

The QLD STRATA MAGAZINE

NOVEMBER 2024



**What should you ask your
body corporate manager
about their contract?**

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the life of a coastal building**

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deceased owner's lot?**

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About Us

LookUpStrata is Australia's Top Property Blog Dedicated to Strata Living. The site has been providing reliable strata information to lot owners, strata managers and other strata professionals since 2013.

As well as publishing legislative articles to keep their audience up to date with changes to strata, this family owned business is known for their national Q&A service that provides useful responses to lot owners and members of the strata industry. They have created a national network of leading strata specialists across Australia who assist with 100s of the LookUpStrata audiences' queries every month.

Strata information is distributed freely to their dedicated audience of readers via regular Webinars, Magazines and Newsletters. The LookUpStrata audience also has free access to The LookUpStrata Directory, showcasing 100s of strata service professionals from across Australia. To take a look at the LookUpStrata Directory, flip to the end of this magazine.

Meet the team



Nikki Jovicic
Owner / Director

Nikki began building LookUpStrata back in 2012 and officially launched the company early 2013. With a background in Information Management, LookUpStrata has helped Nikki realise her mission of providing detailed, practical, and easy to understand strata information to all Australians.

Nikki shares her time between three companies, including Tower Body Corporate, a body corporate company in SEQ.

Nikki is also known for presenting regular strata webinars, where LookUpStrata hosts a strata expert to cover a specific topic and respond to audience questions.

Liza came on board in early 2020 to bring structure to LookUpStrata. She has a passion for processes, growth and education. This quickly resulted in the creation of The Strata Magazine released monthly in New South Wales and Queensland, and bi-monthly in Western Australia and Victoria. As of 2021, LookUpStrata now produce 33 state based online magazines a year.

Among other daily tasks, Liza is involved in scheduling and liaising with upcoming webinar presenters, sourcing responses to audience questions and assisting strata service professionals who are interested in growing their business.



Liza Jovicic
Sales and Content Manager



Learn more here → <https://www.lookupstrata.com.au/about-us/>

You can contact us here → administration@lookupstrata.com.au

Disclaimer: The information contained in this magazine, including the response to submitted questions, is not legal advice and should not be relied upon as legal advice. You should seek independent advice before acting on the information contained in this magazine. Strata legislation is updated regularly. The information in this magazine is based on the legislation at the time of publishing.

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Contracts: What Should You Ask Your Body Corporate Manager?

Celebrating over a decade of serving Southeast Queensland strata communities, we're excited to share our new brand. A testament to our dedication, our new brand reflects our values of transparency and excellence in body corporate management services.

We believe transparency is essential when it comes to your body corporate manager's contract. In the following article, we share valuable questions to help you get the most out of your agreement.

What Should You Ask Your Body Corporate Manager About Their Contract?

Understanding your body corporate contract is crucial for maximising its benefits. Here are key questions to ask your manager to gain clarity.

Understanding Management Contracts

Most management contracts share a basic structure: a fixed annual cost for a range of agreed services, plus variable fees for additional services required by your scheme.

This structure makes sense — essential services, like holding an AGM, are typically covered by fixed fees, while variable fees account for the differing needs of each scheme.

However, contracts often mislead by emphasising lower headline costs while obscuring total fees. Additionally, many companies do not fully disclose insurance management fees, making it difficult for customers to see the true costs.

Reading and interpreting contracts can be tricky. To understand your body corporate management agency's income from your scheme, use this formula:

$$\text{Total Income} = \text{Fixed Costs} + \text{Additional Services Fees} + \text{Insurance Commission/Management Fees}$$

Request these amounts from your manager for the last financial year. If they are reluctant to provide this information, check your financial statements for totals of agreed and professional services. Insurance commission fees may be harder to find, but they should be disclosed in AGM notices or insurance renewal documents. If your manager is not transparent about their fees, consider that a warning sign.

Evaluating Value for Fees Paid

Once you understand your costs, assess whether you're getting value for your fees. Good management requires expertise and time. A high-quality manager will help your scheme run smoothly, potentially saving you money and stress. If you feel your manager is contributing positively, an extra \$50 or \$100 per year per owner may be worthwhile. Conversely, you could be paying for services that offer little value, such as unnecessary administrative tasks or a manager who is frequently unavailable.

Key Questions to Ask Your Manager

1. What Is the Total of the Fixed Fees?

Fixed fees include all costs your scheme will incur, not just management and disbursement fees. Companies may present low management fees to appear cost-effective, but they often compensate through back-end fees. When comparing contracts, ask for the total of all fixed costs, including, but not limited to:

- Management services
- Disbursements
- Tax filings
- BAS filings (if GST-registered)
- Software provision
- Archive storage
- Maintenance management fees
- WHS or communication fees

2. How Are Additional/Professional Services Fees Charged?

Additional fees are for services provided by the manager not included as an agreed service. Ask your management agency:

- Are examples of fees listed in the contract?
- Can they show you sample invoices?
- Will additional fees be forwarded to the committee?
- What are the hourly rates for staff, and how do they avoid duplication of work?
- Do they charge for routine information requests?

