



# Example Report

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**Metropolis Reporting Systems**

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# Risk Assessment Report

for

John Smith

of

6/27 Brown Street, Waverton

on

6 June 2018

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Buyers requiring legal advice should speak to their lawyers.

## Questions about this report

Should you have any questions concerning this report, please telephone the inspection manager, Michael Poynder, on 0401 371 077.

# Risk Assessment Report

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# Background

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## Our report

We have been instructed to provide a risk assessment report on the records of the strata scheme for this lot at this address.

Our report includes an assessment of issues of material significance we have identified during our inspection of the records. In determining materiality, we have taken into account those issues which are likely to be of concern generally to the majority of potential buyers. We have not undertaken a risk assessment of other issues relevant to a buyer personally, unless this report identifies such an assessment has been requested.

The executive summary in Section 1 contains our conclusions concerning the information described in Section 2.

Where appropriate, we include in Section 3 relevant articles of interest we have prepared relating to issues/features which arise in this complex which may affect a decision to buy. For instance, where the complex is a factory conversion, we include in Section 3 an article on the issues buyers need to understand when buying into factory converted strata complexes.

This report is prepared and submitted subject to the qualifications in Section 4.

# Report

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## Definitions

'Act' means the *Strata Schemes Management Act 2015*.

'aggregate unit entitlement' of lots the subject of the scheme, means the sum of the unit entitlements of those lots.

'AGM' means annual general meeting.

'building management committee' or 'BMC' (if one exists for the scheme) means the building management committee established under the strata management statement for the scheme.

'Contract for Sale' means, unless otherwise stated, the edition current as at the date of this report of the Law Society of NSW and Real Estate Institute of NSW standard form of contract for the sale of land in NSW.

'council' means the council of the area under the *Local Government Act 1993* in which the scheme is situated.

'ECM' means executive committee meeting.

'initial period' means the period commencing on the day on which the owners corporation is constituted and ending on the day on which there are owners of lots the subject of the scheme (other than the original owner) the sum of whose unit entitlements is at least one-third of the aggregate unit entitlement.

'lot' means the lot or lots, the subject of this report.

'scheme' means the strata scheme, the subject of this report.

'SCM' means strata committee meeting.

'Tribunal' or 'CTTT' or 'NCAT' means the NSW Civil and Administrative Tribunal or where appropriate, any of its predecessors.

## Interpretation

In general terms, although this report may have been prepared for a lawyer or conveyancer, unless otherwise stated, the wording of the report assumes it has been prepared for the buyer alone.

In this report, unless otherwise stated:

- words in the report that appear in the singular, also apply to the plural
- a reference to a gender, applies to all genders
- words referring to a 'person' or 'persons', include references to legal persons, such as a company, unincorporated association, rather than just natural persons
- references to statutes and other laws are taken to refer to amendments of those statutes or laws from time to time
- headings are for ease of reference only and do not affect its interpretation
- where there is an inconsistency between information provided in this report and information in an attachment to the report, the information in the attachment will prevail, unless otherwise stated.

## Changes to terminology effective 30 November 2016

References in this report to '*capital works fund*' or '*capital works fund report*' is the new description used to replace '*sinking fund*'. It came into operation as a result of the introduction of the new Act on 30 November 2016. Another change is the change of name of an '*executive committee*' to now be called a '*strata committee*.'

# Overview

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Our inspection of the records of this strata plan reveals the complex is called 'The Grange'. It consists of 12 lots. The strata plan was registered in 1965. This makes it one of the oldest strata complexes in New South Wales. In part 3 we attach an article prepared by us referring to age related issues buyers should consider.

The percentage of unit entitlements attributed to this lot when compared with all unit entitlements in the complex is 8.33%. This should be kept in mind, particularly in relation to voting rights and should a special levy be struck.

Current quarterly levies for the subject lot are:

Administrative fund : \$359.40

Capital works fund : \$158.60

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## 1. Executive Summary

### 1.1 Report conclusions

Based on the records inspected by us, we make the following conclusions:

#### Major concerns

Subject to there not being any concerns as to:

- breaches of by-laws referred to under 'Concerns' below; or
- installation of a kitchen in the subject lot in accordance with the attached by-law also referred to under 'Concerns' below,

we did not sight any issues of major concern.

We state in part 1.2 below that although the attached capital works fund report indicates a current shortfall in this fund of nearly 50% below recommended levels, it needs to be read in context. Exterior painting works which the report recommends take place in 2020, have recently been completed. The cost amounts to roughly the difference between the current balance in the fund and the recommended balance.

