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**Joint Submission by Western Australian Consumer Advocacy  
Network (WACAN) and Financial Counselling Australia (FCA)**

**Landgate's 5-year Statutory Review of Western Australia's  
Strata Law**

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## **Joint Submission by WACAN and FCA to Landgate's 5-Year Review of Western Australia's Strata Titles Act**

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## About WACAN

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The **Western Australian Consumer Advocacy Network** is a policy and advocacy network with funding from Department of Energy, Mines, Industry Regulation and Safety (DEMIRS) comprised of a variety of community organisations, social services, and policy advocates dedicated to systemically transforming consumer protections and rights, particularly for people experiencing disadvantages and vulnerabilities. The network also includes government and regulator observers who provide and collate valuable insights and ensure that advocacy efforts align with broader consumer protection objectives.

WACAN serves as a collaborative platform where members share intelligence of significant consumer issues, advocate for better consumer policies, and work towards creating positive change within WA's legislative and regulatory framework to protect and enhance consumer rights across the State.

WACAN members include:

- Aboriginal Legal Service
- ACCAN
- Anglicare WA
- Circle Green
- Citizens Advice Bureau WA
- Community Legal WA
- Consumer Credit Legal Service WA
- Consumer Policy Research Centre
- Consumers of Mental Health WA
- Financial Counsellors Association WA
- Financial Rights Legal Centre
- Financial Wellbeing Collective
- Indigenous Consumer Advocacy Network
- Legal Aid WA
- Mercycare
- Mob Strong
- Red Cross
- Ruralwest
- Salvation Army
- St Vincent de Paul
- Super Consumers
- WACOSS
- Welfare Rights & Advocacy Service

Uniting frontline service providers and advocates, WACAN's members — including housing support services, financial counsellors, legal advocates, and community groups — bring firsthand insights into the impacts of housing insecurity, financial distress, and exploitative debt recovery practices. Their evidence-backed perspective highlights the need for fairer, people-centred policies to address rising housing costs, inadequate dispute resolution, and aggressive debt collection.

WACAN works to influence government and regulatory bodies to strengthen protections for individuals and communities in need. Through collaboration, policy development, awareness raising, and capacity-building, WACAN pushes for progressive, consumer-focused reforms prioritising people's human rights over corporate interests. With a focus on creating an equitable and sustainable housing landscape, WACAN's mission is to shape policies that dismantle systemic barriers and empower consumers across WA.

## About Financial Counselling Australia

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Financial counsellors assist people experiencing financial difficulty by providing information, advice, support and advocacy. Working in not-for-profit community organisations, financial counselling services are free, independent and confidential.

**Financial Counselling Australia** is the national voice of the financial counselling profession in Australia, a not-for-profit organisation that:

- Provides resources and support for financial counsellors.
- Advocates to increase access to financial counselling.
- Works to raise the profile of financial counsellors.
- Advocates for a fairer marketplace.
- Works to improve hardship processes for people in financial difficulty.

FCA's vision is an Australia with fewer people in financial hardship.

FCA also co-ordinates the National Debt Helpline (NDH), a not-for-profit financial counselling service delivered by ten different agencies across the country, which consumers can access by phone calling 1800 007 007 or using the online chat service hosted on the NDH self-help website ([ndh.org.au](http://ndh.org.au)).

The Small Business Debt Helpline (SBDH) is run by FCA. It is staffed by specialist small business financial counsellors who help small businesses and sole traders who are in financial difficulty. The service is accessed by calling 1800 413 828 or using the online chat service via the website ([sbdh.org.au](http://sbdh.org.au)).

FCA initiated the **national Strata Payment Difficulty Reform project** in February 2023 to address the alarming issue of strata owners facing aggressive legal action, including forced bankruptcy proceedings, and losing their homes over relatively small underlying payment arrears.

The focus of this project has been in NSW where the problem is most pronounced. FCA is working alongside Financial Rights Legal Centre, Marrickville Legal Centre and the Redfern Legal Centre's Financial Abuse Service on this issue and advocating for reform with the NSW Government and Office of Fair Trading. Their efforts have firmly positioned strata payment difficulty reform as a prominent issue on the NSW Government's agenda. A proposed bill is expected to be before NSW Parliament by the end of 2024 and work continues with government and industry stakeholders to improve practices and processes to achieve outcomes for those facing financial hardship.

WACAN and FCA are working together in WA on these strata issues as a policy priority to ensure that clients are not at risk of losing their homes where alternative options can and should be made available.

## Introduction

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We appreciate the opportunity to participate in the consultation and contribute to identifying and solving the issues impacting people that own a lot in a strata titles scheme. This submission is in response to the [Phase one discussion paper | Five-year review of WA strata law \(Strata Titles Act 1985\)](#).<sup>1</sup> In it we seek to raise issues with the system and legislation, and make recommendations in relation to the following primary review scope items:

- Resident and lot owner protections around financial hardship and debt recovery.
- Dispute resolution including the role of alternative dispute resolution services and the role of the State Administrative Tribunal.
- Strata complex and manager practice and standards.

We have also raised issues and made recommendations in relation to other strata issues such as environmental and energy sustainability, inclusivity and support, strata standards, and transparency.

Over the past decade, there has been a notable increase in the number of strata schemes across WA. Strata living has become a prominent and continually growing feature of the housing landscape in WA, where increasing urban density, affordability pressures, population, and demand for diverse housing options have driven significant growth in strata-titled properties.

According to University of New South Wales Strata Insights report, more than one in ten people (12%) in WA live in a strata scheme and other states and territories ave up to almost one in four (25%) people living in strata. Recently, there has been a substantial national increase of people beginning to live in strata schemes (7% increase nationally over two years). Despite this growth, strata schemes face systemic issues that disadvantage many residents, with regulatory frameworks failing to keep pace with the realities of modern strata living. This underscores the importance of addressing systemic issues that affect a substantial and growing segment of the population.<sup>2</sup>

In WA, there are approximately 73,705 registered strata schemes encompassing over 327,557 strata lots across various residential and commercial properties.<sup>3</sup> This high volume reflects the growing popularity of strata-titled properties as more Western Australians turn to strata living for affordability and convenience.

Strata schemes cover diverse property types, including apartments, townhouses, and mixed-use developments, particularly concentrated in urban areas. Notably, 86% of

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<sup>1</sup> Landgate. 2024. 'Five-year-strata-review-discussion-paper'

<sup>2</sup> City Futures Research Centre, UNSW Sydney. 'Australasian Strata Insights'. June 2023

<sup>3</sup> Same as above

these schemes are located in the metropolitan region, and 83% consist of four or fewer lots, highlighting the diversity and scale of strata living in WA.<sup>4</sup>

Furthermore, this indicates a 30% increase in strata-related complaints over the past three years, underscoring widespread dissatisfaction with management practices and fee structures. Unlike states and territories such as New South Wales (NSW) and Victoria (VIC), WA lacks a comprehensive tribunal system for resolving disputes, leaving residents with limited options for recourse.<sup>5</sup>

In addition to affordability and governance concerns, strata properties in WA frequently lack environmental sustainability measures. Data shows less than 10% of WA strata properties include renewable energy solutions, compared to 25% in other states and territories. Many strata by-laws further restrict owners from installing energy-efficient systems, limiting potential savings and sustainability outcomes.<sup>6 7</sup>

Across Australia, the experiences of strata residents reveal critical shortcomings in governance, affordability, sustainability, and community cohesion. Data from the Australian Housing and Urban Research Institute (AHURI) shows that while strata schemes can offer affordable housing alternatives, they are often plagued by escalating fees, complex governance structures, and inaccessible dispute resolution processes.<sup>8 9</sup>

These issues have compounded in WA, where regulation lags behind other states and territories, lacking sufficient protections for owners and residents. The burden of these inadequacies falls disproportionately on lower-income residents, older individuals, people with disabilities, and first-home buyers – groups who often rely on strata housing as a more affordable or accessible option.<sup>10</sup>

## **The Financial Hardship Timeline in Strata**

The core focus from our perspective is the financial hardship timeline of experiences in strata. Financial hardship often begins with changing circumstances (e.g. loss of employment/income, illness, loss of family member etc.) and/or rising costs, such as escalating levies and unexpected special fees, which can lead many owners into financial strain. Without sufficient protections, these owners are vulnerable to aggressive

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<sup>4</sup> Curtin University. Webb, E. 2016. Strata Titles Reform in Western Australia. Australian property law bulletin.