3. How Is Insurance Managed and How Are Fees Calculated?

Insurance management fees are often hidden. Typically, managers receive a commission based on the insurance premium—usually up to 20 percent. This means a \$10,000 premium could result in a \$2,000 commission for the manager.

Clarify if there are other options such as whether your scheme can arrange its own insurance and if there are associated fees for doing so.

4. Does the Company Receive Any Other Referral Fees or Commissions?

Ask if the company receives kickbacks from affiliated companies or if they recommend services from companies they own. Transparency is key; your manager has a fiduciary duty to your body corporate and should work solely for your benefit.

5. How Long Is the Contract For?

Many companies propose long-term agreements (often three years) to lock in clients. While this can foster continuity and improved service, don't feel pressured to sign. Consider requesting a one-year agreement for comparison.

6. How Easy Is It to Communicate with the Person Who Can Resolve Your Issue?

Response times may vary, but what matters is direct access to the person who can address your concerns. If you find yourself navigating through layers of staff, that's a sign of inefficiency. Good management is characterised by accessibility to key staff.

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Special levy due now for work scheduled in 8 months



Q

Our body corporate is raising a special levy now for repairs to my roof in mid 2025. Can they demand this payment if the work is not due to commence for another eight months?

Our strata scheme is under the CTS/**standard format plan**. The body corporate (BC) is raising a one-off special levy of \$19,000 for repairs to my roof. The work will not commence until June 2025. The BC requests full payment within 60 days of the notice, which they will send next week. Can they demand this payment if the work is not due to commence for eight months? Most building contract payments are due as the work progresses.

A

You are asked to pay the levy a few months before you need to, but at least you know the works will be done if the motion is approved.

From the information provided, it sounds like there is nothing technically wrong with the process.

Yes, you might usually expect the time periods for the raising of the money and the initiation of the works to be closer, but this is not a requirement and perhaps there were other considerations in play when the timelines were set.

Have you raised the issue with the committee? It might be worth asking them about the rationale behind the process. Perhaps, from the committee's perspective, they might want to send out a communication about this to clarify matters for owners. This might be in the **meeting notes**.

Maybe the committee is ensuring everything is in place early to prevent delays. There may be concerns that owners will not pay on time if they wait until closer to the work's start date.

Otherwise, all owners have the option of **voting against the motions** presented. Perhaps you could advise you would vote yes if the money were to be raised in March rather than November.

Alternatively, if you couldn't pay straight away, you might be able to negotiate to pay the levy in the new year. Contact the committee and see if they agree.

From your perspective, the levy is for presumably necessary works on your lot. It sounds like the committee is taking action to rectify these and ensure sufficient funds are available. You've been asked to pay the levy a few months before you absolutely need to, but at least you know the works will be done if the motion is approved.

William Marquand | Tower Body Corporate
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Strata Law Firm of the Year

Mahoneys was named "Law Firm of the Year", for the second year in a row, at the most recent Strata Community Association awards. The "Awards for Excellence" was an opportunity to celebrate and promote the highest achieving professionals in the strata industry.

The "Strata Services Business Legal Firms Award" acknowledges firms that deliver exceptional client services by developing relationships that are built by identifying and meeting expectations; supported by strong communication; and providing a positive, seamless client journey with an unconditional commitment to giving the highest level of service including cost, quality of legal advice and added value to everyone.

Congratulations to Todd Garsden, Ben Secombe and our entire body corporate team. The award is a recognition of the firm's commitment to the strata industry and reinforces Mahoneys' position as the leading strata law firm in Queensland.

"Mahoneys has shown outstanding leadership and innovation in providing legal services to the strata industry."



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- our commitment to working closely with our clients to help them deliver their strategic, operational, and commercial objectives.

Our team is made up of industry leading lawyers, who have developed a detailed understanding of, and expertise in, the industries the firm has chosen to focus on.

We actively support the industries we specialise in, and are at the forefront of developments in the law that impact in those industries. Specifically:

- we have one of the largest dedicated body corporate teams, with industry leading lawyers who specialise on all matters relating to bodies corporate and associated legislation; and
- they are supported by industry leading construction, property, planning, debt recovery and dispute lawyers who have developed expertise in body corporate law.

This means a body corporate can be serviced solely from one law firm. Further, the breadth and depth of our team means that we can bring a balanced "whole of industry" approach to everything we do.



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Washing machine breakdown: Event, excess, and liability



For insurance purposes, is the breakdown of a washing machine that caused damage to the lot and the lot below considered an event? Who pays the excess?

I refer to **Section 193(4)** Excess in the *Body Corporate and Community Management (Accommodation Module) Regulation 2020*, or **Section 122(4)** of the *Body Corporate and Community Management (Small Schemes Module) Regulation 2020* that state:

- 2 or more lots—the body corporate should pay the excess unless the body corporate decides it is reasonable for the excess to be paid by 1 or more of the affected lots

I am seeking clarification of what an “event” and “affect” means.

We have a situation where a washing machine breakdown caused a flood in a laundry with the water flowing onto a hallway carpet before seeping into and damaging the ceiling below.

