



# Project Metropolis

## Position Paper

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**Metropolis Reporting Systems**

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## 1. Overview – understanding the strata inspection sector in NSW

To understand the direction in which we would like our project to head, it is important to understand the background of the strata inspection 'industry'. In this paper we start with first principles, then examine the history of strata reporting in New South Wales, before describing the vision we have for our project.

### 1.1 The role of a strata inspection report in a conveyancing transaction

It is essential that before entering into a binding contract for sale, a buyer of a strata unit in New South Wales arranges to be undertaken an inspection of the records of the owners corporation relating to the unit and the complex in which it is located.

These records are generally kept by strata managers who manage the day to day business activities of the owners corporation. There are hundreds of strata management businesses in New South Wales employing strata managers who fulfil this role. Their offices are in cities, suburbs and even private homes. All strata managers must be qualified and have undertaken courses approved by the Department of Education and Communities before they can undertake this work. Their fees are paid by unit owners through the levies that are struck to pay for the expenses of the owners corporation.

From a buyer's perspective an inspection of the records will reveal such issues as building defects, problems with fire safety, work health and safety, as well as financial difficulties of the owners corporation. Any of these problems can lead to expense for a new buyer, particularly through special levies imposed on owners.

If an inspection of the records is not conducted, a buyer may be placed in a position where such expense is unexpected which could have undesirable financial consequences for them.

Buyers also need to inspect the records to find out whether there are issues in a complex relating to harmony/liveability. Often such issues are behind a vendor's decision to sell. Good examples include noise from wooden floor boards in nearby apartments, noisy neighbours, a dysfunctional strata committee, and plans to construct a building next door which could block views from the unit for sale.

In the majority of cases none of these financial/harmony/liveability issues are required to be disclosed in the standard Law Society of NSW/Real Estate Institute of NSW contract for the sale of land. The only way a buyer can find out this information is through an inspection of the records of the owners corporation.

### 1.2 The size of the market for strata inspection reports

In New South Wales over the last year around 50,000 strata apartments were listed for sale.

Given that it is essential an inspection be obtained for every buyer/intending buyer, and there is likely to be more than one intending buyer in each sale, it is possible that

over 100,000 inspections were undertaken by strata searchers on behalf of interested buyers in New South Wales during that year.

It is also possible that the figure is substantially higher than this. A strata manager reports of once having 16 separate strata inspections by 16 interested buyers for the sale of one unit alone.

Currently, the average cost of each strata inspection is around \$250 - \$275. Arguably, that makes this segment of the market worth at least \$25 million a year.

### 1.3 The strata inspection industry in NSW

Given the importance of the reports and the size of the industry, it is strange that there has been little regulation of this very important sector of the property market.

At present, you are a strata searcher if you say you are, you are not required to hold professional indemnity insurance, and templates used by individual strata reporting businesses are prepared according to the whims of those businesses.

There are no ongoing continuing education requirements because there are no education requirements for entry into the sector. There are no representative organisations or bodies overseeing the quality of reports provided by searchers.

Given the size of the industry and the importance of its role in a property transaction, the property industry is poorly served by this segment of the market.

## 2. The history of strata reporting in NSW supports a need for change

Strata legislation was first introduced to New South Wales (and indeed, the world), on 1 July 1961.

The relevant section of the *Strata Schemes Management Act 2015* allowing a buyer a statutory right to inspect the records of an owners corporation, is Section 182. A similar section applies in Queensland but not in other states or territories.

### *First generation strata inspection reports*

Up until the mid-1970's strata reporting was fragmented and lacked uniformity. There were no commonly used templates. Often inspections were conducted by law stationers or by law clerks who worked with law firms acting for buyers.

In those days, strata inspections were not always conducted on behalf of buyers because most strata developments were relatively small, and the issues were not particularly complex. That meant buyers were not prepared to pay for the reports because the risk of adverse issues being identified was perceived to be low, and the cost of a report was perceived to be high.

By the mid 1970's strata developments had increased both in their physical size and in the complexity of operational and legal issues. Strata inspection reports had now become much more important, but still there were no commonly used templates or recommended practices.

