

WHAT STRATA COMMITTEES AND COMMUNITIES NEED FROM THE NSW GOVERNMENT- SURVEY RESULTS AUGUST 2021

Feedback from those most directly affected:- members of Strata Committees

In 2015, the NSW Government introduced two new Acts to overhaul the legal frameworks covering development and management of Strata Schemes.

In November 2020, the NSW Government asked Strata Owners, Residents and others for feedback on how well they/those who support them feel that these laws are operating and how they could be improved. We knew many of our number had strong views but insufficient time to complete the 141-question survey or prepare a submission.

TO GAIN A DEEPER UNDERSTANDING OF THEIR CONCERNS AND NEEDS, EXPERIENCED COMMITTEE MEMBERS WORKED WITH OCN (Owners Corporation Network) TO SURVEY OVER 200 STRATA COMMITTEE MEMBERS.

STRATA MATTERS

The current insured value of strata schemes in NSW schemes is over \$400 billion with strata providing homes to over 1.1 million NSW residents. The NSW Government estimates that by 2040 50% of NSW residents will live in strata communities.

THIS REPORT SUMMARISES FEEDBACK RECEIVED FROM OVER 200 STRATA OWNERS AND COMMITTEE MEMBERS AND SETS OUT SUGGESTED SOLUTIONS BASED ON THIS FEEDBACK.

Authors:

Margaret Wright, Chair Observatory Tower Strata Committee. With special thanks to **Jane Hearn**, former Chair, Owners Corporation Network (OCN) for her extensive input and advice. Thanks also to OCN and McCormack's Strata Management for helping circulate this survey to multiple other committees and to Karen Stiles for reviewing the final draft.

PLEASE NOTE THAT THIS REPORT WAS COMPLETED PRIOR TO THE MOST RECENT COVID LOCKDOWN WHICH HAS EXACERBATED STRATA RISKS TO AN ALMOST UNMANAGEABLE LEVEL. DELAYS IN COMPLETING THIS REPORT REFLECT THE ADDITIONAL WORK PRESSURES THIS AND OTHER MATTERS HAVE PLACED ON COMMITTEES

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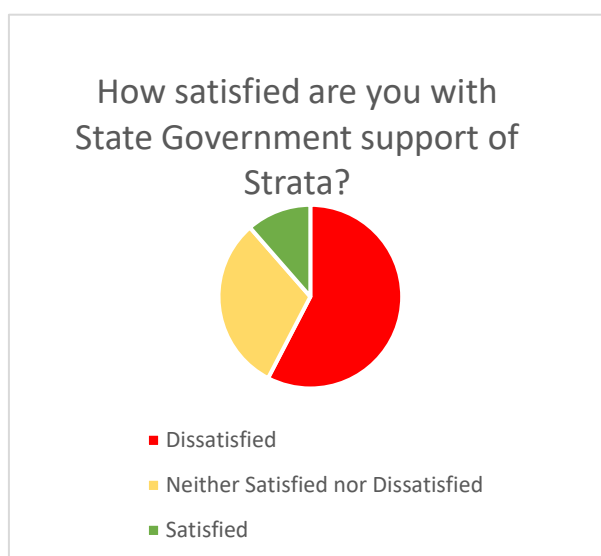
1.0 EXECUTIVE SUMMARY

The purpose of this document is to set out concerns and recommendations from the Owners Corporation Network (OCN) and Strata Committee (SC) members they support in relation to the current Strata legislation and planned changes to this legislation. Strata contributes not only to both home ownership and investment in NSW, but also to the economy itself. We see successful strata communities providing the 'glue' that binds many Australians together. That said, over the last few years we have seen considerable fracturing of these strata communities, often resulting from outside influences.

Well-run and supported strata buildings are critical to our future. We want to see more of them. So, we were pleased when the Government asked for feedback in 2021 from strata owners and committees on the legislation and structures that support strata.

We developed our own short survey because we felt two of the three mechanisms provided for feedback were too onerous, favoured large organisations with financial and professional resources. Over 400 SC members provided input.

This document sets out the key issues, the concerns raised and suggested next steps for strata and Government to work together to address them. We saw this as the best way to provide objective feedback from those who govern and care about strata communities and who are dealing with the issues owners and residents face every day.



1.1 KEY FINDINGS

1. SC members feel the NSW Government does not appreciate the complexity, variety and scale of the issues that we (mostly volunteers) face in supporting our strata communities.
2. Many of us continue to face significant pressures in dealing with external issues such as building faults, difficult residents, and conflicted service provision.
3. Dispute Resolution (via NCAT) is not 'fit for purpose', is expensive and unpredictable, restricting our ability to resolve problems.
4. Arbitrary Government decisions such as the opening up of Short-Term Rental Accommodation (STRA) undermine otherwise well-functioning socially cohesive strata communities and ignore economic impacts for owners.
5. Strata communities need greater Government focus, legislative design, enforcement support and certainty. Critical information is not readily available and easily searchable to support residential strata committees and strata property owners. This includes access to information about Government plans and decisions.

1.2 WHAT NEEDS TO CHANGE

We ask the NSW Government to:

1. Engage with SCs directly to build a more detailed, nuanced understanding of the different needs and challenges across the broad spectrum of strata living, including effective data capture.
2. Build support and education for strata committees and owners, assisting us to work together and share experiences for more cohesive, well-functioning strata communities.

3. Support us to enforce our by-laws **via a fit-for-purpose Strata Commissioner** and mediators with a practical understanding of strata issues and law, focused on more achievable outcomes.
4. Help us identify and deal with 'rogue' players across strata and building management, certification and trades. Strengthen legislative powers and governance to identify/deal with poor practices re developers, strata managers, building managers and rogue committees, as well as vexatious owners.
5. Refocus on and support empowerment of strata communities to make our own decisions with our constituents, while being mindful of protecting those who need support. Critical to effective empowerment is the provision of the data existing and prospective owners and their committees require to make key decisions and operate effectively in their community.
6. Provide greater focus on strata needs via additional skilled resources focused specifically on this critical segment for the future. Analysis and use of data should support both Government and Strata Communities. This team should report to a Commissioner for Strata Living.

Most SCs comprise hardworking unpaid volunteers who care about the communities they work for and with. We have estimated the value of this unpaid work as at over \$450 million a year¹.

We need greater support from the NSW Government to achieve this. We hope that the NSW Government sees this document as a constructive approach to improve a structure that will, in future, house over 50% of NSW residents. Strata communities matter. We want to work with you for a better future for strata in NSW.

1.3 THIS DOCUMENT

This document sets out both our findings and the start of a suggested way forward. More detailed discussion in relation to pets in strata and Short-Term Rental Accommodation (STRA) which include specific output from this survey are examined in more detail in OCN's separate reports on Pets and STRA.

We hope that the Government will work with us to expand the reach of future surveys and monitor progress towards a better future for strata in NSW.

With well over a million people living in strata in NSW and growing fast, the sector requires a clear and senior government focus now. The major challenges of the 21st century require an intelligent response that respects the right of strata owners and residents. It's time for NSW to lead the way again.

As we and other SC members reviewed the last few years, we increasingly felt that the NSW Government was becoming out of touch with our challenges and needs. The challenges we faced in supporting our owners and residents and, in many cases, the direct and significant impact on them as well as ourselves, appeared to be not well appreciated. Most of us are unpaid volunteers, performing a highly challenging role. We all care deeply about supporting the strata communities we serve.

Strata is more than just a business - it supports people homes. Post COVID, it will become a place where many people not only live but also work. While there are pros and cons for apartment living, effectively planned communities with appropriate government support/oversight mechanisms provide a solution to our increasing housing scarcity issues.

¹ Assuming 83,000 schemes with committees of an average of 4 people, with 7 meetings a year (including one GM) of an average of 2 hours per meeting at \$100 per hour.

2.0 BACKGROUND TO THIS SURVEY

2.1 WHY THIS SURVEY?

When we learned that the NSW Government was reviewing the Strata Schemes Management Act and other strata related legislation, we were excited. Here was an opportunity to address our growing concerns over the last few years. We all wanted to be successful and cohesive, however we were finding it increasingly difficult.

We are still unsure as to what the final outcomes would be in relation to short-term letting legislation and the Strata Register. We had major concerns about the impacts of the planned legislation, not only on the cohesiveness and safety of our communities, but on costs such as insurance and rubbish removal. We were also in the process of resolving just how we would manage the introduction of pets.

When we went through the options for responding to the Government's Discussion Paper, our enthusiasm faded. As busy SC members, we struggled to see how we could provide useful feedback via the three opportunities to respond:

1. **Survey.** The survey asked 141 questions, which would require several hours to complete effectively. Even so, several questions we felt mattered were not included. Most SC members would not have the time to complete it.
2. **Submissions.** Past requests for feedback on Strata (such as the 2017 request for input on Short-Term Letting) appeared to be drowned in the wave of submissions, many produced by parties with more time/money.
3. **A single question Pet Survey** which most completed.

