

RESPONSE TO THE STATUTORY REVIEW OF NEW SOUTH WALES (NSW) STRATA SCHEME LAWS

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(Below and attached are personal observations rather than expressions of our strata plan.)

BACKGROUND: THE STRATA SCHEME LAWS REVIEW PAPER ON THE NSW FAIR TRADING WEBSITE

Kevin Anderson, **Minister for Better Regulation and Innovation**, seeks comment on a discussion paper on the current **statutory review of the New South Wales (NSW) strata schemes laws**. He and his Liberal colleague, Victor Dominello, are ministers responsible for legislation governing the entire life cycle of over 82,000 strata housing, commercial building and management schemes in NSW.

Victor Dominello Minister for **Customer Service**, apparently **has carriage of the Strata Schemes Development Act 2015**. This governs the building development and often future phase of schemes, including **registration of the strata plan, creation of sub-divided stratum title and an owners' corporation, apportionment of unit entitlements, registration of by-laws, changes to common property and termination of schemes**. (I find my facts in the government paper on the NSW Fair Trading site because it is so much clearer and appears more reliable than anything else to hand.)

The Strata Schemes Management Act 2015 sits within the **Better Regulation** portfolio, also within the **Customer Service** cluster. It sets out a comprehensive governance framework for the life of a strata scheme after it moves out of the development phase.

The **Strata Schemes Development Act (2015)** and the **Strata Schemes Management Act (2015)** originated from a new Liberal Nationals Government in NSW in 2011. An overhaul of the State's strata housing laws occurred after they had remained largely unchanged for a generation. Strata is now home to over 1.1 million people in NSW. It is expected that over half the population of Greater Sydney will be living in strata titled apartment towers, townhouses and blocks of flats by 2040. Land and housing construction and management matters are at the centre of Australian state power.

At the outset, note well that primary land and building developer interests set the secretive and official tone in legislation for ongoing management of the established buildings under strata. I guess this often leads to development management in the secret interests of politicians and their industry mates first. The latter industry and political party interests appear to rule wrongly and partially, through their secret legal associations. I show more on why I write this later below.

I address other matters in the review of strata schemes law, as a result of living under the **Strata Schemes Management Act** or its predecessors, in Glebe in the City of Sydney from 1994. Before that I lived in a collectively owned Glebe house since becoming a post-graduate student in 1974.

It seems NSW government must be informed that the customer is us, the people of NSW, as well as owners and residents in strata. In spite of its demonstrated bias towards industry interests, however, the general matter about the management of common housing on the NSW Fair Trading website is the clearest I have seen about an industry normally cloaked in apparently bizarre, changing and incomprehensible legal practice. I quote from it extensively with reasonable confidence to comment here on many questions raised in the ministers' housing paper.

My Q 1 as a property owner is: Are my new 2020 levies of \$100 per week good comparative value for maintaining a building of this type in NSW? The paper seems to ignore this obvious

question. **Why?** I answer my own second questions for Q. 2: **Is this good behaviour on behalf of government of all the people in NSW, housed or unhoused? No. Would things be better under Labor? No idea. They would perhaps be worse. Maybe these guys in building management and construction and their mates just don't want to know. I will vote women against them both.**

On the other hand, the requirements of strata living have become much clearer to me since I innocently bought into the St James strata plan in 1994. I will answer the last question (140) in this strata scheme paper first. It asks: ***Do you have any feedback on NSW Fair Trading's role and functions with strata schemes, including any suggestions for improvement?*** Get rid of as many lawyers as possible to avoid more partial, secret, incomprehensible, expensive information. Use open combinations of NSW Fair Trading, strata managers, and others with relevant on-site knowledge and experience, to collect better evidence to assist resolution of disputes about accommodation and building sites and people on them. **What have you got to be secret about?**

Later I address ***Strata Committees; Meetings and Voting; Strata Managing Agents Functions and Accountability; By-laws; Maintenance, Repair and renovation of Common Property; Insurance; and NSW Fair Trading*** in the primary context of critique of ministers, government and industry understanding of their ideal roles in serving the people of NSW. They appear partial to their related land development and construction interests rather than those of broader, continuing and good management in strata. An appendix addresses industry superannuation and related investment operations in state, national and international contexts to protect Australians and assist many others. Related and more personal experience of strata management at St James Court is attached.

When I innocently bought into a strata scheme in Glebe in 1994 I did so as my lover had gone to Melbourne and I needed a new house. Like most people, I was selling and buying dwellings for emotional and related family reasons, not market opportunities. Any government or other commentator refusing to recognise this obvious fact of life is likely to ignore the wellbeing of NSW people as a whole by draining their resources to fund industry development whether it suits any broader or later population needs. Young people are now faced with compulsory superannuation schemes which serve them poorly, at a time when they are saddled with huge tertiary education debts and unrealistic work expectations in newly globalised, complex and high-risk market operations. Their bright spot on the horizon from 2020 may be more free time or drop in rents. This is a global context where one wonders how long the Save the Children Fund can go on begging money to keep alive children born increasingly into apparent future misery in increasing deserts where they are burning every stick they can to make life easier. Don't you guys notice history?

