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## YSP Podcast Transcript: Episode 281. "What do they do?" How strata managers are failing to show their value to owners

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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.

**Amanda Farmer:** Hello and welcome to this week's podcast episode, I am your host, Amanda Farmer. And this week I'm bringing you an edited version of my live chat with Dr. Nicole Johnston. This chat took place over on the Your Strata Property Facebook page last Friday, the 24th of September. I invited Dr. Nicole to share the findings from her most recent research project, Examining the Role of Strata Managers in the Delivery of Strata Insurance-related Services.

In particular, the aim of the research being to determine the value of the strata manager in the process of providing insurance services to our owners corporations, the research was undertaken with funding from Strata Community Association and has culminated in a report, which Dr. Nicole published earlier this month titled A Data-driven Holistic Understanding of Strata Insurance And Australia and New Zealand. There is a link in the show notes for this episode for you to access a copy of the report.

In it, you'll read that in 2020 Australian owners corporations paid over 830 million in strata insurance premiums and nearly 230 million in duties, levies and taxes claiming over \$390 million. Overall, the total cost of insurance payable by owners corporations was over \$1 billion. There are at least 38 pieces of legislation and associated regulations across Australia and New Zealand forming the suite of strata laws, regulating strata insurance. And as you'll hear Nicole and I discuss, strata managers are expected to be across all of that legislation.

In this conversation, Nicole shares what the owners she surveyed think of insurance commissions being paid to strata managers, how strata managers are failing to explain their value to their clients. How owners can tap into the power of an insurance broker and lots more. If you like what you hear from Dr. Nicole Johnston, you can check out a couple of previous episodes of the podcast where she has been my special guest, most recently, Episode number 243.

Again, this was taken from one of our live chats over on the Facebook page. This was a chat from December 2020 when Nicole was first sharing her proposal to engage in this research about the involvement of our strata managers in insurance services and Episode number 172, Exposing Australia's Building Defects Crisis. Nicole was the lead researcher on a very important report published in June 2019, An Examination of Building Defects in Multi-owned Properties. That report has formed the basis of many discussions since then about how we can fix this current building defects crisis.

But right now I will take you over to my chat with Dr. Nicole Johnston, Determining the Value of the Strata Manager in the Delivery of Strata Insurance-related Services. Enjoy, and I'll catch you next time.

Lots of you coming on and to from our special guest, she is indeed Dr. Nicole Johnston. Dr. Nicole is an admitted legal practitioner currently working as a senior lecturer and a researcher at Deakin University's business school. She is a co-leader of Deakin's Home Research Group, an interdisciplinary research network. Nicole researches strata-related topics from a socio-legal perspective. Her work focuses on strata governance, conflicts of interest, purchase and knowledge acquisition, and building defects in residential schemes.

She is the chair of the International Research Forum on Multi-owned Properties, a multidisciplinary research conference held annually. Now, if you have been one of our loyal Friday Live viewers for some time now, you may remember that Dr. Nicole Johnston was my guest way back in December 2020. Nicole's been a guest a few times on the podcast and on Friday Live, but in December 2020, we were the first to hear about a new research project, which Deakin University, Dr. Nicole Johnston and Strata Community Association had partnered on for 2021, focused on Strata insurance.

And it was all about surveying owners to gain insight into the current insurance model, and it was also your chance to have your say on hot insurance topics, including insurance commissions. Now, the report arising from that research has been published, it is titled A Data-driven Holistic Understanding of Strata Insurance in Australia and New Zealand. Its author is Dr. Nicole Johnston, she

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is here with us today. Welcome, Nicole.

**Dr. Nicole Johnston:** Thank you very much for having me again, Amanda. It's lovely to be here.

**Amanda Farmer:** It's a pleasure to have you here with us and we were just chatting off air about you guys up there in Queensland living it up. We're very jealous.

**Dr. Nicole Johnston:** I know. And I was just looking at the little comment about the Victorians. I did escape, I worked for a Victorian University, have been a Melbourne girl for the last sort of 7 and a half years. But when this pandemic started, I escaped and I've been residing in sunny Queensland with very little restrictions for some time now, so I do think about all my friends and colleagues both in Sydney and Melbourne, and I hope they're all doing well.

**Amanda Farmer:** Well, we will be looking forward, we're all looking forward very much to being able to get back together across borders with our Queensland friends and colleagues, hopefully, and other parts of the country as well. We will get there. Now, Nicole, I was reading your fabulous report and having a look at your executive summary. We do have a link here to the report. Richelle is going to pop it in the notes here for us. It's lengthy, over 200 pages, but I think your summary alone is valuable for those who don't have perhaps the time or the inclination, come on, let's face it, to read everything.

Check out this executive summary. The first thing that jumped out to me, if we start there is the incredibly complex nature of our regulatory environment when it comes to strata insurance. Can you share a bit about what you found there, Nicole?

