



Strata and Community Title in Australia for the 21st Century

In Search of Better Ways to Govern and Manage Owners Associations



Gary Bugden
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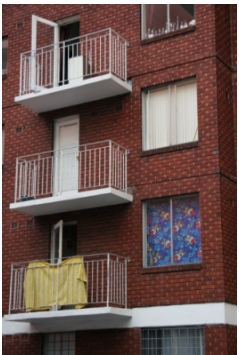
INNOVATION AND KNOWLEDGE FOR COMMUNITIES

Overview of Paper

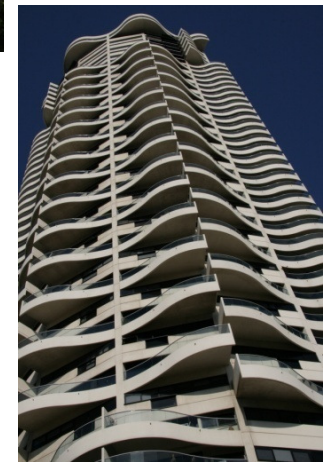
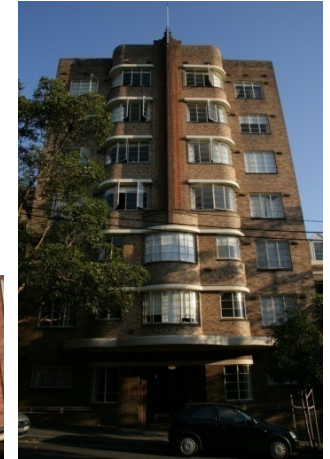
- **Concepts of governance and management**
- **Legislative constraints**
- **Current practice**
- **Exploring a better governance and management model**
- **Some additional ideas**
- **Legislative change required**

Why search?

- **Buildings and communities –**



- All shapes and sizes
- All types of people
- Variety of land uses
- Design and construction issues
- Poorly structured
- Some have long term contractual commitments



- **Inadequacies of current structures**
- **Expectations of Owners**
- **Skill and experience issues**
- **Diversity and problems = solutions**