<sup>5</sup> DEMIRS. 2023. 'Annual Report'

<sup>6</sup> Strata Community Association. 2023. 'Sustainability in Strata'

<sup>7</sup> Clean Energy Council. 2024. 'Powering Homes, empowering people'

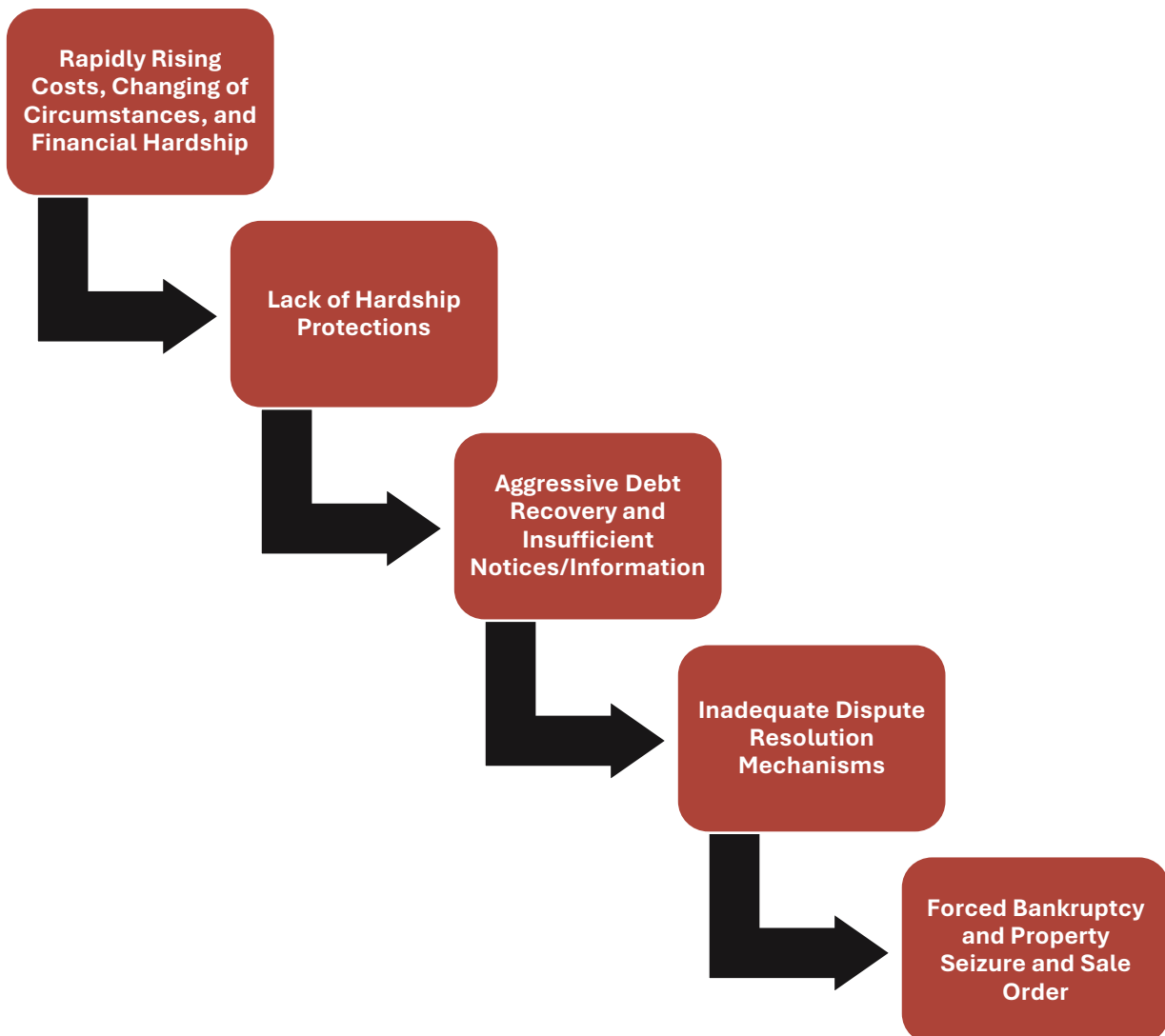
<sup>8</sup> Easthope, H., Palmer, J., Sharam, A., Nethercote, M., Pignatta, G. and Crommelin, L. (2023) Delivering sustainable apartment housing: new build and retrofit, AHURI Final Report No. 400, Australian Housing and Urban Research Institute Limited, Melbourne.

<sup>9</sup> Benedict, R., Gurrán, N., Gilbert, C., Hamilton, C., Rowley, S. and Liu, S. (2022) Private sector involvement in social and affordable housing, AHURI Final Report No. 388, Australian Housing and Urban Research Institute Limited, Melbourne.

<sup>10</sup> Brierty R, Buckland A, Crowe A, Duncan AS and Rowley S (2023), 'Housing Affordability in Western Australia 2023: Building for the future', Bankwest Curtin Economics Centre Focus on Western Australia Report Series, No 17, May 2023.

debt recovery actions from strata managers, often initiated with minimal or inadequate notices. This situation can be further exacerbated by limited or ineffective dispute resolution options, leaving owners with few avenues to address or negotiate their financial challenges.

As unpaid fees accumulate, some owners face legal action and in some cases a court order or forced bankruptcy, losing their property and financial stability in the process. This cycle underscores the need for stronger protections and fairer processes to support individuals in hardship within the strata system.



WA has an opportunity to lead with innovative, inclusive strata reforms that not only address the current issues, but also anticipate the evolving needs of residents. The systemic challenges facing strata living in Western Australia have significant implications for residents' well-being and the state's social and environmental objectives. By undertaking modern reforms informed by evidence and the experiences of those directly affected, Western Australia can create a more just and effective strata system.



## Primary Strata Issues

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### Escalating Costs, Limited Protections and Financial Hardship

WA's strata system, initially created for affordable homeownership, has become financially burdensome for many. Significantly rising levies and fees, aggressive debt collection practices, and limited protections contribute to financial distress among vulnerable groups like low-income owners, retirees, and financially disadvantaged individuals.

Unanticipated increases in strata fees can quickly escalate into long-term debt, as noted by WACAN community organisations and FCA's nationwide financial counsellors.<sup>11</sup> Strata developments are now less accessible due to increasing investment-driven ownership. AHURI data reveals a 15% increase in investment properties over the past decade, pushing prices up and reducing opportunities for first-home buyers, with little regulatory intervention to address these trends.<sup>12</sup>

Rising strata fees, which have increased by up to 20% over five years, are making strata living less affordable for Western Australians, especially for low-income households. Minimal regulatory oversight enables unchecked fee increases by management companies, often without transparency, undermining strata as an affordable housing option.<sup>13 14 15</sup>

Community services in WA are witnessing a significant increase in clients struggling with strata-related financial hardships. High and unpredictable strata fees, particularly for maintenance, compliance, and non-essential upgrades, place a disproportionate financial burden on low-income and vulnerable residents. The rising cost of levies, combined with a lack of regulatory oversight, is pushing many strata owners into severe debt, widening the economic gap between wealthier and financially vulnerable owners.

Unpaid contributions, unlike other consumer debts, lack any hardship protections and flexible repayment options to help owners get back on track. This puts owners at risk costly legal debt collection practices, including property seizure or bankruptcy, that only makes their situation worse. Establishing hardship provisions would ensure that legal action to collect unpaid levies is a last resort.

### Aggressive Debt Recovery Practices and Insufficient Notices

For strata owners facing temporary financial difficulties, WA's laws do not require flexible repayment options. This lack of hardship protections allows strata managers and their lawyers to pursue immediate legal action and impose costly penalties for minor arrears, risking home loss for those in hardship. Implementing mandatory hardship clauses and

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<sup>11</sup> National Debt Helpline. 2024. 'Debt problems'

<sup>12</sup> Martin, C., Hulse, K., Ghasri, M., Ralston, L., Crommelin, L., Goodall, Z., Parkinson, S. and O'Brien Webb, E. (2022) Regulation of residential tenancies and impacts on investment, AHURI Final Report No. 391, Australian Housing and Urban Research Institute Limited, Melbourne

<sup>13</sup> City Futures Research Centre, UNSW Sydney. 'Australasian Strata Insights'. June 2023

<sup>14</sup> ABC. 2023. 'Apartment and townhouse owners report strata fees rising by up to 45 per cent per year'

<sup>15</sup> Sydney Morning Herald. 2023. 'Apartment owners face strata fee increases of 20 per cent'



regulated debt recovery procedures would provide essential financial relief for distressed owners.

Debt collection practices in the strata sector are often aggressive, with rapid escalation involving private agencies or legal firms. Harsh penalties, foreclosure threats, and forced bankruptcy proceedings are common, even for minor arrears, placing low-income owners at risk of losing their homes. Implementing regulated debt recovery practices, including mandatory hardship clauses, would protect vulnerable owners and offer alternatives to foreclosure.