We also state in this part you can expect that works relating to stairwell painting, and roof works will be undertaken shortly. We go on to say that based on the figures in this report, it is likely the fund is at an adequate level to pay for these expenses.

#### Concerns

*Install kitchen in subject lot* – At the AGM in December 2016 approval was given for these works in the attached by-law.

In part 3, we attach an article for you and your conveyancer to consider. The article

provides suggestions on undertaking checks to be satisfied that the works were completed in accordance with the by-law and that the works are currently in good repair and condition.

*Upcoming AGM* - Under 'Other' in part 2.12 below we state that we attach extracts from a notice of the upcoming AGM to be held on 24 June 2018.

Motion 3 includes a proposal to increase the annual administrative fund levy from \$17,250 pa to \$19,000 pa. Applying the percentage unit entitlement applicable to your lot, this would amount to an increase of \$145.10 for the upcoming financial year, or \$36.27 per quarter.

There is no proposal to increase the capital works fund levy.

That does not mean the owners corporation cannot vote to further increase or decrease either of these levies at the AGM. They could also strike special levies, although we did not sight any such proposal in that regard.

Because of this uncertainty, clause 23.17 in the standard form of Contract for Sale, allows buyers who have signed a contract, are out of their cooling off period with levy payments up to date, to be entitled to receive a proxy from the vendor to attend and vote at AGM's in place of the vendor. This clause has been deleted in the Contract for Sale prepared for the vendor of this unit.

You should seek advice your lawyer about attending the meeting. If you decide to attend you will need to seek to reinstate this clause in the contract you sign.

#### **Assessment of financial circumstances**

In part 1.2 we comment that both the administrative fund and the capital works fund appear to be tracking close to budget.

#### **Assessment of capacity to meet future materially significant expenditure**

In part 1.3 we comment that it is likely the owners corporation can afford the expenses identified in this part.

#### **Assessment of risks arising from missing documents.**

In part 1.4 we state we did not sight a building valuation, an annual fire safety statement, a work health and safety report or an asbestos report. We comment on the significance of these documents in this part.

#### **Assessment of issues relating to breaches of by-laws**

In part 1.5 we identify harmony related issues that may be relevant to life in the subject lot.

#### **Building inspection recommended**

In part 1.6, we recommend a building inspection be conducted by a qualified inspector experienced with strata complexes for the reasons explained.

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## 1.2 Assessment of financial circumstances

The records reveal that the administrative fund holds \$5,713.26 and the capital works fund holds \$15,175.33, both as at 31 May 2018.

### *Administrative Fund*

The administrative fund is used to pay for the day to day expenses of the owners corporation. Examples include common area lighting and cleaning costs, gardening costs, insurance premiums and the fees of the strata manager.

The annual insurance premium of \$4,243.39 has just been paid. This is the largest expense in the financial year of the owners corporation. Given this payment has now been made, and given the current balance in the fund, it appears it is tracking close to budget.

### *Capital Works Fund*

The attached capital works fund forecast discloses that as at July 2018 there should be \$31,283 in the capital works fund account. There is in fact currently \$15,175.33 in the account.

A capital works fund report identifies items of programmed repair and maintenance work that must be conducted on buildings at the complex over the coming years. Examples of such work include re-painting interior and exterior surfaces and re-carpeting of common areas.

The report includes a calculation of how much money must be paid progressively into the capital works fund and held each year to enable the owner's corporation to build up a fund to pay for such works as and when they are needed, without the need to strike special levies or take out loans. The attached extracts from the report refer to past and upcoming recommended expenses.

Although the summary appears to indicate a shortfall below recommended levels in this fund, it needs to read in context. Exterior painting works which the report recommends take place in 2020, have recently been completed. The cost amounts to roughly the difference between the current balance in the fund and the recommended balance.

You can expect that works relating to stairwell painting, and roof works which are also identified in the report as upcoming will be undertaken shortly.

Based on the figures in this report, it is likely the fund is at an adequate level to pay for capital works fund related expenses.

---

## 1.3 Assessment of capacity to meet future proposed/possible materially significant expenditure

Consideration needs to be given as to whether there are sufficient funds held by the owners corporation to meet these expenses after capital works fund related expenses are taken into account. If there are insufficient funds, options open to the owner's

corporation include one or a combination of the following:

- Some or all of the items of expense may be deferred or cancelled
- A special levy could be struck, administrative fund and capital works fund levies could be increased, or a loan taken out to pay/help pay for the expenditure
- The annual capital works fund levies could be increased.

