CHAPTER 4

BUYING AND RENTING

Until the 1950s Sydney's blocks of flats were virtually all owned by investors under Torrens title. With few exceptions, the liver-coloured walk-ups carried the stigma of inferior dwelling places occupied by untrustworthy tenants who could not afford to buy a house. At 1947 only 6.7 per cent of flats were owner occupied and possibly half of these were resident landlords. Yet by 1961, even before the introduction of the Strata Title Act made finance more readily available to buy a flat, just over one fifth of flats were owner occupied (Table 4.5). In a little over ten years Sydney's flat market had undergone a remarkable change. A new type of 'investor' emerged who owned one, or in rare cases two, company title flats instead of one or two Torrens blocks. The result was an increasingly fragmented flat market and a greater degree of tolerance for flats as an acceptable form of dwelling. Flats began to lose some of the stigma that their association with tenants attracted. A new class of flat owners moved in and helped dispel the popular image of flats as the terrain of unreliable tenants.

Two factors influenced the rise in the number of owner occupied flats. In the post-war years owner occupation became popular, fashionable and finance a little easier to raise than before the war. Raising finance to buy a flat was never as easy as to buy a house. There were no government loans forthcoming and the banks and financial institutions were reluctant to lend on an apparently insecure title except over a short term, ten years instead of 25 years, at a high interest rate and with a 25 per cent deposit. Normally this alone would have proved an impossible obstacle to all but the relatively well off but in a situation rather like the lump sum

superannuation payouts in the 1970s, a number of ex-servicemen or their widows had accrued substantial amounts in the form of deferred pay and other benefits. Some, like Mr A J Ryan who purchased a company title flat on the water's edge at Kirribilli in the early fifties, were able to use their lump sums to buy a flat (Ryan interview 1982). Landlords keen to sell flats in their Torrens blocks were also often prepared to offer vendor finance to help purchasers over the finance problem.

The second factor was an unexpected source of supply of company title flats. While a number of community advancement societies and companies were set up to cater to the new found popularity of owner occupied flats, their contribution to the flat stock does not account for all the individually owned flats at 1961. In the first half of the 1950s most new flats were built by the NSW Housing Commission, only for rental. When private flat building picked up in the latter half of the fifties, only about 9000 new flats were added to the dwelling stock. Even allowing for half of these to be owner occupied, a further 9000 individually owned flats were unaccounted for at 1961. They were the result of landlords converting their Torrens blocks of rental flats to company title blocks to enable the sale of individual flats. Rent control legislation which fixed rents at their 1939 levels until 1954 meant that developers and landlords had little incentive to hold on to their existing blocks or build new flats for rental. They found it more profitable to sell their Torrens blocks of flats for owner occupation under company title and use the freed capital for other forms of investment. By the end of the 1950s rental stock had declined and the level of owner occupied flats had risen to 20 per cent.

Company Title

Sydney's first company title block of flats was The Astor in Macquarie Street, incorporated in 1921 under the Companies Act 1899. (Details of The Astor and other flat companies are given in Table 4.1). It remained one of the few traceable blocks of individually owned flats until the late 1940s when a number of community advancement societies were formed under the NSW Cooperation Act 1923-1947. Unlike The Astor Ltd (later The Astor Pty Ltd) and the 1950s flat companies incorporated under the Companies Act 1936, community advancement societies were non-profit organisations built with government guarantee and government assistance by individual shareholders subscribing the requisite amount of money, not by developers building a block and then selling it flat by flat under company title with the intention of making a profit or owners of existing Torrens blocks selling off individual flats. The idea of community advancement societies never really took off on a large scale.

The mechanics of how flat companies and cooperative societies operated were not dissimilar. Members purchased shares in a company which entitled them to a flat in the block owned by the company. The advantage stressed by all the flat companies lay in the opportunity provided for members to obtain a proprietary interest in a home of this type on substantially the same basis as an individual dwelling. Unlike flats owned under strata title, introduced in 1961, which certified separate ownership of a particular unit under Torrens title, shares in a company could not be mortgaged and their sale and transfer were subject to approval by a Board of Directors which made them a questionable investment for the financial institutions.

Table 4.1 Profile of eight flat companies in Sydney

Address	Name of company	Act	Date incorp-orated	No of flats	No of storeys	Original members/directors*	Finance	Original cost of unit	Interviewees
3 Waruda St Kirribilli	UCMHU No. 1	Cooperation Act 1923-45	31 Oct 45	18 2 br	6	Deveson*, Croft*, Parry, Comyns, Wood*, McLennan	£32 050 Mut.Life	£1500 (est) £2000 £7450 (act)	Ryan
Westbridge 30 Blues Pt Rd McMahons Point	UCMHU No. 2 then 4 Oct 1957 Westbridge	Cooperation Act 1923-45	5 Nov 46	27		Lang, Wood*, Croft*, Deveson*, Morley, Bolot Barrett	£58 000 Mut.Life	£1500 (est) £2800-£3300 (act)	Wood
Stancliff 68 Wy-ar-gine St Balmoral	UCMHU No. 3 then 8 Sept 1953 Stancliff Cooperative Ltd	Cooperation Act 1923-47	26 Feb 47		6	Deveson*, Croft*, Morley, Cruden (E), Cruden (M) Blackwell*, Bolot	£60 000 Nat.Mut.		
Gowrie 3 Plunkett St Kirribilli	UCMHU No. 5 then April 1954 Gowrie Cooperative	Cooperation Act 1923-47	2 May 50	24	6	Deveson*, Croft*, Morley, Cruden, Tyson*, Rodgers, Clarke, Blackwell	£60 000 Nat.Mut.	£3500 (est) £6964-£8841 (act)	
The Astor 121-123 Macquarie St	The Astor Ltd changed to The Astor Pty Ltd	Companies Act 1899 Companies Act 1936	23 Nov 21 1937	52	13	O'Brien, Johnson, Mould Esplin, Foreman, Weiher Rofe	Share capital 1923 £182 000	£2300-£3250 (act)	Wilkinson Wilton
14 Hayes St	14 Hayes St Pty Ltd	Companies Act 1936	1962	6	3	Rowe (D R), Rowe (R) Cox, Alford, King, Faure	£15 750	£2000-£3250 (act)	Faure
109 Darling Pt Rd Darling Point	Nevada Pty Ltd Act 1936	Companies Act 1936	1950	35	4		£12 000 Rural Bank £50 000 Mut.Life	£2850-£10 600(act)	
Wychbury 5 Manning St Potts Point	Wychbury Pty Ltd Act 1936	Companies Act 1936	1956	18	8	Gale (R A)*, Gale (R)*, Bell		£2500-£6950 (act)	Gale

Source: CAC records for companies formed under the Companies Act 1936; NSW Registrar of Cooperative Societies Records for companies formed under NSW Cooperation Acts; interviews

The largest of the early community advancement societies was Urban Cooperative Multi Home Units (UCMHC) which formed five societies to build five blocks of company title flats around the harbour foreshores at Kirribilli, McMahon's Point and at Balmoral on a site purchased from the Roman Catholic Archdiocese of Sydney on which stood an amphitheatre constructed by Theosophists in the early 1920s (Building 10 April 1952, 19). The 'brains' behind the group was J K L Morley of Campbell Parade, Bondi who variously described himself as a public servant and journalist (Ryan interview 1982; Wood interview 1982; NSWRCS records). Architect A M Bolot, who designed the elegant five storey block Hillside, in Edgecliff Road, Woollahra during the thirties, drew up plans for the society's second block at McMahons Point and the fifth block at Kirribilli.

The five blocks were intended to provide 'persons of moderate income' with a 'home unit built of the most modern design and comfort standard at a weekly payment somewhat less than ordinary rent ... [and] at a weekly outgoing of a few shillings sufficient to cover service and maintenance charges' (UCMHU No.5 and No.1, Statement of Objectives 1950, 1945). Accordingly, mortgage agreements prohibited the construction of flats more than £2750 and the society aimed to keep its first and second project down to £1500 to £2000 per flat. Its calculations proved overly optimistic. Possibly the overheads associated with floating a flat company were higher than anticipated and certainly the shortage of labour and materials in the post war period caused a rise in building costs which made it difficult to contain the price for low income earners. As the bulletin of the Commonwealth Department of Works and Housing, Australian Housing commented, 'originally the scheme was conceived as suitable for office workers and people in the tradesmen group, but rising costs have placed the first

project beyond the reach of lower income groups. It may be possible to build for them later.' (June 1948, 104).

The societies faced continual financial problems. The first to be incorporated in late 1945, negotiated a mortgage of £32 050 with Mutual Life and Citizens Assurance Co. Ltd. in 1948, repayable at a rate of £4 17s 6d per annum by 122 equal consecutive instalments of £504 16s 11d and a final proportional instalment of £336 11s 4d. The loan repayments commenced on 1 July 1949 and terminated on 1 December 1979 ie for thirty years, the most common loan period. Even before the first instalment was due, unexpected costs forced the borrowing of an additional £7450 in order to complete the block in progress at Waruda Street, Kirribilli (UCMHU No.1 Particulars of Charge, 9 May 1949). The Kirribilli flats consisted of 18 two-bedroom flats on a sloping site overlooking the harbour (Building May 1948, 21). Builders Gaskin Pty Ltd struck a snag with the foundations which necessitated the erection of piers to support the six storeys, three above street level and three below. The supplementary loan only partly covered the expenses associated with the foundations and in a bid to further prune costs the balconies were sacrificed and the block was never cement rendered as originally intended in the master plan (Ryan interview 1982).

The Owners

Most people who lived in company title blocks of flats were owners of shares in the company. While complete records of shareholders of Sydney's early company title blocks of flats do not exist, it is possible to sketch a profile of owners using documentary evidence and oral sources. Interviews with long term occupants reveal very few instances of tenanted flats.

Shareholders invariably took up residence themselves rather than let their properties. Of the 18 owners of Wychbury, 5 Manning Street, Potts Point (Wychbury Pty Ltd incorporated 1956) a maximum of four gave different residential addresses between 1974 and 1981. For most of the period only two flats were let. Of the four, two were owned by country residents, one lived in Noumea and the fourth was owned by a company. Similarly in the block owned by Nevada Pty Ltd at 109 Darling Point Road, Darling Point (incorporated 1950) only six out of 35 flats had absentee shareholders at any one time between 1968 and 1981. One of the six, and the most expensive, was in the hands of the Baillieu family (CAC records).

The majority of shareholders preferred flat life for its convenient style of living within close proximity of the city and welcomed the opportunity afforded by the 1950s flat companies to 'own' a flat. It gave an added sense of security previously available only to the wealthy. Many interviewees delighted in their sweeping harbour views. Those occupying the tall blocks of flats on the harbour foreshores at Kirribilli considered themselves particularly fortunate. 'They'd never allow them now' said one resident. Mrs Wood who has owned her flat in Plunkett Street, Kirribilli, since 1962 (the original UCMHU No.5 project though subsequently converted to strata title) expressed the views of the majority when she said 'I thank God every day ... I could never live anywhere else. We're sitting right on the water. You've only got to look out of the window to know why we preferred it to a house' (Wood interview 1982). Mrs Wood's husband agreed. A founding director of the first two UCMHC projects in 1945 and 1946, his only regret today is that he did not take up his nominal shareholding and buy sooner. 'I felt at the time there was no profit in it ... but I was sorry afterwards' (Wood interview 1982; UCMHU No.1, No.2).

Many owner occupiers preferred company title flats because they had some control over the sale and transfer of shares and were able to veto an 'undesirable' neighbour and select only approved residents, whether owners or tenants. Mr. Ryan pointed out that 'it wasn't a dictatorial business, it was more for protection', but nevertheless this form of control has kept The Astor as exclusive today as when it first opened in 1921 (Ryan interview 1982).

Shareholders in Nevada Pty Ltd (incorporated 1950 under the Companies Act 1936) which owns flats at 109 Darling Point Road, Darling Point, felt so strongly about their power of veto that they recently reinforced the 'escape clause'. They amended Article 22 of the Company's Articles of Association by deleting the words 'the holder of any such group of shares shall have the right to let the home unit to which he is entitled to tenants approved by the Board but not otherwise' and inserting 'no holder of a group of shares shall let, part with possession of, or give any licence or right to occupy the unit in respect of which he has the exclusive use under these Articles without the prior approval of the Board in writing. The Board may decline to give any such approval without assigning any reason therefor [sic]' (CAC records 16 Oct 1980).

Company title flats proved popular with retired couples and widows who moved in shortly after widowhood or remained in occupation after a husband's death. Mrs Lola Wilkinson, a widow in her seventies, lived in the T & G building with her husband, a bank official, until its demolition and then moved to The Astor in 1971 when Mr Wilkinson retired and the children had all left home. Mrs Wilkinson recalled the reasons she chose flat life. 'Well, I'd lived in London and I'd made up my mind I wanted to live in the

city. I didn't want a garden and I had to give up my car ... I just wanted to be in the midst of everything' (Wilkinson interview 1982).

Apart from Mrs Wilkinson, the list of shareholders of The Astor in 1976 shows that 22 blocks of shares were held by women, in other words almost 50 per cent of the flats were owned by women in their own right which suggests a high proportion of widows. In the Darling Point flats it is a similar story. Twenty three out of the 35 had female owners in 1968 while a smaller block at 14 Hayes Street, Neutral Bay, has never been less than two-thirds owned and occupied by single or widowed women since its incorporation in 1962 (CAC records).

The popularity of flats with retired people is suggested by the large proportion that only come on to the market through a deceased estate. Only five out of the Manning Street block of 18 flats changed hands between 1974 and 1981. Two were deceased estates. In a block owned by Nevada Pty Ltd in Darling Point over one third have held their shares since 1968 and at least five purchases have been the result of deaths (CAC records). It is notoriously difficult to buy into the more exclusive company title blocks. Mrs T M Wilton, an owner and resident of The Astor since 1980, commented on her 'good luck' that she happened by chance to hear of a vacant flat at the time she and her husband were contemplating giving up their Mosman home (Wilton interview, 1982).

For the ageing occupants the death of their companions is not always easy to accept. Mrs Wilkinson spoke poignantly about the loss of her friends. 'A number of my friends have died since I've been here, Dr and Mrs Claffy have both died ... quite a few people have died' (Wilkinson

interview, 1982). Mrs R Gale of Birtley Towers, Elizabeth Bay Road, expressed similar views. 'A lot of the old people have gone into homes but so many of them have died. As a matter of fact there are only 2 or 3 flats vacant at the moment and that's because of probate' (Gale interview 1982). A National Times correspondent put it more succinctly. 'The Astor is especially difficult to buy into because most of its occupants leave via their deathbeds' (NT 7-13 Sept 1980, 43).

Landlords Sell Up

Mrs F R Gresham, owner of a block of nine waterfront flats at 744 New South Head Road, Rose Bay complained bitterly before the 1961 Royal Commission of Inquiry on The Landlord and Tenant (Amendment) Act 1948 that because eight out of nine flats were let at controlled rents of only 2 11s 0d per week, her net income was a pittance at 262 per annum, representing only a 1 per cent net return. (Flat 9 was let on a 5A[1] lease for which she received 12 guineas a week rental). Mrs Gresham decided she must sell the block but found that for a property valued at 28 000 she could expect to realise less than half, 13 000, because of the sitting tenants (purchase price in 1946 was 9000). Her only alternative was to offer the flats for the tenants to purchase at 3000 each (Report 1961, 541).