The washing machine was replaced (damaged), the laundry floor cleaned (affected), and fans used to dry the carpet (affected).

Does this constitute an event occurring in both apartments and have both lots been affected?

Who is responsible for paying the excess, and does the body corporate committee have any responsibility in the matter?

Ultimately, the body corporate committee can exercise its judgment on the issue of excess.

The BCCM Act does not explicitly define what constitutes an “event”. However, it is generally understood that an event refers to a specific incident or occurrence that sets in motion a sequence of events leading to an insurance claim. In the scenario you described, where a washing machine breakdown caused flooding that affected another lot, in my view this situation can indeed be considered as a single event since it originated from a singular cause.

Regarding what it means to be “affected,” in my view, it involves any lot that has experienced damage or any form of impact directly resulting from the event. In this case, both the lot containing the washing machine and the lot below it, which suffered water damage to the ceiling, should be considered affected. The primary lot experienced direct damage, while the secondary lot was indirectly impacted through **water damage** originating from the first lot.

Given this situation, the BCCM Act allows the body corporate committee some discretion in deciding who is responsible for paying the insurance excess. This decision must be based on reasonable grounds, taking into account all circumstances surrounding the event. Factors to consider may include whether the event was foreseeable, whether the washing machine owner could have taken measures to prevent the incident and the extent to which each lot was affected.

In this instance, it is my view that it could be viewed as reasonable for the owner of the lot with the broken washing machine to bear the responsibility for paying the excess, given that the origin of the damage was within their control. Alternatively, the body corporate could also opt to pay the excess, particularly if it determines that this approach is more equitable or if the cause of the breakdown was not due to negligence on the part of the lot owner.

Ultimately, the body corporate committee has the option to exercise its judgment on this issue.

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Caretaker surveillance: Strata is not a surveillance state

The caretaker operates as an independent contractor. Is it reasonable for the committee to ‘watch’ the caretaker’s every move?

Is it reasonable for a committee member to ‘watch’ the caretaker’s almost every move? The agreement does not specify any ‘business hour’ requirements. In a committee meeting, the committee presented a documented list recording the caretaker’s dates, times, and activities, including when the caretaker enters and leaves the complex. Several residents who continuously observe and record the caretaker’s activities compiled this list.

The caretaker believes they perform their duties as required by the agreement and occasionally allocate work to subcontractors, as permitted. As the owner of the management rights business, the caretaker operates as an independent contractor, not an employee. They have the right to arrange their business as they see fit, as long as they fulfil the duties outlined in the agreement.

Of course, the ‘standard’ of performance is a subjective matter. While it’s understood that the committee wants to monitor all details, is it really acceptable to ‘watch’ and ‘record’ everything, including aspects of the caretaker’s personal life unrelated to caretaking activities?

A **Strata is not a surveillance state.**

No, I don't think it is acceptable to watch or monitor. In fact, I don't think it is acceptable for anyone to be watched or monitored in strata – it is not a surveillance state.

Regarding management rights (MR) holders (which is the term I use to describe caretakers/ onsite managers), it's always important to remember they are not employees. They are contractors, and that means the relationship between the body corporate and the MR holder is contractual in nature. Essentially, if there is a difference of view on how the contract is being fulfilled (e.g., performance of duties), it might need to be negotiated between the parties to reach an outcome. Otherwise, there is a long, costly and stressful legal process to go through – in which anybody rarely ever 'wins'.

Strata Solve is often involved with issues between MR holders and caretakers. Our view is that there is generally always the possibility of finding a way through things to a satisfactory result. And there are, of course, two sides to this coin. It is entirely appropriate for the committee and owners to have an interest in how an MR holder does their work. How they express that interest, though, is crucial.

This is general information only and not legal advice.

Chris Irons | Strata Solve
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Strata Solve helps people untangle and resolve their strata issues. Sounds simple when you put it like that, doesn't it?

Director Chris Irons (pictured, with his strata-approved greyhound Ernest) has an unrivalled strata perspective. As Queensland's former Body Corporate Commissioner, Chris has seen and heard virtually every strata situation and nuance. He knows that while legislation provides a framework, there are many ambiguities to navigate through and in which pragmatism, common-sense and effective communication are vital.

As an independent strata consultant, Chris provides services which are all about empowering owners, committees, managers, caretakers, and others, to protect their strata interests. With a high-profile media and online presence, and as an accredited mediator, Chris is also able to carefully 'read the room' and craft the right narratives in even the most complex strata situation.

Strata Solve is not a law firm. Chris instead thinks of steps you can take before you embark on lengthy, costly, and stressful legal proceedings. Regardless of the client, all people in strata have one thing in common: their substantial investment in the strata scheme. Strata Solve prioritises that investment in each tailored solution we provide.

Get in touch to find out more.



email: chris@stratasolve.com.au
web: stratasolve.com.au



“Is the Multiplier just based on the management fees”?

We received a phone call from the Director of a medium-sized body corporate management business who wanted a second opinion:

- She has already appointed a broker to help sell her business. Now, after some time, the broker returned to her with one offer and one offer only – and there some pressure being applied on her to take the offer.
- The offer in broad terms was for “3 times”.