'The survey is far too detailed with 140 questions and tends to lead to a predetermined result, ... a bad outcome. It lacks a strategic focus to allow for views on the 'big picture issues'.

We needed Government to see the challenges through the eyes of Committees like ours, to

'These reviews need to be more focused on the perspective of people living in apartments who are paying all the bills. Where is the survey of what these people want in the management of their buildings?'

recognise what needs to change. However, we didn't feel the Government was necessarily asking all the right questions of the right people.

We needed a way to bring the issues and challenges that committees and owners and our many residents were dealing with and their

importance to the surface. We felt it was critical to test our concerns with other Strata Committees and Owners to ensure we understood and could represent them in working towards addressing their concerns and desire for better strata futures.

2.2 STRATA INCREASINGLY MATTERS TO NSW

Strata title legislation was introduced into NSW on the 1 July 1961- **a world first**. Strata enabled owners to have a property that shared common walls and facilities (common property), to be able to afford far more together than they could alone. It also opened up the possibility of home ownership for many who could previously not afford it as well as a new market for investor owners. Strata housing is close to its 60th birthday in NSW but still growing and certainly not ready to retire.

The strata construct has grown in popularity. By 2020, 19% of households in Australia lived in strata apartments in NSW comprising over 1.1 million residents². With pressures on land and the environmental issues associated with growth in larger houses, strata is likely to grow even faster than anticipated.

Apartment living is no longer marginal. It is core business. Over time, seeing the opportunities for growth and profits, an increasing number of parties have become involved in creating and/or providing services to the strata sector. With continuing upward pressure on house prices in NSW, it is increasingly becoming a way for first home buyers to get a foothold into the market.

A large strata scheme can have hundreds of lots and buildings worth hundreds of millions of dollars. The technology and machinery in these buildings is complex and, over time, subject to change. Even with high quality support it's not easy. While smaller buildings are less complex, they have their own distinct challenges as a result of their smaller size and ~~fund~~ available funds, and less appetite for service providers to get engaged.

Increasingly SPs (Strata Plans) are large and relatively complex SMEs run by unpaid volunteers.

2.3 REQUIRING EFFECTIVE OVERSIGHT

A key role in managing these schemes is the Owners Corporation. Strata Committees elected to oversee each building are **a small group of (normally unpaid) volunteers**, expected to govern for the good of all. Their role involves managing a complex mix of buildings, money, information and people. Into 'money' read 'often involving large sums of other people's money', making the role of the Owners Corporation an often challenging and combustible mix. That requires strong governance.

Strata Committees must work with owners to develop By-laws that set out the rules of engagement that clearly provide for the mutual interest of the majority while ensuring the rules do not unreasonably impact the minority. Self-interest from anyone, owner, renter, investor, service provider is in no-one's interests.

Managing buildings includes oversight of design and/or construction defects, maintenance, property maintenance and improvements and the role of building managers/caretakers and includes the distinction between the lot and common

Strata Committees are voluntary, while Building Managers and Strata Managers are paid professionals. If Strata Committees miss issues, then things can slip.

property. Managing money includes budgeting, collecting levies, spending and financial reporting and record keeping. Managing people includes dispute management, formal dispute resolution and its effectiveness or otherwise and the influence of 'social relations' and dealing with multiple personalities. Managing information involves oversight of purchasing of goods and services, dealing with other parties (internal and external) and education of owners, committees and strata managing agents.

Because the strata construct engages large numbers of property owners in legally binding relationships with their neighbours, the relationships are both complex and can be fraught. These relationships not only provide for the upkeep and maintenance of property, but create expectations of behaviours to maintain communal living that works for all. The governance role further involves responsibility for ensuring clarity and effectiveness of legislation (by-laws) for the scheme.

² Australia Strata Insights 2020 – Report and Infographics from UNSW and the Strata Community Association (SCA).

As strata schemes have grown in number, size and complexity, several tiers of governance and third parties have become increasingly involved and are necessary for the effective support of these schemes.

For larger schemes there can be a number of these third parties. For smaller schemes, it can be difficult to find qualified people, and the owners may need to do much of the work themselves. A University of NSW (UNSW) Report 'Governing the Compact City'³ described the Owners Corporation as a 'fourth tier of Government that is democratically elected with lawmaking, taxation and enforcement power'.

2.4 A CHALLENGING JOB FOR UNPAID VOLUNTEERS

For most schemes, a Strata/Executive Committee is elected to oversee each building, are a small group of unpaid volunteers expected to govern for the good of all.

As volunteers with varying levels of skills and experience and motivations, most strata committee members have limited understanding of strata law. Many work part-time or full-time elsewhere. Most learn 'on the job', the success of which depends on many factors including: age and history of the building; expertise and experiences of their predecessors; the specific challenges they have to deal with; and the quality and dedication of their service providers.

It can take years for a conscientious committee member to get on top of things and for a committee to push back with any effective overseeing. The only supporting resources they have are their own time and energy and commitment. It's a big ask.

The imbalance of operational power between often ignorant and apathetic voluntary committees, busy with their lives, and self-serving managers of multiple buildings is very apparent.

Strata legislation is complex. Effective oversight demands a wide range of skills and experience. Committee members on large strata schemes often have deep prior experience in Finance and Accounting, Engineering, Technology, Business Management, Social Work and more. Access to these skills is necessary, but

not sufficient, given the broad set of skills required.

As with any such sector, self-interest can also be a part of the mix. With owners and committees having varied skills and experience, not all of them are able to easily identify looming issues and to manage these. Increasingly, and as described the UNSW report, owners and committees found it difficult to get resolution on issues through the formal mechanisms with less-than-half -satisfied results¹. Often, later Committees have to clean up after those who don't do the job as well or as diligently as required. Regulatory compliance (fire safety etc) can also take time. Regulatory changes such as those that occurred in 2020 add further effort and cost.

The role of Committee members often involves difficult situations dealing with and mediating people issues. Not all residents and owners are reasonable people. We all have our fair share of bad behaviour to deal with. Frequent communication can take time but often reduces the pressure and

³ In 2012, multiple parties, including OCN and the NSW Government worked with the University of NSW to conduct a comprehensive review of the role and effectiveness of Strata Management entitled Governing the Compact City. The report also alluded to emerging issues such as building defects and special interest groups which would later emerge as more significant problems and ones that even a strong strata committee could find difficult to deal with without Government support.

increases understanding of the challenges. Even access to an effective Strata Manager does not fully ameliorate the SC's workload.

Over time, additional challenges and concerns have become increasingly apparent.

- Building defects and inadequate consumer protection seem to be a factor in a high percentage of buildings with the worst of these significantly impacting ongoing costs and, in some cases, the need for owners to move out or sell en-masse.
- Poor and/or excessive costs of service provision
- Fire safety risks from flammable cladding in hundreds of apartment buildings
- Uncontrolled STRA ("Airbnb") listings turning voluntary committees into on-site managers and residential apartment buildings into cheap holiday destinations
- Significant unmet need for information and education for committee members making it more difficult to deal identify, let alone deal, with third party issues
- Discontent with the functionality of schemes and dispute resolution processes
- The cost of upgrading ageing buildings and the impacts of strata renewal on residents of older schemes

As buildings age, breakdowns become more common and previously hidden flaws can become apparent. Leaks, known to be an issue with buildings in the early stages, can also appear after decades. Note that not all committees are selfless, and some do have self-interest, as some later comments show. Increases in insurance premiums is becoming a major issue as the insurance pool is impacted by factors such as fire and floods. Some buildings struggle to even get insurance.

All this takes time and effort. For many Strata Committee members, especially the Chair, Secretary and Treasurer, committee work becomes a full-time job. So how is it working now and what needs to change?

2.5 BACK TO THE FUTURE

In 2012, The University of NSW (UNSW) produced a Report entitled [City Futures – Governing the Compact City](#), which focused on the role and effectiveness of Strata Management. This 20 - page report was compiled from consultation (surveys and discussions) with 1,550 individuals. They covered over 1,000 strata owners, 413 strata/executive committee members, 106 strata management agents and 11 peak body representatives. That report set out a detailed commentary of the challenges that strata communities were facing and the opportunities for change, not dissimilar to those noted above.

In 2015, in recognition of strata's growth and importance, the NSW Government conducted a major review and update of the Strata Legislation. The City Futures document would have been a valuable input given the comprehensive research undertaken. Many of the challenges we now face existed then and were recorded in that document.

