

OWNING YOUR APARTMENT 101

What you need to know about living in an apartment Owner's Guide

GLOSSARY

These are some of the terms that you will see frequently in the Education kit:

Strata Company – this references the entire apartment complex

Strata lots – the individual apartments that form the Strata Company

Strata Manager – this is an independent third party that performs the tasks at the direction of the Council of Owners (COO) to manage the Strata Company and associated expenses/finances

Council of Owners (COO) – up to 7 people (who own an apartment in the Strata Company) who are nominated to the COO to make decisions about the maintenance and upkeep of the Strata Company

By-laws – these are the management guidelines for the Strata Company and residents, and deals with matters such as common space, short stay, pets etc

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Message from Samantha Reece Director WAAA



The Australian Apartment Advocacy is the voice for 2.5 million people who own or live in an apartment within Australia.

And it is anticipated that this number will only continue to grow as we evolve as a nation.

As education is one of the core roles of the Australian Apartment Advocacy, our agency partnered with the Building and Energy Division of the Department of Mines, Industry Regulation and Safety (formerly WA Building Commission) to create this education kit.

Whether you are looking to buy or are a current owner or renter, this kit, which is broken into the 3 stages of purchasing and living in an apartment is the first publication Australia wide, which outlines what it is like to live in an apartment.

While AAA advocates that apartment living is “easy breezy” we also advocate that buyers are empowered to make wiser decisions about choosing, purchasing and living in an apartment that reflects high standards of quality.

As with any new apartment, there are a number of specialists who are involved in its construction and ongoing maintenance, which ensures that your apartment complex stays healthy and hence retains its property values.

“The Australian Apartment Advocacy is the voice for 2.5 million people who own or live in an apartment within Australia.”

These specialists include the developer, builder, architect, structural engineer, specialized maintenance contractors, strata manager and of course you – the apartment owner.

These are certainly exciting times for WA with the revised Strata Titles Act 1985 (WA) (the Act) and the Strata Titles (General) Regulations 2019 (the Regulations) coming into effect (1st May 2020), which address both strata management and construction processes. This guide will aid with informing buyers about what they should be mindful of, as well as educate apartment owners about their role in maintaining their apartment and complex.

The AAA is a big believer that education is essential in making any calculated decision. And now this Apartment buyer and owners guide can be that trustworthy resource to help with your purchasing decision.

We know that if the market starts asking for additional proof of quality, ultimately the standard of our apartments will only improve and that is our long term aim.

We hope that you enjoy this document and that it is the start of your positive experience as an apartment owner and resident.

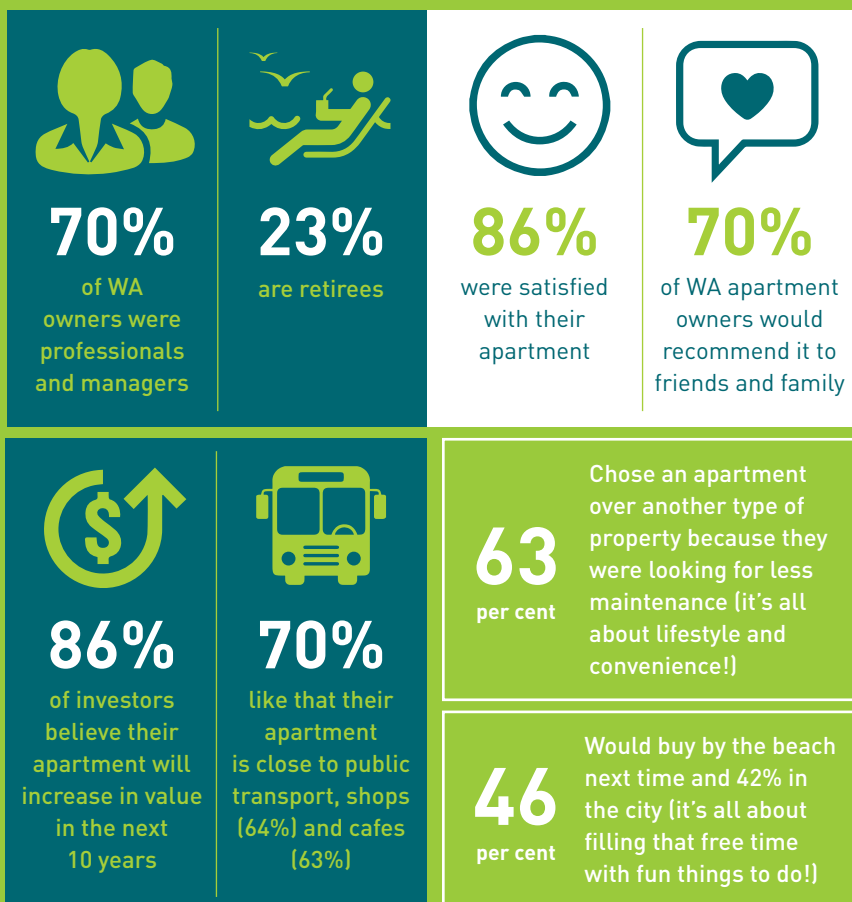
The WAAA is here for all WA apartment owners and we can be contacted on email sam@waaa.net.au or phone **0452 067 117**.