What the Director and business owner wanted to know:

1. *Why was there a lack of interest in her strata business?*
2. *What is the value of her business that she and her husband spent over a decade building?*
3. *Is the offer a good and fair offer?*
4. *Is the multiplier reasonable and does it only apply to the management fees?*
5. *What does she do from here?*

Our answers to her questions:

1. It's quite astonishing - there should not be a lack of interest based on the business she described to us. We have a surplus of ready buyers with funds to invest and our network of purchasers fits into 3 broad categories:
 - Purchasers wanting to buy strata businesses **~1,000 LUMs**;
 - Purchasers wanting to buy strata businesses **8,000 to 10,000 LUMs**; and
 - Purchasers wanting to buy strata businesses **greater than 20,000 LUMs**.

We know Strata, and our contacts have run across industry parallels and across the Eastern States. Some of whom are serious operators looking for market entry and/or growth.

The other possible problem - the broker she hired was charging a pretty low commission percentage. We told her that if we had to speculate:

- It was probably a fast “*in and out, get the deal done*” for the broker as they probably feel lucky to get a listing (even if it's an industry outside of the core area of competency).
 - At the outset, they probably threw around a number or range around that would seem acceptable to the vendor at the time.
 - They haven't taken the time to gather the facts and information needed to understand the business.
 - The end result / predicament was the byproduct of subpar marketing effort and focus.
 - There are still risk factors to consider from here – i.e. we know of another vendor that spent \$20k+ on legal costs only for a failed settlement.
 - The prospective purchaser backed out due being was a strata novice and inability to obtain funding.
2. We would need a fair amount of more detailed information from her – both quantitative and qualitative.
 3. On the face of it – it's pretty average deal because the process more likely than not was not properly conducted.
 4. *Please see the article on the next page.*
 5. We couldn't advise on that as ultimately it was a decision for her, her husband, and their circumstances (and whether they were in a rush to sell).

Selling your business is one of the most important and largest financial decisions you'll make. Don't risk it or chance it. The selling journey isn't a process that takes weeks and there's always quite a few matters along the way that needs to be worked through.

Hey Strata Industry – STOP talking about ‘multiples’ and ‘multipliers’


If your business broker can't give you a **valuation** on your strata business, then they have no business brokering strata.

If your business broker is talking only in terms of a simple number with a 3 in front of it, then chances are they have no clue. Put another way, they've stumbled into strata brokering and are going to learn on your time and potentially at your cost.

What is a ‘multiple’ or ‘multiplier’ in the strata industry?

- A rule of thumb that - might have worked perfectly fine 10 or 20 years ago but no longer works because pricing, revenue streams, and cost bases have shifted.
- The strata industry has an array of management companies of varying sizes, scale, operational set-ups, and revenue models. In this context, how can you value a strata business in such a basic way?
- So, in summary a multiple is probably a lazy or ill-informed way that a broker is trying to apply to the fruits of your labour so they appear like they know what they're talking about.

At the end of the day, purchasers and investors buy value based on valuation and transactions go through on valuation.



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Caretaker's right to attend body corporate meetings



Q

Our chair wrote to the caretaker advising he's not allowed to attend the AGM. Can they do this?

We operate under the Accommodation module. Our chairperson recently wrote to our caretaker advising they are not allowed to attend our AGM. Our caretaker isn't a lot owner. As the caretaker is automatically a non-voting committee member, can the chairperson and/or the committee do this?

A

The caretaker should look at being appointed as representative of a lot owner.

The AGM is for lot owners and their representatives. In one sense, the caretaker is the same as what we (lawyers) would be if we were acting for the body corporate on legal

issues. A third party engaged to provide services, and the body corporate lawyer has no automatic right to attend general meetings either.

Having said that, the caretaker clearly has a far tighter (and likely longer term) relationship with the body corporate, so to me, it would make sense most of the time to have them invited along.

If the committee doesn't want them there, and the caretaker wants to go, the caretaker should look at being appointed as some form of representative of a lot owner. That's how non-attending owners get represented.

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How do we engage our tech-averse building manager in new software?

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Q Given our building manager's reluctance to adopt technology, how can we introduce new technology to our building?

I'm enthusiastic about the potential of technology to enhance our strata operations and expedite response times. However, our building manager's reluctance to adopt technology is a major hurdle.

While I greatly appreciate their invaluable expertise in building maintenance and operations, their technological limitations pose a challenge.

How can we effectively introduce technology in a way that leverages their skills and minimises disruptions to their workflow?

A By addressing their biggest pain points first, you can maximise the benefits for both of you.

If you're keen to continue working with your building manager, consider introducing them to your software choice. Show them how they can streamline their work, reduce paperwork, and become more efficient by learning to use this tool. Offer them support, training, and guidance to help them get started. Begin with a small step, such as using the software to report issues or create online to-do lists. By addressing their biggest pain points first, you can maximise the benefits for both of you.

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Who is responsible for air conditioner maintenance?



Q

My unit's air conditioner condenser is in a locked room on common property. Who is responsible for the maintenance of the air conditioner?

