



ACSL

Australian College of Strata Lawyers

19th Annual ACSL Strata Law Conference

Wednesday 6 – Friday 8 March 2024

*Embracing a Complex Future:
Meeting our challenges and opportunities
with expertise and integrity*

Four Seasons Hotel Sydney
199 George Street, Sydney,
New South Wales, Australia



ACSL
Australian College of Strata Lawyers



The 19th Annual ACSL Strata Law Conference is being held in Sydney, New South Wales, Australia in March 2024.

The ACSL Conference is the premier event of the strata legal community's calendar, presenting an unequalled opportunity to hear from pre-eminent industry experts.

The ACSL Conference is open to members, aspiring members and non-members. Take the opportunity to attend to acquire new knowledge, benefit professionally and add value to your practice. For non-members it is an opportunity to hear of the developments in the increasingly specialised area of Strata Law. The conference is also open to strata industry personnel.

I wish to thank the Conference Committee for their commitment to bring to you the 2024 conference.

Tim Graham
ACSL President

See more at: <https://acsl.net.au/conference-2024-registration>

2024 ACSL Conference Committee

• **Amanda Farmer**
Lawyers Chambers
NSW (Chair)

• **Michael Allen**
Bugden Allen Graham
Lawyers NSW

• **Allison Benson**
Kerin Benson Lawyers
NSW

• **Gary Bugden OAM**
Bugden Allen Graham
Lawyers QLD

• **Thomas Gibbons**
Thomas Gibbons Law NZ

• **Frank Higginson**
Hynes Legal QLD

• **Pino Monaco**
GV Lawyers WA

• **Vicki Toan**
Glaister Ennor NZ

Day One

Wednesday 6 March 2024

Session	Time	Topic	Presenter
	8.30 am	Registration	
	9.00 am	Welcome	Tim Graham, President, ACSL Bugden Allen Graham Lawyers VIC
		Annual General Meeting	
Session 1	9.30 am	Recent decisions of Supreme Court in strata matters – examining how the codified strata legislation interacts with broader legal principles.	The Honourable Justice Elisabeth Peden Supreme Court of New South Wales
	10.30 am	Refreshment Break	
Session 2	11.00 am	A New Role for NSW: The Hopes and Challenges of our Strata Commissioner	John Minns NSW Strata and Property Services Commissioner
Session 3	11.30 am	Liability for Breach of Statutory Duty - Across Jurisdictions Who may be held liable for breach of statutory duty in the strata-title context (owners, committee members, OCs?). What risks are borne by owners and what control do they have over those risks? A comparison of those jurisdictions with express statutory provisions re liability for damages, and those without.	David Knoll, AM Barrister at Law, NSW
Session 4	12.10 pm	CPD Session - Practising Better – Collective Learnings We all have shortcuts that make our lives working lives easier or better. This session is designed as a more collegiate one where we asking attendees to suggest the one thing that made the biggest difference to their work lives with a view to helping others in the conference. An engagement survey will be conducted to see how members are adapting and adjusting to cope with their perceptions of internal and external conditions. The survey will be forwarded to all members prior to the conference. Members participating will be assured that survey responses will be and remain anonymous.	Frank Higginson Hynes Legal QLD
	1.10 pm	Lunch Break	
Session 5	2.00 pm	Debtor Owner Rights -v- Paying Owner Rights The instances of bankruptcies arising from levy arrears has been dramatically increasing (up to 40% of all bankruptcies in one State) and the recovery costs frequently dwarf the size of some levy debts (i.e. the amount for recovery costs being many times the amount of the levy debt). Has the time come to re-balance the rights of the debtor and the creditor? What are the options?	Gary Bugden, OAM, Bugden Allen Graham Lawyers, VIC