Mrs Gresham was a typical small landlord, a group which included mainly builders, widows and professional people like architects; they owned only a small number of blocks, usually less than four. Rent control legislation had

---

1 5A leases introduced by Landlord and Tenant (Amendment) Act 1954 allowed decontrol in certain circumstances.

a drastic effect on what was often their main source of income. Many buckled under the burden of trying to maintain a frozen asset and sold out. Large investors, those owning more than four blocks, were more likely to be in a position to take advantage of rent control by buying up controlled premises at minimum cost, securing the tenant's departure and reselling with vacant possession at a handsome profit. Since they usually had alternative accommodation available, big landlords were also more likely to be able to gain possession through eviction than the one block owner (Nelson 1980, 148).

The history of rent control in NSW dates back to the Fair Rents Act of 1915, what Florence Taylor (1879-1969), referred to as a 'clownish piece of legislation' which stifled private investment in housing (Giles 1959, 74). Initiated by the Labor Party in response to trade union pressure, it set up a Fair Rents Court empowered to determine a 'fair rent' based on well-defined calculations. The election of a non-Labor government in 1927 substantially reduced rent control restrictions but the early 1930s saw the introduction of three acts to protect tenants hit by depression, The Reduction of Rent Act 1931 which cut rents by 22.5 per cent, the Ejectments Postponement Act and the Landlord and Tenant (Amendment) Act of 1932 dealing with the postponement of ejectment and the reduction of rents.

On the outbreak of war, the Federal government announced its National Security (Fair Rents) Reguglations of 1939. The Act attempted to control rent inflation and possible exploitation and operated in the territories, Queensland, Tasmania and Victoria. NSW, along with Western Australia and South Australia, introduced separate state legislation. When a Labor government under Prime Minister John Curtin returned to office in 1941 it

moved to strengthen what it considered to be weaknesses in existing rents legislation. The National Security (Landlord and Tenant) Regulations provided for rents to be frozen at the 31 August 1939 level and the setting up of a Fair Rents Board to control rents not exceeding 4 4s (later 10) per week. In 1948 the Labor inspired Landlord and Tenant (Amendment) Act replaced the commonwealth legislation but the two were virtually identical. It was not until 1954 that Labor made the first tentative moves towards decontrol but it did little to halt the steady decline in rental stock as landlords continued to sell up.

Landlords claimed that rent control legislation resulted in owners of property receiving less than a fair return on their capital investment. Florence Taylor, long a champion of private investment in housing, used her magazine **Building** to put the landlord's case. She wrote:

> At one time people invested money in properties, homes for the people and to house their enterprises. The Fair Rents Court took away the freedom of the home landlord by reducing his prospect of enterprise and winning. They permitted him to stay in business as such as long as he was content to remain on a losing wicket, as something under 5% might be called, for such an entail (**Building** 24 Aug 1954, 31).

In 1949 one landlord's pressure group, the Property Owners' Association, alleged that the 1939 values on which rents were based were at least one-third below the current market values and that 'under present conditions, a man and his wife would need to have a property investment of £5000 to get a net return equal to the income of a married couple on the old age pension' (**SMH** 6 Feb 1949). The **Sunday Herald** published a table to illustrate the decline in the the landlord's profit.

Table 4.2 Fall in profit on two blocks of flats between 1929 and 1949

Year	Rentals £	Expenses £	Surplus £
Six Flats and Four Shops, Darlinghurst			
1929	2 238	1 478	760
1933	1 104	1 189	(85)
1939	1 459	1 075	384
1949	1 504	1 271	233
Nine Flats, Eastern Suburbs			
1929	808	538	270
1933	375	442	(67)
1939	562	409	153
1949	595	460	135

Source: Sunday Herald 15 Jan 1950

Surplus revenue dropped by at least half in the twenty years from 1929 to 1949 while expenses fell from £1478 to £1271 in the Darlinghurst block and from £538 to £460 in the second block. Landlords economised where they could, with maintenance and repair work being the first to be axed.

Commissioners investigating the Landlord and Tenant (Amendment) Act 1948 closely questioned over 130 witnesses, representing a cross section of property owners, tenants, pensioners, real estate agents, builders, solicitors and public servants, on return on investment. They found conflicting views on what constituted a 'fair return.' Real estate agents' opinions varied from 6 per cent to 11 per cent net depending on the situation of the premises, its age and state of repair (Report 1961, 39, 419, 768). Analysis of the returns of the trustee companies revealed a rate of return considerably lower than 7 per cent. For example, out of 65 tenancies the Union Trustee Company of Australia Ltd had 52 yielding under a 3 per cent net return, 12 at 1.66 per cent and one at under 1 per cent net

return (Report 1961, 635; see also Appendix 36; 581, 595). The Royal Commission concluded that 'the net return to owners of controlled premises is low' (Report 1961, 28).

In view of the poor rate of return many landlords had no option but to sell, mostly to sitting tenants. As Mr H A O Gorman, President of the Real Estate Institute of NSW and director of one of Sydney's leading firms of real estate agents, Hardie and Gorman Pty Ltd, told the Commissioners

> no opportunity is missed to sell them [properties]. As soon as there is any opportunity of any kind to sell the property, sometimes the opportunity is forced on them, but whenever they feel the need or the opportunity to sell the property they sell it and almost invariable it is a sale to the tenant. (Report 1961, 615).

Coromandel, a block of 11 flats at Darling Point, 15 flats in Ulverstone at Elizabeth Bay and the 'King of Macleay Street', the ten storey Macleay Regis built in 1939 at a cost of £140 000, were all sold as individual flats during the fifties (Building 24 Apr 1939, 17; SMH 18 Nov 1955). Spokesman for L J Hookers, agents handling the sale of the 87 'spacious and luxuriously finished' flats in the Macleay Regis explained the reasons for the sale. 'The owner's decision to sell the flats as home units follows an overseas trend for tenants to buy their own flats'. Tenants had first option to purchase. The flats realised £319 550. Lend Lease also sold about half of its 40 flats at Ithaca Gardens when it was rumoured that a tall building would be built in front of them on the esplanade at Elizabeth Bay though this never eventuated. The rest were let at £15 15s per week (Report 1961, 751).

One company which had large property investments, many of which were sold off during the fifties was Consolidated Real Estate and Investment Co

Ltd. Headed by Chairman and Managing Director Raymond A Gale, together with his father, two brothers and one sister, the company was essentially a family business whose involvement with real estate began in 1914. (Gale interview 1982). By the 1920s the family owned extensive property throughout the city, including at one time some 80 terraces and houses, eight shops at Pagewood and at least 15 large blocks of flats in Elizabeth Bay and Potts Point and in the eastern suburbs (Table 4.3)

The most well known of the blocks was Birtley Towers in Elizabeth Bay Road, a nine storey block consisting of 54 flats designed by prominent Sydney architect E L Sodersteen in the early thirties (**Building** 12 July 1934, 20-21; **Architecture** 1 Apr 1934, 78-81). Others blocks included Meudon, 18 flats off Onslow Avenue; Marlborough Hall on the corner of Ward Avenue and Barncleuth Square which consisted of 63 bachelor flats in seven storeys also designed by Sodersteen; and Kingsley Hall and the Winter Garden in Darlinghurst Road (Gale interview 1982; **Building** 25 May 1937, 42).

By the mid 1950s Gale could see that rent control was making residential property investment financially unremunerative. He decided to consolidate the company's position by liquidating some of its assets though the intention was never to sell up entirely. As Gale said, he regarded real estate as 'a last resort against inflation' (**Report** 1961, 753). The eighty terraces were amongst the first to be sold. According to Gale, they 'were not worth owning' because rent control allowed 'very little return out of them', so he offered them to tenants. Like many landlords of the time he was prepared to provide vendor finance. He gave tenants the option of purchasing on a 10 per cent deposit for up to a 15 year term at 6½ per cent interest rate. Bethune also noted this trend, citing a 1957 ABS survey of the type of

finance used by households purchasing dwellings that were rented in 1954 in which 70 per cent of the 102 Sydney households obtained finance from private persons (Bethune 1977, 300). By 1961 only five of the terraces remained, those in Barcan Avenue, Darlinghurst (Report 1961, 740).

A far greater proportion of flats than houses survived Gale's rationalisation process, though it is not clear exactly why. Possibly there were more 5A leases amongst them or Gale may have forseen a greater long term gain in retaining the flats rather than the houses. Certainly some of his flat tenants were not in a position to or did not welcome the opportunity to buy, either because they were elderly tenants on controlled rents or young couples who preferred to save for a house. Table 4.3 is an inventory of property owned by Consolidated Real Estate (as far as can be ascertained) showing the decline in the number of tenancies between 1947 and 1961.

The largest flat project to be sold off under company title by Consolidated Real Estate was Birtley Towers. By the mid 1950s Gale realised that rent control, State Land Tax and the increase in the Valuer General's valuation were making Birtley Towers unprofitable. He approached Richardson and Wrench and Stantons, two leading firms of Sydney estate agents, to assess the flats for their tenanted market value and then sent a circular letter to each tenant offering the flats for purchase. Gale described their reaction in evidence to the Commissioners. 'In most instances we were treated most discourteously by the tenants, who thought we were trying to profiteer on the building, and we had no success at all' (Report 1961, 741). Quite unexpectedly in about 1955 a flat consisting of a lounge, bedroom, dining room, verandah, kitchen and bathroom, became vacant. Its tenanted

market value was £4750. Gale lost no time in organising for its auction by Richardson and Wrench and the flat was sold to a relative of Stanton's 'who surely knew the value' for £7100. Immediately that became known 'the tenants were round us like flies' and Gale sold 30 flats in three weeks at their tenanted market value. Within three years several of the flats resold at a 45 per cent profit (Report 1961, 741).

Table 4.3 Property owned by Consolidated Real Estate and Investment Co Ltd

Property	No of tenants 1947	No of tenants 1961	Property	No of tenants 1947	No of tenants 1961
Flats					
Birtley Towers	54	6	Marlborough Court	62	62
Kingsley Hall	36[a]	36[a]	The Winter Garden	35	3
Reo Court	1[a]	1[a]	Craigevar	6	6
Westland Hall	6	6	Links House	12	12
Rotherwood	6	6	Orielton	12	12
Tresscourt	8	8	Monray	12	12
Wychbury	18	13	Carina	15	15
Meudon	18	13			
Other					
Trenton House (129 Phillip St)	63	0	Houses & terraces	80	5
Private Hotel	80	0	Shops (Pagewood)	12	12
Total number of tenants at 1947			536		
Total number of tenants at 1961			228		

Source: Report 1961, CAC records, Registrar General's records

[a] Nine flats but let on a head lease, therefore only one tenant.

Other flats sold off during the fifties included 32 in the Winter Garden and five in Meudon. Several of the remaining 13 Meudon flats were 5A leases so perhaps the pressure to sell was not as great. Gale was much more concerned about the Wychbury flats. He managed to sell only five flats at prices ranging from £5700 to £7250. In 1961, 13 flats were still available

for purchase, which Gale considered 'a bad do altogether', especially as they were all let at controlled rents. Of the five sold, three were to sitting tenants, one had vacant possession and the fifth was purchased subject to an existing tenancy (Report 1961, 748, 749). The remaining flats were not sold until the 1960s.

Consolidated Real Estate appeared to have been genuinely concerned for its tenants largely because of Gale's influence. 'A very kind man and a wonderful one for charity' was how his wife described him. He established a close personal relationship with many of his tenants and would refuse to apply for an increase in rent for flats occupied by pensioners or those in need, such as the returned soldier husband 'who is absolutely a cot case' (Report 1961, 753).

Landlords and Tenants

Not all landlord and tenant relationships were as good. Newspaper reports of the day indicated growing antagonism between property owners and their tenants as rent control exacerbated the post-war shortage of accommodation. Unscrupulous landlords were accused of exhorting 'key money' from desperate flat seekers while some flat tenants sub-let rooms at enormous rents, safe in the knowledge that their victims rarely complained about conditions, so acute was the housing shortage.

An owner of nine flats in Rose Bay discovered that one tenant sublet her flat for 16 guineas a week while paying the landlord only £2 11s per week. The landlord proved the allegation in court but lost the case on a technicality (Report 1961, 541). Like many of the malpractices it was not

strictly speaking illegal though certainly 'unfair to owners of controlled premises' and 'socially highly undesirable' as the Commissioners put it (Report 1961, 32). Another woman who held the tenancies of no less than 16 flats in Potts Point and Elizabeth Bay at controlled rents sublet the flats and received a net profit of approximately £10 000 per annum. The Commissioners reported that although it appeared that the tenant would have been prepared to pay a higher rent, 'owing to rent control she was in the position of enjoying the benefit of a lucrative business without being required to pay a proper or equitable rent' (Report 1961, 46).

Landlords complained bitterly of the 'wealthy tenant' who enjoyed the status of sitting tenant by virtue of their occupancy. L A Block, owner of Wentworth Towers, Wentworth Place, Point Piper, a luxury block of 13 three bedroom flats plus 15 garages, quarters for servants and a five bedroom, three bathroom penthouse, sketched this outline of his controlled tenants:

Tenant 1	Absent overseas since 1955. Retained flat but left vacant.
Tenant 2	Occupied the five bedroom flat. Employed a housekeeper and a maid.
Tenant 3	Inherited by two married women already occupying another controlled flat. Wanted to purchase a flat for £20 000 cash.
Tenant 4	Widow owing flat property of her own.
Tenant 5	Couple. Wife left substantial amount of money by previous husband, also owned a 'big business'.
Tenant 6	Chairman of Directors of a substantial public company.
Tenant 7	Chairman of Directors of a well-known shirt and textile manufacturing concern.
Tenant 8	Widow of substantial means derived from a company trading in Sydney in popular brands of motor vehicles.
Tenant 9	Gentleman occupying a very senior position in a large industrial concern of world-wide importance.

(Evidence L.A. Block, Report 1961, 454-55, 1276-79).

The situation did not change until 1965 when the Liberal government under Premier Askin introduced new procedures under which 'wealthy tenants', those with gross incomes of £3000 or more, must voluntarily negotiate new rents or be liable for complete decontrol. Need, not occupancy, became the basis for protection (**Bulletin** 6 Nov 1965, 18 19).

Tenants filed numerous complaints about the illegal activities of landlords, from demanding 'key money' to the practice of buying up controlled premises at low prices then harrassing tenants until they vacated. Attorney-General and Minister of Justice, R R Downing, received considerable correspondence suggesting that flat owners were 'exerting pressure' on tenants either to buy their flat or be evicted. He assured tenants of flats offered for sale as 'home units' that they were protected under the Landlord and Tenant (Amendment) Act 1954 (SMH 11 Apr 1956). This was little comfort to recipients of continual harrassment, particularly old people living alone. The ACOSS submission to the **Commonwealth Commission of Inquiry into Poverty** (1974) outlined some of the tactics employed, including altering locks, cutting off gas and electricity supplies, leaving 'repairs' in such a dangerous state as to make the property virtually uninhabitable and persuading tenants to move into another flat while renovations are carried out and then claiming the tenant had broken the lease (ACOSS 1974, 18-22).

