



Risk Assessment Report

for

[name withheld]

of

[address withheld]

on

16 June 2020

Pink Inspection Services

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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

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.

Definitions and interpretation

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.

'*Part*' or '*part*' as the case may be, means a part of this report bearing the number following the word.

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

'*scheme*' means the strata plan, 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*.'

Report

Our inspection of the records of this strata plan reveals the complex consists of 12 lots. The strata plan was registered in 1980.

The percentage of unit entitlements attributed to this lot when compared with all unit entitlements in the complex is 7.2 %. This should be kept in mind, particularly in relation to voting rights and should a special levy be struck.

Current quarterly levies to 30 September 2020 for the subject lot are:

- (a) Administrative fund: \$360
- (b) Capital works fund: \$540

1. Executive summary

1.1 Report conclusions

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

Major concerns *

Age-related expenses are likely to be noticeably higher in this complex because of its age – This complex is around 40 years old. That means levies will be higher to meet recurring age-related expenses such as plumbing and drainage which more modern strata complexes will not have.

That is of importance to you because we understand that you are a first home buyer and you do not have a financial reserve to meet significant costs of unexpected expenses. Over the past 3 years this complex has already had one instance of unexpected expenses when a special levy of \$200,000 was struck to pay for balcony repairs. If you had been an owner at the time, your share, based on your percentage of unit entitlements would have been nearly \$15,000.

We are concerned there may be other issues such as window replacement that may be upcoming. Attached in Part 3 is an article we have prepared on the problem. We understand you are arranging for a building inspection to be undertaken. You should ask your inspector to identify similar issues to the balcony problems.

The problem that your building inspector will have is that they will only get access to your unit and not the other units in the complex. That means they could miss any such problems, particularly if they do not currently exist in your unit.

It should be kept in mind that exterior painting works are due next year. In Part 1.3 we state:

'Upcoming exterior painting works – The attached capital works fund plan programs these works for next year at an anticipated cost of around \$60,000. You should keep in mind that this cost is an estimate only. The final cost may be higher or lower when a range of quotations is obtained by the strata manager.'

The current balance in the capital works fund account indicates that the owners corporation is likely to be able to afford this expense from this account without the need for special levies.

Concerns*

Our concern which we identify in this report is as follows:

By-laws AE933573, AF757775, AG90570 and AH222832, impose installation, repair, maintenance and replacement obligations in relation to roof insulation, skylights, air conditioning units installed prior to the by-law being passed and air conditioning units after the by-law was passed – In relation to roof insulation and skylights, we were unable to determine whether your unit has these items.

In relation to air conditioning units, we attach the minutes of a strata committee meeting on 20 September 2018 which approves the installation of such a unit in your unit.

We recommend you arrange for your building inspector to check if it appears the unit was installed in accordance with the terms of the by-law and its state of repair.

If there is roof insulation and skylights in your unit, similar checks should also be made by your building inspector.

Assessment of financial circumstances

In Part 1.2 we comment that the administrative fund appears to be tracking above budget. We also comment that the capital works fund is tracking well above recommended levels.

Assessment of capacity to meet future materially significant* expenditure

In Part 1.3 we comment that it appears likely that the owners corporation can afford known materially significant expenditure.

* For important comments on these terms see Part 4.5. [\[Materiality\]](#)

Assessment of risks arising from missing documents.

In Part 1.4 we state we did not sight a work health and safety report or an asbestos report. We comment on the significance of this 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.

1.2 Assessment of financial circumstances

The records reveal that the administrative fund holds \$28,065.80 and the capital works fund holds \$51,070.43, both as of 30 June 2020.

Administrative Fund

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

The records disclose that the annual insurance premium does not fall due again until October 2020. The premium is one of the major expenses in the financial year of the owners corporation and for the current financial year exceeded \$9,500. Given the current balance in this fund and the fact that further levy payments will be made before the premium falls due again, it is likely this fund is currently tracking above budget.

Capital Works Fund

The attached capital works fund forecast recommends that as at 30 June 2002 there should be \$20,134.34 in the capital works fund account. There is in fact currently \$51,070.43 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 also 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.

The attached summary indicates that this fund is tracking above recommended levels and that there are sufficient funds to meet expenses of this kind including the proposed exterior repainting works.

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:

'Upcoming exterior painting works – The attached capital works und plan programs these works for next year at an anticipated cost of around \$60,000. You should keep in mind that this cost is an estimate only. The final cost may be higher or lower when a range of quotations is obtained by the strata manager.'

Given the balance in the capital works fund, it is likely the owners corporation will be able to afford these expenses when they fall due next year.

1.4 Assessment of risks arising from missing documents

In Part 2.9 we state we did not sight the document(s) listed below. We assess the importance of this to a buyer as follows:

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

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

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.

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 lawyer. If you become an owner, we recommend you or your lawyer write to the strata manager asking for this report to be obtained for the reasons described.

