

**Publication Date: 25 October 2016**  
**YSP Podcast Transcript: Episode 033. Things That Can Go Horribly Wrong When  
Buying Into A New Strata Plan And How To Avoid Them - with Sean McNamara**

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**Amanda Farmer:** This week's episode is brought to you by the YSP online membership community giving you access to the strata experts. For exclusive member only benefits including a Q&A forum, how to videos, by-law templates, and more go to [www.yourstrataproperty.com.au/membership](http://www.yourstrataproperty.com.au/membership).

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**Amanda Farmer:** Hello and welcome. I'm Amanda Farmer and this is Your Strata Property. Today, I have a real treat for you. I have invited on the show Sean McNamara.

Now, Sean is a member of the YSP online community. He is a resident owner in a Sydney strata scheme and he has served as either the chair or the secretary of his strata scheme since the building's first AGM in 2013. Sean's building is in Wollstonecraft in Sydney and I have invited him on the show today to share with all of you his experience of living in a newly strata'd building.

So Sean's building wasn't built from the ground up as a strata building, I assume it was originally a Torrens title building, and a developer has come in and decided to refurbish the building and to strata it. The developer has then sold the strata units and Sean was one of the very first owners in this new strata'd building. So Sean has had a unique experience and he has learned an enormous amount which he is here today to share with you.

So today I'm delighted to welcome Sean McNamara: committee member and member of the YSP online community. Welcome, Sean.

**Sean McNamara:** Thanks, Amanda. It's an absolute pleasure to be here.

**Amanda Farmer:** Pleasure to have you, Sean. Now before we get stuck into our discussion, I want to let our listeners know that we have a bonus download for them today. So Sean and I together have prepared a summary fact sheet which includes Sean's tips, some of which we're going to cover today and some of which we might not have time to get to, but they're Sean's tips for buying into or living in a new strata building whether that's a newly built building from the ground up or a building like Sean's that was already in existence and the developers come along and done the refurb and strata'd it.

Sean has already shared with me a fabulously long list of what he has learned from being a part of that process and we want to now share that knowledge and that experience with you. So to get your bonus download for this episode, head over to [www.yourstrataproperty.com.au/newbuilding](http://www.yourstrataproperty.com.au/newbuilding) and you can request a copy of Sean's tips to be emailed straight to your inbox.

Okay, so with that Sean, can you start by giving us some background on your situation: when did you buy and what did you buy into?

**Sean McNamara:** Sure. So my wife and I bought our unit in December 2012 and the refurbishing developer had bought the whole block of 10 units and was selling them as either refurbished or un-refurbished. The strata plan had never been registered for the block and as part of the refurbishment the developer registered that strata plan.

The developer also undertook some refurbishment of the common property along with the individual lots.

**Amanda Farmer:** Right. Okay, when you settled and you're moving in, you're expecting to move into a completed unit, everything done, perhaps a few touch up things... what did you move into?



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**Sean McNamara:** We were the only ones who actually bought un-refurbished.

**Amanda Farmer:** Right. Okay.

**Sean McNamara:** So we bought what we got, but everybody else was exactly in that situation: they were expecting to buy into a completed unit and there were just general issues around primarily finish but the workers' onsite favourite tool was a tube of silicone sealant.

**Amanda Farmer:** Yes. Yes, we're all familiar with that in strata land.

**Sean McNamara:** So if they said oh there's an issue here" they would get up there and they'd pump out the silicone sealant and give it a whack of very watered down paint, you can see drip marks in the paint, you can see the old paint coming through... there was a tool dropped on one of the plastic baths and it gouged out a great big scratch, a few millimeters deep. They just silicone sealed that up and of course the first time that bath had a bit of hot water then cold and a bit of thermal expansion that just popped out and there was this great big gouge in that bath. It was just generally quite sloppy work overall within the units, just about the only work that everybody was happy with who had the refurbishment was the kitchen and that was because they actually got a specialist kitchen place in to do the kitchens, so they did that properly which actually surprised us all.

**Amanda Farmer:** Right.

**Sean McNamara:** But then that just carried over into the common property and even more so because there was no scope of works given, there was just a lot of stuff that was not done.

Painting wasn't done when it was supposed to or it was done in one block but not the other because we've got two buildings in our block.

**Amanda Farmer:** And all of this completely blindsided you? You didn't expect to come into this building, you thought everything would be nicely done at least for the owners who had bought and paid extra no doubt for their refurbished apartment, this was all a complete surprise and "how did I get into this situation"?

**Sean McNamara:** Well exactly and it was just the extent to which not only was the work not done, but it was their attempt to avoid actually completing the work.

