MICHAEL TEYS
Strata Advisory

Strata title: A perfectly imperfect model for commonhold revival in England and Wales

An address by Michael Teys[i] for Free Leaseholders

King's College, London, 16 December 2025

You may recall the scene in Monty Pythons', 'The Life of Brian' where the members of a resistance group in occupied Judea are discussing their oppressors. Reg, the leader of Peoples Front of Judea, played so memorably by John Cleese, angrily asks 'What have the Romans ever done for us?'

One after the other the admissions come from the members - sanitation, education, medication, public law and order -- the roads, the aqueducts. The characters reluctantly admit the benefits of Roman rule, even while desperately wanting to be critical. It is a wonderful piece of political satire about colonialism.

White Australia might ask the same, 'What have the English ever done for us?' A group of sardonic Aussies might respond with 'Pubs, beer, bangers and mash, and cricket, although you are no longer any good at that'.

The more intellectual might elevate the discussion and add some of the many great legal systems England has imparted to us, the Westminster system of government, the doctrine of the separation of powers, common law, and the jury system. However reluctantly, we too would admit the benefits of our English heritage.

While none of the legal systems you have imparted are perfect, they are the best we have and together they underpin stable government and order in our country. They contribute to making us a desirable place to live with one of the highest standards of living in the world.

As grateful as we are for your many great systems of governance, there is one that our country will have none of, and that is leasehold. Tellingly, the rejection of leasehold in favour of freehold for residential housing comes from your own people, our convict ancestors.

Graeme Davison, former Professor of History at Monash University writes in his article on suburban development[ii] —

> *Australia may be thought of as the farthest suburb of Britain and ambitions for land, space and independence frustrated in the crowded cities of the homeland were often realised on the suburban frontiers of Australia (or Canada, the United States or New Zealand).*

He continues -

> *Australia's suburbs were shaped, decisively, by the successive waves of immigrants who pioneered them. The demand for land, for space and for independence have always been prominent in the aspirations of immigrants to Australia. Many looked back upon the experience of living as tenants in their homeland and longed to be free of the fear of the landlord and the bailiff.*

The ongoing fear of leasehold - in our convict ancestor's minds, personified by the landlord and the bailiff - is what brings us together tonight.

I acknowledge your pain as leaseholders, the frustration you must feel at not overseeing your own domain, your sense of anger and powerlessness at being exploited by freeholders, and your exhaustion having fought so hard for reform for so long, only to be let down by your bureaucracy and successive governments of all persuasions.

I'm astonished that more reform has not been achieved here, when more than two hundred years ago those judged the least of your society and banished from your country to ours for their crimes, decided which of your systems were good, and which were bad, yet the one they fervently rejected, leasehold, continues to plague you today.

I'm committed to helping your cause, as are so many other Australian and international academics and professionals in my field, and to that end in our time together this evening, I want to do three things -

Firstly, explain how and why freehold strata has developed in our country.

Secondly, describe the rights of freehold strata owners and moreover, identify the responsibilities that come with owning freehold strata lest you think there is no price to pay for freedom.

And thirdly, acknowledge the ongoing imperfections of our system and explain how we are addressing them.

My objective is this, with a reminder of what a good, but not perfect system looks like, you will be emboldened in your effort to revive commonhold, and your law makers will be encouraged to continue to explore a better and more just way to house people and encourage investment in multi owned property.

Part 1: Being free-of-hold

From colonisation, white Australia has been all about owning freehold. We are, and always have been, a nation of predominately homeowners. In my hometown of Sydney, property ownership and discussion about outrageous property prices is an obsession. But it's our obsession. We are the freeholders. We don't share the spoils with anyone.

Freehold grants indefinite ownership rights subject to regulations on minerals and resources. This type of ownership is often described in law as holding the land in fee simple, meaning it can be sold, gifted, or inherited without a time limit, subject only to general laws such as planning and zoning rules.

In practice, owning a freehold means there is no landlord above the owner, and no ground rent is payable, unlike leasehold arrangements where rights expire when the lease term ends. Freehold represents just 30.8% of Australia's total land area but this is effectively all our privately owned land. The remaining 69.2% is leasehold, and mainly used for pastoral and grazing purposes, but the land remains owned by the government, not investors.[iii]

Early freehold in Australia

From 1788, all land in the Australian colonies was legally owned by the government, which then granted parcels to individuals as freehold estates (usually in fee simple). This meant people could hold land indefinitely, but their ownership was evidenced by deeds and grants rather than by a single state-backed certificate. This 'old system' freehold existed across the colonies well before the mid-19th century.