WAAA is very grateful for the working group that contributed towards the creation of this kit and who have set a high benchmark in terms of standards that we are seeking to come to the fore here in WA as well as other states.

- Sandy Randall – Building and Energy
- Bryn Williams (WA Representative for the Australian Institute of Waterproofing)
- Tristan Salter, RSA Pty Ltd
- Will Schofield, Plus Architecture
- Kylie Wigham, Celsius
- Matthew Burkett, Paint Inspec
- Paul Colliver, Banhams
- Greg Keet, AllianceFM
- Leanne Wahlert, CHU Insurance
- Scott Bellerby, B-Strata
- Faris Saba

WHY DO 2.5 MILLION PEOPLE CHOOSE APARTMENTS IN AUSTRALIA?

Recent research conducted by the Australian Apartment Advocacy with 3300 people nationally found:



APARTMENT LIVING – IS IT FOR YOU?

There is no doubt that apartment living offers a number of advantages, with 2.5 million residents Australia wide enjoying this housing choice. Often located in vibrant centres, the simplicity of apartment living ensures a high level of satisfaction – as witnessed in WAAA's 2019 National Research.

However, if you are new to apartment living, then there are a number of factors to consider.

Firstly, you are moving into a community similar to any neighbourhood. But rather than this being a typical horizontal street, these communities are more often vertical.

Regardless, the same etiquette applies.

When you live in a strata you need to be considerate of your fellow residents. So, if there are processes to follow – such as booking common spaces, then please follow them. They have been introduced to provide everyone with an equitable system. There are also by-laws that you will need to comply with and while these can sometimes be changed at an AGM, you need to be aware of them and be happy to follow them. Again, they have been created to maximise efficiencies and residents' quality of life.

Furthermore, you need to be good at sharing, tolerant and community-minded to successfully live in a strata apartment. Ultimately you need to be responsible for your actions, as they are likely to impact on your neighbours.

There is no doubt that belonging to a strong community benefits our lives. Case studies have proven that people living in positive communities live longer, happier lives.

And with modern construction methods, there is no doubt that apartments more so than ever, are acoustically treated and designed to maximise residents' quality of life and privacy.

However, as with any community, it takes more than a building to create harmony, it is the members themselves that ensure positive relationships and a well managed strata plan.

If this all sounds practical and straight forward to you, then WAAA is pleased to welcome you to the apartment lifestyle!

PRE-SETTLEMENT INSPECTION/ PRE-PURCHASE

The buyer will have a chance to undertake a final inspection of their apartment before settling and paying the remainder of the contracted sum and hence move in or take possession.

Ideally the purchaser should appoint a building inspector to conduct a final inspection on their behalf as this provides ultimate protection. However, if you are not in a position to do so, then here are some tips as a guide.

