

Navigating Critical Risks in Strata

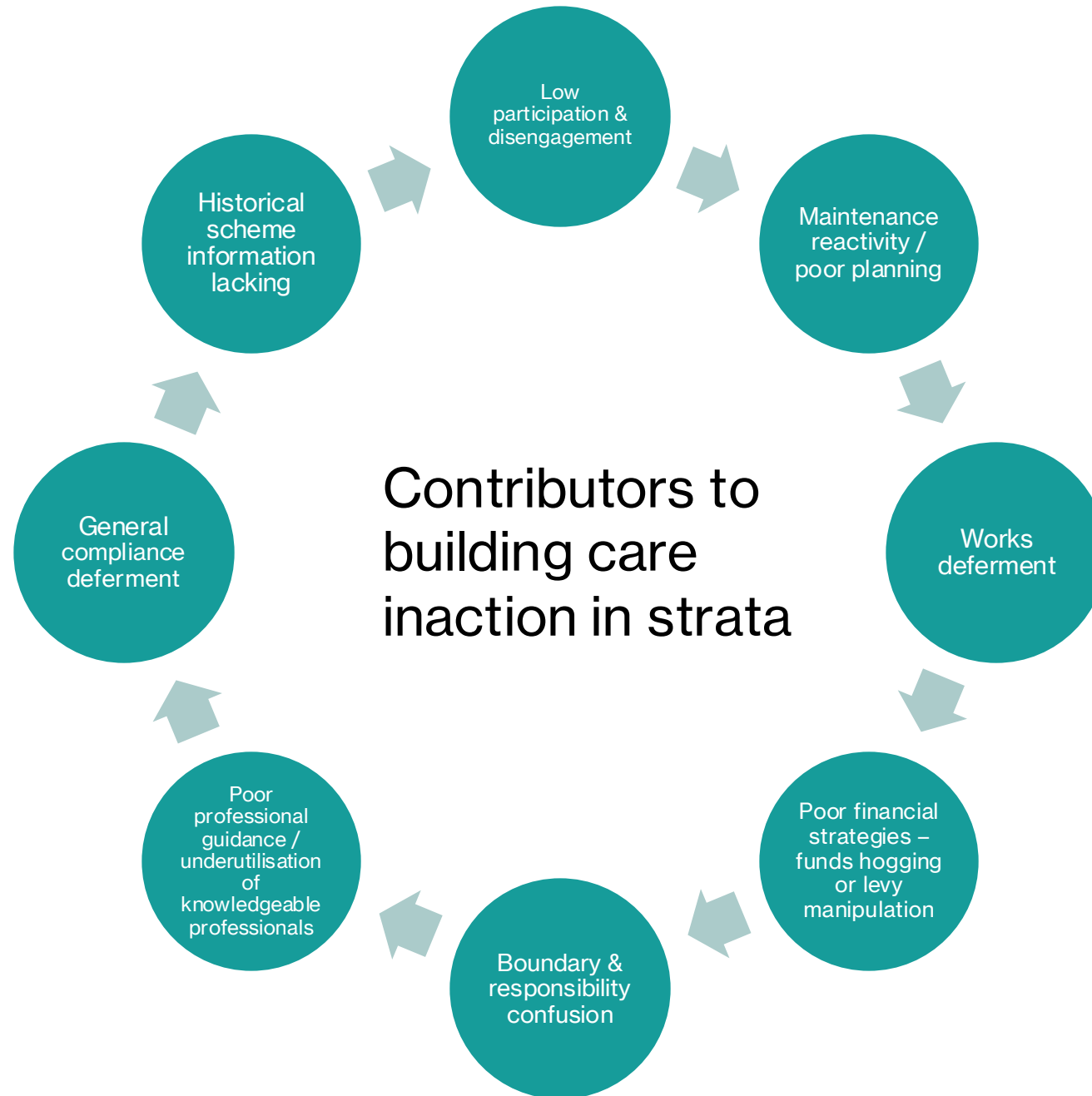
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Risk 1: Building Care Inaction

- That financial constraints, a lack of skill and knowledge, and low awareness of maintenance obligations have contributed to building care inaction in many countries including Australia
- Building dilapidation has been an acute and widespread problem in many countries with concrete spalling, water leaking, structural and non-structural cracking noted as common failures in building over 30 years of age – similar problems observed in Australia
- Building defects - legacy issues
- The devastating effects of ignoring building repairs was highlighted to the world on 24 June 2021 when the Champlain Towers South residential building partially collapsed in Florida resulting in the deaths of 98 people – could something similar happen in Australia?