The Discussion Paper described the key objectives of the 2015 strata reforms as the benchmark for planned updates to the Development and Management Acts. They are summarised below:

1. empower communities to make their own decisions in a democratic way
2. encourage participation in meetings and decision-making by residents and owners
3. foster a culture of community and co-operation
4. improve governance through greater transparency and accountability
5. establish flexible administrative and management arrangements
6. be future-oriented with emphasis given to modern technology
7. help ensure building defects are identified and rectified earlier
8. provide protection from unfair practices

9. provide a simple and effective means for resolving disputes, and
10. establish a fair process for the collective sale and renewal of strata schemes.

These principles, if met, would address the bulk of the issues raised in the 2012 UNSW report. However, experience of Strata Committees and owners indicates that limited progress has been made, other than the major review of building faults. This followed the revelation of extensive issues with flammable cladding and major construction faults in buildings such as Mascot and Opal Towers. The revelations have required significant capital injections and, in most cases, large special levies. For owners who have bought into an apartment with an expectation of annual fixed costs, this can be both heartbreaking and bank-breaking. Many on fixed incomes simply cannot afford the extra cost burden. Strata Committees pick up the effort and stress of dealing with associated issues. Older buildings are still finding issues many years down the track that relate to 'invisible' building faults.

It was expected that the 2015 legislation would help address many of the challenges faced by owners, Owners Corporations and their committees. A key objective used to benchmark changes made in the update to the Strata Schemes Management Act was "*empower communities to make their own decisions in a democratic way*". However, this appears not to have been the case and considerable work is still required to put in place appropriate mechanisms to address the above objectives as evident in the results of our recent survey.

While the new Strata Register looked like it would be of great value, those of us who registered our details were disappointed that while the Discussion Paper came out, we were not advised of this via the Register but rather through organisations such as OCN. This appears to be the result of communication issues across various state departments.

In addition, the introduction and 'consultation' around legislation relative to both Short-Term Rental Accommodation (STRA) and Pets have caused considerable concern for many Owners and residents with the considerable additional effort, risk and costs involved. The current slow and uncertain regulatory regime adds to concerns.

A separate document on STRA prepared by Jane Hearn will provide more detail.

We hope that the information and recommendations in this document, together with other useful documents provided by OCN and others, will assist the Government undertaking the significant change required. These include for example: Digital Transformation and the Strata Sector – Background, OCN Submissions on the Strata Schemes Management Act 2015- Review 2020, Owners Corporation Network Policy Statement, 5 April 2019 and more.

At times, many of us have felt that the Government has and will continue to outsource their work to us as unpaid volunteers. We are concerned that eventually, as has happened in a number of professions recently, no one will want to take on the role other than the self-interested. Despite its growing strategic importance, strata can feel like an orphan. Historically the people who own and live in strata communities have been treated as consumers of property services rather than the constituents of a major form of long term housing.

We strongly believe that strata is critical to harmonious living in NSW and to strengthening of communities in a time of significant fracturing. We want the NSW Government to better understand what we need in order to build more thriving communities able to self-govern, but supported by the power of Government to deal with the inevitable rule breakers. However, the greatest current concern is that these current mechanisms have not been meeting owner and resident needs and expectations.

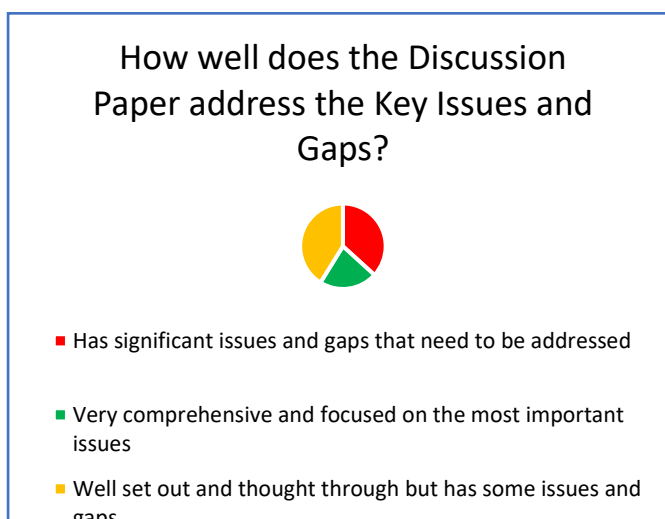
3.0 KEY FINDINGS:

3.1 OWNERS FEEL THAT GOVERNMENT DOES NOT UNDERSTAND OUR CONCERNS

The strongest theme from the responses was a frustration that Government did not appreciate the challenges a large number of owners, and the committees that support them, deal with day to day.

For many, that frustration was exacerbated by Government decisions that appeared to ignore what many perceived as their needs and rights and apparent failings to deal with their greatest concerns.

It was clear that many respondents felt that the Government, in both recent actions in relation to strata law and lack of action in areas they felt were important, as well as the key areas of focus of and gaps in the Discussion Paper, showed a lack of understanding of strata needs and concerns.



'The level of understanding of Strata and Strata affairs, particularly at government level, is poor. This is exacerbated by the fact that ... only two MLA's actually live in strata (and even then do not seem to 'get' strata).'

A specific challenge for Strata Committees/Owners Corporations is the weight and complexity of strata law and the many changes inflicted on them over the last few years. Many indicated that Government failed to understand the everyday pressures and complexities of overseeing strata while having also to deal with the significant planning and financial management required.

Strata is complex and getting more, not less, so. Each strata building/community is different and deals with different, often complex situations. For example, larger strata communities deal with expensive and complex assets. Smaller strata communities often have to deal with intractable people problems.

Further, there were concerns about the quality of service and self-interest of many of the parties involved, including in some cases committees themselves. Most owners had experienced building faults upfront or these had emerged over time, and/or issues with self-interest of various suppliers of services. There was a strong feeling that Government did not understand the financial cost to owners, as well as the time and emotional energy involved in dealing with issues caused by others with little legal or regulatory recourse.

A key theme was the importance of strata communities to allow the majority (75% or more) to deal with matters that need a strong majority to support social cohesion such as STRA and pets.

3.2 MANY ARE ALREADY OVERWHELMED BY ISSUES OUTSIDE OUR CONTROL

A significant majority of respondents had experience of dealing with a range of factors outside their control but with major impacts on cost and liveability.

In one local area with five high rise apartments, each building had experience with multiple building defects and other issues arising from the original development/establishment. Some were evident from an early stage, others like flammable cladding and poor-quality works only became apparent after a number of years. A separate table notes examples of the challenges.

64% of respondents had experienced defects from poor construction.
71% had experienced regulatory compliance issues
50% had ineffective or costly strata management
64% had experienced STRA problems

Ninety-seven per cent of buildings in New South Wales surveyed in the Griffith-Deakin study had at least one defect in multiple locations. The study looked at buildings built between 2003 and 2018.

Committees in older buildings also have to deal with emerging issues that have their genesis in the poor quality of design and early works. It is critical to understand the cost curve to provide predictability for owners. Like squirrels, Committees need to ensure they keep enough aside for the unexpected. They also need to ensure that building repairs and maintenance works are well done to avoid recurrent problems. However,

most of us have little training in managing strata. It's hard enough to get it right, without the challenges many deal with in respect of suppliers who do not 'do the right thing'.

Multiple respondents raised concerns about self-interest and corrupt practices across the spectrum of developers, strata managers, building managers and rogue Strata Committee members. Particular concerns included how to ensure that these practices could be brought to light and dealt with under the current systems and whether there were sufficient penalties and other

consequences, together with ways to address the impacts for those impacted.



Poor quality strata management was mentioned multiple times, with strata management for small strata plans being a particular challenge (KS: many self-manage).

That said, the survey responses showed a significant variation in satisfaction with strata managers, with a large number

rating their Strata Manager as excellent.

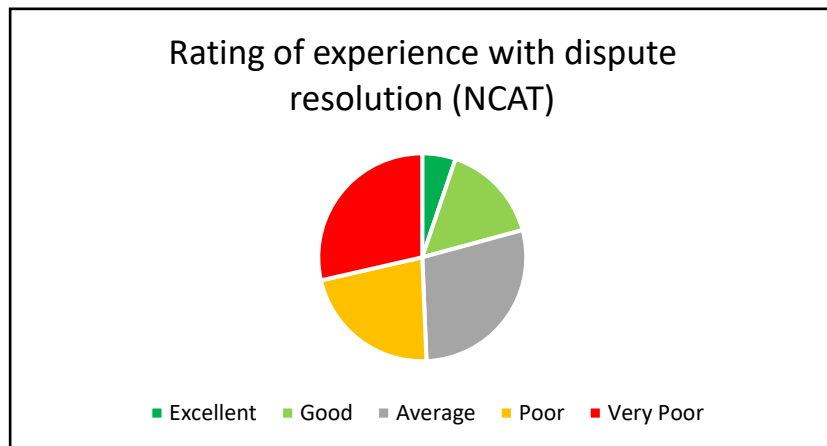
It was difficult to look deeper as there may be different factors influencing the different experiences. For example, a number of respondents commented that strata managers may 'favour some owners over others' and inferred that smaller strata were less well served.