Start of Torrens freehold

The key shift to the modern freehold titling system occurred in 1858 with the introduction of the Torrens' system of land registration, an ingenious Australian invention, where the government keeps an official register that itself is the legal proof of who owns a parcel of land and what interests affect it, instead of relying on a chain of private deeds. By about 1870, new freehold titles were progressively issued and registered under the Torrens system rather than under the old deeds system.

Origins and background of strata

The first purpose-built apartment buildings, often called 'flats' in Australia, appeared on our skylines around 1900-1905 in Sydney and Melbourne.

These buildings predated our strata system and relied on structures such as company title and tenancy in common, which made it difficult to get finance and created legal complexity for buyers and lenders.

Post-war housing demand and the growth of apartment construction highlighted the need for a clearer system allowing separate titles for individual units plus shared ownership of common areas.

Strata title began in Australia in 1961, when the *Conveyancing (Strata Titles) Act 1961* (NSW) commenced and allowed individual ownership of apartments with shared common property under a single legal framework. This NSW model was then adopted, with variations, by every other state and territory over the following decade or so.

Under this law, widely recognised as one of the first of its type in the world, each lot (apartment) received its own title that could be sold, mortgaged or leased independently, while a separate legal entity, the owners corporation, managed the common property.

Later reforms and evolution

From the 1970s onward, states progressively replaced or consolidated their early strata statutes to deal with growing scheme sizes, mixed-use developments and governance issues.

In NSW, for example, the original 1961 provisions were replaced by the *Strata Titles Act 1973* (NSW) and later by the more detailed *Strata Schemes Management Act 2015* (NSW) and the *Strata Schemes Development Act 2015* (NSW), reflecting strata's central role in urban housing.

Today we have many forms of strata: low rise, high-rise, medium density, mixed use, airspace stratum, and part strata developments. These various formats are used to subdivide a multitude of property types including flats, townhouses, gated communities, commercial developments, retail shops and entire shopping centres, commercial carparking stations, self-storage facilities, hotels, motels, serviced apartments, marinas, vineyards and forests.

If it stays still long enough, we will strata it.

Understanding how strata work

A strata scheme is legally defined by the Development Act section 4 as comprising three elements:

1. the way a parcel of land is subdivided

2. the way the voting rights, shared expenses, and an owner’s share of land on winding up of the owners corporation (‘unit entitlements’) are allocated under that Act among the lots

3. the rights and obligations, between themselves, of owners of lots and other persons having proprietary interest in or occupying the lots and the owners corporation.

But there is a better way to explain strata schemes.

Strata schemes in Australia have been likened by many academics and commentators, me included, to a fourth level of government meaning the strata provides a system of governance that ranks after our three tiers of elected governments, federal, state and local. It's a helpful analogy, but more lately, I prefer to think of strata schemes as microstates.

In political terms, a microstate is a tiny independent country with a small territory and population.

In science, microstate means an arrangement of particles in a system. The similarities are instructive.

A strata scheme has many of the characteristics of a state -

- **Territorial boundaries** - these are defined in the strata plan which creates the strata scheme when registered with government. Outer boundaries determine the limits of jurisdiction of the strata scheme. Internal boundaries drawn on the strata plan delineate lots, which are owned and used privately by owners, and common property, which is shared space and facilities, for example, the outer structure, lifts and hallways, gardens and service infrastructure.

- **Sovereignty** - a separate legal entity, called an owners corporation, is formed on the registration of the strata plan comprising the owners as members. It has ultimate authority over the strata scheme and is responsible for the common property. It is a special creature of statute and has limited powers unlike natural persons and companies that are typically used as corporate vehicles. We will return to this shortly.

- **Subjects** - the strata roll for a scheme records the names of the lot owners who automatically become a member of the owners corporation when they buy an apartment and are expelled when they sell. The lot owner's tenants and guests are also subjects of the scheme and the authority of the owners corporation.