The acceleration of 'creeping decontrol' in 1958 when the introduction of the Landlord and Tenant (Amendment) Act decontrolled three new categories of dwellings, gave landlords an even greater incentive to get rid of protected tenants. Some resorted to employing firms of professional evictors such as Peter Clyne, a disbarred lawyer with a flair for publicity who became a 'formidable landlord's advocate' (Nelson 1977, 87, 158).

Rental Stock Declines

Between 1947 and 1954 dwellings in the private sector declined by approximately 26 000 (Appendix C). Some of the fall may have been due to demolition and amalgamation but this would have been offset by any new building for rental. Houses were the worst hit. At 1947 nearly half the number of private houses in Sydney were available for rental, by 1954 less than a third were rented (Table 4.4). The shortfall in private investment rental stock was to some extent relieved by the NSW Housing Commission's building programme, especially in the immediate post-war period. By 1954 it contributed over 19 000 dwellings to the rental market, 12 per cent (2358) of which were flats (Appendix B). Despite the easing of rent control legislation in 1954, rental stock continued to decline as the demand for ownership of houses and flats increased.

Table 4.4 Nature of occupancy of private dwellings in Sydney Metropolitan Area at each census 1933-61

	Owner/Purchaser		Tenant				Total[a]	
			Government		Private			
	Houses	Flats	Houses	Flats	Houses	Flats	Houses	Flats
	%		%		%			
1933	48.2	6.5			51.8	93.5	265 479	34 407
1947	53.8	6.7			46.2	93.3	307 112	56 854
1954	67.8	10.3	3.4	4.2	28.8	85.5	408 358	59 743
1961	80.5	21.1	3.6	5.4	15.9	73.5	492 892	83 272

[a] Excludes 'other and unspecified'

Source: Census 1933, 1947, 1954, 1961

The decline in rental stock did not take place evenly across all Sydney suburbs. In 1921, for example, 68 per cent of private dwellings in North

Sydney were rented; in 1971, 53 per cent were still rented. By contrast Willoughby was 48 per cent rented in 1891 but had only 21 per cent of its dwellings rented in 1971. The pattern for suburbs with a high proportion of tenanted properties coincides with areas of extensive flat development. At the 1971 census City of Sydney (65 per cent tenanted), Woollahra (45 per cent), Mosman (37 per cent), Randwick (39 per cent) and Manly (36 per cent) all came into this category. Suburbs with flats of the 1950s and 1960s era include Canterbury (from 19 per cent tenanted in 1954 to 27 per cent in 1971), Parramatta (from 26 per cent in 1954 to 30 per cent in 1971) and Lane Cove (18 per cent in 1961 to 23 per cent in 1971) (Williams 1981, Table 2).

Opponents of rent control blamed the legislation for the decline, persistently arguing that fear persuaded owners to sell or leave their properties idle. Mrs Irene Thompson of Mosman, President of the Housing and Tenancy Reform Association formed in 1957 with the aim of restoring the rights of property owners and 'to encourage the provision of new premises and to encourage and ensure that existing housing was not wasted' told the Commissioners of a survey carried out by the Association during 1957 and 1958. It found 'an unbelievable amount of empty accommodation' mainly due to the complications and confusions of the Act. Old people did not rent part of their homes, despite needing the money, for fear that 'once they did so they would be pushed out of their homes'. Others kept a flat for their own convenience and perhaps only occupied it for a limited period each year. 'Under ordinary circumstances if there was simplicity in the rental regulations they could have let their flats for three months or the six months of their absence' (Report 1961 384-5).

The ALP state government (1941-65) found itself in a difficult position

on the rent control issue. Having inherited the socialist ideology of anti-landlordism and championship of tenants' rights, it was wary of challenging a long held tradition. With a large proportion of sitting tenants residing in Labor strongholds like Paddington, Balmain, Newtown and Leichhardt, possible electoral consequences and fears of more evictions were only too apparent. On the other hand, with virtually all rents pegged at the pre-war level rental stock was diminishing rapidly. Little new building for rental took place, and remaining stock gradually fell into disrepair as landlords had no incentive to carry out repair and maintenance in the knowledge that they were unlikely to recoup their expenses.

In 1954 Labor introduced its Landlord and Tenant (Amendment) Act 1954 No. 46 which, under Section 5A excluded from rent control provisions any dwelling house constructed after 1954 or in the course of construction at that date and those not previously let between 7 December 1941 and 16 December 1954. The move came as something of a surprise. Less than a year earlier Labor argued that decontrol would result in rent increases and exploitation of tenants (SMH 1 Feb 1953). Now the lifting of controls was seen as a way to increase the amount of rental accommodation available. The Attorney General, W F Sheahan explained the government's apparent volte-face on decontrol during the parliamentary debate. He argued that the release of existing accommodation previously untenanted would be more likely to augment rental stock than the lifting of controls from new buildings since building costs would prohibit any great revival of private construction for rental purposes (NSWPD 2 Dec 1954, 1088; cf Nelson 1977, 34, 144). Colleague, R R Downing, MLC and Minister of Justice (1941-60), disagreed, predicting a possible increase in the number of flats, though not of cottages. One Liberal member echoed Downing's opinion with the familiar plea, 'this

country needs more than anything else cottages in which children can be born and reared in a healthy and good environment, and the continuance of flat construction, which is so destructive of family life, is to be deplored' (NSWPD 2 Dec 1954, 2093-4).

The 1954 amendments relaxing rent control failed to substantially halt the decline in the percentage of rental flats and houses. Critics now blamed investors' fear of a reinstatement of controls as the reason for its failure but Nelson argues that other factors, such as the problems and expense associated with managing rental property, the more profitable forms of investment available and the popularity and possibility of home ownership must also be taken into account. She concludes that 'rent control was a deterrent to potential investors in new rental construction, but there is no guarantee that, had rent control been lifted, private investment would have increased the supply of private rentals by any significant amount' (Nelson 1977, 142-144).The virtually unchanged rate of growth of new flats in the Cumberland Division in the three years after the 1954 amendments is shown in Table 4.5. At least half were built by the NSW Housing Commission.

Table 4.5 New flats completed in the Cumberland Division 1952-6

Year ended 30 June	Private	Government	Total
1952	594	470	1 064
1953	395	863	1 258
1954	228	158	386
1955	182	221	403
1956	263	274	537
1957	507	62	569
1958	1 046	258	1 304
1959	1 647	414	2 061
1960	4 171	426	4 597
TOTAL	9 033	3 146	12 179

Source: NSW Quarterly Bulletin of Building Statistics No 36 1956, 10; No 56 1961, 12

After 1954 landlords began to form pressure groups to combat anomalies in rent control legislation. A Home Owners League emerged in 1954 with 100 members, all apparently homeowners unable to obtain repossession of rented premises (SMH 6 Aug 1954). It was followed in 1957 by the Landlord's Justice Association and the Flat and Property Owners' Association. a body which claimed to have about 1000 members 'many of whom owned four or five blocks of flats' (SMH 9 May 1958). The diverse backgrounds and interests of property owners meant that the groups never achieved unified action, indeed in some cases the use of extreme tactics merely succeeded in alienating public opinion and caused dissension within the group. Initially however, their demands were reasonable, including a suggestion to the Minister of Justice that rents be increased by 20 per cent over the 1939 base rental. The Sydney Morning Herald supported the demands, calling the requests 'modest' and arguing that the purchasing power of the pound had deteriorated by more than 20 per cent while water rates and council rates had skyrocketed (SMH 25 Oct 1957).

In 1958 Labor responded to mounting pressure from landlords by introducing a measure allowing decontrol of houses and flats as they became vacant, either by default or by voluntary vacation. The Landlord and Tenant (Amendment) Act 1958 introduced three new categories of decontrolled dwellings; those not let between 1 December 1957 and the date of commencement of the 1958 bill; all those of which the owner obtained vacant possession after the commencement of the bill, provided that vacant possession was obtained because the tenant had committed one of the prescribed offences associated with the dwelling (eg immoral purposes, gambling); and flats in a dwelling house that was in existence at the commencement of the Local Government (Regulations of Flats) Act 1955 and of

which the owner had acquired vacant possession. The number of flats decontrolled could not exceed three in any one dwelling. The 1958 amendment resulted in a more rapid growth in the number of new private flats being built in Sydney. Over 7000 were added to the housing stock between 30 June 1958 and 30 June 1960, more than twice the number in the previous six years (Table 4.5).

New flats accounted for some increase in rental stock but by far the greatest source between 1954 and 1961 was from conversions, possibly as high as one third (Kendig 1979, 116). Figure 4.1 indicates the steady rate of conversions in Sydney during the 1950s in comparison to the highs and lows of new flat building.

A growing number of old homes were subdivided and let as 'flats' in the immediate post-war years. Conditions were often extremely primitive with couples and children living sleeping and eating in a single room and sharing toilet and washing facilities with three or four other families (NSWHC Annual Report 1948, 29). Aldermen in LGAs where large old houses with potential for subdivision were common, including the City of Sydney, Leichhardt, Marrickville, Mosman and Woollahra, together with the Returned Sailors, Soldiers and Airmen's Imperial League of Australia and the Real Estate Institute lobbied the state government to bring in measures to curb the situation by allowing old homes to be converted to flats in non flat areas. Since many of them could not meet the existing strict boundary and site ratio controls, they also argued for a relaxation of flat requirements. The Local Government Association added its weight to the lobby arguing that the number of buildings ripe for conversion would help ease the chronic housing shortage with a minimum of expenditure on labour and materials. At least 7500 houses were identified as suitable for conversion, 3000 of them in non-flat areas (Cardew 1980, 82).

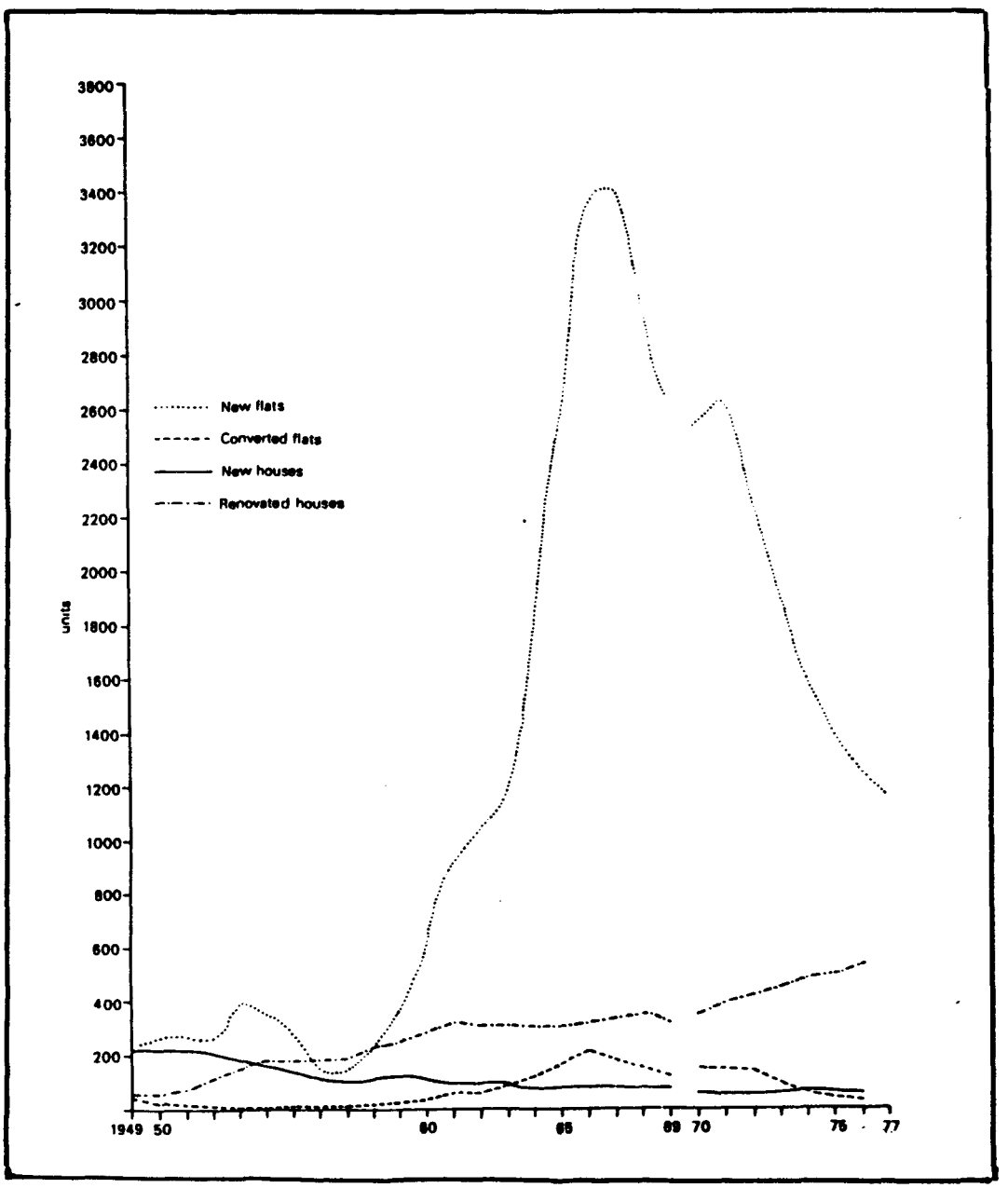


Fig. 4.1 Construction, conversion and renovation in inner Sydney, 1949 - 76. Note: Three-year moving averages. Paddington is included in inner Sydney only up to 1969 (Kendig 1979, 111).

In 1949 the Government introduced the Local Government (Regulation of Flats) Act, as a temporary measure, to expire on 31 December 1951. The Act permitted councils to apply for a site to be specifically excluded from a residential district but certain provisos had to be met to ensure that the flat conversions did not allow for the possibility of overcrowding or slum conditions. Each flat must contain two bedrooms, living room and a bathroom, toilet and kitchen with sink. Walls were to be the prescribed thickness and soundproofing provided. The minimum distance of the external walls from the side boundaries must aggregate at not less than 12 feet with at least three feet on one side.

The provision for appeal to the Minister as well as through normal local government channels to the Land and Valuation Court caused concern among non-Labor supporters. Douglas Darby, the vocal MLA for Manly, called it a 'new intrusion' for socialism (SMH 28 May 1949). The Sydney Morning Herald in a leader article warned of the dangers if the ultimate power concerning flats could pass from local councils to an 'omnipotent State authority' (SMH 18 May 1949).

Government efforts to encourage private investments in flats by allowing conversions did not meet with great success. The number of homes converted between 1949 and 1951 fell far short of expectations though with labour and materials being diverted to new work this may not have given a true indication of the value of the legislation, or so the Labor Government claimed (NSWPD 28 Nov 1955, 1709). Landlords disagreed, putting forward their standard argument that the financial inducements to convert homes to flats were insufficient.

Concessions in subsequent legislation, the Local Government (Regulation of Flats) Act 1955 provided some measure of relief. It allowed converted flats in premises not previously let to be free of rent control. The Act only applied to homes built before 30 June 1949. The controversy over boundary regulations between the existing 12 feet and the six feet demanded by the Local Government Association, resulted in a compromise of a nine feet aggregate with a minimum of three feet on one side. Mosmam alderman, MLA Mr Morton believed that if the 12 feet aggregate were retained the rate of applications for conversions would be slow and 'old homes will fall into disrepair and become lodging houses, which are most unsatisfactory' (NSWPD 23 Nov 1955, 1741). Despite his pessimism, the situation did improve.