Apart from cancellation, if any of these other events occur, the percentage of unit entitlements relating to the subject lot as referred to in part 1.1 above should be considered.

In part 2.12 below we disclose proposed and possible materially significant expenditure sighted over the period of the minutes we inspected as:

***'Paint stairwell*** – At the AGM in September 2017, quotes were sought.

***Fit child window safety locks*** – At the above AGM quotes were sought. We were informed by the strata manager that one lock remains to be installed because the tenant has been away and access has not been possible. The strata manager also informed us that the invoice has not yet been submitted. The quote was \$1,885 plus GST.'

We have stated in part 1.2 above that we consider it likely the owners corporation can afford to meet the cost of painting stairwells based on the estimates provided in the capital works fund report.

We also consider that the owners corporation can afford to pay for the installation of child window safety devices.

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## 1.4 Assessment of risks arising from missing documents

In part 2.9 we state we did not sight the documents listed below. We assess their importance to a buyer as follows:

### Building valuation

Under the Act, valuations are required of buildings in strata complexes every five years to ensure appropriate levels of insurance are maintained. A valuation assesses the replacement value of the complex if it is destroyed and has to be rebuilt.

Because we did not sight such a valuation, we were unable to determine if the building is adequately insured. If it is not, further funds may be needed to be raised from lot owners to rebuild the complex if it is destroyed. If the mortgagee becomes aware of the *'under insurance'*, it may refuse to lend monies to the buyer or treat the issue as a default event under the mortgage.

If it is over insured, the owners corporation is spending money unnecessarily.

### Annual Fire Safety Statement (AFSS)

Councils require an AFSS to be provided where the law requires fire safety measures

to be established and maintained in a particular strata complex.

We did not sight any AFSS, nor did we sight any evidence that an exemption has been given by Council from providing it for the buildings in this complex

Because we did not sight an AFSS, we were unable to determine if the buildings in the complex are fire compliant. If they are not, apart from the obvious safety problems, expensive upgrade orders could be made by Council.

It is not uncommon with older strata complexes such as this complex for an AFSS not to have ever been provided. That is because no statements may have been required under legislation applying at the time the complex was constructed. That does not mean orders cannot be made now to make the complex fire compliant.

*The comments above have been approved by an accredited expert, XYZ Fire Consultants Pty Ltd. If you have any questions, here is a link to their website and contact details of the person who can deal with your query.*

## **Work Health and Safety Report**

Under WH&S legislation, owners of buildings are required to obtain and keep current WH&S reports relating to their buildings. This requirement is particularly designed to protect workers such as cleaners who may be working at the complex. Examples of the type of risks identified in such reports include trip hazards and poorly lit stairs.

WH&S legislation provides for exemptions from the obligation of owners corporations to obtain WH&S reports if they are solely residential. That exemption does not apply if a strata complex is mixed residential/commercial and/or the owners corporation employs workers.

Often this is difficult to determine. A good example is if an owner conducts a business by renting their apartment through Airbnb.

We were unable to determine if the exemption applies to this complex.

Because of the undesirability of a complex being unsafe, and because of the difficulty owners corporations have in making a correct determination of whether the exemption applies, most owners corporations take a conservative view and assume that WH&S reports must be obtained.

Because we did not sight a current WH&S report, we were unable to determine if the buildings are compliant from a work health and safety perspective.

If an injury results to an employee because of a problem that could be identified in such a report, legal proceedings could be taken against the owners corporation. In addition, an insurer could reject liability if the risk was not disclosed to the employee or remedied by the owners corporation because a WH&S report had not been obtained.

You should discuss these issues with your conveyancer. If you become an owner, we recommend you or your lawyer/conveyancer write to the strata manager asking for this report to be obtained for the reasons described.

*The comments above have been approved by an accredited expert, XYZ WH@S Consultants Pty Ltd. If you have any questions, here is a link to their website and contact details of the person who can deal with your query.*

## Asbestos Report

Under WH&S legislation, where buildings in a complex were constructed prior to 31 December 2003, an asbestos inspection must be conducted to identify and place on an asbestos register all asbestos in buildings in the complex. This requirement is particularly designed to protect workers such as electricians who may be conducting work at the complex and are unaware of the presence of asbestos.