- **Laws** - By-laws are registered with the strata plan and regulate the use of strata property and the behaviour of owners, tenants, and guests. The by-laws can also grant special property rights including the exclusive use of parts of the common property, useful for allocating space for parking, storage units, and enclosed courtyards. By-laws can be altered and made at any time at a general meeting and by special majority. Strata by-law making powers are an essential part of the self-determining nature of strata schemes and give developers and the owners corporations flexibility to meet the changing needs of our cities and residents.

- **Voting rights** - the strata plan includes a schedule of unit entitlements that determine the value of the votes each owner has, usually calculated by reference to the value of the apartments at the time of creation. These are cast in stone and because of our Torrens system of title registration, everyone engaging with the strata scheme are on notice of their existence. There is transparency about these fundamental features.

- **Taxes** - the units of entitlement also determine the formula for sharing the costs of running the strata and looking after the common property.[iv] A budget is prepared each year, and levies are struck and collected.

- **Elections -** at the annual general meeting a committee is elected to run the strata on a day-to-day basis.

- **Ministers -** the committee, once elected, determines who will be the chair, secretary, and treasurer and exercise these special powers in the same way the prime minister allocates ministerial portfolios.

- **Judiciary -** each strata scheme has an internal dispute resolution system with external, government funded mediation, and tribunals and courts for the final determination of matters.

While the parallels of strata and microstates help in understanding how strata schemes operate, it would be wrong to assume that strata operate as a democracy as that term is commonly understood. It is not always the case that the majority rules.

Strata schemes might be described as quasi-democratic: strata schemes use forms of voting and limitations on collective decision making that protect individual property rights. Rather than treating strata as straightforwardly democratic, most scholars analyse it as a hybrid of contract, private governance, and property law.[v]

Measuring the success of strata

There is a multitude of metrics that we may call upon to measure the success or otherwise of strata. However, to my mind the most compelling is the almost invariable choice by developers over the 60 plus year history of the system to develop new housing stock.

For developers in Australia have, and always have had, a choice to use freehold strata or leasehold when taking a development to market.[vi] Indeed, in Australia, the concept of strata title was championed by Dick Dusseldorp, the founder of Lend Lease.

Dusseldorp approached the NSW Attorney-General in the late 1950s and proposed that if he could coordinate the drafting and stakeholder support for a new 'strata title' law, the government would take it through Parliament. He then engaged lawyer John Baalman, who was already working on similar ideas, and encouraged him to complete draft legislation with input from Lend Lease-connected lawyers and officials from the NSW Land Titles Office. The process he helped drive culminated in the *Conveyancing (Strata Titles) Act 1961* (NSW).

In preparing for this presentation, I spoke to the doyenne of Australian strata development lawyers, Michael Allen of Bugden Allen Lawyers about this. Save for retirement villages and mobile home park that adopt leasehold he can name only one residential apartment development in Australia presently being sold as a leasehold with a private owner retaining the freehold under a ground lease. This is an iconic beachfront property in Sydney owned by a 100-year-old charity that wishes to preserve the legacy of the property ownership while using the capital raised by the sale of the apartments to further its charitable work. When asked why he thought this was the case, Michael said that purchasers, banks and financiers simply prefer the underlying security freehold strata title provides.

The numbers don't lie. Today around 15% of Australians - over 4 million people - live in strata-titled properties, across more than 3.1 million lots in roughly 368,000 schemes.

Strata property has an estimated insured replacement property value of 1.4 trillion dollars nationwide. This does not include land value. For context, the entire Australian commercial property market is estimated to be considerably less than this at 78.5 billion dollars.[vii]

There are no signs that the appeal of strata to developers, banks and purchasers is on the wane. Projections indicate nearly half of Australians will live in strata properties, such as apartments and townhouses, by 2050.[viii]

The secondary market for strata is healthy with apartments growing in value annually in line with the trajectory of the growth in value of detached housing.

Australian apartment (unit) values have risen substantially over the past 30 years, typically growing 200% to 500% nationally in capital cities from around 1995 to 2025. In 1995, median unit prices in major capitals ranged from about $110,000 to $130,000, compared to $722,399 nationally in late 2025. This equates to an average annual growth rate of roughly 4% to 5.5%, lagging houses at 6% to 7%.[ix]

The average time on the market for a sale of an apartment in Australia is 32 days.[x]

One final measure of the success of strata is the number of disputes that get to the regulator for mediation before going to tribunals for final determination if unresolved.

