions where coming to an agreement regarding the running of their scheme was problematic, a significant minority (39%) said there had been problems. The most common issues resulting in disagreements were those relating to major expenditures, including major repairs. The most common explanations given for these disagreements related to personality clashes and the competing interests of individuals in a scheme.

A particular issue regarding decision-making in strata schemes then is the length of time it can take to make a decision and take action on particular issues because of the difficulties that can be experienced in getting consensus within the executive committee or between owners.

The performance of executive committees is highly variable.

Executive committees are the representative bodies of owners corporations and undertake much of the day to day management of schemes. Satisfaction amongst strata owners with the performance of their executive committees was variable. The most common reasons for satisfaction were that the scheme runs smoothly, committee members are proactive, the committee communicates well with owners, and the committee work well together and with their managing agent. The most common reason for dissatisfaction was a perception that committee members were acting in their own interest, rather than in the interests of all owners.

There is some confusion regarding the respective roles and responsibilities of managing agents and executive committee members.

The majority of strata schemes in NSW hire a strata managing agent to assist with the management of their scheme. Results of the surveys and interviews pointed to confusion amongst some owners of the roles and responsibilities of executive committees and managing agents in regard to decision-making, with a blurring of the distinction between decision-making and implementation.

Satisfaction with strata managing agents is highly variable.

Satisfaction with strata managing agents is generally positive with half (51%) the strata owners whose scheme had hired a strata managing agent saying they were satisfied with their performance. However, a significant minority (27%) were dissatisfied. The most common reasons for dissatisfaction were lack of timely responses and poor communication.

The set-up of a scheme by the developer can have significant knock-on effects on its long term management.

The way in which a strata scheme is created by the developer can have a substantial impact on the effectiveness of its subsequent governance and management. This is particularly the case in the critical areas of build quality, design and layout, allocation of unit entitlements, and the setting up of levies and sinking funds. All these can affect the long term financial viability of schemes, the balance of power between owners, the ease or difficulty of management and the incidence of disputes. Much greater attention is needed in integrating decision-making in the design and build phases of strata buildings and the long term in-use management phase to ensure management and user cost are minimised.

Managing buildings

Building defects constitute a major concern in strata schemes in NSW.

One of the most striking findings of the surveys was the extent of concerns around building defects. In the survey of owners, 72% of all respondents, and 85% of respondents in buildings built since 2000, indicated that one or more defect(s) had been present in their scheme at some stage. For owners in schemes built since 2000 that had defects, 75% said that there were still some defects in their schemes that had not been fixed. The most

common defects identified were internal water leaks, cracking to internal or external structures and water penetration from the exterior of the building.

Many respondents had experienced problems having these defects remedied. The most common problems were that the developer and/or builder held control of the scheme and was delaying the rectification of defects and that the developer and/or builder was no longer operating and therefore could not remedy the defects. It can be extremely difficult and costly for some owners to have defects problems rectified satisfactorily.

Building design problems commonly influence management decisions in strata schemes.

Almost one-third (29%) of executive committee survey respondents said that there were problems with building design that influenced management decisions in their schemes. The most commonly identified problems were the complexity of the scheme (e.g. consisting of multiple buildings), the design and placement of services and utilities, the existence of old and heritage buildings, problems with access and problems with drainage.

Concerns over maintenance often focus on long term planning and funding issues.

Beyond defects and design issues, day-to-day maintenance of strata schemes is also an important consideration. Aside from complaints about an inadequate standard of work being undertaken, the majority of concerns raised in the owners survey were regarding disagreements over whose responsibility it is to plan for maintenance and issues around the budgeting and financing of repairs works.

Many owners have difficulty getting a clear explanation of where the boundaries lie between their lot and common property in their schemes.

A key issue raised by both survey and interview respondents was the difficulty owners faced in clearly delineating lot property and common property in their schemes, and therefore their rights and responsibilities when it came to making changes to their lots.

Most owners whose schemes hire a building manager or caretaker are satisfied with their services.

As well as a managing agent, some strata schemes also hire a building manager or caretaker to help them manage and maintain the common property. Of the 22% of

respondents to the owners survey who hired a building manager or caretaker, satisfaction with their building manager or caretaker was high, with 67% of respondents being satisfied and 16% dissatisfied with their services. The most common reasons for dissatisfaction were poor communication, a lack of timely response and connections with the developer of the scheme.

Managing money

Many owners are concerned that planning and budgeting for repairs and maintenance in their schemes is inadequate.