Under the legislation, strata complexes which are entirely residential are exempt from these requirements concerning asbestos. That exemption does not apply if a strata complex is mixed residential/commercial and/or the owners corporation employs workers.

Often this is difficult to determine. A good example is if an owner conducts a business by renting their apartment through Airbnb.

We were unable to determine if the exemption applies to this complex.

Because of the dangers inherent with exposure to asbestos, and because of the difficulty owners corporations have in making a correct determination of whether the exemption applies, most owners corporations take a conservative view and assume that an asbestos report must be obtained.

Under the legislation, if asbestos is identified;

- an asbestos management plan must be prepared, and
- if immediate removal is not recommended, a reinspection should be undertaken every 5 years to assess the state of the asbestos.

Because we did not sight this report, we were unable to determine if asbestos is present. This may have safety and operational consequences for residents, visitors and persons conducting repair and maintenance work at the complex. One of the consequences is that an insurer could reject liability if a claim is made relating to an asbestos problem that was not disclosed to an employee.

You should discuss these issues with your conveyancer. If you become an owner, we recommend you or your conveyancer write to the strata manager asking for this report to be obtained for the reasons described.

*The comments above have been approved by an accredited expert, XYZ Asbestos Consultants Pty Ltd. If you have any questions, here is a link to their website and contact details of the person who can deal with your query.*

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## 1.5 Assessment of issues relating to breaches of by-laws

In part 2.16 we refer to the following harmony related issues:

*'Parking on common property grass, residents dumping unwanted items at front of building, residents disposing of cigarette butts at the front of property, party noise from Unit 2 on 3 occasions over the last 12 months, residents storing items on balconies and installing curtains of a different colour to those in other units.'*

We recommend you identify the location of Unit 2 where noise problems have been

identified to determine if there is likely to be any material impact on life in your unit if problems continue.

We also recommend you check whether any problem relating to storage of items on balconies, and the colour of curtains exist in the unit you are buying.

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## 1.6 Building inspection recommended

Because of the works by-law related issues referred to in part 1.1, the repair and maintenance considerations with older strata complexes mentioned in part 3, and our comment below, we recommend a building inspection be conducted.

The inspector should be licensed and have experience with strata complexes. A copy of this report and the attachments should be provided to the inspector as a guide.

### Comment

Sometimes owners corporations do not disclose in the records made available for our inspection information of concern to buyers. They do this to prevent buyers from finding out issues that may mean they decide not to proceed with a purchase.

Although this practice is likely to be considered illegal and may leave owners corporations and their management open to proceedings for (amongst other matters), misleading and deceptive conduct, the practice persists. This is particularly so with poorly advised owners corporations, including those which are self-managed.

A building inspection by a qualified inspector familiar with strata complexes may reveal hidden issues, particularly those relating to structural problems.

## 2. Particulars of the Strata Scheme

### 2.1 Address of the subject lot(s)

6/27 Brown Street, Waverton

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### 2.2 Lot number(s) and strata plan number

Lot 6 in strata plan 1319

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### 2.3 Date of inspection

6 June 2018

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### 2.4 Date range of minutes inspected

28 March 2018 (Annual General Meeting) to 28 August 2013 (Annual General Meeting)

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### 2.5 Management

#### Managing agent

*Name:* ABC Strata Management  
*Address:* 31/636 Pacific Highway, Crows Nest  
*Phone number:* 9957 1034  
*Date of appointment:* 13 October 2016  
*Appointed by Tribunal:* No  
*Assigned manager:* Andrew Roberts

**Caretaker/building manager:** None sighted

**Executive committee:** See motion 4 in attached minutes of September 2017 AGM

**Auditor:** None appointed

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## 2.6 Strata roll

*Lot owner:* Cameron Holmes  
*Address:* 6/27 Brown Street, Waverton NSW

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## 2.7 Levies

(a) *Scheme*

Annual administrative fund levy	\$	17,250
Annual capital works fund levy	\$	7,612
Payable quarterly from		1 October 2017
Total current levy arrears	\$	706.86

(b) *Lot 6*

Administrative fund levy	\$	359.40	per quarter
Capital works fund levy	\$	158.60	per quarter
Special levy	\$	NA	
Other	\$	NA	
Paid to		30 June 2018	
Arrears	\$	Nil	

(c) *Details of special levies struck during the period we inspected records*

At the AGM in August 2015 a special levy of \$4,975 was struck to rectify the deficit in the administrative fund. It was due by 1 February 2016.