**Dr. Nicole Johnston:** Yes, Amanda. And I feel the same. I think when I initially decided that I'd take on this challenge of doing this research, and one of the key areas that I wanted to look at was the regulatory environment, and I thought it was really important to look at all jurisdictions and how we're all tackling this area of strata insurance. What I was hoping was really that there would be some real consistency. I thought it would be a really easy task for me, even though doing cross jurisdictional reviews of laws as always complicated. I thought it would be fairly straightforward and found it to be an extremely complex and laborious task.

And what really came out of it was the fact that there's such an inconsistent approach, there's such variation across all the states and territories in relation to how strata insurance is regulated. And that's just from the first instance, looking at the legislation that regulates strata, so our governance legislation, let alone the other legislation and regulations that we looked at in terms of taxes and more around insurance contracts generally, and those sorts of things.

So I was really surprised, it was a big task for us to look at. And one of the key things was, even though we've got very similar mandatory requirements around, for example, having the mandatory provisions around insuring the building or the scheme, and also public liability, the terms that we use are very varied. And then when you start to dig down into the nuts and bolts of the legislation in each state and territory, that's where you start to see a lot of variation.

What's actually required to be covered is very, very different in every single state, what exclusions are, what must be the inclusions and so forth, extremely varied. On the surface, strata insurance laws seem pretty straightforward. These are the things that we must insure for, but when you actually start to dig into the detail, that's where it starts to get very, very complex.

**Amanda Farmer:** I was reading in your report, you found that there were at least 38 pieces of legislation and associated regulations across Australia and New Zealand and 12 legal topics you identified relevant to strata insurance. You've said that strata managers are required to have a working knowledge of all of this relevant legislation, because they are expected to assist their clients to navigate that complex framework.

What were your findings in respect of strata managers and having this knowledge, being aware perhaps that they should have this knowledge and their clients being able to rely on that knowledge? Is that something that's happening out there in the market?

**Dr. Nicole Johnston:** Yes. I think there's some confusion around the extent to which a strata manager is to guide, inform or advise

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in relation to any law in Australia. And it is a bit of a tricky one, and it is for a lot of ancillary professions that sit on the board or are regulated or have to help their clients regulate or navigate a really complex regulatory environment. And so, as you know, lawyers, managers or anyone else aren't supposed to provide legal advice, that's an exclusion there, needs to anything complex or where there's actual legal advice has to go to a lawyer.

But they certainly have to have a good working knowledge, and in some jurisdictions that's expressly stated either in the code of conduct that attaches to the legislation, or it's implied in various other ways through the duties that go towards strata managers. So you get a general sense that they have to have this good working knowledge of the legislation to really help guide and inform the owners corporation or the body corporate through the different governance frameworks or the different governance areas in relation to strata and insurance is part of that.

There's always work that needs to be done and I think looking really at the complexity of it, it would be really hard, I think to really get a full understanding, because it's subject obviously to a lot of interpretation, these provisions. And so I think it would be quite difficult for a lot of strata managers to know the intricacies of the legislation. But they're certainly reliant on other parties in the supply chain to assist them in what this all means, including brokers and the underwriting agencies and also the insurers themselves.

And of course, there's a good legal group that sit around this that have good knowledge in relation to strata more generally that can assist. Like anything, I think there's strata managers out there that have a pretty good idea and then I think there's strata managers that would find it very difficult to navigate. And I think at the end of this research, what was very apparent to me is the need for more education, to get that messaging out and to really assist managers in assisting their clients.

Because I think a committee on their own or a strata lot owner on their own would find it very, very challenging to make sure that they're complying with all the rules that sit within the regulatory framework.

**Amanda Farmer:** And did you find that owners felt that their strata manager was a source of knowledge or a place to go to get information about insurance?

**Dr. Nicole Johnston:** Yes. I think we have to step back a little bit and think of about who actually participated in the research because that's really important to frame it, give it context. And so a lot of the survey went out through a number of different groups. It's always really hard to get to lot owners for them to participate in research because oftentimes we need a conduit in the middle to get to them. I don't have a data of strata lot owners for example, that I can just speak to. I usually have to go through like Your Strata Property was really great in getting the survey out to the members, and there were a number of other people that really work on behalf of owners that did that as well. So that's the only vehicle that I can really use to get the surveys out.

Now, when you get out through those sorts of mechanisms, the type of lot owner that usually decides to participate doesn't become a representative sample. What we found when we looked at who actually participated in the surveys, and I think those that did, it's fantastic that people do participate. But it was a really highly sophisticated group of owners. They were people that were very active, very well educated. They had owned a number of different strata schemes either at that particular time or throughout their lives. So it wasn't the general lot owner as a sophisticated group.

