



Platinum Strata Community Management



From the beginning the home of Platinum Strata Community Management has been at the contemporary Docklands precinct which is the product of an ongoing urban renewal project by the state government of Victoria to extend the area of the Melbourne CBD.

Even though, located centrally in the developer-centric Docklands, Platinum Strata is gearing itself now to offer and share its strata management services to entire state of Victoria starting from one of the key regional Cities, Geelong.

By pioneering a culture of technology & innovation, Platinum Strata was one of the first to adopt a state of the art strata management system called Property IQ, a product that was eventuated as a result of the joint venture between Macquarie Group and CoreLogic.

After graduating as a lawyer (LL. B) from the University of London, AQA Law from London School of Law and LPC from the University of Westminster, Viduni explored her initial legal career in Property Law.

Observing the potential to make a positive contribution to the strata management industry, Viduni accepted the challenge as the company secretary not only to manage the corporate affairs aspects but also to improve

the process and compliance with the support of a great team of young and energetic strata management professionals at Platinum Strata.

Viduni clarifies, *"Initially, Platinum Strata focused mainly on managing more complex high-rise developments where Platinum Strata believe that Platinum Strata had the much needed proficiency and credentials. Platinum Strata soon realized that even the small to mid-size development could also could equally benefit from the principles and practices that Platinum Strata adopted with larger buildings. Hence, with our unique strata management model, everyone could now benefit from the delivery of professional and personal service through the efficient use of modern technology"*

The success of Platinum Strata belongs to the professionally qualified team and particularly to the senior strata operations manager/company Secretary, Viduni Fernando.



Seeing the potential vacuum of experience in managing complex buildings in regional Victoria, Platinum Strata made a strategic move to relocate its Head office to Geelong in October 2017 with having the intention of to serve the neighboring regional Cities as well.



Platinum Visions & Values

Through the motto, "Platinum take things personally", Viduni introduced a whole new culture with the hope of that this contagious vision will spread throughout the industry.

Everyone one at Platinum Strata recognizes the fact they are dealing with homes of their clients or the retirement nest eggs of investors whose hearts are attached that property. Unless you are prepared to take it personally in looking after your customer's needs, no satisfactory relationship can ever be built.

At Platinum Strata, Managers with diverse professional backgrounds, recognize the importance of continuous professional development by constantly endeavoring to update their professional standards through accreditation by the peak body governing the industry, Strata Community Australia and through an internal training program conducted with the collaboration with various industry professionals.

Platinum Strata first started as an Owners Corporations Management firm in managing a large portfolio of complex high-rise buildings in and around the greater Melbourne district mainly Docklands.

Seeing the potential vacuum of experience in managing complex buildings in regional Victoria, Platinum Strata made a strategic move to relocate its Head office to Geelong in October 2017 with having the intention of to serve the neighboring regional Cities as well.



Viduni believes that to enhance the 'livability' of buildings governed by Owners corporations, the functions of an Owners corporation under the Owners Corporations Act should expressly include community building principles and practices within the Owners corporation by allowing to organize and fund groups, clubs and activities involving lot Owners and other occupants of the building.

It takes more than bricks and mortar to add the beat to your development. It's people, and how they interact that gives life to your vision.

Platinum Strata believes that through a well-planned concerted effort, strata building communities would be a means of:

- Achieving social justice



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Fostering Community Spirit

Platinum Strata believes that the Strata Management is not just about managing buildings but about taking the leadership in building communities & building neighborhoods being empowered to create and enhance the right community spirit together with a sense of well-being among individuals within.

- Community well-being
- Achieving a positive impact on otherwise disconnected individuals.

Docklands.



Seeing that the Owners Corporations laws are completely inadequate to recognize a role for an Owners corporation to actively build a sense of community spirit within any strata scheme, Platinum Strata is of the view that by overhauling the legislative framework with additional mandatory obligations together with the allocation of funding for the purpose by expanding the functions of an Owners corporation to include community building.

This may include:

- Similar to a prescribed maintenance plan, to formulate a Strategic community building 5 to 10-year plan
- To develop community spirit and to encourage interest groups, put in place a seed funding mechanism

technological cross partnering with other service providers.