What to bring:

- Your sales contract and a list of standard inclusions / colour selections
- Batteries (AA & AAA)
- Mirror
- Night light or hair dryer
- Tape measure
- Small step ladder
- Tissue to test bathroom fans
- Bucket for balcony flood test
- Spirit level/marble
- **Western Australian Guide to standards and tolerances 2019**

Tips:

- Turn on the air conditioning systems with the remote (why you may need batteries) and test each mode i.e. heat and cold, fan speed etc.
- Check that each of the safety switches are working in the distribution network within your apartment.
- Check to see if the apartment's water mains stop cock is easily accessible. As per Australian and New Zealand Standards 3500.1:2003 section 5.4.4.
- Turn on and check the hot water run time - ideally hot water should be coming out of the tap within an appropriate time i.e. 25 seconds.
- Plug a hair dryer / night light into each electrical outlet to check that the powerpoints are working.
- Turn on all light switches to ensure all lights are working including dimmers.
- Generally the window has a frame and subframe and weep holes are clear and orientated to the outside (weep holes are designed to drain away incoming water

onto the external façade or balcony). Check this is the case with all windows in your apartment. **Note:** if the weep hole is not installed correctly i.e. not orientated to the outside, the windows will allow in rain and will cause issues in the long term with water protection and mould.

- Check that the interfaces between walls and floors i.e. corners have silicone (rather than grout) because of movement and the need for flexibility (especially with suspended/hanging concrete floors and with settlement over time).
- Check for lipping slope of tiles (slight steps between adjacent tiles i.e. a couple of mm difference refer to section 12 of the Western Australian Guide to standards and tolerances 2019) which causes issues with drainage to the floor waste (use a spirit level to check).
- Ask the developer if they have an acoustic consultant report for standards within the apartment.
- Check floorboards (if installed) for cupping of boards or expansion and provisions around corners/edges etc (refer **Appendix 1** for more details). Check for scratches.
- Turn on air conditioning and exhaust fans, with all doors shut, to check if there is any whistling noise being emitted from sliding doors and windows (which indicates that they have not been sealed properly).
- With all hung doors, check that all the edges are sealed – especially top and bottom in order to avoid swelling associated with moisture (use the mirror to check).
- Open all doors and windows to check they move seamlessly.
- Make sure if the front door is acting as a fire door that it is also self closing i.e. hinged to shut automatically with a latch.
- Check that cupboard drawers and doors open properly and that the soft closing option works (if selected).
- Turn on all appliances to check they are working i.e. dishwasher/oven.
- When inspecting the bathroom look at the base of the wall of the adjoining room to see if there is evidence of any water damage to the wall (flaking paint etc) – especially opposite to the shower area (rising damp is in fact often leaking showers).
- Also inspect the condition of the grout in the shower and bathroom. This is even more so for apartments that have been pre-lived in. Check that the grout is in good quality, as over time the grout will erode and then ultimately the water membrane. It is essential therefore that all grout in wet areas is maintained as this could also impact on any insurance claims.
- It is recommended that you request a flood test of the balcony prior to purchase so that you can view if the water is ponding (or preferably not) and that the water is flowing away quickly enough. If this request is denied, you can do a simple check, by placing the marble in the middle of the balcony and seeing which way it rolls. Ideally the marble should roll towards the drains.

- You also need to check the balcony's grout, due to UV exposure grout can have a high level of degradation. Look at the side and underside of your balcony, as well as the apartment below, as you may see tell-tale signs of leaks i.e. white residue in a running pattern. If you see this indicator it is best to appoint a building inspector to take a further look and verify the extent of the issue (refer to **Appendix 1** for more details).
- It is also recommended you get a broomstick and tap the tiles on the balcony, especially around drains, joints and perimeters. If the tiles sound hollow this is likely an indication that the tile has detached from the substrate (called a drummy tile).
- Balconies and concourse areas with paving bricks installed, will allow water to sit below the top of the paver and the concrete slab. Ensure there is adequate sub paving drainage. Steel columns and railing support posts set into or fixed to the concrete slab can rust at the base if sitting in water below paving level.
- Check all glazing, walls, cupboards, benchtops, fixtures and fittings for scratches and marks. Once you have moved into the apartment you will not be able to prove who was responsible for this defect.
- Check that the strata manager has received all the building handover documents, including building permit, specifications, as constructed plans and life-cycle reports for all plant and equipment, including the 10-year maintenance plan. The handover documents required with the reformed Act are extensive and it is important for the long term maintenance of the scheme that the strata manager is in receipt of these documents.