**Amanda Farmer:** Yes.

**Sean McNamara:** Which it really was a surprise how far they would go to... after promising something to then not do it and the absolute refusal to put things down on paper. I understand why now because if something's not down on paper it's easy to say "well we never said we would do that" and it just makes it very hard to deal with.

**Amanda Farmer:** And did you have any experts assisting you? Did you have any independent building experts, any lawyers, a strata manager... were there any third parties involved helping you deal with the developer?

**Sean McNamara:** Yes, there was... so the developer, because he registered the strata plan, obviously we would need to have the first AGM at some point, he appointed a strata manager who we've been very happy with in fact and I think he uses them for all of his buildings, so the strata manager who was appointed to us as well as one of the principals of that business helped us in that initial phase and gave us a lot of guidance about what we might or might not reasonably expect from a developer heading toward the first AGM and in our situation. I ended up attending a lot of strata industry events, everyone that I could from OCN to SCA.

**Amanda Farmer:** A crash course in strata.



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**Sean McNamara:** Yes, I would go and if it seemed like the person there could have an opinion about one of the challenges we were facing, I would approach them afterwards and I would have a chat and I was able to send detailed questions to some lawyers and other strata managers and just ask general questions or specific questions about what we were facing.

So I just tried to do everything that I could. It was very unclear whether we should engage a lawyer – no offense – because for example the developer built two balconies of two units, one on each unit, without council approval.

**Amanda Farmer:** Right.

**Sean McNamara:** And the council fined him, although they incorrectly fined my wife and I first.

**Amanda Farmer:** Oh goodness.

**Sean McNamara:** They sent it to the wrong people and we were like “we don’t have a balcony, we would like one but we don’t have one”.

**Amanda Farmer:** Oh, dear.

**Sean McNamara:** So that’s how we knew that he had been fined so when I handed that fine letter over to the site foreman, he basically looked at it and smiled and said “oh that’s okay, he’s got lawyers, he’ll just make this problem go away”.

**Amanda Farmer:** Right.

**Sean McNamara:** And so we knew and especially as things went on and we continued to make claims about what we wanted, it was very clear that he was just willing to block everything and just engage his lawyers to make problems go away and his workers were very blasé about that as if that’s just the way he works.

**Sean McNamara:** So Sean, how did you as a building resolve all of this because it sounds like you’re in a pretty good position now? You’ve got your home, it’s nice and comfortable. How did you get from A to B?

With a lot of perseverance actually. I, as chair, although I know the chair doesn’t technically have any more power than anybody else on the executive committee, I knew that it was a position that other people would tend to follow so I sort of was quite keen to become the chair of the committee from the start because I was very motivated to have things done around the building.

So I basically as chair engaged in a campaign to try and push the developer to do the work or perhaps get a cash settlement and that campaign lasted 13 months. It involved numerous hours of gathering information, talking to industry experts wherever I could. I ended up across that period of time writing 6 letters totaled 5 ½ thousand words. I’m very good at writing letters with lots of pictures. I always kept things as factual and as calm as possible but just persevered with that consistent pressure against the developer.

**Amanda Farmer:** Yes.

**Sean McNamara:** I researched the responsibilities that the developers had, I leveraged the good relationship that I had with the onsite workers including the foreman. I just made sure my arguments were always as level headed, clear and consistent as possible. I didn’t get angry at the workers onsite because they’re just basically following the instructions from above. I always made sure I was just applying pressure through the solicitor to the developer and I investigated and utilised every single person and resource that I could to keep pushing that forward.

In the end we got some of the works done and we got a smallish cash settlement but I suspect that that effort garnered more work and money than other buildings left by this developer given the usual way he operates.

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**Amanda Farmer:** Just remind me, Sean how big is your building? How many lots?

**Sean McNamara:** 10 lots.

**Amanda Farmer:** Alright, so not a huge building.

**Sean McNamara:** No.

**Amanda Farmer:** But still plenty of work there for you and it's amazing that you got that much achieved in what I think is such a short space of time and just to clarify for our listeners, you're not a retiree are you, with plenty of time on your hands?

**Sean McNamara:** No. I'm self-employed and there was a reasonable amount of self-interest, although I'm very interested in having a very good strata community and doing the right thing by the community but I knew that if the developer left us in a mess that would then be shared with only 9 other owners.

**Amanda Farmer:** Yes.

**Sean McNamara:** So proportional cost could be quite high. Our building was registered with equal unit entitlement, it wasn't based on value and we actually had one of the cheaper units in the building, so we are already paying what is technically a disproportionate amount in levies and other costs and I didn't want that to come back if we were having issues with leaking balconies or other things that he had not done.