My new unit's air conditioner condenser is in a locked room on body corporate common property. Although I'm happy to service and maintain the condenser as if it is my asset, my contract doesn't say I own it. I have Home and Contents insurance, but I am unsure if the air conditioner is covered, as it is not on my plan or Title. Who is responsible for the maintenance of the air conditioner?

A

Do the by-laws for your scheme reference ownership of the air conditioners?

Is it just your unit that has this, or are others in the same position? In terms of responsibility, check with your body corporate manager. However, you can also consult the BCCM guides on responsibility:

- **Building format plan and building units plan maintenance**
- **Standard format plan and group titles plan maintenance**

It sounds like you may be in a building format plan. If that's the case, you are responsible for utility infrastructure (including equipment and associated wiring and pipes) that is on

common property if it only services that lot and is a hot water system, washing machine, clothes dryer, air-conditioner, or similar equipment.

All three conditions must be met for it to be your responsibility. So:

- the item must be an air conditioner – yes
- it must be on common property – yes, from the description and
- it must only service your lot – probably, but we don't know

If requested, the body corporate must give you reasonable access to the condenser to carry out maintenance.

If you are in a standard format scheme, the body corporate is responsible for **utility infrastructure** (like equipment, pipes and wiring) that is on common property, or in a boundary structure, or services more than 1 lot. Here, the condenser is on common property but it sounds like it only services your lot.

You may also need to **consider the by-laws** for your scheme. Do they reference ownership of the air conditioners? Your body corporate manager should be able to give you an answer, and you can cross-reference that against this information.

William Marquand | Tower Body Corporate
willmarquand@towerbodycorporate.com.au

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Proactive steps to prolong the life of a coastal building

NATIONAL

Building Defects - what early warning signs should you watch out for?



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Q We are in a large beachfront tower. What proactive maintenance can we take to prolong the life of our coastal building and reduce maintenance costs over the long term?

A A maintenance plan is critical to buildings, especially as they are exposed to the extreme marine environment.

A maintenance plan is critical to the building, especially for coastal properties exposed to the extreme marine environment. Beachfront properties are in the highest category of exposure. When drawing up the maintenance plan, experts will discover what building elements need the most attention.

The maintenance plan extrapolates the short, medium and long term maintenance costs.

A solid plan will give you a clear vision of where the body corporate is heading over the next 10 years and what the building will need.

Bruce McKenzie | Sedgwick

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Can the committee enter a deceased owner's lot?



Q Can the body corporate enter a deceased owner's lot? A resident unit owner died months ago. No one has contacted the committee. We'd like to enter the lot to carry out cleaning and find a relative's contact details.

A resident unit owner died months ago. The committee has not been contact by a legal representative or anyone else concerning the estate. The car is untouched, and no one appears to have entered the unit.

To our knowledge, there are no relatives. Can we enter the unit under **Section 163** of the *Body Corporate and Community Management Act 1997* to:

1. Ascertain whether any perishable items are spoiling and take remedial action, such as cleaning out the fridge, disinfecting mould, etc.
2. Find contact details for anyone who knows whether they have relatives, maybe from Christmas cards or letters.

Otherwise, what are the options? The police are unwilling to help.

A The body corporate may authorise access to the lot to assess if any necessary remedial action is required.

Section 163 of the *Body Corporate and Community Management Act 1997* (Qld) permits the body corporate to, upon the provision of seven days written notice, authorise a person to access a lot within the scheme to:

1. inspect the lot to determine whether work the body corporate is authorised or required to carry out is necessary; or
2. carry out work the body corporate is authorised or required to carry out.

Accordingly, the body corporate may authorise access to the lot on the first of these bases, so as to determine whether any remedial action the body corporate is required to carry out is necessary (and may authorise access on the second basis to then carry out this work, if required). For example, this could be due to the lot owner's obligation to keep the lot in good condition.

This access would not, however, necessarily authorise the body corporate to interfere with any personal effects within the lot. In due course, we would expect the executor of the will or public trustee to deal with the ongoing administration of the ownership issues.

Connor Mahoney | Mahoneys
tgarsden@mahoneys.com.au

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Emergency preparedness

Why do we need building evacuation plans as well as personal plans?

In the event of a fire, well-prepared evacuation plans can make a critical difference between life and death. It is vital to have both building and individual evacuation plans in place as each serves a distinct purpose and has unique features.

Building evacuation plans encompass the broad strategy that outlines procedures and addresses key logistical components to ensure a coordinated response and the safe and orderly evacuation of all occupants.

Key Elements of a Building Evacuation Plan

- Evacuation routes and assembly points
- Alarm systems and fire suppression tools
- Roles and responsibilities

Personal evacuation plans are tailored and specific to each individual's needs. They are especially important for those with mobility issues, disabilities or health conditions that might hinder their ability to evacuate quickly.

Key elements of a personal evacuation plan

- Individual assistance needs
- Plans for pets or service animals
- Grab bag of essentials that can reduce stress and hardship in the event of a fire, e.g. prescription medication, reading glasses or hearing aids, ID, cash and/or credit cards and your mobile phone.