Day One

Wednesday 6 March 2024

Session	Time	Topic	Presenter
Session 6	2.40 pm	Hybrid Property Forms and Strata Strata legislation is by design enabling but can also be restrictive. For this reason, looking outside or beyond the parameters of legislation is often seen as necessary or desirable. This paper will focus on hybrid property forms used instead of, or alongside, what is prescribed by strata title legislation; while strata is itself a hybrid, its foundations and constraints are legislative. A number of hybrid property forms have emerged in New Zealand, partly because of its pragmatic and flexible approach to property law. These include cross-leases, unit titles bound together by encumbrances providing for a rent charge, the use of covenants to prevail over unit titles legislation, and the use of residents' societies binding fee simple and unit owners. Partly, these reflect a recognition of the limits of New Zealand's unit titles legislation, and they can be seen as innovative and responsive, but they can also be seen to reflect a desire to avoid consumer protection that is often embedded in legislation. Hybrid property forms in other jurisdictions will also be considered, along with issues of general application.	Thomas Gibbons Thomas Gibbons Law, NZ
	3.20 pm	Refreshment Break	
Session 7	3.35 pm	The Reform Agenda in NSW and QLD: Wins and Challenges Addressing recent reform and querying the need for more in NSW and QLD – including from the strata manager perspective	Amanda Farmer Lawyers Chambers, NSW Reena Van Aalst Strata Central NSW Shannon Moody Barrister-at-Law, QLD
Session 8	4.25 pm	Repair and Maintenance Obligations in NZ Bad law can lead to confusion, disputes, and a lack of confidence in decision-making. The division of responsibility for repairs and maintenance, and the allocation of costs of repairs and maintenance, between the body corporate and unit owners in unit title developments in New Zealand is fraught. A pragmatic practical response is needed to assist bodies corporate and unit owners to keep their buildings in a good state of repair. This session will highlight practical difficulties with applying the law as it stands through case studies and attempt to provide common sense solutions.	John Greenwood Greenwood Roche, NZ
	5.05 pm	Conference sessions conclude for the day	
	7.00 pm	Machiavelli Ristorante Italiano 123 Clarence Street, Sydney, NSW, 2000	

Day Two

Thursday 7 March 2024

Session	Time	Topic	Presenter
Session 9	9.00 am	<p>Pre-recorded exclusive session for ACSL only – Delegates are invited to submit questions prior to the conference for Professor Sunstein to answer during his presentation.</p> <p>Nudges: Past, Present, and Future In recent years, social scientists have been incorporating empirical findings about human behaviour into economic models. These findings offer important insights for thinking about private and public actions and its likely consequences. They also offer some suggestions about the appropriate design of effective, low-cost, choice-preserving approaches to social problems, including disclosure requirements, default rules, and simplification. A general lesson is that small, inexpensive policy initiatives can have large and highly beneficial effects. In the United States, Europe, and Australia, a large number of recent practices and reforms reflect an appreciation of this lesson. They also offer lessons for the future.</p>	<p>Professor Cass Sunstein Robert Walmsley University Professor Harvard University Law School, US</p>
Session 10	10.00 am	<p>Strata Case of Interest –presenting an overview and analysis NSW</p>	<p>Tom Yeoman Yeoman Legal NSW</p>
	10.20 am	<p>Refreshment Break</p>	
Session 11	10.45 am	<p>Climate Change and Adaptation in Strata The effects of climate change in the form of more frequent extreme weather events are being felt all over New Zealand and Australia and around the world. How we adapt to our changing environment impact land uses across the board including new and existing (strata) buildings. In New Zealand, the National Adaptation Plan seeks to support adaptation to climate change across all sectors.</p>	<p>Vicki Toan Glaister Ennor Lawyers, NZ</p> <p>Assistant Professor Ned Wales Bond University, QLD</p>
Session 12	11.45 am	<p>CPD Topic – Client Interview Technique – theory and practice</p>	<p>Michael Kleinschmidt Bugden Allen Graham Lawyers, QLD</p>
	12.45 pm	<p>Lunch Break</p>	
Session 13	2.00 pm	<p>A case of distant cousins - English commonhold and Australian strata This paper considers how English commonhold has developed as a new estate in land, seeking to explain why the typology has generally been eschewed, with the long lease preferred. Has the comparative success of Australian Strata been more about how the two different systems of title work or more to do with the legal context and culture in the two jurisdictions?</p>	<p>Associate Professor Edward TI Yong Pung How School of Law, Singapore Management University, SG</p>
Session 14	2.40 pm	<p>Barangaroo – a transformation From a gas works and stevedoring site, the Barangaroo has been transformed into Sydney’s latest commercial, tourist, entertainment and cultural precinct.</p>	<p>Michael Allen Bugden Allen Graham Lawyers, NSW</p> <p>Anne Taylor, Special Counsel Clayton Utz, NSW</p> <p>Louis Masciantonio Infrastructure NSW</p>
	3.30 pm	<p>One Way Transport - Please be in the hotel foyer ready at leave at the appointed time Destination –Barangaroo Precinct (Delegates are advised that there will be no return transport to the conference hotel or other accommodation. Public transport is available, or walking is an option)</p>	