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 lawyer. If you become an owner, we recommend you or your lawyer write to the strata manager asking for this report to be obtained for the reasons described.

1.5 Assessment of issues relating to breaches of by-laws

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

'Public using visitor parking (particularly from nearby gym).'

The owners corporation should be able to deal with this issue by taking proceedings against trespassers.

1.6 Building inspection recommended

Because of the age of the complex 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 including for 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 scheme

2.1 Address of the subject lot(s)

[address withheld]

2.2 Lot number(s) and strata plan number

[details withheld]

2.3 Date of inspection

16 June 2020

2.4 Date range of minutes inspected

28 August 2019 (Strata Committee Meeting) to 15 December 2016 (Strata Committee Meeting)

2.5 Management

Managing agent: [details withheld]

Address: [details withheld]

Phone number: [details withheld]

Date of appointment: Unable to determine

Appointed by Tribunal: No

Assigned manager: [name withheld]

Caretaker/building manager: None sighted

Strata committee: See motion 16 in attached minutes of August 2019 AGM

Auditor: Appointed

2.6 Strata roll

Owner [withheld]

Address [withheld]

2.7 Levies

(a) *Scheme*

Annual administrative fund levy	\$ 20,000
Annual capital works fund levy	\$ 30,000
Payable quarterly from	1 January 2020
Total current levy arrears	\$ 4,253.04

(b) *Lot 5*

Administrative fund levy	\$ 360 per quarter
Capital works fund levy	\$ 540 per quarter
Special levy	\$ NA
Other	\$ NA
Paid to	Unable to determine
Arrears	\$ 990

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

At an extraordinary general meeting in December 2017 a special levy of \$200,000 was struck for balcony remedial repairs. It was due by 26 February 2020.

(d) *Proposals for future special levels*

None sighted

2.8 Bank account balances as of 30 June 2020 (brackets indicate deficit)

Administrative fund	\$ 28,065.80
Capital works fund	\$ 51,070.43

2.9 Important documents

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

(a) *Insurance*

- (i) 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.

- (ii) Building valuation not more than five years old.

Sighted, dated 8 July 2019 recommending a replacement value of \$7,890,000.

- (b) *Capital works fund report*

Sighted, extracts attached

- (c) *Annual fire safety statement*

Not sighted

- (d) *Work health and safety report/asbestos report*

Neither sighted

- (e) *Lift registration certificate*

NA

2.10 Materially significant* 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

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

2.11 Materially significant* expenditure

Repairs (building complex)

Year	Work	Cost
2019/20	Garage door expense	\$26,246
2018/19	Garage door expense	\$14,327
2018/19	Roofing and guttering	\$2,010
2017/19	Balcony remedial repairs	\$326,088
2017/18	Consultants	\$6,250
2017/18	Install child window safety devices	\$5,365
2017/18	Major plumbing works	\$8,874
2017	Urgent remedial works to Unit 8	\$40,505
2016/17	Consultant's fees	\$5,467
2016/17	Major plumbing works	\$2,109

Repairs (subject lot)

Year	Work	Cost
2017/19	Remedial works to balconies	Unable to determine

Recurring Repairs (building complex)

Year	Work	Cost
2016/20	Plumbing and drainage/remedial works	Varies/see above

2.12 Materially significant* information

(a) *Proposed/possible materially significant* expenditure*

Upcoming exterior painting works – The attached capital works und plan programs these works for next year at an anticipated cost of around \$60,000.

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

You should keep in mind that this cost is an estimate only. The final cost may be higher or lower when a range of quotations is obtained by the strata manager.

(b) *Other*

None sighted

2.13 Strata plan

(a) *Date of registration*

15 November 1980

(b) *Original owner*

Unable to determine

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

No

2.14 Certificate of title

(a) *Sighted*

Yes, search copy dated 24 April 2020 of edition 6 dated 14 October 2013.

(b) *Number of lots*

12

(c) *Aggregate unit entitlement*

1,000

(d) *Unit entitlement of subject lot*

72

(e) *Percentage of unit entitlements compared to aggregate unit entitlement*

7.2%

(f) *Subdivision of scheme or lots*

None sighted.

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

(a) *Subject matter*

AE933573 Roof Insulation, AF757775 Skylights, AG90570 Previously Installed Air Conditioning Units, AH 222832 Installation of Air Conditioning Units and AI84685 Electronic Delivery of Notices.

(b) *Registration numbers of by-laws*

As above

(c) *Unregistered by-laws*

None sighted

2.16 Materially significant* breaches of by-laws

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

Public using visitor parking (particularly from nearby gym).

2.17 Keeping of animals

See by-law 16 in the Contract for Sale.

2.18 Insurances

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 contact details:	CHU Underwriting Agencies Pty Ltd phone 1300 361 263
Policy expiry date:	1 October 2020
Policy current premium:	\$ 9,535.10
Excess on building related claims:	\$ 1,500 on all burst pipe/water damage claims and \$500 on all other building related claims

* For important comment on the meaning of 'materially significant' see Part 4.5. [\[Materiality\]](#)

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 certificate of currency. Sometimes, as a courtesy they often obtain these certificates, and we then make a copy available to buyers.

