

Publication Date: 30 August 2016
**YSP Podcast Transcript: Episode 025. How to Manage Complex Strata and
Community Schemes - with Chris Duggan (references to NSW law)**

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Intro: Welcome to Your Strata Property. The podcast for property owners looking for reliable, accurate, and bite-sized information from an experienced and authoritative source. To access previous episodes and useful strata tips, go to www.yourstrataproperty.com.au.

Amanda Farmer: Hello and welcome. I'm Amanda Farmer and this is Your Strata Property. Chris Duggan is the joint Managing Director of Bright and Duggan Property Group, strata and facilities management professionals operating in most Australian capital cities, with more than 8 years experience in property development with ASX listed property development and funds management companies.

Chris joined Bright & Duggan in 2008 and now oversees all of Bright & Duggan's strategy and national network, as well as new business opportunities helping to build its presence and reputation in the marketplace.

Chris is passionate about customer satisfaction and looking after the needs of existing clients. Chris has been a Director on the board of SCA New South Wales since 2010 and was Senior Vice President of SCA New South Wales from 2012 to 2013.

In addition, he sits on the Griffith University Strata and Community Title conference committee, UDIA New South Wales strata committee and he's also a presenter at numerous industry events and conventions. He holds a Bachelor of Land Economics from UTS. Chris' expertise is in complex scheme consulting and establishment having directly overseen establishment of Australia's most complex strata and community schemes as well as building management committees. Today, I am delighted to welcome Chris Duggan of Bright & Duggan. Welcome, Chris.

Chris Duggan: Thank you, Amanda. I'm delighted to be here and hello to all of the audience throughout Australia.

Amanda Farmer: We are very lucky to have you here today with all of those credentials. Your expertise is clearly in the management of complex schemes and, of course, that's what we're here to talk about today.

I'll start by asking you Chris, can you tell us what you mean when we say complex strata or complex community schemes and why they are different to other schemes?

Chris Duggan: Sure. The use of complex in the context that I am talking about is really around the complexity of titling, multimember, nature, layered titles, mixed use, large scale, multistage, iconic sites that have unique constraints.

So, many buildings or schemes may have complexities within their operation – and that could be complexity around the way it operates and governs alike – but I'm talking more about the structure initially of how the schemes are set up, and what ongoing issues arise from a liability perspective and from a long-term legacy perspective, and how owners can actually interface with those long-term and get the best out of living in a complex scheme.

Amanda Farmer: And with more and more developments, the increase in strata living, we're seeing more and more of these schemes, particularly in Sydney and metropolitan areas, and it's something that I'm seeing strata managers having to grapple with and really have to be up to speed quite quickly on how to manage these schemes in a way that they might not be managing other less complex schemes.

Chris Duggan: That's right. I think that upskilling is occurring very quickly, and most new sites delivered, particularly in Sydney, are on more challenging land parcels. More challenging parcels means that the complexities that have been overlaid by the developer or the government are increasing, and they're being handed on obviously to the owners who ultimately are the custodians of those sites, and the managers then have to interpret and work with the owners on the ongoing management side. I think that obscuring as well Amanda, applies equally to the residents living in the communities. Those owners are often the ones



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unwillingly who inherit some of those complexities and trying to figure your way through that minefield can be very difficult. Working with a manager who is also figuring themselves out can be equally challenging.

So there is a huge body of work to be done across the industry in terms of upskilling the sector about how to deal with this evolving landscape of complexity.

Amanda Farmer: Yes, and even you've mentioned owners having to struggle with this and I find step one is often getting the head around the terminology. We have strata schemes, we have community schemes, we have BMCs – which are building management committees – we have stratum parcels then of course we have our owners corporation, our body corporate, our executive committees – wow! What a headache, and I think they can be a lot of nervousness if you're not familiar with the terminology then you don't feel like you can really be engaged in the community.