Compounding this issue, there is also no judgment debt threshold that must be met before an order can be issued on behalf of a creditor, including strata company, to seize and sell property to satisfy outstanding debts. As a result, even relatively small arrears can lead to severe consequences, including forced property sales, often at a significant personal and financial loss to the owner. This lack of a protective framework places owners at an elevated risk of losing their homes, even in cases where alternative arrangements or dispute resolution mechanisms might have otherwise mitigated the financial impact.

There is also an absence of minimum requirements for contribution notices, reminder notices, or notices of recovery action in WA strata laws. This means that property owners might not receive clear, consistent, or timely information about their financial obligations or impending recovery actions. This lack of notice can lead to owners not being aware of when payments are due, what amounts are outstanding, or what penalties might apply if payments are missed. Owners could also miss the chance to negotiate a payment arrangement or address financial hardship proactively.

Strata debts pose a unique risk to housing security, as unpaid levies can lead to forced property sales, putting low-income and vulnerable homeowners, at risk of losing their primary residence and becoming homeless.

The mental health impacts of aggressive debt recovery, threats of foreclosure, and housing insecurity are significant, yet current laws do not provide protections or relief for affected owners. Prolonged stress and anxiety due to financial instability can impact both mental and physical health, exacerbating their existing issues. Legislation that includes protective measures for those in strata hardship could help mitigate these health risks.

### **Inadequate or No Information and Resources for Owners**

Many strata owners lack access to clear and appropriate information and resources (e.g. hardship information, support service information, fact sheets, guides, governance structures, financial management support, dispute resolution options etc.) that are appropriate and could assist them in understanding their rights, obligations, and pathways to engage within strata governance.

This knowledge gap limits people's ability to engage effectively in decision-making, addressing issues proactively, and advocating for themselves - resulting in disempowerment and disengagement. Providing accessible information and resources

would empower owners to navigate strata complexities, have more understanding, and make informed decisions about their properties.

Given the significant cultural and linguistic diversity within WA's strata communities, this information must be regularly available and tailored to meet diverse needs. Demographic data<sup>16</sup> highlights the cultural and linguistic diversity within strata communities. Importantly, 40% of WA strata residents do not speak English at home. WA also has one of the highest First Nation's populations in Australia. Age-wise, half of WA strata residents are between 20 and 39 years old.

These statistics underscore the necessity for meaningful information that is not only accessible, but also culturally and linguistically appropriate. Providing easily accessible information and resources in easy English and other languages, and ensuring cultural sensitivity for First Nations people, can bridge the information gap.

This approach promotes inclusivity and ensures that all owners, regardless of their background, can engage and contribute fully in the management of their strata communities.

### **Forced Bankruptcy Proceedings and Property Seizure and Sale Orders (PSSOs)**

FCA has been collecting and analysing Federal Court data in relation to forced bankruptcy proceedings. The analysis reveals:

- In FY 21/22 a staggering 9% of all forced bankruptcy proceedings in WA were initiated by strata companies against owners for unpaid contributions.
- This is compared to a national average of 10%
- In FY 22/23 and 23/24 the figure is 4% but such low figures are masked by the ability to use PSSO's in WA.
- In FY21/22 and FY22/23, the owners corporation sector was the leading initiator of forced bankruptcy proceedings across Australia. In FY23/24, the ATO has taken over this position.

Although the recently announced federal government bankruptcy reforms, slated to be introduced in 2025, will help to address the low forced bankruptcy threshold by raising it to \$20,000, past experience has shown us that this alone will not address the underlying issues relating to lack of consumer protection for strata owners who may experience financial hardship.

The table below shows the total number of forced bankruptcy proceedings in WA initiated by strata companies against owners for unpaid levies, versus changes to the bankruptcy threshold before, during and after the COVID-19 pandemic.

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<sup>16</sup> Same as reference 2

Western Australia	Total strata related forced bankruptcy proceedings	Changes to bankruptcy threshold
FY 19/20	4	\$5,000 prior to 24/3/2020
FY 20/21	7	Temporarily increased to \$20,000 during 24/3/2020 to 31/12/2020
FY21/22	7	\$10,000 from 1/1/2021
FY 22/23	2	\$10,000
FY 23/24	4	\$10,000

The volume of forced bankruptcy proceedings, and therefore the harm to consumers, might be perceived as lower in WA than in NSW because it is easier for strata companies to get a Property (Seizure and Sale) Order (PSSO) in WA.

The PSSO legal instrument allows a judgment creditor, such as strata company, to enforce a judgment debt by authorising the Sheriff to seize and sell the debtor's real property. The proceeds from the sale are then used to satisfy the debt.

In NSW, the judgment debt must be \$20,000 or more and so forced bankruptcy proceedings is the preferred action by strata. However, in WA there is no threshold which means a strata company can take action to seize and sell an owner's property over a small amount of unpaid contributions.

Overall, these findings indicate a lack of protective measures for individuals facing aggressive debt recovery tactics. The limited availability of alternatives, such as financial hardship provisions or mediation, leaves vulnerable individuals exposed to the severe consequences such as a PSSO or forced bankruptcy proceedings. This underscores a need for reform towards more equitable debt recovery practices that consider the financial wellbeing of individuals over punitive approaches.

### **Inadequate Dispute Resolution Mechanisms**

Strata owners in WA face significant challenges in resolving disputes due to limited access to affordable dispute resolution mechanisms. The current reliance on the State Administrative Tribunal (SAT) and formal court processes is both costly and time-consuming. Establishing accessible and affordable alternative dispute resolution (ADR) options would enable quicker, fairer resolutions and reduce the burden on the SAT.

While the State Administrative Tribunal (SAT) handles some strata disputes, WA lacks affordable and accessible alternative dispute resolution (ADR) options, unlike other states and territories, for example in NSW Fair Trading provides a free mediation service and in VIC they have a Disputes Settlement Centre that also offers free mediation for common strata disputes.

Expanding ADR services would streamline the resolution process, reduce strain on the SAT, and offer residents a fair chance to resolve disputes outside costly legal proceedings. The reliance on formal legal processes for strata disputes deters residents from seeking resolutions, allowing unresolved issues to escalate. Simplifying dispute resolution procedures would ease costs for residents and reduce the load on the SAT.

The absence of a structured dispute resolution process for owners whose request for payment plans due to financial hardship have been unreasonably denied or ignored creates significant barriers to fair treatment and financial stability. Without a clear avenue for appealing these decisions, vulnerable owners may face undue financial stress, late fees, and even the threat of debt recovery or legal action, all of which can exacerbate hardship rather than providing relief.

Disputes over the use and maintenance of common property are also common, but often also lack efficient resolution mechanisms, leaving residents without accessible solutions. Clearer guidelines on common property use and access to affordable mediation services would help to maintain harmonious living conditions by addressing issues early, reducing the need for costly legal intervention, and ensuring the continued quality and accessibility of shared spaces.

Ultimately, WA lacks a dedicated, low-cost body specifically for strata dispute mediation and investigation, forcing owners to navigate complex and costly legal systems without adequate support.

### **Lack of Transparency in Fee and Levy Increases**

Fee and levy notices are often issued without adequate transparency or advance notice, leaving residents little time to budget for significant financial obligations. Limited access to detailed financial reports and opaque budgeting practices prevents residents from understanding how their fees are allocated or justifying fee increases. Requiring strata schemes to provide transparent, detailed financial reports in advance of any fee adjustments would allow owners to better plan for financial changes, reducing the risk of debt accumulation due to sudden cost increases.

Strata managers are also not required to disclose detailed budgets, leading to generally unclear financial practices and a lack of accountability. Without transparency, owners have little insight into how levies are allocated, potentially allowing for financial mismanagement. Mandating clear financial reporting and owner access to spending records would promote accountability and build trust within strata communities.

### **Conflicts of Interest and Lack of Accountability in Remuneration and Broker Commissions**

Strata managers often operate within a system where financial incentives, such as broker commissions and undisclosed payments from third-party service providers, which can lead to decisions that create a significant conflict of interest and prioritise financial gain over residents' interests. For instance, strata managers might choose vendors for services like maintenance, repairs, or insurance based on the commissions they receive rather than the quality, reliability, or affordability of the services offered. This can lead to inflated costs for essential upkeep, placing an undue financial burden on owners who rely on fair and reasonable management of their properties.

Moreover, these undisclosed financial arrangements often occur without owners' awareness, limiting their ability to question or challenge decisions that ultimately affect their strata fees and out-of-pocket expenses. This lack of transparency reduces

accountability, as owners have no clear view of whether their managers' recommendations genuinely align with the community's best interests or are merely avenues for personal profit.