And I think from a research perspective, we're always looking for that representative sample. We want to hear the voices from all the different people involved in strata. That is very difficult to do. But instead of just dismissing it, I think it's important that we take those people, so there was 280 participants, and really value what they're telling us because they are a sophisticated group. They know, they have good working knowledge about what's going on in strata, how decisions are made. They have a good working knowledge of the legislation and so forth.

So they're the people that have a really important voice in this conversation. So it's not a representative group. I think they were highly sophisticated, they had some really good understanding in terms of how the process actually works, how the commission system works, what's going on internally and that sort of thing. I probably missed your main question.

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**Amanda Farmer:** No, that's okay.

I was asking you whether the owners who you surveyed appeared to be aware that their strata manager was indeed a source of information, of knowledge, of advice within the limits of their professional engagement about insurance. Because I will think-

**Dr. Nicole Johnston:** Yes.

**Amanda Farmer:** ... that maybe there'd be owners out there thinking, "Well, if we want advice about insurance, we talk to the insurer or we talk to the broker and our strata manager doesn't really do anything about insurance. They just send us the quotes and pay [crosstalk 00:15:24]"

**Dr. Nicole Johnston:** They're so varied. The responses really varied, Amanda. There were some people that were very clear that their managers were very helpful, that they relied on them to be that person to provide that information to them. And then of course you get people that aren't happy with their manager who is not providing that information, because you get obviously variation in any professional groups. You have people that are really active and have that knowledge source and are really good communicators with their clients.

And then you have others that are lacking that educational, that experience around strata insurance and then probably don't actually communicate effectively to their clients. So you saw that in the data, you could see that coming out of the data, that there was some that were really reliant and thought that their manager did have good knowledge. And then to the other extent where people were very dissatisfied with the services that were being provided.

But overall, a real clear theme that was coming through a number of the different data sources that we looked at in relation to this research was that there was a real lack of transparency and a lack of communication generally in relation to strata services and the process. And so that was one of the key messages that I'm taking back to the SCA and strata managers to say, "You need to engage better with your clients, the owners corporation, and lot owners in relation to the services that you provide, because you aren't clear faabout that."

So a lot of the comments were, we don't know what they do. And I've said to the managers, "Well of course owners and committees don't know what you do because you don't communicate that effectively to them, both in the agreements and in any other mechanism." And so I think there's work that needs to be done from the management perspective about communicating much more effectively to their clients in relation to the services they actually provide.

**Amanda Farmer:** Not just about insurance, but about all the services that they provide as strata managers. Okay.

**Dr. Nicole Johnston:** But this was specifically looking at insurance, but yes, I think they can-

**Amanda Farmer:** What came out.

**Dr. Nicole Johnston:** I think if we start to look at the agreements and see and get a bit of an idea about the services that they're providing, and you would think that would be the first port of call to look at, I think there needs to be more work to be clear about what the services are of the manager and I think there's confusion generally. And I think we've heard this over many years working in this area, that there is confusion about specifically what the role of the strata manager is.

**Amanda Farmer:** Now, I'm going to share screen again here, Nicole, because I want to show one of the images, the figures in your reports that is titled The Strata Management Value Pillars, because I think this is a good part of the discussion to head over there. And then I'm going to dive into some of these comments that are coming through. There's some good ones. These are the strata management value pillars, and we've just been talking about strata managers having a messaging problem, a marketing problem, perhaps a communication problem when it comes to explaining to their clients exactly what it is that they do and where their value is.

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**Amanda Farmer:** Can you speak to this image here, Nicole and where this fits in your report and what we're seeing here in this table?

**Dr. Nicole Johnston:** Sure. There was two different components of the research or aims of the project, and I think when you are ever reading a research report like this and understanding the research, you've got to be clear about what the aims are. Although this is a very comprehensive overview, it's been directed by two aims, and one was to look at the data around insurance as far as the cost of insurance, the number of claims and the policies that are taken up in relation to strata schemes. That was the first aim.

The second aim was very much looking around the role of the manager in the process and the value that they bring to the particular process. And so I've spoken to you about the services and how, unfortunately, when you look at an agreement, and we did a sort of a review of the number of management agreements across the country, what was really difficult is we couldn't really extract from those agreements what the services were. There were sort of broad terms that were used, it wasn't very clear. And there were certainly no discreet services that were outlined in the agreement.

One part of this was looking at and trying to identify what the services are that managers are actually undertaking, and there were quite a lot when you start to delve into it. The next part was to think about value. Of course, they're doing services and they're being paid for those services, but they also bring other things into the picture as far as the other roles that they really take on. This is where the value pillars came up and there may be more value pillars as we do more research into this area.

But I really see them as obviously they're agents and there's a principal agency agreement. They're acting on behalf of the owners corporation or the body corporate. They're custodians and then they've got this great knowledge bank, and I'll talk a little bit about each of these. In relation to that agency relationship, they have to do certain things as agent for the owners corporation. That's about the value that they bring to it and the reliance that an owners corporation has on a manager.

