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YSP Podcast Transcript: 459 - Strata Reno Reality Check: Approvals, Red Flags + What Owners Must Know

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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'm your host, strata lawyer, Amanda Farmer and my guest this week is Scott Pearse. Scott is a registered design practitioner and the director of TightKnit, a specialist renovation design practice focusing on apartment and apartment building renovations for the last four years.

Scott has intimate knowledge of the processes, the pitfalls and the opportunities of renovating in strata and community title buildings. In this chat, we talk about the impact of the Design and Building Practitioners Act. Why it's so important for committees to understand when renovations require development consent and what the biggest blockers are when it comes to owners getting approval for their renovations. I'll take you over now to my chat with Scott Pearse.

Scott Pearse, welcome to the show.

Scott Pearse: Thanks, Amanda. Lovely to be here.

Amanda Farmer: Pleasure to have you here with me today. Scott, let's start here. Tell me a bit about you, how you came to be involved in strata reno projects. What was your intro to strata?

Scott Pearse: Sure. As you said in your intro, I'm a registered design practitioner and a director of TightKnit. So the business has actually been in operation for four years. You know, we just clocked up four years and essentially when we started, which would have been sort of mid-COVID-ish, sort of start of COVID. At that same time, the Design and Build Practitioners Act was coming into effect, we were seeing the first application of it around about the same time that the business started.

So, of course, as you do when you're starting a new business, you're kind of looking for that niche in which you can start to attract clients and an area that you want to practice in and try to gain knowledge that other people don't have, perhaps because you're new to the market. And what I was experiencing is that of the people that I was talking to, if we go back to that time, sort of mid-COVID, it was a pretty popular time to renovate.

People weren't able to go overseas, they weren't able to leave their houses, and so they were having a lot of thoughts about how they'd like to change that space. So there was a lot of inquiries during that period of time, and one that I kept getting again and again and again is, "Can you do class 2 apartment renovations?" and new to not really understanding.

I was like, probably, "Sure, why not?" And I would be like, "Well, why are you asking?" And the, what I was experiencing is that people were going through these processes where they'd called 15 other people and they were just getting, "No, no, no, I can't do that." And it was really, it was just because the legislation was so new, and the pool of people actually do the work was very small.

So they weren't the ones that were receiving the phone calls. Evidently it was everyone else. So that was the first thing that I sort of went, "Okay, there might be something here, let's investigate this." But you know, then the reason that I decided to jump in because one would could also think that, well, if everyone else is saying, "No, why would I be the person to say yes?" It's probably...

Amanda Farmer: Yes, "What's wrong with me?"

Scott Pearse: Exactly, exactly like. But I sort of dug in, and I'm willing, you know, at that time I was willing to start saying yes to those projects. It's not, it's not the type of project that somebody would build a business around. Like, people don't necessarily want to work in these smaller apartment projects. And here I'm talking about homeowners, single occupancy unit renovations, right? They're just too small.

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They're too small for the majority of people to want to do them, you know, but for me, I live in a 54 square metre apartment in Bondi Beach, and I love apartment-building. I think apartment living is the way forward for persons like myself. I've only been back in Sydney for sort of five years and prior to that we were living up the coast in Smith's Lake, if anyone knows that on the beautiful mid north coast just south of Foster and you know, had two acres, five bedroom house, chickens, veggie patches, pool, workshops, all that stuff, you know, all that stuff, all that stuff.

And basically, yes, it was during COVID where we were like, "Hang on, is this how we want to live our lives? Is this working for us still?" And evidently, my wife and I are people of extremes. We went from the sort of hobby farm, you know, if you will, but down to a 54 square meter one-bedroom apartment.

Amanda Farmer: Big change.

Scott Pearse: It is a big change, but I love not having to mow my lawns, you know.

Amanda Farmer: Yes.

Scott Pearse: What a joy. And being close to publicly maintained facilities, like we are when we're in the city. What I've come to realise by having that other experience, which was a beautiful time, you know, and more power to the people that make that their lifestyle. But this is, this is who I am. I'm an apartment dweller. And so it would be remiss of me to when other apartment dwellers reach out for assistance in their projects to find those people that are, that are able to help them, I need to be able to say, "Yes." So that's where I'm at.