For example, there was a fire order from North Sydney that was issued from North Sydney council that was issued during the refurbishment and it had this great big long list of tasks that the developer was supposed to follow including having the scope of works to get up to speck signed off by the appropriate expert.

He didn't bother with any of that. He just got somebody in and did a whole heap of work related to fire safety and so council because they didn't hear back, they started to get quite agitated and wanted to take further action.

And it was only through very hard work by our strata managers fire department in negotiations with the council to say "this is the work that's been done, we feel that this satisfies the work that you are trying to achieve" and a couple of small extra issues that they asked us to fix up but our strata manager was warning us that if the council decides to not accept the work that's been done this could end up being an exceedingly expensive operation.

So that was a big part of where I was coming from, of trying to avoid not only for ourselves but everybody these sort of extraordinary costs we could have been left with and he's just gone off and he's working on another 2 or 3 buildings as soon as he finished ours.

**Amanda Farmer:** And did you have the support of the other owners or some of the other owners? Was there any conflict within the building itself to do with these issues?

**Sean McNamara:** There wasn't. Because we were the first to buy, I made it my job to not only befriend the workers but also owners as they came in.

**Amanda Farmer:** Yes, very important.

**Sean McNamara:** I actually made sure that I knew which units sold when so that I knew when the first AGM was going to be triggered. I just basically made sure that the agent gave my details to everybody as they came in. I could tell even by the time the 2nd unit sold – which was just 3 or 4 months out after ours, I could tell that there would potentially be issues and that we would need to have a very strong sort of bind in the strata community to push this forward, and so I had absolute support from all the

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owners and from the strata committee in all the things that I was doing to push this.

So we were very lucky because we all bought at the same time they were all facing similar issues within their own refurbishments and they could recognise those same issues in the common property. We really were a coordinated band of people applying pressure both individually for lot issues and collectively as a scheme.

**Amanda Farmer:** Yes and I can see how that was achieved through you really laying that strong foundation as you said, when new owners bought in you made sure that they knew you, they knew where everything was at and knew what the issues were and you were all on the same page, and I think that is such great grounding, such great work to be doing when you know you are going to have a long and difficult fight on your hands, when you have that support it just makes things that much easier.

**Sean McNamara:** It really does and we are still reaping the rewards from that. We have overall what I consider a very smooth operation of our scheme and it's partly because we are all great people, but I think if you build a community from the start it's a lot easier than trying to build one after the fact.

**Amanda Farmer:** Yes, I love that.

**Sean McNamara:** And that's really come out to play for us in a very significant and positive way.

**Amanda Farmer:** Yes, excellent. Okay well Sean you've already shared with us some really great tips on how to deal with developers in these situations and how to deal with these situations generally...

No doubt we have some listeners who are listening in today and they're in the midst of a very similar situation or they've just bought into a strata scheme and they're suddenly coming to the realisation that "hey, I think this is my building", what are some action steps and quick wins that those kinds of listeners can take today and can have when they're looking at similar problems?

**Sean McNamara:** Okay. Well the first thing that I would absolutely say is to be persistent and consistent in all your dealings with the developer. Make a list as early as possible of the issues needing attention and you have to decide which ones you're willing to forego as bargaining chips or as part of a settlement.

**Amanda Farmer:** Such great advice. Yes.

**Sean McNamara:** Get to know your rights and any obligations that the developer may have. The Department of Fair Trading, local council, strata managers just communicate with them and try and find out what it is the developer is suppose to hand over.

You might not get all of that. We certainly didn't get any documentation relating to the refurbishment of the building except for the registered strata plan.

So the requirements of the first AGM, as you know, there are supposed to be specific documents that are provided. We tried to push for as-built plans for these 2 balconies, we never got anything, it was annoying that the council never required certification on those balconies, we tried to push for that. It ended up that it was the individual lot owners who did not push for those certifications on those 2 balconies so the owners corporation itself couldn't do too much. We just tried to bring our pressure to bear where we could.

If there is a refurbishment going on or ongoing and you're able to see that refurbishment happening, establish a friendly relationship with the workers on site as possible.

**Amanda Farmer:** Good tip.

**Sean McNamara:** You may not feel their work is up to scratch, as I said they're only working under instructions from the main

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developer, and it's amazing how much general information you can get about what is happening or what is not going to happen. But also if you're friendly with them, it's amazing how much they'll do if you just say "there's a problem with this door" and they'll just go and fix it because you're friendly to them.