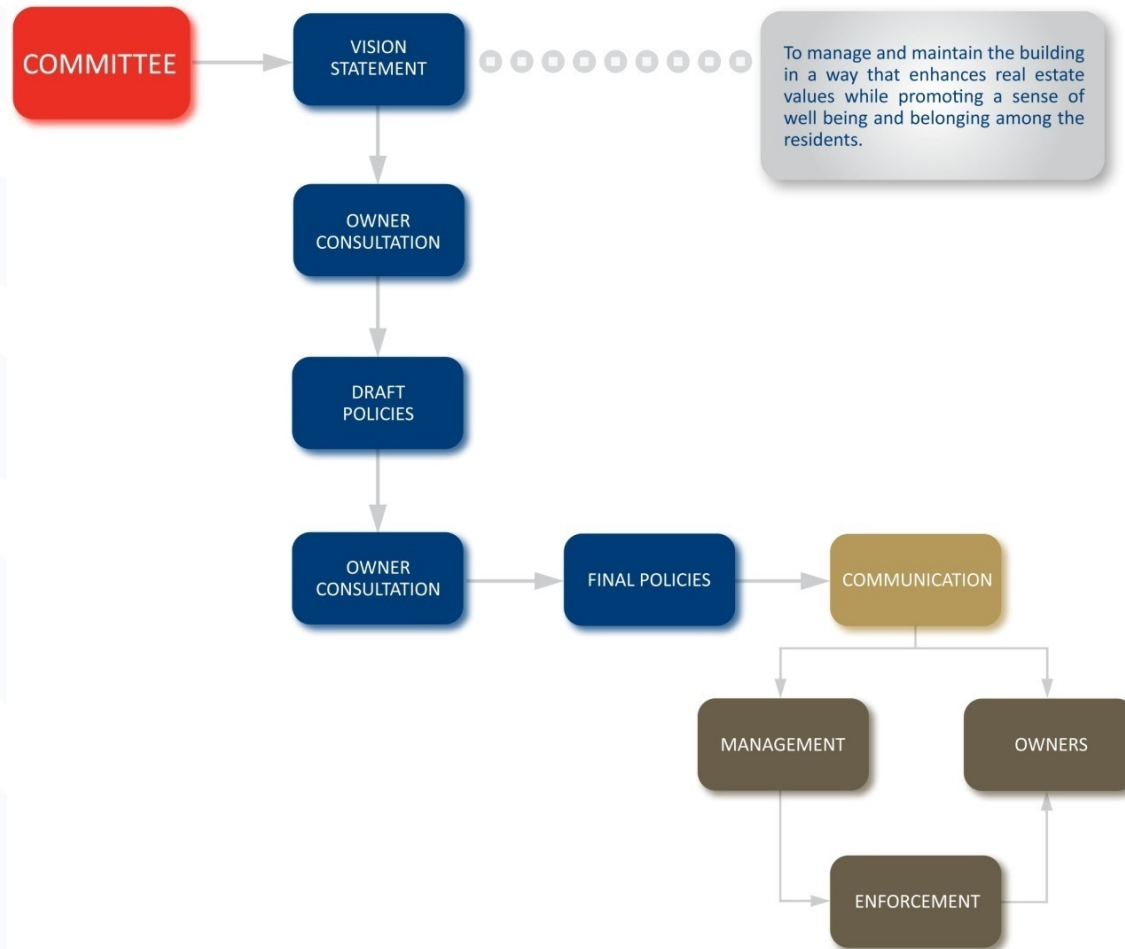
Governance and Management

- **Important to understand the difference**
- **Rarely distinguished in Australian Owners Associations**
- **Often shared between committees and strata manager**