Amanda Farmer: So, tell me this, Scott. TightKnit helps individual owners kind of from where to go. You know, they come to you saying, "I've got this idea for this reno, I need design, I need plans, I need drawings, I need help applying to the owners corporation for approval." You guys help with the whole package. Have I got that right?

Scott Pearse: Indeed, yes. We'll go from the very beginning of the process all the way through to tendering for the builder. We'll even walk through the construction just as the client's advocate, basically, as much service as the project needs, we are willing to offer. At the end of the day, we want people to be able to come to us and for us to be able to guide them to the point where they're standing in a brand new apartment.

Amanda Farmer: Yes, and tell me a little bit about the need for this from your perspective. I mean, people are coming to you once they know that you exist, I suppose, and know you provide this service. Why? Because they're time poor, because they don't understand the process, because the law is complex, because their strata manager doesn't respond to them. I mean, all of the above, you might tell me, what is it that they're coming to you complaining about?

Scott Pearse: The reality is it is a complicated process, and at the very least you need to explain to your strata what it is that you're doing, you know, and the best way to do that is of course through architectural plans or even visualisations. We do a lot of applications where we provide those sort of 3D photorealistic images of kind of what's going on, just to help. Basically, it's a complicated process.

People sort of don't know where to start. And the worst part about it, of course, is that most of this work of educating people is falling on strata managers, so basically, you've got strata managers who aren't being paid essentially to educate people on how to navigate these processes, doing that work. And so they're leaving the clients just as confused as if they didn't have someone. And quite rightly, because it's not a strata manager's job.

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And so, yes, that's where we really provide value, I think, it's just like if you need somebody to help you understand the process, or if you need somebody to do the process for you in collaboration with you, I think that's where we provide the most value. But you know, we've seen a little bit of everything. You know, we've got clients that come to us who are like, we just need these documents that the strata managers asked for to get us through OC approval all the way through to kind of like, "We've got no time. Can you please do this for us?"

Amanda Farmer: Yes. Great. Now, you mentioned straight up there, Scott, the Design and Building Practitioners Act, now well known in our listener circles, I think, piece of legislation that is haunting many of us in strata. How do you see that legislation impacting individual apartment owners now? And how are you interacting with it when you're working for these individuals?

Scott Pearse: Yes, first off, to say, you know, the Design and Build Practitioners Act was probably necessary. It needed something needed to be done, in relation to, you know, we see the mascot towers and we see those sorts of things. I mean, that's essentially what happened, that there was those issues in the construction industry.

And the Design and Build Practitioners Act is what was devised by the building commissioner to address those issues. And the issue really is it's about accountability. It's about if something goes wrong, who is on the hook. But in all the training that I've done to become a design practitioner, which is what you need to be to make declarations under the Design and Build Practitioners Act, which is to say, to draw drawings that can help you navigate this process.

There was not one mention of how this would impact alterations and additions, renovations, and whether that be in single occupancy units, so homeowners units, or whether it be for the entire building. And we're looking at a lot of the waterproofing, remedial work that people are having to do and things like that. There was, it felt like, the whole Act has been written to apply to putting up a new tower block.

Amanda Farmer: Yes.

Scott Pearse: And so that's really where a lot of these issues are coming from. Like I'm working on apartment renovations for people that have various budgets, from \$100,000 to we've got one at the moment that's just over a million dollars and of build cost. And yet we're having to go through the same process essentially as another application would if it were like a 40-story apartment building.

Those same rules, those same legislations, those same processes are being applied. And so it's just made. The cost is skyrocketed of going through the proper channels, of going through a proper consent. And what we're talking about there is sort of a CDC process, a complying development. Sometimes we have to go through DA because there's heritage considerations or something like that. So, going through those processes has just become so much more expensive.