National figures are not available, however for the nation's most populous state, NSW, where there are just over 1 million strata lots, the number of dispute applications received by the regulator in 2024-2025 was 2,761, a mere 0.2% of lot owners.[xi]

Part 2: The price for being free-of-hold

Despite the success of freehold strata in Australia, it would be wrong to portray it as easy or free from risk for owners.

Mandela[xii] said it in his 1995 presidential state of the nation speech. Eleanor Roosevelt[xiii] is attributed with having said it earlier, 'With freedom, comes responsibility'.

For present purposes we might borrow from these wise leaders and say, 'With strata, comes liability.'

The risk of liability for the actions of others in the strata ecosystem is the price we pay for being free of leasehold. Without leasehold, there is no other party to take ultimate responsibility for our misfortune.

Under our strata system the price for freedom of leasehold manifests by the combined effect of five principles. I wrote about these in my 2024 article for the Oxford University Law Blog, Housing After Grenfell.[xiv] They are as follows -

- Firstly, an owners corporation is a bespoke creature of strata laws and is excluded from company law so that it exists statutorily until the strata scheme itself is terminated.
- Secondly, an owners corporation cannot be wound up for insolvency. There is no power in the strata laws allowing this to happen.
- Thirdly, strata owners have personal liability for the liabilities of the owners corporation.
- Fourthly, owners corporations have strict liability for maintenance and repairs, even when these have been caused by others including the original developer or builder (fix it first - sue later).
- Fifthly, strata owners are responsible for the liabilities of the owners corporation jointly and severally.

Strata law in NSW constructs the owners corporation as a bespoke sovereign, created and sustained by statute for as long as the scheme exists. It is excluded from ordinary corporations' law, so it does not rise and fall like a trading company but endures as the legal face of the building, holding common property, contracts and obligations for the life of the scheme.

The scheme only truly dies through the specific termination machinery in strata legislation, usually requiring either unanimity plus registration, or a super-majority with court supervision to protect dissenting owners, and it cannot be ended while debts remain unpaid. Under our system owner must be levied until the debts are cleared.

These principles define the sovereignty of strata. They lock in the right of the collective to govern itself for the life of the scheme, but they also provide certainty for those who deal with it: buyers assessing governance standards, tenants seeking permissions, contractors relying on payment, banks advancing mortgages and specialist lenders funding works on the strength of future levies.

In this sense, strata sovereignty is a modern expression of an older land-law intuition: an owner - or here, a community of owners - is free to control land but must do so in a way that does not visit harm or unmanaged risk on others, echoing the foundations of occupiers' liability.

Because insolvency is not a release valve, financial distress translates into heightened obligations rather than dissolution. There is no general power to wind up an owners corporation for insolvency; instead, the collective must repair its balance sheet through levies, borrowing or structured renewal, always within the statutory framework.

Strata owners therefore sit much closer to the entity's risk than shareholders in a company.

The strict duty to maintain and repair common property gives this sovereignty tangible content. Owners corporations must ‘fix it first - sue later’, even where the root cause lies with a developer or builder, ensuring the building's fabric and services are kept safe and functional for occupants and neighbours before responsibility is chased upstream.

This architecture reassures outsiders that the scheme itself stands behind the physical and legal integrity of the property, while internally it reinforces the core bargain of strata: freedom in common, matched by inescapable, joint and several responsibilities for the consequences of owning and governing land together.

These ideals sit comfortably with the roots of occupiers' responsibility forged in the English courts and adopted by our country.

Early common law judges expressed the principle starkly: one must occupy one's own so as not to injure others. Land was a zone of autonomy, but not a licence for danger, so rudimentary duties emerged to keep obvious hazards in check at the boundary between one estate and the next.

From status to reasonable care

These old categories rested on a world that treated land as almost sacred, and the owner's freedom as a first principle. Yet even within that tradition, the law moved gradually toward a broader idea: whoever controls land must use it with ordinary care so that its walls, wells, paths and structures do not become engines of misfortune for others.

Modern negligence law merely gives new language to this old bargain between sovereignty over land and responsibility for the harm it may cause.

This principle translates to modern world of multi owned properties with an extra requirement of statutory duty of strict liability for maintenance. This protects against the vagaries of collective decision making and owner apathy. In my own home the risk of defects or dilapidation is contained. Therefore, save for public health issues, it is my decision to repair or not. In a multi owned property the risk to the masses is greater. The strata owner's freedom of choice to repair or not is taken away by our strata laws for the common good.