### **Regulatory Fragmentation and Insufficient Protections**

WA's strata laws have often lagged other states and territories in terms of reforms. Regulations tend to favour developers and large-scale investors, leaving individual strata owners, particularly those in smaller complexes, with limited protections. This regulatory gap leads to inconsistent standards across strata schemes and few options for owners to seek redress when conflicts arise. A lack of standardised oversight also hampers transparency, which can allow strata management abuses and unchecked fee increases.

## **Additional Strata Issues**

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### **Complex Governance Power Imbalances**

Strata governance structures often favour developers and management entities, limiting residents' control through weighted voting rights and restrictive contracts. Consumer Protection reports an increase in complaints about strata management and governance, highlighting the need for reforms in this area.

Developers retain significant control in many strata schemes through long-term contracts, resulting in inflated fees and subpar management prioritising developer interests over residents. AHURI research highlights that these arrangements restrict owners' ability to challenge decisions, limiting their control over critical housing aspects.<sup>17</sup>

WA's strata governance frameworks can also be overly complex and difficult for owners to navigate, leading to confusion and disengagement. Many owners lack the knowledge to fully understand their rights and responsibilities within the strata system. Simplifying governance documents and providing clearer guidance on owners' rights would create engagement and enable more effective participation in decision-making processes.

Strata managers operate with minimal oversight, leading to inconsistencies in service quality and transparency. Standardised accreditation and ethical practice guidelines would ensure accountability and clear financial reporting for all lot owners, enhancing trust and transparency in the sector.

Inconsistent practices with relatively minimal oversight among strata managers lead to variations in service quality, with some managers focusing primarily on fee collection rather than fair client support. Standardised and mandatory accreditation requirements and ethical guidelines for strata managers would ensure consistent, high-quality service, prioritising client welfare and financial transparency.

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<sup>17</sup> Easthope, H., Palmer, J., Sharam, A., Nethercote, M., Pignatta, G. and Crommelin, L. (2023) Delivering sustainable apartment housing: new build and retrofit, AHURI Final Report No. 400, Australian Housing and Urban Research Institute Limited, Melbourne

## **Environmental and Social Sustainability Deficiencies**

Outdated by-laws often prevent WA strata properties from adopting renewable energy and sustainable practices, restricting residents from lowering energy costs and reducing their environmental footprint. Only 10% of WA strata properties incorporate renewable energy, compared to 25% in NSW, limiting opportunities for cost-saving and sustainability.<sup>18</sup>

## **Insufficient Support for Diverse Needs**

WA's strata policies do not adequately address the needs of older adults, people with disabilities, and culturally and linguistically diverse (CALD) communities. Minimal accessibility standards and complex governance hinder participation, particularly for CALD residents facing language barriers, leading to social isolation and disengagement.

Strata council decisions on levies and property upgrades often reflect the interests of wealthier or investment-focused owners, disregarding the impact on diverse, vulnerable, and low-income residents. This imbalance in decision-making places an unfair financial strain on vulnerable owners, who may struggle to keep up with rising costs or feel unsupported in their housing. Ensuring diverse representation within strata councils would lead to more equitable decision-making and consideration for all owners.

## **Community Services Strained by Increasing Demand**

WA's community legal, financial counselling, social work, and other community services are under significant strain due to the rising demand from strata owners facing debt, disputes, and financial hardship. Limited resources and pathways to help in strata law related issues prevent these organisations from effectively managing complex strata cases. Dedicated funding for strata-related debt support and specialised property law expertise within community services would improve the support available to affected owners.

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<sup>18</sup> Same as 6 and 7

## Case Studies

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The work of WACAN members consistently explore the experience of people in hardship who are at risk of losing their principal place of residence.

Through ongoing casework, there have been numerous cases in WA where insufficient hardship assistance options and aggressive debt collection in relation to undemocratic or untransparent strata levies have led to outcomes that put clients at risk of or result in the losing of their home in what should otherwise be avoidable circumstances.

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### Case Study – Dean’s Story

Dean, a single father and small business owner, purchased a unit in a WA strata complex to provide a stable home for his young daughter. Shortly after moving in, however, the strata council imposed substantial levy increases to fund overdue maintenance, which the council had deferred for years, and insurance premiums. Already experiencing a business downturn, Dean was unable to absorb the unexpected levies and there were no allowances for a payment plan due to no requirement in strata law, and his financial situation quickly deteriorated.

#### Core Issues:

- No Hardship Provisions or Payment Plan Options
- Aggressive Debt Collection Practices
- Limited and Costly Dispute Resolution
- Lack of Council Transparency

Falling behind on payments, he saw his debt rapidly escalate when the strata council transferred it to a private collection agency, which added significant fees and interest. The debt collectors harassed Dean to the point he experienced mental health issues.

When the agency initiated bankruptcy proceedings, Dean reached out to a financial counselling service and housing support service for assistance. They helped him create a budget and negotiate temporary payment relief, yet the aggressive legal approach from the collection agency meant that his financial struggles continued and he proceeded to endure private legal costs to explore his minimal options in dispute resolution, ultimately leaving him at risk of losing his home.

*Source: WACAN*

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### Case Study – Kara’s Story

Kara, a First Nations woman and single mother, had worked hard to buy a modest unit in a WA strata complex to secure a permanent home for her family. She managed her mortgage and regular levies carefully on a limited income. However, her strata council—dominated by investor owners—approved costly upgrades aimed at improving the property’s market appeal, despite Kara’s concerns about affordability.



**Core Issues:**

- Lack of representation and transparency in council decisions
- No hardship protections or payment plan options
- Culturally insensitivity and limited access to culturally appropriate support

These changes led to a major increase in strata levies, placing immense strain on her finances. Without representation in council decisions or any hardship accommodations available, Kara was unable to keep up and soon fell into long-term arrears.

Unsure of her rights and unable to access culturally appropriate advice, she approached community legal and housing services specialising in support for First Nations people. They helped her understand her options, found assistance payments, facilitated negotiations with the strata council, and provided her with comprehensive information of her legal rights.

Despite this assistance, the continued levy increases and penalties meant Kara struggled to stay on top of her payments, highlighting the need for culturally sensitive support, hardship protections, and fairer representation for low-income owners in WA's strata system.

*Source: WACAN*

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**Case Study – Emily's Story**

Emily, a retired essential services worker on a fixed income, purchased a small unit in a WA strata complex as her principal residence, carefully budgeting for her regular expenses. However, a sudden, significant levy due to inflation on operational costs left her financially at risk. She attempted to appeal to the strata council for a phased payment option, but her request was denied as WA strata laws do not require councils to consider individual financial circumstances.

**Core Issues:**

- Unfair levy increases
- Aggressive debt collection
- No hardship provisions or payment plan options

When her debt was escalated to an aggressive private collection agency, Emily was quickly burdened with additional fees, high-interest charges, and harassment from debt collectors. Feeling overwhelmed, she turned to a local community service for guidance. The service offered her budgeting assistance and referred her to a financial counsellor, who advocated on her behalf to negotiate a more manageable repayment plan.

However, without formal hardship provisions under current strata regulations, Emily found herself continuously battling mounting debt and financial strain, underscoring the urgent need for legislative changes to protect vulnerable retirees in the strata system.

*Source: WACAN*

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### **Case Study – Jess’s Story**

Jess, a 28-year-old freelance worker, saved diligently to buy her first home in a WA strata complex. Initially, she was able to manage her mortgage and levies comfortably. However, her strata council—dominated by investors—soon imposed a substantial levy increase to fund luxury upgrades that were outside her budget. Lacking influence in council decisions, Jess was blindsided by the scale of the levy increases and struggled to make the payments.

#### **Core Issues:**

- Insufficient notice and rapid debt escalation
- High interest and penalties on overdue Levies
- No hardship provisions or payment plan options

Notices about her arrears came with only a few days’ warning, and with no hardship options offered, her debt quickly escalated. Facing mounting interest and fees, Jess sought assistance from a community financial counselling agency. They provided her with advice on payment negotiations and helped her draft a proposal to the council for a structured payment plan.

However, her requests were ultimately rejected by the council, leaving Jess unable to escape her mounting debt. She eventually lost her home in a forced sale, illustrating the need for transparent decision-making, flexible payment options, and hardship provisions in WA’s strata laws to protect young, first-time homeowners.

*Source: WACAN*

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### **Case Study – Ron’s Story**

Ron, a retired pensioner, purchased an affordable unit in a WA strata complex with the intention of living there throughout his retirement. For years, levies remained manageable, but when investors took control of the strata council, they implemented significant increases to fund aesthetic improvements aimed at attracting higher-value buyers. With a fixed income, Ron was unable to keep up with these unexpected costs.