So they have to obtain authorities to engage in the insurance process and that's often done through meetings. They're that conduit between so many people in the supply chain and there are a number of there's an underwriter, there's valuers, lot owners and other stakeholders that might be interested in the information around insurance. And of course, you need really in a lot of these schemes to have that relationship because it ensures strata insurance's arrangements are put in place so that you don't miss time limitations in relation to placing insurance.

That the premiums actually get paid on time, that evaluation is obtained and then provided to a third party. That claims are managed and sometimes these are complex claims and that certain advice or guides is actually provided. That's one of the extra roles that they're fulfilling. They're also the custodians, and in so many schemes, this is a real necessary element, because there has to be this repository of information. As we know, lot owners come and go from a scheme, committees change and so forth, so you need to have a central area for information to be kept.

And this is really important when it comes to insurance, especially around disclosure. Disclosing information to the insurer about what's going on in your scheme is a vital thing to do. There's duties that attach to that requirement. Being the custodian really enables efficient collection, collation and distribution of information to all those different people in the supply chain. It certainly enhances and streamlines that subtle disclosure that I mentioned, and it enables essential registers to be put in one place.

If there's issues around boundaries, for example, between private lot property and common property, it has all the information about the assets, which is really important for insurance purposes. It's keeping that under the one umbrella. That's an important extra job really that that managers are doing. And of course, they have really a knowledge bank, because as we spoke about before, there are duties sometimes implied, sometimes more expressed depending on the jurisdiction that you're in, that you are to provide some sort of guidance around those legal rules to your clients.

So having those duties requires you to be across the legislation. You may be an authorised representative, which requires you to do certain training. You also get gained experience through a lot of different portfolios that you use, so that repeat business looking at large volumes of schemes, you get to know it really well. If you're an owner, doing it once a year. I'm a committee member, I sit

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on a very large body corporate, I'm the chair of a very large body corporate and I would hate to have to deal with that every year, going through, finding quotes and so forth.

I definitely push it over to someone else that deals with it all the time, that repetitive work is really important. And of course they do get professional development through education and training through different areas, especially those that are connected to SCA. They have CPD points and those sorts of things, so they're required to have a certain level of education. So I think there is value that sits under the role and the job that they do in relation to insurance that probably is not being clearly communicated to lot owners.

**Amanda Farmer:** And what a fabulous resource this image is here and the strata management value pillars. I'm often asked, "Amanda, what do strata managers do? Is my strata manager supposed to be providing me with legal guidance? Are they just a post box?" I think this is a fabulous way of showing the layers inherent in strata manager's role. And clever strata managers out here, take a look at this, you can really dig into this in your marketing. You're hearing Nicole say most managers are falling down when it comes to communicating their value. Nicole's done it for you, you guys.

**Dr. Nicole Johnston:** Exactly.

**Amanda Farmer:** This is a really, really valuable part of that report. That's why I wanted to focus on that one in particular. I'm going to, and thank you for breaking that down for us, Nicole. I'm going to-

**Dr. Nicole Johnston:** Pleasure.

**Amanda Farmer:** ... stop that share now and just head over. There's been a couple of comments as we have been. Here's a long one I will try to get on the screen without cutting our heads off here from Bill and Ben. "The legislation has always envisaged that generally strata schemes would be managed by ordinary lot owners for their own benefit."

And is listed a case there. "As if that's possible given the complexity of regulations, general rules of conduct, applying to agents, assistant agents." I'm not getting all of the comment there because I can't see it all on my screen, but you're right, Bill and Ben. I was chatting, I think it was to Ross Taylor in our podcast chat a few weeks ago where Ross said, "The strata management legislation generally was designed for our very simple 3 or 4-storey red brick walk ups from the '50s and '60s, and our buildings these days are so incredibly complex.

Your research has really revealed that Nicole, specific to just one part of our buildings and our management industry, the insurance aspect, but there is just no way. I think I certainly don't want to be involved in a building that doesn't have a professional manager doing these jobs, even something as seemingly simple and straightforward as being the custodian, as you say, in that central pillar, custodian of records and having that longevity of knowledge and that ability to report to a new insurer perhaps or dig into the records in respect of a claim what the history of a building has been.

It might be obvious to strata manager, "Oh yeah, of course, we do that. And people know we do that." And of course there's value in that, you have got to say it. You've got to say it. You've got to [crosstalk 00:26:02]

**Dr. Nicole Johnston:** Yes. And I think that's really key, Amanda in that sort of, and I've been really clear with the management industry in particular about this, that you know what you do and you think that other people do, but they just don't. And that was really clear because so many comments were, "We don't know what they do." And as I said to them, "That's not owner's fault or committee's fault, that's your fault, because you haven't communicated effectively." And I think that's the thing.

And I think that might be with a lot of professions, until you have someone over your shoulder looking at what you actually do, you can't articulate it clearly enough. And I think that's where there's been a fall down here.