For reasons of greener Australian development and management support, I generally prefer strata building to urban sprawl being encouraged as usual. This is because public transport and related population and environment planning services are more effectively and easily attained for everybody than with more and bigger cars as usual. Most industry guys apparently never saw anything they wouldn't like to see built bigger. I guess hugely unsustainable tourist hotel overbuilding leads this internationally. Like everybody else across the world I want to see more koalas, fish and other native flora and fauna thriving instead. The younger men driving us peasants

appear to have more short-sighted views than ours and their women may agree with them or not. I urge everybody to vote women in anything, but not Liberal or Labor. I address this later.

Since 1994, I've often felt under the control of many professional service providers who may use legislation to further their own professional interests rather than mine as an owner who lives on the plot. They appear increasingly to use safety as an excuse to eradicate anything they apparently don't like according to law; to provide more jobs for their industry mates on the owners' and renters financial backs. A building manager, who lives **off the plot**, seems like just another link in unhelpful expenditure on too many men who appear to have little or no interest in resident welfare. They appear to use us in their related industry legislation, aimed at hiding accountability and providing jobs to as many new mates as they can whenever they like, regardless of needs felt on the plot. (I address some of the related concerns I have experienced in my attached file on strata matters.)

I discuss industry questions on **strata property owners and committee voting, by-laws, maintenance, safety, renovation, insurance and duty of care matters** in related regional contexts later. Good strata managers appear often to have difficult and complex jobs, driven by many different masters living on and off the plot. All may appear to have narrowly blinkered and secret interests and perceptions on the plot, pecuniary or not, until they are revealed for wider discussion. Lawyers seek to get their interests in secret operations enshrined in legislation and practice. I address and quote the paper on the NSW Fair Trading website to answer its specific questions later.

Strata schemes also provide the infrastructure for retirement villages, lodges and short-term holiday letting. NSW Fair Trading receives about 2,000 requests for mediation of strata disputes per year with the volume of requests increasing at about 200 per year. A majority of requests are made by lot owners about **repairs and maintenance**, and the **owners corporation exercising its duties and functions**. (Only God knows what they are as they appear so voluminous and change so often.) The **NSW Civil and Administrative Tribunal** (the Tribunal) receives about 1,200 applications per year under the Management Act and just under half of those applications are dismissed or withdrawn. **What are all other key Tribunals and how does their data relate to improving all performance?**

Other industry and environment protection tribunals are ideally addressed in related contexts where information on the history of the particular strata buildings should be more readily available. Perhaps NSW Fair Trading may be most appropriate in building matters. Ideally, this is related to the Medicare aim of gaining the particular health care history of each NSW resident in the same place, made available to practitioners and any authorised others. This would help avoid multiple stressful and unnecessary operations and costs levied on many persons living under strata across the state.

THE HELPFULLY CLEAR YET WRONGLY BIASED CURRENT ROLE OF NSW FAIR TRADING

When I first started reading reports on building and construction from 1994 onwards, they were characterised by the apparently unclear idiocy of their approaches, from any quality service management perspective apparently designed or explained in the public interest. My understanding

of who appears to be doing what to whom has got progressively clearer under government inquiries into many multiple complex secret conditions since 1994. However, things keep changing.

Today I find NSW Fair Trading has the clearest, most easily available, apparently true, and FREE, account of government, legal and industry intent available to me. It is a pity that so much has to end up in courts where lawyers alone may control and make money from information which must be provided to them freely by more informed on-site players in any process they call upon.

I despise this secret men's business because the performance is so irrationally expensive from any perception of the public interest, which includes us all – developers and owners, managers, residents, builders and mates alike. The richest and nastiest can easily win in this process by lying, stalling, denying and twisting anything in regard to any building they like. I bet they know how.

The NSW government paper on the statutory review of the NSW strata schemes laws is wrongly biased in the interests of industry. Ministers' customers are ideally the key stakeholders in schemes, which are composed of owners, and residents of NSW, not service providers to schemes.

My conclusion, from experience as a member of the strata corporation and committee since 1994, first attempting the NSW government questionnaire and then reading their review paper; is that they are biased in the industry service providers favour, rather than properly understanding or considering the interests of home owners and renters in this state. They appear unaware that one's perception and reality may change over a twenty-year period, and ignorant perceptions of one ignorant individual, such as myself, may be poor evidence on matters or perceptions more broadly. Data in health care service was not based on polling like this, but on greater scientific endeavour to improve health. At least I can write. Ministers appear to need more understanding of public health, wellbeing and risk management to discharge their responsibilities to people in NSW better.

OBJECTS AND OBJECTIVES IN STRATA LAW

This review states it will seek to identify opportunities for improvement to strata schemes laws to better realise the policy objectives of the 2015 reforms. Where the laws are not operating as intended, improvements will be progressed for the benefit of the million people who live in strata schemes and the thousands of people that they employ. My experience outlined later is that many more people are employed by strata schemes than this paper indicates. Its writers appear very ignorant about this matter of multiplying construction interests driving those in continuing strata management, where costs are borne in levies paid by owners. **To show no apparent interest in the comparative size, growth and use of levies over time seems very poor state management.**

Terms of the 2015 strata reforms were apparently written to gain **10 objectives**, that together, supposedly create a higher standard of governance and development of strata schemes in NSW.