#### **Core Issues:**

- Insufficient notice and rapid debt escalation
- High interest and penalties on overdue levies
- No hardship provisions or payment plan options

Minimal notice for these levy hikes meant he had little time to budget, and when his debt was passed to a collection agency, additional fees and uncapped interest charges compounded his arrears. Feeling powerless, Ron sought assistance from a seniors advocacy group, who helped him navigate his rights within the strata system and facilitated discussions with the council.

While the advocacy group provided valuable support, they were unable to secure any lasting financial relief for Ron, who ultimately faced a forced sale. His experience highlights the need for better protections for pensioners and transparency in council decision-making to prevent financially vulnerable owners from being displaced due to non-essential expenses.

*Source: WACAN*

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### **Case Study – Ashni’s Story**

Ashni and her partner, recent immigrants, saw buying a unit in a WA strata complex as a way to secure stable housing for herself and her family. However, ongoing maintenance problems in the complex and increased operational costs apparently due to inflation led to a series of unexpected special levies to fund operational cost increases and that hadn’t been budgeted for.

Already on a low income and new to WA, Ashni found it increasingly difficult to keep up with the extra costs, and her limited English skills and unfamiliarity with WA’s strata laws left her uncertain about her rights.

#### **Core Issues:**

- Insufficient notice and rapid debt escalation
- High interest and penalties on overdue levies
- No hardship provisions or payment plan options

Over time, Ashni and other owners noticed that the strata manager consistently recommended certain contractors and brokers for the work of the complex, often for projects she and other owners felt were unnecessary or excessive. The levy increases kept rising each quarter, pushing her to financial hardship. Suspecting that the decisions might be motivated by factors other than the residents’ best interests, Ashni began researching and discovered that the strata management company was receiving commission-based incentives from these contractors for each project approved by the council.

Ashni and the other owners efforts to question the council on the necessity and cost of the projects were met with resistance, as the strata manager and several investor owners dominated the decision-making process. The council consistently approved the manager’s recommendations, even when residents like Ashni raised concerns. Her request for a breakdown of expenses and alternative quotes was disregarded, she felt disrespected due to her linguistic and cultural diversity, and there was no transparency about the commissions the strata management company was receiving.

When Ashni’s arrears were handed to a private debt collection agency, high fees, and interest compounded her debt. In her distress, Ashni approached a multicultural support organisation, which offered language assistance and guided her through the legal aspects of her debt obligations. The organisation also helped her advocate for a payment plan, but without any mandatory hardship options in place, Ashni’s debt continued to grow. She eventually faced a forced sale, her credit affected, and her housing security

compromised. Ashni's experience underscores the need for accessible, culturally sensitive support and more flexible payment provisions for vulnerable homeowners within WA's strata system.

*Source: WACAN*

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### **Case study – Perry's story (Not their real name)**

Perry, a victim survivor of family violence, lives in a strata scheme, and her levies are \$500 per quarter. When Perry fell behind by one payment - \$500 - she advised her strata manager that she was experiencing domestic violence and would make up the payment.

The strata manager engaged lawyers to collect the debt anyway and ceased to issue her with quarterly levy notices. The lawyers commenced legal action against Perry in the court. By this time Perry had made payments totalling over \$4,000 and the quarterly levies for that period were \$4,500. As far as Perry was aware this meant she was only behind by \$500.

#### **Core Issues:**

- No hardship provisions and support for family violence victims
- Misallocation of payments to legal and debt collection fees
- Aggressive legal action and escalating costs

However, because her payments were solely allocated to debt collection and legal fees loaded onto her owner's ledger, the lawyers claimed she owed \$7,500 for her strata levies and took her to Court. Default Judgement was awarded to the Plaintiff (Strata) for \$8,500 which included the \$7,500 they claimed she was in levy arrears on plus another \$900 in legal fees.

A few months later, the lawyers acting for the Strata Manager filed a Notice of Motion to amend the Judgment amount, as our client had repaid \$2,800. Again, Perry believed these payments were for her strata levies, but her strata manager kept allocating them to ongoing legal and debt collection costs on her ledger.

Throughout this whole time our client kept receiving legal letters and court notices which were highly distressing. With assistance from a community legal service, legal action ceased, payments were correctly applied to levies, and regular levy notices were issued, alleviating Perry's distress.

*Source: Financial Counselling Australia*

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### **Case study – Mon's story (Not their real name)**

Mon lives alone in her strata unit. She suffered a workplace injury and couldn't work for a long period of time. She was receiving weekly payments under workers insurance but when the amount of her payments dropped and the strata levies were increased from \$760 to \$1,100 per quarter, she fell behind on her strata levy payments.

#### **Core Issues:**

- No hardship provisions or payment plan options
- Frequent and costly arrears notices adding to debt
- Aggressive legal action and excessive debt collection charges

Instead of offering her a hardship arrangement, the strata manager sent arrears notices almost on a weekly basis and charged each one to her ledger at \$35 a pop.

Eventually the strata manager engaged a legal firm to undertake legal action including forced bankruptcy proceedings. By this time the debt claimed was \$10,200 which was made up of \$5,800 in debt collection charges and \$4,400 in underlying levy arrears and interest. Mon was awarded a compensation payment which she used to settle the debt and avoid bankruptcy.

*Source: Financial Counselling Australia*

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### **Case study – Elizabeth’s story (Not their real name)**

Elizabeth is 72 and widowed. She receives a pension from Veteran’s Affairs. She previously paid off a \$10,000 debt to her building’s body corporate for strata levies with the help of a charity and is paying it back out of her pension. She says she has kept up with current levies via constant payment arrangements and has even paid a bit extra. Now she has received a bankruptcy notice over \$11,000 in legal fees.

She fell behind in her strata fees nine years previously when her husband died. At about the same time she had been a victim of an internet fraud costing her \$60,000. She was very upset because she had been negotiating the repayment arrangements with lawyers because the strata management firm would not deal with her directly, but no one told her she was racking up legal fees.

#### **Core Issues:**

- Inflexible repayment options and lack of long-term hardship provisions
- No hardship provisions or payment plan options
- Disproportionate impact of strata debt collection on fixed-income individuals
- Excessive legal fees and debt escalation
- Risk of bankruptcy and home loss for vulnerable people

A solicitor, from a community legal centre, reviewed the legal costs and found that \$20,000 had been charged, over essentially a \$7,000 bill for strata levies. While this seems excessive, there was nothing obvious in the bill to challenge and the legal firm had already obtained judgment. There was a real risk that challenging the bill could cost Elizabeth more in the long run and she was already at risk of being made bankrupt, losing her home and accruing more costs due to trustees’ fees.

*Source: Who is making Australians bankrupt? Report 2019*

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## Primary Recommendations

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In our view, there is a need for swift action to address the substantial detriment we see happening because of strata companies instituting unfair levy increases, no hardship or dispute resolution provisions, and debt collection in a harsh and unconscionable manner. As highlighted above, some of the underlying issues that we think are contributing to this problem include:

- The lack of consumer safeguards dealing with contribution notices, financial hardship, payment arrangements, dispute resolution, and debt collection in the WA strata laws. Namely that there are:
  - No number of days specified from when a contribution notice is sent to an owner to when it falls due. In NSW the minimum notice period is 30 days, in Victoria it is 28 days and in QLD it is 30 days.
  - No specific requirements for a final fee notice or notice of recovery action to be issued for unpaid levies and before a debt can be recovered in court. In NSW currently at least 21 days' notice (proposed legislative amendments to increase this to 45 days) must be given to the owner before recovery action can commence, In Victoria it is 28 days.
  - No requirement for a late payment or reminder notices to be issued if contributions are not paid on time.
  - No financial hardship or payment plan provisions.
  - No minimum standard template for what information a contribution notice should contain.
- Insufficient information about owners' rights and free supports available.
- Mandatory minimum set of information on levy notices including for people experiencing hardship and free supports such as the National Debt Helpline.
- No internal dispute resolution requirements within strata companies and lack of external or alternative dispute resolution services to handle disputes relating to financial hardship and payment arrangements.
- Inappropriate debt collection practices.
- A low forced bankruptcy threshold of \$10,000.
- Insufficient protections against actions of the Sheriff under PSSOs for relatively small debts in contrast to protections in other jurisdictions.

Collectively, the following measures aim to create a more compassionate, transparent, and balanced approach to within strata communities. They uphold owners' rights, support financial well-being, and promote harmonious relationships, creating a fair and inclusive strata environment for all.

### **Affordability and Rising Costs**

- Limit annual levy increases to a fixed percentage, with exceptions only in approved cases, ensuring stability and predictability for owners. Approved exceptions would apply only to essential, large-scale expenses, keeping increases manageable.