According to Viduni, Owners corporations alone should potentially be the vehicle for embedded energy networks, centralized water systems, marina management, and luxury resort management etc.

In nutshell, a sense of community is one to be created and not by spontaneous evolution and it demands governance and management

structure capable of driving the processes to manage various communal facilities for the purpose of recreational, educational and social activities.



To accomplish all this sound system of communication would be the starting point with the establishment of noticeboard for minutes and announcements, a regular newsletter and a register of all email addresses.

OUR DIFFERENCE

Platinum's Strata value system is underpinned by not just about having in-depth knowledge about buildings but mostly about the human relationships.

Being driven to achieve Service & Process efficiencies by means of using state of the art Strata/Building management systems and online platforms that can be developed to promote

Viduni says "Unless you have the opportunity to work with complex high building right at pre-construction stages of any project through to developing strategies to build their image long after the completion, there is no chance of being able to empower developers to fulfil their legal requirements in drafting budgets, common area design, planning maintenance plans, drafting complex levy schedules, drafting/preparation of rules, contracts management and with the preparation of Owner Corporations Certificates etc. when establishing an Owners Corporation by observing best industry guidelines".

Viduni goes on to add "Setting up of Owners Corporation with Multiple OCs can be very complex and with our experience in preparing Budgets, Property/Building manuals, web portals, books/records and other procedural matters with granting leases and Licences etc.

When the initial owner (the developer) is in control of the majority of the Owners Corporation, for a while, from the registration of the plan of subdivision Platinum Strata will protect the goodwill of the developer by working together long after the end of construction phase."

How Platinum Strata Maintain the knowledge and skills of our OC managers

Supporting the registration or licensing scheme to ensure that Owners corporations managers are up to date in their knowledge of the law and current practices to enhance the quality of advice and services they provide to Owners corporations.

One of Platinum Strata unique strengths is to have an in-house training program partnering with industry professionals to undertake such program to provide information tailored to the needs of managers on changes to law and on systemic legal and practice issues through both traditional and innovative ways, including through web based information library tools that allow managers access to by means of advanced Document Management System.

Platinum Strata vision for Owners Corporations industry

Harmonisation of strata laws

Viduni envisions Harmonisation of strata laws in line with the rest of the world by addressing overlaps and inconsistencies between state jurisdictions as business activities normally transcends beyond state borders.

Unfair management contracts

There must be a provision to prohibit unfair terms in management contracts by giving the Victorian Civil and Administrative Tribunal (VCAT) the power to rule generally to ascertain whether terms unfair under the unfair contract term provisions of the Australian Consumer Law (ACL). Not many in the industry are aware that currently, management contracts do not come within the ACL provisions.

Platinum Strata promotes short to medium term contracts and with restrictive automatic roll over terms may be beneficial in dealing with Owners corporations. How? Medium term contracts may attract Building as Strata managers willing to commit long-term resources and to assist in obtaining funding for their business; and automatic roll over terms may address the difficulty in obtaining a quorum at a meeting to renew the contract.

Conflicts of interest, voting conduct and transparency

Platinum Strata take the strong view that all Strata managers have obligated under the Owners Corporations Act to act honestly and in good faith while exercising due care and diligence, not make improper use of their position for gain.

Secondly, there is an obligation to maintain transparency to account separately for the money held for each Owners corporation by the manager in trust accounts. It also requires managers to report to the annual meeting on their 'activities' which would include their dealings with Owners corporation moneys.

Money held on trust and other funds

It was reported time and time again that the practice among some managers to keep pooled accounts and use modern software packages to assist them in accounting separately for moneys from different Owners corporations. Platinum Strata believes that this practice should be totally eliminated thus allowing all managers to maintain separate trust accounts rather pooling the funds of separate Owners corporations in one bank account. In addition, there must be a mechanism where such trust accounts may be audited independently in the same way with conveyancers and Real estate agents.

Abandoned goods

In Victoria, there are no specific power to deal with goods that may be left behind or abandoned on the common property and left in breach of OC rules or simply refusing to remove such items. The only exception is that if the access to common property or other private lots is blocked or otherwise in an emergency.

However, the right of property Owners to remove such goods is governed by the general law of trespass under which, the Owners corporation must apply to the court for an order to remove such goods.