3.3 DISPUTE RESOLUTION (NCAT) IS NOT FIT FOR PURPOSE

'The NCAT process appears to be haphazard with inconsistent outcomes. Many mediators and members seem to have limited strata experience. It also appears from the comments made that many Tribunal Members are not aware of Strata Laws.'

With the issues noted above and inevitable problems with rogue owners and residents, access to effective and timely resolution is critical. Unfortunately, many respondents were dissatisfied with the NCAT process. The overall response was lukewarm to very negative, with only 20% rating NCAT as good. Key issues included:

- Mediation was seen to be a waste of time in many cases.
- Resolution of issues takes too long (many months).
- The Tribunal was seen as poorly positioned to deal with disputes – a number cited inconsistent outcomes.



'The NCAT adjudication structure is chaotic, weak and powerless with very little comprehension of strata law and a strong bias against Strata Plans.'

- Many described the dispute resolution process as protracted and slow.

In some cases, it also appears that Tribunal Members made decisions that were incorrect as a matter of law. There

was significant concern over the lack of certainty and inconsistency across decisions on similar matters. Even when decisions are reasonable and valid, there is no assurance that decisions will be adhered to.

'Tribunal Member had absolutely no understanding of strata living.'

Many committees avoid NCAT given its reputation. There appeared to be issues with both the quality of Members and the quality of legal and administrative support from Tribunal staff.

*'NCAT decisions are often not enforceable'
'Hopeless, heavy handed, incompetent'*

The inability to access timely support and the lack of clarity and certainty in respect of NCAT rulings is a major

'We have not bothered because the current mechanism (NCAT) is too extreme, too slow, and too time-consuming. Need something relevant!'

concern. STRA and pets in strata thrown into such an uncertain environment simply makes the job of facilitating the wellbeing of our communities even more challenging.

As a result, many committees spend additional time, and they experience further pressures in trying to resolve the issues themselves. This can also result in significant disruption, added costs and dissatisfaction.

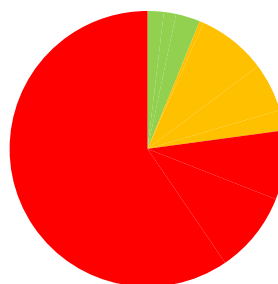
3.4 STRATA FEEL BLINDSIDED BY GOVERNMENT INTERVENTIONS

It's hard enough to sustain a community and its wellbeing with a set of reasonable rules that the majority agree with and have lived with, often for many years. It's significantly harder when unilateral Government changes, made with insufficient consideration and consultation, create extra work and unexpected and/or unmanageable costs and threaten to impact the day to day lives of residents. It's no surprise that such communities become highly frustrated.

A key objective used to benchmark changes made in the 2015 update to the Strata Schemes Management Act was *'empower communities to make their own decisions in a democratic way'*

Respondents, and those they support, overwhelmingly want to control their own destiny. We are uncomfortable about being told how to run our homes without the opportunity to be properly consulted.

How important is being able to determine how your building is managed democratically?



Most of the comments (see Appendix A5) expressed anger and concern that State Government decisions disallowing bans on STRA, and Pets had been forced on strata environments, even when a majority of owners did not support being forced to allow STRA and pets in their buildings.

STRA in particular was the subject of numerous comments. While part of the issue may be the lack of considered policy work around the best model.

There has been limited genuine consultation with those 'on the ground' about the impacts of either. The speed with which changes re pets occurred made it difficult for buildings and their committees to put in place appropriate processes to manage the introduction of pets.

Throughout history there is recorded the very basic human urge for freedom: freedom of association and freedom of self-determination. I ask that unit dwellers be accorded the same freedoms and that the democratic (indeed 75%) choice be respected and allowed to stand. We are not denying to others the choice of running a STL business or to keep pets in other establishments where such are allowed. Just not in our home which extends beyond the individual lot into the quiet and peaceful ambience of the common property.

Recent 'consultation' has involved the Government exposing their plans on the internet, not even advising the Strata Committees whose details they have. Opportunities to respond require detailed submissions which can get lost in a flood of other submissions, often from those with a financial or other self-interest in the topic. Further, strata buildings vary in size and location and what suits one situation may be intolerable to others. A one-size fits all approach is inappropriate. The Government needs to recognise the vulnerability of residents especially in relation to issues such as STRA.

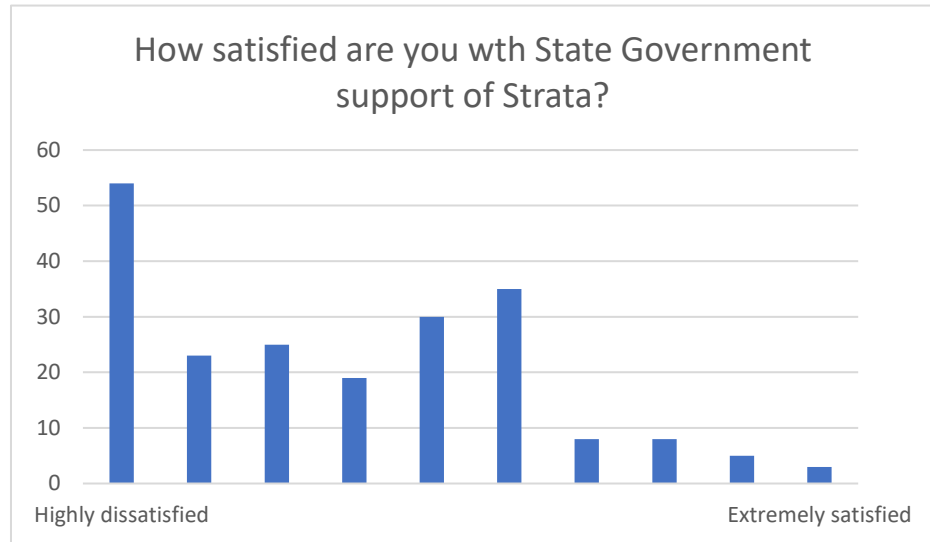
The negative feedback on this topic and, in particular, in relation to the legislative changes re STRA and pets was so considerable that OCN has developed separate documents on each.

3.5 GOVERNMENT AND LEGISLATIVE SUPPORT NEEDS REVIEW

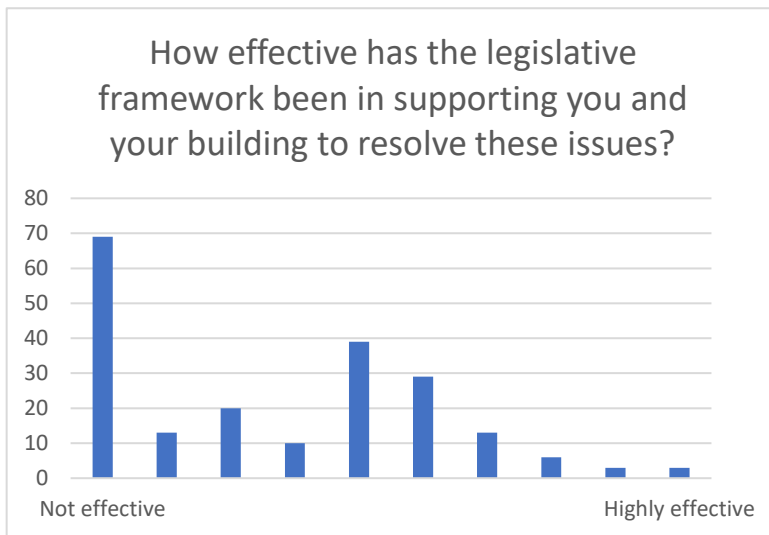
Strata is becoming increasingly complex and driven by external forces over which the owners and their committees have limited control. The balance of power and impacts of self-interest from external parties such as developers and some strata and building managers and Airbnb investors are making life extremely challenging for committees who are essentially unpaid volunteers.

Feedback from the survey indicates very strongly that strata communities have varied, and often very low, levels of satisfaction and need more focused support from government and the legislative framework.

While the overall average result was 33% average satisfaction, there were a large number of zero responses.



A number of participants appeared to be let down by the failure of Government to deal with what they saw as the high degree of self-interest across the spectrum of suppliers - from developers, to early investors, some strata managers and building managers and some committees. Their experiences, which varied, were often raw and painful.