Day Two

Thursday 7 March 2024

Session	Time	Topic	Presenter
Session 15	3.45 pm	Site Visit of the Barangaroo Precinct	
	7.00 pm	Conference Dinner Glass Restaurant, Hilton Hotel, 488 George Street, Sydney NSW (Located on Level 2 of the Hilton Sydney Hotel)	

Day Three

Friday 8 March 2024

Session	Time	Topic	Presenter
Session 16	9.00 am	Tribunals under threat! The constitution flexes its muscle – and the more it flexes, the stronger it gets. <i>Burns v Corbett</i> [2018] HCA 15 made it pellucid that State Tribunals are not courts and cannot exercise federal judicial power. Only Federal Courts or ‘courts of a State’ can determine disputes which are set out in ss.75 and 76 of the Federal Constitution. An exponential emasculation of tribunals’ jurisdiction is occurring – already the limitation of actions has succumbed; apportionment of liability claims have been spifflicated – but when will the dismemberment abate?	Tim Graham Bugden Allen Graham Lawyers, VIC
Session 17	9.40am	Wentworth Point Marinas and the Bennelong Bridge Wentworth Point Marinas is an award-winning development in Greater Sydney. From a titling perspective, the project comprises a community scheme with multiple stratum schemes and strata schemes as well as public infrastructure including the Bennelong Bridge. This session will discuss some of the titling issues that arose from both a legal and surveying perspective as part of undertaking the development project and the solutions that were adopted.	Elly Ashley Holding Redlich Lawyers, NSW Michael Trifiro Surveyor Spatial Data Group (SDG), NSW
Session 18	10.20 am	The Future of Short-Term Letting and Strata across Jurisdictions in Australia AirBnB and other short-stay platforms have proven to be a popular innovation, but in recent years have steadily morphed into more than an occasional stay or ‘spare room’ and been increasingly commercialised into full-time hotel-style activities. Strata Buildings often provide secure facilities and superior amenities to allow operators to run these operations. Governments around Australia have struggled to regulate these activities, and Councils often do not have the resources to assist. This paper will look at the challenges and opportunities for further reform and regulation for strata buildings in NSW, Victoria, and Tasmania.	Tom Bacon Strata Title Lawyers, NSW
	11.00 am	Refreshment Break	