**Amanda Farmer:** Yes, I agree. Point here, our question, I think it is from Michael T., a colleague of ours. Nice to see you, Michael. "Hi, Amanda and Nicole, do we know anything about the extent to which strata committee members get sued? Interested in

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Nicole's finding that not all schemes have office's liability insurance." Oh yes, indeed, Michael. That's something that I'm often asked from lot owner clients. "Amanda, I want to sue the committee, how successful will I be? Can you send me some cases where owners have successfully sued committee members in negligence?"

And at least here in New South Wales, I go, "Few and far between, that's for sure. I've seen them settled, I've seen them attempted, but we really don't have many, if any," someone here will tell me if I'm missing an obvious one, "reported cases of successfully suing committee members." Nicole, you're finding about Office Bearers Liability Insurance?

**Dr. Nicole Johnston:** Yes, so two Points. In some states, there's an indemnity in the legislation, so it probably would make it quite tough in some instances to sue committee members. Just probably depends on new jurisdictions, I don't know of any great cases that come to mind around that. In relation to the Office Bearers Liability, I think this was really quite interesting, one of the findings. We looked at or got data in relation to policy take up. So all the different types of policies and the component parts of policies, and looking across the jurisdictions, which state are taking up the different ones.

Obviously, with the mandatory ones, it was really clear, they were being taken up a lot. And there are some other things like voluntary workers and those sorts of things that are rolled up into your mandatory provisions within your policy, I think, so they were taken up at 100% as well. But things like machinery breakdown, catastrophe cover, and certainly Office Bearers Liability, that's where the variations came from each state, so you had some states really high. I think for memory, overall in Australia, there's about a 60% take-up of that policy across all schemes, and then you start to see real variation in each of the jurisdictions.

In part, it could have something to do with those states with much more complex schemes or larger schemes where they're probably being professionally managed and there's been probably advice given that they should have Office Bearers Liability and the smaller schemes perhaps aren't being covered that way. I would love to know the answer to some of that, to why there was such variation. Maybe some people here today can tell me why there might be some states that are taking it up at much higher rates than other states, but I haven't quite solved that one yet.

**Amanda Farmer:** And I am just, as I think it, Billen Ben is typing it, which is sometimes the case here on our videos. Billen Ben is saying, "Suing the strata committee members Section 260 in our Strata Schemes Management Act is of course relevant. Our committee members have an indemnity from the owners corporation if they are acting in good faith and they are not exposed to personal liability." And that is indeed what Section 260 in our New South Wales act says.

Committee members do pursuant to our legislation have a duty to act with due care and diligence, and if they're not doing that query, and I think that's what Billen Ben's doing here, what is this threshold to show that they're not acting in good faith and therefore exposed to personal liability? And that's not something that we have seen tested in our New South Wales courts.

So perhaps to Michael's question about how often do we see committee members get sued? Not very, and that may be why some buildings from my point of view, don't bother with the Office Bearers Liability Insurance or they rely on Section 260 that they're covered by the owners corporation. I don't think I'd be one of those committee members who's quite happy to run loose and free without any insurance.

**Dr. Nicole Johnston:** Yes. And it could be also a bit of pressure around cost to pull down. I don't know how much that particular part of the policy would actually cost. Whether there would be a big cost savings in relation to that, we didn't quite get to look at that, but I couldn't imagine that it would have a huge impact. I would think most of the premiums going to the building and liability components, would be my thoughts.

**Amanda Farmer:** Yes. Heading back over to those comments. Pamela saying, "Hi." Hi, Pamela, no need to apologise for being late. If you can swing by, you're always more than welcome. I'm seeing some questions there from Qpootle. Not so much focused on insurance, Qpootle, so we may come back around to those. If we don't have the opportunity, if I don't have the opportunity to get stuck into your strata questions on any particular Friday Live, the place to go to get those answered is over in our online membership community.

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And that's why I wanted to share with you all today that those doors are open over at stratamembership.com. That's where our Q&A forum is firing and I'm in there focusing on our questions being asked by members. If you have a question that we don't get around to on a Friday Live, then raising them in the members Q&A forum is the way to go.

Now, Jane is making a comment, I haven't read it yet. Not a problem. "Does the report discuss the ACCC Inquiry into the Northern Territory?"

**Dr. Nicole Johnston:** So the ACCC Inquiry was broader than that, it wasn't just Northern Territory, it was really all of Northern Australia. And so I've read the report and I've taken note of a couple of things, and we refer to it briefly in the report. The final report came out midway through us writing or doing this research, so it doesn't specifically talk to it. And I wanted to do that on purpose in a way, because I think it's a standalone piece and I think the ACCC had 3 years to do it.