In 1975 the Law Society of NSW commissioned a report on the inspection and reporting of strata records to provide some degree of uniformity in this area, and to give guidance to strata searchers on the collection of appropriate information for property lawyers to consider. This led to the development of an informal reporting template identifying issues relevant to strata complexes under prescribed headings.

Using this identification based format which operates to this day, searchers would gather information and provide a report to lawyers under prescribed headings (there were no separate non lawyer operated conveyancing practices permitted in those days). The reports were effectively 'data dumps'. The lawyers would then consider the information, form opinions and provide a letter of advice to their buyer clients on any issues of concern they may identify.

With the advent of photo copying, lawyers started insisting on searchers taking copies of documents for them to consider along with the report.

This type of information gathering/lawyer advising client process suited the times. Conveyancing fees were in a relative sense, much higher in those days and there was budgetary scope for the lawyer to charge both to read the report and attachments from the searcher, and to provide a letter of advice to the client.

Compared with the issues facing buyers today, the issues in those days were still not particularly complex. This led to a practice of searchers padding reports to include other information that was not particularly relevant to a buyer. This was to give the appearance of value for money.

Irrelevant information began being included in reports particularly on such things as whether the strata manager was complying with regulatory requirements for the keeping of records. That type of information may be relevant if an audit of the strata manager's business practices was being conducted, but rarely relevant to a buyer considering buying into a strata development.

Once one strata inspection business adopted this practice, others followed for fear of being seen to be reporting 'lightweights'. More and more irrelevancies began being added to reports. Lawyers did not object, because it made the reporting service they recommended look more thorough and professional (in any event they disregarded the irrelevant information).

The one hour allocated to strata searchers for strata inspections was now fully taken up because of the time it took to report on the irrelevancies.

#### *Introduction of conveyancers*

Everything changed in 1992 when conveyancers were permitted to act in the sale and purchase of real estate in New South Wales.

After legal fees for conveyancing work were deregulated in 1994, for the first time there was real competition in the marketplace. Conveyancing fees plummeted.

The informal reporting template which had operated since 1975 now worked against lawyers. Lawyers and now conveyancers did not have the time or capacity in their fee budgets to both read all the information given to them by strata searchers, and then provide letters of advice to their buyer clients. In some cases that meant they often did that work without charge.

Unfortunately, it also meant many simply forwarded the report to their clients to form their own views without any guiding comment.

That position exists to this day. In that regard, it is useful to read example reports published on internet websites of current strata search businesses in Sydney, to see how prevalent this outdated practice remains today.

### *The complex requirements of modern day strata reporting*

Strata related issues relevant to a buyer have become more and more complex.

As state and local governments have become more accountable, significant changes have been imposed on owners corporations on safety related issues such as fire and WH&S requirements.

The growth of vast strata developments often housing many hundreds of units has led to changes in the way they are managed including how disputes are resolved. Community and neighbourhood association legislation has been passed and developments constructed to cater for a range of different types of multi occupancy residential developments. Each involves different considerations for buyers and their advisors.

Building defect issues involving home owners warranty claims and/or actions for negligence against builders, have become so complex that only specialist lawyers can conduct proceedings relating to them.

The old 'data dump' reporting arrangement where strata inspectors gathered information for the lawyers (and now the conveyancers), to interpret and provide letters of advice to their clients, is no longer providing best practice outcomes for buyers against this background of change, because those letters of advice are rarely provided.

The added complexity in strata developments and legislation is also impacting on the quality of advice when it is provided by lawyers and conveyancers to their buyer clients. It is now very difficult for a conveyancing lawyer or conveyancer to be across all the relevant legal and operational issues, and properly advise their clients on the consequences of those issues, even if they had the time or the fee budget.

In any event, in modern times much of the advice required is of an operational rather than legal nature. Lawyers and conveyancers are not across operational issues, which generally are the province of strata managers or experts in areas such as fire safety and work health and safety.

For some lawyers the problem is only made worse if conveyancing work only forms a 'part time' segment of their practice particularly in small practices such as those specialising in family or immigration law. In that event, most do not have time to keep abreast of all the issues.