Question 41 asks: **Do the objects of the Act remain appropriate? Should further policy objectives such as those that guided the 2015 reforms be added to section 3 of the Management Act? No.**

Section 3 apparently contains the **objects** (sic. not aims or objectives) of the **Management Act**, which are broad overarching principles that guide how the Act should operate. The **objects** of the Act are to: **1. provide for the management of strata schemes, and 2. to provide for the resolution of disputes arising from strata schemes.** All 10 policy objectives of the 2015 reforms supposedly can satisfy either one of these objects. While the 10 policy objectives are not written into the Act itself,

the NSW government paper states **'it is important to consider the merits of adding those sorts of objectives – or others – to section 3 of the Act'**. Avoid more law as an old stupid costly liars' mess. Related discussions against by-laws are outlined below and attached. Write in clear plain language.

A prescriptive Act condemns all related dealings to legal and client privileges which are secret and dysfunctional in their often slow and expensive actions. These often occur after injury events which may be unknown, unfair, or capricious from the perspective of those who must foot the bill, unfairly or not. In my experience in living on this plot, poor scaffolding often appears involved in building work accidents with related claims occurring. But what would I, as a simple former office worker, know about scaffolding? As an old woman former office worker, I cannot logically be given a duty of care related to activities of men who turn up on this spot. God knows how they should keep themselves safe. That is their business, not mine. (I address duty of care and insurance again later.)

The land, construction and building industry management motive appears again to be to drag what should be more openly planned and accessible to all NSW residents, back to the same old interminably driving commercial in confidence interests and legal controls ending in court across construction and management of lots. This has been driven by centuries of legal practice in legal arenas that are vastly removed from the reasonable particulars of the plot and its regions. If the provision of health care and education services, rather than housing services, were treated in this poor administrative fashion in Australia, many more would have died much earlier than they have.

On the other hand, I am reminded that lifts and other engineered products appear to work comparatively well throughout Australia. We would probably hear about it on the national free to air radio or TV or read reports in quality newspapers if not. Building can easily get worse with too much competition, whereas Australian law appears to regard competition as an unmitigated good. Hilmer's report on competition in 1993, which was accepted by all states at the time, attempted to gain more triple bottom line accounting to achieve social and environmental aims as well as financial ones. This appears to have been swept aside since by old industry legal and financial approaches being rocket-fuelled by new IT and by quants driving huge risks into ignorantly powerless markets. In this new international context, development planning and broad, open, stable management and accountability to all the people of NSW, appear to be the major necessary priorities in this state.

Apparently, the objectives of the 2015 strata reforms were to:

1. empower communities to make their own decisions in a democratic way
2. encourage participation in meetings and decision-making by residents and owners
3. foster a culture of community and co-operation
4. improve governance through greater transparency and accountability

At our place, these matters appear to have improved mainly through more work by owners and government since 2015, demanding to know more about our own affairs, rather than allowing ourselves to be pushed around by more forceful others. A genuinely productive culture of community may have to be too honest to be particularly nice to be around. Further objectives appear comparatively vague and scary:

5. establish flexible administrative and management arrangements

What exactly and why? (The beauty of Microsoft email is that almost everybody in Australia has it and it provides a good, fast, continuing, free record, as long as it is the preferred platform for effective written communication across the state board. Multiplying methods of financial or other administration and communication stuff everybody up and waste everybody's time and money.)

6. be future oriented with emphasis given to modern technology **(In my experience, the lack of new technology isn't the problem nearly as much as the lack of any political will to support more effectively obvious methods of preventing desertification across the nation and beyond. Bush Heritage appears to lead the way with native land owners in this better employment direction.)**

7. help ensure building defects are identified and rectified earlier **(Inspect and gather data better?)**

8. provide protection from unfair practices **(Oh yeah? What and how? Try clearer open operation)**

9. provide a simple and effective means for resolving disputes, **(I mainly recommend on this)**

10. establish a fair process for the collective sale and renewal of strata schemes.

I would not give a passing grade on any of the above, in spite of a lot of work by many. Knowing the problems Americans have with their security systems and how much most guys adore security systems I personally value greener technologies and better surveillance. They raise the question of how trees, water and gardens, which I particularly value as beautiful ways to treat global warming and biodiversity loss, are valued in strata. I guess industry forces love giant building envelopes and concrete, not trees or gardens or better management of scarce natural resources like water.

All apparently reasonable aims should have value beyond their already prescriptive and remotely treated use in legislation, under the control of jousting lawyers, guarding their privileged information. To treat legislation as lawyers are trained to do, easily ruins the lot at unfair expense, compared to better informed management. Open matters up regionally to inform and assist all land and property owners and others in NSW because strata managers and those living on the plot are in the best place to make decisions, assisted by experts who live on the plot or not, as the case may be.

The paper objectives appear pipe dreams which few in the industry appear to have any interest in taking seriously. This seems partly because they prefer foisting normal commercial in confidence operations on us to suit themselves. My guess is that big NSW Liberal land and building developers work with their political party mates and with Labor Party politicians and their political, trade union and other mates in building to get legislative changes that suit them and their industry mates up and down the legal chains. It seems that building industry forces may now justify any supposed hazard prevention measures under the rubric of safety. This appears to be done with scant or no regard for the particular building attributes or interests of those owning or renting in the particular place. This appears to be to create more industry jobs in the continuing absence of good comparative data or clear, quality practice requirements. The current City of Sydney Mayor, Clover Moore, came into NSW government as an independent woman who cared a lot about green spaces and gardens when few in government did. Follow her lead. Changes in the way I view this plot since coming here in 1994 have been partly explained by my hatred of living in garbage and my love of trees and gardens.