And it's become expensive because there is now a requirement for so many more design practitioners, building practitioners, all these different people to sign off. It's become a real industry of what I like to say, sort of \$2,000 pieces of paper. You know, you need to go and get somebody. I get this long list of all these \$2,000 pieces of paper that I have to go and get, and inevitably, the client pays for.

And do you think that's overkill for reno projects for what are essentially improvement projects that individual owners want to do? Do they really need those \$2,000 pieces of paper?

Scott Pearse: I mean, when we're doing simple things, of course, it feels like no. But even simple things, when we're living in a shared asset, when we're living in apartment buildings, when something goes wrong, the paper trail, the places where people have signed their name to their work, the people, you know, like myself, where I've signed that my designs are compliant for homeowners to be able to go back and find a person for the insurance company to go chase for that money and things like that.

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And that's essentially what the Design and Building Practitioners Act is about. It's about accountability. It's about documenting things correctly so that we sort of. Do we need the \$2,000 piece of paper, then? It's hard to say, like we haven't got a better system.

Amanda Farmer: Right, yes.

Scott Pearse: But, yes, often it feels like, I've had one recently where I was being asked to provide electrical engineering for new power points. Like, this is just bog standard, putting power points in. And there you go. But it wasn't quite a \$2,000 piece of paper, but it was, I think, \$1,500 to go find an electrical engineer that is a design practitioner and that we'll even look at this, because all the people that are design practitioners are tending to work in those huge towers. That's the other real impact here. Is that there's just not that many people that want to work on projects at this scale.

And that's the issue that we've faced through our first, probably two years of existence. And really focusing on these projects is building that network of other consultants that will say, "Yes" to these things and will still do a good job, because most people they're not interested in selling \$2,000 pieces of paper. They're trying to work on bigger projects. And sell \$20,000 pieces of paper.

So that's been a real challenge, and probably why the costs have gone up so much too, because the pool of people that can actually work in these projects, who are design and who are building practitioners, is relatively small. And then there's an even smaller subset of those people who are trying to work on projects in class two, you know, in renovations, essentially.

Amanda Farmer: So, just to clarify, Scott, what is it that is bumping these lot owner reno projects into this category of needing to be Design and Building Practitioners Act compliant? Is it because they need DAs? Is it, they're affecting waterproofing? I mean, some of our listeners might be thinking, "Hang on, if I'm doing some electrical work, is Scott telling me I need to have a design practitioner to change my power points? Like, what's the difference between those two levels of work?"

Scott Pearse: Pretty simply exempt or complying development, really, or above that, the requirement for a DA. So, exempt development covers a lot of things that would be typical in an apartment renovation. What we really see, mostly that knocks us into the complying development category. And as soon as you've exited exempt development, you have to go through a process.

You have to go through the CDC process with a private certifier, or sometimes you have to even go into DA if you've got a heritage overlay on your building. Or there can be a number of things that kick it in there. So we could just start with exempt development. You know, as far as the things that really knock typical apartment renovations out is touching a wall. Most people, most apartments, projects that we deal with, inevitably people want to take down a wall that probably divided the kitchen and the living room..

Amanda Farmer: Yes, very common.

Scott Pearse: And sort of create a bit of connection between those space. Yes, that's 80% of our projects, I would say. That's one of the things that's going on. And what exempt development says is that if there is a change of arrangement, whether by the removal of a wall and a couple of other clauses, you know, so that's one of the things. As soon as you're touching a wall and changing the arrangement of the apartment, you are into a CDC, you're into complying development. There's still a lot of grey area around sort of the bathroom thing.

Amanda Farmer: Yes.

Scott Pearse: But it does say in there to renovate a bathroom. Okay, so does renovating a bathroom mean that if you've got two bathrooms and you're doing both, suddenly are you into CDC? You know, it can be a very grey area, the exempt development. And different practitioners will see it a different ways.

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Amanda Farmer: Very frustrating.

Scott Pearse: Different certifiers will see it different ways. Different, you know, owners, corporations can see it in different ways. So, yes, there's not a lot of consistency about how that's applied. But that's one of the first things we do when we're trying to work with people, is we're like, "Okay, let's understand what you're trying to achieve here and see if we can do it under exempt development."