Integrating both types of evacuation plans ensures maximum safety. These plans should be reviewed annually to ensure they remain current. Annual fire drills can help to identify any gaps or areas for improvement in these plans.

Stefan Bauer
Fire Matters

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Can a committee member with multiple lots, one unpaid, still vote?



Q Can a body corporate committee member who is financially sound for the unit they represent but has one unit with an unpaid levy due to a pending property sale still participate in committee meetings and voting?

A body corporate committee member owns thirteen lots in our body corporate. They have paid the levies for twelve of their lots, but one remains unpaid. This lot is tied up in the settlement of the unit's sale with the unpaid levy.

The committee member is financial for the unit they represent on the committee. Can they still vote in committee meetings, or is there any issue with them technically being unfinancial for one unit?

A I think they are entitled to vote in the committee.

I think that if they are financial for the other 12 lots, and one of those was the lot they nominated for, they are entitled to vote on the committee.

Frank Higginson | Hynes Legal
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Business Owners: What are the 2 Most Important Things When Selling?

Short and simple. Here are the **2 absolutes** you **need** on your side when selling.

1. Optionality

We've received one too many phone calls from strata business owners backed into a corner. The common thread in the story goes:

- They've appointed some broker from somewhere who promised them an x '*multiplier*'.
- Months into the process, they have one offer and one option, which the broker strongly encourages them to take. (And, of course, they get the deal done and move on – even if it's a raw deal for you as the business owner).

2. Adaptability

In an ideal world, everything stays on track, goes to plan, and has no surprises. Even when it comes to strata business sales, the reality is that unknowns and can't-be-knowns can happen. So, what do we mean by adaptability?

Yes, the shape of the deal looks good and should go through, but from experience – our advice is this:

- As the vendor, you need to have some adaptability;
- As the hopeful, successful purchaser, you need to have some adaptability;
- And as an experienced broker – you need to have:
 - Adaptability and, more importantly, the ability to get the vendor and potential purchasers to see and act on adaptability. i.e. what happens when there are strata clients not on under at all?
 - As the broker you need to problem solve, deeply understand the issues, create solutions, have the plan a, b, c, and d, and ultimately deliver for your client.

Conclusion

There is no doubt that strata management business deals and body corporate management sales occur without these 2 elements. However, when things aren't done right, it's often the strata business owners who get the raw end of the stick.

Whether it's because they left things a bit at the last minute, they were ready to get out, they're over the drawn-out process, and they entrusted the wrong person. That is the sad and untold reality where a lot of these deals are being cobbled together, like forced marriages.

An elderly man and woman are sitting together on a couch, laughing heartily. The man is wearing a light blue striped shirt and jeans, and the woman is wearing a light pink sweater and glasses. They appear to be in a comfortable, indoor setting.

By-laws, balancing rights and responsibilities in ageing communities

Q

How does a committee in an over-50s community effectively manage residents with increasing care needs, enforce by-laws, and address potential conflicts while respecting their rights and dignity?

As our over-50s community ages, we're seeing an increasing number of residents with care needs. How can the strata committee ensure that by-laws, such as those governing smoking, noise, and general behaviour, are upheld? Can the committee legally request an assessment of a resident's capacity to live independently and comply with these rules under the *Aged Care Act 1997*?

Committee members are reluctant to confront residents, particularly those with cognitive impairments, due to fears of escalating tensions and potential legal repercussions. How can the committee foster a supportive and respectful community environment, especially when dealing with residents experiencing cognitive decline or other challenges? What strategies can be employed to minimise conflict and ensure that issues are addressed fairly and compassionately?

A

By-laws apply to all occupiers at a scheme equally.

I understand the sensitivities in this type of enquiry with an occupier at the scheme. By-laws will apply to all occupiers at a scheme equally. Good by-laws attempt to regulate the way occupiers use and enjoy their lot and common property in a balanced way.

A body corporate has a **duty to enforce** its by-laws and must act reasonably in doing so. So, how a body corporate chooses to enforce its by-laws may vary depending on individual circumstances. For example, a committee may send an email reminder or post a letter. There could even be a knock on the occupier's door and a conversation about the by-laws. Enforcement can, of course, be achieved through the usual **contravention notices** too.

While an occupier would not be required to comply with that type of enquiry in your question, it would be difficult for that to successfully amount to harassment in any legal sense if done in the right way. Also, even though the focus of the question is about the behaviours of persons in the scheme, I think it is also worth considering whether the by-laws themselves are appropriate and if there is a better way to enforce the by-laws to achieve the desired outcome with the present mix of occupiers.

Brendan Pitman | Grace Lawyers

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Can I operate a commercial laundry service from my unit's garage?



What are the requirements for running a business from a unit? I'm interested in starting a small commercial laundry service from my garage? What should I consider regarding potential noise, ventilation, parking, and insurance requirements?

What do you need to consider for running a business from a unit? I'd like to start a small commercial laundry service out of my garage. This would involve picking up and dropping off

laundry for local businesses like restaurants and gyms. Is this allowed under the body corporate rules?