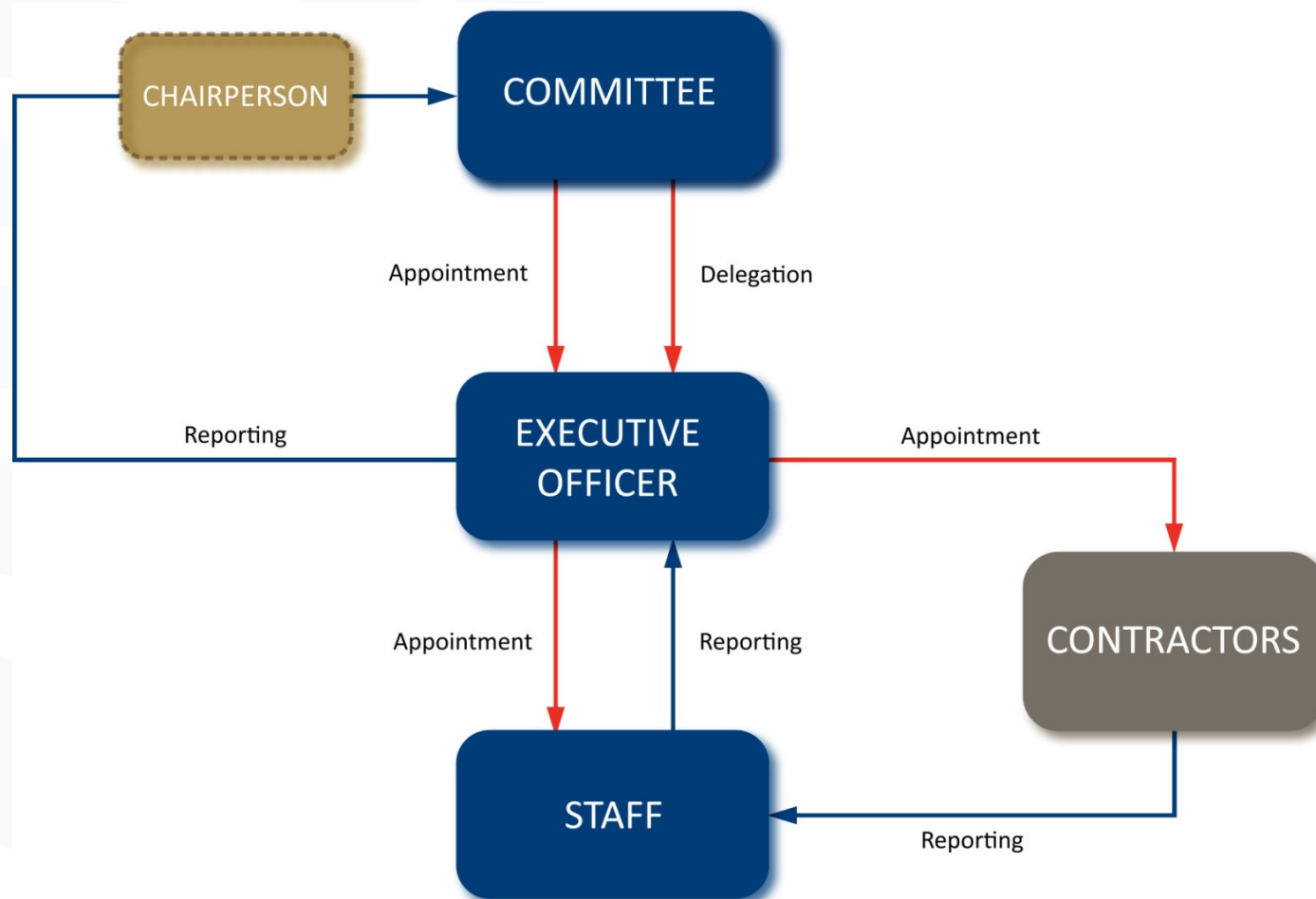
Governance and Management



Governance



Management



First Generation Legislation

- **No attempt to come to terms with governance and management**
- **Elected volunteer committee**
- **Volunteer secretary and treasurer**
- **No strategic focus for committees**
- **De-facto professional management emerged**

Second Generation Legislation

- *Strata Titles Act 1973* (NSW)
- Retained elected volunteer committees
- Introduced “Strata Managing Agent”
- Imposed fiduciary obligations on Agent
- Allowed delegation to Agent
- Acts of Agent were recognized as acts of the body corporate
- Set the scene for a corporate governance model
- Model was never applied

Current Practice

- **Small schemes – self managed, usually using the committee or individual owner**
- **Majority schemes professionally managed**
- **Model –**
 - **Committee makes decisions (mainly management in nature)**
 - **Manager implements decisions**
 - **Reactionary (not strategic) in nature**
 - **Blur between governance and management**
- **Primitive form of corporate governance**

Case Study

- **Based on survey of a very large building**
- **Facts –**
 - Longest committee meeting lasted 12 hours
 - Committee meets every 8 weeks
 - Each active committee member spends between 12 and 15 hours per week on Owners Association business
- **Questions**
 - Reasonable commitment and responsibility?
 - Building design and construction issues?
 - Issues with internal management arrangements?
 - Is there a better way?

Issues With Current Situation

- **Motivational issues with volunteer committees**
- **Self-interest focus of some committee members**
- **Inadequate skills and experience of committee members limits effectiveness of committees**
- **Division of powers between owners and committee is too restrictive**
- **Strata Manager's powers are too restrictive**
- **Current trend to impose further restrictions**