The debate over rent control in the 1950s reflected the inability of the ALP to come to an agreement about how rented housing should be regulated. The Labor government usually avoided the issue by concentrating instead an encouraging house ownership in the expanding middle and outer ring suburbs. Labor presided over a dramatic fall in rental stock as investors sold their existing rental flats to owner occupiers. The remarkable jump in flat ownership, from seven per cent in 1947 to 20 per cent in 1961 highlighted the extent of decline in rental stock which the Housing Commission could do little to ameliorate. In the face of this crisis Labor leaders retained their long-held objection to flats but the rental shortage, the continuing demand for accommodation within easy reach of the city and the activities of some flat development companies forced the government to consider legislation which would make the financing and the purchase of flats easier for both investors and prospective owner occupiers.

CHAPTER 5

FROM FLATS TO HOMES

The NSW Conveyancing (Strata Titles) Act 1961 allowed, for the first time in Australia, freehold ownership of flats. The Act has particular significance in the political history of NSW because it was created, engineered and drafted by one private corporation, not by government initiative. It provided conclusive Torrens certificate of title to parts of a building which could be sold, mortgaged or leased in the usual way and title to a proportional share of the common property owned by all the proprietors as tenants-in-common. It won the approval of developers who envisaged a huge new market for flats, the financial institutions who approved the new form of title and the public who could now take up mortgages to buy flats to live in or to retain as a portable, affordable and profitable means of investment.

Flats were no longer the domain of those wealthy enough to finance their own investments or young job seekers or the poor who rented flats because they had no alternative. Flats took on a new respectability. They were 'homes', not a replacement for the detached house and garden, but nevertheless an acceptable alternative for a minority of the population. The term 'home unit' became popular with real estate agents and flat dwellers. The carry over of the 1920s and 1930s stigma of living in a flat, with its popular connotation as a non self-contained and therefore inferior dwelling, almost disappeared though antagonism between the new wave of resident owners and renters became intense. Where a block of flats in the fifties was likely to contain all renters (ie. owned by a single landlord under Torrens Title who rented out all the flats) or all owners (ie. owned and occupied by

individuals under Company Title), now it was far more common for owners and renters to be living side by side in the same block. Distance no longer lent a degree of toleration.

The first moves towards the introduction of an act to allow freehold title for flats came at the 1954 Annual Conference of the Local Government Association of NSW, when Alderman Paine, Mayor of Manly, put forward a motion that the following year's conference 'consider and adopt the principle of horizontal ownership as new means of increased development' and make representations to the Minister of Justice concerning the legal drafting of such a document and to the Valuer General to include separate titles for the purpose of local government rating (LGA of NSW Conference 1954, 30). Delegates did not adopt the motion but agreed that the principle of horizontal ownership be referred to the Executive which subsequently appointed a committee to investigate the flat issue. The four members, Alderman R S Luke (Mosman), Alderman E A Mobbs (Parramatta), Alderman J Bales (Willoughby) and Alderman M Paine (Manly) represented municipalities where flats formed a large percentage of the dwelling stock or were likely targets for future flat development.

The committee presented its report at the 1957 Annual Conference. It mainly dealt with issues arising from Victoria's 1954 amendment to Section 98 of the Transfer of Land Act, which introduced measures concerning valuation and rating, easements, building regulations and subdivision control.[1] The committee recommended legislative action for companies and

---

1. The Victorian measure, intended to allow freehold ownership of a flat, proved unwieldy to implement. With fewer flats than NSW, Victoria did

societies dealing in 'home units':

> If effect were given to this recommendation, then as a result of the attendant publicity the public generally and lending bodies in particular could be expected to become more familiar and have more confidence in such holdings ... (Horizontal Ownership Report 30 Aug 1957 in LGA of NSW Conference 1957, 130).

The Report contains evidence to support Kondos' contention that the well-informed Mayor of Manly first raised the flat question at the behest of Civil and Civic Contractors Pty Ltd, a subsidiary of Lend Lease and one of Australia's most influential property developers with an enormous stake in the future of flats (Kondos 1975, 13). Alderman Paine himself told the committee that horizontal ownership had first come to his attention when discussing with large overseas building concerns the possibility of multi-storeyed residential and commercial buildings in the Manly municipality (LGA of NSW Conference 1957, 131).

Civil and Civic did not become openly associated with the strata title plan until late in 1958 by which time mounting public pressure set the stage for action. Conveyancing lawyers and financiers, townplanners and architects joined disgruntled flat owners and flat tenants and enthusiastic real estate agents (many of whom owned flats) in their support of freehold title for flats. President of the Real Estate Institute, W G Thomas, spoke for a growing number when he advocated

---

not see the need to introduce its Strata Titles Act until 1967. This was followed by the Cluster Titles Act 1974. Legislation in other states includes Tasmania, the Conveyancing and Law of Property Act with a section on Stratum Titles added in 1962; Queensland, the Building Units Titles Act 1965 superseded by the Building Units and Group Titles Act, 1980; WA, the Strata Titles Act 1966; SA, the Real Property Act with the Division of Land by Strata Plan added in 1967; ACT, the Unit Titles Ordinance, 1970; NT, the Unit Titles Ordinance 1975 (Champion 1985, 26).

> the adoption of the principal of horizontal subdivision ... This would enable the Registrar General to issue a normal Torrens title for the home units concerned. The Institute is in favour of this type of subdivision and considers the Government should take action to encourage its adoption (SMH 18 Nov 1955).

The common complaint was the reluctance of lending bodies to finance flats with titles they considered 'unsound' for investment purposes. This had the effect of inhibiting the potential market for flats. New legislation would benefit developers who could build and sell to owner-occupiers. Prospective purchasers, including tenants, would be attracted to flats if finance were available; while existing owners, including owner-occupiers and landlords, would find it easier to sell. Many landlords were keen to sell, especially if their properties were under rent control.

By the mid 1950s, letters calling for a government inquiry into flat ownership appeared regularly in the press and government departments received numerous letters pressing for new legislation (eg SMH 15 Aug, 7 Sept 1957). Mr J H Hillston, owner of a company title flat in 'Orion' 6 Mount Street, Randwick, wrote to Premier J J Cahill to suggest that 'hundreds' of owners of blocks of flats could have sold their property and created 'many thousands of happy Home Unit owners' if the government introduced the necessary legislation. He went on, 'Properties owned by Home Unit owners have in the last few years been so much beautified that it is a pleasure to look at them' (AG File 59/34324, letter dated 9 Feb 1959).

The Rent Control Office received a flood of complaints from flat tenants claiming that unscrupulous landlords were employing dubious tactics aimed at forcing them to buy their flats or face eviction. Mr F R White, a tenant of 'Trentwood' 177 Victoria Road, Bellevue Hill, a three storey block of twelve flats, typified the concern felt by flat tenants about their legal

position in the event of a sale. Managing agents L J Hooker Ltd offered Mr White first option to buy his two bedroom flat for £2750 with an extra £400 for a garage (AG File 59/34324, letter dated 26 Nov 1951). According to Mr. White the price was 'grossly' in excess of the value of the flats and he had been informed that the new owner would be able to evict him (AG File 59/34324, letter dated 3 Oct 1951). Hooker repudiated any suggestion that an attempt was made to intimidate tenants and the Attorney General assured Mr White that he had 'substantial' protection under the Landlord and Tenant (Amendment) Act though he failed to make it clear that a tenant could still be evicted if the owner provided suitable alternative accommodation.

A similar complaint from Sir Graham Waddell, former member of the NSW Legislative Council and tenant of 'Bryon Hall', Macleay Street, Potts Point, a ten storey block built in 1929, merited futher attention, especially after the Sydney Morning Herald publicised the case under the headline 'Flat Tenants Say New Owner Seeking Big Profit' (SMH 28 June 1956). Sir Graham appeared before the Attorney General as representative of the 40 tenants. He argued that the owners, a leading real estate company, threatened the tenants with eviction unless they purchase their flats at an inflated price, but in his view, the proposed Articles of Association of the new company precluded prospective purchasers, like himself, 'from having an adequate voice in the control of the company' (AG File 59/34324, document dated 3 Sept 1956). The Minister referred the matter to the Property Law Revision Committee for consideration.

First established by the Labor Government in 1946 at the time of the Commonwealth-State Housing Agreement, the original committee of the PLRC (whose terms of reference did not include an examination of the ownership of flats) never met. Four years later the committee reformed under the

chairmanship of solicitor L W Taylor with J Baalman, Chief Examiner of Titles as its executive member. Barrister C D Monahan also served on the committee. (AG File 59/34234 letter dated 26 Feb 1959). The three members could not reach agreement on the question of flat ownership. Taylor and Monahan wanted existing company title arrangements to stand with limited legislation to standardise procedures such as the articles of association to make them more satisfactory, much on the lines of the Local Government Association's report. Baalman disagreed; he favoured innovative legislation to create freehold title to a flat and thus establish conclusive proprietory right rather than a simple contractual right as existed with company title. Baalman believed such legislation would overcome the weakness of company title in the eyes of the financial institutions (AG File 59/34324 letter dated 4 June 1957). In view of Baalman's clearly stated opinion, it is not surprising that Civil and Civic subsequently selected him to act on their behalf on the strata title issue.

Five months after the PLRC's report, the question of flats finally came before the Parliament. On 12 September 1957, T P Murphy, Labor member for Concord, asked whether the government would take action to facilitate the transfer of flat titles. W F Sheahan, representing Downing, Attorney General in Cahill's Labor administration, replied that the PLRC was examining the matter and that their deliberations would give 'a lead to the Minister on the action that should be taken to protect the interests of those concerned' (NSWPD 12 Sept 1957, 489). Sheahan's response failed to make any mention of the fact that the PLRC had already presented one report to the Minister some five months early. His delaying tactics typified the government's approach to the strata title issue which it studiously side stepped over the next few years, ignoring demands from both sides of the house to bring in early legislation.

Reasons for the delay are unclear, beyond the novelty of the proposed legislation, its complexity and its possible consequences. Certainly the flat issue found Labor faced with a dilemma. It had to decide whether to support an electorally popular policy at the apparent expense of Labor ideology. Labor had to uphold the Australian dream of house ownership if it was to continue to be successful at the polls. It had to be seen to support legislation which would both further the dream and increase the housing stock at a time of housing shortage. Now that flats formed a permanent feature of the cityscape, ownership of flats must be made as readily accessible to all income levels as much as houses were. Exclusive ownership of flats by the wealthy owner occupier, landlords or by those with sufficient income to afford the high interest rates demanded by the lending bodies must become a thing of the past. According to a Sydney Morning Herald editorial:

> Enough new blocks of units have now been built, or enough blocks of flats have been converted into units to skim the cream off the reservoir of people who do not want to own their own houses, but who prefer flat life and are prepared to buy units outright for cash. There remain a great many more who feel the same way, but who have neither the capital to buy units outright nor, if terms are available, the income to meet high regular payments (SMH 25 July 1959).

The possibility of NSW Housing Commission flats being sold to tenants was actually canvassed by some Labor parliamentarians, especially those whose electorates contained a high proportion of government flats. No doubt many were conscious, too, that if the legal questions were resolved, private enterprise finance would flow into flat construction in 'slum' areas. The Sydney Morning Herald put the private enterprise must play-its-part line:

> Governments and local bodies cannot be relied on to clear Sydney's inner suburbs of slums. Private interests must play their part in providing the high density housing so clearly necessary. They have obvious scope in home-unit investment but the legal and financial hurdles must first be surmounted (editorial, SMH 25 July 1959).

H C Mallam, Labor member for Dulwich Hill and director of six building societies, broached the matter of Commission flats during the budget debate. He argued

> some people like to purchase flats as separate units. No doubt many people like to live permanently in the inner city areas, and money obtained from the sale of these flats could be kept in circulation. If the Commonwealth Government made more money available it would be possible for the worker to buy a flat by instalments (**NSWPD** 1 Oct 1957, 841).

Two days later Mallam asked Minister for Housing, A Landa, if he would consider the sale of Commission flats on the lines of the New Zealand Housing Authority. Landa replied that the scheme 'appealed' to him (**NSWPD** 3 Oct 1957, 900). Little could be done, however, until the new legislation passed. As Landa put it, 'when the position in respect of titles to home units generally is clarified ... it may be possible to give further consideration to the sale of Housing Commission flat projects of an appropriate size and type as home units' (SMH 12 Sept 1959, Cabinet Minute 18 Nov 1957 in AG File 59/34324). The Commission in fact never sold any flats. Technical difficulties in complying with the Strata Title Act, complications arising from having owners and renters living in close proximity and a lack of demand from sitting flat tenants were the main reasons. Many flat tenants were single and could not afford or had no desire to buy their flat, especially if they were elderly. Others had children and preferred, given the opportunity, to buy a house and garden in the suburbs than an inner city flat.

Liberal parliamentarians remained unmoved by the notion of possible sales of Commission flats to workers, preferring to support flat title reform purely on financial and economic grounds. G S Cox, representing many hundreds of flat dwellers in his Vaucluse electorate, led the Liberal attack. On 2 October 1957, he demanded of the Minister for Housing

> Is it a fact that home-unit type housing is accepted as satisfactory to home seekers and home finance organisations in other parts of the world, notably the United States of America, various European countries and Victoria? Are home seekers in New South Wales, particularly in Sydney, now acquiring home units, and can ready availability of these units quickly and substantially ease the housing shortage? Is it a fact that various matters relating to home unit buildings, primarily title difficulties, have caused some financial houses to refrain from making moneys available for home units? (**NSWPD** 2 Oct 1957, 853).

An estate agent himself, Cox proved a persistent champion of strata title legislation. Throughout 1958 he repeatedly agitated for a response to his initial question on legal title of flats but the government procrastinated, offering no firm assurances of a date when an announcement would be made, merely that it awaited the PLRC's report. In December 1958 Sheahan finally committed the government to bringing down legislation which would be 'satisfactory to all concerned' (**NSWPD** 4 Dec 1958, 2386). His statement was timely. With an election looming barely three months away, housing was an obvious concern of many voters, a fact which Labor fully recognised having already capitalised on the major housing conference it held earlier in the year (**SMH** 3, 4 Mar 1958). Sheahan's statement also coincided with the public endorsement of strata title legislation by Civil and Civic Pty Ltd.

For some time now Civil and Civic, and especially its managing director, Dutch engineer, G J Dusseldorp (who arrived in Australia in 1950 to work on the Snowy Mountains Scheme) had advocated the need for strata title legislation. Dusseldorp claimed during a television interview, that such legislation would make finance available on an equal basis with homes which would see the price of flats fall 'drastically' (**SMH** 28 Sept 1959). As a property development company, Civil and Civic had no desire to become landlord as well, with capital tied up in a building long term, yet attempts

to sell on the open market were continually frustrated by the lending institutions' reluctance to finance company title flats. Civil and Civic's interests would be best served by an easing of lending restrictions which would create a huge potential market for flats. A 'flat boom' would be particularly welcome as the company had three major flat developments on the drawing boards at the time, one at Balmoral, another for an 88 acre site at St. Ives and a third, the controversial Blues Point Towers project at McMahon's Point.