- Provide state subsidies for low-income and senior owners facing high levies, helping to ease financial strain for those who may be more vulnerable to high levy costs, allowing them to remain part of their communities.
- Require clear, annual reports on levy allocations for transparency and accountability. Owners gain insight into how funds are spent, ensuring contributions are effectively managed and enabling trust in financial decisions.
- Offer low or zero-interest loans for essential upgrades in older buildings, helping avoid special levies and making it easier to maintain standards without overburdening owners.
- Promote shared resources among owners, such as solar installations or collective maintenance, to reduce individual levies, lower overall costs, and encourage sustainable practices.
- Require audits for large levy increases to ensure they are essential and reasonable, providing transparency and confidence that increases are justified.

### **Hardship Rights and Supports**

- Introduce hardship provisions within WA's strata laws, including flexible payment options and payment plans for owners facing temporary financial hardship.
- Require strata schemes to exhaust all alternatives, such as payment plans, before initiating debt recovery actions.
- Implement a standardised hardship application process with written decisions to ensure fair and consistent treatment.
- Prohibit or cap penalty interest or fees during approved hardship periods and allow for fee waivers in cases of severe hardship.
- Provide a state-supported advisory service to guide owners through the hardship application process and offer clarity on available support.

### **Fair Notices**

- Standardise levy notices and reminders that also include essential financial hardship information, ensuring that owners have the information they need and are informed of available support.
- Require a minimum 30-day notice period from when a contribution fee notice is sent before the payment is due.
- Mandate specific reminder notice requirements, including a minimum of three reminders with standardised content, timing, and inclusion of hardship resources.
- Prescribe standardised templates for all notices and communication, aligning with practices in VIC and proposed in NSW, to ensure consistency and high standards across all strata schemes.

### **Fair Debt Collection Practices**

- Standardise best-practice debt recovery policies approved at the state level, ensuring consistent and fair handling of arrears across all strata schemes.
- Ban adding recovery costs to an owner's ledger without a court or tribunal order.
- Mandate a final notice or notice of recovery action, with a minimum 30 day notice period, before unpaid levies can be pursued in court.



- Mandate independent mediation between strata companies and owners prior to court action, creating an opportunity to resolve disputes constructively.
- Set a judgment debt threshold of at least \$30,000 to prevent extreme measures, such as orders to seize and sell property, for minor unpaid amounts (similar to NSW's \$20,000 threshold before a Writ for Levy for seizure and sale of real property can be issued by the court).

### **Information on Owner's Rights**

- Require that levy notices contain essential information for those facing financial hardship, including resources like the National Debt Helpline.
- Require strata companies to provide all owners with an annually updated, comprehensive guide on their rights, responsibilities, and strata processes in a clear and accessible format.
- Include basic strata rights information in all official communications, such as levy notices, meeting notices, and debt recovery letters.
- Offer free workshops and information sessions for owners through local councils or community centres to enhance understanding of strata laws and rights.
- Implement a dedicated helpline or support service, available in multiple languages, to provide guidance and answer questions on strata rights.
- Develop plain-language templates for common strata documents (e.g., dispute notices, payment plans) to help owners understand and respond effectively.
- Require strata companies to inform owners about all available financial and legal support services, especially during debt recovery actions.
- Issue a standardised annual statement for owners outlining their current rights, any relevant changes to strata laws, and new resources for support.
- Ensure free or low-cost legal advice for owners facing complex strata issues, in partnership with community legal centres.
- Encourage strata companies to provide rights information in digital formats, such as mobile apps or online dashboards, for easy access and engagement.
- Mandate that key information on owner rights and support services is provided upon lot purchase and included in all strata notices.
- Provide information in Easy English, multiple languages, and culturally appropriate language and formats for First Nations communities to ensure inclusivity and accessibility.
- Ensure Landgate's website includes accessible and inclusive information and resources on managing strata debts.
- Offer state-funded resources such as assistance hotlines, fact sheets, guidance for support services, and online portals to help owners navigate strata issues.

### **Transforming Dispute Resolution Mechanisms**

- Establish a dedicated Strata Ombudsman or specialised tribunal focused on strata-related disputes, providing accessible and affordable mediation and resolution options outside SAT and court systems. Affordable dispute resolution options would relieve pressure on community services, provide owners with a fair recourse for complaints such as a user-friendly online portal, and reduce unnecessary reliance on formal legal proceedings.

- Require compulsory internal and external dispute resolution mechanisms, particularly for disputes involving denied financial hardship requests, levy disagreements, debt recovery, and governance conflicts. This includes mandatory pre-litigation mediation to address common issues early.
- Broaden the SAT's jurisdiction to cover unreasonable denial of financial hardship or payment plan requests, ensuring that debt recovery actions are only used as a last resort.
- Introduce a user-friendly online portal for owners to file complaints, track cases, and access support as an accessible entry to the dispute resolution process.
- Ensure the Strata Ombudsman or tribunal has the authority to enforce resolutions, reducing the need for escalation to formal legal action.
- Provide training for strata managers and councils on alternative dispute resolution to encourage proactive and fair handling of owner concerns.
- Incorporate language and cultural support options within the dispute resolution process to ensure inclusivity for all owners.
- Implement a public reporting system for dispute resolution outcomes, ensuring transparency and accountability for the Ombudsman or tribunal.
- Create a streamlined appeal process for cases where owners wish to contest decisions, offering an independent review option through the tribunal or Ombudsman.

### **Ensuring Fair Commissioning and Overall Strata Transparency**

- Ban conflicted remuneration practices for strata managers, prohibiting commissions or financial incentives that create conflicts of interest.
- Require unbiased third-party contracting for major services, with a mandate for strata schemes to use independent providers in cases where conflicts of interest may arise.
- Regular independent financial audits of strata accounts, budgets, and levies should also be required to ensure accountability.
- Enforce strict transparency regulations around financial arrangements, requiring strata managers to disclose any commissions or incentives they receive.
- Mandate clear, accessible reporting on strata budgets, with detailed breakdowns of expenses and long-term budgeting goals, to ensure owners understand their financial obligations.
- Require majority owner approval for significant levy increases, especially for non-essential upgrades, to prevent financially burdensome projects that disproportionately impact low-income owners.
- Introduce a clear distinction in reporting between essential and discretionary spending, so owners can make informed decisions on budget priorities.
- Make regular, independent financial audits of strata accounts mandatory so funds are allocated responsibly and reducing the risk of financial mismanagement.
- Establish a public register of strata managers' commissions and contractual arrangements, accessible to owners for review, promoting transparency and accountability.
- Require strata councils to share detailed expenditure reports with owners annually, outlining how levies are allocated and any changes in financial priorities.

- Develop a state-run advisory service to guide strata owners in understanding financial reports, budget allocations, and levy implications, empowering them to engage confidently in financial decision-making.

### **Strengthening Governance and Empowering Owners**

- Implement limits on developer control after project completion, standardise voting processes, and establish clear proxy voting limits to prevent any one party from holding disproportionate power. This would ensure fair representation in decision-making and reflect the collective interests of all owners.
- Regular reviews of strata by-laws, with input from all owners, would allow communities to adapt to changing needs and values. Providing best-practice guides and offering training for strata council members would further enhance governance by ensuring decisions are informed, fair, and representative of the community's interests.
- Standardise voting processes across strata schemes for fairness and consistency.
- Cap proxy votes to prevent any one party from gaining disproportionate control.
- Require regular reviews of by-laws with input from all owners.
- Provide best-practice guides and training for strata council members to promote informed, fair governance.
- Ensure regular, transparent communication from strata councils to keep owners informed and engaged.

## **Additional Recommendations**

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### **Supporting Vulnerable Residents and Promoting Inclusivity**

WA strata policies should be reformed to support the specific needs of vulnerable residents, such as the elderly, individuals with disabilities, and culturally and linguistically diverse (CALD) communities. Mandating accessibility standards in strata properties would ensure that physical modifications, like ramps or lifts, can be installed as needed, facilitating inclusive access for all residents. Additionally, updating by-laws to support cultural and social inclusivity would create a welcoming environment within strata communities, allowing residents of all backgrounds to feel fully engaged in community life. Such measures would create equitable, supportive living environments, helping strata schemes enable a cohesive and inclusive atmosphere.

### **Encouraging Sustainable Building and Energy Efficiency Initiatives**

Promoting sustainable practices within strata schemes can reduce environmental impact and contribute to cost savings for owners. WA should introduce subsidies or incentives for strata properties that adopt sustainable upgrades, such as solar panels, water-saving devices, or electric vehicle charging stations.

Simplifying the approval process for sustainability projects and green retrofits by allowing majority votes instead of requiring unanimous consent and requiring strata councils to consider environmental impact in decisions would enable these initiatives to progress more smoothly.