Day Three

Friday 8 March 2024

Session	Time	Topic	Presenter
Session 19	11.30 am	<p>Apartments aren't just houses stacked on top of each other: how institutional assumptions will impact negatively on strata residents and owners in the transition to renewable energy.</p> <p>In this paper we discuss how failures of governments to account for the physical and legal differences between strata/community title and other homes have had negative material consequences for owners and residents in the context of the nationwide transition to renewable energy. First, we consider the effective exclusion of existing strata and community titled properties from government schemes to promote the uptake of sustainability infrastructure. Second, we examine the problems with embedded networks for renewable energy in new schemes. We argue that if consistent government policy is going to promote the construction of millions of strata and community title homes, it is untenable for governments to then fail to account for those homes in subsequent laws and policies. This is a particularly pressing problem in the context of renewable energy, as it is predicted that by 2050, 45% of Australia's energy will be provided through 'distributed energy resources' (DER), which are any privately owned units that generate, store or manage renewable energy at household or business level. Much of this infrastructure will be in strata/community schemes.</p>	<p>Dr Hazel Easthope University of New South Wales, NSW</p> <p>Professor Cathy Sherry Macquarie University, NSW</p>
Session 20	12.10 pm	<p>The impact of the Design and Building Practitioners Act 2020 and accompanying regulations on the strata remedial sector</p> <ul style="list-style-type: none">• What issues have we seen to date arising from the NSW Construction Reform on the strata/remedial sector• Owners corporations as 'developers' under the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020• What do owners corporations and strata managers need to do to ensure compliance – tips and guidance	<p>Helen Kowal Swaab, NSW</p>
	12.50 pm	Lunch Break	
Session 21	1.45 pm	<p>The juridical basis of termination of a strata scheme: a comparative review of Australia and other jurisdictions</p> <p>A strata scheme and the consequential body corporate entity constituted by the registration of a strata plan may be terminated. The legal basis for termination is the enlivenment of the just and equitable principle. This paper will examine how that principle is invoked and applied. It will then explore the manner by which medium density corporate entities are terminated in some other non-Australian jurisdictions, including jurisdictions not subject to a common law system.</p>	<p>Ian McKnight Strata Advisory Services, NSW</p>
Session 22	2.25 pm	<p>ACT Strata: Current Issues and Mooted Legislative Change</p> <p>Current issues in strata management and owners corporation obligations – legal impediments and practical solutions for how to inform policy reform.</p>	<p>Susan Proctor Proctor Legal, ACT</p>
	3.05 pm	Refreshment Break	
Session 23	3.30 pm	<p>Building Maintenance Inspection Regulations: An Analysis of International Trends</p> <p>As a reaction to the building collapse in Miami in 2021, seventeen states / municipalities in the USA have passed new laws requiring building and facade inspection throughout the life of a residential building. As we grapple with both systemic building defects and concerns around the lack of repair and maintenance in Australian strata properties, it is timely to investigate, evaluate and discuss whether similar reforms should be introduced in Australia. This research project is an international cross-jurisdictional analysis of the current (or proposed) regulations that require strata-type buildings to be inspected during the lifecycle (post initial defect inspection).</p>	<p>Dr Nicole Johnston Strata Knowledge, QLD</p>
	4.00 pm	Post conference reception	

About the Conference

THE COLLEGE (ACSL)

Australian College of Strata Lawyers (ACSL), established in 2005, is an association to promote high standards and a system of specialist accreditation for lawyers skilled in the practice of strata and community titles. Representing all stakeholders in the area including owners, occupiers, owners corporations, community associations, managing agents, consent authorities, developers, financiers and building managers.

ABOUT THE CONFERENCE

The Conference Committee has worked hard to ensure that expert speakers will share valuable insights into experiences within the Strata sector, and delegates will gain new inspiration, new learnings into the latest industry trends and best practices.

WHO SHOULD ATTEND?

If you are interested and involved in Strata Law and the way it is changing and evolving, you will not want to miss this opportunity to be part of the commentary and discussion on the current state of knowledge and related issues in the field.

THE VENUE

Four Seasons Hotel, 199 George Street, Sydney NSW Australia.

Accommodation – Delegates book their own accommodation.

Mention ACSL when booking at the Four Seasons Hotel, and a 10% discount on best available rate will be offered.

REGISTRATION DESK

The conference registration desk will be in operation prior to the commencement of the conference and throughout the day on Wednesday, Thursday and Friday.

FEES INCLUDE

- Attendance at all working sessions
- Conference materials, including any available speakers' papers submitted to ACSL
- Tea and coffee breaks
- Lunch on Wednesday, Thursday and Friday
- Wednesday and Thursday evening dinners
- Post conference refreshments on Friday

Please note that registrations are transferable

CONFIRMATION

Confirmation of your registration will be forwarded to you by email.