Governance under strain

Mascot Towers[xv], Sydney stands as a brutal lesson in what happens when a community of owners inherits a failing asset but cannot find a united, disciplined way forward. The original sin lay in the construction and in the system that allowed serious defects to go undetected or unresolved, but the tragedy deepened in the years after the evacuation of the Towers as the owners corporation fractured under pressure.

After the building was emptied in June 2019, the owners corporation was suddenly running a ghost tower that still attracted rates, insurance, engineering fees and legal costs, but produced no rent or utility. Faced with uncertain liability between the original builder, certifier and a neighbouring development, owners oscillated between remediation, litigation and collective sale, and struggled to reach the super-majority needed for decisive action. In that vacuum, time became the enemy: levies escalated, special contributions mounted, and the building's reputation and value bled away.

Financial endgame

Financially, the outcome has been devastating for almost everyone involved. Many owners continued to service mortgages on valueless apartments, paid rising levies and watched equity shrink to a fraction of what they had invested, with estimates of losses in the order of 70-80% on a collective sale.

The state contributed millions in temporary accommodation, but that support could never repair the balance sheets of ordinary households who effectively underwrote a failed structure. Lenders, too, have been dragged into a long tail of impaired loans secured over an asset that may never return to full economic life, underlining a hard truth of strata sovereignty: when things go catastrophically wrong and governance falters, the financial burden ultimately settles on the owners and their financiers, not on the vanished developer.

It's a difficult situation - and a sad one - but ultimately, that's the essence of ownership. With self-determination comes the duty to take responsibility for the choices you make.

Part 3 - Addressing imperfections

As much as the freedom from leasehold by strata comes with responsibilities, and risks, so too does it have imperfections. Over 60 years of vigilant review and law reform, some of these imperfections have been addressed, but there are always improvements to be made, and any good modern system embraces continual improvement.

In making this point, I will explore the present state of the continual improvement of our strata system through the lens of the four main members of the strata ecosystem - builders, government regulators, strata managing agents, and the owners. The focus of this review will be on the situation in NSW where there is more happening than elsewhere, although the issues addressed here extend across state and territory lines.

Builders' defects

There is now a substantial body of research and real-world experience showing that serious building defects are a systemic problem in NSW strata apartments, not just a few unlucky one-off cases like Opal or Mascot Towers. NSW is not alone in this regard; these are problems that exist here and elsewhere in the world. And they are not related to the type of titling systemin adopted for the development. At the same time, NSW has become something of a policy laboratory, with government and industry rolling out a sweeping reform agenda aimed at lifting standards, finding defects earlier, and making those who cause the problems pay to fix them.

What the research is telling us

Over the past decade, academic work led by UNSW's City Futures Research Centre and successive NSW government and industry surveys has painted a consistent picture: defects in residential strata buildings are common, often serious, and concentrated in newer stock.

A landmark NSW government study[xvi] and follow-up surveys with strata managers have found that somewhere between about 40 and just over 50% of strata buildings completed since the mid-2010s have experienced at least one serious defect, with waterproofing, fire safety systems, building envelopes and structural elements repeatedly topping the list.

The literature also highlights how defects play out on the ground for owners and residents. Case studies and media reporting describe years of dispute and delay, large special levies, difficulty selling or refinancing, and the emotional toll of living with cracked walls, water leaks or even full evacuation orders.

Researchers point to a mix of drivers: fragmented responsibility across the development chain, aggressive procurement and value-engineering in a long construction boom, gaps in supervision and certification, and the reality that owners corporations are left to enforce their rights once the developer has moved on.

Government's reform toolkit

In response, NSW has rolled out one of the most far-reaching construction reform programs in the country, built around a ‘get it right the first time’ philosophy. Key pillars include the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020* (NSW) which lets the Building Commissioner inspect sites, issue rectification and prohibition orders, and even stop an occupation certificate where there is a ‘serious defect’, and the *Design and Building Practitioners Act 2020* (NSW), which imposes statutory duties of care and registration requirements on designers and builders working on class 2 apartment projects.

On top of that, the Strata Building Bond and Inspections Scheme[xvii] requires developers of new class 2 buildings to lodge a 2% bond, which can be drawn down to fund defect rectification after independent inspections. New tools like the iCIRT starrating system for builders and developers, expanded building commission powers to intervene during construction.