As a solution, Platinum Strata propose that that Owners corporations may be permitted to remove such goods in the same way that:

- landlords can deal with goods left behind in rented premises under the Residential Tenancies Act
- traders can deal with unclaimed goods under the Australian Consumer Law and Fair Trading Act

Platinum Strata supports re-introduction of Wheel clamping and the Owners corporation should be allowing to service both common property and private car spaces while being able to effectively enforce parking infringements.

Decision making within Owners corporations

Platinum Strata adopted a system of mandatory training of committee members where educational resources are made available online on property portals.

Proxies and voting limitations

The Owners Corporations Act places some restrictions on the unwholesome practice of 'proxy farming' where person is prohibited from requiring or demanding that a lot owner give that person, or any other person, a power of attorney or a proxy where the use of proxies by disengaged lot Owners who hand over their proxies without any real idea of how



they will be exercised.

Notwithstanding the fact that if a lot owner appoints a proxy to vote on their behalf, the proxy lapses after a period of 6 months or a maximum of 12 months, it's the opinion of Platinum Strata that the total number of proxies that could be held by one person should be restricted to significantly and secondly, committee members could only give a proxy to another committee member.

Committee ballots

Under the Owners Corporations Act 2006, a ballot of the Owners corporation may be arranged by the manager at the instruction of the chairperson/secretary. However, no provision has been made under the Act for organizing a ballot of the committee.

Therefore, Platinum Strata believe that the Owners Corporations Act should clarify that the chair or secretary can arrange a ballot of the committee.

Subdivision Act & the use of common seal

In our opinion, Platinum Strata support the recommendation to remove the requirement for a common seal on the basis that it is an outdated company practice and where a transaction has been authorised by the Owners corporation, two committee members would be able to sign on behalf of the Owners corporation with an appropriate instrument of delegation of power.

Maintenance plans and maintenance funds

Platinum Strata observe that the existing requirements for maintenance plans and maintenance funds are at time inadequate to address maintenance requirements, particularly in larger apartment buildings with extensively complex infrastructure.

Platinum Strata recommend for making maintenance plans and maintenance funds compulsory for all Owners corporations, not just for prescribed Owners corporations, on the grounds that:

- all Owners corporations can suffer through public liability claims caused by lack of maintenance of the common property, and
- lot Owners in all Owners corporations have a duty to each other to maintain the value of their lots, which is affected by the level of maintenance of the common property.

Platinum Strata also recommend that creation of a contingency fund is to made mandatory for all Owners corporations, to supplement the maintenance fund (smaller properties may be exempted) in relation to unplanned works or other contingencies, such as litigation costs, especially where the matter is urgent when there is no time to arrange a special levy.

If not, unplanned works should be included in a maintenance plan by ordinary resolution and the costs drawn from the fund by means of an ordinary resolution.

Strata insurance

Platinum Strata holds the view that that more comprehensive insurance protection for committee members could be provided, this would encourage more lot Owners to participate in committees.

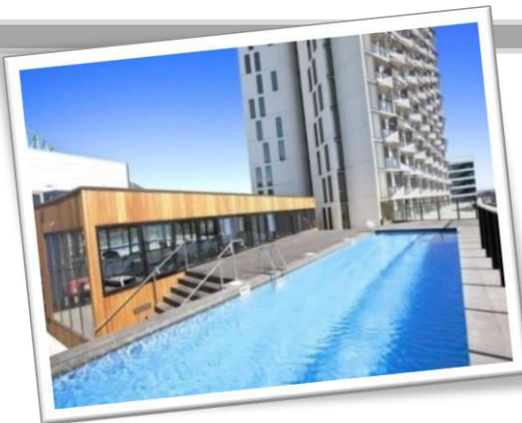
- professional indemnity insurance for committee members, to complement or supplement the immunity for committee members against claims under section 118 of the Owners Corporations Act is not adequate as the costs incurred by a committee member when defending a legal action.

- any fidelity guarantee option as mandatory with any building policy (The cover for loss that is incurred as a result of fraudulent misappropriation of funds by the manager or committee members), and
- contents insurance for items such as carpet, artworks and white goods in communal laundries on common property.