Mention of these major projects was made in a letter dated 18 December 1958 from Dusseldorp to the Attorney General in which he stated that the general public suffered 'a great deal of hardship' under the existing legislation. He claimed that his company had 'specialised knowledge ... of the disadvantages of the present situation regarding home unit titles, more particularly in respect of the provision of long-term finance to the purchasers of such units' (AG File 59/34324). Dusseldorp referred to expert 'counsel' engaged by the company to, in effect, draw up a proposed draft for a strata title bill. He carefully averted possible criticism of his company riding roughshod over government initiatives by circumspectly suggesting that Downing may wish to 'consider' counsel's findings which 'appear' to be reaching the state of formulating a 'reasonable and practical' solution. What Dusseldorp failed to mention was that his counsel was J. Baalman QC, Executive Member of the PLRC, the sole advocate on the committee for drastic changes to flat titles.

On February 3 1959, Dusseldorp presented counsel's 'findings' to the Attorney General. Downing may have been somewhat bemused to see before him a 19 page document containing a complete draft bill with clause 1 reading

'This Act may be cited as the Stratified Titles Act, 1959' (LGA of NSW File 2/1086 No.2). It was a far cry from the tentative research he had been led to expect.

While legal officers from the Registrar General's department examined the draft bill, Dusseldorp set about rallying interest groups in the community. He organised a luncheon on 11 March in the Corroboree Room of the Wentworth Hotel. Amongst those issued with personal invitations were the Chief Executives of all major banks, four insurance and finance companies including the AMP, seven government departments and eleven professional bodies representing builders, architects, real estate agents, building societies and lawyers. No flat dwellers or flat lobby groups were invited. The invitation sent to the President of the NSW Local Government Association was typical. Dusseldorp's letter said in part,

> The aim of our activities is to assist the Government in arriving at legislation which puts "stratified titles" on an equal footing with existing property titles. A co-ordinated approach by the affected parties will no doubt produce the best possible solution, and we have the support of the Minister for Justice and the Minister for Local Government in our efforts.
>
> The implication of the availability of acceptable "stratified titles" goes far beyond the sphere of so-called "home units". It is our belief that a great stimulus would be provided by such titles to the redevelopment of dilapidated areas surrounding the Inner City. They would be used extensively for commercial and professional purposes. (LGA of NSW File 2/1086 No.2).

He sensibly neglected to mention the benefits accruing to his own company if legislation was introduced but instead stressed the 'stimulus' to the 'redevelopment of dilapidated areas surrounding the Inner City'. Ironically, a city flat boom did not really take off until the mid 1970s.

Three weeks later Dusseldorp convened a second meeting at the University of Sydney's Law School in Phillip Street to discuss the legal

implications of the bill. Over 40 of Sydney's leading citizens attended (LGA of NSW File 2/1086 No.2). They unanimously agreed on the necessity for strata title legislation; balancing their diverse interests to come up with a draft acceptable to all was another question. This task was left to a drafting committee which consisted of three members, one from the PLRC, Dusseldorp's counsel, Baalman, and a Senior Legal Officer from the Registrar General's Department, seconded by his department but paid for by Lend Lease. With the drafting committee 'instigated, supervised and paid for' by Lend Lease, it is not surprising that Kondos later called it 'a remarkable arrangement, to say the least, in the law making process in any society' (Kondos 1975, 136). As the **Sydney Morning Herald** commented:

> Those who are concerned with easing the housing shortage in New South Wales will welcome the news that the problem of providing freehold titles for home units has been virtually solved. The initiative, it is interesting to note, has been taken by private interests, and the Government, subject to the comments of the Property Law Revision Committee, seems willing to accept the result and legislate accordingly (SMH 25 July 1959).

Civil and Civic's involvement gave Liberal members ample grounds on which to attack the government's ineptitude and while the Drafting Committee deliberated on the new legislation, the opposition continued to press for more information. K M McCaw, member for Lane Cove (1947-57) and V H Treatt, member for one of the most dense flat areas in Sydney, Woollahra (1938-62) rallied behind their colleague, Cox, in demanding a satisfactory reply. In October 1959, Treatt remarked 'the public generally is clamouring for information and it is improper that the Government should be so laggard in the matter ... What is the difficulty? If the Government cannot draft a bill that will meet requirements, it should say so' (NSWPD 7 Oct 1959, 1383). The government gave the complexity of the proposed legislation as the main reason for the delay. Indeed, the Drafting Committee produced four drafts of

the bill, in addition to Lend Lease's original draft, before it was finally satisfied. It encountered numerous difficulties in negotiating with the representative bodies. The MWSDB, local councils and the lending institutions proved the most vociferous in pursuing their interests.

The overriding issue for the MWSDB and the local councils was the question of how to rate an individually owned flat where they were accustomed to rating a block of flats as one entity. Ideally, to draft a scheme providing absolute ownership to a flat required individual assessment as was the case with houses. The MWSDB suggested individual meters so that in the case of a single defaulting ratepayer, the entire block would not be penalised if the water supply were disconnected. This suggestion did not meet with general approval. The Committee objected on the grounds that it would exclude existing flats. Lend Lease objected because it necessitated increased construction costs. The compromise reached required the rating bodies to assess each flat separately as a proportion of the whole block according to the calculation set down in the act known as the 'schedule of unit entitlement'. A 'body corporate' was set up to deal with the problem of the defaulting ratepayer.

The Drafting Committee came up with a similar solution to allay the fears of lending bodies over the question of fire insurance. To safeguard its mortages, the mortgagor made fire insurance a condition of borrowing. Since the insurance companies would only insure the whole block of flats, the Act required the body corporate to take out the insurance and then levy individual flat owners for their share.

In view of the drafting difficulties, the bill did not come before the

house until 26 November 1959. Even then barrister N J Mannix, Labor member for Liverpool, director of the Liverpool Cooperative Building Society and Assistant Minister in Heffron's Labor government, carefully pointed out that the bill was incomplete and that the government intended to seek comments from 'the public, lending institutions, real estate associations and other bodies' before the final debate began. How much weight the government would place on the views of citizens was open to question. Mannix's statement to the house that 'the government suggests, therefore, that the only real test which need be applied, all other things being equal, is whether lending institutions will accept the certificate of title created or permitted by home-unit legislation, as satisfactory security for a long-term loan' seemed to suggest an imbalance in favour of the lending institutions (**NSWPD** 26 Nov 1959, 2395).

As it turned out, very few flat dwellers or prospective purchasers offered comments on the bill. By far the majority of submissions came from key lobby groups who had vetted the act from its conception. Not one private individual rated a mention when Mannix acknowledged his government's indebtedness to those who had appraised the legislation. All were 'experts' from such bodies as the Incorporated Law Institute of NSW, the Real Estate Institute of NSW, the Fire and Accident Underwriters Association of NSW, the major banks and finance companies, L J Hooker Limited and, of course, Civil and Civic Contractors Pty Ltd (**NSWPD** 17 Nov 1960, 2113). One academic attributed the apparent lethargy of members of the general public to a lack of awareness of the implications of the new legislation. While every newspaper announced the government's invitation, none bothered to inform its readers of how they might go about viewing the bill should they wish to do so (eg **DT** 2 Dec 1959; **SMH** 26 Nov 1959). Neither was it made clear until the second reading of the bill that flats owned under company title (ie the

majority) could be converted to strata title under the new provisions (Kondos 1975, 147).

The NSW Conveyancing (Strata Titles) Act became law on 1 July 1961. It finally provided conclusive title to 'a stratum of air space' and on the approval of the strata plan, a flat owner now had a Torrens certificate of title certifying ownership of a particular flat which he could sell, mortgage or lease in the usual way. It was a unique piece of legislation. One authority justly labelled it 'made in Australia' (Rath, Grimes and More 1962, XI). In recognition of the unprecedented involvement of the giant construction company one might add 'made in Australia, manufactured by Lend Lease.'

The long awaited NSW Conveyancing (Strata Titles) Act met with mixed approval when it finally came on the statute books. President of the Real Estate Agents and Valuers Ltd, Mr H C Brierley, stressed that the disadvantages of the Act had been 'glossed over' to such an extent that the public could be misled (SMH 9 Aug 1961). In an article in the Daily Telegraph, he argued that, under Section 26, flat owners buying on terms might have no real control of their flats until the expiration of the mortgage period. A lending body or person could paint the building as often as it wished and make the flat owners pay the costs. He put forward the view that flat owners would save considerable legal and accounting expenses if they became tenants-in-common with separate legal agreements rather than jumping on 'this expensive merry-go-round [that] has been brought into existence' (DT 9 Aug 1961).

President of the Real Estate Institute of NSW, Mr H A Gorman, dis-

agreed with his counterpart of the Society of Real Estate Agents and Valuers. He deflected Brierley's criticism by saying that tenancies in-common were impractical for all but the smallest of flat blocks. As far as the 'loss of rights' was concerned, Gorman said that it should be taken for granted that any person intent on purchasing a flat would naturally seek legal advice. There was no difference in this respect than when a person was buying a house. Mortgagees of flats had only the same powers and rights as they had in connection with a house mortgage (SMH 9 Aug 1961).

Brierley also expressed his concern over the question of rates, an issue which was to prove a running sore for flat owners over the next few years. Their complaints centred around the system of applying the same 'minimum rate' to each flat regardless of whether it was the penthouse apartment or the smallest in the block rather than apportioning the rates according to 'unit entitlement'. This problem had not arisen before. Under Torrens title and Company Title there was only one 'owner', either the individual or the company, who could be rated, now there were several owners involved. The fact that house owners paid the same minimum rate as flat owners irrespective of their land size and that flat owners, through the body corporate, were responsible if a fellow owner defaulted, fuelled their sense of outrage against a system they believed discriminated against flat owners.

During the 1960s, flat owners and house owners flooded the correspondence columns of the local press with letters pleading their respective causes. R J Brickhill, a house owner in Lane Cove, a municipality which saw an enormous rise in flat building in the sixties, justified the rates on flats by arguing

> it costs as much to collect garbage from a unit as from a private house; the occupiers use council parks, roads, street lighting and they derive equal benefit from public health and building controls, sporting facilities and swimming pools. If the home unit owner pays nothing for these the cottage owner simply has to pay more than he should (SMH 1 Apr 1964).

Mrs E Evans, a flat owner also of Lane Cove, admonished Brickhill for failing to come down out of his ivory tower and familiarise himself with the type of people who purchased home units in the £4000 to £6000 class. In her letter of reply she stated

> because of their limited means these people [pensioners, elderly business women or married couples with heart or kindred ailments] live in a somewhat confined space (mostly one-bedroom units) with little or no garden and limited clothes-drying facilities. Therefore their amenities in no way compare with those of people living in a cottage. It seems most unjust that this class of person should be burdened with heavy rates for amenities they are not able to enjoy (SMH 8 Apr 1964).

Sybil M. Jack of Lane Cove attempted to put the problem in perspective when she accused correspondents from both sides of obscuring the central issue. She reasoned that

> to my knowledge nobody wishes to defend the minimum rate charge itself; it is quite simply the only method open to the local council of ensuring that a majority of residents contribute to the maintenance of essential amenities in the area. In districts in which population density is increasing rapidly because of home-unit building, some solution is essential if a penal rate is not to be imposed on house-owners, or essential amenities are not to fall into disrepair (SMH 15 Apr 1964).

She agreed that the present basis for levying local rates was outdated and inequitable but called on all owners 'to agitate for a complete reform, not to attempt to protect sectional interests at the cost, perhaps of the general public good' (SMH 15 Apr 1964). More and more flat owners became caught in the struggle against the ubiquitious minimum rating structure. They drew considerable support from the press who called them the 'milch

cows' of the rating authorities, and from parliamentarians from both sides of the House, like L A Walsh, Labor Coogee and G S Cox, Liberal Vaucluse, whose electorates contained a high proportion of flats (SMH 30 Mar 1964).

The announcement of a Royal Commission of Inquiry into Rating, Valuation and Local Government Finance in 1965 brought flat owners a measure of hope that justice would be done. The three commissioners, Justice R Else-Mitchell, S Haviland and R S Luke, began their hearing on 26 August. They received a total of 183 submissions including a number on the subject of minimum rating for strata flats. The Local Government and Shires Association and an 'overwhelming number of councils' who were content with the status quo, supported the levying of rates on unimproved values. This was hardly surprising since councils stood to gain enormously out of the system. They had only to allow 20 flats to be built on the site of a single dwelling to be able to reap 20 times the minimum rate previously paid by the house owner. The statement by Sydney City Council summed up the two main advantages of unimproved capital value rating,

> i) that a rate on a valuation which is unaffected by the improvements on the site must encourage development, and
>
> ii) that the increments in land value which would result from public expenditure should be taxed to meet such expenditure (Report 1967, 59, para 4.25-4.27)

Mosman and Woollahra town clerks expressed a different view, though they did not necessarily speak for their respective aldermen. Mr F D Bolin of Woollahra favoured rating on assessed annual values. He noted that high density development, particularly under the Strata Titles Act, had highlighted the fact that UCV rating was outmoded and inequitable. R S E Gay of Mosman wanted a rate based on unimproved capital value and assessed annual value. He pointed out that when his council fixed a minimum rate, it

had resulted in anomalies where flats were concerned as it could not be applied to flats owned by a company where the unit entitlement was provided for by the issue of shares nor did it distinguish between strata titles for different size flats. Gay believed that a more equitable distribution of the rate burden could be achieved by levying a rate on unimproved values to recover the cost of providing 'services' to the land and a rate on assessed annual values to collect the remaining expenditure which was incurred for the benefit of residents generally (Report 1967, 63-64, para 4.43-4.45).

Lend Lease also welcomed the opportunity to speak out against a system which might discourage prospective owners from purchasing their flats and employed a solicitor, Mr A C M Garling, to speak on the injustices of UCV rating. The commissioners agreed with the company and concluded

> We therefore recommend that a council may, at its option, instead of rating each holder, levy rates on the corporate body constituted under the Conveyancing (Strata Titles) Act. This would mean that rates would be a corporate expense in the same fashion as excess water rates, maintenance charges and other community costs (Report 1967, 47, para 3.106).

The commissioners also supported the many strata title flat owners who complained of separate rates being charged for garages and recommended that 'all lots, whether for garages or otherwise, owned by the same person should be rated together as one parcel, and accordingly garage lots would not be separately rated unless they were owned by a person who was not a lot holder in the building' (Report 1967, 49, para 3.106).

While the commissioners came out solidly in favour of the strata flat owners, the government did little to implement its recommendations beyond the setting up of a Cabinet sub-committee to examine the Commission's findings. The lack of action on the part of the State Government further

enraged flat owners. They fought back by forming home unit associations with the intention of fielding candidates at the local council level. By the middle of 1969 there were thirty such associations in the metropolitan area. One of the earliest associations, the Lane Cove Home Unit Association put up two candidates in the local election in December 1968. A circular sent to flat owners in Lane Cove read,

> An effort should be made to persuade the Lane Cove Council that the minimum annual rating be reviewed ... Therefore, we have nominated two residents in the West Ward (also home unit owners) for the position of Aldermen at the municipal elections on December 7, 1968. These gentlemen are successful businessmen ... will you and your co-owners join us? Help us to help you (LCHUA Records, cited by Kondos 1975, 234-5).