**Amanda Farmer:** Yes, so true.

**Sean McNamara:** We even had a barbecue with them as they were finishing up.

**Amanda Farmer:** Wow!

**Sean McNamara:** Just once again because they had helped us, the onsite workers had helped us in a way that the developer would not have directed them to.

**Amanda Farmer:** Good on you.

**Sean McNamara:** So that was useful, and all of this really comes down to just being as resourceful as you possibly can be. Be prepared to think outside the box, gather information, resources, ideas, use Google, use the LPI website for searches if you need to, social media might help if you need to sort of start a little bit of a campaign there.

**Amanda Farmer:** Yes.

**Sean McNamara:** Speak to your strata manager. Find out if they're the strata manager you want to keep once appointed.

**Amanda Farmer:** Yes.

**Sean McNamara:** Go to as many strata industry events as possible, as soon as possible, and just basically talk to anybody and everybody who might be able to help you with your specific questions.

**Amanda Farmer:** I love that. They are such good tips Sean, and if you're listening and you're driving or at the gym and you don't have the opportunity to write all this down in your notebook, don't worry because these are the kinds of tips that are going to be in the bonus download fact sheet that Sean and I are putting together. They are great tips. They are really practical. It's the kind of stuff that I see successful buildings, buildings and committees who are successfully working their way through these problems today, this is the kind of stuff that they are doing and I think its such valuable information to get out there and for people to know that you can solve these problems if you just take that practical approach with some good guidance.

**Sean McNamara:** Yes, absolutely.

**Amanda Farmer:** Okay. Sean, what books have had the greatest impact on you and why?

**Sean McNamara:** Okay, I've always loved science and Richard Dawkins' *The Selfish Gene* has always been a very interesting book for me because it's a real seminal work in the area of evolutionary theory.

But it is a popular science title. I mean people often don't realise that this whole idea of memes that we see on the internet.

**Amanda Farmer:** Yes. Yes.

Sean McNamara: Memes are a concept that Richard Dawkins coined within *The Selfish Gene* book.

**Amanda Farmer:** I didn't know that.

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**Sean McNamara:** Yes, it's a fascinating read and some of the follow up books as well after that were also great. Of course this is a strata podcast so the 2nd book that I have to mention is Alex Ilkin's excellent New South Wales Strata and Community Schemes Management and the Law book.

**Amanda Farmer:** Good on you.

**Sean McNamara:** That has helped so much.

**Amanda Farmer:** Yes.

**Sean McNamara:** We actually picked up a 2nd hand copy off eBay at a very good price and it's been an invaluable resource for us, for forms, for knowledge and just guidance on how we should just move forward and what we may or may not expect within the whole scheme.

**Amanda Farmer:** Yes, good on you. That's a really good tip also for owners who are looking to find out a little bit more about strata. It's okay to pull out these books that are on your lawyer's desk, that are on your strata manager's desk and have a look through them. Strata, as much as on its face it seems complex, there are a lot of user friendly aspects to it and easily understandable concepts once you've got your hands on the right content, and I agree Alex Ilkin does a great job in his handbook of getting those concepts across in an easily digestible way. It's certainly a book that I had my hands on when I first started out in this sector and it's great to hear the owners are getting all action too.

**Sean McNamara:** Just have to wait for the next edition now.

**Amanda Farmer:** That's right. Thank you so much for that, Sean. That has been so valuable. Is there anything that you like to add before we say goodbye?

**Sean McNamara:** Actually, I'd like to say thank you for starting this podcast.

**Amanda Farmer:** My pleasure.

**Sean McNamara:** As a committee member I find the guests and the topics are always relevant.

**Amanda Farmer:** Thank you.

**Sean McNamara:** Information is the key to knowing how to deal with living in strata, and I encourage the listeners to be proactive in seeking that information and all the resources that you can whether for specific problems or just general issues. This podcast has been a great learning tool for me even after everything we've been through, I'm still learning things through this podcast so thank you.

**Amanda Farmer:** That is wonderful to hear. Thank you so much, Sean that is really kind and it really drives me when I do hear that from owners and listeners, it pushes me to keep delivering and to take this to the next level so thank you so much for sharing that.

**Sean McNamara:** No worries.

**Amanda Farmer:** Okay. So, don't forget to head over to [www.yourstrataproperty.com.au/newbuilding](http://www.yourstrataproperty.com.au/newbuilding) to grab your bonus download for this episode. The fact sheet prepared by Sean and myself summarising Sean's tips and we certainly haven't covered all of them today, tips on buying into and living in a strata building particularly when that building has problems. Don't miss out on grabbing that one. Thanks for joining us today, Sean.



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**Sean McNamara:** Thank you, Amanda.

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