



**Strata Community Association Ltd**

**ABN: 15 151 156 357**

## **CODE OF CONDUCT**

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*A code of conduct to establish the principles that govern the conduct of Members of Strata Community Association in the context of the strata living environment.*

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## Explanatory Note

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This **Code of Conduct** has been prepared by SCA following consultation with State boards and Chapter Executive Committees.

As a general rule, applying common sense, good judgment and integrity to the issues that are faced on a day-to-day basis will help ensure that **Members'** business decisions are consistent with the **SCA State Member Body / Chapter** values and **this Code**.

SCA and its **State Member Body / Chapter** are determined to protect and enhance the reputation of its collective membership. In a service business, the integrity that our brand "SCA" represents is one of SCA's most valuable assets.

Acting with integrity and the highest **ethical** standards is good business practice and policy. Each **Member** of the **SCA State Member Body / Chapter** should adhere to both the letter and the spirit of **this Code**.

Whilst **this Code** does not attempt to list every possible **ethical** issue that may arise, it does set out clear requirements for the conduct of **Members**.

Failure to comply with **this Code** means that **Members** may be subject to disciplinary procedures as set out in **this Code** and the relevant **Constitution** of **SCA State Member Body / or SCA Ltd for Chapters**.

**This Code** is in three parts:

<b>Part One</b>	Applies to all <b>Members</b>
<b>Part Two</b>	Applies to specific sectors within the <b>SCA State Member Body / Chapter</b> , being: <ol style="list-style-type: none"><li><b>Strata Community Managers / Body Corporate Managers / Owners Corporation Managers;</b></li><li><b>Suppliers;</b> and</li><li><b>Owners.</b></li></ol>
<b>Part Three</b>	Deals with making complaints and enforcement and disciplinary procedures of <b>this Code</b> .

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## Dictionary

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In this document the following words mean:

“ <b>Act</b> ”	Means the legislation passed by the Parliament.
“ <b>Board</b> ”	the directors of the <b>SCA State Member Body / Chapter</b> .
“ <b>Client</b> ”	the <b>Strata Community</b> , and not an individual lot owner.
“ <b>Code of Conduct</b> ” and “ <b>this Code</b> ”	this document as amended or modified from time to time including all its parts.
“ <b>Committee</b> ”	means the committee of a <b>Strata Community</b> . Interchangeable with terms used in each State/ Chapter [and includes the Board of Directors of a <b>Strata Community</b> having such a Board].
“ <b>Committee Member</b> ”	means a member of a <b>Strata Committee</b> .
“ <b>Commission</b> ”	means a fee, charge or other remuneration, whether monetary or otherwise
“ <b>Constitution</b> ”	the constitution of the <b>SCA State Member Body / or SCA Ltd for Chapters</b> as amended, modified or replaced from time to time.
“ <b>Conflict of Interest</b> ”	means a member has an interest in land or a related party interest in the respective client strata community with <ol style="list-style-type: none"><li>a controlling interest in a lot in the <b>Strata Community</b> to be managed; or</li><li>a spouse, de facto partner, child, grandchild, sibling, parent or grandparent with an interest in land in a lot contained within the Strata Community; or</li><li>a spouse, de facto partner, child, grandchild, sibling, parent or grandparent with any interest in a service provider providing services to the strata company.</li></ol>
“ <b>Disclose</b> ”	to give information to the <b>Client</b> that was not previously known and must be included in each management agreement between member and strata community.
“ <b>ethical</b> ”	in accordance with the moral standards customarily applied in a business or professional relationship.
“ <b>Former Code</b> ”	the “Code of Ethical Conduct” in existence under the <b>Constitution</b> of the <b>SCA State Member Body / Chapter</b> immediately before the resolution of the <b>SCA State Member Body / Chapter</b> to replace that “Code of Ethical Conduct” with <b>this Code</b> .
“ <b>Guide</b> ”	“ <b>Guide</b> ” as defined in clause 1.4 of <b>this Code</b> as it may be provided, amended, modified, replaced or revoked from time to time.
“ <b>Member</b> ”	“Member” or “Members” as defined in the SCA Ltd <b>Constitution</b> for Chapters and State Constitution for QLD, NSW, WA and VIC.

