



When buying a Strata Property, it's important to do the research – not just about the property itself but about the Strata Scheme you will be a member of once your purchase has completed. Failure to do so can result in disappointment, frustration and substantial financial loss.

The dire predicament facing apartment owners in new Opal Tower building and in the established apartment complex known as Mascot Towers are prime examples of what can do wrong when you buy a new or existing Strata Title apartment in a Strata Scheme with problems. To minimise the risk of doing so it's essential that purchasers **MUST DO** the following:

1. Review the Owners Corporation's Records

This is where you are likely to find the most information about the Strata Scheme and it's best done by arranging for an experienced Strata Searcher to provide a Strata Search of the Owners Corporation's records which should include information such as the following;

- (a) Minutes of past meetings of the Owners Corporation which should note issues of significance in regards to both current and past repairs and general problems within the Strata Scheme.
- (b) Correspondence between the Owners Corporation and parties they have engaged to undertake rectification and repair works in the Scheme or are otherwise in dispute with including the original builder/developer or local Council.
- (c) Financial Statements detailing the current levies and insurances taken out by the Owners Corporation and the current balances held in the Owners Corporation's bank accounts.
- (d) Details about any disputes between lot owners and the Owner's Corporation and information about any Court or Tribunal proceedings the Owner's Corporation is currently or has been a party to.

2. Inspect the whole of the Strata Scheme

It's prudent to inspect all of the buildings and common areas in the Scheme and not just the apartment that you're interested in purchasing. The existence of cracking and water leaking stains are tell-tale signs of shoddy building and the appearance of worn carpets, flaking paint and broken fixtures indicate inadequate maintenance arising from poor management. These can also lead to future major expenditure by the Owners Corporation in undertaking rectification works to which each owner will have to make a contribution.

3. Clarify what you will actually own

To find out exactly what you will own as the owner of your Lot and to distinguish this from what is Common Property a thorough check of the Strata Scheme plans and accompanying documents needs to be undertaken. These will usually



be attached to the Contract for Sale which is required to be available to prospective purchasers by the Owner's selling agent.

4. Speak to other Owners and Occupiers

It also very worthwhile speaking with current owners or tenants of other lots in the Scheme as they will likely have first-hand knowledge about any significant issues or ongoing problems that the Owners Corporation may be facing. If possible, also try and speak with members of the Owner's Corporation's Executive Committee to confirm or clarify any issues that are noted in the Strata Search.

5. Ascertain what existing Statutory Defects Cover exists

For buildings of three storeys or less this means finding out if there is still any ongoing insurance cover for defects under the Home Building Compensation Fund. For buildings greater than three storeys you'll need to investigate whether a Bond has been paid to the Department of Fair Trading by the developer under the new Strata Building Bond Scheme as surety for the cost of rectifying building defects.

6. Find out who the Developer and Builder were

This is particularly important in respect to Off the Plan or recently completed developments. Knowing the track record and reputation of the Builder/Developer and what has occurred in their past projects may assist in deciding whether to proceed to purchase the property or just walk away and look for something else.

7. Have the Sale Contract Vetted by a Property Law Expert

Engaging an experienced Property Lawyer to review and advise on the terms of the Sale Contract before Auction or otherwise exchanging Contracts is sensible. In addition to providing normal disclosure documents and information about the Strata Scheme the Contract may contain special provisions which may be disadvantageous to the buyer both financially and from a risk exposure perspective. If you're having difficulty understanding what you'll actually own, an experienced Property Lawyer can clarify this for you and also obtain an independent Strata Search and advise on and investigate any issues of concern that may arise from it.

Other things to Consider

There are a number of matters you should consider when contemplating the purchase of any Strata Property including:

Reading the Strata Scheme By-Laws?

By-Laws are a set of Rules that all Owners or Occupiers living in the Strata Scheme must follow and are established at the time the Strata Scheme is registered but can be changed over time with the agreement of the property owners in the Strata Scheme. By-Laws are made in relation to issues such as parking, noise, the keeping of pets, renovating apartments and the granting of exclusive use rights to certain property owners.

Understanding what the By-Laws are in the Strata Scheme in which you are intending to buy is essential to ensure that you can both use the apartment for the purposes you intend and to be aware how fellow owners and their occupiers may use their apartments.



Finding out what Developments are being built nearby

Any future developments in the surrounding area should be investigated to find out how they may impact on the apartment you're considering purchasing. It could be that these developments may result in a loss of views or other amenities in the future. This can be done by making enquiries with the Local Council to find out what Development Consents presently exist on adjoining properties or what Development Applications have been applied for but are yet to be approved.

Understanding the situation with Parking

While it's important to understand where the car space or garage (if any) attached to the Lot you are buying is located it's equally important to ascertain what Local Council car-parking permits may be available to occupiers in the Complex as not all developments are granted rights for the owners or occupiers to obtain these permits.

Inquiring about whether the Strata Scheme permits Airbnb activity?

This is becoming a significant question in relation to buying a Strata title apartment and is only likely to increase in significance with the growth and demand for this type of accommodation. Understandably, an owner occupier's amenity may be affected by the transient use of adjoining apartments for short term letting and celebration activity.

At Bateman Battersby we have substantial experience in assisting and advising clients about buying and selling Strata properties. If you need help with a proposed Strata transaction or have an issue of concern with a Strata Scheme, please call one of our [accredited specialists](#), [John Bateman](#) or [Michael Battersby](#) on (02) 4731 5899 or email us at property@batemanbattersby.com.au for further information or assistance.