Many noted the level of and regulatory complexity of the legislative requirements and the challenges for those on strata committees. For large buildings there was the weight of responsibility for large budgets, major projects and complex building and operational requirements which take time and effort to manage, even with access to appropriate experts.

Smaller buildings have similar legislative and other complexities to deal with, but with fewer resources. They can't afford the same level of expert help.

The next section discusses what needs to change and ways we can work with you to make this change happen.

4.0 WHERE TO FROM HERE?

Strata Committees involved in this survey have seen and dealt with numerous issues through combined decades of on-the-ground experience. We want to work with the NSW Government to improve strata for current and future strata owners and residents.

In this section, we provide our thoughts as to next steps to address the challenges set out in this document. We hope that the information and comments provided so far give readers an insight into the challenges we face and some of our needs. This process itself has been interesting in helping us understand some of the complexity in terms of the needs and challenges of different sectors.

4.1 ENGAGE TO UNDERSTAND STRATA

A critical first step is for Government to engage directly with a sample of Strata Committees in each key demographic and, more broadly, to understand our needs and challenges. This will provide a more detailed, nuanced perspective on our priorities.

It is difficult to appreciate the major issues and the strength of feeling displayed in many of the comments without an ‘on-the-ground’ appreciation of the challenges many schemes and their SCs face. Government needs to do more to build appropriate communications channels to achieve this.

*‘Seek First to Understand’ –
Stephen Covey*

Strata Committees would be willing to provide input and experiences, as well as feedback on what is working and what is not. While volunteers, many have built up relevant experience and templates during their time on their committees that could be harnessed for the good of all. These capabilities are broad ranging.

‘The requirements for buildings with a small number of lots (less than 20 or so) are onerous, as they are the same as for large buildings. This results in larger strata fees compared to larger buildings’

With this information Government will be able to better establish priorities.

A key starting point is to understand the key demographics and the needs of each at a high level. Councils may provide further information and support. City of Sydney provides an excellent example of useful support.

Opportunities exist to understand not only what is not working but what works well, together with the challenges for each sector. Specific well-designed surveys, together with targeted workshops, can pinpoint particular problems and sectors as well as identifying the ‘bright spots’ – examples of effective practices that could be promoted and adopted more generally. All strata schemes have strengths and weaknesses. This process is intended to identify those schemes that perform particular activities extremely well and learn from these deriving models that others can copy.

It will also be useful to stratify strata sectors such as city vs suburb vs country, high vs medium and low rise and holiday vs residential areas.

Strata Managers and organisations such as OCN and Strata Community Association (SCA) can also provide useful sources of good and not-so-good practices and different experiences, and how these have been dealt with. Before engaging with other parties, it may be useful to understand from the various constituents where they see the strengths and weaknesses of the different actors, including the stronger strata committees across different buildings and jurisdictions.

4.2 ADDRESS ISSUES WITH NCAT

Respondents noted, and we agree, that there was insufficient information in the Discussion Paper about the failure of NCAT to deal promptly with issues and to make realistic penalties which can be enforced in an economical way by the Owners Corporation. Given the weight of negative feedback on NCAT, this issue needs to be addressed.

The main recommendation with relation to NCAT was to implement a dedicated fit-for-purpose Commission staffed with mediators with a sound experience-based understanding of strata issues and law and focused on more practical outcomes.

That said, while there was considerable dissatisfaction with NCAT and a number of respondents said they would not use it, there were enough supporters to suggest that the issue requires deeper analysis. The following questions should be considered to understand what is working and what is not:

- What measure should be considered in assessing the quality of decisions made? Under what circumstances does NCAT appear to be working and not?
- To what extent is this related to the specific NCAT personnel involved?
- How relevant does Strata Committee experience appear to be to the result?
- Under what circumstances, if any, would instant fines be applicable, who should/could issue them and how would this be achieved and monitored appropriately?
- To what extent is evidence required in NCAT matters and how is the quality of the evidence assessed?
- How are NCAT Members selected, and their ongoing performance evaluated? What formal or informal review process is currently undertaken?

There is value in working with a strata-experienced reference group to establish an initial set of criteria for assessing NCAT performance and trialling this⁴. It may also be worth introducing a survey into the current process and applying it retrospectively to start building up a reasonable set of data. It would be valuable to investigate how the quality and timeliness of decisions for other similar bodies are assessed, probably via a reference to the Law Reform Commission.

4.3 PROVIDE SUPPORT TO IDENTIFY 'ROGUE' SERVICE PROVIDERS

It appears that, while it is early days, the work done by the NSW Government to deal with residential development and certification issues is beginning to make a difference. Like the NCAT issues, it is difficult to move forward on this topic without more information. It may be useful to conduct a focused survey of Strata Committees to gain a better indication of the prevalence of these issues and the nature of buildings where they are more common, to understand where and on what to focus. For example, it appears some quality concerns may be more prevalent in smaller schemes and possible in suburban or holiday areas.

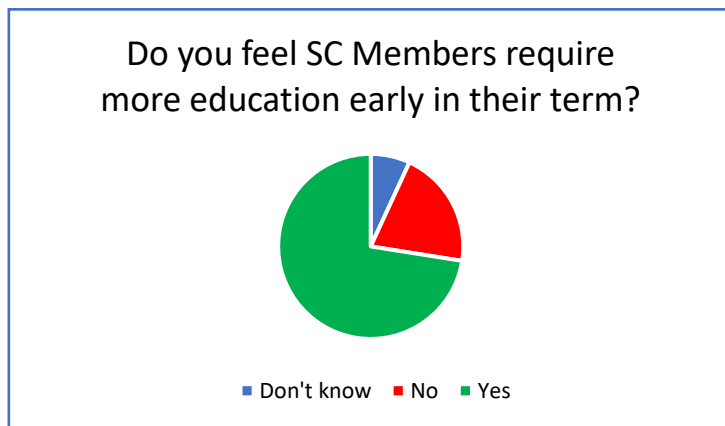
Ongoing, it may be worth conducting surveys to understand what matters to owners in relation to each of the service provider types to provide a way of identifying appropriate performance measures. There is also value in building up data about past actions, decisions, and the outcomes of these with an aim to progressively improve outcomes.

⁴ The evaluation of the performance of the Tribunal on strata related matters, is not specific to strata alone, but rather is a legal policy/justice review. The inclusion of people with experience/knowledge of strata in a broader review reference group is important consumer participation. It is also a matter for the Attorney General and perhaps something the NSW Law Reform Commission could undertake

Notwithstanding there are some poor and/or ineffective building and strata managers, most are good, many are very good and some outstanding. It is important to strengthen the capability and credibility of strata and building managers. Many Committee members appreciate the value of experienced and supportive Strata Managers. The problem can sometimes be being able to tell the difference.

There would be some value in the Government being able to provide support in helping identify and rank capability and integrity. We appreciate this is difficult. However, it would be worth the effort.

Finally, we believe Government needs to strengthen legislative powers and governance to identify/deal with poor practices re developers, strata managers, building managers, other providers and rogue committees. This was a very strongly supported requirement recommended by a number of respondents.



The evaluation of the performance of the Tribunal on strata-related matters, is not specific to strata alone. This is a legal policy/justice review. The inclusion of people with experience/knowledge of strata in a broader review reference group is important consumer participation. It is also a matter for the AG. Perhaps it is something the NSW Law Reform Commission could undertake.

I had never lived in or even been exposed to Strata. I knew nothing!

4.4 PROVIDE ACCESS TO EDUCATION AND JUST-IN-TIME SUPPORT

There was very significant support for more early education for Committee Members. 72.3% answered YES to this question. 20.6% answered NO and the remainder answered DON'T KNOW. A number felt strongly that Owners also needed to be educated as to their rights and responsibilities, particularly those who were new to strata ownership and living.

This section discusses the need and provides thoughts on coverage. As with other topics, there are already excellent examples of good work that could be consolidated to form a comprehensive suite of education and support topics. The challenge will be in five parts:

- Clarify and prioritise the needs of different sectors
- Identify the source, relevance and quality of available and relevant education and support
- Establish how best to deliver this in a way that is timely, cost effective and supports retention
- Fairly reward those contributing while still managing costs
- Build a library over time that is self-sustaining.

4.4.1 DEFINE AND PRIORITISE THE NEED

It is clear there is a need. There are significant challenges in managing an asset worth millions of dollars over its life, often with complex equipment such as fire protection, air-conditioning, lifts, gyms and pools and more. Every building must prepare annual income and expense budgets and a longer-term capital budget. A large number of building

'The growing complexity and the sheer cost of Strata living deserves closer management, targeted education, stronger policy direction and better consumer protection.'