<b>“Owner”</b>	means an <b>owner</b> of a lot, or lots, in an Owners Corporation / Body Corporate / Community Title and includes a shareholder in that <b>Strata Community</b> having such a structure.
<b>“Regulations”</b>	Means the "subsidiary legislation" published by the Government.
<b>“SCA”</b>	Strata Community Association
<b>“Strata Community”</b>	a “Group title scheme” as defined in the <b>Constitution</b> . It is interchangeable with the terms used in each state/ Chapter such as <b>Strata Company, Body Corporate, or Owners Corporation</b> .
<b>“Strata Community Manager”</b>	a strata managing agent or employee of a strata management firm as defined in the <b>Constitution</b> and Membership Category for <b>Strata Managers</b> .
<b>“Strata Management”</b>	Means the professional advice provided by <b>Strata Community Manager</b> to <b>Strata Communities</b> to assist them to comply with their respective Acts and Regulations.
<b>“Strata Services”</b>	a <b>Member</b> of the <b>Supplier</b> Membership Category of the <b>SCA State Member Body / Chapter</b> ; being a person supplying any goods or services.

## Interpretation

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In **this Code** unless the contrary intention appears:

- i. a reference to a statute or other law includes regulations and other instruments under it and any consolidations, amendments, re-enactments or replacements of it;
- ii. the singular includes the plural and vice versa;
- iii. a reference to a **Member**, whether by use of the term “**Member**” or otherwise, includes a reference to a person in the employ of that **Member**;
- iv. where a word or phrase is given a defined meaning in **this Code**, any other part of speech or grammatical form in respect of such word or phrase has a corresponding meaning;
- v. a reference to an act includes an omission and a reference to doing an act;
- vi. headings are for reference only and do not affect the meaning or interpretation of **this Code**; and
- vii. **this Code** is intended to be consistent with the “Code of Conduct” for each State that is a corporate **Member** or Chapter of Strata Community Association as it may be adopted, amended, modified, revoked or replaced from time to time. In the event of any inconsistency with that “Code of Conduct”, **this Code** is to be read as if consistent with that “Code of Conduct” to the extent of that inconsistency.

## Part One – All Members

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*This part of **this Code** applies to all **Members***

### 1.1 DATE OF COMMENCEMENT OF THIS CODE

**This Code** commences to apply to the acts and omissions of all **Members** on and from the date the **SCA State Member Body / Chapter** resolves to replace the **Former Code** with **this Code**.

The **Former Code** applies to the acts and omissions of **Members** occurring prior to the date of the resolution referred to above.

### 1.2 DUTY

All **Members** have a duty to look after the best interests of their principal. In particular:

- i. A **Strata Community Manager / Body Corporate Managers / Owners Corporation Managers**; owes that duty to Strata Communities they manage. They manage for and on behalf of the **Owners** in that **Strata Community** and the relationship is fiduciary in nature.
- ii. A **Strata Service** provider owes that duty to the **Strata Community** for whom they are working.
- iii. In accordance with law, a **Lot Owner** owes that duty to all **Owners** in that **Strata Community**, and a **Committee** owes that duty to their **Strata Community**.

### 1.3 DUTIES OF ALL MEMBERS

All **Members** must at all times:

- i. Act **ethically**.
- ii. Act honestly, be straightforward and sincere.
- iii. Not provide false, misleading or deceptive information.
- iv. Be objective, fair and not allow prejudice or bias to override that objectivity.
- v. Be and appear to be free of any interest, which might be regarded as being incompatible with integrity and objectivity.
- vi. Use professional courtesy and deal with all Members, Strata Community Managers, Strata Service providers, Strata Committee Members, Owners, and Residents, in a respectful manner at all times.
- vii. Act in a lawful manner and comply with the law as may apply from time to time.
- viii. Act at minimum in accordance with the generally accepted standards of their industry and carry out their work in accordance with the technical and professional standards relevant to that work.
- ix. Perform their duties diligently and with competence, maintain their level of competence, and only undertake work which they reasonably expect to be able to complete competently and in a timely manner.

- x. Maintain the minimum amount of professional indemnity insurance as required by the law or by the respective SCA State Member Body / Chapter.
- xi. Disclose and deal with **Conflict of Interest** issues in an open and fair manner, and not pay or accept secret commissions, either directly or indirectly.
- xii. Treat confidential information obtained while acting for a **Client** that has not been made public and that
  - a. is by its nature confidential; or
  - b. was specified as confidential by the person who supplied it; or
  - c. is known by the Member to be confidential;unless
  - a. the disclosure of information is required by law; or
  - b. the **Client** is fully informed of the proposed disclosure and agrees to it in writing.
- xiii. Not engage in any conduct that wrongfully brings disrepute to the **SCA State Member Body / Chapter**, its **Members** or the consumers of their services.
- xiv. Abide by the mission statement and vision statement as promulgated by the **SCA State Member Body / Chapter** from time to time.
- xv. Comply with the rules regarding display of the **SCA State Member Body / Chapter's** logo as promulgated by the **Board** from time to time.
- xvi. Not advertise in a way that is false, misleading or deceptive which
  - a. creates false or unjustified expectations of favourable results; or
  - b. consists of self-laudatory or misleading statements that are not based on verifiable facts; or
  - c. contains unidentified testimonials.
- xvii. Not induce or attempt to induce a breach of contract between a **Client** and its **Strata Community Manager**.
- xviii. Not denigrate another **Member**, nor any individual, company or profession in general.
- xix. Observe the **Constitution** of SCA and any other guideline or standard formally approved and adopted by **SCA State Member Body / Chapter**.
- xx. Conduct their **Strata Community** business in accordance with the state / Chapter governing legislation.
- xxi. Promote the aims and objectives of SCA and strive for the highest degree of professionalism in the practice of **Strata Management**.
- xxii. Be active in SCA and willingly share with fellow **Members** the lessons of their experience.
- xxiii. Be responsible for actions of their employees in their business relations with fellow **Members** and **Clients**.
- xxiv. Conform to any CPD training as may be required by acts or regulations, or the **Board's** national and/or state from time to time to retain membership of SCA or the appropriate category.
- xxv. Not knowingly or negligently include false information in their individual CPD records or any other declaration made to the board.