Three months later Mosman Home Unit Association succeeded in getting Lloyd Edwards, an ardent campaigner against the minimum rating system, elected to Mosman Council in a by-election held on 17 March 1969. (DT 9, 17 Mar 1969). Frank Walker, Labor member for Georges River, speaking during the second reading debate on the Strata Titles Bill 1973, called Edwards' election a 'worry' for the government. It marked 'the first sign of political muscle from the home unit owners'. He went on, 'there is no doubt that his election caused the Government to reconsider its actions and its attitudes, and the Government reacted by promising to do something about other matters of complaint' (NSWPD 26 Sept 1973, 1327). Walker perhaps overstated the success of home unit association candidates in the council chamber where all too often their views were in direct conflict with the majority of conservative house owning aldermen who only looked on strata flats as a welcome source of revenue which kept the rate down for other house owners like themselves.

Edwards' election was the culmination of a highly vocal campaign conducted by Mosman Home Unit Association. In January 1969 its carefully

orchestrated 'storming' of Council chambers in protest against a 15 per cent rate increase achieved maximum publicity after President R Blunt took the precaution of advising the press in advance that 'about 1000' Mosman ratepayers intended to 'storm' council. The fact that only 150 flat owners turned up made it no less of a success in the Association's eyes; at the very least the story appeared two days in a row in the national press (DT 28, 29 Jan 1969).

In 1969 flat owners suffered a further blow. The MWSDB, a statutory authority under state government control, announced its intention to abandon the unit entitlement formula for rating flat owners for water rates and apply minimum rating assessment in line with the Valuer General's department. To take up the fight at state level required concerted action on the part of the local associations. On 8 May 1969, executives of 12 local home unit associations, including Lane Cove, Mosman and Mona Vale, banded together and formed a single body to be known as the Home Unit Association of New South Wales to coordinate the activities of the local associations. As one member explained, 'we've joined forces so we can be noticed by the people who matter' (SMH 29 July 1971).

Under the leadership of John Alban, an ex-British police officer, the Home Unit Association of NSW embarked on a vigorous publicity campaign to attract new members. Advertisements appearing in the local press urged flat owners to 'fight for your rights' and 'join us today'. Membership soared to a record 52 000 flat owners throughout the metropolitan area, the largest property owners lobby group ever formed in Sydney.

> We're a group of people ... none of us wealthy ... who've bought Home Units. And, we're not satisfied with the deal we're getting from State government, Local and Municipal authorities. So, we have formed an Association to fight for the Rights of every owner of a Home Unit. Not people renting units, or investment-owners. But the big group of little people who have put their total wealth into an investment that must be fully protected.
>
> We are fighting for:
>
> 1. Legislation to enable the Body Corporate to control larrikanism and rowdiness from Tenanted Units in your block.
>
> 2. Control of builders to protect purchasers against shoddy workmanship and use of cheap, poor materials.
>
> 3. Changing Council Policies of minimum rating on all units in a block whether they're a penthouse of a first-floor one-bedroom unit.
>
> 4. And, all other vitally important matters that threaten your investment (Aeroplane Press, 8 Apr 1970, cited by Kondos 1975, 237).

This announcement in the Ashfield local paper Aeroplane Press illustrated the extent to which flat owners set themselves apart from flat tenants as much as from house owners. They blamed tenants for 'house management' disputes that arose most commonly over noise, garbage, common stairways, and parking and demanded legislation to enable the body corporate to control tenants.

Mr Andrew Aquinas Keogh, the 55 year old owner of Flat 15, 14 East Crescent, McMahon's Point, wrote a six page letter to the Secretary of the Local Government Association on the vices of the 'informal tenant' and the injustice of being forced to pay a defaulting owner's rates. Purchaser of another flat in the block, a Mr Clyne, apparently let his flat to a family and then fell two years behind in payment of his rates and maintenance fees. Mr Keogh complained bitterly,

> It is really just a case [that] any one ... can default paying his water and council rates and rely on Muggins his neighbour to foot the bill and the defaultee can await the further court case his neighbours are forced (through no fault of their own) to proceed with to recover an amount which is not incurred by them (LGA of NSW File 2/1086, No.6, letter dated 22 Jan 1967).

It is not clear which Mr Keogh considered the greater crime, the fact that Mr Clyne owed money or that he was allowed to rent out his flat 'to Billy the Black Fellow'. 'It is quite allright (sic)' continued Mr Keogh, if you get into a block with owners who are using the unit as a home but you have the case of people purchasing them and letting them out to anyone who can afford to pay the rent ... whether they are black, white or brindle, they are not at all concerned (LGA of NSW File 2/1086 No. 6). To resident owners like Mr Keogh tenants did not use flats as homes.

Noisy parties, hanging out clothing on balconies and untidiness in the communal laundry were not entirely the preserve of tenants. Disputes arose just as easily amongst groups of owners but the introduction of the flat owner/flat tenant relationship added a further dimension to the disagreement and one which existing legislation appeared to endorse because it permitted only owners to become members of the body corporate. The body corporate, which conducted the day-to-day business of the block and acted as initial arbiter of complaints, therefore tended to reflect how owners, and especially owner-occupiers, wished to see the flats being run. Tenants had no say in any rules and regulations the body corporate saw fit to institute, neither could they hold out much hope that a group of owner occupiers would favour a tenant against a fellow owner in a dispute. Tenants still have no voting rights at body corporate meetings, unless they hold the owner's proxy vote.

If tenants did not favour the current method of settling disputes neither did owners, who found themselves continually frustrated in their efforts to enforce decisions. The Strata Titles Act 1961 gave the body corporate only limited powers of enforcement yet the nature of the dispute often did not warrant the instituting of expensive proceedings in the Supreme Court which had an equal chance of failing as one group of owners discovered to their cost when they lost a case involving some prostitutes who owned flats in their block (SMH 23 Sept 1970). Journalist Sandra Jobson, in a newspaper article aptly titled 'Togetherness Can Have Its Problems'. investigated several blocks of flats and discovered many owners who complained about this lack of control. She wrote,

> At a Coogee block the generation gap has stretched tempers to the limit. The teenage daughter in unit 7 held a party while her parents were on holiday. The guests danced the night away on the parquet floor. When the parents returned they were called to a special meeting of the body corporate and ordered to forbid their daughter from holding any more parties. Whether the parents obey the ruling of the body corporate, however, is another matter. The Strata Titles Act does not provide for such ultimate control of behaviour (SMH 23 Sept 1970).

Complaints reached such epidemic proportions that a whole new industry was created on how to solve them. The Home Unit Publishing Company brought out a home unit handbook titled Home Unit: Handbook, Problems and Answers written by solicitor Mr S R Downes (1969) and in 1977 the Sydney Morning Herald began a new column on 'Strata Title Solutions' in its Real Estate section. The newly formed Home Unit Association of NSW also provided its members (which incidentally included only flat owners; investors, other than owners of single flats on lease, were ineligible for membership as were flat tenants) with 'advice on matters relating to the maintenance, management and repair of common property' (HUA of NSW 1969, 1). But this proliferation of informative literature could do little to alter the mechanism by which disputes were solved. That required government legislation.

The Home Unit Association of NSW, together with the local bodies, pressed for such leglisation but their main thrust at state level continued to be on the question of minimum rating. Premier Askin's promises to bring in early rate legislation continued throughout 1969 and 1970. In November 1969 he announced a measure to exempt flats from the requirement to pay minimum local council rates which he expected 'to bring rate relief to tens of thousands of home unit owners in the Sydney metropolitan area': Flat owners were 'overjoyed'. Their delight proved shortlived. As the Sydney Morning Herald's State political correspondent predicted, local councils could not allow this source of revenue to be dropped without a protest and in the face of their criticism, the government quietly dropped the measure (SMH 12 Nov 1969).

The announcement of a state election to be held on 13 February 1971 brought new fervour to the Home Unit Association's campaign. It bombarded politicians, both of the ruling Liberal Party and the Labor Party, with letters of protest (Kondos 1975, 241). In his policy speech given on national television and radio, Premier Askin spoke of a 'drastic plan' to assist councils and ratepayers and a 'formula' to make the rate impact more equitable to strata title owners (SMH 29 Jan 1971). The Sydney Morning Herald's editorial the following day expressed delight with the news.

> In the sensitive local government field, he [Askin] brought good news. There will be substantial help for councils, and especially for ratepayers (including holders of strata titles). It is obvious that both the major political groups see the need for this - and not before time (SMH 29 Jan 1971).

Two years and countless promises later, the government introduced the new Strata Title Bill into parliament. The document did not entirely please flat owners. Labor member for Georges River, Mr F J Walker, read the

contents of a letter which accompanied a submission from the St. George and New South Wales Home Unit Owners' Association (later known as The Home Unit Owners' Association), during the second reading debate on the Strata Titles Bill (HUOA, First Annual Report 16 Sept 1970). It stated,

> The proposed new Strata Titles Act will involve home unit owners in a morass of regimentation, red tape and increased costs. The Government has lost sight of the fact that Strata Titles are peoples' homes and this Act is a gross infringement on their private lives ... The Act provides for the appointment of managing agents with dictatorial powers in the performance of the functions of Body Corporate Councils and an agent or public accountant. The cost of their services in carrying out the excessive demands of the Act will be exorbitant (NSWPD 26 Sept 1973, 1337).

Secretary of the Association, Mr John Barker, argued that the proposed legislation contained loopholes for 'rapacious municipal councils to extract exorbitant rates' and raised the pet hate of owners occupiers, the tenant who disturbed the peace and harmony of the flat block.

> One of the worst features of Strata Title legislation has been the encouragement of investment in units for leasing purposes and purchasers of home units for their own use will still be oppressed by the depreciation of their property and disturbance of their harmony by disinterested tenants.
>
> The old Act gave no protection against the recalcitrant resident, but these persons have been given greater powers and opportunities to undermine the morale of peaceful proprietors (NSWPD 26 Sept 1973, 1337).

The new Act, known as the Strata Titles Act 1973 repealed the 1961 Act, and laid down a comprehensive code to settle disputes (Part V, ss.97-145). It created the position of Strata Titles Commissioner responsible for the whole state and a new tribunal known as a Strata Titles Board which has a number of branches including one for the Sydney metropolitan area. The Commissioner had quasi-judicial as well as administrative functions and acted as initial arbiter in disputes which could not be solved at the body

corporate level. He could refer complex or particularly important matters to the Board who also dealt with matters not within the scope of the Commissioner and appeals against orders by the Commissioner.

The overwhelming proportion (63 per cent or 4138 cases) of matters which came before the Strata Titles Commissioner between 1 July 1974 and 31 March 1983 involved Section 105 of the Act, the 'catch all' clause which allowed the Commissioner to 'make an order for the settlement of a dispute, or the rectification of a complaint, with respect to the exercise or performance of, or the failure to exercise or perform, a power, authority, duty or function conferred or imposed by this Act or the by-laws in connection with that strata scheme on any person entitled to make an application under this subsection or on the chairman, secretary or treasurer of the body corporate or the council' (Strata Titles Act 1973, section 105 ss.1). Flat owners complaining under this section had a three in five chance of winning their case when it was heard (272 or 6.6 per cent of cases were outstanding at March 1983). Indeed, in all but a minority of instances, appeals to the Commissioner had a better than even chance of success. However, where applicants disagreed with the Commissioner and referred the matter to the Board they were less likely to succeed. Of 614 matters referred, the Board dismissed 53.3 per cent (327) of them. Only 34 per cent (209) received judgements in their favour; 7.8 per cent (48) of applications were withdrawn and 4.9 per cent (30) were awaiting a hearing. (NSW Strata Title Commissioner, internal documents).

The new Act also required the valuing authority, either the MWSDB for water and sewerage rates or the Valuer General for local council rates and land tax, to value each block as a single parcel of land as if it were owned by a single owner and then apportion the rates according to unit

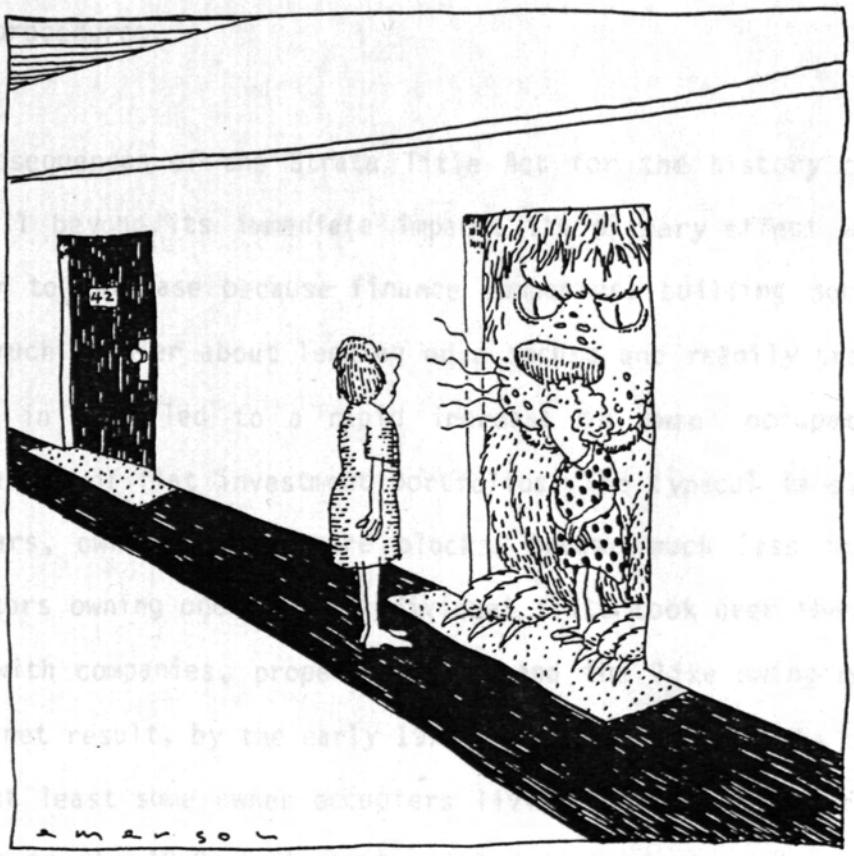


Fig. 5.1 'I believe my neighbours were unreasonable in complaining because the cat is well behaved' (Robinson 1985, 32-3).

entitlement. However, where the rating authority had a minimum rate, either the rate calculated on the apportioned value or the minimum rate would be charged, whichever was the higher (Bugden 1981, 118-21). In 1984 the Strata Titles Act 1973 underwent further amendments mainly concerned with management procedures.