And then, okay, if they get to the point where they're like, "No, absolutely, we need to remove this wall." And I'm like, "Okay, cool." Well, here are the costs and here's the timelines of going out and getting that approval.

Amanda Farmer: Yes. And all of a sudden, maybe the wall can stay.

Scott Pearse: Sometimes we get there. Yes.

Amanda Farmer: Scott, what do you see as the biggest roadblocks when owners are trying to get the owners corporation to approve their renos?

Scott Pearse: The delay in response? A lot of the time, from a strata manager and OC, I know that we've seen some new legislation come in that hopefully will hasten that. If we don't hear anything, then we.. Then it's an instant approval in some circumstances. See how that starts to play out. But at the end of the day, what I say to people is that getting through your owners corporation, getting your strata approval is a very political process.

Whereas if I'm going through a CDC, you know, one of the more..the government processes, we have to abide by legislation. It's not entirely consistent, but there's relative consistency in that process. Whereas in OC, essentially, people can refuse your apartment renovation because they don't like the way that you recycle. You know, they might have seen you putting paper in the red bin, and that can lead to a refusal from one vote. You know what I mean? At the end of the day, you've only got to carry. What are we talking, 75% generally. And that's only if it's major works, but yes, those are the..

It's the length of time and just the number of people that you have to kind of appease, you know. And as I said at the top of this, you know, we're more than happy to come in and help people from go to woe. That's one of the services that we offer. But what we never do is advocate for the design to the other owners on behalf of the owner, because it is such a political process. Every time we put the owner in there, we need the owner talking to the other owners.

Like people. The last thing that they want is me in there trying to convince them that this is all good. I'm more than happy to attend and offer color commentary and certainly advise on the processes and what I understand those to be. But what we really always need is owners talking to other owners. You know, that's the way that strata actually functions when it's functioning well.

Amanda Farmer: Yes, I'm so glad that you raised that, because those are the words that I'm telling my clients many days of the week and saying, "This is not a legal issue, this is not a legal process. This is a political process. And you need to campaign, you need to lobby, you need to gather support, and do that ahead of the general meeting where your by-law for your major works project is on the agenda. Go and knock on those doors, email those investor owners who may not be there, introduce yourself, let them know what it is that you're wanting to do and how it will impact them, how it will add value to everybody's property."

And I see owners where, you know, a proposal is looking a bit borderline. The ones that get across the line are the ones who are the owners who are willing to do that extra work, and they recognise that political game. So, yes, I agree completely.

Scott Pearse: Yes. I mean, it really.. The applications that I see get refused the most are always people who have just purchased and then three weeks into their ownership of, have loved a major works, called an EGM for major works.

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Amanda Farmer: Yes, or they've just started without the approval, and then they're scrambling to get retrospective approval. "Can we keep going, please?" Yes. Not a great place to start in a new community.

Scott Pearse: That's right. Yes. So, I mean, everybody wants to rush in and start swinging hammers, like, that's always everybody's anxiety and what they really want to get going on. But yes, I mean, the smoothest applications are always the one when somebody's maybe lived there for a year and they've been contributing positively to the strata and the maintenance of the building. Or it's just goodwill, you know, at the end of the day, goodwill really, you're going to cause a lot of disruption as well.

Like it's unavoidable that there's going to be a lot of disruption from you chipping the tiles off your bathroom, the jackhammering and all those sorts of things. And so, yes, it is so worthwhile to go out there and make sure that you have smoothed the waters as best you can. And people can see that you are acting in the best interest of the building, where you're not trying to pull a swifty on anyone or act in your own best interest, that you do have every consideration for others.

Amanda Farmer: Yes. And what about those people who go ahead and do work without first getting approval? I mean, we hear about, I certainly do hear about situations where, you know, there's a noise, there's drilling, somebody says, "Oh, they're lifting the tiles up. This has been going on all day. Emails to the strata manager, what's going on?"

