

The **BODY** **CORPORATE** **HANDBOOK**

**A Guide to Buying, Owning and Living
in a Strata Scheme or Owners
Corporation in Australia**



STEPHEN RAFF

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About the author

Stephen Raff is the founder and CEO of Ace Body Corporate Management, an international body corporate management company based in Melbourne. Ace manages over 32 000 units across Australia and Singapore and is responsible for managing property and assets worth over \$5 billion. Stephen now supports 70 franchise areas under the Ace name in every state of Australia and the Northern Territory.

Stephen has been on the education subcommittee of Owners Corporation Victoria for the past 12 years, the past five as an office bearer. He is a member of the Institute of Strata Title Management in New South Wales, the Community Titles Institute of South Australia and National Community Titles Institute (NCTI). He has published many articles on body corporate management and legislation in Australia and overseas and is a regular speaker on body corporate and franchising issues here and abroad.

Stephen has lived in and owned strata properties and has been an owner-occupier, an investor and has served on committees of management as a chairperson and a member. He has been in body corporate practice as a manager for over 14 years.

Stephen has a Certificate IV in Assessment and Workplace Training, is a qualified mediator and holds a master's degree in

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Stephen lives in Melbourne with his wife and their two children.

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Disclaimer

Coverage, terminology, Act and Regulation information pertaining to each state or territory may change from time to time. While every care has been taken, there may be discrepancies and inaccuracies in the information provided here. You should always seek professional advice that is appropriate for your situation. Information contained in this book should be used only as a guide.

Most of the case studies contained in this book represent possible scenarios that could arise and are not based on real people or events. Any relationship to real people or events is purely coincidental. You should seek professional advice specific to your situation (appendix D provides a list of helpful resources).

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To my loving wife, Binnie, who has tirelessly supported me throughout my career, is the backbone of my company and the cornerstone of my life.

Preface

In my body corporate management business I meet a lot of people needing help with the many different areas of managing their property. Some are residents in small to medium-sized strata developments; others are managing high-rise apartment blocks with 200 or more units. I have commercial clients who manage retail outlets and others who run office suites, industrial parks and multi-use properties.

While the style of property may differ, the issues tend to be similar: Am I investing in the right kind of property? Will this property suit me? What do I need to know going in? How will I know what's 'my' property and what's considered common property? What sort of fees will I be paying? How can I convince the existing executive committee to make the changes I want? How can I get on the executive committee? What does the executive committee *do* anyway?

I have written this book with mostly residential owner-occupiers and investors in mind, but the majority of the information is just as applicable to tenants and owners of commercial property. I have tried to note where advice or legislation is different for commercial property owners.

How will this book help owners and prospective owners?

Buying a property is an exciting time, but for people buying into a body corporate, there might be some unexpected — and unpleasant — surprises lurking around the corner. Surprisingly, many people don't realise they are buying into a body corporate, often thinking the terms and conditions as well as their lifestyle are exactly the same as if they are buying a 'freehold' property. They don't realise that they will not have the flexibility to make certain alterations to the exterior of their unit, such as painting or installing security doors and outdoor blinds, as all these will have to go through the body corporate for approval. They can't always park their car anywhere they like as there are usually designated parking areas; they may not even be able to maintain the garden in front of their unit because it's considered common property. They may not be allowed to have pets in their property and, if they can, they still may be limited in what type and size of pet they can keep. In a commercial situation, they may have restrictions on how their shop front is constructed or even what colour they can paint the outside.

But there are many benefits, too. Buyers often don't realise that the body corporate's buildings are usually covered under one insurance policy and that there is one common area liability insurance cover as well. So there is no need for individual owners to take out separate building insurance cover for their unit; often the body corporate cover is specific to bodies corporate and normally offers a more expanded cover.

