

Strata title – what you should know before you buy



Strata-titled properties such as apartments and townhouses present a range of extra considerations that owners of freestanding properties don't need to take into account. Property lawyer and legal lecturer David Singh discusses the issues that you should consider before exchanging contracts on a strata property

Your first consideration with any property purchase is the contract for sale. This document sets out the proposed terms of a contract for you to buy the property, so you should read the contract in full before exchange of contracts.

Where the property you are buying is a lot in a strata scheme, you should study the strata plan carefully so as to know exactly what you will own, and what is deemed to be common property, that is, shared by all of the owners through the owners corporation.

Generally, as a strata owner, you own the air space within the boundaries of your lot, while the

owners corporation owns and controls the fabric of the building and the land under and around it.

Common property is all of the areas of the land and building that aren't included in any lot.

The common property boundaries of each lot are generally formed by:

- the upper surface of the floor
- the under surface of the ceiling
- all external or boundary walls (including doors and windows)

You should study all of the provisions of the contract – including the description of the property – and make sure that the plans attached to the contract match the property. Also, check that all improvements and

inclusions are mentioned. In particular, with a strata property pay careful attention to the following:

Inclusions

Before exchange of contracts, check that the list of inclusions is accurate and complete. All fixtures are included in the purchase without having to be named.

Under law, a fixture is something that is so attached to the land that it must have been intended to remain there permanently.

If you're in doubt as to whether a particular item is a fixture, it's best to mark it as an inclusion or mention it by name in the contract.

Fittings such as floor coverings, cupboards and the kitchen stove may belong to you as the new owner, but they'll need to be itemised as 'inclusions' in the contract. Where possible, include as much detail about the inclusions as possible, including brand names – situations can arise where outgoing owners replace top quality inclusions, for instance, a dryer, with a lower-quality version.

Once you've settled on the property and taken ownership, you may replace or modify the fittings without consent. However, if you want to make changes to the fabric of the building, or wish to build new structures – such as installing an air-conditioning unit, or erecting a fence – it's essential that you first notify the owners corporation.

They have the power to stop any alteration being made to a lot if they believe it will interfere with the common property, or the supporting structure of the rest of the building.

Entitlements

Each lot owner has title to air space, as shown by the lot boundaries in the strata plan, and has the right to use the fabric of the building and the access ways, corridors and the grounds

around the building in common with the other owners.

Each owner has a share in the common property, called a unit entitlement, which decides voting rights, and each owner's contribution to the maintenance levies including insurance premiums, upkeep of the property and so on.

All unit owners are members of the owners corporation and elect an executive committee who are responsible for the day-to-day running of the strata scheme.

You should check prior to exchanging contracts that there are no special levies planned for the property that you are purchasing.

By-laws

Owners and residents must comply with the relevant by-laws of the strata building. These can be changed by a decision of the owners corporation, through a special resolution if needed.

By-laws deal with such things as noise control, safety and security measures, restriction of use of common property, pet ownership, parking, floor coverings, garbage disposal, behaviour, cleaning windows, appearance of the building and other issues.

We recommend that before exchange of contracts, you carefully study the by-laws, a copy of which can usually be obtained from the secretary of the owners corporation (some by-laws may even be in the contract). For instance, the ownership of pets is one by-law that is relevant to many purchasers, whether buying as an owner-occupier or a landlord.

If you haven't before experienced living as a member of a strata scheme, try to speak to people who have, with the objective of assessing the constraints and opportunities.

Disputes can sometimes occur between neighbours living so close to one another, and between owners and the elected executive or manager of a scheme, but the law does provide dispute resolution procedures, including mediation, as a path to a settlement.

If you would prefer more involvement in the decisions that affect your strata building, you can choose to participate in the management of the scheme by seeking election to the executive committee.

Maintenance and repairs

The owners corporation looks after the fabric of the building, and raises funds from the owners to do so. They also attend to repairs and maintenance of common areas such as communal gardens and a pool. Levies are worked out in proportion to unit entitlement.

future spending. The cost of a strata inspection is usually \$200–300.

Pipes and drains

It's important to know before exchange of contracts where pipes and drains run in relation to your lot and the common property. In NSW, usually a

An inspection will show the history of the maintenance of the building, and provide valuable insight into any complaints made by other owners. It may also show plans for future spending

Usually, two funds are set up: the administrative fund, for day-to-day maintenance, insurance premiums, and other recurrent expenses, and the sinking fund, for painting the building, major renewal or replacement projects, and other expenses of a capital nature.

Insurance

The owners corporation is required to insure the building based on valuations. It also insures for injury to 'voluntary workers' and against public liability, and for workers' compensation.

The building, for insurance purposes, may include carpets in common areas, hot water systems, light fittings, toilet bowls, sinks, shower screens, cupboards, doors and stoves.

As an investor, it would be prudent to take out landlord insurance to cover you against non-paying tenants or damage to the property, and for public liability in regards to your personal lot.

Pre-purchase inspections

There are professional inspectors who specialise in examining and reporting to buyers about strata title properties. They cover such things as finances, record keeping, insurances, special by-laws, problems with defective building work or maintenance and disputes among owners.

An inspection will also show the history of the maintenance of the building, and provide a valuable insight into complaints made by other owners. It may also show plans for

sewer main location plan is attached to the contract showing the location of the sewer lines. You should carefully inspect the land to check the accuracy of the plan.

Liability for strata contributions

The vendor is usually liable for a contribution levied by the owners corporation before the date of the contract (except future payments under an instalment scheme). The risk you run of suffering a liability, to pay a share of remedying a fault in some part of the common property, is a good reason to inspect and assess the property and the records of the owners corporation thoroughly, before you commit yourself to buying. ■

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For further information on the process of buying and selling property, e-mail info@conveylaw.com.au, phone (02) 9232 0050, or visit www.conveylaw.com.au (liability limited by a scheme approved under Professional Standards Legislation).

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