



LookUpStrata

WA STRATA REFORMS INFORMATION SESSION

Strata Insurance

Presented by

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Presentation Items

1. Terms relating to insurance & maintenance planning
2. Insurance and maintenance planning



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Current State of Play

A common duty of disclosure question now asked is;

Do you have any known defects?

Since May this year, we are starting to see building reports, resulting from 10 year plans, which are being used to justify the building is in good condition or an issue has been identified.



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Terms used & definitions for this presentation

Strata Titles Act 1985 as amended 2018 (*STA*)

Strata Company (*SC*)

Common Property *is* that part of the parcel of land subdivided by the strata titles scheme that does not form part of a lot in the strata titles scheme;

Designated SC is a SC defined by size - 10 or more Lots, or Scheme Building replacement cost of \$5m or more.

Scheme Building is a building shown on or not on a strata plan & by reference to which the boundaries of lots are defined. *Referenced in both the STA & Regulations*

Insurable Asset means common property (CP) of the scheme, inc. fixtures and improvements on CP & the parts of Scheme Buildings that comprise lots in the scheme property etc.

Covered items as listed & referenced in the regulations [*r76(2)(a-ze)*]





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10 Year Plan for maintenance planning

Maintenance planning is the requirement of a 10 year plan, as per STA.

- *The STA refers to a 'Designated SC' to implement a 10 year plan. A SC defined by size, being 10lots of more, or a Scheme Building, with a replacement cost of \$5m or more.*
- A 'Scheme Building' is a building shown on a plan or not – Ref. STA & the Regulations
- 'Covered Items' for repair, renewal, or replacement. As referenced in the regulations [r76(2)(a-ze)] *common property or personal property* of the SC
- Identify in the plan anticipated maintenance for all Common & Personal property of the SC, other than maintenance of a routine nature.

The Regulations say a 10 year plan maybe developed by a SC engaging specialists builders etc. Also the qualifications if any of the person preparing the report.



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Three Areas of a 10 Year Plan - Insurance Considerations;

1. The plan does not cover routine maintenance of the SC
2. Designated SC & other SC's
3. Condition reporting [r76(5)(a-g)]



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Routine maintenance

With reference to maintenance, whether it is routine or long term planning of renewal, repair, or replacement, the SC has a general duty and both actions are important.

Routine maintenance is regular in nature, with checks undertaken and making small repairs if required.

- Regular cleaning, e.g. swimming pools & leaf debris in gutters etc.
- Testing equipment to ensure it's operational
- Checking driveways for unforeseen pot holes, may need small repairs
- Small or minor repairs undertaken



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A Designated SC & Other SC's

S91 (1)(b)(c) General Duty

*A Strata company **Must** control and manage the common property for the benefit of all owners of lots; and keep in good and serviceable repair, properly maintain and, if necessary, renew and replace.*

- This section does not limit which SC this applies
- Maintenance planning, may benefit all SC's or owners of lots, benefiting all owners, such as improving their property investment.

Failure to maintain can lead to legal liability exposures or claims that maybe declined due to lack of maintenance. This can affect a SC or an Owner of Lot, depending whether it's common property or within a Lot boundary.





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Condition reporting [r76(5)(a-g)] As per the regulations this report, reports on covered items, with consideration towards appropriate design, age and overall condition.

5(b) in particular reports on Covered Items, specifically reporting on the present condition or operating state (including whether working or not)

This will provide information on the condition of the Covered Items and therefore known to the SC.





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Duty to disclose

Condition reporting may uncover hidden maintenance defects of a building that were previously not known.

Depending on what it is, this may give rise to your duty to disclose to the insurer, if they're likely to increase potential insurance claims.

- The insurer will be concerned with major maintenance defects and what the SC's risk management approach of the covered item will be.
- This may lead urgent unplanned maintenance, despite 10year planning, as it may have more immediate insurance implications, if not attended.



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Examples of maintenance

- Roof timber beams have identified termite infestation
- Concrete cancer developed around the balcony balustrades



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How does strata insurance respond to Alterations and Upgrades, should maintenance defects suddenly lead to urgent works?

Most strata insurer wordings vary, but in general most have limited coverage, that allows the strata to be covered during smaller alterations & upgrades. You would need to refer to your insurer for specific limits. Also where you are required to have a building contract in place with the builder and if that contract requires the builder to effect cover under a Contract Works or similar insurance policy, then usually cover will not apply.

Contract Works Insurance is an insurance policy usually taken out by the builder, insuring against loss or damage to the building project, including public liability.





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Temporary Common Property

Property which may be leased by the SC, is now termed as Temporary Common Property.

Obligations for use of the property, relating to on-going maintenance and insurance may be defined by the lease.

You would be required to advise your insurer of any temporary common property.



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Infrastructure Contract & Maintenance

A new term relating to Utility & Sustainability infrastructure easements

The Owner becomes known as Infrastructure Owner and enters into an agreement with SC

Depending on the contract the STA & regulations make provision for the Owner to maintain, repair, modify and replace the infrastructure, but also they're responsible for common property parts that the infrastructure sits on or above it.

This factor would need to be considered in the 10year plan, particularly around roof maintenance requirements, in conjunction with Infrastructure Owner.



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Thank you



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