I'm concerned about the practical aspects of this. Given the lack of windows, do I need to install ventilation fans in the garage? And what are the specific insurance requirements for this type of business? Could I park my vehicles in the visitor car park without violating any rules?

Finally, as a courtesy to my neighbours, should I inform them of my plans, especially considering the potential noise and activity?

A Your first step is checking with your local council about your requirements and obligations.

You have raised several strata-related issues here, although I think your first step is checking with your local council about your requirements and obligations for running a home business. There may be several things to address before the strata issues, or which may produce further strata issues to consider.

Assuming you do so and can meet those requirements, some thoughts for you about the issues you raise below:

- **Visitor parking** is generally only for genuine visitors and not for lot owners to park their vehicles. This will likely be a **contravention of your by-laws**;
- Regarding insurance, the body corporate may need to adjust your contribution based upon the way in which the lot is used – refer

to Section **201 of the Standard Module** (equivalent provisions of other Modules); and

- You may also need to consider that the occupier of a lot is not meant to use the lot in a way that may cause a **nuisance or hazard**. Based on what you say, you may have issues in this regard in relation to noise (especially if you are using fans a lot of the day).

These issues don't necessarily mean you cannot run the business from your lot. However, it does mean you should carefully consider your obligations as a lot owner and perhaps seek qualified advice if there are any doubts.

This is general information only and not legal advice.

Chris Irons | Strata Solve
chris@stratasolve.com.au

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Proportion of strata insurance in a duplex

Q

Does each owner pay strata insurance as a percentage based on building size for our two lot strata?

We own a lot in a two lot strata. One building size is 148m², and the other is 307m². Are we required to pay strata insurance as a percentage based on building size?

On our schedule of **lot entitlements**, our contribution is 1:1.

But our interest is:

- 14 – neighbour
- 11 – me and my partner

A

This will depend on whether the building is a building, volumetric or standard format plan.

The Body Corporate and Community Management (*Specified Two-lot Schemes Module*) Regulation 2011 regulates how premiums should be paid.

This will depend on whether the building is a building, volumetric or standard format plan.

The regulation stated below should answer the question:

52 Premium

1. The owner of each lot that is included in a specified two-lot scheme and is covered by reinstatement insurance required to be taken out by the body corporate is liable to pay a contribution that is a proportionate amount of the premium for reinstatement insurance that reflects—
 - a. for a lot created under a building or volumetric format plan of subdivision—the interest schedule lot entitlement of the lot; and
 - b. for a lot created under a standard format plan of subdivision—the cost of reinstating the buildings on the lot.

Tyrone Shandiman | Strata Insurance Solutions
tshandiman@iaa.net.au

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Why is there a buy out if we don't renew our embedded network contract?

NATIONAL

Unravelling Embedded Networks for Strata Buildings



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Q The developer entered into our ten year embedded network contract, now due to expire in six months. Why is there a buy out if we don't renew?

The developer of our 77 lot townhouse complex entered into our ten year embedded network contract. It will expire in six months, so we are now looking at options. Can the embedded network be decommissioned, and if so, how?

If the contract is not renewed, we must pay the embedded network company a sum to be determined by an independent valuer. Why is this required when we have paid a daily service charge over the last 10 years? Surely, the installation value has been recouped.

A Is the agreement fair? Get legal advice.

If you've been under a 10 year embedded network contract and still have a buy out liability, we find this unreasonable, as most embedded network assets should be depreciated to zero by then. This situation is, unfortunately, not unique in the sector.

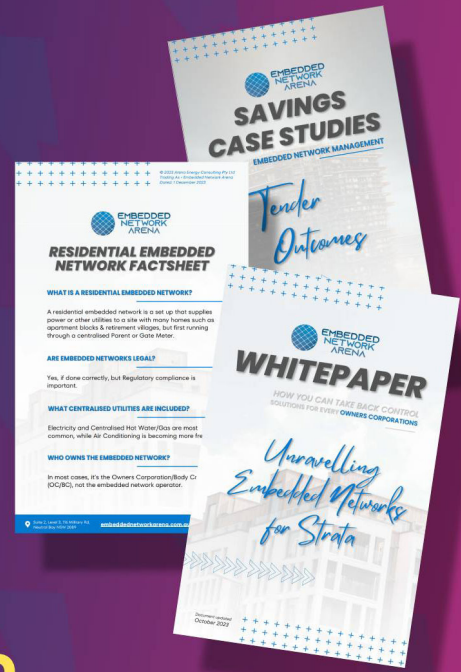
To comment on specifics, we would need to understand the full details of the agreement and terms. If you don't believe your **agreement is fair and reasonable**, seek specialist independent or legal advice.

Joseph Arena | Embedded Network Arena
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Can I remove recyclable containers from the body corporate shared recycling bins?



I collect containers for recycling and donate proceeds to charity. Can I remove recyclable containers from the body corporate shared recycling bins?

I live in a body corporate and have been collecting containers for recycling. I donate the proceeds to the Woody Point Special School P&C to help purchase educational equipment and resources for students with disabilities. Can I remove recyclable containers from the body corporate shared recycling bins, particularly in cases where other residents may not be recycling them.

I don't see why this wouldn't be acceptable, provided you can retrieve the containers safely.