At apartment hand over you should receive the following from the sales agent/ developer:

- Instruction manual for all appliances, air conditioning system, security system touch pad etc.
- Warranties list for all appliances (name of supplier, contact details, date of purchase and warranty period).
- Maintenance schedule for the apartment i.e. checking drains for blockage, cleaning air conditioning filters etc.
- Apartments keys and fobs.
- By-laws (which were part of the original sales contract).

Defects

There is no doubt that every new build has a degree of defects – whether that is a standalone home, renovations or an apartment. What is important however is knowing what is and what isn't a defect, because that helps you feel more comfortable when settling into your new home.

Defects are defined as follows:

1. typical (a.k.a. patent) defects comprise defective materials or works provided by the Contractor which is not in accordance with the Contract, but are typical of the construction process, and are usually remedied under the construction contract process; and
2. A latent defect is a defect in workmanship or materials which reasonable inspection or examination could not have disclosed at an earlier time and which does not become apparent until after a passage of time following execution of the work (Standen, 2000, *Construction Industry Terminology*). Typically these are structural and water ingress in nature, and impede continuous use of the building by the occupant e.g. structural cracking, concrete cancer.

For additional information about common apartment defects please refer to **Appendix 1**.

Ensure that the strata manager that is appointed has experience in managing new schemes, as they also have a vested interest in ensuring everything is remedied.

It is also important to note that on establishment of the Strata Company (the building and its owners), the Strata Company is subrogated to all rights and remedies of the developer, with respect to defects only, (**See section 80 of the Strata Titles Act 1985**). This means that the responsibility of ensuring the defects are adequately addressed sits with the owners of the scheme.

While the developer cannot vote on a defect resolution, it is important to note in most cases, the developer takes considerable pride in the scheme they have delivered and they want to ensure that the legacy they leave behind has been completed and delivered to the highest standards, so involving the developer and strata manager to help manage and engage with the builder is important.



Recording and reporting of defects

If you have identified that you do have a defect in the apartment (Refer to **Appendix 1** for examples) then it is important that you undertake the following steps:

1. Photographic and written records are very important - even if the builder has shown willingness to rectify all defects identified by the owners.
 - a. Photos of defects should be taken up close and an additional 1 or 2 photos further away to pick up location features. These must be dated.
 - b. The Statutory Warranty period of six years may also apply to building work that has been carried out as a repair to a building defect.
2. Report all defects to a central collective as well as to the builder. A central collective may be your strata manager, building manager or a nominated owner. The strata must be aware of all defects for common legalities or future maintenance plans. As the saying goes "united we stand, divided we fall".
3. Take note on when and how the builder makes repairs.
4. If you are considering legally challenging a non-cooperative builder over defects then owners need to weigh up the cost of expert reports needed to support a complaint against the cost of a proper repair.

WHAT WARRANTY COVERS YOUR APARTMENT?

As indicated in the **building warranty timeline**, for a period of typically 12 months after practical completion (in some instances this can be shorter so it is important to check) the apartment complex and all apartments are covered by the builder's defect warranty (known as the Defect Liability Period). It is important that any defects are reported to the Strata Manager or Council of Owners during this 12-month period making sure the defects are well documented and then forwarded to the Developer/Builder for repairs and attendance. Depending on the complexity of the defect, repairs could take upwards of two years to complete. This is because complex issues can sometimes affect multiple floors or seasonal variances.