Changes in legislation and the size and complexity of owners corporations have also been working against strata searchers. Because the segment is completely deregulated, unqualified people continue to provide inspection reports. Many of them simply do not understand the concepts relevant to a buyer, or the modern-day complexities arising from changing legislation and practices across the range of multi-occupational residential and commercial accommodation. If they do not understand those concepts or complexities, it is hard to see how they can accurately identify and report on them.

As mentioned earlier, education programs for strata searchers let alone continuing professional development programs are non-existent.

The quality of information provided in the strata reports is declining because of this lack of understanding. Many searchers try to get around their lack of knowledge by copying reams of information from the strata manager's records. This simply makes life more difficult for the lawyer/conveyancer and their clients reading the report and trying to form views on the issues, or indeed the relevance of those issues.

Perversely, the old 'padding' practice designed to impress clients with the depth of information provided in reports by reporting on irrelevancies, is now actively working against strata searchers. With the increasingly vast amount of relevant information included in the records of many owners corporations, there is no time to gather information on irrelevancies.

Unfortunately, that often means major issues are not properly identified in reports because of the time taken to report on irrelevancies. Because of their lack of training, strata searchers are generally unaware of what is or is not relevant.

Time issues have become very important in the reporting process. Most strata managers store their records on computer. There are only a limited number of computer terminals available for searchers to use in each strata manager's office. As each strata manager takes on the management of more and more strata complexes in this very fast-growing segment of the property market, so there is more demand for strata searchers to inspect their records. That means strata searchers are given little more than an hour to inspect the records of even the most complex of strata schemes.

Many buyers are reluctant to order second reports for larger or more complex schemes where the first report had to be left incomplete because of time or budget constraints.

The need for a change in strata reporting practices is obvious.

### 3. Project Metropolis

To meet the needs of the rapidly expanding strata apartment market in New South Wales, the strata reporting 'industry' needs to change. Those changes include:

- strata reports need to be only concerned with risk assessments of buyer relevant issues;
- strata searchers need appropriate courses and training programs to be created and prescribed as mandatory, so that they can provide informed risk assessment reports for which they are accountable;
- strata searchers also need their own industry body to represent them. That industry body would not only regulate their practices, but also provide support, training courses, protocols and mandatory continuing education courses;
- state government legislation needs to be changed so that provisions relating to the inspection of records (particularly in S182 of the *Strata Schemes Management Act 2015*), reflect the practical realities of the modern inspection process. Those realities

include the fact that most records are now stored on computer, and time constraints often make it impossible for inspectors to inspect all relevant records;

- state government legislation needs to be introduced to provide a framework to regulate this industry to enable the changes referred to above to occur; and
- pathways and practices need to be created to specialist service providers who offer cross-over services to buyers. These include building inspectors, pest inspectors, fire safety and work health and safety experts, and experts in asbestos and lift service and maintenance as well as strata law.

To achieve these changes, Pink Inspection Services and Strata Reporting Service have entered into a joint venture. The working name for our joint venture is 'Project Metropolis'.

Pink Inspections has been providing strata search reports in New South Wales for over 30 years. It is one of the largest strata reporting businesses in the state and every year undertakes strata inspections for private individuals and hundreds of law firms and conveyancers in the Sydney basin alone.

By offering this reporting system to these clients, we expect substantial market penetration of the system will be achieved.

Strata Reporting Services is headed up by Michael Poynder. He is a former special counsel in the property group of one of Australia's largest law firms.

He has devised the system and prepared the initial materials in the toolkits. The first generation of this reporting system prepared by him led to Strata Reporting Services winning the APAC Business Insider Magazine award for the 'Best Strata Title and Property Reporting Firm – Australia' for 2017 and 2018.

### **3.1 The risk assessment report and associated materials**

#### *Template*

After a number of years of development through providing hundreds of risk assessment reports to clients of Strata Reporting Services and Pink Inspection Services, we have settled on the template for a standard risk assessment report. An example report is on our project website at [www.metropolisreporting.com.au](http://www.metropolisreporting.com.au)

Part 1 of the report is the executive summary and includes an examination of the information referred to in Part 2. In Part 1.1 a synopsis of the findings in the report is provided. This is included to allow lawyers and conveyancers to be generally across the findings in the report in a time effective manner.