Committee Related Issues

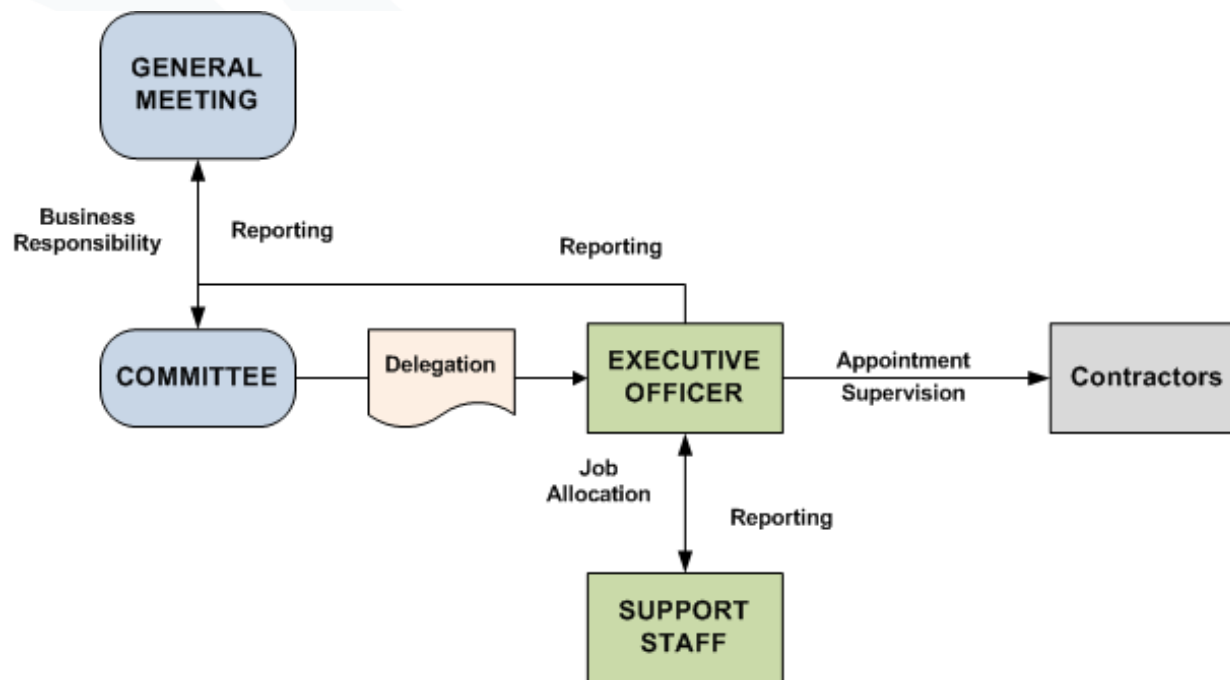
- **Do not practice good governance**
- **Get too involved in management issues**
- **Do not communicate well with owners**
- **Do not encourage owner participation, particularly on strategic matters**

Strata Manager Issues

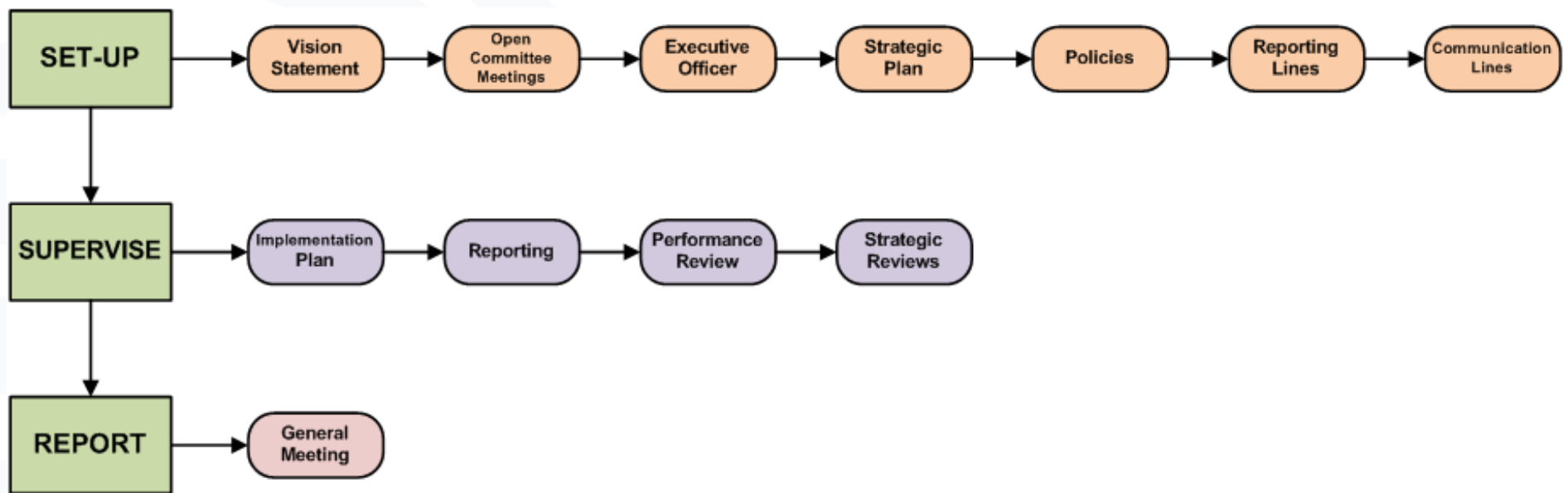
- **Non critical – merely to identify needs**
- **Corporate style does not fit well with concept of an Executive Officer**
- **Assigned employee has attention divided**
- **Departmental approach to service delivery results in “gaps” in information and skills**
- **Lack of “on site” presence**
- **“Record keeping” mindset of some managers**