## 1.4 GUIDE

The **SCA** may provide a **Guide** to **Members** for the purpose of assisting **Members** in relation to **this Code** ("**Guide**"). The **Guide** may be provided by making the **Guide** available to **Members** on the **SCA's** website.

**SCA** may amend, modify or replace the **Guide** from time to time in the same manner as it may provide the **Guide**. **SCA** may revoke the **Guide** by publishing a note to that effect on the **SCA** website.

## Part Two – Specific Members

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### 2.1 STRATA COMMUNITY MANAGERS

*This part of **this Code** is specific to **Strata Managers***

- A. Each **SCA State Member Body or Chapter** must comply with provisions of the legislation with which they are governed.
- B. **Strata Community Managers** frequently become aware of their competitors' pricing models through inspection of the books and records of their competitor's **Strata Community**. All **Strata Community Managers** must take steps to ensure that any use or contemplated use of such information is both **ethical** and legal.
- C. Without limitation to 2.1A above, a **Strata Community Manager** who recommends a **Strata Services** provider to a **Client** must
  - a. disclose in writing to the **Client** any rebate, discount, or commission as required; and
  - b. disclose in writing to the **Client** any potential **Conflict of Interest** required to be disclosed; and
  - c. must not accept, directly or indirectly, any undisclosed commission from any person for the recommendation.
- D. A **Strata Community Manager** must not charge fees or disbursements that are not permitted under the signed agency agreement /contract of appointment or any variation of it without the consent of the **Strata Community**.
- E. A **Strata Community Manager** must not demand or receive a commission, reward or other valuable consideration from any person for the provision of a service that is greater than the amount agreed in writing with the client.
- F. A **Strata Community Manager** must not demand or receive a commission, reward or other valuable financial consideration from any person for the provision of the following services unless agreed in writing by the **Client** in engagement documents prior to the services being obtained:
  - a. Plans, forecasts, assessments and the like for reserve funds; or
  - b. insurance valuations for the replacement of insurable assets and the like; or
  - c. reports that identify asbestos and asbestos containing material; or
  - d. reports that identify hazards and the associated risks for a strata community; or
  - e. reports and audits that deal with the compliance or otherwise of essential services or fire services for a strata community.
- G. A **Strata Community Manager** will not unreasonably charge for additional duties and must be able to demonstrate that the expense was properly incurred by the **Strata Community Manager**.
- H. A **Strata Community Manager** being an owner in a **Strata Community** that is managed by another **Strata Community Manager** must not unethically use information obtained as such to seek the change or transfer of the management of that **Strata Community** to that first **Strata Community Manager**.