Chris Duggan: That's right. I think it's a real hurdle to empower owners to feel like they've actually got some ownership and also some participation. And admittedly, like with most things, sometimes people like to create complexity where it doesn't exist, and use some of that methodology and some of the terminology and the complexity to keep owners at a bit of an arms-length. I think it's about breaking down and getting from base one understanding of what it means to be a member of one these multimember schemes.

And once you actually present it in a really basic format around how it's a co-ownership structure with a statement or a tool or a mechanism that binds them altogether, people understand it better. But it's a really face-up approach in terms of educating owners and managers and the broader community.

Amanda Farmer: Yes okay, so let's get down to specifics: what do you do Chris? How do you manage these complex schemes well?

Chris Duggan: It all starts prior to completion so I guess the challenge is that the statements will be put in the context of a building management committee. The statements are set in place well before completion but they in effect have an override in government structure that's in place in perpetuity.

Amanda Farmer: Okay. Can I just stop you there? When you say statements you're meaning literally the documents, the strata management statement which we call the SMS?

Chris Duggan: Correct.

Amanda Farmer: There's another acronym for you. The strata management statement is the document that is put in place as you say, before the building's even built, for setting out the rules for how this development is going to be managed.

Chris Duggan: That's right, and it goes one step further because those statements include schedules and those schedules list, for example, shared services, shared facilities and attached to those are allocations for how those costs have to be shared into the future, how works and the decision to be made around replacement repair, upgrading all of those people facilities. So you can understand that unlike Strata Schemes Management Act which is a broader set of tools that can change from time to time and you can actually challenge them around NCAT and other areas of courts, a statement is fairly rigid so getting it right up front is incredibly challenging because it needs to think about some of the circumstances that may occur 10, 20, 30 years into the future, which is something that I can say historically hasn't been done well.

But we're now starting to see a very evolutionary statement or a set of documents or even a community management statement evolve that allows for a little bit more free thought and a little bit more consideration for what may happen down the track and what triggers that might actually put in place.

Amanda Farmer: Yes, and like you say, it is not as easy – and this has certainly been my experience from a legal perspective –

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it's not as easy to get in there and change things later when you are talking about building management committees with strata management statements.

The community management statement is a little bit different because amending those by-laws that are in community management statements is a little bit similar to amending the by-laws in a strata scheme, but certainly strata management statements when you have building management committee members who all have to vote in favour of making amendments to those documents, it can be very hard down the track to change things like contributions to shared facilities and these schedules, as you say, that are attached to the statements. I agree completely. It's very important for developers and those who are assisting them at that start up stage to get this right.

Chris Duggan: That's right, and it always comes back to an equity argument and it's a difficult challenge, and it's unfortunately been played out through the courts in a very structured way whereas it's caveat emptor, if you enter into that contract or buy a property where there is a statement in place, the courts have upheld that you are buying in willingly to whatever structure around the cost share allocation that was in place at the time of registration.

Now, whether that's fair or not is often the question that gets asked and going back to how to structure these things better, it's about bringing on particularly the owners and the engaged owners who are going to be involved in the management of that scheme around how the statement operates, what it means for them, what changes they can make and sometimes where to put their energy around how to work within the parameters of that.

Often times people want to break down the walls of the statement and reset them, and they spend a lot of time and energy rather than working within the parameters of the statement and saying okay, how do we get all of the parties around a commonality and a common good.

Amanda Farmer: Okay, so they're some of the difficulties that we might see with these schemes being set up and how the courts are approaching changes to management statements.

With your experience in actually managing this schemes day to day Chris, what are some of the common problems that you might have seen and what's working in terms of helping these schemes just to get through their day to day in an environment that's a little bit different?

Chris Duggan: Yes, sure. One of the most important things is just – as we touched on earlier – understanding the way the schedules operate and how particular decisions are made within that framework.

Adding to that you've got what I consider the multiple manager's syndrome that exists where you've got potentially different entities managed by different managers.

Amanda Farmer: Very true.

Chris Duggan: And that itself has been challenging, and historically there's probably been more of a likelihood for managers to want to challenge the other manager around their interpretation, rather than trying to celebrate how we can actually bring things together and work towards a common good for all the clients.