I don't see why this wouldn't be acceptable, provided you can retrieve the containers safely.

Has anyone complained about you doing this? Perhaps some people are concerned you may have an accident or are making a mess. I'm presuming you don't do this.

So your intent is clear, you could send a note to your committee advising them of what you are doing and ask if they have any questions.

On a wider note for anyone interested in having a similar program at their scheme, collection programs like this are a positive way your body corporate can make a difference. A few organisations are running these programs. Our company has worked with **Containers for Change** and we are happy to recommend them.

William Marquand | Tower Body Corporate
willmarquand@towerbodycorporate.com.au

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Professional strata manager is not a term regulated or protected by Government. The only professional strata managers who are endorsed or accredited in any meaningful way are those who have been through the SCAQ accreditation and training.

The SCAQ Difference

The SCAQ pathway for accreditation and ongoing professional development is recognised nationally and internationally. When you choose a professional strata manager you entrust them with your money and compliance with your obligations, it is important to have someone you know can be trusted.

SCAQ members, unlike other strata managers having rigorous external standards put upon them, and they are answerable to best practice standards across industry.

Members of SCAQ are required to:

- Undergoing Mandatory Training and Continuing Professional Development to maintain their membership with SCAQ
- Maintain professional indemnity insurance
- Meet ethical requirements and conform to a code of conduct overseen by a professional standards committee

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The SCAQ accreditation pathway is rigorous and industry leading. It is underpinned by a staged approach to work in the industry, with stages of accreditation taking years to achieve. This supervisory approach helps ensure appropriate mentoring by senior members of industry, as well as bringing participants up to speed on the latest theory and practice in the industry.

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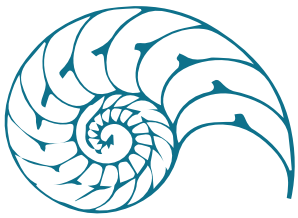
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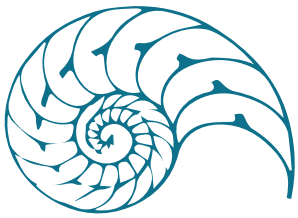
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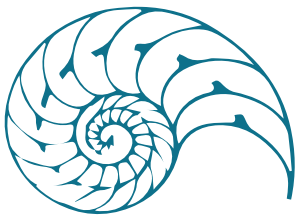
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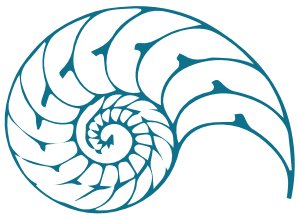
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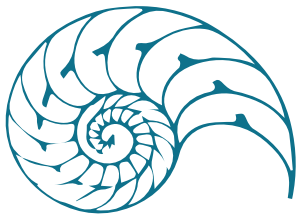
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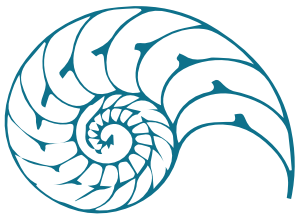
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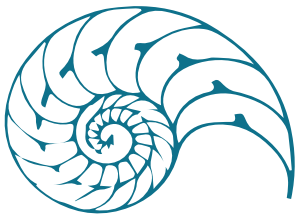
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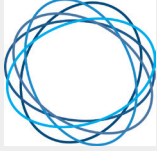
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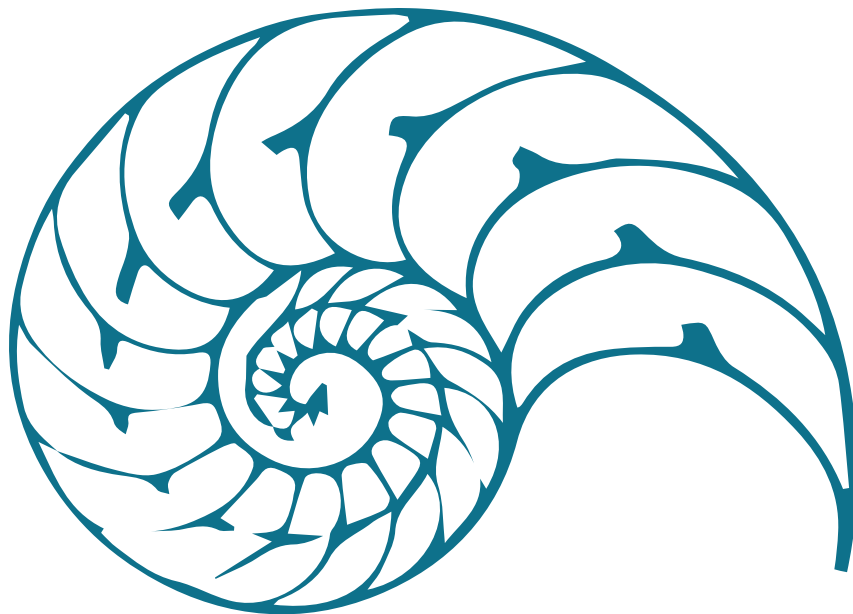
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