Amidst much criticism, Platinum Strata recommend that the cost of building insurance would be levied according to lot entitlement, not according to the lot liability as lot entitlement reflects better how lots will benefit from having an insurance proportionate with the lot size or value.

In order to more finely tune the insurance provisions of the Act to enable Owners corporations to achieve more equity, Platinum Strata proposes following;

- levy lot Owners for not only for excesses payable on claims and but also on increased premiums resulting from claims where the claim arose from the culpable/wilful act or the gross negligence by a lot owner and/or their lessee/guests
- levy lot Owners for the cost of damage to common property caused by them, their lessees/guests that was not covered by insurance or where the cost is less than the excess payable
- levy lot Owners for the excess where a claim relates only to their lots, i.e. not to the common property or to all lots
- Seriously apply differential levies for insurance policy premiums where a particular use of a lot increases the risk



Dispute resolution and legal proceedings

The engagement of the dispute resolution process internally (as prescribed) of an Owners corporation is inappropriate where the matter has been initiated by the Owners corporation itself. Model Rule 6 (Dispute resolution) under the Owners Corporations regulations 2007 does not provide for full criteria that would facilitate dispute resolution.

While it sets strict timelines for the parties to meet to discuss the dispute, it does not provide for an Owners corporation to have a specific sub-committee for grievances or to seek expert advice when determining an outcome. Platinum Strata view is that at times, an third party expert determination would be a useful avenue for resolving certain types of disputes.

The worst case out all is that the maximum civil penalty that VCAT can impose for a breach of an Owners corporation's rules of \$250. This is grossly inadequate to deter breaches of any sort. The Owners corporations have little incentive to apply to VCAT for penalties as it is a seriously time-consuming process. On top of it, even the penalties charged will go into the coffers of Victorian Property Fund.

In particular when dealing with breaches arising from Short-stay accommodation, the civil penalty for a breach should be much higher and this should reflect on Owners Corporations Amendment (Short-stay Accommodation) Bill 2016 (Owners Corporations Amendment (Short-stay Accommodation) Bill).

Platinum Strata believe that Owners corporations should be allowed to impose and retain civil penalties, with a right of appeal to VCAT by the offender where the burden of proof would be on the Owners corporation. This option might minimize the time and expense involved in pursuing penalties and tends to minimize the possibility of abuse of power.

However, it might also reduce the incentive of Owners corporations to pursue actions. A word of caution though, there may be a possibility that Owners corporations might abuse such a power to victimize unpopular lot Owners.

This option might minimize the possibility of abuse of power while increasing the incentive for Owners corporations to pursue penalties, although the time and expense of applying to VCAT may not always warrant action by the Owners corporation. But the best option out of all would be for the OC to retain penalties imposed by VCAT.

Defaulting lot Owners

More often than not, Owners corporations may be 'out of pocket' in an effort to recover debts from defaulting lot Owners. Platinum Strata recommend improving the capacity of Owners corporations to recover pre-litigation debt collection costs including legal and administrative costs from defaulting lot Owners.

However, under the *National Consumer Credit Protection Act 2009*, legal and administrative costs incurred by a creditor prior to legal action are generally not recoverable.

The unfortunate situation with Owners corporations is that It's mutually-dependent relationship between lot Owners is not akin to a commercial creditor-debtor relationship.

Platinum Strata can summarise the issues faced by Owners corporations in the following way;

- difficulty in budgeting or means of balancing if a large number of lot Owners have not paid their fees

- Unfairness on the part of non-defaulting lot Owners when the Owners corporation's costs in pursuing debts may not be fully recovered or only partially recovered, or are as much as or greater than the debt itself and further injustice for non-defaulting lot Owners who effectively subsidise a defaulting lot owner, sometimes for years
- inability to obtain default judgements at VCAT and even seeing the prospect of defaulting lot owner to pay by instalments, meaning further delay in recovering the debt.

Platinum Strata recommends legislative changes be made to enable Owners Corporations to effectively recover all costs to bring a proceeding against a defaulting owner including any additional costs incurred by the manager from that defaulting owner in the process of debt recovery, to remove the inequity in this process.

Platinum Strata also see the need to amend the laws to allow Owners corporations to garnish the rent from apartments where the owner has decided not to pay levies.