Have you been involved in those situations before? And do you have any recommendations for our owners? You know, how do you tell the difference between work or noise that might be going on, that could be unapproved, or, you know, someone's just putting a bookshelf up and that's okay.

Scott Pearse: Yes, exactly. I mean, you'll know it if people are lifting tiles. It's very noisy. But I think it is such a difficult thing because I know in. I live in a strata building as well, and I hear somebody doing something, and suddenly I'm all, you know, nosy neighbour, "What's going on in there?"

And they haven't been through the correct process. It's hard. This is a shared asset, you know what I mean? Like, if somebody's going to go lift the tiles and then affect their waterproofing and it floods someone else, like this is your strata insurance, your premiums, like it affects you, and so you're well within your rights. But there is always that point too, isn't there, where it's like, okay, just let people live.

Like that's a part of strata living too, is kind of like finding that balance between being terrified for your shared asset and letting people enjoy their peaceful enjoyment. But, yes, I'd certainly draw the line when people are jackhammering tiles. So if you've got to skip out the front and people are going backwards and forwards with lots of..

Amanda Farmer: It's a good hint.

Scott Pearse: Yes, that is a good hint. Yes, exactly. And I mean, it's just tough. Okay, so first of all, you'd want to inform your strata and the other owners committee that somebody's doing works, as far as I'm concerned, if it feels like it's substantial anyway, just because you don't want tradesmen coming in and out of your common areas without it being protected, and you can almost be certain that if they've just gone ahead, there's no homeowners warranty insurance there.

You know, there's a reason we've got these processes, and the reason is not to slow people down and stop them from doing what they want. Like, the point of the processes is to approve building. You know, that's what all of our processes are about. It's to approve building so that people can do what they want. But yes, that risk. Part of the system is to protect everybody. Part of the system is to make sure that people are on the hook if something goes wrong, and the correct certifications in place.

So it is a fine line, but it should be fairly obvious. If someone's knocking down a wall, you'll see someone with buckets going backwards and forwards to a skip out the front. So, yes.

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Amanda Farmer: And really, any type of major work, there should be notice given certainly to the strata committee via the strata manager. Whether that then gets passed on to the residents to let them know this is the date it's starting. That's a matter for the building. It should be, you know, there should be signs put up, there's going to be noisy work.

If you haven't had any of that, have a look in the minutes of recent committee meetings, recent general meetings to see, "Has there been a by-law approved and we didn't turn up to the meeting, so we're not aware of it". You know, sometimes people do jump the gun and say, "What's going on?" Because they just haven't been engaged and paying attention.

Scott Pearse: And people don't know the process, you know what I mean? Like, these aren't professionals in the apartment renovation space. They haven't probably thoroughly read the documentation that there's actually, you know, this is all supposed to be in with the strata manager two weeks before commencement. There needs to be a commencement email issued by the strata manager and all these sorts of things. And to be honest, the reality is that a lot of people get away with it, too.

Amanda Farmer: Yes.

Scott Pearse: And so it's hard to when there's no enforcement and the people are getting away with it. It's difficult to motivate people to go through those proper channels. Of course, when I say they're getting away with it, what I mean is that they're doing the work. They're opening themselves up to a whole world of risk by not going through the proper processes. And so, you know, they might get away with it while they're doing it or those sorts of things, but the long-term risk for the building and specifically for that owner is pretty high.

Amanda Farmer: Many of our listeners, Scott, are committee members, and I know are always happy to hear about any red flags that they should be aware of when they're looking at renovation applications. Now you did just touch on the new law in New South Wales, which requires a committee, if the committee has been delegated the authority to approve minor work, to do that within a three month time period and let the owner know if the application is refused, why it is refused within that three months.

If that doesn't happen, as you've said, then the application is deemed approved. So our committees really do need to be on top of these applications. Now, any red flags, common things that you suggest that they look out for questions they should be asking before they give the okay?

