

About this handbook

Why this handbook?

Purchasers of strata apartments need timely, concise and accurate advice from practitioners to enable them to quickly form conclusions about issues identified in strata reports. The need for timely advice is often to ensure that a purchaser does not miss out to another buyer when purchasing a unit, or to meet cooling off periods that may be available. Rarely do practitioners and purchasers have time, or purchasers have the financial resources, to get detailed legal advice on the complex legal issues many strata reports will identify.

It is also relevant that in many instances strata inspectors do not have access to all the necessary information to enable detailed and accurate legal advice to be provided to a purchaser. This is particularly so in the case of building defect disputes, where the file of the lawyer handling the dispute for the scheme is never made available for inspection.

To that end, this handbook addresses this commercial reality and does not seek to provide a definitive examination of the law on the topics it covers. Rather, it provides a summary of the law and relevant practices and procedures with a view to explaining risk factors commonly identified in strata reports. It is intended to enable purchasers to meet their immediate needs of timely, accurate and concise advice concerning the consequences of any issues identified in strata reports.

If a lengthier examination of an issue is required, this handbook can be used as the initial source of reference to identify relevant headline issues for further research.

Who is this handbook for?

Lawyers, conveyancers and purchasers

This handbook has been prepared to assist property lawyers and conveyancers in New South Wales provide advice to clients who are considering purchasing a lot(s) in a strata scheme. It does this by examining both the law and the practices and procedures which apply to issues relevant to a purchaser. Those issues are commonly identified in strata reports, including those provided by Strata Reporting Services.

The handbook will also be useful to purchasers themselves in forming views in conjunction with their lawyers and conveyancers, about the significance of any issues identified in a strata report relating to a lot they are considering purchasing.

Financial institutions

Because reports provided by Strata Reporting Services are primarily concerned with identifying risk, this handbook will also be of use to financial institutions lending money to borrowers to purchase a lot in a strata scheme, where borrowers have obtained a strata report from us. By comparing the factual issues described in the strata report with the commentary on the associated

legal and practical issues described in this handbook, financial institutions will be able to perform an initial risk assessment as part of their loan approval process.

Strata managers

The handbook will also be of use to strata managers who by maintaining the records of strata schemes they manage, play a key role in determining the saleability of lots owned by individuals and corporations, who are effectively their clients. By understanding the implications of maintaining and making records available to representatives of prospective purchasers, strata managers are in a position to preserve and sometimes enhance the saleability of lots in schemes they manage.

Real estate agents

The handbook will be of use to real estate agents involved in the sale of lots in strata schemes to enable them to identify and deal with issues that may affect saleability.

Strata inspectors

Strata inspectors will find this handbook useful to ensure that reports provided by them properly address important information contained in the records they inspect.

This handbook and clause 23 of the Standard Form of Contract

To enable practitioners to provide advice to clients who have already signed contracts where a cooling off period has expired or does not apply, this guide also examines the operation of relevant parts of clause 23 in the Standard Form of Contract.

Amongst other things, this clause allows purchasers in certain factual circumstances, to rescind contracts. To enable practitioners to form a view as to whether a right of rescission has arisen, strata reports from Strata Reporting Services will identify from the records of the scheme whether those factual circumstances exist. Practitioners will be assisted in forming views of this kind by referring to the materials contained in this handbook.

This handbook employs electronic services

Because this handbook is electronic, links to the cases and legislation referred to in the handbook are provided where possible. The handbook also incorporates an electronic table of contents.

This handbook is available by on-line subscription and is updated electronically to describe changes to the relevant law and practices. Hard copies or electronic copies which are not linked to the subscription service may not include those updates.

Using this handbook with strata reports

This handbook has been prepared so that it can be used with strata reports provided by Strata Reporting Services and mirrors many headings and expressions used in its report template.

Persons reviewing those strata reports, may find it useful to open this handbook on one screen (or part of a screen if only one screen is available), and the report on the other.

The handbook can also be used to assist in forming conclusions on reports provided by other strata reporting businesses.

Updates and expansion of topics

This handbook will be regularly updated to reflect changes in relevant legislation, case-law and practices.

It will also be expanded to cover additional topics, including community schemes.

Other states and territories

The preparation of different versions of this guide is currently underway for other states and territories in Australia as well as New Zealand.