NB: VCAT policy is that each side to bears its own litigation costs while at the Magistrates Court's the winner gets its litigation costs according to a statutory scale. A special resolution is required at the courts to litigate whereas only an ordinary resolution is required for litigation in VCAT.

Requiring to lodge bond against future unpaid levies

As per the Residential Tenancies Bond Authority, Owners corporations can be given the authority to obtain a bond from which unpaid fees could be drawn.

Rules & By Laws of Owners Corporations

Owners Corporations may have rules for the control, management, use or enjoyment of common property and lots and created with the intention to govern

regular issues such as parking, pets and noise.

In the absence of rules which are unique to an Owners corporation, a set of model rules outlined & registered at Land Victoria will apply to Owners Corporation, Lot Owners, Tenants, and Sub-Lessees or any other occupiers under the Owners Corporations Act 2006.

If an Owners corporation is to create new rules by applying to Victorian Civil and Administrative Tribunal (VCAT) to enforce these and once adopted the tribunal can impose penalties for breaches of rules.

Obligations under the legal framework

- must comply with the requirements of the Owners Corporation Act 2006 and the Australian Consumer Law and Fair Trading Act 2012
- must not conflict with any other law, regulation or legal obligation; for example, privacy and anti-discrimination laws
- should stipulate everyone's rights and responsibilities and reduce conflict within your Owners corporation.

All lot Owners, tenants or any other occupiers must be given a copy of the rules before they move in.

Utilities Management

A duly endorsed energy reduction plan can be a good start and this energy reduction plan should outline the appropriate process of identifying and implementing such opportunities for the Strata building to save energy, money and time.

Platinum Strata's Experience with Embedded Networks Systems

If you are the developer or the Owners Corporation of a building then you are able to on-sell energy to your tenants/occupants. Even Tenants/occupants benefit through:

- Cheaper energy and gas bills
- Owners/managers benefit through additional revenue streams.

Embedded networks are established to physically aggregate the energy consumed within the entire complex to a single metered point. Sub-meters measure tenants' and common area consumption using the latest in smart interval metering technology.

Even though, the Owners Corporations are not required to hold a licence to sell or distribute energy. Platinum Strata can help comply with the relevant obligations in industry codes that the

- Essential Services Commission (ESC)
- Australian Energy Regulator (AER)

Developers' obligations

In our opinion in general, the duties of developers (and, also in the capacity of the initial owner) are inadequate either in their duration or in their capacity to address the adverse impacts on Owners corporations by acting honestly and in good faith, and with due care and diligence in the interests of the Owners corporation and when exercising any rights under the Act.

How about the contracts that they enter in to on behalf of Owners corporations?

The developers are obligated to take all reasonable steps to enforce their domestic building contracts especially in relation to building defects in the common property or otherwise to adequately to protect Owners corporations.

Platinum Strata recommends that the developer's ability to enter into leases, licences or agreements etc. for which the developer would become the principle beneficiary be limited for up to three years.

There was also much commentary about the capacity of developers;

- Setting initial lot entitlement and lot liability in a such way that tips the balance of their control between other members of Owners corporations
- setting the initial budget of the Owners corporation at an unsustainably low level to entice buyers with low initial fees, and

- entering into other contracts that provide a financial benefit at the expense of the Owners corporations, such as designating artificially common property or services as private lots, retaining their Ownership and leasing them back to the Owners corporation
- entering into long-term supply contracts with Owners corporations, and appointing themselves or their associates as their building managers or strata managers and using their position to control access to information about the Owners corporation's affairs.
- prohibit developers appointing themselves or their associates as building or Owners corporation manager within the first 10 years of a development
- limiting the duration of any non-management agreements under which they benefit, to three years.
- required to pay a 'defects bond' of 2 per cent of the contract price, and obligated to fund independent building inspection reports.
- required to provide the first meeting of the Owners corporation with the building maintenance manual, the asset register, a maintenance plan, warranty details and building specifications, reports, certificates, permits, notices and orders, and

prohibited from voting on any resolution relating to building defects

Initial settings of lot liability and entitlement

Lot liability determines a lot owner's share of the annual fees and special levies not governed by the 'benefit principle', and lot entitlement determines a lot owner's voting power and developers have fiduciary duties to Owners corporations, this could extend to controls over the initial settings of lot liability and entitlement to ensure fairness.