By removing barriers to green upgrades, strata schemes can lower utility costs, decrease their carbon footprint, and align with broader environmental goals, benefiting both the community and the environment. This approach would empower strata owners to invest in eco-friendly improvements and create more resilient and sustainable living spaces.

### **Improving Strata Manager Standards and Accountability**

Inconsistent strata manager standards lead to varied service quality, often leaving owners uncertain about management practices. WA should introduce licensing requirements for strata managers, including ongoing training, ethics standards, and financial competency. Establishing a regulatory agency to oversee compliance and monitor manager performance would provide owners with assurances of professionalism and accountability in strata management.

Public reporting on strata manager performance metrics and satisfaction ratings from lot owners would further increase transparency, allowing owners to make informed decisions when selecting management services. These reforms would support high-quality, transparent service across the strata sector, promoting trust and consistency.

### **Strengthening Community Support Services for Strata Owners**

The rising demand for assistance with strata-related issues is placing significant pressure on WA's community legal, housing assistance, financial counselling, and other services, which are often under-resourced or have barriers in assisting, especially for the complex nature of strata cases. Allocating dedicated funding for strata-related debt support and hiring legal specialists in strata law within community organisations would allow these services to better support clients facing complex debt and financial hardship.

Enhanced support from trained professionals would enable organisations to provide case management, advocacy, and debt resolution services, ensuring that vulnerable owners receive comprehensive assistance and can navigate strata-related issues effectively. This investment in community services would also alleviate the strain on legal aid and social services by providing targeted, specialised support.

### **Expanding Affordable Housing Options Through Alternative Models**

Given the increasing costs associated with strata, WA should explore the expansion of alternative affordable housing models such as public housing, cooperative housing, and community land trusts. These models offer financial stability, less hierarchy, and a sense of ownership and community without the complexities and high levies of traditional strata schemes. Cooperative housing, for example, provides a community-based approach to homeownership where residents collectively own the property, sharing maintenance responsibilities and costs equally. Cooperative housing enables shared decision-making, reduces costs, and eliminates landlord-tenant power imbalances. Members typically pay an affordable monthly fee, making it a low-cost, sustainable option.

Community land trusts, which maintain long-term affordability by separating land ownership from property ownership, could also provide a more sustainable solution secure, affordable housing. CLTs maintain permanent affordability by separating ownership allowing future generations to benefit from affordable housing. By diversifying

housing options, WA can offer stable, affordable alternatives to traditional strata schemes, meeting the needs of a broader range of residents.

## **Discussion Paper Question Responses**

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### **3.2 Subdivision, development, scheme termination and redevelopment**

#### **Does Part 12 of the Strata Act strike the right balance between ease of terminating a scheme and protecting the rights and interests of vulnerable persons and objecting owners?**

While Part 12 of the Strata Act aims to balance efficiency with protections, there is room for improvement to ensure vulnerable individuals and objecting owners receive sufficient safeguards. A fair balance would require strata companies to provide independent advocacy or legal support for vulnerable owners facing termination. It could also mandate a higher threshold for agreement when terminating schemes that disproportionately affect those unable to relocate easily, such as elderly or low-income residents. Strengthening consultation requirements and facilitating dispute resolution at earlier stages would make termination processes fairer and less adversarial.

#### **What are the factors preventing strata title schemes from fully utilising the termination provisions in Part 12 of the Strata Act?**

Full utilisation of the termination provisions may be limited by financial, legal, and logistical barriers. Many strata owners are concerned about the potential costs and complexities of termination, especially in older schemes with diverse ownership and significant repair needs. Additionally, legal disputes or lack of clarity around shared liabilities can create reluctance to initiate termination. Increasing accessibility to legal and financial advice, along with clearer guidelines for fair compensation and relocation assistance, would make these provisions more usable, especially in schemes where termination may be necessary but has felt too daunting.

#### **Is scheme termination a viable solution to the cost pressures of maintaining ageing buildings?**

Scheme termination could be a viable option in certain cases, but it should not be the default solution to cost pressures associated with ageing buildings. A people centric approach would explore other options first, such as subsidies or low-interest loans for building upgrades, government grants for sustainable renovations, or shared maintenance funds across schemes. Where termination is the most practical solution, processes should prioritise equitable outcomes, ensuring all owners are compensated fairly and vulnerable residents are provided with adequate relocation support and assistance in securing alternative housing.

### **3.4 Cost related consumer protections**

## Should the Strata Act be amended to include consumer protections around financial hardships?

Yes. The Strata Act should be amended to include consumer protections that account for financial hardships.

### Introduce financial hardship obligations into the Act

A new entitlement of assistance for people experiencing hardship needs to be added to the Act. This is fundamental consumer protection that exists in all other sectors as a standard protection, for when people need temporary respite due to being unable to meet their financial obligations.

#### Hardship in other industries

**Energy:** Under the National Energy Retail Law, all energy retailers must have a customer hardship policy that supports residential customers experiencing payment difficulties, however this does not apply to WA. Our state specific energy and water regulation under the Code of Conduct for the Supply of Electricity to Small Use Customers, the Compendium of Gas Customer License Obligations, and the Water Services Code of Conduct all require WA retailers to have a hardship policy and to offer fee free and interest free payment plans to all customers. These codes are monitored and enforced by the Economic Regulation Authority.

**Telecommunications:** Hardship obligations have recently been elevated out of the self-regulatory Telecommunications Consumer Protection Code and into a new Telecommunications (Financial Hardship) Industry Standard 2024

**Insurance:** The General Insurance Code of Practice outlines obligations on insurers to identify, assess, fast-track and support people experiencing financial hardship

**Credit:** People can seek temporary financial hardship variations to loans.

All the above provide free access to external dispute resolution mechanisms.

The absence of a financial hardship provision in the Strata Act is directly contributing to rapid debt spirals, which we see all too often in our practices. Clients come to us initially with a minor issue, such as a single missed levy payment, but due to the lack of any obligation on strata managers to consider financial hardship, the response is often to engage debt collectors as an immediate step rather than exploring alternative, more considerate options. This practice can turn a small arrears situation into a significant debt problem. Once debt collectors are involved, fees and charges quickly stack up, causing the client's debt to balloon well beyond the original missed payment. For many, these additional costs make it nearly impossible to catch up, especially when financial stress may already be present due to illness, loss of income, or other challenging circumstances.

Mandating a requirement for strata companies to consider hardship arrangements—such as payment plans—could prevent minor arrears from spiralling into large, unmanageable debts. This kind of provision in the Strata Act would encourage a more



balanced approach, ensuring that a short-term delay in payment does not lead to long-term financial hardship and distress. It would promote a fairer, more compassionate model of strata management, where financial hardship is met with understanding and support, rather than immediate, punitive debt recovery actions.

Amend the Act so that debt collection and enforcement activity can only commence at the end of a fair process

Debt collection activity will of course need to occur if an owner falls behind in their levy payments and does not seek to remedy this in any way. What is presently missing is a process that allows adequate time and flexibility to pay, options to accommodate financial hardship, referrals for external support and assistance, and the avoidance of additional debt recovery costs being added to an individual owners ledger as they by definition make it harder for an owner to pay their levies.

We would like to see changes to the Act that allow debt collection and enforcement activity to commence only after the following steps have taken place:

- A contribution notice in the Landgate standard template has been issued to lot owner including where to access free financial counselling, how to apply for financial hardship, and available dispute resolution options)
- A reminder notice has been issued to the lot owner
- Attempts have been made to negotiate and enter a financial hardship arrangement by the strata manager where it has been requested by the lot owner. Where the owner needs support to do this, an appropriate referral is made to the National Debt Helpline for free, independent and confidential support from a financial counsellor.
- Where the lot owner meets their agreed obligations, further debt collection activity cannot commence.
- A Notice of Recovery action (new) has been issued.
- Debt collection activities can only commence where an owner has been in arrears for a minimum of 90 days, has not requested a hardship arrangement, or has broken a hardship arrangement and remains in arrears.
- Debt collection and enforcement activity must be approved by the strata company.

This approach aligns strata governance with fair and ethical practices, creating more resilient, supportive communities that can better navigate financial difficulties together.

**If consumer protections around financial hardship were introduced into the Strata Act, should there be rules around how the strata company may charge lot owners for debt recovery?**

Yes. If consumer protections for financial hardship are added to the Strata Act, it's crucial to regulate how strata companies handle debt recovery fees to ensure fairness and transparency.



### Amend the Act so that only costs ordered by the Tribunal or Court can be recovered

There should be no cost to the owner for making a request for financial hardship, having that considered and entering a payment plan. To allow otherwise would be in stark contradiction to the whole point of providing such rights to owners in financial hardship and will only make their situation worse.