Part 3 includes articles that are relevant to information provided in the report.

Part 4 includes the qualifications on which the report is based.

At the heart of the system is the toolkit referred to below. It allows background and further information to be provided in reports in a uniform and efficient manner.



### *Toolkits*

Most information buyers need to understand, and issues of concern to them that arise during the inspection process, are relatively standard in nature. Rarely does an entirely unique issue arise.

That means it is possible to inform buyers of both the information they need to understand when buying into a strata complex, and the consequences of any issues identified in reports, through pre-prepared information resources.

Those resources can, in the case of general report related information buyers need to understand, be copied into reports where the need arises.

On the other hand, general information of a background nature, can be provided in handouts and circulars included in the toolkits which lawyers and conveyancers can print off using their own letterhead/logos etc. They can then be made available to clients in their waiting rooms, in their electronic circulars or simply handed out when lawyers/conveyancers are attending their clients.

By collecting those information resources and placing them in toolkits, both uniformity and convenience can be achieved. That means for our project partners, strata inspectors employed by us, our strata inspection business licensees and law firms and conveyancing clients, the toolkits become a particularly valuable resource in the reporting process.

Here is a link to background information on the toolkits and an extract of resources in the owners corporation toolkit [www.metropolisreporting.com.au/toolkit-background/](http://www.metropolisreporting.com.au/toolkit-background/)

There are four toolkits, one each for owners corporations, community associations, neighbourhood associations and company title complexes.

All information in the toolkits will be signed off and kept up to date by experts in the areas. For example, changes in laws relating to by-laws will be kept up to date by a specialist strata lawyer, changes in fire safety requirements will be kept up to date by an accredited fire safety expert.

### *Telephone support service*

Historically, the nature of the role of strata searchers in collecting information for lawyers and conveyancers to interpret and provide advice to their buyer clients, has meant that strata searchers were reluctant to speak with buyers and their advisers to answer questions. That was because firstly, it was not their role to provide answers to such questions which they rightly thought was the role of lawyers and conveyancers.

Secondly, it was because most of the time they could not answer the questions as they had not been trained in the area. In other words, strata searchers saw themselves as simple collectors of information for others to interpret.

With the advent of comprehensive training of strata inspectors through the Metropolis Reporting System, that role will completely change.

Gone will be the days when lawyers and conveyancers had to try and identify issues and their consequences in all the information provided in standard reports for their

buyer clients. With the advent of risk assessment reports that will now be done for them by trained strata inspectors.

That means buyers and their lawyers and conveyancers are encouraged to telephone the designated person in the strata inspection service providing the report to answer questions. That person will be familiar with the report because they will have approved it before it was dispatched.

There will be no further charge for this service.

### *Strata Reporting Handbook*

An external document but still included as part of the toolkit is the Strata Reporting Handbook. The handbook is an online publication to be used by lawyers and conveyancers which contains information on the law concerning buyer related issues. Case references and legislation cited in the handbook are electronically linked to source documents.

The handbook 'rounds off' the last source of information lawyers and conveyancers need to provide advice to their clients.

We are firmly of the view that when properly used, the combination of the reporting template, the information in the toolkits, the telephone support service and the Strata Reporting Handbook will together provide a buyer with the maximum amount of information available.

With this information, buyers will at last have all the necessary information to enable them to reach an informed view as to the risks and their consequences in relation to units they are considering purchasing.

## **3.2 Training programs and an industry body to represent strata inspectors**

The joint venture partners take the view that what a strata searcher needs to learn in training consists of around half the information a strata manager is taught during their own training. The other half consists of training devoted to learning strata inspection related skills.

We believe that the toolkits will provide the basis for one half of the course content for training strata searchers. The other half we believe, will come from selected modules of course content already provided by SCA to persons undertaking the strata manager's course.

Once a strata searcher has successfully completed an accredited course, they will become a strata inspector.