If health care was run by the state of NSW and in Australia in the same ignorant way as housing, Australia would be a lot more like the US, with health care designed for the rich when the poor are increasingly failing, through being ripped off by guys who are quants, so nobody challenges their behaviour. If housing is supposed to be a service, I always wonder how comparatively well it delivers to the people of NSW. **How do strata levies reflect building experience for the key stakeholders, which are those paying through rents to live in the building and those who own it?** Levy use often appears generated mainly by industry interests which use legislation to ignore the real needs on the regional plot in many cases, so as to pursue their own instead. One assumes the use of levies, which appear comparatively secret information, supplement the money expended by state and local government in the services on related land and housing, paid in rates, for example.

The term '*industrial relations club*' was common when I was young. It is led in building construction in their members interests, as we are too confused and ignorant to do it as simple small owners or businesses. The relationship of owners under strata seems more like that of a wife to any possibly secretive, lying, nasty bit of work. We appear roped in. If you know your swimming pool is leaking big-time into the building, for example, you may concur it's a good idea to keep your mouth shut and sell out early. Let the buyer beware should be far from good enough for fair service.

STRATA PLAN OWNERS CORPORATIONS AND THEIR STRATA COMMITTEES

In the following discussion I mainly tackle the following questions:

4. What improvements could be made to the governance of building management committees and their meeting processes? **See the obvious limitations of ignorant voting and get rid of by-laws.**
42. How well do you think the functions of the committee and office holders have been working? **As a strata committee we operated largely in the dark for many years aside from the general administrative accounts.**
43. Committees can be up to 9 people. Is this size limit working? **In my view any owner of any property has a right to be involved in knowledge and decisions about its management and related cost of quarterly levies. (I think NSW renters should probably also be included in this.)**
44. Under the law, strata committee members have a duty to act in the best interests of the owners' corporation and with due care and diligence. How well is this working? A. **Not well enough.**
52. How well have the different ways (teleconferencing, email etc) of voting been working? Are any changes needed? If so, what changes and why? A. **Email encourages broad and written recording of experience and opinion whereas speech alone can never have this virtue. We easily forget, especially in legal environments which encourage us to do so for financial and political reasons.**
67. In your experience, are the laws to keep managing agents accountable working well? If not, how can they be improved? **Understand the breadth of interests in strata schemes better and recognize that ignorant voting and by-laws may be worse than useless from ideal NSW service perspectives.**
68. Is the law clear on what information the owners' corporation is allowed to request from the managing agent and how they get it? If not, please tell us why. A. **No. See later discussion.**

Nobody appears to know much about what they are supposed to be doing as a result of diverse and changing expectations now embedded in this industry questionnaire and research paper. Since construction and housing management are crucial public services, they should be managed more openly like health care. This would put issues of quality service, access and cost to land and building owners and residents more centrally in government mind. Fairer housing policy could be geared to the less advantaged 50% of the population rather than to those already advantaged by their land and housing affairs. Developers and building industry interests are now calling the shots without much good evidence for decisions available to owners of property or their supposed representatives.

I write as one of seven old women owners on the St James strata committee plus one man. I guess this is the usual division of labour where the women owners living on the plot work for free to help themselves and invisible owners elsewhere. Since I innocently joined this strata scheme of 18 townhouses in Glebe in 1994, I have received papers and attended meetings of what was first called the **body corporate**, and then the **strata committee** and now the **owners corporation**.

No wonder I am confused about my status according to law, let alone practice, especially in regard to repairs, renovations and disputes related to insurance coverage. Do these guys just make up the rules and change them to suit themselves as they go along? No worries that we are all too ignorant to know the difference but let's pretend voting is tops again? (I have never made an insurance claim and often wondered about those who do. Successful claims have been substantial. Why?)

God knows what legislation states where it counts. However, according to these NSW authors, who have the virtue of being easily comprehensible at least, The **Strata Management Act's** 'territory' (sic.) includes controls on the developer during the strata scheme's 'initial period' (sic.). This includes: **how owners' corporation makes decisions through resolutions at general meetings and committees; the making of by-laws; insurance and financial management; the resolution of disputes internally, via Fair Trading mediation and in the NSW Civil and Administrative Tribunal and the courts.** I address these matters from specific questions in the NSW government paper.

I think this strata scheme was built in 1970 but have no documentary evidence of its origins even on the title deeds. This is similar to a doctor having to deal with a person while having little or no idea of their age. It seems a poor comparative start for evaluation of any related services to the place or person. We are nevertheless all individuals living in particular places in variable surrounding environments which either allow or stunt our growth and wellbeing. More broadly informed consent based on the particular case, not multiplying secret legal standard operations, is the better way forward in NSW.

Ideally, strata managers are supposed to be working for owners of strata property, whether or not they live on the plot. This includes managing the proper treatment of renters at the place, in cooperation with owners. The owners can have few effective representatives who do not work openly in the interests of all involved and paying to live on the plot, as renters, for example.

Fees that strata managers charge for basic and additional services are derived from the quarterly levies paid by owners for their strata management services. **Does a levy of \$100 per week, as in my townhouse case, compare well for this service? I've no idea.** Historically, Glebe is a university precinct suburb of students, teachers, and other workers and tourists passing through, while some of us settled down and stayed on for one reason or another, often long ago. I think group housing should be more openly comparable and compared to other forms of housing, to improve services

which are linked to planning for more sustainable population health, wellbeing and self-expression, like education. As a mother, I didn't necessarily want to be involved in the management of my child's education institution, but as any NSW parent and resident I surely have a right to be if I want.