Now in saying that there has been a distinct change in the market place, I think in the past couple of years, where there has been a realisation around the professionalism and working more collaboratively certainly is emerging as a more established trend.

The good part about that is it is a win in terms of where the owners are at. I think too often there has been a desire for one party to win and one party to lose in the way the statement operates and that inevitably leads to conflict on one side or at least one party feeling angry with the process.

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So I think if you establish what you'd like to achieve, understand how you can achieve it within the document itself – whether that be within the CMS in terms of architectural guidelines or whether it is simply two adjoining strata schemes that don't have a statement but may have a common issue – it's about understanding what's going to make both parties feel happy with the outcome and how can you get each party there – perhaps compromising a bit on your own position – in order to achieve a mutually beneficial outcome.

Amanda Farmer: Yes and as you say, where you do have sites that have a number of different entities with different managing agents, for the managers to understand that it is in the best interest of the community as a whole, they all get along and are communicating with each other, and certainly I've seen situations where there's a great deal of money to be saved when everybody works together, especially when you're doing things like attempting to change statements and implement new by-laws and new rules throughout the community.

I've certainly been engaged before on a broad basis by everybody in the community and they've all pitched in with the costs, and I think that's great, but it only works when all the managers, if there are different managers, are on side and encouraging that.

Chris Duggan: That's right, and I think that that's emerging as the market and our profession evolves and we are still very much an evolutionary sector in terms of the complexity that's now being expected of us and the education around some of our peers in the marketplace, but I think we're moving forward fairly progressively.

We've got owners corporations who are far more willing to collaborate and put a common good ahead of their own personal interest. That doesn't mean we won't still have rogue owners who still want to push a particular agenda.

But I think the role of the strata manager has evolved far more from simple administrator into someone who needs to partner with the owners, and the owner needs to respect what value they can get out of using the manager's skills for them rather than simply having them off as an administrator on the side.

Amanda Farmer: Yes, and there are definitely experts I find in this field when it comes to strata managers. There are some strata managers who know this stuff, they know how to manage BMCs, they know how to manage community schemes, and there are other managers that unfortunately are still catching up and that's not to say that they shouldn't be out learning and gaining that experience, but I think it is important for communities that are looking for a good manager to understand whether or not that manager has the experience managing a complex scheme. Because there have been a few occasions where I have seen strata managers who just do not know how the community titles law operates and it is quite different to the strata schemes law, they don't understand what a BMC is and what the specific requirements are.

And that can really lead owners down a very uncomfortable and unfortunately expensive paths. So, that is my advice there, to make sure that you do find out who are these experts are and Chris is certainly one of them, and get the right management to suit your scheme.

Chris Duggan: Yes, I concur there. Without suggesting that not all managers cannot upskill themselves, I think having relevant experience in similar schemes is going to greatly assist both the manager in terms of internal systems and processes, and it goes well beyond the manager itself and the strata manager allocated to the scheme, because often there is a very high focus around the financial management, or as you mentioned before, even with a community around the process in terms of how each of the subsidiary schemes or the presets or the neighbourhoods fold up with regard to voting or with regard to approval.

And if you get that wrong, often times it's often unpicked until the very last stage and you only realise that it's an abortive process once you've wasted a lot of time and effort.

So, again there are plenty of managers out there who are skilled and there are plenty of managers emerging in terms of skilling themselves but, like any sector, there are specialists.



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Amanda Farmer: Yes.

Chris Duggan: Some specialists in small buildings are far better suited to utilise with dealing with issues that arise there which are probably less technical in nature and more personable or collaborative, and then some larger buildings obviously you need to have a big scale and you also need to have the relevant experience in your systems and processes behind how you actually run these buildings.

Amanda Farmer: Yes. I mean, there are so many intricacies in these complex schemes and where you raise there the issues with voting and where everything could possibly go wrong... I mean, we could talk for days about the different aspects involved in community schemes and BMCs, and I know there will be a lot of listeners out there saying "I'm a part of BMC and I really want to know X,Y and Z!", we're not going to be able to cover it in our short episode, but do send us your questions and certainly with Chris' help we can get those answered possibly in a later episode or in an article that we can put up on the site. I know this is going to be a hot topic and I would love to delve into all of that but, unfortunately, not today.