- Some developers retaining lots with disproportionately low liability or disproportionately high entitlement
- lot liability, as well as entitlement, being set according to estimated sale prices, which are affected by factors such as location and amenity that are irrelevant to liability, and
- equal setting of liability and entitlement where lots are of unequal size.

Off-The-Plan Sales

When a land is sold "off the plan" means that land will not yet be affected by an Owners corporation at the time of sale thus excluding the obligation to include an Owners corporation certificate in the Section 32 as set out in the Sale of Land Act 1962.

Platinum Strata recommends the motion that if an Owners corporation will be created at a later stage in an "off the plan" sale, then the contract of sale should mandate that purchasers receive the same information similar to an Owners corporation certificate.

Defect Management

Building defects and their rectification are major problems in residential strata buildings.

The Victorian Building Authority (VBA) has just rendered a high-profile decision relating to the fire in Melbourne's Lacrosse Building in Docklands, where it was found that the aluminium cladding did not comply with the Building Code of Australia.

It is expected that the building surveyor who signed off on the building work facing disciplinary action also being referred to the Building Practitioners Board for having breached the Building Act and Regulations and failed to carry out his work in a competent manner and to a professional standard.

The VBA is also referring the conduct of the architect to the Architects Registration Board of Victoria, the regulatory body responsible for the conduct and discipline of architects.

The inevitable outcome is that the disciplinary action follows increased scrutiny of the operations and current practices of building surveyors in Victoria. As a step in the right direction, in December 2015, the government announced that builders would be banned from contracting their own building surveyors under the scheme of Victoria's construction laws.

How about the inherent conflict of interest when engaging a private building surveyors to assess building work while they are also employed by the builder.

In a decision made in New South Wales late last year where the Supreme Court found a certifier liable to a home owner for building defects. While the certifier in that case was a local council, it offers hope to Owners corporations whose buildings are affected by defects. The Court found that the negligent performance of the council's function as certifier could well injure the economic interests of the purchasers of the house, who it knew would rely on the occupation certificate.

This is an important verdict for Owners corporations considering negligence claims against certifiers of residential buildings.

Developers should be subject to a statutory obligation to ensure compliance by engaging professional accredited designers of critical building elements and that should include an obligation to rectify non-compliant construction work.

There also needs to be a stronger certification process which requires that design and construction compliance for critical building elements be undertaken by qualified professional practitioners, and preferably by the actual designer of the building element or system.

Platinum Strata believe that there is a need to improve on the scope and detail of mandatory building inspections of critical building elements and the construction compliance certification has to be based on professional inspections during construction, not afterwards.

In response to a flammable cladding issue with one of the buildings that Platinum Strata manage, the Building Ministers Forum outlined steps, such as the possibility of mandatory accredited third-party certification process for cladding and other sensitive building materials. Platinum Strata supports the notion that more rigorous processes for mandated final inspections in particular for 'waterproofing'; inadequately applied membranes, issuance of completion certificates, including certificate of occupancies, should be enforced.

The Victorian government should change the laws about defects address the issue of inequitable exemption of that warranty insurance for high rise apartments with more than 3 storeys.

Lesson learned from our experience by the entire industry

Platinum Strata team was duly recognized for how well Lacrosse fire was managed during the course of the emergency when all parties involved joined forces together to deal with the issues. All occupants were quickly alerted and evacuated and well managed building management systems were put in motion with no fatalities or serious injuries.

Secondly, places for temporary accommodation were arranged with additional provisions by all agencies supporting the rescue effort.

Most importantly, emergency building management protocols were adopted within short time span to allow partial occupation under controlled environment.

This incident brings into question the ability of building legislative and regulatory framework to minimise the negative impact of such an occurrence with having adequate mechanisms to police and control these functions who should pick the tab in fixing or should there have been insurance to cover for the purpose.

Total industry shakeup as a result of Lacrosse fire;

- Ensuring the compliance of the building to the Building Code of Australia (BCA);
- The number of occupants within residential buildings as per occupancy permits;

- The protocol adopted for approval and accreditation of external wall cladding systems



Our View on the Short-Term Accommodation Issue

In some of the buildings, Platinum Strata observe that the members of

Strata Committees are wasting considerable amount of time and money with legal battles trying to find a way of stopping short-term lettings in their residential buildings.