Recommendations to improve building care inaction

Education

- Managers – building knowledge & navigating remedial works but be careful of service creep

Recognition

- Owners are custodians of buildings
- Legal obligations

Engagement

- Qualified Project Managers (engage throughout lifecycle, planning & feasibility)
- Other professionals (lawyers, financial advisors) – remedial contracts, boundaries

Proactivity

- Regular capital works review (meetings / plans)
- Holistic building inspections
- Historical register
- Improvement strategies

Risk 2: Conflicts of Interest

- Impacts anyone owing duties – strata and building managers, developers, committees
- Risks can manifest in various ways:
 - Financial
 - Reputational
 - Professional status
 - Trust erosion
 - Harm

Often leading to regulatory change (NSW is a good example)



Conflicts of
interest –
Legal and moral
problems

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graph TD; A["Conflicts of interest – Legal and moral problems"] --> B["Legal: legislation (strata-related, crimes), general law (fiduciary)"]; A --> C["Moral: business ethics, codes of conduct, social norms"];
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The diagram is a hierarchical tree structure. At the top is a box containing the text 'Conflicts of interest – Legal and moral problems'. A vertical line descends from this box and splits into two horizontal lines, each leading to a box below. The left box contains the text 'Legal: legislation (strata-related, crimes), general law (fiduciary)'. The right box contains the text 'Moral: business ethics, codes of conduct, social norms'. All boxes have a teal header and a light blue body.

Legal: legislation
(strata-related,
crimes), general
law (fiduciary)

Moral: business
ethics, codes of
conduct, social
norms

The conflicts of interest - threshold

- The bar is low in terms of what constitutes a conflict of interest
- Conflicts of interest are inherent in the strata industry
 - Not dissimilar to any industry where loyalty-based duties are a feature
 - Whenever there is a ***temptation*** to elevate your interests, you are in a conflict of interest
 - Being in a conflict of interest is not wrong. You might be in one against your will.
 - There needs to be an understanding that strata managers are confronted with conflicts of interest regularly.

The big question is: What do you do when confronted with a conflict of interest?



The main points

If you only comply with the legal requirements relating to conflicts of interest, you still have an ethical problem to address.

If you disclose all material information and facts relating to a conflict of interest, you still have an ethical problem to address.

What can managers do? Address these ethical risks, change your practice / remuneration model, promote / market ethical behaviour (differentiate yourself in the marketplace)

What can owners corporations do? Seek out / change to managers, suppliers, service providers that promote ethical practices (e.g. ACSL – pledge), in some instances, pass a motion to ensure affiliated entities are not used in supplying services

Risk 3: Poorly considered regulatory reforms

- Movement away from self governance (limited autonomy)
- Reactionary - attempt to plug every hole / problem, leading to over-regulation?
- Lack of evaluation – both intrastate and across jurisdictions (how do we know if something works if we don't measure it?)
- Consultation can be dominated by self-interested parties
- Unintended consequences – often leads to more regulation, increased compliance costs



Prioritisation is key

- It is baffling that procedural based regulations are more prescriptive than regulations aimed at resident safety and wellbeing
 - Example: proxies v repairs
- Need to change / consider the reform narrative (prioritise harm based regs) – governance guidance as opposed to prescriptive laws
- We need to structure regulations to encourage compliance (esp. for harmed based regs). The alternative is more government intervention that often leads to increased consumer costs (e.g. Florida – milestone inspection regime).

What can we do?

- As we ask owners corporations to be more proactive in managing building repairs and maintenance, we should be asking government to be more proactive in addressing law reform.
- Given we have 8 states and territories regulating strata – lessons could be learned from others if we evaluate these laws and determine what is working well.
- Encourage governments to invest in independent research and evaluation (change may be afoot)
- Everyone can be more involved in harvesting / providing data and participating in research

Current research – invitation to participate (NSW only)

Project 1: Evaluating current strata management agreements and practices in NSW

Funded: NSW Fair Trading

Invitation to strata lot owners to participate in focus groups (Haymarket (21/7), Moore Park (21/7), Chatswood (22/7, online (28/7))

Invitation to senior strata managers / principals to participate in interviews (between now at end of July)

Project 2: Investigating the conflicted relationships and practices in the NSW strata management industry

Partner: NSW Fair Trading

Invitation to strata lot owners to participate in an online scenario-based research activity (29/7, 30/7)

(that is, presenting you with short, realistic scenarios that reflect situations you might encounter. After we read each scenario, you'll be asked to share your thoughts, reactions, or what you might do in that situation. We're are interested in understanding different viewpoints and experiences.)

Email me: nicole@strataknowledge.com

Strata Impact Conference

If you are interested in building your knowledge and being involved in strata-related debates and discussions, check out the Strata Impact Conference.

When: 14 and 15 August 2025

Location: The Langham Hotel, Gold Coast

Early bird tickets available until 11 July

<https://strataknowledge.com/strata-impact-conference-2025/>



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