- Amend the Act to include a provision that debt recovery costs cannot be recouped from an owner without a Court or Tribunal order.
- We also recommend that the Act is amended to ensure that payments made by owners are first applied to levies, followed by interest and then debt collection costs recoverable by order of the Tribunal or Court.

This approach would promote fairer debt recovery practices and prevent exploitative fee structures that undermine the spirit of consumer protection in strata communities.

## **4.2 Objectives of the Strata Act**

### **Should the Strata Act have express objectives?**

Yes. Legislation must include express objectives to provide a clear framework that reflects the evolving needs of strata communities in WA. By setting out clear objectives, the Act would better serve residents, lot owners, and strata managers by establishing guiding principles for fair, transparent, and sustainable management. Objectives would also help create a more community-centred approach to strata living, balancing financial, social, and environmental interests in a way that benefits all stakeholders.

### **If express objectives were included in the Strata Act, are the various objectives identified above relevant, or are there other objectives that should be captured?**

The objectives already identified are relevant, but additional objectives could further enhance the Act. These could include:

- Community well-being and inclusivity: Promoting harmonious and inclusive living environments that respect the diversity of residents.
- Sustainability and environmental responsibility: Encouraging the adoption of sustainable practices and green infrastructure in strata schemes.
- Transparency and accountability: Ensuring that strata companies operate in a transparent and accountable manner, with clear communication of decisions and financial matters.
- Financial equity and fairness: Protecting lot owners from excessive fees and providing mechanisms to address financial hardship in a fair manner.

These objectives would ensure the Act aligns with contemporary values and addresses the unique challenges of community living in strata schemes.

### **If objectives are to be brought into the Strata Act, what corresponding provisions would need to be introduced to the Strata Act to give effect to those objectives?**

To give effect to these objectives, the Strata Act would require specific provisions, including:

- **Community Well-being and Inclusivity:** Introduce provisions for mandatory dispute resolution processes and accessibility requirements in common areas, supporting an inclusive environment for all residents.
- **Sustainability and Environmental Responsibility:** Provide financial incentives or grants for sustainable upgrades (e.g., solar panels, water-saving systems) and establish minimum sustainability standards for new strata developments.
- **Transparency and Accountability:** Require strata companies to disclose detailed, easily understandable financial reports to lot owners annually, and implement stricter standards for transparency in decision-making processes.
- **Financial Equity and Fairness:** Include mandatory hardship provisions that require strata companies to consider flexible payment plans or debt management options for lot owners facing financial difficulties, as well as limits on administrative fees for late payments.

#### **4.7 Governance and conduct by-laws**

**Are the Governance by-laws in Schedule 1 and Conduct by-laws in Schedule 2 still relevant to modern strata living?**

While many by-laws remain relevant, updates could address evolving needs, such as inclusivity, sustainability, and modern community standards, ensuring they better reflect today's diverse strata living environments.

**Are there other by-laws that should be captured in the Strata Act?**

Additional by-laws on sustainability practices, respectful community behaviour, and financial hardship provisions could enhance fairness and support a more cohesive, environmentally responsible community.

**Is a resolution without dissent too arduous for strata companies in relation to STRA?**

Yes. Requiring unanimous agreement can be restrictive and hinder decision-making. A high majority threshold, rather than full consensus, would allow for efficient progress while still respecting diverse views.

#### **4.8 Strata company objectives**

**Has the inclusion of strata company objectives been useful for decision-making?**

Yes. The objectives provide valuable guidance, helping council members and lot owners align decisions with the scheme's overall benefit. However, clearer examples or case studies could further enhance their practical application.

**Are there other objectives or matters the strata company should consider?**

Additional objectives, such as prioritising sustainability, community well-being, and financial equity, would support fairer, more holistic decision-making that reflects modern community values.

#### **4.9 A safe place to work and live**

**Should the Strata Act include specific provisions dealing with the bullying and harassment of scheme participants and the people who provide goods and services to schemes?**

Yes, including specific provisions on bullying and harassment within the Strata Act would create a safer and more respectful environment for all scheme participants, as well as those who provide goods and services. Provisions addressing unacceptable behaviours would set a clear standard and empower strata companies to handle instances of harassment promptly and effectively. Such rules would support a culture of mutual respect, improving community well-being and protecting service providers from mistreatment. Including guidance on how to report and manage these situations would further ensure that strata schemes can maintain a supportive, professional atmosphere.

**Should there be specific provisions in the Strata Act, or possibly the by-laws, requiring strata companies, lot owners, and lot occupants to provide a safe and healthy environment?**

Incorporating provisions that require a safe and healthy environment would be a progressive step, creating community well-being and accountability. This could be implemented in the Act or as standard by-laws, outlining obligations around physical safety, such as maintaining communal areas, and psychological safety, including respectful conduct. These provisions could also align with existing occupational health and safety standards, ensuring strata communities have clear expectations for a safe living environment that prioritises both physical and mental well-being for all residents and visitors.

#### **4.10 Dispute resolution and general strata advice**

**Has the introduction of the Tribunal as a one-stop-shop for strata disputes been effective in resolving disputes more quickly, cheaply, and effectively?**

While the Tribunal's introduction as a one-stop-shop for strata disputes is a step toward accessibility, its effectiveness could be further improved.

The Tribunal should prioritise procedural efficiency, perhaps by setting prescribed timelines and adopting simplified processes to reduce delays and lower costs. For disputes requiring swift resolution, especially those impacting daily community life, implementing an expedited pathway could ensure timely, affordable outcomes. Additionally, making the Tribunal more accessible to non-English speakers and those from vulnerable groups would enhance its capacity to serve as an inclusive, effective resource for the entire community.

We also recommend that Tribunal's jurisdiction should be expanded to:

- Include strata disputes relating to an unreasonable refusal of a payment plan request and debt recovery.
- Introduce an alternative dispute resolution service similar to that in NSW Fair Trading or Victoria to ensure that Tribunal is a last resort.
- The scope of any new service must include financial hardship and debt recovery and require mandatory participation for example: if a lot owner raises a dispute that the strata company or manager is unreasonably refusing their financial hardship/payment plan request then the strata company or manager must participate in the dispute resolution process. This is currently not the case in NSW and proves problematic in resolving such disputes.
- Also, a requirement in the strata laws to ensure that the strata company or manager must not take action to recover unpaid levies if a payment plan is being complied with by an owner or a dispute resolution process in relation to the payment plan is in progress.

**Is there value in introducing to the Strata Act an alternative, low-cost dispute resolution pathway, with prescribed timelines?**

Introducing a low-cost dispute resolution pathway with prescribed timelines would be highly valuable. A community-centred mediation pathway would offer quick, affordable access to resolve minor disputes before they escalate, reducing the burden on the Tribunal. Establishing timelines for resolutions would not only streamline the process but also provide a fair and consistent framework that minimises uncertainty for all parties involved. To maximise inclusivity, this pathway could be developed in consultation with stakeholders across the strata community, ensuring it reflects diverse needs and promotes community harmony.

**Would there be value in adding a dispute resolution by-law to the Strata Act?**

Adding a dispute resolution by-law to the Strata Act would provide strata communities with a clear, structured framework for handling internal conflicts. This by-law could mandate initial, informal mediation efforts within strata communities, empowering residents and managers to resolve issues at the community level before seeking external help. Such a by-law would encourage collaborative problem-solving and create a culture of mutual respect within strata communities. For broader applicability, the by-law could include provisions for accommodating cultural differences and varying communication needs, ensuring it is adaptable and fair for all members of the community.

**Should there be a legislated strata advice service for lot owners, tenants, strata companies, and strata managers?**

A legislated strata advice service would be invaluable, providing accessible and essential information, guidance, and advocacy for all strata participants. This service could offer tailored support for lot owners, tenants, strata companies, and managers, covering topics like dispute resolution, rights and responsibilities, and sustainable community practices. Making this service free or low-cost would ensure it is accessible to all, regardless of financial means, and could be a vital resource in enabling informed,

empowered communities. Additionally, integrating digital options (e.g., a hotline or chat feature) would improve access and engagement, especially for those in remote or underserved areas.

#### **5.4 Conflict of interest and disclosures**

##### **Would clearer disclosure obligations for strata managers be useful?**

Yes. Requiring strata managers to clearly disclose interests in related services (e.g., cleaning) would enhance transparency and trust, ensuring owners are fully informed of any potential conflicts.

##### **Should third parties like insurance brokers also disclose conflicts of interest, and how could this be enforced?**

Third parties should disclose conflicts to protect owners' interests. Enforcement could include mandatory disclosures in contracts, regular audits, and penalties for non-compliance to ensure transparency.