Decennial liability insurance[xviii] is now also available and provides longer-tail defect insurance for apartments aimed at shifting the risk back onto those who create defects, and rebuilding buyer confidence in off-the-plan product.

How industry is changing its behaviour

Industry hasn't just been a passive recipient of these reforms; in many ways, the better operators have embraced the shift because it helps differentiate them from the cowboys.

Major developers and tier-one builders are increasingly using independent design review, more robust engineering oversight and higher internal standards on things like waterproofing details, fire-stopping and facade systems, knowing that regulators are on site more often and that serious defects can now threaten both their reputation and their balance sheet.

Peak professional association bodies for engineers, certifiers and lawyers have also stepped up with training, practice notes and defect-management protocols to help strata managers and committees navigate claims and work constructively with the Building Commission.

At the same time, specialist ‘remedial’ contractors and financiers have grown in importance, reflecting an uncomfortable truth in the literature: even with better rules, a legacy of defective buildings will take years to work through, and owners corporations will still carry a heavy share of the financial and governance burden for making things right.

The regulators’ flex

For a long time, regulation of strata in NSW has been criticised as too ‘hands-off’ - heavy on legislation, light on actual enforcement. Owners were told they had rights under the Strata Schemes Management Act, but in practice it often felt as though they were on their own when committees failed to maintain buildings, managers cut corners, or conflicts of interest went unchecked. The dominant model was complaints-based and reactive: unless an owner lodged a case at NCAT or pushed Fair Trading hard, many problems simply sat in the too-hard basket.

That light-touch approach is now being deliberately wound back. Successive waves of reform, culminating in changes commencing in late 2025 and into 2026[xix], give NSW Fair Trading much stronger tools to intervene directly where schemes are not meeting their obligations, especially around repairs, maintenance and governance.

Fair Trading officers can now demand documents and answers, enter common property in certain circumstances, issue compliance notices, seek penalties, accept enforceable undertakings, and even apply to the Tribunal for the compulsory appointment of a strata managing agent in dysfunctional schemes.

On top of those powers, the government has "beefed up" the regulatory architecture by creating and then expanding the role of a Strata and Property Services Commissioner within NSW Fair Trading. The Commissioner's job is to act as a watchdog and system steward across the strata and property services sector -- setting expectations for professional standards, advising on reform, and acting as a visible point of accountability for the 1.2 million people now living in strata in NSW.

This role is backed by dedicated funding for a Strata and Property Services Taskforce with inspectors and investigators focused specifically on strata, with the explicit brief to move from passive rulemaking to active, risk-based enforcement.

Put simply, and to use a sporting analogy, NSW is trying to move from a world where the regulator mostly watched from the sidelines, to one where it is prepared to blow the whistle, step onto the field, and, when necessary, send misbehaving players to the sideline.

Strata managing agents at the crossroads

In NSW, strata managing agents are standing at a fork in the road on how they get paid, especially when it comes to insurance commissions and other conflicted income streams. Nicole Johnston's recent Strata Knowledge report[xx], *At the Crossroads: Addressing Pervasive Conflicts of Interest in Strata Management*, argues that the existing business model too often puts agents' financial interests ahead of owners corporations, and that this has become a structural problem, not just a matter of a few bad actors.

What the report says about conflicts

Johnston's work shows that strata management businesses commonly rely on ‘hidden’ or poorly understood income, including shares of insurance commissions, broker fees, referral payments, and revenue from vertically integrated related entities providing repairs, facilities management, or other services to the same schemes they manage.

The concern is simple enough: if a managing agent gets paid more by choosing one insurer, broker or related supplier over another, then owners cannot be confident recommendations are being made purely in their best interests, particularly when levies and premiums are rising and information for owners is limited.

The report also highlights the information asymmetry built into the current model: owners corporations often do not know what their manager is being paid behind the scenes, cannot easily compare alternatives, and may not have the expertise or time to challenge conflicted practices disclosed in dense agency agreements. That erodes trust and fuels a sense that the system is ‘rigged’ against ordinary lot owners.

Where policy and industry are heading

Johnston frames this as a genuine crossroads: either NSW doubles down on disclosure and self-regulation, or it moves to progressively ban commissions and conflicted payments altogether, replacing them with transparent, fee-for-service remuneration. That direction is already visible in parallel work by the NSW Productivity and Equality Commission[xxi] on a possible prohibition of insurance commissions, and in SCA NSW's[xxii] commitment to phase out insurance commissions for its members and move to fee-based charging.