(d) *Proposals for future special levies*

None sighted

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## 2.8 Bank Accounts as at 31 May 2018 (brackets indicate deficit)

Administrative fund	\$	5,713.26
Capital works fund	\$	15,175.33

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## 2.9 Important documents

Unless otherwise stated, only current documents will be regarded as sighted.

(a) *Insurance*

*Certificate of currency of insurance*

A certificate of currency of insurance was not sighted. Headline insurance details are referred to in Part 2.18 below.

*Building valuation not more than five years old*

Not sighted

(b) *Capital Works Fund Report*

Sighted, extracts attached

(c) *Annual Fire Safety Statement*

Not sighted

(d) *Work Health and Safety Report/Asbestos related documents*

Not sighted

(e) *Lift Registration Certificate*

Not sighted

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## 2.10 Materially significant\*<sup>1</sup> notices, orders or proceedings

(a) *In the Tribunal*

None sighted

(b) *In courts*

None sighted

(c) *Local council*

None sighted

(d) *Building defect claim*

None sighted

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<sup>1</sup> For the meaning of 'materially significant', see part 4.5

## 2.11 Materially significant\*<sup>2</sup> expenditure

Repairs (scheme property)		
Year	Work	Cost
2018	Exterior painting	\$17,500
2015	Rectify burst pipe in Unit 11 and water damage to Unit 5 from leaking tap	Circa \$2,500
2014	Install new hot water service	\$2,414
2014	Rectify storm damage (insurance payment)	Circa \$10,000
2013	Install new foyer doors	Circa \$8,500
2013	Install new hot water service	\$2,200
2011	Retile foyer	\$2,315

Repairs (subject lot)		
Year	Work	Cost
	None sighted	

Recurring Repairs (scheme property)		
Year	Work	Cost
	None sighted	

## 2.12 Materially significant\*<sup>3</sup> information

### *Proposed/possible major expenditure*

**Paint stairwell** – At the AGM in September 2017, quotes were sought.

**Fit child window safety locks** – At the above AGM quotes were sought. We were informed by the strata manager that one lock remains to be installed because the tenant has been away. The strata manager also said that the invoice has not yet been submitted. The quote was \$1,885 plus GST.

### *Other*

**Install kitchen in subject lot** – At the AGM in December 2016 the attached by-law was passed giving approval for these works. We refer to our comments in part 1.1 above and part 3 below as to checks you should undertake arising from

<sup>2</sup> See part 4.5

<sup>3</sup> For the meaning of 'materially significant', see part 4.5

these works.

**Upcoming AGM is to be held on 24 June 2018** - Attached are extracts from a notice of the upcoming AGM to be held on 24 June 2018.

Motion 3 includes a proposal to increase the annual administrative fund levy from \$17,250 pa to \$19,000 pa. Applying the percentage unit entitlement applicable to your lot, this would amount to an increase of \$145.10 for the upcoming financial year, or \$36.27 per quarter.

There is no proposal to increase the capital works fund levy.

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## 2.13 Strata plan

(a) *Date of registration*

21 May 1965

(b) *Original owner*

Unable to determine

(c) *Is the scheme in the initial period?*

No

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## 2.14 Certificate of title

(a) *Sighted?*

Yes, search copy dated 26 April 2018 of edition 1 issued 25 September 1998.

(b) *Number of lots*

12

(c) *Aggregate unit entitlement*

504

(d) *Unit entitlement of subject lot*

42

(e) *Percentage of unit entitlements relative to the aggregate unit entitlement*

8.33%

(f) *Subdivisions of the scheme or lots*

None sighted

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## 2.15 By-laws passed since the scheme was registered

(a) *Subject matter*

5291863 – Allocation of car spaces, AE102876 – Approval of works in subject lot (attached).

(b) *Registration numbers of by-laws*

As above

(c) *Unregistered by-laws*

None sighted

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## 2.16 Materially significant<sup>\*4</sup> breaches of by-laws

We sighted breaches of by-laws and complaints as follows:

Parking on common property grass, residents dumping unwanted items at front of building, residents disposing of cigarette butts at the front of property, party noise from Unit 2 on 3 occasions over the last 12 months, residents storing items on balconies and installing curtains of a different colour to those in other units.

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## 2.17 Keeping of animals

See by-law 16 with the by-laws in the Contract for Sale.

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## 2.18 Insurance

Attached is a copy of a tax invoice containing details of the insurance policy held by the owner's corporation relating to building and general insurance.