Other areas of common misinformation (or, indeed, no information) are:

- ➔ buyer rights when purchasing a property 'off the plan'
- ➔ concealed defects that may be hiding within the building structure of their unit

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- ⇨ potential future hidden costs such as galvanised water piping that will eventually need replacing with copper piping
- ⇨ potentially sharing one water or gas meter that other owners may want to separate (which can be an expensive exercise)
- ⇨ confusion over fence ownership and suddenly finding you are up for a share of the cost for replacing all the boundary fences on common property
- ⇨ the absence of money in the administration fund to pay for running the body corporate (including paying for the body corporate insurance!)
- ⇨ an existing liability claim against the body corporate for a trip, slip or fall claim on common property, for which new owners may have to foot some of the bill (although it would be rare that there would be insufficient liability cover or that the insurance company failed to cover the claim).

These and many other potential issues will be covered in this book, giving existing owners and new buyers a 'heads up' on some of the potential pitfalls that face strata property owners. I have used case studies and other examples throughout to help illustrate points and give you a better insight into how things work.

Having highlighted some of the potential downsides, there are many positive aspects of buying into a body corporate. I have lived in bodies corporate, I've managed them and I've owned units in them. The intention of this book is to provide information. The aim is for you—prospective purchasers and existing unit owners—to use this information to protect yourself and enhance your investment. If you are aware of the traps then you can avoid heartache down the track and ensure that you get value for your purchase dollar.

It's also very important to know what you're in for in terms of lifestyle. Body corporate life is not for everyone; it's a lifestyle choice and may not necessarily suit your personality. Do you like being around other people? Do you want a pet? Does noise affect your sleep? Do you care about reduced flexibility when it comes to property maintenance? Do you mind sharing in costs for running the whole body corporate? Do you mind having restricted parking? These and other questions need to be considered carefully before you decide to buy into the body corporate lifestyle.

Other areas I will cover in this book include:

- ⇨ pros and cons of investing in strata properties
- ⇨ state and territory legislation covering bodies corporate
- ⇨ how to find and buy your ideal property
- ⇨ how bodies corporate and executive committees operate
- ⇨ rights and responsibilities associated with owning a strata property (and who pays for them)
- ⇨ managing disputes
- ⇨ selling a strata property.

How to use this book

Body corporate laws vary from state to state. Although many of the principles of these laws are common Australia-wide, I have tried to provide comprehensive information for each state so as to give you as much detail as possible about your individual situation.

In each chapter, I have noted where laws deviate from state to state and given examples from a variety of states to help make the information more applicable to a national audience.

Preface

Of course, laws change from time to time. Information in this book was up to date at the time of printing, but its currency cannot be guaranteed beyond this time. The best advice I can offer you is to double-check the latest body corporate laws and regulations with your local state-based housing authority (see appendix D for a comprehensive list), your conveyancer, your solicitor or your strata manager.

If you are considering purchasing a strata property, I have no doubt that this book will give you a good understanding of what you must consider before making that purchase. It will provide you with the 'nuts and bolts' of strata living and management. It will help you to understand that different bodies corporate will provide different lifestyles and what you as a purchaser need to consider before diving into body corporate life. As you will come to realise, it takes a particular type of person to live happily in a body corporate, so this book will help you to understand the importance of knowing yourself and recognising whether or not you are suited to this kind of environment.

If you already own or are living in a strata-type property, I hope this book will help you make the most of your life there and equip you with everything you need to know about becoming part of the decision-making committee and what to do if a dispute arises. Because, take it from me, knowledge is power!

Stephen Raff
Melbourne
November 2008

Chapter 1

Is a strata property right for you?

You only have to look around any suburb within 10 to 15 kilometres of an Australian capital city to recognise the increasing popularity of unit-style living. Many buyers love them because it means they can afford a first home or an investment property. Or they can downsize and reduce the burden of maintaining a house with lawn and garden, which means they can have their leisure time, while still enjoying the advantages of inner-city living.