Strata managers do vital work and deserve to be paid fairly, but the days of quietly clipping the ticket on insurance and other services are numbered. If managers want owners' trust, they will need to step into a new model where the only money they make is money their clients can see and understand.

Owners have kicked the can down the road for too long

Across NSW, there has been a long-running pattern of owners and owners corporations putting off repairs, underfunding capital works, and hoping problems will somehow sort themselves out.

The law, however, is crystal clear: section 106 of the Strata Schemes Management Act 2015 puts a strict duty on the owners corporation to maintain and repair common property, and owners who suffer loss because that doesn't happen can claim damages. In plain terms, if the roof leaks, the lifts fail or the waterproofing breaks down, it is the owners corporation's job to fix it properly and promptly, not to kick the can down the road.

The same is true when it comes to planning and paying for future capital works. Every scheme (with very limited exceptions) must have a capital works fund and a 10-year capital works fund plan, updated at least every five years, and levies must be struck each year to put money into that fund.

Yet reports from lawyers, valuers and the strata sector are full of examples where funds are chronically under-resourced, plans are ignored, and short-term levy reductions are preferred over long-term asset stewardship, leaving buildings unprepared for big ticket items like roofs, facades and services replacement.

The reform message to owners is now blunt: doing nothing is no longer a safe option. From 27 October 2025, NSW Fair Trading has new investigative and enforcement powers targeted specifically at schemes that fail to maintain common property or fund their obligations, including the ability to demand documents, inspect premises, issue compliance notices and penalties, and seek the compulsory appointment of a strata manager through NCAT.

Most importantly, Fair Trading can now enter into enforceable undertakings with owners corporations that are not meeting their repair and maintenance duties - legally binding promises to carry out specified works or improve governance, backed by the threat of stronger action if they are not honoured.

The new position is this: owners corporations are no longer just communities; they are asset managers with legal duties. If a scheme refuses to look after its buildings or to save for the future, the regulator now has both the mandate and the tools to step in and insist that the hard decisions get made.

Conclusion

Friends, in closing, it is worth remembering why you are in this room. You are here because you have lived the realities of leasehold, not as an abstract legal idea but as a daily injustice, as exploitation dressed up as ‘contract’, as the grinding exhaustion of fighting remote freeholders and their advisers for the most basic control over your own homes.

You have felt the full weight of a system that treats you not as citizens in a little democracy, but as revenue streams in somebody else's financial accounts.

What the Australian experience of freehold strata shows is that things can be different. It shows that multi-owned property can be governed as a microstate of owners, with clear boundaries, transparent voting, enforceable responsibilities and, crucially, no landlord hovering above you collecting ground rent and hoarding long-term power.

It also shows that freedom is not a fairy tale: it comes with duties, liabilities and hard work, but those burdens are carried by the community of owners, in the open, under laws that evolve and improve.

And this is the real answer to those who say that using strata as the basis for commonhold revival is fraught with hidden danger. The dangers are not hidden at all; they are real, and they are being sensibly addressed every day in a mature, perfectly efficient and functioning system that has been tested in the courts, in the market and in the lived experience of millions of people.

By being frank about its imperfections, and equally frank about how they are being managed, we neuter the scaremongering of opponents who trade in vague fears and half-truths.

So, leave tonight with this thought: you are not asking for an impossible utopia, you are asking for a system that already exists, that already works, and that already delivers dignity, security and self-government to ordinary apartment owners.

Leasehold has had centuries to prove its worth and has failed you. Commonhold, built on a strata-like foundation, gives you the chance to be free-of-hold at last, to be citizens in your own microstates rather than subjects in someone else's estate.

Michael Teys

Michael is the Founder and Chief Executive of Michael Teys Strata Advisory. He specialises in the education, training, and coaching of strata professionals. He delivers training courses and operating procedures and systems to increase the professionalisation and profitability of strata management businesses.

His work as a strata educator is based on a 40-year career in strata including 30 plus years working as a specialist strata lawyer. He has owned and managed 11 strata management business access Australia. He has a Master of Philosophy (Built Environment) from UNSW on mixed use developments. He also has a law degree and certificates in strata and community management.

