



# **NSW Fair Trading Complaints & Mediation**

# Complaints

- Lodge online via Fair Trading website
- Your issue is with the strata manager
- You believe that the strata manager may not be performing as required
- You have concerns that the strata manager may have a conflict of interest
- Trust account issues – NOT levy arrears
- Final outcome *may* result in compliance / enforcement

vs

# Mediation

- Lodge online via Fair Trading website
- Your issue is with the owners corporation, committee or another lot owner
- You need a specific problem solved eg: water penetration, behaviour of visitors
- You aren't happy with decisions made by the other owners
- Levy arrears
- You ultimately have the option of applying to NCAT for an order if you do not resolve by mediation

# Common Complaints

## STRATA

- Rules of Conduct
- Repairs and maintenance
- Records (access, quality)
- Budget/Levies/Finances
- Agreement/Contract
- 80 complaints Jan - March

# Compliance

- 13 current reactive matters involving strata managers
- Matters relate to:
  - Rules of conduct
  - Service of documents
  - Alleged failure to account
  - Renewal of agreement
  - By-law issues
- 15 matters for inspection during the Strata program in May
- 3 matters with quantum \$2.225 million under investigation with view to prosecution and disciplinary action



# Mediation is:

*“an informal negotiation with a neutral mediator to help reach a beneficial settlement”*

## The mediator's role is to:

- help identify the issues in dispute and
- assist the parties to raise and consider options and strategies by which the issues may be addressed.

## The mediator cannot:

- direct parties to a course of action
- Provide enforceable orders – however there is provision to lodge Agreements with NCAT to have the Agreement formalised as an order

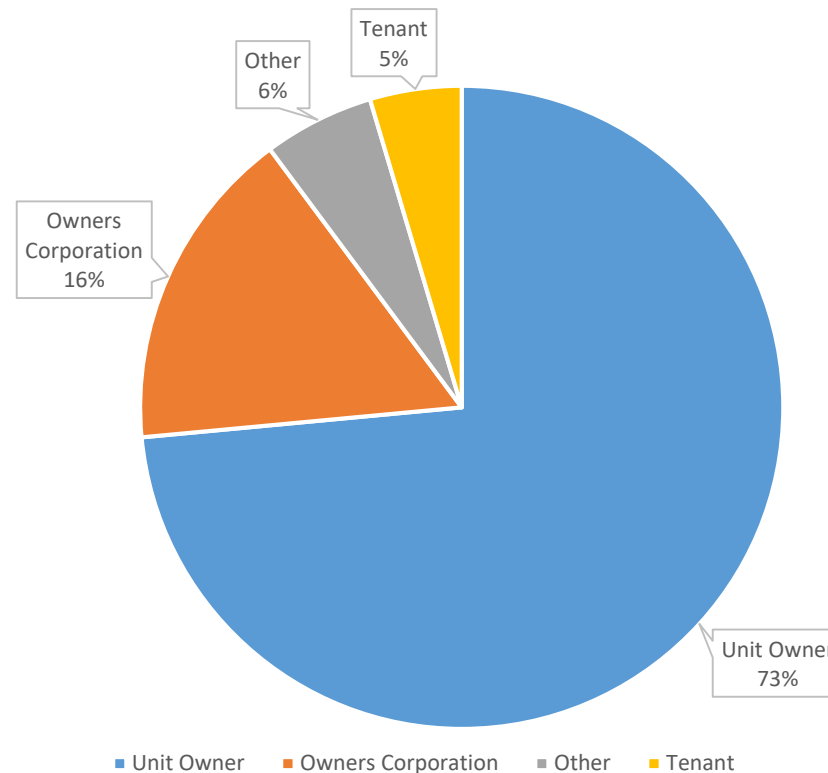
# Mediation – Why? Does it work?

- *Strata Schemes Management Act 2015* prescribes matters that can only proceed to NCAT if evidence of attempted mediation is attached to the application
- Mediation resolves 70% of matters that are finalised in mediation
- *Challenges* – decline rate by respondents sitting at 37%  
many applicants apply prematurely prior to establishing that there is a dispute

# Mediation Cases Received by Applicant Type

- 521 Cases Received
- 383 Unit Owners
- 85 Owners Corp
  - 29 Other
  - 24 Tenant

Mediation Applications Received by Applicant Type



Other includes legal counsel, strata managers & property managers

# Mediation Cases Received

## Most Common Issues First Quarter 2019

- **100**      **Common Property Repairs / Maintenance**
- **59**      **Other – issues not listed on the application**
- **46**      **Changes / damage to common property**
- **40**      **Behaviour of owners/ occupiers/tenants & invitees**
- **30**      **Alterations / additions to common property**
- **29**      **Keeping of animals**



## NSW Fair Trading website

for more information or to lodge a complaint or  
mediation application

[www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au)

Enquiries

Phone – 13 32 20