Property developers love to build this style of housing because they can often buy a piece of land with a run-down house on it, demolish the house and build several units on the block, maybe doubling their money in 12 or so months.

But owning a unit, townhouse or apartment is not like owning a house. Because they share common property, they have to be managed by someone. There are also restrictions on what alterations you can make to 'your' home, and you're living in close proximity to your neighbours who may not share the same lifestyle as you.

Australia-wide there are around two million units owned by individuals or companies that are being managed by more than 210 000 bodies corporate (see table 1.1). That's a lot of units affecting a lot of people. It is estimated that more than \$1 billion per year is collected and spent by strata and community title schemes around the country.

Why do people live in body corporate properties?

Higher density living has become increasingly popular throughout Australia due to a combination of population growth, housing affordability, security and lifestyle factors. Table 1.1 shows the approximate number of strata properties across the country.

There are more of us than ever before and not everyone wants to live in outlying areas where new estates are being built, so we need to fit more people onto the same area of land. In city areas, that means building skywards. In the suburbs, that means flattening one house and building three or more in its place. For rural or non-capital city dwellers, there tend to be more places available, but prices seem to be going up just as fast as in the city.

All over Australia we are seeing record growth in property values, with Melbourne experiencing a massive 25 per cent increase in house prices in 2007. Brisbane and Adelaide were not far behind, both recording growth of around 20 per cent, according to Australian Property Monitors. The competition has never been fiercer and for first-home buyers, it often means they need to start off with a cheaper strata-type property while they're young and childless and then move on to something bigger once they're financially able, and want a backyard in which to erect a swing set.

Table 1.1: approximate number of strata properties, by region

Region	No. of schemes	No. of units
ACT	4 100	33 000
NSW	70 000	660 000
NT	2 100	18 000
Qld	37 000	340 000
SA	22 000	176 000
Tas.	6 800	25 500
Vic.	65 000	500 000
WA	55 000	275 000

Skyrocketing rent prices all over the country have added to this explosive mix, prompting renters to question why they are paying \$2000 a month in rent when they could be paying an extra \$800 to (eventually) own their own home.

Lifestyle factors are another big driver of this change, with high-rise blocks often providing swimming pools, gyms, saunas, even indoor tennis courts, restaurants, coffee shops and much more. Community-style living is attractive for many single people because it supplies an instant social network with the added bonus of the security of having other people living close by. Young, active people, as well as newly divorced or newly married couples without children, often don't want land because it means time and money spent on maintenance, and they are short of both.

Types of body corporate properties

There are a number of different types of body corporate properties around today. In inner-city areas, medium-rise apartment blocks, such as the one shown in figure 1.1 (overleaf), are becoming more and more popular.

Figure 1.1: medium-rise apartment block



Low-rise apartment blocks, such as the one shown in figure 1.2, have been around since the 1960s.

Figure 1.2: a typical low-rise apartment block



Also prevalent is the classic 'six-pack' set of units with parking on one side and housing on the other, as shown in figure 1.3.

Is a strata property right for you?

Figure 1.3: set of six units



Figure 1.4 shows a configuration of attached townhouses, which generally have very little common property.

Figure 1.4: a row of attached townhouses



Double-storey villa units, as shown in figure 1.5 (overleaf), provide space and security for their residents.

Figure 1.5: double-storey villa units



Mixed-use developments are springing up more frequently in both cities and outlying suburbs. A typical example is shown in figure 1.6.

Figure 1.6: mixed-use development



High-rise apartment blocks, as shown in figure 1.7, are found in most major cities around the world.

Is a strata property right for you?

Figure 1.7: a high-rise apartment block



How have bodies corporate come about?

Up until the 1960s, it was not possible in Australia to hold a title deed for part of a building, storey or air space. That meant it wasn't possible to own a single flat or unit that was part of a group of units. The title-holder owned all buildings and common areas and was not permitted to sell off individual units; they could only be rented out. The only way around this problem was so-called 'company' title where, instead of buying title to a property, you owned a share in a company which gave you the right to use a part of the property. That right was defined under a service agreement.