Chris Duggan: And on that Amanda, one of the things that you learn is that you learn from very harsh experience and you have to often go through a process where you perhaps, haven't got it quite right or you've had to refer back, and that's the best learning curve that anyone can go on and most managers are in the middle of being through that, and that's how you sharpen your knives and become better at doing it. But I guess the point to note here is that every scheme is unique and there will be challenges within your scheme that are overlaid with the complexity of the relationships in there and the tensions that exist. So, sometimes it's simply not as easy as looking at a statement and say I'm going to do X or Y, because you have to overlay all the other complexities that arise within the strata plan that come part and part with community living.

Amanda Farmer: Yes, and that's a great segue into my next question which was going to be: can you share a story around how you helped a complex scheme deal with a unique problem?

Chris Duggan: Sure, probably my most relevant story is around the establishment of the Barangaroo Precinct. It's something that I personally consulted on to the lessors and the developer for about three years prior to completion of the first stage, which was the commercial building that you can see rising up out of the foreshore down there.

And obviously that's a very iconic development in Sydney and it will continue to dominate the harbor, and it's got a lot of work to be done into the future in terms of later stages. But going back to how we worked in with the developer, they were looking for a partner to work with them around a collaborative product that they saw as the evolution of the way that statements would operate within strata.

So, they looked at it with a hundred-year view point of "how do we set up a document" that they knew was going to be rather rigid and obviously had very little aptitude to change once it is registered.

So how do you set up flexibilities within a document that had to be registered with little flexibility for change, so that it could be flexible around how each of the members wanted to operate into the future?

So if you can imagine it was a very interesting process of developing a document that actually had additional clauses included, and I think you'll find this particular boilerplate will go on to be more of the evolutionary document in our statements, particularly in the context of how an SMS or Strata Management Statement or BMC Building Management Committee operate.

And this one in particular drilled down into different vote allocations, different costs attached to each of the shared facilities, opt in and opt out, and upscale opportunities as well as attaching a vote per item based on your contributions. So to give you a really high level of overview there, it's a very complicated way of organising a vote structure.

So you could imagine there are meetings within meetings depending on who contributes to certain elements of the shared facility, but in terms of an equity argument, we ran through a number of examples of how those meetings would operate and in the best

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case most people would walk away feeling that they were contributing the right amount, they were voting on things that were relevant to them, and they would have the ability if necessary to opt in or opt out, or even upgrade that they could then contribute to specifically. So normally in a statement like that, it's usually 'one in, all in' and the dominant party or the majority vote typically drags everyone else along, which means there's a cost or some sort of liability attached to that decision.

This allowed owners, within reason obviously where there is a requirement or an essential service that had to be shared across all of them that needs to be shared, but it allowed them to work more flexibly into the future, opt in or opt out of services and then pay as a user pays principle.

Amanda Farmer: Yes, that's all really fascinating and I've seen you present on this before Chris – maybe it was at the Griffith Conference – and I know most of the lawyers in the room were sort of rubbing their hands together saying "Wow! We can't wait to see this one and to see how it all works" because it sounds like it is quite unique.

And it's going to be really interesting once everybody is in those communities and living day to day, how those systems are put into practice in those rules and those documents are interpreted and applied, and fingers crossed that it all goes well and it can be used as this sample community for how we will be able to deal with what is otherwise very complex setup down there at Barangaroo, and do so in a way that has everybody living – I won't say harmoniously, because it is still community living [laughing] – but as harmoniously as possible in that really quite high-density situation.

Chris Duggan: That's right. I think the key there is, and we're seeing an emerging trend in balancing the conflict that exists in mixed use developments, it's very common for retail to be included in residential development these days and now we're seeing an overlay of retail, commercial, other uses in terms of cultural uses.