Almost one-third (30%) of respondents to the strata owners survey were concerned that planning and budgeting for repairs and maintenance had been inadequate in their schemes. One-fifth (20%) also noted that there had been disagreements in their schemes over repairs and maintenance expenditure.

The continued influence of a developer can have a significant negative impact on the management of finances in a strata scheme.

The continued influence of a developer was identified by respondents to both the managing agents and executive committee surveys as having an impact on the budgets of a scheme. The most common types of problems identified were developers setting initial levies too low, not paying levies for the lots they owned, resisting spending on the building, misusing funds and underfunding or underinsuring the scheme.

Many owners are dissatisfied with the level of their strata levies.

While more than half (59%) of respondents to the owners survey considered their levies to be appropriate, a substantial minority (28%) of respondents did not. One area of particular concern is the confusion amongst some owners about what levies are actually spent on. Despite this, the enforcement and collection of levies was not a problem for the majority of respondents, with only 11% indicating that the enforcement of levies was inadequate.

Coming to an agreement regarding spending money can be a difficult and slow process.

The amount of time it can take to decide how to spend money on repairs and maintenance in a strata scheme

was raised by many survey and interview respondents, with disagreements about the responsibility for payment (the owners corporation or individual owners) emerging as a common issue.

There is a case for a system of indicative benchmarks to be developed regarding appropriate amounts of moneys to be put aside in sinking funds.

Such a system would help avoid the difficulties some owners find themselves in when funds for major works in their schemes are unavailable or where developers fail to adequately budget for such funds at the start of a scheme.

Managing people

Strata management is about managing people as well as buildings. Not surprisingly, many strata schemes experience disputes. The most common disputes are those over parking, noise, and adherence to by-laws.

In the survey of strata owners, 51% of respondents indicated that there had been disputes in their schemes since they had purchased their strata property. Across all three surveys, the three most common types of disputes were in regard to parking, noise and breaking by-laws. Parking disputes were most commonly caused by cars parking illegally on common property, particularly in visitor car spaces and the difficulties experienced in trying to enforce parking rules. Regarding noise, while some owners pointed to the behaviour of other residents as a reason for noise problems, many identified noise issues that resulted from the quality and design of the buildings in their schemes. As for by-law problems, the owners survey revealed that enforcing scheme rules and requirements is also a significant issue when residents ignore them.

Most disputes are resolved through informal dispute resolution.

Settling disputes does not always involve recourse to formal intervention or litigation. In fact, amongst respondents to the survey of owners who identified disputes in their schemes, 61% said that at least some of these disputes had been resolved before there was a need to take formal measures. The most common way in which disputes were resolved informally (identified in all three surveys) was through personal communication and negotiation between owners.

Some executive committees do not pursue formal dispute resolution measures, even when the dispute has not been resolved.

Amongst respondents to the survey of owners who identified disputes in their schemes, 40% said that formal measures had been taken in their schemes at some point in relation to a dispute. Of those respondents, 42% said all of the disputes in their schemes were resolved through formal measures, 31% said that some were resolved while others were not and 26% said none of their disputes were resolved.

Even when the parties in a dispute seek formal mediation, the results are not necessarily positive. Only a quarter (26%) of executive committee members whose committee had participated in mediation through NSW Fair Trading had found mediation to be successful in solving disputes in all cases. Two thirds had found it unsuccessful in at least one case. Many of those executive committee members surveyed who found that the dispute resolution process had not been successful in resolving a dispute had nonetheless decided not to continue to the next step of the dispute resolution process.

Concerns were raised about the complicated nature of the formal dispute resolution process, the speed in which disputes can be resolved and the legalistic nature of the formal processes.

The role of interpersonal relationships and skills amongst residents, owners and committee members are critical factors in determining the success or otherwise of strata living and management.

The surveys and interviews provided a lot of information about different aspects of social relations in strata schemes that can both influence, and be influenced by, governance and management of schemes. In particular, respondents spoke of their frustrations with the behaviour of residents who did not know how to live well in density, the difficulties caused by particular individuals and the importance of the personalities and characteristics of executive committee members for the successful management of their schemes.

Managing information

Some owners have experienced difficulty obtaining information at the time of purchase.

At the time of purchasing their strata property, the majority (86%) of respondents to the owners survey did

not experience any difficulties in obtaining information about their strata schemes. However, 14% of respondents said that they had experienced some problems, including that the information being provided was incomplete or incorrect, the minutes from meetings were unavailable or incomplete, and it was difficult to obtain information from the managing agent. Owners who purchased off the plan experienced additional difficulties.

The main source of information for strata owners is their managing agent.