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

Buying into an older strata complex

1. Introduction

This article has been included in our report because your unit is in an older strata complex.

That means you need to take into account age-related issues which may be present in either or both of your unit and the complex itself. This article describes in general terms some of those issues which may be present.

Their presence could mean added expense and inconvenience for you as described in the article.

You should discuss the contents of this article with your lawyer or conveyancer.

2. 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.

3. Layers of expense

Overview

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.

3.1 First layer of expense – the original structure

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. Reasons include:

- 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 being 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 works can be expensive.

For buyers, it is generally impossible to arrange for thorough inspections of all 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 where a developer converts an older complex to strata title, in most cases the developer 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 that has been converted to strata.

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; and
- Fire safety and WH&S/asbestos related expense

Any of these works can be expensive.

3.2 Second layer of expense - Service upgrade related expenses

Older strata complexes have a second layer of expense. They relate to installing 20th and 21st 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 such upgrades 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. We can often also provide such information from our inspection of the records as mentioned below.

3.3 Third layer of expense – modern improvements to the original structure

It is likely that older strata complexes will have had ongoing repair and maintenance works. Works such as roof replacements, balcony, façade and window upgrades, driveway replacements to name a few, may well have been undertaken.

All of these upgrades will age and require repairs and replacement as years go by.

It is a general rule of thumb that levies in older strata complexes will be higher than levies in more modern complexes because of age-related repairs and maintenance. The degree will vary from complex to complex depending on the quality of the original construction, the location of the complex (wind and weather factors apply), and the commitment of the owners corporation to attend to repair and maintenance requirements as and when they fall due.

This is the main layer of expense in most strata complexes. As mentioned, older strata complexes have another 2 as mentioned above.

4. Ways for buyers 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 as experienced strata inspectors 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, we will report on the repair and maintenance history for the last 7 years, to the extent that time constraints imposed on us allow us to do that..

Of course, we can only do that to the extent that records are made available to us. 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.

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.

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.

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.

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.

4.5 Materiality

- (a) In determining whether an issue is of 'major concern' or of 'concern', we have applied objective considerations. That means:
- in the case of an issue of major concern, we have taken the view that most potential buyers would regard the issue as of such significance that it could determine whether they would proceed with a purchase of the subject lot; and
 - in the case of an issue of concern, we have taken the view that most potential buyers would regard the issue simply as of concern, and as something they should take into account or seek further information about when considering whether to proceed with a purchase of the subject lot.

Buyers who are reading this report should keep in mind issues of personal importance to them. That may mean an issue expressed in this report as simply of concern may be of major concern to them.

For example, a possible expense of \$1,000 which may be imposed on them as buyers, is not in our view an issue of major concern to most buyers and will not be disclosed as such in our report. However, for a first home buyer with limited savings, it could be of major concern to them.

Buyers should also keep in mind that an issue described as being of concern may become of major concern when all information about the issue is known. For example, a by-law which requires the owner of the subject lot to install and maintain an air conditioning unit in a particular way may become a major concern if investigations disclose the air conditioner was not installed or maintained in accordance with the by-law.

- (b) The terms 'material' and 'materially significant' mean:
- we have taken into account those issues which are likely to be of concern to most potential buyers of this lot in the complex. 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 most potential buyers of this lot in the complex. 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.

In ordering this report, buyers have been invited to specify issues of personal significance to them. For example, if a buyer is a smoker, a by-law banning smoking in the complex may be of material significance and should be disclosed to us when ordering the report. We take the view that such a by-law would not be of concern to most buyers and therefore would not be described as such in our report.

If you as a buyer have failed to provide such information that is personally important to you when ordering this report, you should contact us immediately.

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.

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 Pink Inspection Services.

Pink Inspection Services 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.

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:
 - (i) their professional indemnity insurance does not cover any information they disclose to us; and
 - (ii) 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.

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.

5. Missing documents

It is our experience that strata managers almost always have separate files to the files made available to us for our inspection. In some instances, it becomes obvious to us that documents or information are missing from the records made available to us. A common example is where the records of the strata manager refer to a building defect report which was not in the records made available to us.

Where that occurs and the strata manager is unavailable to assist us, we will point this out in our report and recommend that you follow up the strata manager to seek the missing documents or information.

It is our experience that many strata managers respond to such a request by claiming that the missing documents or information were always with the records made available to us, even if that is not the case. In other words, they will claim our inspector missed seeing the relevant documents or information.

We have often sought explanations from strata managers about why they so often make such incorrect claims. They have informed us informally, that their insurers have instructed them to respond in this way. They claim that to admit that documents or information were not initially made available for our inspection, is an admission of liability which may lead to a successful claim of damages against the strata manager.

Appendices