He is the editor of The Strata Professional, a weekly newsletter on the business of strata management.

www.michaelteys.com

Subscribe to The Strata Professional

[i] Michael Teys MPhil (Built Environment) (UNSW), LLB, is the principal of Michael Teys Strata Advisory Pty Ltd, Sydney, Australia
[ii] Davison, G. (1993) 'The past and future of the Australian suburb', *Australian Planner*, 31(2), pp. 63–69. https://doi.org/10.1080/07293682.1993.9657608
[iii] Australian Bureau of Statistics (Accessed 11 December 2025) *National land account: experimental estimates -- land tenure*. Available at: https://www.abs.gov.au/statistics/environment/environmental-accounts/national-land-account-experimental-estimates/latest-release#land-tenure
[iv] Units of entitlement also determine the interest of the respective owners when a scheme is terminated
[v] See for example, Sherry, C. (2017) *Strata title property rights: private governance of multi-owned properties*. Routledge, Taylor and Francis Group. https://doi.org/10.4324/9781315690575
[vi] NSW also has leasehold strata legislation, *Strata Schemes (Leasehold Development) Amendment Act 1973* (NSW). This facilitates the strata titling of leasehold land held by government, including foreshore land around Sydney Harbour
[vii] Mordor Intelligence (Accessed 11 December 2025) *Commercial real estate market in Australia*. Available at: https://www.mordorintelligence.com/industry-reports/commercial-real-estate-market-in-australia
[viii] Insurance Business (Accessed 11 December 2025) 'Is Australia's strata boom built on shaky ground?'. Available at: https://www.insurancebusinessmag.com/au/news/breaking-news/is-australias-strata-boom-built-on-shaky-ground-527949.aspx
[ix] CoreLogic (2022) *CoreLogic Pulse -- 30 years*. Available at: https://www.scribd.com/document/713486380/220829-CoreLogic-Pulse-30years-Finalv2
[x] CoreLogic (2025) *Cotality housing chart pack -- July report*. Available at: https://pages.corelogic.com/hubfs/CoreLogic AU/Article Reports/2507-Cotality-HousingChartPack-July-Report.pdf
[xi] NSW Department of Customer Service (2025) *Annual report 2024–25*. Sydney: NSW Government, p. 40
[xii] Mandela, N. (1995) ‘State of the Nation Address’, Parliament of the Republic of South Africa, Cape Town, 24 February. Available at: https://www.sahistory.org.za/archive/1995-president-mandela-state-nation-address-24-february-1995-after-national-elections
[xiii] Human Rights Education Association (2024) ‘Eleanor Roosevelt, First Lady of the World, Social Justice & Human Rights’. Available at: https://www.humanrights.com/voices-for-human-rights/eleanor-roosevelt.html
[xiv] Teys, M. (2024) 'Commonhold without sovereignty -- a failed state?', *Housing after Grenfell blog*. Available at: https://blogs.law.ox.ac.uk/housing-after-grenfell-blog/blog-post/2024/01/commonhold-without-sovereignty-failed-state
[xv] Teys, M. (2024) ‘Mascot Towers – the other side to a sad story’. Available at: https://michaelteys.com/article/mascot-towers-the-other-side-to-a-sad-story
[xvi] 2023 Strata Defects Survey Report (November 2023). Available at: https://www.nsw.gov.au/departments-and-agencies/building-commission/building-and-construction-resources/research-on-serious-building-defects-nsw-strata-communities
[xvii] https://www.nsw.gov.au/housing-and-construction/building/strata-building-bond-and-inspections-scheme
[xviii] https://www.nsw.gov.au/housing-and-construction/strata/ten-year-defect-insurance-for-apartment-buildings
[xix] https://www.nsw.gov.au/housing-and-construction/strata/guide-to-strata-law-changes-for-strata-committees-and-owners
[xx] Johnston, N. (2025) *At the crossroads: Addressing pervasive conflicts of interest in strata management*. Available at: https://ppl-ai-file-upload.s3.amazonaws.com/web/direct-

files/attachments/127887368/88c4be84-fc24-4330-b00b-d2d208be096a/At-the-Crossroads-Addressing-Pervasive-COI-in-Strata-Management-Johnston-N.pdf
[xxi] https://www.productivity.nsw.gov.au/review-of-the-market-impacts-of-prohibiting-strata-managers-from-accepting-commissions
[xxii] https://scansw.com.au/faqs/phased-replacement