A Better Model

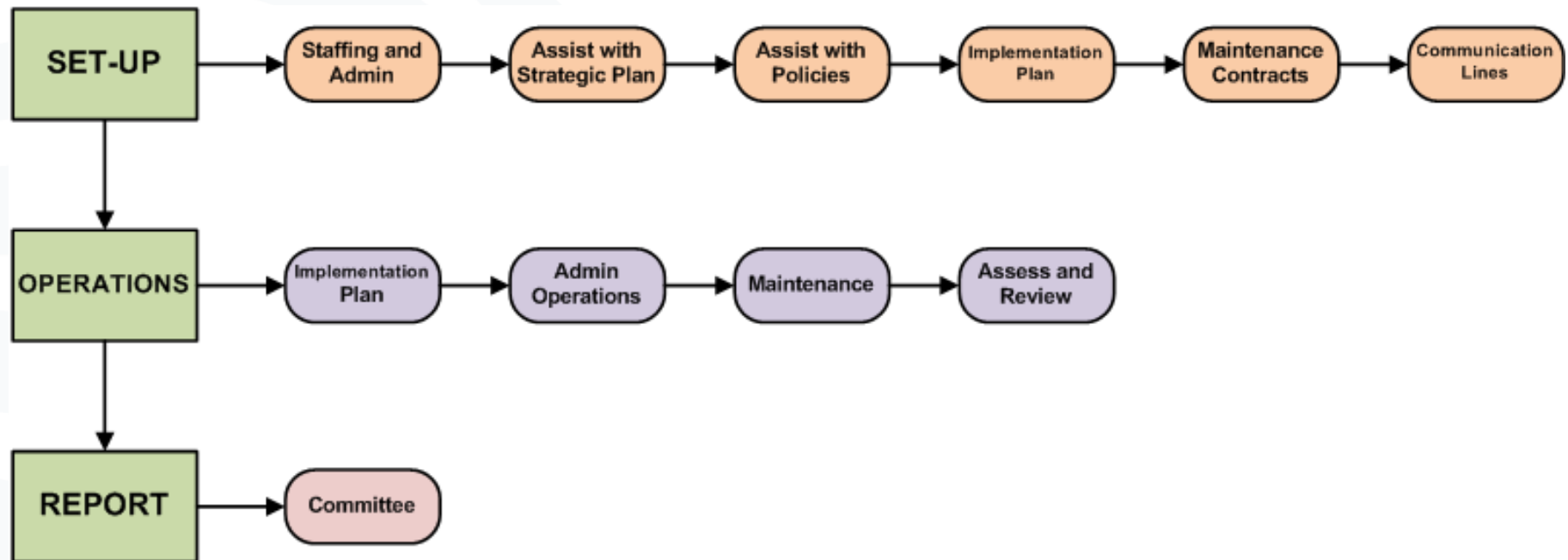
A strategically focused Committee supported by a professional Executive Officer



Role of the Committee



Role of Management



Some Additional Ideas

- **Professional committee members**
- **Employee strata managers**
- **Sub-committees**
- **Wider delegation of functions**

Legislative Change?

- **Clearer definition of the roles of committees and management**
- **Widening of powers of the committee**
- **Extension of Owners Association's delegation powers** (possible vesting power in the committee)
- **Recognition of employee managers**
- **Recognition of professional committee members**

Summing up

- **Greater diversity of schemes requires new solutions (at least for “special cases”)**
- **One size fits all approach will no longer work**
- **A corporate governance approach seems a likely solution**
- **Design and construction issues also need to be addressed**
- **Other options are worth considering in the meantime**



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