And it's really a balancing act for how the residents who are ultimately the beneficiaries of all of that amenity get the best value of working within an environment, and, as we touched on earlier, most new sites involve a layer of complexity these days, an extra layer of titling that probably did not exist in most part 10 years ago or 15 years ago.

So it's about understanding that that's the evolutionary model of development in Australia, embracing that, and best case in how you can actually put in place a document to deal with things. The one thing that you can never manage for, or never predict for, is how people are going to interact within those environments. I think if they all got along perfectly neither of us would have a job Amanda forevermore [laughing].

Amanda Farmer: Very true. Okay, so we probably have some listeners here today who are a part of BMC's or community title schemes and they want to learn more about how this all works, what are some quick steps that you suggest that they can take they can start today? Some quick wins on the board to get more involved in their complex scheme?

Chris Duggan: Sure. So most schemes have some overarching governance document – so whether it's the community management statement as you mentioned or the strata management statement – just understand the basic parameters. By no means don't become an expert and pour over all the clauses because there are some generic clauses that exist in all those documents around dispute resolution, but just understand the base parameters of how they work, understand the shared services, the shared facilities, the restricted community property whatever it might be. So that you've got a fair understanding of who's responsible for what, because often times we find that owners are assuming that their strata plan is responsible when it's actually the BMC or conversely the community.

Amanda Farmer: Yes.

Chris Duggan: And once you've got that base understanding then you've got to decide, and you need to make a decision that you want to collaborate with the other members in your scheme, the other people in your owners corporation, and most importantly with your strata manager.



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So whoever that manager is, assuming they have the experience that you touched on earlier, they need to be a partner in those arrangements far more so than in a simpler scheme where you can in most parts get away with self-management and potentially use the manager as a more administrative or financial manager, here the manager needs to be front and center and you need to rely on them for good advice.

Now any good manager will be in partner with a number of advisers themselves around interpreting the legal understandings, interpreting the financial implications so we're seeing a broader set of skills being brought to how these schemes are run in to the future.

So the first step is to understand basically who is what and how it actually operates and who has responsibility and, secondly, make an open decision to want to collaborate with those people. Now, that will work in most cases and if not the one thing you can't do is to change your statement easily, but you can change your partner sometimes by getting a different manager who might be more engaged, more understanding, more experienced, or less conflicted in a way.

Amanda Farmer: And getting out there and asking questions around those kinds of problems. "Yes, we're having a problem with this, how do we solve that, I understand it's very hard to change the statement but is there another way that we can deal with this problem?"

And as you say, your manager and the people who are assisting them are the best people to ask because they've had that experience – one hopes that they've had that experience in managing similar schemes – and they can bring that to your scheme.

And what you say there about understanding the role that each entity plays, I think that that's really important because I come across a lot of owners who aren't on top of that. I don't like to necessarily use the word hierarchy because it's not that one entity is important than another, but there is this tree of responsibility when you're dealing with these complex schemes, and it's important to understand who's at the top of that tree and what do the branches of that tree look like. So we might have your community scheme and the executive committee of your community association at the top there, and then you've got your subsidiary bodies which might be your strata schemes and others who are in the community, who are then bound by the community management statement and sometimes bound by the decisions that the community association is making, and you might not be directly personally involved in voting on a motion that then makes that decision, but you are bound by it so it is important to understand how that works.

I think that a good manager, and I've seen good managers have this kind of a resource, they have that all planned out on a piece of paper and it looks like a tree showing you what the hierarchy is, and if you ask them they can give that to you and they can show you "okay, this is what your community looks like on paper, and this is who is responsible for what." So certainly as you say Chris, get out there and ask them as a first step.

Chris Duggan: I like that you don't use the word hierarchy because it implies that there is an element of elitism in the decision making, and unfortunately the way the hierarchy of governance does work and there are some documents that have precedents, but I think putting it into a graphical display shows you for example around a decision-making tree how a decision down the bottom needs to be passed back up and endorsed through representations made.