Most strata committee members do NOT do any due diligence whatsoever and too many do NOT bother to obtain the advice of their strata manager before they do something. Much too often this causes huge problems for owners corporations and solicitors have had to be consulted on how to unravel the mess. It should be compulsory for every owner to complete a course within one month of completing their purchase of a strata property.

owners are on fixed incomes and can't afford to have the sudden call on their bank account of a special levy due to unexpected costs.

Then there is the relatively complex legislation and the need to prepare and enforce numerous by-laws.

Every building has its share of problem owners and tenants. Add to that the problems that many recounted about early defects, unexpected later equipment failures and building issues, and difficulties with service providers. The problems experienced throughout a building's life could fill an encyclopedia or at least a substantial WIKI.

The question is where is the greatest need and what is needed most? Respondents to the survey have already provided a significant number of suggestions. These could be tested further to understand priorities and relative urgency.

4.4.2 CLARIFY AREAS OF NEED

Two areas of focus need to be considered - who needs the education and support the most and what topics are most critical?

It appears that medium and small strata committees have the most urgent needs as they have fewer resources, and this may be a useful early area of focus to explore.

Note that many people are moving into strata for the first time and are often stunned by the complexity and risks they encounter.

Many of those surveyed believed that owners as well as committee members would benefit from education. The questions in respect to Common Property, insurance etc are particularly relevant in this regard. A number of respondents suggested that might be accommodated quickly through simplified engaging online material with simple tests of knowledge.

All strata committee members need to complete an induction program which educate them on strata laws, what are their responsibility and how much time will they be required to contribute to the committee. Also role of strata manager and processes on managing disputes, running meetings etc

4.4.3 IDENTIFY CRITICAL TOPICS

Respondents suggested a number of topics. These included the following:

- A simplified summary of relevant strata law (including Strata Schemes Management Act), committee procedures and by-law functions and enforcement options
- Responsibilities of committee members and selection of members including roles and requirements of the Chair, Secretary and Treasurer.
- Skills in running a meeting, leadership skills, communication skills (engaging owners in their responsibilities and rights) and dealing with aggressive owners/tenants.
- Communication requirements in terms of committee meetings
- Fire safety requirements
- Roles and responsibilities of strata manager and building manager relative to the Committee
- Insurance, covering strata and individual insurance (what is covered by whom and what is required)

- Systems and processes for project management
- Conflict of interest (non-financial)
- Early education and access to easy-to-understand information/guidance about strata management and ownership

4.4.4 ESTABLISH BEST DELIVERY FORMATS

The suggestions ranged from bite sized chunks that can be digested as needed, to a more formal induction, possibly with a certificate on completion to a more comprehensive course made up of multiple units run by Fair Trading. Some suggested additional CPD (Continuing Professional Development) training units similar to those run by AICD (Australian Institute of Company Directors). Some suggested a series of online podcasts.

There certainly needs to be a facility for people to refresh their knowledge and access topics as needed when they hit challenges sometime after the course. While education upfront is certainly useful, the complexity of overseeing strata and the complex nature and breadth of issues that can arise mean that members have to deal with issues on an ad-hoc basis. Note information and advice needs to be available by topic on demand. This might be something that, with Government support, could be a useful collaboration between say OCN and SCA working with a consulting firm to develop an easily usable resource. A searchable 'syllabus' in, say, a strata portal such as the portal proposed for teachers by the NSW Government, would be an extremely useful delivery mechanism.

There is some excellent information, but it needs to be consolidated and made fit-for-purpose, specifically for different size and complexity of strata schemes.

4.4.5 SHORT CUT- LOOK FOR RE-USE

There is already great material out there. A number of organisations and individuals provide training and reference materials on websites and via email, and it might be useful to provide a consolidated reference to these and information as to how they can be accessed. For example, some respondents noted that they kept up to date via organisations like OCN, YSP, LookUpStrata, etc. and forwarded relevant information to all SC members. The City of Sydney Strata Skills 101 workshops were also mentioned very favourably as was the support provided by OCN and others.

4.4.6 SUPPORT THE ABILITY TO MANAGE THE TOUGH CRITICAL STUFF

Further, some critical activities require both skills, time and effort to do well. Capital Works budgeting is a good example of this. Very few buildings have a comprehensive capital works budget and plan. However, the few that do have an excellent resource that is critical for long term oversight. There may be value in the Government adapting this and other critical resources into a template with associated instructions that are easy to use and easy to access quickly as needed.

Consideration also needs to be given to simple, easy to access information for smaller strata buildings and multiple ways to deliver consistent information across multiple different channels, for example, through ServiceNSW.

4.4.7 CONSIDER INCENTIVES TO COMPENSATE FOR EXTRA PRESSURES ON COMMITTEES

A few felt that requiring Committee members to take time out for training was an imposition. Others saw that on-the-job learning was most useful, although it depended heavily on whether there were already long-serving members who could provide this. Like many volunteers in Australia, it can often feel like Committee members are unappreciated. They work hard, deal with complaints and, on top of that, are now expected to receive training.

Government may want to consider how the volunteers can feel appreciated for their efforts. Without this, there is a risk that the role attracts only the self-interested and we all know where that will end. Respondents have already noted their concerns about the self-interest of some SC members and the impacts on their schemes.

There is also value in having those with expertise spend time with new committees. One useful suggestion was to have a qualified representative of Fair Trading to be available to attend SC meetings, to brief SC on good-governance and the impacts of relevant regulatory requirements.

4.5 SUPPORT GREATER DEMOCRACY FOR STRATA

The most important response that we in strata want from Government is for you to listen and understand before you make significant change.

And the topic on which this is most needed is **democracy or self determination**. We have the tough job of supporting communities who live closely together and don't always get on. Our job is to build harmonious communities who largely agree on what matters and work together to achieve this. We are responsible not only for people's safety and comfort but for the value of their asset. It is impossible to do this job when we are faced with unpredictable external changes .

I accept that it is a tricky balance but there needs to be better definition of what decisions are the province of Government, Council and Strata plans.

The recent Discussion Paper had critical gaps and contained assumptions that were inconsistent with our view of the nature and role of strata. For example, STRA was stated to be a fundamental part of the fabric of strata. Yet tourism is not, and has never been, an objective of the Strata Schemes Management Act and is strenuously opposed by resident owners. To provide context, it is important to understand the history of strata and the relevant legislation.

'Democracy' can be a difficult concept as we are sure you appreciate. We have attempted to define how we understand democracy below:

A democracy rests on the ability of a community to discuss issues and decide on the outcome supported by the majority. This is how every democracy, national, state, local and organisational, operates. The fact that a majority decision means some will be dissatisfied cannot render the decision oppressive or unreasonable of itself. The ability of strata communities to determine their living conditions is a microcosm of the greater democratic process and should not be watered down by governments, jurors or (random) decisions of Tribunal members who may have no experience with strata living.

In recent years the State Government has imposed two decisions on Strata Committees with limited or no consultation. The decisions have caused significant angst, particularly the plan to introduce STRA to strata with significantly fewer constraints than most other jurisdictions globally. Both are concerning given that limited and slow regulatory remedies mean living with disruption for longer, especially as the recent increase in working from home increases the importance of quiet in the home. It is unclear for example how or whether a noisy pet left alone for hours each day can be removed from the premises.

Extra effort is required of SCs to establish and oversee systems and processes to manage the additional volume of activity for both STRA and pets, let alone the inevitable breaches. The lack of

strong regulatory support adds to concerns, given the uncertainty of outcomes and potential for significant delays in obtaining resolution.

Government needs to commit to greater consultation with strata representatives before introducing or even thinking about introducing changes that impact Owners' ability to manage their building democratically. STRA, in particular, hands development rights to investors and imposes social and economic costs that cannot be addressed via a Code of Conduct.

All by-laws should be determined by 75% or more of owners, as per the objectives of the Act.

Less obvious, but something a number of buildings are finding with the introduction of pets, especially those who conduct detailed research, is the lack of good information about the challenges. A few of us have spoken to a number of other buildings that have been pet-friendly for a while and gained useful insights on what works and doesn't. We have also studied overseas experiences and particularly the USA where specific breeds of dog are banned in apartments as being dangerous. Further without strengthening NCAT provisions (see 5.2), it can be very difficult to deal with intransigent residents where animals are the source of problems. Government should have provided stronger advice and support along with the legislative change.

There is significant value in understanding what works and does not from other jurisdictions which have already experienced similar challenges. The planned STRA legislation was surprising for all of us, being one of the loosest, if not the loosest, regime we could find. The same applies to pets. There is very useful information in relation on what is and is not accepted in the US and Europe. Given these jurisdictions have had pets in apartments for many years, their experience is invaluable.

We have provided high-level comments re STRA at Appendix A5 and separate documents on both STRA and Pets which we will deliver separately, which will reference the numerous relevant comments from our survey.