I feel my right as a home owner is to help shape and participate in our housing management decisions if I so wish, and I do. When I write about these matters, I regard this as my intellectual property which I will also send to anybody I like. I regard secrecy as synonymous with ignorance.

From 1994 to retirement in 2007, however, I was a poorly conscious participant on the strata committee, merely reading our papers before meetings and often voting with the mob. I regard 2007 when I retired and the global financial crisis soon followed, as my epistemological break in the way I looked at what was happening in housing. Marxists will know what I'm talking about. China is supposedly full of them, living on their ground. Are they as ignorant as we are, or more ignorant or better off? I've absolutely no idea, have you? Simple translations may easily save a lot of cost and heartache resulting from ignorance all round. I guess you don't think it matters for peasants or women and children like us. As owners we should be informed, not manipulated secretly by blokes. These matters should be discussed with national services like SBS radio and TV translations.

I retired from work in the Faculty of Health Sciences at Sydney University in 2007. As a result of more free time at home as well as watching the effects of the global financial crisis, which began in US housing in 2008, I became interested in housing management in NSW. Compared with health care, it is very hard and expensive to find out service information related to the comparative origins and management of any land, building and housing in NSW. This is secret men's business, always seeking more legal control in courts. It seems this is the industry seeking to co-operate to provide as many jobs for mates as possible, irrespective of whether it makes matters worse. Open it up.

This also starts at the international tops in universities encouraging unrealistic and comparatively unhelpful forms of professional specialisation. See for example the appendix critique of my ex-husband's book, Macroeconomics. He was a super-mensch Keynes scholar from Cambridge until he reached his use-by date. I counsel him attached to use his new freedom ripping into old mates. Sydney University VC Spence has moved to London University College, claiming he and professor Stephen Garton, an historian, who takes over in the interim, were joined at the hip. Law and economics are part of history and should not be treated in theory and practice as if they are not. The IT revolution in finance has fuelled chaos, inequality and fear of further loss across the world.

As a stupid old grandma living on super, who owns and lives in one property without mortgage on the St James Court strata plan, lending to family owning a house in Earlwood, I offer some suggestions. I would go straight off and ask rich lister developer Harry Triguboff about housing and write down what he said. His Harold Park development in Glebe addressed more green space with City of Sydney Council and local communities from the beginning. We all turned up and voted unanimously that we wanted more green space more than anything else. Left to their own devices, it seems men will choose an overbuilt, IT complex or stupid concrete jungle and it shows across the world. Greener planned development is sought in this depressing context where industry control of

superannuation appears bought at the cost of increasing home unaffordability for younger people, when they often need its security most for family and business affairs getting ever more complex. Personally, I would knock as many old blokes off as possible and let them work free if they want. This is the reverse of the ubiquitous queue principle of last in first off. Cherish the young because at the end of the day when you die, they are all you have got. Tell them what you think is happening.

I advise everybody in the next election in NSW, which is where the proverbial rubber hits the road, to vote in a woman they believe in unless she is in the Liberal or Labor parties. I hate both the major parties for their apparently timeless refusal to help me and other old people to die when we want. This all affects housing, money, and the care of women and children. I like Green and independent women in urban areas and women Nationals in the bush as John Barillaro says his party understands the need for euthanasia. As an old grandma who fought for contraception and abortion, they would immediately have got my vote had I still been living in the country. Euthanasia has everything to do with the rights of women and children, as well as with voter preference, experienced adult and individual preference and good quality of life. This is more easily attained through all related health and housing quality of life and cost assessment and containment.

I discuss related matters later, pointing to some potentially healthier and fairer approaches to service in common regional and related place-based contexts. My town house is in a row of terraces with trees and gardens in the front and back which I love. We are surrounded by government and private sector group housing and by the St James Catholic primary school. It appears hard or impossible to contact some of these neighbours about our jointly expected management of our surroundings, to deal with shared fences, pipes, wires, dumped rubbish in streets or other matters in any kind of timely manner. Just finding out who is responsible for decisions appears impossible. For example, an owner of our property, who lives in China, has now stopped paying his housing levies. It was resolved in December 2020 *'to instruct the garnishee to engage a lawyer when debt recovery is commenced'*. Just who is expected to be doing what to whom in this context?

THE ROLE OF STRATA MANAGERS AND THE UNHELPFUL, COSTLY UNFAIRNESS OF BY-LAWS

This government information paper states that where the agent for the building management committee is also the managing agent for a strata scheme within the building, there is a potential conflict of interest. The agent will be acting for two parties, on different terms.

Surely the laws related to the construction and management of buildings should be consistent and property ownership should be open knowledge. Strata managers should then carry out the intentions of law as honestly, openly and fairly as possible in regard to any particular case.

Stakeholders have apparently provided feedback that conflicts of interest are an ongoing challenge in mixed-use schemes. **What is a mixed-use scheme?** Does it contain shops as well as investors living on or off the plots where people live? I guess this is important given the collapse of retail space as an investment opportunity and the fact that, as I understand it, industry superannuation schemes liked to invest in commercial property rather than housing because they got bigger returns. (I must depend largely on the quality daily press for any information about what is going on in this industry in which I have become caught up. However, I love living here in Glebe for many reasons so am quite happy here at St James Court.)