Scott Pearse: Yes. What I would say is that what I would love to see, New South Wales wide is that there is an assessment. Maybe this could be built into the minor renovation clause. It could just basically be in the constitution of HOC that there is a review undertaken by somebody of some type of qualification, whether that be a building designer like myself, an architect, a town planner. You know, we've got BCA consultants, we've got a lot of professionals that could undertake these reviews, and there has to be a certificate provided by the person doing the renovation saying, "That this has been reviewed and this is exempt development."

Amanda Farmer: Right.

Scott Pearse: I've never seen it, I've never seen a requirement for that. I mean, I've certainly offered that service in the past. It hasn't. I wouldn't consider it a huge cost because this is essentially what's happening. You're having a number of people who have no idea about what exempt or complying development looks like, really. You know, they're not trained and educated in those sorts of ways, who are then giving approval.

And I often worry about what are the strata managers leaving themselves open to? What's the OC's leaving themselves open to? You know, obviously it's a challenging environment for those people. So that is the, you know, I would love to see that built into more processes where it's just a simple review.

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Amanda Farmer: Yes. From a legal perspective, that is something that a committee could build in to their approval process. They don't need a clause in the legislation allowing them to. It can be a reasonable condition of approval that you owner, present us with a certificate from a qualified person, whoever that may be. As you say, confirming that this is exempt development. I've certainly seen by-laws.

I've drafted by-laws that have clauses in there that require the owner to get all approvals that may be necessary, including approval under the Environmental Planning Assessment Act, approval under the Design and Building Practitioners Act. I mean, we put that into the by-laws. But this is a step further, right? This is requiring the applicant owner to be proactive in providing you, the committee, with written confirmation that this is exempt development and no other approvals are required. So, yes, I love that as an idea.

Scott Pearse: Yes, precisely. And exactly that. Like, every one of the by-laws that I've ever interacted with that we've put in for our projects, they all have that exact clause, basically, all applicable, you know, planning consents. And it becomes at that stage, usually, the OC signed off on the project. Right? And so it's essentially the strata manager that's issuing that commencement consent, because in the by-law it will say, you need to deliver us all necessary permits and all that sort of stuff.

Builders insurance, rah, rah, rah. You know, like that's in the typical standard renovation by-law. And then it becomes incumbent upon the strata manager to review that all those documents have been received, and then suddenly the strata manager has issued a commencement. Right? It's like the strata manager hasn't. Have they looked to see if all applicable planning consents are there?

Amanda Farmer: Yes. Or the owner just says, "No, there's no applicable consents required." So we go, "Oh, okay". Just accept that."

Scott Pearse: That's right. Exactly. And so we're really operating in this grey area that could be very quickly rectified by just having the requirement for somebody knowledgeable to have a look and be like, "No, actually, this needs to go through." If they want to do this part of the work, this needs to go through a CDC. That's the law.

Amanda Farmer: Yes, I like that. And no doubt we've got a few listeners out there, maybe a small handful who are thinking, "Yes, that's what we do, Amanda. That's what we require in our building." Feel free to post a comment under this episode on the website if that's what you're doing. I would love to hear from you.

Scott, you are a font of knowledge in this area. Where can our listeners go to connect with you, find out more about what you do. Use your services if they need to?

Scott Pearse: Sure. I'm on LinkedIn quite a lot, talking about all this stuff, so you can find me on all sorts of channels. We can find you on Facebook, on Instagram, and then on LinkedIn under my name, Scott Pearse, or under the business name TightKnit Building Design. We've got a website, so tightknitbuildingdesign.com is another place to go.

Or you can pretty much go into your Google Maps, type in TightKnit Building Design there as well, and you'll show up that our office is in Bondi Junction, and you can find a way to our website from there and get in contact with us. You can schedule a, basically, I offer a phone call to anyone who wants to have a phone call. You just need to hit on the website, and here you'll be getting to meet my beautiful pot plant here and we'll have this conversation in private.

Amanda Farmer: Fantastic. I love it. Well, thank you for providing this service to our strata owners in a space that others have hesitated, perhaps to step into. Thank you for your time chatting here today.

Scott Pearse: Thanks, Amanda. Appreciate it.

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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 via the show notes at yourstrataproperty.com.au.



Demystifying the legal complexities of apartment living.