- I. A **Strata Community Manager** must not refuse or delay to convene a meeting, where one of the motions to be considered is the termination of its appointment or the appointment of another **Strata Community Manager**.
- J. A **Strata Community Manager** must promptly provide any records of a **Strata Community** that it manages upon receiving a lawful request for such records. A **Strata Community Manager** must not unlawfully or unreasonably refuse or delay to provide any of the records of a **Strata Community** that it manages which would be in breach of its agency agreement/contract of appointment or the law. Refer to respective Acts and Regulations.
- K. A **Strata Community Manager** must:
- a. comply with their duties in relation to record keeping in accordance with the generally accepted standards of their industry and as required by law; and
  - b. take due care of records in their possession or under their control and do so in accordance with **this Code** and any applicable law.
- L. A **Strata Community Manager** must implement and maintain adequate systems and procedures to ensure accountability and transparency in all financial transactions. This includes appropriate financial records, reports and measures to minimise fraud and ensure all monies held on trust or otherwise under their control are used properly and in accordance with the law.
- M. A **Strata Community Manager** who does not have an appointment to act in the form of a management agreement from a client must not
- a. act as a **Strata Community Manager** for the **Client**; or
  - b. represent that the **Strata Community Manager** is acting for the **Client**.
- N. A **Strata Community Manager** must ensure any change made to the appointment to act is placed in writing and may be made by way of amendment to the original document that appointed the **Strata Community Manager**.
- O. A **Strata Community Manager** must not provide payments to developers to induce them to enter into management agreements.
- P. A **Strata Community Manager** must not provide marketing of developer projects to induce developers to enter into management agreements.
- Q. Without limiting the legislative requirements of each region, if a **Strata Community Manager** ceases to manage a **Strata Community**, they must with the timeframe required within the region legislation after satisfactory provision is made for the remuneration of the **Strata Community Manager**, make available for collection by a person or company authorised in writing by the **Strata Community**, all records and property of the **Strata Community**.
- a. The member must produce records upon request from an authorised representative of the Client, and must co-operate in the transfer of all types of records which are the property of the Client, including without limitation, electronic records.
  - b. The member must produce records upon request from an authorised representative of the Client, and must co-operate in the transfer of all types of communication records provided by all owners, occupiers, agents or other interested parties associated with the client including email addresses, telephone numbers, or other electronic communication contact details.

## 2.2 STRATA SERVICES PROVIDERS

*This part of **this Code** is specific to Strata Services providers*

- A. Many **Strata Services** providers also belong to their own industry association or institute and **this Code** requires that they act **ethically** when observing not only their own industry association or institute's code of ethics or conduct but also **this Code**.
- B. **Strata Services** providers must conform to any additional CPD training as may be required by their profession or trade association.
- C. **Strata Services** providers must not use information obtained in a commercial relationship with a Strata Community Manager for the purpose of contacting a Strata Community managed by that Strata Community Manager with a view to effect the change of transfer of the management of that Strata Community to another Strata Community Manager, unless instructions to effect that change originated from that **Strata Community**.
- D. **Strata Services** providers must not distribute unauthorised marketing material at the events of SCA.
- E. **Strata Services** providers must comply with any disclosure requirements under law, including, if applicable, any law in respect to Acts and Regulations.

## 2.3 OWNERS

*This part of **this Code** is specific to Owners & Owners Corporations*

- A. **Committee Members** have enormous trust placed upon them by their fellow **Owners**, both in general and when those **Owners** elect those **Committee Members** to the **Committee**.  
Therefore, **this Code** seeks that **Committee Members** discharge their duties **ethically**.
- B. A **Committee Member** must not gain a benefit over and above other **Owners** or a majority of those **Owners** unless that **Committee Member** discloses such a benefit at any meeting of the **Committee** where a motion relevant to such a benefit is considered, and makes that disclosure prior to the consideration of that motion.
- C. A **Committee Member** who stands to gain a benefit over and above other **Owners** or a majority of those **Owners** must not offer or provide misleading or inaccurate information to attempt to gain support for any motion relevant to such a benefit.
- D. A **Committee Member**, or a person who seeks to be elected as a **Committee Member**, must comply with any disclosure requirements under law, including, if applicable to any law specific to that State Chapter Region.

## Part Three – Enforcement

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### 3.1 ENFORCEMENT ACTION

All **Members** are advised, when they apply to become **Members**, that they will be bound by **this Code**, or such other “Code of Practice and / or Ethics” as may have been adopted, have been replaced by, or replace **this Code** from time to time.

A **Member** who breaches **this Code** may be subject to enforcement and disciplinary procedures as set out in the **SCA Constitution** and as determined by **SCA’s Professional Standards and Membership Board Advisory Group (PSMBAG)**.

### 3.2 WHO MAY LODGE COMPLAINTS UNDER THIS CODE?

A **Strata Community Manager**, a **Strata Supplier**, a **Strata Community** with written consent from their committee, or a lot owner within a **Strata Community** may make a complaint regarding breach of **this Code**.

### 3.3 HOW ARE COMPLAINTS MADE?

Complaints must be made in writing using the Complaints Management Form and are to be accompanied by all materials reasonably necessary to support what is alleged in that complaint.

The Complaints Management Process (CMP) contains information and provides procedures and forms in relation to the making of complaints.

### 3.4 WHO CONSIDERS THE COMPLAINT?

SCA’s Professional Standards and Membership Board Advisory Group (PSMBAG) must consider the complaint as soon as practicable, and deal with the complaint in accordance with the **Constitution** and guidelines determined by the SCA Board.

## Approval

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In accordance with its **Constitution and/or By-Laws**, the **SCA State Member Body / Chapter** replaced the **Former Code** with **this Code**.