Question 70 in this paper asks: **As a resident in a strata scheme, what do you think about the competency of strata managing agents?** Since 1994 I have only known two so this is hardly a representative sample. I have learned to see them largely as conduits for construction industry interests and perhaps secret others, exemplified clearly in law or not. We are comparatively narrowly pig ignorant as owners of property. Our voting, which often appears more honoured in the breach than the observance anyway, seems largely a waste of time. This is discussed again later.

Since 1994 I have been an owner without mortgage, living on the plot, largely feeling at the mercy of the way the industry designs and wields law to make money and create more industry jobs. Currently I am paying levies of \$100 per week. They last went up without warning before the AGM in December 2020. Nobody voted on the matter as far as I know.

Was this legal or not? Is this a reasonable levy weekly overhead cost compared with other buildings of our type, which are in rows of terrace housing, with gardens front and back? We don't live captive in a giant single building and should not be treated as if we do. I refer back to this later.

My experience of living under strata management since 1994 is that strata managers invariably serve their own and related industry management interests best. A lot of renters on the plot also rely on payments made to real estate agents who are not our strata manager. Since 1994, however, accounting procedures and all related decision and discussion have been improved by more informed and cooperative email treatment all round. Nevertheless, the key-stakeholders (owners), are often also left with little comparative choice or evidence for better understanding and decision.

I cannot speak for renters who are usually passing through in regular yearly processions at St James Court, typically without showing interest in management affairs. Some owners also live off-piste, collecting rents and often employing real estate agents besides the strata manager. There appear to be far too many secret cooks spoiling the broth and using various laws to do it, while industry interests appear to be in getting themselves more interference in the strata area under legislation, to provide more jobs for their industry mates. This is addressed later in regard to renovations.

Question 79 asks. Could we make it easier for owners' corporations to make by-laws? If yes, please tell us how. This is a loaded question showing the degree to which those who wrote the paper appear to be industry captives rather than writing in the broader regional and place based public interest, depending on the particular circumstances of the related land, building and case.

Question 108 asks. Are the provisions relating to common property rights by-laws clear and working well? Do you have any suggestions for improvement? **A. Get rid of by-laws and save money with fairer treatment of everybody, consistent with NSW law.**

Ignorant and/or highly manipulated voting may be worse than useless for achieving the real and continuing interests of any group. Secret donations and related secret family associations naturally encourage corruption in any market. Ideal law and contract require aims in the interests of the key stakeholders in any plot, which are those who own it and those who rent a place upon it. They also appear surrounded by general or particular environmental interests or forces in this state.

By-laws are not ideal forms of law, which is the ultimate controlling regulation, because by-laws reflect purely sectional aims and interests. Law and regulation are ideally expected to provide broader regional protection and so requires aims, not prescriptions. Guidance notes are fine. They assist more informed attention to the particulars of any plot and its regional surroundings better and

cheaper. At St James Court, for example, we have kept a list of major alterations made to individual townhouses, so that, even when they are approved by the strata committee or owners meeting, the group cannot be held financially responsible for future maintenance made necessary as a result of changes made by an owner to their place. (It has been common here, for example, for owners to extend their back walls into their gardens and sometimes to experience a leaking roof or drainage problems as an apparent result.)

GARBAGE, WASTE TREATMENT AND RELATIONS WITH THE CITY OF SYDNEY COUNCIL AND MANY UNKNOWN OTHERS DUMPING OR CARRYING OFF STUFF IN APPARENTLY ORPHAN SPACES

From 1994 to 2019 we lived in a comparative rubbish tip without any capacity to know who was dropping or supposed to be picking it up, other than City of Sydney Council. 2019 was the year the subcontracting procedures of Council changed and everything got much better. I hope this isn't due largely to the coronavirus halts on travel in 2020. Garbage management is at the heart of land and housing management in NSW before one even approaches the concept of garbage as waste and worrying about what is done with it. Until 2019 I have had so little luck in finding out how anything is managed in regard to garbage, let alone waste, that I have given up on caring about the latter. Their secret operations are so secret they all need more building managers or lawyers? I don't think so. Yet court appears the only place where everybody who actually knows better may end up. This is a big waste of money where lawyers learn if we give them information and then they charge us. You would have to be a mug to end up in this racket for lawyers where they have the game sewn up.

MAINTENANCE, REPAIRS AND RENOVATIONS

Q. 72 asks. How important is it for managing agents to have specialist knowledge about building defects? A. It is much more important for managing agents to be able to express matters clearly in writing, calling upon particular expertise close to the plot whenever necessary. This provides a record to assist all current and future understanding and decision making.

Q. 73 asks. What would you think of the proposal for accreditation of certain licensees under the Property and Stock Agents Act as strata building defects management specialists?

A. Why? Can they write particularly clearly and well in English to clarify matters for all involved?

Q. 103 asks. When making changes to common property such as renovations, is it easy to understand what approvals are needed and when? If no, please tell us why not.

A. How would I know why not? I am treated to little or nothing clear in writing about what is expected to go on, while being overwhelmed with information about expected regulations. It must be expensive to relay so much and yet so little information making any clear sense. (I compare this, for example, with the clear and apparently sensible quote and contract requirements that painters and decorators used when repairing and painting the total complex of three level townhouses.)