The ACCC looks at both strata and non strata properties. They go about comparing them like they're similar in some ways, but also setting out in their report some distinctions in relation to that. I think it's a report that people should have a look at, but I think my feelings were that strata is so different. It's such a complex piece, it's so different from a standalone of a property type, simply because we have much more mandatory requirements around insurance and the complexity of it's very different. It's highly regulated, very different to a house.

In a normal free standing dwelling, you can choose to have insurance or not. That's really up to you. You don't have the luxury of that in strata. So I didn't want to get too caught up in what their results were and where they were having. Obviously, they had extraordinary powers in terms of getting access to data that I didn't have. The government has powers to compel insurance companies to provide them with data and certain data, but I wanted to have a different mindset and look at data in a different way.

So I reviewed it, I know about it. There are a couple of points that I refer to it, but it's not directly discussed.

**Amanda Farmer:** And Jane, if you want to get your hands on a copy of Nicole's report, if you haven't read it yet, we have popped a link into the comments here on Facebook and we'll come back around and pop that into LinkedIn as well. Now, I want to make sure, Nicole, we cover the topic of insurance commissions before we run out of time, and time is absolutely flying. When we were talking about your research, your planned research back in December, we were hearing that owners were very excited to share their thoughts, their comments, their criticism, perhaps of the practice of our strata managers taking commissions from insurers.

I know you had a particular expectation perhaps of what owners might say under survey when asked about this and maybe a surprising result. Can you speak to that?

**Dr. Nicole Johnston:** Somewhat. Of course, these results are really always dependent on who is surveyed and who decides to take up the survey, and that's why I said right from the outset that this was a very sophisticated group of people that actually did the survey. As we know, stepping back a little bit, the majority of strata management companies have a fee arrangement that is based on taking insurance commissions or part thereof. So they have an annual, usually per lot core or agreed services fee.

Plus they have a disbursements amount and then incomes generated through commissions from insurers. Sometimes that split between a broker, it's really up to the broker and the management company to determine what that split may be, if any. So the insurer's just paying one entity, so they're usually paying directly to the broker and then it's up to the broker and manager to divvy up the commission.

A few things in relation to this. One thing that I was really interested, I wanted to hear from owners about what they actually thought about commissions and what their knowledge was around commissions, because I had a bit of an idea about how the commission system worked. But when I started to delve in, I was really surprised about actually how it does work. And I think that is one thing that needs to be much more communicated and I'd call out to owners to ask their managers exactly how it all works. They need to be more transparent and you need to ask the questions of them about how it actually works.

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And so we'd been talking about commissions. Commissions have been raised for a number of years in strata. Obviously, it was a very big focus in the ACCC report as well, and so, one of the points for me was just to ask owners what they actually felt. Did they actually care about commissions? Were they against them? Did they want better regulation? All those sorts of things that I wanted find out from people because no one had really asked owners, I don't think before in that sort of way.

And so when we asked that question, about close to 40% of those lot owners, I remember this sophisticated group of people said they want commissions abolished. They hate commissions, they quite principled on that. Another 30% or so were very much about regulations, so I think that comes back to disclosure and being more transparent. And again, that was a theme that came through in spades of all across this research. They just want more information, they want people to be really upfront with them about exactly how this works so that they can make an informed decision.

And so I'm urging the managers to do that, but I also urge the lot owners and committees to ask these questions very clearly to their managers because they have choice. There are managers out there that refuse to take commissions that aren't interested in it. They have a different type of fee arrangement model and you should seek those out if you are against the commission system, which is based on most companies.

And so then what I wanted to know with that, the people that were really the abolitionists that were... I probably wasn't overly surprised by that amount. I probably thought it would be higher, but people had... There were core areas in which to say yes or no to, so they didn't have a lot of choice. I pushed them into different holes. And so when you look at the people that want better regulation or are the abolitionists, you see that there's a tendency there that there's something not right.

I then isolated those that were the abolitionist group and I asked them, "Well, would you change your position if the fee, the agreed services fee or that core fee that gets paid on an annual basis usually per lot. If that goes up, does your position change in relation to you how you feel about insurance commissions?" We did it in increments, so if it changed by up to 25%, if it changed by 25 to 50% and so forth, so we had four different ranges there. And what was really clear is the position did change very, very quickly.

People viewed it as, "We hate commissions, we're very firm on that, but if we have to pay more through our agreed services fee, then our position starts to change very quickly. So we'll be less on the abolitionist aside if that fee structure changes." Which I think was a bit surprising to me given what I would consider a fairly low base in terms of the fees that are actually paid when you've got on average two, \$300 per lot per annum being paid for that agreed services fee.

It's different in some states, it goes up and it's slightly lower in a state like Queensland, but that's the basic average range. Well then a 25% increase or a 50% increase is not a huge amount, when you look at the size of budgets for most of these larger schemes, which is what we were looking at. So I was a bit surprised that their position changed so very quickly, but I think the end result here, it's just really about a stepped approach in relation to commissions. This is what I feel.