Headline information

Insurer:	QBE Insurance (Australia) Ltd
Broker and their contact details:	CHU Underwriting Agencies Pty Ltd phone 1300 361 263
The policy expires on:	30 May 2019
The current premium for the policy is:	\$4,243.39
Excess on building related claims is:	\$1,000

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<sup>4</sup> For the meaning of 'materially significant', see part 4.5

## Comment

Your lender will require a copy of a certificate of currency of insurance before making funds available to you to settle. Strata managers are not required under their management agreements or by law to obtain a copy of the certificate of currency. Sometimes, as a courtesy they obtain these certificates, and we then make them available to our clients.

If the certificate is not attached to this report, or if the current policy expires before settlement, an updated certificate of currency can be obtained by contacting the broker through the contact details identified above. Most brokers will refer buyers to their website where the certificate can be downloaded for a fee.

If the insurer and/or broker have changed, contact details for the broker can be obtained by contacting the strata manager whose details are provided in part 2.5 of this report.

### 3. Relevant articles

#### Approval has been given for works in the subject lot

##### Background

If this article has been included in your report it means a document has been sighted giving approval for works in the subject lot. That document should be attached to the report or the Contract for Sale.

This is an important issue for buyers because the terms of that approval will usually bind you if you become the owner, particularly where a by-law has been passed.

In relation to the works themselves, if there are issues of concern as identified below, it may mean you have no practical recourse against the vendor, including if the terms of approval have not been followed when the works were undertaken.

That means issues of this kind need to be identified and if present, resolved with the vendor prior to the time you enter into the contract or it becomes binding.

This article has been prepared to provide you with information that will help you identify and understand any issues of concern relating to this matter.

Because those issues are often complex, we recommend you seek advice from your conveyancer about any issues that may apply to your lot.

#### 1. Approval related issues

There are usually 3 different factual situations:

##### 1.1 Approval for works undertaken

In this instance, works have been approved by the owners corporation and already undertaken by the vendor.

In many instances, the owners corporation will not have inspected the works after they have been undertaken. That means there has been no 'sign off' that the works have been conducted in accordance with the terms of their approval. That does not mean that the owners corporation cannot require rectification works to be undertaken if at a later stage, the owners corporation becomes aware that the original works were not conducted in accordance with the approvals.

Where that occurs, in most cases the cost of the rectification works will be charged to you as the owner.

That means you should get an appropriately qualified tradesperson to check the works with the approvals given to ensure they comply. In some instances, it may mean checking whether appropriate council approvals have been obtained.

In other circumstances, it may mean employing a specialist tradesperson. For instance, if the works related to installation of an air conditioning unit/system, an expert in that area preferably in relation to the brand installed should provide a report.

It is important your advisors also check whether any warranties still apply to the works undertaken. If they do, your lawyer/conveyance should ensure those warranties are assigned to you at settlement of your purchase.

Your lawyer/conveyancer could also consider including a clause in the Contract for Sale. The provision would include a warranty from the vendor that all works were conducted in accordance with all necessary approvals.

## **1.2 Works are still to be undertaken**

In this instance where approvals have been given and works have not yet commenced, you should retain an appropriately qualified expert to advise you on whether the terms of the approval go far enough.

For instance, the approval may prohibit major renovation works. The expert you retain may take the view that the works can only be conducted if major renovation works are undertaken. That means amended approvals will need to be sought from the owners corporation.

In other cases, your expert may be of the view that council approvals may be required for the works. Owners corporations and individual owners can become concerned if councils become involved in approval processes. This is particularly because council involvement can often trigger unrelated orders relating to such matters as fire safety.

Of course, you should also cost the works to ensure they are within your budget.

## **1.3 Works are underway but not yet completed**

The issues referred to in parts 1.1 and 1.2 above apply in this instance, both to the works already undertaken, and to the works still to be undertaken.

In addition, it is likely you will be asked to take an assignment of any building contract. Your lawyer/conveyancer will be able to advise you on issues arising from such an assignment.

## **2. Repair/maintenance and replacement issues**

The terms of the approval will also require you to keep the approved works in good repair, nearly always at your cost.

They may also require you to replace items if they have worn out. For instance, if an air conditioning unit cannot be repaired, you may be required to replace it at your cost. This could be expensive.

Your lawyer/conveyancer will be able to interpret the terms of the approval to let you know the extent of your ongoing obligations. Once you are aware of these details you should arrange for appropriate experts to inspect the works to let you know:

- their current state of repair;
- where appropriate, the likely cost of bringing them into a state of repair and maintaining them at that required level; and
- if they need replacement, the cost of that replacement.