Q105 asks. Should committees be automatically able to make decisions on minor renovations rather than those being delegated by resolution? Please tell us why.

A. I've lived here on the strata committee since 1994 and never known these decisions were being delegated by resolution. Delegated to whom? Any hints?

Q 106 asks: Should a lot owner always be told the reasons why their request for work or renovations was not approved? If yes, when should the reasons be provided?

A. Yes. It is a measure of the backwardly authoritarian and secretive nature of the men and lawyers driving this continuing and growing strata management and related renovations in building law, that such a question is asked. Reasons for decisions are always necessary in a reasonable community.

Apparently, the most common requests for mediation received by NSW Fair Trading over the past five years were about:

- repair and maintenance of common property
- damage/alterations to common property
- exercise of duties/functions by or on behalf of the owners' corporation, and
- damage to a lot.

Other issues that featured in high numbers were:

- by-laws • levies • noise • nuisance • meeting procedures, and • the behaviour of owners, occupiers and visitors.

The above doesn't tell us much, but reveals more than usual. In spite of stating the above, which suggests more necessary focus on treating common maintenance, damage and repair concerns in any particular strata building, the authors appear vague about the kind of people who might turn up to the plot in any other intervention deemed necessary by the strata manager or a court.

The government paper states the total insured value of strata schemes in NSW is more than \$400 billion. *'Strata schemes also provide significant economic benefits by employing almost 1,500 strata managers and another 1,300 employees. Callout jobs for maintenance and repairs on strata property indirectly employ plumbers, electricians and gardeners, with almost 600,000 callout jobs being made in 2019'.*

The authors appear very ignorant if they can only think of strata managers, plumbers, electricians and gardeners employed on strata plots. With slight reflection I can recall issues concerning:

building managers; cleaners; garbage handlers and removalists; carpenters; concreters; scaffolders; painters; pest exterminators; roofing, gutter and drainage specialists; floorboard, tile and carpet layers; bricklayers; asbestos assessors and removalists; fire safety specialists; arborists and tree removalists; window and garage locksmiths and repairers; other real estate, property evaluation and insurance agents; automatic and garage door contractors and repairers; TV, NBN and related IT specialists and all of the somehow or other related estate agents, lawyers and auditors.

There are plenty more jobs to be got where those came from so their impact on quarterly levies should not be ignored in this paper as usual. I feel fortunate not to have bought into a building with a **swimming pool, lift, gymnasium**, or garage subject to the common kinds of enclosure that most industry bodies appear to encourage on security grounds. This stuff all costs money often generated by industry interests using safety as their special concern, whether this is rationally informed or helpful to any involved in the particular context of the particular place or not. I am glad I have the

money to sustain this lot, whatever may be pushed down my gob eventually. However, I often wish I could be treated more like an ordinary terrace house owner, instead of feeling hounded by men who pull down fences, and want to cut down trees and eradicate foliage in all strata gardens. I guess they prefer pulling down walls and straight concrete for their many jobs, which may lie half completed for years while they presumably go off to do better paying jobs in construction.

The heart of quality service is knowing and understanding the particular problems of the particular place and its surroundings well. The industry players appear more geared to providing lots of jobs often for lots of different guys. This is expensively reflected in levies and free work done of necessity by those owners living on the plot. The owners are a shady lot unless they live on the plot or have bought it for their family members and actually appear in helpful person from time to time. I guess the others are men making an increasing living out of the industry the best way they know how. I've never seen a lot of them and when I have, I often have not had any good reason to believe what they told me. Some may lie or conceal as matters of principle, I guess, a bit like NSW government.

Fortunately, after years of unpleasant struggle and expense, we now have a local plumber who has worked on and known the whole plot of St James for years, as the strata plumber. Prior to that, we had a plumbing company which sent out a totally different guy every time there was an urgent drainage problem call-out. Shit came up laundry plugholes regularly, as there was no effective drain maintenance for the site. This kind of common management practice is a recipe for expensive poor-quality work on the plot. Strata managers don't like rocking men's boats and I can easily see why.

THE NEED FOR MORE REALISTIC ATTITUDES TO INSURANCES AND DUTIES OF CARE

The NSW government paper states: In regard to insurance, **Owners corporations must maintain an appropriate level of building and workers compensation insurance. It asks: How are the laws working? Are any changes needed? If so, how?**

What about the other forms of insurance we may pay as owners? These may include: *common contents; public liability; office bearers' liability; fidelity; catastrophe; temporary accommodation; loss of rent; lot owners' fixtures and fittings; floating floorboards; flood; and machinery breakdown.* (I quote from the Coverforce Brokers Renewal Report of 2020.) This was by far the most clear and rational explanation of our insurances we have had since I came here in 1994. Our insurance premium costs in 2020 rose to slightly over \$20,000 compared with \$15,000 in 1994.

The heart of quality service is knowing and understanding the particular problems of the particular place and its surroundings well. The industry players appear more geared to providing lots of jobs often for lots of different guys who often turn up once to a spot previously unknown to them. This is expensively reflected in levies and often little help to any owners of the plot that I know of.