Our aim is for SCA as a registered training organisation to provide the course and assist us to have it approved by government as a certificate 3 course. Owners and managers of strata inspection businesses will need to complete a certificate 4 course. That course will include training on how to use the resources provided through the Metropolis Reporting System to best serve their buyer and lawyer and conveyancer clients. It will also include training on providing a telephone support service to their clients.

Training costs would be paid through tuition fees charged to participants. A training program will also need to be set up and accredited for trainers themselves.

Ongoing continuing education courses will need to be established and conducted for strata inspectors.

### **3.3 Legislation and practices**

In November 2016, legislation making extensive changes to strata management took effect in NSW.

It is an opportune time for legislation relating to strata inspections to also be introduced. The legislation would make it mandatory for strata inspectors to be trained and accredited in much the same way current legislation requires strata managers to be similarly qualified.

The current provisions in the legislation relating to strata inspections dates back to a time prior to the internet where strata records were all stored on hard copies. Now, the vast majority of strata managers store information on computer. Strata inspectors access their information through those computers.

It is past time that the legislation needs to be changed to reflect the position on the ground.

For example, one of the problems inspectors face is only having a short period of time to inspect records because other strata inspectors are lined up behind them to inspect the records of other complexes on the same computer. There should be no reason why strata inspections could not be conducted on line and remotely from the strata manager's office. That would remove the urgency currently being experienced.

There are many other examples of what could be done with changes in the legislation.

In all the circumstances, we believe there is a mood in the government for changes along the lines mentioned.

### **3.4 Pathways to cross-over service providers**

Strata searchers will be trained to provide strata reports in their new role as strata inspectors. That means that although they will be trained to identify issues of relevance to buyers in the records they inspect, they will not be qualified to comment on the significance of an issue to buyers where it is outside their area of expertise. Such matters include those relating to repair, maintenance and pest concerns, and fire, work health and safety, asbestos, and lift related issues.

Because of this, our inspectors will be trained to make recommendations in reports for further inspections/advice to be obtained from appropriate specialists where they sight issues and concerns of this kind.

To assist our clients and licensees retain such specialists, we will create a panel of specialist advisers in each of the most common areas of concern to buyers. Each of these specialists will be accredited by us to provide reports that accord with our reporting system.

That means an accredited specialist will:

- review our strata report and any relevant attachments to understand our issue of concern;
- prepare a report which addresses our issue of concern and any other related issue they come across when preparing their report; and
- provide an executive summary in their report of any major concerns they identify.

In other words, the reports our specialists provide will work together with the reports inspectors provide to seamlessly inform buyers of issues they need to understand before proceeding to buy.

Our specialist panel will include inspectors specialising in the following areas:

- Building inspections
- Strata law
- Fire safety
- Pest inspections
- Work health and safety
- Asbestos
- Lifts

Our toolkits will identify our panel members and provide their contact details.

## 4. Introducing Project Metropolis to the marketplace

Because of the size of the client base of the joint venture partners, we believe that we can obtain good market penetration amongst existing clients quickly.

The joint venturers have determined that the business model we intend adopting involves not competing with current strata search businesses for clients. Rather, we will offer a licence for them to use our template, the toolkit and the system itself. We will also allow the documents making up the system to be 'badged' with the logo of the strata inspection business licensees.

Training of current strata searchers employed by our licensees to ensure they become familiar with risk assessment reporting practices will also be offered.

The template and the materials will be under constant review by specialists in the various areas to reflect changes in legislation/case law or through operational practices.

The license fee we will charge is yet to be determined but will be reasonable and have regard to the size of the strata inspection businesses seeking licenses. It will include a marketing component to advertise the benefits of the system in the marketplace.

It is planned to also offer the reporting system in regional New South Wales and grow it into Queensland, where a similar statutory right to inspect strata records also exists.

## 5. Financial benefits

Currently, the average cost of each strata inspection is \$250. The joint venture partners believe that with the increase in the quality of information provided in the reports and the associated services provided through the Metropolis Reporting System, that cost should increase to around \$500.

That means a trained strata inspector working full time in the industry could expect to earn between \$100,000 to \$150,000 per annum.

Obviously, there will be a commensurate increase in income for strata inspection businesses who take licences to use our reporting system.