If managed well with carefully drafted short term contracts, a simple solution to make sure large residential buildings have a strong onsite management presence not only with the responsibility of performing or supervising the day to-day maintenance of the building but also usually granting exclusivity to be the only party capable of operating an onsite letting business through short term (for up to 5 years) contracts.

However, the conduct of this business is regulated by the by-laws and the Letting Agreement between the Owners Corporation and the onsite manager. In other words, the manager is directly answerable to the Owners Corporation for its actions.

By contrast, the Owners Corporation has next to no control over Owners and tenants operating under the Short-Term Accommodation model. When there is an onsite building manager, he would know exactly what is going on in the building even to the extent of knowing what units are being short-term let via Short-Term Accommodation

Developers need to start seriously thinking about the continuation of the governance and harmony issues in their buildings even after their departure as such instead of settling their sales and hoping that the strata legislation will look after the ongoing management of the buildings. The developer is the person who sets the tone of the building as they determine the by-laws and how the building is managed once the developer has washed their hands of the development. They need to set up structures that make the life of Owners easier and the incorporation of fair, short-term caretaking and letting agreements, supplemented by appropriate by-laws.

Another option would be for Owners corporations to enter in to an contractual arrangement that allows access to details of the Short-Term Accommodation lets in their buildings, limits the number of nights' accommodation can be offered and take a cut of the earnings.

There is no better option than to hand back the power to the Owners corporations by giving the Owners to decide collectively whether to allow short-stay lets and under what circumstances. They would be able to pass bylaws that permitted short-stay letting or not subject to whatever conditions they choose.

Another option recommended is that property developer during the planning and designing stage of the Plan of subdivision is to strategically demarcate a section of the building as a separate cost centre or as an Owners corporation with a view to apportion costs to that particular section of the building for serviced apartments. Additional fees can also be levied against the Owners of Short-Term Accommodation designated apartments for the development of gardens and other amenities. These apartments should consist of separate lifts, waste management services and an entrance from a different section of the building.

Platinum Strata would like to appeal amending planning laws whereby a section of an apartments designated for short-term letting can co-exist within a residential building.

According to Melbourne City Council that serviced apartments fall within the Class 3 classification under the Building Code of Australia which is relevant to hotels and rooming accommodation, and not Class 2 which are residential buildings.

In a typical residential class 2 apartment building, unlike hotels, motel and other class 3 buildings, having no mandatory evacuation plans on hand or posted in visible locations, short term occupants themselves with no prior knowledge of the building may face greater safety risk in the case of an emergency.

Increased expenditure arising from lot use?

Platinum Strata observe the Increased costs to Owners corporations arising from particular uses of lots (that are not factored into their lot liability at the time of designing the Plan of subdivision) and cannot be recovered and unfortunately must be shared by all lot Owners.

Classic example is that when a unit with lot liability appropriate to long-term residence might be let out as a short-term serviced apartment on commercial basis, which might have an impact on more wear and tear on common property and other unplanned expenditure by the Owners corporation.

Owners corporations do not have the power to increase the fees for such lots or even to impose a special levy on the lot owner to recover the extra costs and any such resolution could be challenged in VCAT on the basis that the Owners corporation was not acting honestly and in good faith or that the resolution was oppressive to, unfairly prejudicial to or unfairly discriminated against the lot owner.

Under the Owners Corporations Act, the only solution is to organise a unanimous resolution to amend the plan of subdivision to change lot liability to the appropriate levels. When the affected lot owner disagrees, it would be impossible to achieve this. Hence, the Owners corporation may apply to VCAT for the appropriate order in when the majority is in favour.



Overcrowding

Owners Corporations do not have the power to deal with issue over crowding apartment and State Government needs to ensure the laws empower local councils to control and to ensure sufficient resources are applied to enforce compliance.

Overcrowding raises issues such as health and safety, emergency evacuation procedures, fire risk, heightened use of lifts, security of building as foot traffic increases, as well overuse of common property resulting in excessive wear and tear.

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