In future, Government should not even consider introducing changes to the way that strata schemes are overseen, managed and operated where those changes have any of the following features:

1. Create increased risk of injury or death to a resident or their guests.
2. Potentially drives increased insurance premiums for the building⁵.
3. Will, or is likely to, contribute to increases in other costs such as rubbish collection⁶, damage to common property, increased facility wear and tear costs.
4. Reduces or potentially reduces the resale value or rental prices for apartments in the building⁷
5. Could create divisiveness within strata communities (at least without research to understand the potential problematic consequences).

Early consultation with at least a small group of representative Strata Committees would be another useful step.

Finally, an example of an issue that should not be put on the table is that of home quarantine in strata without very strong restrictions. In some cases, such as high-rise strata, it should not be permitted. Buildings have already seen examples of people exiting quarantine without notice and still in a testing regime. Note this is particularly of concern re enclosed spaces such as lifts. Alongside this, quarantine hotel workers should not be permitted to work elsewhere, yet security guards have been allowed to also work in residential high-rise during COVID-19, putting residents and guest in unnecessary danger.

⁵ Discussions with brokers indicate that short-term letting is a red flag for insurers to increase strata premiums

⁶ Unrestricted short-term letting, especially very short stays, increases the volume of rubbish and collection cost

⁷ Estate agents confirm impacts on prices and desirability of apartments

4.6 BUILD GREATER, MORE FOCUSED SKILLS AND CAPACITY TO SUPPORT STRATA LIVING

A healthy strata sector is critical to NSW's future and will become increasingly so. It is facing major challenges and a changing demographic profile. The sector is no longer marginal and is increasingly housing young families, older citizens, and diverse communities as permanent housing long-term. The largest proportion of residents are from a non-English speaking background.

Residential apartments have suffered a loss of confidence due to defects and short-term letting. The sector also needs to move forward strategically to meet the challenges of climate change. If apartment living is to be an attractive option post COVID 19, Government needs to invest in in-house capacity and align more closely with the interests of strata residents.

The additional workload of agreeing by-laws to deal with the risks is a massive job and will require focus and appropriate resources as well as sufficient 'clout' to deal with other parts of Government. A number of respondents suggested greater government focus on the Strata sector by allocating strata matters to a senior ministerial portfolio and establishing a Commissioner for Strata Living. The Commissioner for Strata Living has been OCN policy since 2019. It has been adopted by the Opposition and Independent Member for Sydney, Alex Greenwich.

We believe that additional and potentially different skills and experience will be needed to address the challenges identified. For example, respondents saw educating officials in the challenges of the strata sector as a critical early step in moving forward. Some suggested elevated Government focus with a Minister and Commissioner for Strata Living and a team built up with expertise in/deeper understanding of the sector.

It is important that government have access to more comprehensive, focused information and to people 'on the ground' with lived experience of both the challenges and alternative workable solutions to support informed and intelligent policy. Specifically the Government should engage with current or former Committee members who have dealt with the challenges resulting from similar initiatives in the past.

The initial brief should be to establish a stewardship/reference group to provide greater ongoing understanding of and connection with strata communities. We expect this group would involve inter alia experienced SC members, OCN experts and others with appropriate experience such as the experts involved in the UNSW report for example. From there, the group and the Government could establish priorities and focus areas.

Greater Government focus on the Strata sector by establishing a Commissioner for Strata Living and allocating strata matters to a senior ministerial portfolio.

This would also help maintain access to those strata communities that work well in most, or even specific, areas of competence ('bright spots'). With respect to 'bright spots', international experience shows that identifying and learning from small communities that are successfully addressing problems that others face is a highly effective method of introducing change.

Research into successful change management shows the value of identifying 'bright spots' i.e. groups or places which are successful and managing specific issues or challenges much better than others. The opportunity lies in identifying which buildings are 'best of breed' in dealing with specific activities and challenges in each market.

Well regarded strata communities would be pleased to share their knowledge and experience. Indeed, many already do this amongst themselves and via OCN. Bright spots don't only exist in strata communities. As an example, the City of Sydney is doing excellent work in providing training, updates and sustainability initiatives such as their well-supported food scraps trial.

OCN is a conduit of information from the community. It already provides excellent insights into the challenges that strata communities and their committees face. While we know they, and others, are already working with Government, they are inadequately resourced as not-for-profit, delivering well above their weight. This is largely due to the commitment of unpaid volunteers with relevant expertise, but the value of this contribution is not recognised by Government. The OCN requires funding for a policy person.

There are also opportunities to learn from overseas experience in apartment living. Europe and North America who also have years of experience of apartment living and have useful models which could be researched to provide further useful input. As an example, at least one SC was able to gain useful information re dog breeds that are banned in most US apartments, and which therefore would be unsuitable for apartments in NSW. This enabled them to avoid potentially difficult situations upfront. We believe that further analysis is still required to clarify the extent and nature of issues across different sizes and geographies of strata schemes and track the success of initiatives undertaken.

It is time for Government to work more closely with those who actually live in strata, together with the organisations that are genuinely working to support them such as OCN and SCA. It is also important to understand the nature and extent of skills, capability and interest across the sector, as well as the numerous areas where conflict of interest exists and should be called out.

The work done in developing this survey, the data collated, and the surrounding discussions have clarified not only the issues but also have shown up significant opportunity. Across the various buildings and organisations involved, there are not only areas that require improvement and more support but numerous bright spots.

There are tremendous opportunities for committees to learn from each other and those who service them to do the same. However, there are also significant variations in both the quality and nature of skills and services available and provided, it should also be possible to identify through future surveys and similar interventions 'what good looks like' as well as identifying practices that require improvement.

The Government could usefully work with strata schemes to develop and enrich this data over time. The OCN document Data Transformation and the Strata Sector provides a high-level needs case and useful background information for the Digital Transformation Journey. It would make sense to develop a Road Map of priorities and necessary capabilities to measure progress against. This could be aided by a better understanding of the bright spots and priorities discussed above.

The challenge for regulations is to encourage and regulate human behaviour so that laudable democratic participatory goals are given a chance of success. I don't know how you do it but you have to keep working at it!

Appendix A- Specific Questions

- A1 CODE OF CONDUCT
- A2 SUSTAINABILITY
- A4 PRIVACY ISSUES
- A4 CLARITY RE COMMON PROPERTY AND INSURANCE
- A5 SHORT-TERM LETTING

A1- CODE OF CONDUCT

A significant number of respondents (over 70%) supported the concept of SC members being required to sign a Code of Conduct. Respondents also felt that service providers to the Owners Corporation should also be required to sign such a Code of Conduct. However, a number were concerned that a very formal Code with penalties could deter volunteers from joining the committee.

The Code most frequently referred to was the Queensland Code established by the SCA (Strata Community Association).

This Code was specifically designed to deal with:

- By-law disputes and enforcement
- Actions or inaction of an owner/ committee
- Actions or inaction of a resident / on-site manager
- Actions or inaction of a strata manager and the fees charged, and
- Fees or charges levied by a strata scheme / committee.

The following was subject to general agreement:

- A Code would be useful to remind Strata Committee members of their obligations, particularly in terms of managing self-interest
- It would also help to clarify aspects of the role that required understanding such as: self-interest; relationships with service providers;

Good questions asked by one respondent that would need to be addressed include:

- who will undertake supervision;
- how will it be supervised and monitored; and
- how will punishment be imposed when violations occur?

One respondent suggested that a useful precursor to considering this would be a free introductory webinar course on what it means to be a committee member.

While there was strong support for a Code, a number of respondents were concerned that it could also be used by 'rogue' or embittered Owners to 'get at' committee members.

Overall, the idea was supported but with a need to consider how best to introduce it. It might be valuable to talk to those in Queensland with experience, to understand what works well and what does not.

Should Strata Committee Members be required to sign a Code of Conduct?



■ No not necessary ■ Not sure ■ Yes absolutely

We have a competent, harmonious committee. We have our share of 'bush lawyers' amongst the residents. I would be loath to sign a code which gives them any ammunition

Not sure you can jump straight to this, probably need to get NSW Office of Fair Trading to run a free intro webinar course on what it means to be a committee member. The information needs to be provided before a form should be signed.

A2 SUSTAINABILITY

Do you think that the Strata Schemes Management Act 2015 should include mandatory requirements around sustainability infrastructure for utilities such as water or power?

There was general agreement that Sustainability initiatives should be considered, encouraged, and probably mandated for new buildings, particularly in regard to energy and water savings. However, there was significant concern that, for existing and particularly older buildings, sustainability initiatives may be too difficult, expensive and onerous. For many, solar panels on their buildings are either not feasible and/or do not make sense. So, there should not be a mandatory requirement.