I think what needs to happen is people need to be much more transparent. People need to know exactly where the money goes, where the money comes from, the services that are being provided, and how that money is actually utilised from those commissions by the management companies. Oftentimes they're pooled under that general portfolio. They don't align with individual schemes. And so that information has to be communicated to people so that they can make a better decision about their management.

This is a customer service-altered environment and the consumer, being the owners corporation, those lot owners need to be more informed and need to actually ask these questions, and the managers need to be very transparent about how it works.

**Amanda Farmer:** And I think you can really see the link there between the manager communicating their value and exactly what it is that they do and the owner being upset should the cost of the management service increase. Because if you've got owners who don't understand or are not aware of the value that a strata manager brings, of course, it feels like pain, it feels like slap in the face-

**Dr. Nicole Johnston:** Of course.

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**Amanda Farmer:** ... if the cost of the service is going to increase by 25% or 50%. I can think of some professionals that I pay money to, my dog trainer is one of them that I think, "Oh my God, you give so much value and I would pay you so much more money if you asked for it," just because of the way that he communicates that value and he sets out the services that he does and packages up, and I just think, "Wow, this is amazing." Then on the other hand, accountants, lawyers can be very bad at this as well.

Strata managers that you think, "Oh my God, these thousands of dollars and I'm paying." And it all comes back to that ability to tell your story, to market your worth, to have that knowledge transferred to your clients of exactly what it is that you do and that-

**Dr. Nicole Johnston:** Exactly.

**Amanda Farmer:** ... you bring.

**Dr. Nicole Johnston:** Because under this area we had open boxes and really allowed people to communicate their thoughts about what was going on and it was overwhelming. We had so much information provided to us by lot owners and it was... The theme was the same, "We don't know what you do and you get all this money. We don't know what you do and then you get all the commission. How's this fair?" So there's something really wrong there if so many people are telling us that they don't know what strata managers are doing in relation to that commission, that insurance commission. So the onus is absolutely truly on the management industry to make very clear to their clients what they do.

**Amanda Farmer:** Yes. And they've been armed with an incredibly valuable resource here in your report. Now, you've mentioned brokers a few times there, Nicole, and it's not the first time that I've heard that brokers have a really important role to play. And sometimes this resource, that is a broker is not tapped into. I have chatted to a couple of brokers on the podcast actually and learned over the years a little bit more about what it is they do. I know you have a suggestion that owners can actually use the power of a broker more intelligently. Can you share those thoughts?

**Dr. Nicole Johnston:** Well, I think it's a couple of things. I think the first thing is that the strata manager needs to communicate very effectively about whether they're using a broker on behalf of a client and to give owners choice about brokers to use, understand their services, and that should be communicated really effectively as well. There seems to be an emergence of brokers. I think they've been around in some states for a while and I think it seems to be that some of the changes in the New South Wales legislation around this 3 quotes section has really moved this brokerage industry further. So it's been utilised much more since that came into force, I believe.

Again, they're getting paid for services, you need to know the services, and I think you should be inviting them into your committees and asking them lots of questions about insurance. What their role is, what their job is. Their job's quite vital. They're the ones giving you real advice around the insurance. You need to ask them questions about what the components are of the insurance, about the policies that have been taken up, where they potentially can save money? Do they need to have a higher excess that might then bring down their insurance and what impact that may have?

There's all different ways around with insurance that people need to have much more information to make better decisions about. And so I think really putting it onto to the brokers to say, "Well, you are getting part of the commission. You are there to provide these services to us. You are that real conduit between the insurer or the underwriting agency and the manager as agent for us." Get them in the room, ask them the questions. I must say, up until I started this project, I had no communication whatsoever with our brokers.

And to tell you what, when I started researching this, I was on the phone to the broker going, "Okay, I've had a look at the invoices. How does this all work? How's this commission split? What do you do for us in relation to the money that you get? Please give me a detailed outline of the services that you actually provide." I think it's important again, to make sure that you have a good relation, get the manager to invite them on your behalf into meetings and have a discussion about the services that they actually provide.

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**Amanda Farmer:** Did you come across in your research, Nicole, or even your personal experience, any reports of pushback on the part of insurers or brokers when it comes to communicating directly with a committee member or with an owner? I hear that sometimes from my clients and from owners simply saying, "Amanda, I'd love to do all those things, I'd love to find out more about the insurance, but I ring up and I'm told, 'Oh no, we can't talk to you because you're not because you're not-

**Dr. Nicole Johnston:** Oh, really?

**Amanda Farmer:** ... the strata manager or you are not the secretary of the committee."

**Dr. Nicole Johnston:** Well, I think if that happens, it's time to move on. Find a new broker or find a new manager. That's just not acceptable. You're the consumer, you're the one paying. You're the one ultimately paying for this. And so-

**Amanda Farmer:** Understanding your benefit, you need it.

**Dr. Nicole Johnston:** I can say, in any service where you're a customer, why would anyone put up with that? I certainly wouldn't if I rang my lawyer and said, "Can you come and have a chat to our committee about what's going on here?" And they said, "Oh, now, we'll just communicate." I see if I'd keep them on. That's a no go, no. They're a service provider and you're the consumer and I would just be demanding. And if they don't come up to scratch, well, then it's probably time to move one.