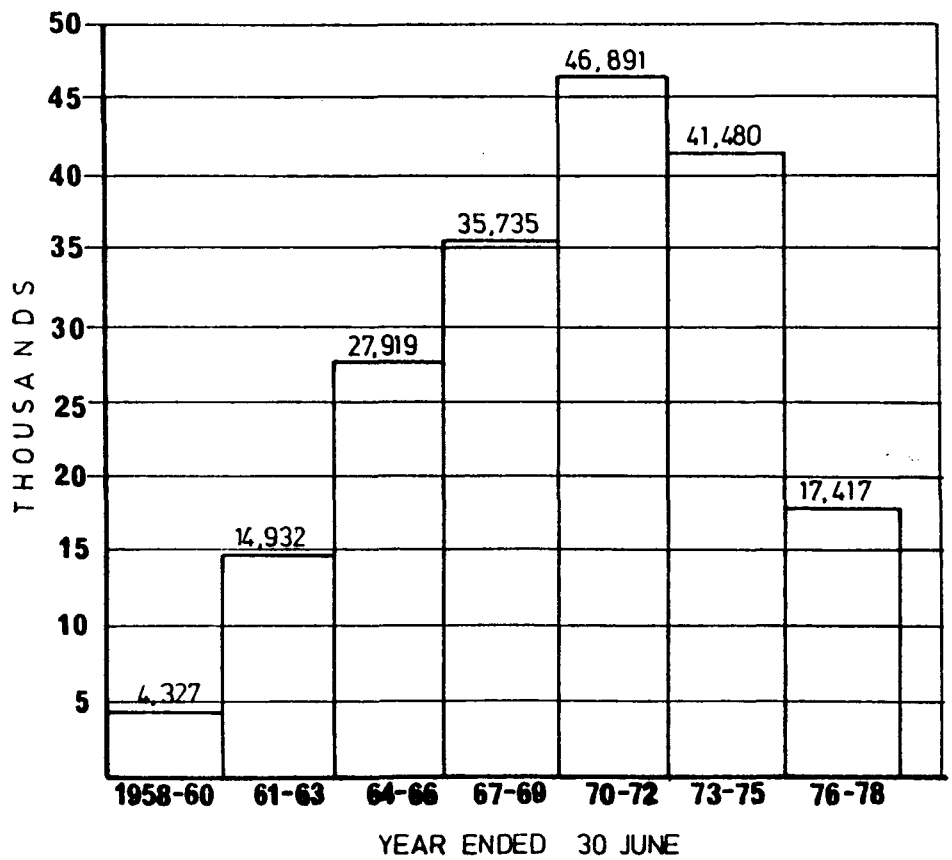
The consequences of the Strata Title Act for the history of Sydney's flats go well beyond its immediate impact. Its primary effect was to make flats easier to purchase because finance companies, building societies and banks were much happier about lending on a secure and readily transportable title. This in turn led to a rapid increase in owner occupation and a gradual break up of flat investment portfolios. The typical landlord of the interwar years, owning one or more blocks, became much less important as small investors owning one or two individual flats took over their share of the market with companies, property trusts and the like owing much larger blocks. The net result, by the early 1970s, was that most blocks of flats in Sydney had at least some owner occupiers living in them, whether they were blocks built in the 1960s and strata titled from birth or interwar blocks which had been converted to strata title. Although there is not sufficient poll or survey evidence to support the supposition, it seems likely that much of the stigma associated with flat living - which centred around the image of noisy and unruly tenants who could not afford or, worse still, did not actively desire home ownership - was gradually on the wane. The Strata Act enabled flats to become homes and set the scene for a flat boom the like of which Sydney had never seen before and may never see again.

CHAPTER 6

THE BOOM

The legacy of the 1960s flat boom is seen throughout suburban Sydney. Rows of uninspired and uninspiring three and four storey blocks sprang up along the main transport corridors and rail lines to dominate the street-scapes of suburbs like Ryde, Lane Cove, Rockdale, Botany and Kogarah. Developers seized the opportunity afforded by readily available finance and lax local government building requirements to jump on the band wagon. Many were fly-by-night operators seeking to make their fortune by 'turning dirt into gold' (Davey interview 1984). Some succeeded but only at the expense of the quality of the urban environment.

Fig. 6.1 New Flat Building In Sydney At Three Year Intervals. 1958-78.



Flat building in the 1960s and early 1970s surpassed even the phenomenal growth rate of the 1920s and 1930s. In 1970, for the first time in Sydney's history, more flats than houses were built (Appendix D). Figure 6.1 illustrates the growth of new flat building in the sixties to its peak in the early seventies and subsequent slump in the mid-seventies.

Table 6.1 Top ten suburbs for strata blocks of flats registered 1961-80

		No of blocks	No of flats
1	Randwick	795	8943 (2)
2	Warringah	769	10489 (1)
3	Canterbury	556	6574 (5)
4	North Sydney	513	8311 (3)
5	Waverley	503	5722 (6)
6	Rockdale	433	7837 (4)
7	Woollahra	350	4484 (9)
8	Sutherland	347	4147 (8)
9	Manly	343	3907 (10)
10	Ryde	291	4711 (7)

Source: Sample Survey Centre, University of Sydney, data file on strata registrations

Since virtually all new flats were strata title after 1961, an examination of the Registrar General's records on strata registrations gives an indication of the extent of the boom. Over 10 000 strata plans for blocks of flats were registered from 1961 to 1980, representing 123 131 individual flats (Appendix E). The 1961 credit squeeze hit the property market hard. Not until 1964 and 1965 did the market really recover to push registrations up to 472 and 691 respectively. Registrations peaked in 1974 but then dropped by more than half in the wake of the property crash. The top ten suburbs for strata flats is given in Table 6.1.

Interwar flats were already a prominent feature of Randwick, North Sydney, Waverley, Woollahra and Manly, so the 1960s flats had less impact in

these suburbs than in Ryde, Sutherland, Rockdale and Warringah. Indeed, the density of development in traditional inter-war flat suburbs left little room for new expansion and although Randwick, North Sydney, Waverley, City of Sydney and Manly accounted for 37 per cent (3921) of all strata blocks, most were the result of conversions, not new flat building.

Although the absolute number of flats built in other suburbs like Lane Cove and Botany is not as high as in some of the established flat suburbs, they were among the suburbs which had the highest percentage increases between 1961 and 1981 (Appendix F). Botany had a 37 per cent increase and Lane Cove a 32 per cent increase whereas Mosman had only 16 per cent increase and Manly 11 per cent. Woollahra's flat stock actually decreased. Between 1971 and 1981 it lost some 2000 flats and between 1961 and 1971 the percentage increase remained about the same (56 per cent) although about 5000 flats were added.

City Flats

Very few blocks of flats were built in the city in comparison with the suburbs (Appendix G). Flats could not compete with the new boom in office re-development which took place in the sixties and early seventies as large-scale developers and investors scrambled for every available site to cash in on the boom (Daly 1982, Ch 2). The towering office blocks that transformed the CBD proved more attractive to investors than blocks of flats which were not in popular demand and did not justify the high cost of land and the difficulty of site amalgamation. Investors doubted whether they could recoup their expenditure quickly enough in the short term. While offices could be let within a short space of time to a small number of tenants, flats might take several years to sell to a larger number of buyers. John Hammond,

director of Stocks and Holdings Ltd estimated that the Park Regis, the first post-war high rise flat block to be built in the CBD, would take anything up to 2 years to sell. (**Bulletin** 10 Feb 1968). Built at a cost of $5m in 1968 the Park Regis, on the corner of Castlereagh and Park Streets, comprised 44 storeys with four floors for parking, ten floors for a motel and 180 residential apartments which went on the market between $11 500 to $140 000 for the penthouses. It was the only block to be built in the CBD until the 1980s boom.

Even state Labor government moves in the mid sixties to encourage mixed commercial and residential development in the city and elsewhere failed to produce many new flats in the CBD. Prior to the legislation developers were reluctant to erect buildings containing residential flats since they would then be subject to Schedule 7 of the Local Government Act with its stringent requirements on set backs and open space. This made combined office and residential buildings an uneconomic proposition, especially in view of the high land costs in the city. The new legislation changed that. Introducing the Local Government (Building Regulation) Amendment Bill in November 1964, NSW Minister for Local Government P D Hills, a former alderman (1948-56) and Lord Mayor (1953-56) of the Sydney City Council, stated

> requests have been made by the Council of the City of Sydney, other councils, and interested bodies for some relaxation of the provisions of schedule seven (of the Local Government Act which regulated residential flat buildings) with a view to encouraging the erection of combined office and residential buildings where such development would be desirable (**NSWPD** 19 Nov 1964, 2119).

The Act allowed councils to apply for a proclamation to designate a section for mixed residential/commercial development which need not conform to Schedule 7 though must conform to building standards laid down in the proclamation.

The new legislation met with an enthusiastic, though as it turned out, ill-judged response. Chairman of L J Hooker Ltd, Mr L J Hooker, claimed it would result in a levelling of rents because more apartments would be available in the city.

> It will enable developers to help eliminate slums and sub-standard dwellings now taking up valuable sites in the inner city. It would ease the burden on transport facilities in the city, because professional people and others would be able to have their flats, consulting rooms and offices in the same building (SMH 22 Aug 1962).

According to the Retail Traders Association the changes would benefit city trade at a time when the major city retail department stores had been forced to establish suburban shopping outlets to revitalise trade. Head of the School of Architecture and Building at UNSW, Professor F E A Towndrow, said the new code would arrest the drift of people to the outer fringe areas (SMH 22 Aug 1962). Their opinions proved erroneous. There was no levelling of rents. Most of the flats built were for sale to owner occupiers or investors who charged rents commensurate with the high prices demanded by developers and certainly beyond the reach of most average income earners. There was no rush by developers to help eliminate slums. Planners who saw the legislation as a way to revitalise the southern end of the city were disappointed. They overlooked its geographical limitations as a residential area, both in terms of its flat topography and its distance from the water and city life. For most developers these were disadvantages which did not outweigh the comparatively lower land costs.

Neither did the Act in any way arrest suburban sprawl since prospective purchasers of expensive inner city flats were unlikely to adopt fringe living as an alternative. Indeed, with the proximity of substantial flats in Elizabeth Bay, Potts Point and Darling Point within easy commuting distance

of the city, there was scarcely any demand for city flats. As the Real Estate Journal pointed out, 'in itself, mixed development has little attraction to the occupants, for seldom is there any community of interest between the residents of the apartments and the business interests in the commercial or office space' (Real Estate Journal Nov 1968, 276). Only in the suburbs, where demand was higher and land costs lower, was flat building a profitable venture.

Suburban Flats

The suburbs bore the brunt of 1960s flat development. Red brick and tile bungalows that took hold in the fifties scarred many suburban streetscapes but their combined effect was negligible in comparison to the box-like three storey blocks of flats that took hold in the sixties. If the sprawl of low density houses which lay behind the hotch potch of low brick walls and fences, varying in detail and design to stake out territorial claims, held little aesthetic appeal, the flat blocks held none. Their ugliness rose three times higher than the houses they awkwardly adjoined or, in many cases replaced, resulting in a scale of development out of character with the rest of the street. Critics of the new blocks reserved their most vehement comments for those wedged on relatively long, narrow subdivisions which gave rise to what they termed 'barrack-like' blocks. These suburban house sites were entirely unsuitable for blocks of flats. It meant that most of the living areas, instead of facing the street, were placed on the longest sides so that flat dwellers looked five metres away on to neighbouring balconies or living rooms or faced a windowless wall of downpipes and guttering. A more sensible approach - to amalgamate sites - was too expensive for most small-scale builders and developers to

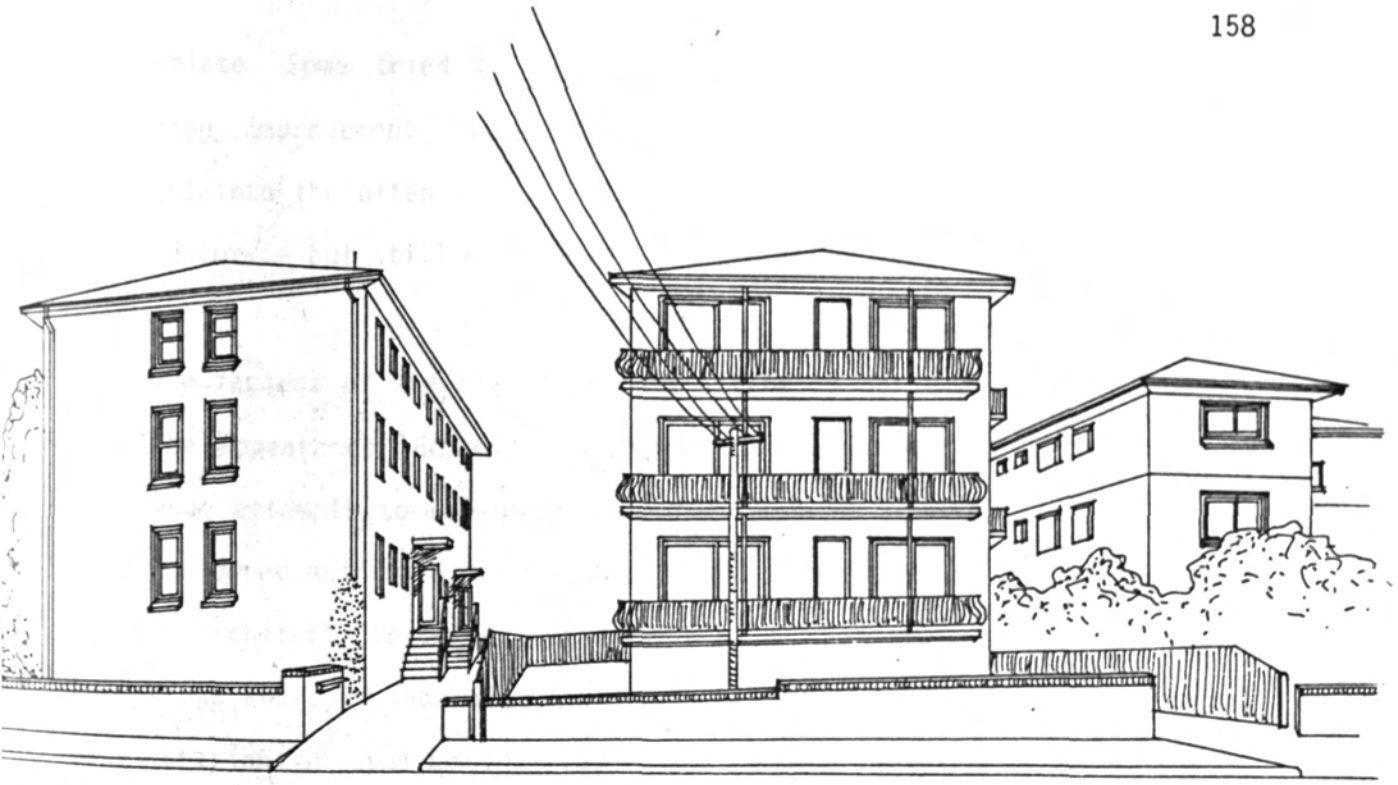
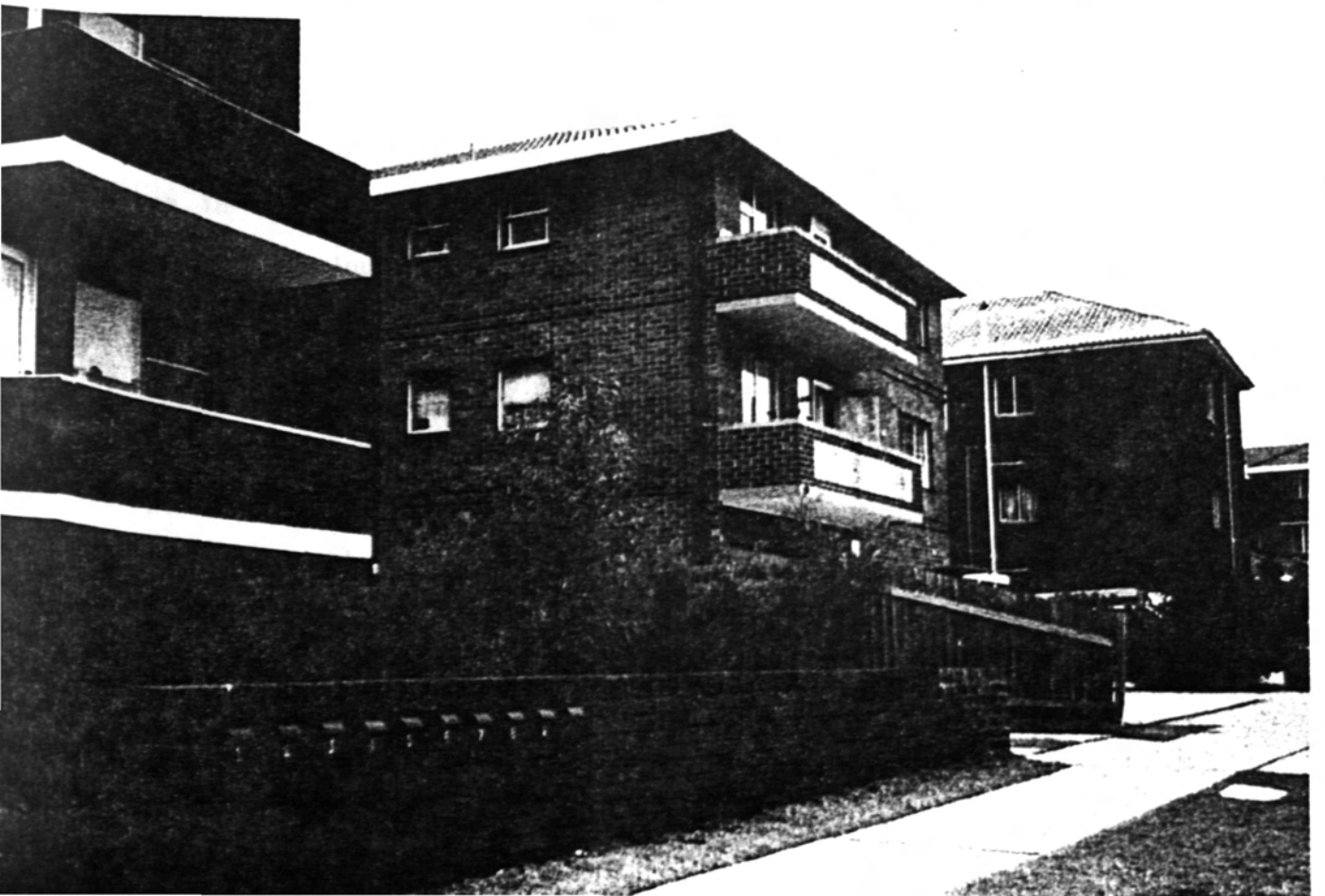