### 3. Insurance related issues

In some instances, the terms of the approval by the owners corporation will require you to keep the works undertaken/item installed insured. Even if the terms do not require insurance, you should keep in mind that these works are your works whilst you are the owner of the lot and may not be covered by existing insurance policies.

That means if they are damaged or destroyed, you may not be able to rely on your own insurance policy or any insurance policy held by the owners corporation to compensate you for their loss/cost to rebuild/replace.

Enquiries should be made of the vendor as to the insurance position. You should also speak to your lawyer/conveyancer and insurance broker to discuss the matter. In most cases the answer concerning questions on insurance of this type, will depend on the nature of the particular works/item installed.

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## Buying into an older strata complex

### Background

Strata legislation was first introduced to New South Wales, and indeed the world, in 1961. Prior to that date, apartment living in New South Wales generally consisted of company title complexes, where owners bought shares in a company which owned the entire complex. The shares gave them an exclusive right to occupy a specific apartment in the complex.

Many company title complexes have been converted to strata title, and still survive to this day.

For modern day buyers it means that they have opportunities to buy into apartments which may be over 100 years old. Even those complexes built after strata legislation was first introduced in 1961, are now anything up to nearly 60 years old.

For buyers contemplating purchasing a lot in an older complex it is important to take into account that generally the ongoing repair, maintenance and upgrade expenses are higher than in newly constructed complexes. That is because there are at least two further layers of expense. Newly constructed strata complexes generally only have one layer.

#### 1. Keeping the original structure in repair can be expensive

The first layer of expense relates to the fact that the complex could be up to or even over 100 years old. Because of its age, it is often more expensive to conduct repair and maintenance works.

Sometimes it is difficult to obtain materials to repair these structures which means they have to be created by hand (for example, doors and windows). In some much older structures, skills used in constructing the original building have sometimes been lost and new techniques need to be developed to complete repair and maintenance work.

In many cases, older complexes are of historical significance. That means there may be statutory and planning requirements preventing changes to be made when upgrade works are required, particularly to facades.

For example, in modern strata complexes, when exterior windows require replacing, the more modern and less expensive aluminium window surrounds can be used. In older complexes, with lap and sash wooden windows, authorities generally require replacement windows to be of the same type. In that event, the construction and installation processes can be expensive.

For buyers, it is generally impossible to arrange for thorough inspections of all of an original structure to be undertaken. This is because of access restrictions to the whole site, and because invasive inspections involving techniques such as drilling will not be permitted.

It is also important to keep in mind that the developer who converted the complex to strata title will not have renewed/upgraded all of the original structure. Council may have only required fire safety and WH&S upgrades to have been made, and then only to the standard applying at that time.

That means buyers are often taking a chance of incurring expensive age related repair and maintenance issues when they buy into an older complex. Common issues of concern with older strata complexes include:

- Electrical services. Often switchboards need upgrading not only to deal with age related issues, but also to cater for the heavy loads modern appliances such as air conditioners apply;
- Window, roof and guttering/downpipe repair/replacement
- Driveway repair/replacement
- Building foundation works including issues of rising damp
- Fire safety and WH&S/asbestos related expense

Any of these works can be expensive.

### **Ways for a buyer to identify age related repair and maintenance issues**

#### *Strata records inspection*

In the same way that a buyer of an older motor vehicle will want to investigate its repair and maintenance history to make sure that it has been well maintained, so buyers in older strata complexes can establish through an inspection of the records of a strata complex, the repair and maintenance history of the complex.

We can look for evidence of expenditure on items such as the ones referred to above.

That means when undertaking inspections of the records of an older complex, Metropolis accredited inspectors will report on the repair and maintenance history for the last 7 years.

Of course, they can only do that to the extent that records are made available to them. It is relevant that strata managers are not required to keep strata records for more than 7 years.

#### *Building inspections*

With older strata complexes we always recommend a building inspection be undertaken to identify age related concerns. You should check that your inspector is familiar with strata complexes. The repair and maintenance issues are very different to free standing homes.

## 2. Service upgrade related expenses

Older strata complexes have a second layer of expense. They relate to installing 20<sup>th</sup> and 21<sup>st</sup> century service related additions to an older complex which was never designed for such additions. This could include fire safety devices, modern plumbing, electrical upgrades (for example to ensure there is enough capacity to run air conditioners), intercoms and the internet. These additions often can become the subject of extra expense because of their non-standard nature in the context of the original development.