Building insurance is a huge cost to unit or townhouse owners of a strata plan, whether they live on the plot, or live elsewhere and rent out their property. It must be paid through corporate levies, on top of City of Sydney Council rates, so one would first hope that garbage collection services of

Council and other private sector or related parties wouldn't leave us living in a constant garbage tip. I guess insurance of public land and building are ideally related and regionally informed expenses.

This 2020 Coverforce broker and insurance management model might well allow the costs of adversarial legal systems, also driving management of claims poorly, to be avoided through more broadly open and available direct collection of comparative evidence about any case.

It could assist settlement of claims and disputes related to particular spots and their history to be addressed faster, better and more fairly, by the strata manager and any literate others who see themselves as most concerned and informed about the plot. This should assist better state-wide data gathering and related planning across the lot in NSW. This state insurance model, apparently exemplified, at least on paper, in the Coverforce renewal report 2020, allows better performance by those most knowledgeable and engaged with the spot. They are usually the people who have lived or practiced on the ground and who know its history of work, and their strata managers.

This is the locally grounded approach to trust because it makes more sense to trust it, rather than some entity with an unknown head office, unknown elsewhere, or lawyers who can only go to court comparatively expensively and unfairly driven most often by those with powerful secrets.

A strata manager often knows most as a result of her working breadth and length of experience of the particular plot and others. However, the owners and renters living on the actual place, may be routinely charmed or treated poorly if anything more broadly consultative appears to conflict with normal industry or particular owner interests. Open operation assisted by NSW Fair Trading and related expert information should settle many matters more fairly, informatively and cheaply than the usual mandated court routes that the industry and their mates appear to love.

The government report states that *'under the current laws, there are complex arrangements between the owners' corporations, managing agents, building managers and contractors when it comes to maintaining the building and meeting compliance requirements. The NSW Government has received feedback during 2020 that the missing element here may be that the legislation does not provide for a single point of accountability to ensure ongoing safety requirements are met throughout the life of the building. This could be resolved by imposing a statutory duty of care on an office holder in strata, and the building and facilities manager may be the most appropriate person to hold this duty of care'*. **(Owners are in no position to exercise a duty of care over workers.)**

The problem with the industry view above is that multiple workers may work safely or not and an old woman owner living on the plot is certainly not the one to know and state when this is the case. **Anybody living off the plot may be worse than useless in knowing what is happening or likely to happen here.** To have a building manager who does not live on the plot is merely to put another expensive link in the various unaccountable men whose main mission in life appears to be to make more money and work for themselves and each other. They certainly don't want to be found out.

The NSW WorkCover approach to duty of care, quality management and insurance which the Hilmer approach to competition policy also represented, lost out to lawyers as usual so NSW ended

up with ICARE, which seems to be business as usual. They are never made properly accountable as they secretly and immediately take over government process and feudally mystify it in law to protect themselves and their larger, more lucrative clients. These may be family, land and professional interests. In this context the **regional land owners and electors appear to be joint key stakeholders ideally represented by their elected politicians of every stripe and anyone else they choose**. This appears to be the regional context in which government ideally works openly to protect its own and public interests. To do this effectively, however, knowledge systems must be less partially informed.

See related appendix on housing, superannuation and other economic management below and historical discussion of other problems attached.

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APPENDIX A: HOUSING AND SUPERANNUATION MANAGEMENT

In a very clear and concise summary of the federal government's **Retirement Income Review**, ANU emeritus professor Ron Bird and David R Gallagher, former professor at UNSW explained key findings and conclude the following in the article: *'It's time to tailor super to address widespread disparities in income'*, in the Australian Financial Review, (AFR, 24.11.2020, p. 35) I haven't read the original report, but they state:

'Another interesting observation is the response of the industry to the review, which has mostly been complimentary but has emphasised that it does not suggest a need to divert from the current policy path, particularly towards high contribution rates. This is totally consistent with the behaviour of an industry intent on feathering its own nest, rather than delivering optimal services to the community (and particularly the poor). We hope the government will use this review to initiate major changes in a superannuation system that favours the industry and the wealthy at the expense of those most in need'.

On Compulsory Contributions the review identifies that they play a very useful role in forcing middle income households (30 to 80 percent decile) to save for their retirement whereas this is less true for high income households.

However, the contribution rate of 9.5% of income is already too high for low-income households, especially in their formative years. They will never be as well off as they will be in retirement, when they need their money less than in years of family formation.

The government saw fit to hand out large tax subsidies to reward mandatory contributions. (I guess that was to encourage richer groups on both political and industry sides into industry superannuation guarantee legislation.) However, these tax subsidies will be hard to take away, even though they will soon grow to \$50 billion per year, the cost of the Age Pension.

The tax subsidies to the wealthy mean that they are still saving in retirement and passing on that wealth to their own family generations. Poor households get none of these subsidies and at the margin pay a small premium for the pleasure of making mandatory contributions.

Taking 10% out of the payroll of poor households almost totally denies them the possibility of entering the housing market. The solution is to allow contributors to use their balance towards the deposit on a first home.

Whenever this is mentioned the industry goes apoplectic, resorting to irrelevant claims such as it will further exacerbate housing costs, their real concern being it will take the funds outside their grasp.

See related discussions attached in regard to the kind of industry driving we experience under Strata Management Acts, as owners and investors living on or off the plot and as renters. We voted for greener, more independent and open development in Balmain and City of Sydney but we always get the manufacturing construction industry mates and their special interests thrust down the collective necks in legislation and practice. Help we give up?