Building owners have up to six years to make a complaint from the built completion date, in accordance with the Building Services (Complaints Resolution and Administration) Act, about a building service not being carried out in a proper and proficient manner or being faulty or unsatisfactory. However, this is dependent upon the builder still operating i.e. if the builder is wound up it may not be possible to pursue an action against it for any defect repairs. It is also important that all routine scheduled maintenance is undertaken and records kept demonstrating the works have been undertaken. Failure to do so may result in a complaint not being successful.

Some multi-storey residential buildings will be protected by a policy of Home Indemnity Insurance (HII); i.e. those buildings with three storeys or less including one basement storey. HII protects owners against the risk of being unable to seek a remedy from the builder for a defect within six years of the completion of the building work because **of death, disappearance or insolvency**. HII is not a requirement for developers of apartments where the building is more than three storeys or has more than one basement storey.

The HII policy provides insurance cover of up to \$100,000 per apartment for the cost of remedying the building work. This is the maximum amount that the insurer must agree to pay out while the policy is in force. Defects in common areas in apartment complexes that require HII policies will also be covered and the costs for rectifying building work will be shared across all apartment owners' HII policies up to the value of \$100,000 per policy.

Common areas are owned by the Strata Company which is made up of the individual apartment owners. If there is a claim to be made, it is lodged by the Council of Owners or Strata Plan on behalf of all individual apartment owners, which results in proportional reduction in liability under the policy of each individual lot owner.

As stated, waterproofing membranes will also generally come with a 10+ year warranty, but these are only useful if the warranty document contains all the critical elements such as builder name, waterproofing applicator, the manufacturer and which of their systems was used. It is also important to observe the warranty maintenance conditions contained in the development handover documents.

You also have rights under the Australian Consumer Law in relation to guarantees and warranties. You can call Consumer Protection for information and advice on **1300 304 054** or by checking their website

www.commerce.wa.gov.au/consumer-protection/guarantees-and-warranties.

INSURANCE CONSIDERATIONS

What you need to know when living in a Strata Property

It is important for you to be aware of the additional and different responsibilities that apply to living in a strata property.

Some activities may be more restricted than if you were living in a freestanding house – for example, how you can renovate your lot or even insure it.

For strata complexes, the insurance may be included in the strata levies.

Typically building insurance including all common properties is covered by the Strata Company and paid from the strata fees that are collected from each apartment owner. Contents insurance for each individual apartment is the responsibility of the apartment owner.

Insurance

Strata insurance policies cover material damage to structural fixtures, including fixed plant, machinery and underground services resulting from an insured event. This not only includes the actual building but also protects letterboxes, out houses, driveways, gardens, pools, etc.

In determining the appropriate value, you may wish to consider a licensed valuations service to provide an insurance estimate detailing the complete scope of 'replacement costs'.

What is compulsory insurance?

The Strata Company has a duty not only to insure the strata (the apartment development) but also to make certain that the insurance policy they affect conforms to the minimum legislative requirements.

- The Strata Titles Act of Western Australia set the following minimum requirements for insurance purposes (See sections 97 to 99 of the Strata Titles Act 1985).
- Infrastructure to be insured and ensure all insurable assets of the scheme are insured against fire, storm and tempest (excluding damage by sea, flood or erosion), lightning, explosion and earthquake.
- Liability to Others (Public / Legal Liability) cover to be insured against damage to property, death, bodily injury or illness for which they could become liable in damages, to an amount no less than \$10 million.
- Workers Compensation cover to be in effect (if required).

Significant features and benefits

You need to read the Schedule and the Policy Wording for full details of the available cover, terms, definitions, conditions, exclusions and limits that apply to make sure it meets your expectations. The cover in each policy is provided only if specified as applicable in the schedule.