From the conversations that I had with people, that wasn't really an issue. I think they like to deal with committees that are high function committees that are very harmonious, understand what's going on in their scheme and communicate effectively. That does speak to me.

**Amanda Farmer:** Don't we all?

**Dr. Nicole Johnston:** Don't we all? They struggle where there's really fractured committees that aren't disclosing information properly, very difficult to deal with, won't do anything in terms of repair and maintenance of the building, that sort of stuff. That came across, but as far as directly to communicating with clients, that didn't come out in anything that I saw.

**Amanda Farmer:** And indeed for the first time in my career really, in the last couple of years, I've heard of a few examples of buildings that were not able to get insurance or at least found it extremely difficult and were pushed to the 11th hour really because of insurers that were simply unwilling to quote, because of claims history, because perhaps it's a competitive market. Did you have findings in your report about that?

**Dr. Nicole Johnston:** Yes, definitely. There are some schemes that find it almost impossible and I think some impossible to get cover, and it's sometimes for a varied reason. So some of the schemes up in the north, just because of the nature of where they're located and the perils, especially up in the Northern parts of Queensland and WA have very little choice in terms of what insurer that they can go with. And some of them had to go internationally, so they'll go to somewhere like Lloyd's that will get them covered, but very difficult in some areas to get choice.

In some of this bigger cities, also those that are very big, complicated buildings that might have defect issues, again, difficult to get cover, especially if they want to move. So if they want to change providers, that becomes even more difficult for people. The insurers said to me that if you've got a building that has issues around defects and they've been a client for a long time, and they try and help assist in keeping them as a client and going through the process with them to deal with any sort of rectification issues, but changing is very difficult.

And if it's a really complex building, or if it's a building or a scheme that's probably not a traditional type of scheme. So it might have farm elements all that sort of thing included in the scheme, that can be really difficult to get insurance as well. Yes, because availability or the different types of insurance that are providing these sorts of products are shrunk, making it very, very difficult just because of the nature of the market at the moment.

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**Amanda Farmer:** I'm sure the pandemic is not going to assist with that into the future as we start to have these new questions. As I spoke about at the top of this chat about duty of care and use of common property by members of the public and perhaps unvaccinated residents. There is a whole series of questions relating to insurance and insurance coverage in that situation that I'm sure will be airing perhaps over the next year or so.

**Dr. Nicole Johnston:** Absolutely. Well, I think there's lots of more work to be done, more research to be done in so many areas of strata, we're just scratching the surface. And I really look at this report as... Because it's the first of its kind and it seems to be the first of its kind anywhere in the world. I'm getting lots of people across the globe contacting me about it, but it's a starting point. I don't profess to say that this is a perfect and it covers everything. We've still got more work to do, but this project could have gone on for 3 or 4 years.

There's so much data and there's so much information around strata insurance. Could be never ending really, but I think it's a good start. We've got something down on paper that I hope that helps both managers communicate better and for owners to feel a little empowered to ask some of these questions of their manager and broker.

**Amanda Farmer:** Well, you've got plenty down on paper, that's for sure. We will just add in there again, Richelle, the link to the reports so our viewers can go over and have a look at that. Nicole, you have a particular skill at conveying complex information in an easy-to-understand, easy-to-read way with very clear takeaways for stakeholders, whether they are strata managers [crosstalk 00:49:43] or consumers. And I thank you for that, it is definitely-

**Dr. Nicole Johnston:** Pleasure.

**Amanda Farmer:** ... a valuable resource. And thank you for giving us your time when I know you are so busy and when I-

**Dr. Nicole Johnston:** Always.

**Amanda Farmer:** ... see what's happening on LinkedIn. Whenever you release a report, I think you're busy for the next 2 years, and then you release another report, so.

**Dr. Nicole Johnston:** Yes. We're just about to start a new one, so we're just wrapping up over the next week or so with the insurance one, and then we're off to a new project. It's quite big and exciting, so yes, that's great.

**Amanda Farmer:** Thank you so much for sharing your expertise and thank you, everybody. Thank you, Dr. Nicole Johnston, enjoying

**Dr. Nicole Johnston:** Pleasure.

**Amanda Farmer:** ... the sunny state. Hopefully-

**Dr. Nicole Johnston:** Yes.

**Amanda Farmer:** ... some of us can be there soon.

**Dr. Nicole Johnston:** Take care. Thank you.

**Amanda Farmer:** You too. 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](http://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?