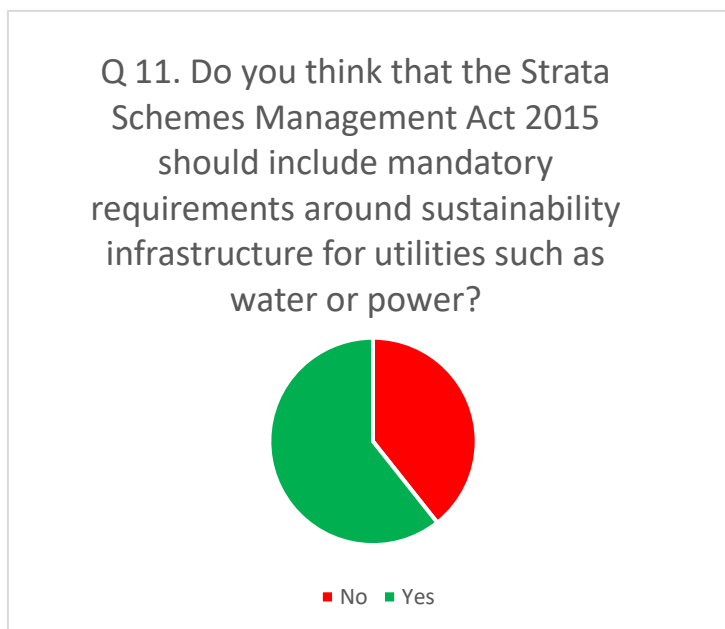
it was suggested that it was important for Owners to be able to see the individual savings that could be achieved. In some cases where costs of power, water etc. were shared it could be useful to have individual meters.

Several respondents were concerned that the additional capital cost and possible levy call can be particularly problematic when many Owners are on fixed incomes and costs such as insurance premiums continue to rise significantly. Further, a large number of respondents are already dealing with unexpected costs due to building defects etc. and cannot afford the time and energy to address sustainability at present.

That said, a number of buildings have gained a financial benefit from not overly expensive investments in, say, energy saving. It may be helpful to work with Councils to identify buildings which have successfully implemented initiatives resulting in significant short-term savings. These 'case studies' could then be shared with others. For example, one respondent had saved \$50,000 per year by managing their garbage levels. Several suggested having sustainability as a 'standing item' for annual discussion at the AGM.

Another suggested sustainability infrastructure can be broadened to include: 'passive cooling from shade trees and other common property garden areas; recycling / waste management options over and above council and kerbside waste collection; food waste, composting and community garden options where common property footprint permits; rainwater harvesting; external clothes drying areas including use of balconies for drying to reduce use of personal clothes dryers and general maintenance / local requirements which reduces the risk from extreme weather events such as heatwave, fire, storm and flood'.

It was also noted again that as every building is different this needs to be taken into account.



A3 PRIVACY ISSUES

Should personal information held by the Strata Manager such as email addresses and telephone numbers be available to other owners? (Q12)

There was a mixed response to this question, although a majority (over 70%) were uncomfortable about sharing the information without any constraints. That said, a few believed that owners were entitled to access to this information as a matter of course.

The most common response across this question and question 13 was that this information should **only be available with the permission of the Owner whose information was being requested** and if there were legitimate reasons for the contact. Many noted that this information should only be made available through the Strata Manager and the request should be in writing. 15 noted that this information should be available only to/through Committee members and several of these that it should be for official use only.

Many respondents raised genuine concerns as to reasons why this information should not be made available including: the potential for abuse, situations where there was a dispute between owners.

It should be noted that in several cases there seems to be confusion about the difference between a strata building and a corporation listed on the Stock Exchange. This points to the importance of communication for Owners and Committee members.

Q12. Should personal information held by the Strata Manager such as email addresses and telephone numbers be available to other owners?



■ It depends ■ No ■ Yes

What, if any, other privacy considerations should be addressed in relation to Strata records (Q13)

Respondents felt that privacy re details were particularly important in relation to the following:

- Personal information should not be made available to other owners without owner consent. Private financial details (other than the fact of overdue levies) should not be available to other owners.
- Complaints relating to other owners or where the owners fear recompense should not have to be made publicly available.
- Access to how Lot owners vote at meetings.
- Video/CCTV footage not available to be viewed by other than management and police, ATO and other authorities with a legal right to access.
- Strata records that specifically pertain to an owner (other than matters requiring a by-law) should remain private.
- Records of stamp duty paid (revealing purchase prices) should not be shared by the Govt with third parties such as RPData ([now CoreLogic](#))
- In-arrears payments only to Strata Committee
- NCAT should be far more cautious when forwarding personal info
- Potential for data breaches for information held online, AVOs and vulnerable residents.

Two further useful suggestions are provided below:

Each owner shall fill a "matrix" of what contact details he/she permits to give to other owners or strata committee. Then sending information to these addresses by another owner cannot be considered as privacy breach. At any stage an owner can withdraw or update this permission matrix.

We use WhatsApp message for our building if there is an issue i.e. lift breakage etc. Works well, it is an opt in basis and we make sure it is used in a friendly, non-complaint based way.

A4 CLARITY RE COMMON PROPERTY AND INSURANCE

Two questions in the survey related to the need for clarity in terms of explanations.

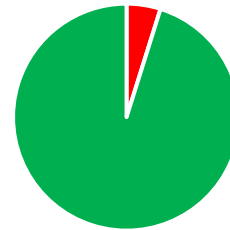
The first question (Q14) was should there be a plain English explanation of the difference between common property and Lot property?

This first question is critical in terms of who is responsible for looking after and, in some cases, replacing old or damaged property, particularly in or around an apartment.

Almost overwhelmingly the response was YES, with only 5% of those answering the question saying NO.

This is not surprising given that in many cases common property may include items such as kitchen or bathroom flooring and balcony tiles. The distinction is important in terms of who is responsible for maintenance and who is liable in terms of failure, particularly where the failure impacts another Owner's property.

Q 14: Distinction between Common Property and Lot?



■ No ■ Yes

Q15: Who insures what? Does it need to be clearer?



■ No ■ Yes

The second Question (Q15) was 'Should there be a clearer explanation of what should be insured by the Owners Corporation as part of the common property and what individual owners should insure?'

Again, the response was almost overwhelmingly 'YES'. Note that, from experience, as well as explaining the distinctions, it would be helpful, if not essential to provide practical examples of what can go wrong and

the potential consequences for the Owner and the Owners Corporation if this is not understood.

A5 SHORT-TERM LETTING

Experienced Strata Committees already understood the disruption to lives, safety and amenity caused by STRA. That experience was based on dealing with the occasional problem owner or tenant and for some seeing the effects down their street. There was also historic knowledge of previous cases of unscrupulous operators taking over apartment buildings.

Several had extensively investigated the costs incurred in dealing with the additional traffic (people and vehicles), damage, rubbish accumulation and other issues. Garbage collection costs and insurance costs alone add significantly to the annual fees charged to owners and the ability to recoup these is limited under current law.

We all know of instances where the police have had to be called and examples where women have been attacked in apartments and police have had extreme difficulty pinning down exact locations. We also know of examples where police have refused to attend.

The extra time and emotional energy required to manage yet further disruption is frightening, especially given most Committees' experiences with disruption from existing owners and residents. There are also building issues and service challenges, as well as the need to ensure regulatory compliance.

Their unsatisfactory experience with regulatory support across multiple dimensions, has simply exacerbated these concerns. This subject is of such significant concern that we have developed a separate document to address our issues and recommendations. Given the weight of concerns, the survey comments have been reviewed and used as input for that document which contains specific examples of the issues and challenges.

The planned STRA legislation is far 'looser' than most other countries and still has insufficient protections. Opening up of strata buildings to STRA is of significant concern to owners and SCs given the health and safety risks, potential significant increases in annual running costs, (higher insurance premiums, staff costs, rubbish collection etc). The recent cluster of cases of COVID in the Southbank, Melbourne apartments adds to concerns re random STRA 'residents' as well as home quarantine, a point raised earlier.

We have serious concerns that in the absence of dedicated investment and commitment to enforcement, that both the Code of Conduct for the Short Term Rental Accommodation Industry and the STRA Registration System will fail.

The strata committee and building manager have spent significant time on identifying and removing short-term letting. The result has been 28 lease terminations since 2014 (and there are only 33 rental apartments in the building!) These significant concerns were not addressed by the state or local governments. We were left on our own, spending significant \$ to upgrade security systems, engaging the strata lawyer, paying the building manager, and many unpaid hours of the strata committee's time. If we hadn't done this, the building would now be a rough unlicensed backpacker hotel.

ⁱ UNSW Report page 5 add detail