Summary of the main covers available to strata (the apartment complex and apartments):

Policy section	Cover
Insured Property	<ul style="list-style-type: none"> • Accidental Loss or Damage. • Replacement value basis. • Covers building, infrastructure and common area contents.
Legal Liability	<ul style="list-style-type: none"> • Covers the Strata Company. • Legally responsible to pay compensation. • Unintentional personal injury / property damage (third parties).
Voluntary Workers	<ul style="list-style-type: none"> • Compensation is provided to a person who sustains bodily injury while working without reward or remuneration on behalf of the Strata Company.
Workers Compensation	<ul style="list-style-type: none"> • This section indemnifies the Strata Company for legal liability to their employees under the Workers Compensation Act in which the insured property is situated.
Fidelity Guarantee	<ul style="list-style-type: none"> • Protection is provided up to \$100,000 against the fraudulent misappropriation of Strata Company funds or tangible property.
Office Bearers Legal Liability	<ul style="list-style-type: none"> • Strata Company Office Bearers or Committee Members; • Legally liable to pay compensation. • Wrongful acts whilst undertaking their duties.
Machinery Breakdown	<ul style="list-style-type: none"> • Lifts, elevators and escalators. • Air conditioners. • Electronic gates and garage doors. • The cost of hiring temporary replacement item/s in order to maintain vital services. <p>Note:</p> <ul style="list-style-type: none"> - Ensure limit is high enough to cover replacement cost of motors per event. - Check if there is age or size restrictions with your Insurer.
Catastrophe	<ul style="list-style-type: none"> • This optional section of cover provides protection against the sudden escalation in rebuilding costs that occur during a nominated catastrophe.
Government Audit Costs and Legal Expenses	<ul style="list-style-type: none"> • Some insurance policies have provision for audit costs and legal expenses to be claimable.
Lot Owners' Fixtures and Improvements	<ul style="list-style-type: none"> • Provides cover for structural improvements installed or upgraded by Lot Owners for their exclusive use against Accidental Loss or Damage.
Flood Cover	<ul style="list-style-type: none"> • This section provides protection against the inundation of normally dry land by the nearest man made or natural body of water; excluding the sea.



Notice to member of Strata Company (See Section 98 of the Act)

If the Strata Company has difficulty in obtaining required insurance cover due to some activity within the scheme or by a member of the Strata Company, the Strata Company may give the member notice in writing requiring the owner to:

- either take or refrain from taking specific action, or
- pay an amount equal to that part of the premium payable by the Strata Company for the required insurance attributable solely to the risk associated with something within the member's control. The payment must be made to the Strata Company within a specified period.

If the lot owner fails to comply with either of these requirements, the Strata Company may obtain an order from SAT determining action to be taken or refrained from being taken by the member.

Strata Company fails to insure (See Section 99 of the Strata Titles Act 1985)

If the Strata Company fails to take out any required insurance, a member of the Strata Company may take out the insurance in the name of the Strata Company. State Administration Tribunal (SAT) has the power to make orders for the member to be compensated for any payment made.

Tips to be considered

- ✓ Contents or Landlords Policy will cover your carpets, curtains, fixtures and fittings, furniture, appliances and/or any personal equipment/clothing or Loss of Rent requirements. This is payable by the apartment owner independent to the Strata Company.
- ✓ If you are renting out your apartment you should consider Landlord's insurance for loss of rental income and the like.
- ✓ Do you have floating floorboards? If so, you will need to check if your Strata policy covers this or if you need to include it in your Contents or Landlords Policy.
- ✓ If you have air conditioners, electronic garage doors, lifts, pool pumps or any other motors; have you considered machinery breakdown cover to protect these?
- ✓ Do you have members of your Council of Owners making decisions for your Strata Company? If so, you may wish to consider Office Bearers Liability.
- ✓ Check the excesses applicable to your policy.
- ✓ Do you have anyone perform work on behalf of your Strata Company or on common property? If so, you could be considered their employer and you may need Workers' Compensation.
- ✓ Is there any cladding or defects in the building, pools, playgrounds, gyms or other amenities that should be declared to your Insurer, otherwise your cover could be affected?
- ✓ Check items that can cause water damage i.e. flex hoses, hot water storage tanks, grout in wet areas, roof, down pipes and gutters.
- ✓ Do you have a Residual Current Device (RCD) Certificate for your file?
- ✓ If your building is older you may require a Certificate of re-wiring or a Certificate of re-plumbing for your insurer.
- ✓ It needs to be noted that Strata Managers and insurance brokers do receive a commission from insurance companies which the apartment owners pay via their strata fees. Your Strata Manager should declare this sum in the financial summary for the Strata Company.