EARNING CPD POINTS

Attending the ACSL Conference is also a valuable way to earn CPD points. You can earn self-assessed 1 point per hour of education for each State and Territory CPD programs. New Zealand Lawyers – Self-assessment applies. There are two compulsory sessions included in the program for 2024.

CONFERENCE EVALUATION

A conference evaluation form will be provided to assist ACSL with planning future conference. Please complete the form and return it to the registration desk prior to your departure.

CANCELLATION POLICY

An administration fee of \$250.00 per registrant will apply for cancellations before 1 February 2024. No refunds will be payable for cancellations made after this date.

DRESS

Smart casual is appropriate for conference sessions. A light jacket may be required in air-conditioned seminar rooms and for the cooler weather. Smart casual is also appropriate for the conference dinner.

DIETARY REQUIREMENTS

If you have any special dietary requirements, please note these on your registration form when registering and follow up with the dinner venues on the evening.

INSURANCE

Conference registrations fees do not include insurance or cover for loss or personal injury. There is no insurance provided by the conference organiser. Delegates should arrange their own personal and travel insurance.

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Opportunities with Expertise and Integrity

Registration Details

Please complete the Registration Form and return to
ACSL General Manager
PO Box 182 Moorooka Qld 4105
E: generalmanager@acsl.net.au

For online registration
<https://acsl.net.au/conference-2024-registration>

(Transaction fees apply)

DELEGATE INFORMATION

Registrant - please use block letters with black ink to avoid illegibility

Title: _____ Given Name: _____ Surname: _____

Firm Name if applicable: _____

Preferred Name label: _____

Email Address: _____

Telephone Number: _____

Special Requirements: *Please indicate any special needs (including dietary, allergies, medical, other)* _____

ACCOMPANYING GUEST:

Registrant - please use block letters with black ink to avoid illegibility

Title: _____ Given Name: _____ Surname: _____

Special Requirements: *Please indicate any special needs (including dietary, allergies, medical, other)* _____

Registration Details

REGISTRATION DETAILS – FOR DELEGATES ONLY

Full Registration fee for delegates provides: Three-day registration includes where applicable: Wednesday and Thursday - morning tea, afternoon tea and lunch and conference Dinner. Friday – morning and afternoon tea, lunch and closing refreshments.

Registration inclusive of GST and inclusive of social events	Fees	Qty.	Total
Early Bird Member Delegate (payment on or before 25 January 2024)	AUD \$1,996.50		
Full Member Delegate Registration (payment after 25 January 2024)	AUD \$2,240.00		
Early Bird Non-Member (payment on or before 25 January 2024)	AUD \$2,430.00		
Registration Non-Member (payment after 25 January 2024)	AUD \$2,700.00		
Academic Members	AUD \$907.50		
Associate Members	AUD \$825.00		
Non-Member Academic	AUD \$924.00		

*** For multiple registrations please contact the ACSL General Manager – generalmanager@acsl.net.au

REGISTRATION DETAILS FOR – ACCOMPANYING PERSONS WEDNESDAY AND THURSDAY NIGHT DINNERS

Accompanying Person Registration ONLY	Fees	Qty.	Total
Social Events for ACCOMPANYING PERSONS Registration (For delegates, this item is included in the registration above. This is for accompanying persons only)			
Wednesday and Thursday Dinner	AUD \$500.00		

PAYMENT DETAILS

Online Registration
<https://acsl.net.au/conference-2024-registration>
(Transaction fees apply)

DIRECT DEPOSIT DETAILS

Bank: National Australia Bank BSB: 084-004
Account Number: 59 984 6415

* Reference your payment: Conference +
(Surname of Delegate)

PHONE REGISTRATION BY CREDIT CARD IS NOT AVAILABLE

This form constitutes an Invoice upon
Receipt of payment.

ABN Number 81 931 647 242