It wasn't until 'strata title' legislation was introduced first in Victoria (*Transfer of Land (Stratum Estates) Act 1960*), and then in the other states of Australia in the early 1960s, that individuals could hold title to their own apartment or unit and therefore be able to transfer the property without the need for consent. For the first time it became possible, unlike

with company title, to hold title for part of land constituting a space between certain levels above or below the surface of land. The word 'strata' came from this legislation (and is the plural of stratum).

Today, strata titles are used to subdivide (by way of a 'strata plan') a building or property into separate 'units' (such as townhouses, multilevel flats or apartments) and used to define common property, such as lawns and gardens, driveways, hallways and lifts. These common property areas are managed by bodies corporate (called 'owners corporations' in some Australian legislation). This governing body is created automatically when the strata plan is registered and all unit owners automatically become members.

Terminology used in this book

Before we go any further, it is probably worthwhile defining some terms used throughout this book. Different states use different terminology, particularly in a legal sense (see table 1.2). The following terms are used throughout this book:

Body corporate—commonly referred to as an owners corporation, community title or strata scheme, a body corporate is the legal entity with responsibility for managing the interests of the members in the common property under its control.

Common property—areas shared by unit owners shown on the plan of subdivision as common property owned by all members in common and managed by the body corporate. Apart from the obvious inclusions like shared driveways, walkways, foyers and lifts, these can also include meeting rooms and various recreational areas such as gyms, swimming pools, tennis courts, even golf courses.

Levies—contributions paid by owners to the body corporate to cover recurring or regular expenditure. These are usually paid quarterly and the amount is generally based on unit

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entitlement or liability, depending on the state or territory. The term is used interchangeably with ‘fees’ in this book.

Special levies—one-off fees raised by the body corporate to fund extraordinary major capital expenditure projects, usually as an alternative to having a sinking fund or borrowing.

Strata—the legal term for the subdivisions of property into lots (units) and common property that may apply to multilevel or high-rise buildings, townhouses, factories, offices, storage facilities and even retail units within a body corporate.

Unit entitlement—the proportional share of the body corporate that is owned by each unit holder fixed upon registration of the plan. There are various methods to determine the proportions, but, in general, if your unit is larger, of a higher value or has more amenities, your unit entitlement will also be larger. This gives you both more rights and more responsibilities; you may have a larger proportion of the votes when it comes to a poll vote or, in some cases, a postal ballot for decision making in a general meeting, but you may also be responsible for meeting a larger proportion of the costs.

Units—the apartments/flats/townhouses or other privately owned areas or spaces within a strata subdivision. Often called ‘lots’ in legislation and also referred to as ‘strata properties’ in this book.

Table 1.2: common body corporate terminology, by region

Region	‘Scheme’	‘Body corporate’	‘Management committee’	‘Manager’
ACT	Unit title or community title	Owners corporation or body corporate	Executive committee or committee of management	Managing agent and unit plan managers

Table 1.2 (cont'd): common body corporate terminology, by region

Region	'Scheme'	'Body corporate'	'Management committee'	'Manager'
NSW	Strata scheme	Owners corporation	Executive committee	Managing agent
NT	Unit title	Management corporation	Committee	Employee or agent
Qld	Community titles scheme	Body corporate	Committee	Body corporate manager
SA	Strata scheme	Strata corporation	Management committee	Agent
Tas.	Strata scheme	Body corporate	Committee of management	Manager
Vic.	Strata plan, plan of subdivision, cluster subdivision plan	Owners corporation	Committee	Manager
WA	Strata scheme	Strata company	Council	Strata manager

Do you want to live in a strata property?

One of the most important decisions you will need to make—before any other—is whether or not buying, living, letting or renting in a body corporate environment is the right choice for you. This may be as an owner-occupier, investor