WHAT ARE STRATA FEES AND WHAT DO THEY COVER?

Every apartment building (Strata Company) is required to charge each apartment owner a strata fee (usually invoiced quarterly) which then covers the building insurance, repairs and maintenance. A recent study conducted by Smarter Communities provided an overview of where the strata fees collected are spent within an apartment strata.

Part of the funds collected are annually invested in the sinking fund which is set aside for longer term maintenance programs. Under the Act, each scheme is required to have a 10-year maintenance plan (**See section 100(2A) of the Strata Titles Act 1985**) which then needs to be reviewed every five years, however, it is recommended that it be reviewed annually and revised at each AGM.

The more amenities you have the more likely your strata fees will increase – however this can be reduced depending on the number of apartments in the complex.

If buying in an established scheme, check strata minutes and the 10-year maintenance plan as any major works will be documented and forecast and this could impact on the strata fees, especially if there is a Strata Improvement Loan (SIL).

How are your levies spent?

Below is a summary of where strata fees are spent, based on a general overview from the 5,000+ communities of all shapes and sizes Smarter Communities manage nationally.

Levies are an essential component of strata living. They are collected from all owners to meet the financial obligations of your strata scheme.

	Large Building over 50 lots	Small Building under 50 lots	Example
Building Operations	37%	28%	Building Manager, cleaning, gardening, amenities such as pool, gym and lifts
Capital Works	17%	12%	Sinking fund for future planned works such as roof, windows, flooring and painting
Utilities	17%	11%	Gas, electricity, water, waste and council rates
Repairs and Maintenance	14%	21%	Maintenance and repairs of grounds and all common areas
Insurance	9%	17%	Building insurance, legal consultation/representation
Strata	6%	11%	Strata, financial and budgeting, statutory and compliance management

YOUR ROLE AS COUNCIL OF OWNERS – ACTIONS YOU SHOULD BE TAKING

Once the apartment building has reached practical completion and residents commence moving into their apartments (strata lots), then the appointed Strata Manager will seek to host an EGM. This is after the initial AGM which is held with the Developer and involves the establishment of the Strata Company including registration of ABN's, bank accounts, appointment of contractors, adoption of budgets and levy schedules, implementation of debt recovery process and house rules and approval of conditions listed in sales contracts, plus fit-out applications for commercial tenancies.

It is important that all residents attend the EGM or at least allocate their vote to a proxy (someone who can vote for you) as you are now responsible for the management of the Strata Company (apartment complex).

One of the key tasks at the EGM is to elect a Council of Owners (the Council) for the Strata Company (usually a minimum of 3 and a maximum 7). Depending on the by-laws the functions of the Council are to employ or engage, on behalf of the Strata Company, any person as it thinks is necessary to provide any goods, amenity or service to the Strata Company subject to any restriction imposed or direction given at a general meeting of the Strata Company. It is common for the Developer to appoint the base-build consultants for the first Defect Liability Period (DLP) to ensure that the warranties are not voided.



Section 138 of the Act details the general duties of the Council, who at all times must act honestly, with loyalty and in good faith in the performance of their functions as an officer of the Strata Company; and must at all times exercise the degree of care and diligence in the performance of those functions that a reasonable person in the person's position and the circumstances of the Strata Company would reasonably be expected to exercise.

Under Section 80 of the Act, the Strata Company is subrogated to all rights and remedies of the developer (in relation to defects). Further, the developer is unable to vote on a defect or any building infrastructure for 10 years, so ultimately, the responsibility to manage the defect liability period falls solely on the Council. For example this would include negotiating the release of the retention fund that may have been negotiated between the developer and the builder at the time of entering into the building contracts.

Basically the Council are managing an asset which could be worth \$10 million, \$50 million or even over \$200 million. That is why it is important that residents carefully consider who they are electing to the Council and who is the strata manager assisting and guiding the scheme.