Since purchasing their property, the main source of information for strata owners about their strata scheme was their strata managing agent (71% of respondents), followed by their executive committee (47%)⁴.

Some owners have experienced difficulty obtaining information about their schemes since purchase.

While 29% of owners survey respondents had not had any problems getting information about their strata scheme since purchasing their property, 21% had experienced problems. The most common types of information people had difficulty accessing were information about building plans, building works and the scheme's finances. Sources that respondents had the most trouble getting information from included the managing agent, the executive committee and the developer or builder. Owners survey respondents complained of incomplete, incorrect and confusing information, conflicting advice and poor record keeping.

A small proportion of owners have had difficulty accessing general information about strata schemes.

Most (84%) of the owners survey respondents experienced little or no difficulty in accessing general information about strata title ownership and management, but the other 16% had experienced some problems. The most common sources of such general information were NSW Fair Trading, the internet and members of their executive committee. Common types of general information respondents wanted (but were unable) to access were clear explanations of the strata scheme management laws; clarifications of the rights and responsibilities of owners, executive committee members and managing agents; information on how to go about different aspects of management (such as dealing with disputes and managing finances); a guide to what is common property as opposed to lot property and mechanisms to more easily access a scheme's by-laws.

Many executive committee members have had difficulty accessing the information they need to run their strata schemes.

Access to up-to-date information is essential to support good management and decision-making. More than one-third (37%) of executive committee survey respondents said that they had had difficulties accessing the information they needed to help run their schemes. The most common difficulties were getting sufficient information from their managing agents and getting high quality and consistent advice.

Good communication is the most important factor influencing satisfaction with managing agents and executive committees.

As noted above, communications between managers and strata owners is often a source of dissatisfaction for residents. Good communications between managing agents, executive committees and owners are essential for the good governance and management of strata schemes. Communication was as important reason for both satisfaction and dissatisfaction with managing agents and executive committees.

There is a willingness amongst some owners, executive committee members and managing agents to be further educated regarding the governance and management of strata schemes.

While the knowledge of owners about their rights and responsibilities in strata appears to be limited, there was a willingness amongst this group to become more educated in these matters. Over half (58%) of respondents to the owners survey said they would be interested in taking advantage of educational resources created for strata owners, and a further 25% said they might be interested.

In the survey of executive committee members, respondents were asked to identify the most important factors that influence the practice of executive committee members, other than the legislation. The most common response was the skills, knowledge and experience of executive committee members and three-quarters (74%) of respondents thought that formal training of executive committee members would be beneficial to them in their committee roles.

Strata managing agents who completed the managing agents survey were also interested in undertaking continuing professional education. The types of training

most commonly desired were legal, finance and mediation training.

Summary

The introduction of strata title in Australia opened up the possibility of home ownership for many for whom it would otherwise have been out of reach and introduced a new market for investor-owners. As well as introducing a new form of property ownership, the strata title system also introduced a new legal entity (the owners corporation) that both represents communities and delivers services to residents. Like any representative body, this system only works where services are provided, and residents are effectively represented.

While many strata schemes are run very well, and strata living meets the day-to-day needs of hundreds of thousands of NSW residents, there are some areas of strata living identified in this report that require further attention and action. Notably:

- ❑ The lack of engagement of strata owners in the operation of their schemes resulting in many cases from a perceived inability (rather than lack of willingness) to become involved.
- ❑ The high incidence of building defects and the difficulties faced by strata owners in having defects remedied.
- ❑ The inadequacy of planning for the funding of repairs and maintenance in many schemes.
- ❑ The challenges associated with the formal dispute resolution process.
- ❑ The limited knowledge of many strata owners about their rights and responsibilities.

Billions of dollars worth of assets (in the form of buildings and sinking funds) are tied up in strata schemes around Australia, which are managed by volunteer committees who have no formal training. Strata properties not only constitute the largest asset that many households will own in their lifetime, they are also people's homes. This means that it is essential that they are managed properly and that appropriate assistance is provided to those who own and live in strata properties to encourage good governance.

Endnotes

- 1 The research was funded under ARC Linkage Grant LP0989373 *Governing the Compact City: The role and effectiveness of strata management in higher density residential developments* with support from Strata Community Australia (NSW), NSW Fair Trading, NSW Land and Property Information, the Owners Corporation Network of Australia Ltd., Lannock Strata Finance and Macquarie Bank.
- 2 These surveys were self-selecting and advertised widely.
- 3 NSW Department of Planning (2007) *Improving the NSW Planning System: Discussion paper*, Sydney: NSW Department of Planning.
- 4 This was a multiple response question.



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