It is particularly common for upgrades relating to installing modern equipment/facilities to be more expensive.

Installers will often charge more to upgrade facilities such as intercoms, Foxtel, and internet broadband because of age/conversion related issues in older strata complexes.

Buyers can ask their building inspectors to specifically comment on whether it is apparent that service related upgrades have been undertaken. Metropolis strata inspectors can often also provide such information from their inspection of the records as mentioned above.

## Conclusion

Some of the most desirable and iconic accommodation in New South Wales is to be found in older strata complexes. The comments above are not meant to deter buyers from purchasing lots in this type of accommodation. Rather, they are meant to inform buyers that they should be aware when buying into an older complex that ongoing repair, maintenance and upgrade costs are often more expensive than those in a newly constructed complex.

## 4. Qualifications

### 4.1 Records inspected

The information provided in this report and the conclusions reached, are based on the records made available to us by the strata management business at the time of our inspection.

Other than in obvious cases, we have no means of independently verifying that all records have been made available to us.

If relevant records have not been made available, the information in this report may be misleading or incorrect.

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### 4.2 Copies

For the purposes of this report, we have assumed that copies of documents we have sighted, whether hard copies or electronic, are true copies of the original documents.

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### 4.3 No warranty

This report is a record of relevant information in documents provided to us by the strata manager during our inspection. It does not amount to a warranty that any of those documents are valid, enforceable or correct.

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### 4.4 Time constraints

Strata managers generally limit our inspection times to between 60 and 90 minutes. Apart from time of day considerations, this is because of a variety of reasons including:

- there are a large number of strata inspectors wishing to inspect records and often the offices of the strata manager can only accommodate one or two inspectors at a time;
- most strata managers have their records stored on computer and there are often insufficient terminals for a number of strata inspections to be conducted at one time; and
- with popular properties, there may be other inspectors lined up wanting to inspect the same records.

The problem is compounded because we as inspectors rarely know the volume of records we will be required to inspect until we actually arrive for the inspection. That often means we will be unable to conduct lengthy searches even if we are permitted to do so by the strata manager, because we have other search appointments on that day we must keep.

Where we state in our report that we were unable to inspect certain records because of time constraints, we are able to make another appointment with the strata manager to inspect the balance of the records. In that event, further fees and charges will usually apply.

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#### **4.5 Materiality**

The terms 'material' and 'materially significant' mean:

- we have taken into account those issues which are likely to be of concern generally to the majority of potential buyers. We have not undertaken a risk assessment of other issues relevant to a buyer personally, unless this report identifies such an assessment has been requested; and
  - thresholds/levels of importance have been applied in selecting the information disclosed. They are based on the financial capacity and size of the scheme, and the significance of the information to a buyer of a lot in the scheme. That means if information does not reach the level of importance we apply based on these factors, it will not be included in the report.
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#### **4.6 Compliance**

Except to the extent materially relevant to a purchaser of a lot in this scheme, this report does not include any comment on whether the strata manager, the owners corporation or any other organisation, committee or individual involved with the scheme is complying with practice or accounting obligations imposed on them by law.

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#### **4.7 Benefit of this report**

This report has been prepared for the benefit of the client and that person's advisors. The report may not be relied on, used or reproduced by any other person without the written permission of Metropolis Reporting Systems.

Metropolis Reporting Systems reserves the right to on sell this report and attachments to other persons including prospective buyers of this unit or other units in the complex.

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#### **4.8 Communication with strata managers**

On most occasions, no contact is made by us with strata managers to discuss matters relevant to our report. This is because:

- generally, strata managers will not talk with us because they say:
  - their professional indemnity insurance does not cover any information they disclose to us; and

- their clients are the lot owners making up the owners corporation, and there is a conflict of interest in providing information to us as a third party that may materially impact on a sale; and
- if the strata manager at a later stage denies or disputes what was said in a conversation with us, it is often difficult to prove what was said.

This means, it is preferable that if questions need to be asked of the strata manager, they be asked by the client or their representative, in writing through the vendor or the vendor's representative such as the agent having the conduct of the sale. If we disclose the contents of a conversation we have had with a strata manager in this report, this should be kept in mind.

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#### **4.9 Status of relevant articles in part 3**

Where relevant articles prepared by us have been included in part 3, they are included to provide general information only. It is possible that none of the issues/features referred to in the article as being of concern or interest to a buyer may be present in the complex, the subject of this report.