At the first meeting of the Council the first task will be to elect the office bearers which includes a Chair, Secretary and Treasurer, all who have duties that need to be fulfilled.

The appointed Strata Manager is to work with the Council and guide them in regards to the Act, Regulations and other legislation, including the implications there may be with managing the scheme.

It is recommended that the Strata Manager attends the monthly Council meetings so as to prepare the agenda, minutes and action recommendations, which arise from the meeting. It is also recommended that the Strata Manager is delegated the authority to approve minor matters such as pet approvals, issuing work orders etc, once systems and policies are created.

At the appointment of the Council it is recommended that they review a full copy of the building plans provided at the first AGM of the Strata Company, along with all certification, built drawings, permits, maintenance manuals, 10-year maintenance plan, asset and life-cycle register etc as well as appoint of an independent building inspector to report on any common property defects during the 12-month warranty period. You may also want the building inspector to review the handover documents and make sure everything is accounted for.



As per the Act the Developer/Builder is required to hand over the following items at the establishment of the Council:

- Full set of architectural, structural, hydraulic, mechanical & electrical plans
- Building licence
- Specifications
- Fire compliances
- Building element trades name and contact lists
- Building element warranties
- Asset and appliances manuals & warranties

It is also essential that this annual building inspection is continued so as to identify any early signs of construction faults that need to be addressed within the six-year Statutory Warranty e.g. structural cracking, water membrane issues etc.

The Council also oversees the accounts and financial management of the Strata Company including the administrative and reserve funds. It is important to note that the reserve fund (Section 100(2) of the Act) is established for the purpose of accumulating funds to meet contingent expenses, other than those of a routine nature, and other major expenses of the Strata Company likely to arise in the future. It is important that the budget is reviewed annually and that there are sufficient funds collected not just for annual maintenance and servicing costs such as lifts and common area amenities but also long-term maintenance and contingency expenses e.g. painting the building.

Those defects that are latent and could impact significantly on the building e.g. structural cracks, removal of combustible cladding etc may need to be funded by a Strata Improvement Loan (SIL). This is when a loan is negotiated with a bank or financial provider for the repairs to be undertaken and then the repayments are included in the quarterly strata fees.

It is important that the Council take enforcement of the by-laws seriously. However, no Council member should ever take matters into their own hands or place themselves at risk in trying to enforce the by-laws.

Where an owner or tenant repeatedly breaches the by-laws of the Strata Company, the Council may need to take the matter to the State Administrative Tribunal (SAT) seeking an order of compliance. This however would generally be the final action with other means of communication such as verbal and written instruction undertaken in the first instance.

It is important however that the Council is consistent in its decisions for the equity of all lot owners.

Meetings of the Council of Owners

It is important that meetings are properly convened, they require a minimum of seven days' notice (unless all members agree otherwise) and it is vital that minutes are taken and form part of the books and records of the scheme. A quorum for a meeting is one half of the members of the Council (in person or represented by proxy). For example, if there are 7 members of the Council, 4 present constitutes quorum.

At meetings of the Council, all matters shall be determined by a simple majority vote. This vote can be done anonymously i.e. via paper ballot.

The Council may meet together for the conduct of business and regulate or adjourn its meetings as it thinks fit (recommended monthly), but the Council must meet when any member of the council gives to the other members not less than 7 days' notice of a meeting, specifying in the notice the reason for calling the meeting.



RESOURCES

Complaints process:

<https://www.commerce.wa.gov.au/building-and-energy/building-service-and-home-building-work-contract-complaints>

Buying off the plan:

<https://www.commerce.wa.gov.au/consumer-protection/buying-property-plan>

Off the plan contracts:

<https://www.commerce.wa.gov.au/consumer-protection/plan-property-contracts>

Home indemnity insurance:

<https://www.commerce.wa.gov.au/publications/home-indemnity-insurance>

Western Australian Guide to standards and tolerances:

https://www.commerce.wa.gov.au/sites/default/files/atoms/files/guide_to_standards_and_tolerances_2019_wa_0.pdf

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