Then you can also see conversely how things filter down the hill because often times, as you said, you inherit the decisions that are made further up and you need to live with them. If you don't agree with them, then you have a rather complicated way of going back up through each of it, whether it be the precincts, the neighbourhoods, the communities, the members in order to actually have your voice be heard, and understanding the framework in which you're in will make you far more comfortable understanding then how to live within that moving forward.

Amanda Farmer: Good points. Okay, let us talk about books Chris. What books that have the greatest impact on you and why?

Chris Duggan: I'm glad you have mentioned books. I'm an avid reader and at my desk I have the two books one: Five

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Dysfunctions of a Team by Patrick Lencioni – fabulous book.

Amanda Farmer: Great.

Chris Duggan: The reason why it is a great book is because it's a fable, so it's written almost in a fiction type format which means that anyone, even if you don't like business, enjoys reading it, and there are some really simple basic things about galvanising a team and becoming one team. So, anyone working in a multimember organisation, I strongly recommend that one – one of my favorites.

Amanda Farmer: Good one.

Chris Duggan: And simple to read, nice big font, you don't want them want to be too small, all the Harvard Review business stuff is great to read but a lot of people get confused.

The other one is The Minute Manager. Again, you can see I'm very simple; I've got a very short attention span. So The Minute Manager books: 'Raving Fans' is one of my favourites, as well as 'The Minute Manager Meets the Monkey'. Great things about delegation, great things about putting your customer first. There is so much reading out there, it is incredible, and I think if you have an appetite for it, you just find it everywhere you look and I find if you ask people that you meet "what's your favorite book?" and you just keep going through that, because people usually are passionate about what they read and you can learn a lot from that. You only have to take one or two really good tidbits out of that. On the back of all of that, there is nothing wrong with a bit of Harry Potter...

Amanda Farmer: Well, if anyone can see, we're recording this by video and behind me I have a bookcase filled with Harry Potter, so I'm definitely on the Harry Potter bandwagon.

Chris Duggan: I am the first to admit that two Saturday's ago I went and bought The Cursed Child so I was out there at 9am.

Amanda Farmer: Good on you [laughing]. Yeah, I'm a big reader too but of course now I'm in the world of podcasts, so a lot of my time is taken up listening to podcasts now where I would otherwise have been reading, so I have to remind myself to read these days to enjoy it.

Chris Duggan: That's what the car is for, the car is for the podcast.

Amanda Farmer: It's true.

Chris Duggan: Reading is perfect for sitting at home, at the coffee shop, that's right.

Amanda Farmer: Yes, definitely. Okay, thank you, Chris. Is there anything else that you want to add and how do our listeners find out more about you?

Chris Duggan: Look, I can be found by our website at www.bright-duggan.com.au. The main takeaway I'd like to put away from today is that there are plenty experienced people out there, it's a really evolving landscape in terms of professionalism. I'd like to think that we're looked at as a sector as valued, engaged stakeholders who can work with buildings, owners and partnerships, and that doesn't mean we can always get it right, but I think we are certainly working as a sector to make sure we lift up the level of standard of professionalism, and these ever evolving complex schemes are great because they make everyone lift their standards, lift their work, lift their professionalism and really put Australia, and Sydney in particular, on the map in terms of world-class developments.

Amanda Farmer: Yes, and you particularly, Chris are doing a lot of work in that space I believe, lifting the professionalism and the standards, and I think we're very lucky to have you and keep it up. Keep up the good work and we will have strata managers out

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there as highly qualified professionals before we knew it.

Chris Duggan: Fabulous, and that's a great environment to think of where we can all be on level pegging in the future and it's also getting the message out there, so thank you and to your audience for listening and for being engaged.

Amanda Farmer: Thank you for spending time with us.

Chris Duggan: Fabulous. Thanks, Amanda.

Amanda Farmer: Bye.

Outro: Thank you for listening to Your Strata Property. The podcast which consistently delivers to property owners reliable and accurate information about their strata property. You can access all the information below this episode by the show notes at www.yourstrataproperty.com.au. You can also ask questions in the comment section which Amanda will answer in her upcoming episodes. How can Amanda help you today?