Fig. 6.2 Plans and Reality. (Above) Perspective of flats at Harris Park on the rail-line near Parramatta by Kim Murray architects, January 1986. (Below) Photograph of flats in Rhodes Street, Hillsdale near Botany by R. Thompson, October 1984.



contemplate. Some tried to buy corner sites which had the advantage of attaining improvement in design, especially in terms of letting more sunlight into the often dark flats - and thus increasing the block's appeal to investors - but still only required negotiations with one owner.

The facades of the new blocks did little to relieve their monotonous, box-like appearance. Economics dictated the barest minimum of finishes. A few crude attempts to use fancy, plastic 'wrought iron' on the balconies, gaudy coloured paintwork or 'feature' walls of patterned brick sufficed. One Sydney architect condemned the 'frenzy' for gimmicks and artificial colourings and said that blocks of flats were made 'even more garish by the proliferation of applied features' (SMH 22 Aug 1967). More attention to landscaping would have softened the impact of the stereotype three storey walk-up block - as indeed a profusion of shrubs and native trees enhanced the appearance of many brick and tile bungalows - but the tight dimensions of most suburban blocks ensured that vegetation was despoiled and remaining land concreted over to maximise space for carparking.

Some local councils, subborned by the attractive proposition of an increase in income from rates payable by the new flat owners, encouraged this type of development by accommodating building requirements. In Lane Cove where aldermen and ratepayers had once fought strenuously against any kind of flat development, flats more than quadrupled between 1961 and 1971. Canterbury saw over 11 000 flats added to its housing stock between 1961 and 1971 (Appendix H). As one developer put it, the local council had a 'realistic approach' to the potential purchasing power of local inhabitants and encouraged flat development by accepting minimum planning requirements (Spira interview 1984; see also Cardew 1980, 86).

Other suburbs held out. Canterbury's neighbour Bankstown had only 25 strata blocks registered between 1961 and 1980 (Appendix E). It had much stricter standards and a particularly forceful Town Planning Department. Up to 1964 council's expenditure on town planning as a proportion of total expenditure was the second highest of all councils in the metropolitan area (Coleman 1968, 87; Vandermark and Harrison 1972, 73). The attitude of Bankstown council to flats is demonstrated by the fate of an application to build 24 flats lodged in 1959. Council refused to give its requirements on set backs and site coverage arguing that these could not be supplied until the Bankstown Planning Scheme was completed. Six years later in 1965 councillors agreed to the new planning codes and recommended approval of the 24 flats. They were never built. Possibly the demand for flats was less than anticipated. Bankstown never had the immediate appeal of proximity to the city or attractive water setting, though neither did Liverpool, even further away from the city. More probably the requirements were 'too restrictive' (Vandermark and Harrison 1972, 75; Neutze 1971, 6).

The 1965 scheme prompted considerable debate over zoning regulations. The Progressive Independents on council, a pro-flat lobby group, argued that strict controls of flats would inhibit development. They wanted the 130 acres zoned for flats out of 11 000 acres of residential zones to be increased, especially to the north of the shopping centre. Not surprisingly the Bankstown Chamber of Commerce agreed. Labor MLA for East Hills, Robert Kelly, a former Bankstown alderman, led local Labor opposition to flats. In Parliament he declared his opposition to the 'slums of the future' in terms reminiscent of the 1930s anti-flatites (NSWPD 20 Aug 1969, 463).

> I should hate to raise children in these conditions. Where are they to play? There is nowhere for children to play, as there is none with great blocks of flats. When a person has a home of his own with his own backyard, children can play under their parent's supervision. If the parents do not like some of the company that

> the children keep their companions can be told that they are not wanted. In a block of flats children have to play in the car park downstairs or anywhere at all and the parents have no control over the persons with whom their children associate ... It is a horrible existence (NSWPD 20 Aug 1969,467)

Some thousand objections to flats flooded council offices when the Planning Scheme went on exhibition in 1969. Most of them came from residents of Padstow and Panania, the main target areas for flats. The Padstow Progress Association and ALP branches organised several public meetings and circulated objection forms for residents to sign. In face of such opposition, council passed a motion that it would support objections to flat zones where the majority of property owners lodged objections. Yet only months later in May 1969 when council received 400 objections to a flat development in Padstow, Progressive Independent aldermen, who held the controlling numbers, refused to alter their original decision. Kelly appealed to the Minister who revoked council's approval in September 1969 (Painter 1973, 231-241).

Bankstown was one of the few municipalities to retain its house and garden character. The north shore municipalities of Kuring-gai and Hunters Hill also succeeded in preserving their exclusive residential status. Kuring-gai restricted all flat blocks to a narrow strip either side of the Pacific Highway while an active lobby group of residents in Hunters Hill mounted a strong campaign to prevent council's rezoning in favour of multi-unit dwellings in its Draft Planning Scheme which went on display in 1968. Although the flat standards set were high in comparison to many municipalities - it permitted flats in certain areas with a maximum of two storeys covering no more than 25 per cent of the site - the Hunters Hill Trust rejected the plan and council subsequently withdrew six of the seven areas it had zoned for flats (SMH 24 Sept 1968).

Fig. 6.3 'We're objecting to the home-unit scheme. It doesn't obstruct the view' (George Molnar 1970-1976 A Collection of Cartoons, John Fairfax & Sons Ltd, 1976).

The Trust kept up its campaign against flats and in 1971 its opposition to a mixed flat and house development on 20 acres of land in Hunters Hill became the site of Sydney's first green ban. Known as Kelly's Bush, after nineteenth century industrialist T H Kelly who purchased the land in 1892 and used two acres of it to build his Sydney Smelting Company, the remaining acres formed a natural bushland playground enjoyed by three generations of children. In 1967 Kelly moved his smelting works and A V Jennings Pty Ltd took a two year option on the site (Roddewig 1978, 5).

Initially the local council, in line with opposition from residents and the Hunters Hill Trust, unanimously refused the company's application to build three 8 storey high rise blocks of flats and 40 two storey townhouses on the site. It forced the company to redraft its original plan, resulting in an application for 57 townhouses but no high rise blocks. However, in November 1970 the Council reversed its earlier decision, and gave Jennings building approval for the revised scheme. Kath Lehany, housewife activist of the Battlers of the Bush, an off shoot of the Trust formed some two months prior to the council decision, believed the Minister for Local Government told the council it would not stop any further light industrial development at Woolwich Point unless council approved the Jennings proposal (Roddewig 1978, 6). The thirteen Battlers, all housewives whose families enjoyed the Bush, lobbied MPs, organised Boil The Billy events to publicise their cause, wrote letters and made countless phone calls. They succeeded in reducing approval down to 25 townhouses. Ironically this lost them support amongst some local residents who began to wonder whether they should stop other people from enjoying the benefits of living in Hunters Hill as long as the houses, especially only 25 of them, were compatible with the rest of the neighbourhood. In May 1971 a last ditch stand to stop the Minister for Local Government signing the necessary documents failed and the Battlers began to

review their options. It seemed that an approach to the unions was their only line of attack. Kelly's Bush became the site of the Builders Labourers' Federation's first green ban in 1971.

The Developers

The shoddy workmanship and appalling visual impact that marred much 1960s flat building fuelled the popular image of the fly-by-night builder and the callous developer forcing little old ladies out of their homes. Many of the worst blocks were built by small-scale investors and builders who grasped the opportunity for quick and easy profits. Anyone could set themselves up as a builder (Sun Herald 22 Sept 1968). There were no licensing requirements and little or no enforcement of building standards by many local councils.

The Housing Industry Association's survey of Victorian flats between 1958 and 1965 classed this type of investor as an 'amateur' who generally built modest blocks of six to ten flats and financed the project by bank overdraft or by borrowing from insurance companies at low to medium rates. Others with amateur status included businessmen investors who had businesses entirely unconnected with flat building but who had funds of their own which they used to finance flat projects and which they managed as part-time developers. The HIA survey pointed out that these investors could not build as quickly as the professional and often used higher-interest money. Their imperfect knowledge of the market meant that they might build the wrong flats in the wrong area, a major cause of instability in flat development (HIA 1966, 11).

Full-time developers who depended on flat projects as their only source of income were classed as 'professionals'. They had a specialised knowledge of land prices, construction costs, market demand, design, sources of finance and the competitive situation. Typical full time developers had been in business for a number of years and were building up to 500 flats per annum. They either headed a construction company or worked through sub-contractors whose work they supervised and co-ordinated. They had vital contacts with real estate agents (and may even have been in partnership with one) and with lawyers who advised on sources of finance and carried out the legal work. The developer bought a block of land having decided the type of structure, cost of construction, and likely rents or selling price to be obtained to achieve the desired profit margin. The project was then designed, final costings worked out, approval sought and building commenced. The real estate agent found tenants when the project was nearing completion or organised for flats to be sold 'off the plan' during the construction period. Most developers did not wish to retain any flats. If the flats were for rental they would try to interest an institutional lender prepared to give a mortgage over the property to buyers who could then be offered a fully tenanted building on which they could get an immediate return and for which they had only to find a proportion of the cost. From conception to point of sale the developer faced any number of pitfalls from misjudging the market to time delays through complying with local government requirements to strikes. These could drastically upset a stringently controlled costing structure and at worst leave the developer with unsaleable flats (HIA 1966,10).

The survey also identified developers who joined together to form a management team. They formed part of the professional category but worked on a part-time basis. The group might consist of an accountant with an

architect, a builder with an architect, a lawyer with an estate agent, or an estate agent with a builder. They planned a project and organised a syndicate of investors to provide the initial financial backing and then went through the same steps as the full-time developer (HIA 1966, 11).

Developers in the full-time professional category were readily identifiable. They tended to have a high market profile by the sheer volume of their work, building many of Sydney's highest blocks of flats or blocks which generated most discussion. The flamboyant manner in which some of these larger flat companies operated also seemed to confirm the public's poor impression of the developer (Daly 1982, 106). The rise and fall of Home Units of Australia epitomised the public's scepticism. It was a typical highly geared company which accumulated vast landholdings and flat projects it could not liquidate when the market turned sour. In the boom years HUA (whose advertising jargon promised 'the quality of life is going up') captured a major share of the flat market, building 600 flats per annum by the mid 1960s. Its founding director, Sid King, who arrived in Australia from Britain in the 1950s with £5 in his pocket, reportedly favoured 'a fast and flamboyant lifestyle, flying his own plane and living lavishly' (AFR 2 Feb 1977). Together with Gary Bogard, a former solicitor with the prestigious legal firm Freehill, Hollingdale and Page who joined HUA in 1970 as a full time director, he amassed suggested assets of $45m. Four years later the company went broke. Most of the early blocks built by Home Units of Australia were in Ashfield, Croydon Park, Burwood, Strathfield and Brighton. Typical three storey walk-ups on suburban blocks, they mainly comprised 18 flats, six in the front, six in the back and two sets of three in the middle to allow for parking underneath and to let some light in. A standard flat fetched $15 000 to $17 000, about three times average male wages (1970/71).

Like Home Units of Australia, Meriton, known in some circles as 'the Woolworths of home unit building' also concentrated on 'bread and butter' flats (Spira interview 1984, Mitchell interview 1984). In 1964 Harry Triguboff, ex milk run owner and taxi driver, built his first block and went on to become one of Sydney's leading property developers. Triguboff operates in much the same way today as he did in the sixties, employing the minimum staff to ensure low overheads and keeping a close watch on every project personally. He was one of the few major flat developers to survive the 1974 crash.

Lend Lease constructed one of the first strata title blocks in Sydney, Blues Point Towers, completed in 1962. The credit squeeze left nearly all flats in the block unsaleable. Even changes to the internal layout and economic finishes to lower the price failed to attract buyers for the 144 flats which were in the range of £3000 for bachelor flats up to £11 000 for three bedroom flats (Keller interview 1985). By February 1962 only 57 were sold. (Lend Lease internal memorandum, 3 Feb 1962). Not until 1966 could the company announce in its Annual Report that 'all but a few units' were sold.

Lend Lease's Home Unit Display Centre on the ground floor of Caltex House (another Lend Lease project) which opened in May 1959, was disbanded in the wake of the credit squeeze. Supported by a panel of leading real estate agents, including Richardson and Wrench Ltd, the centre displayed models, photographs and floor plans of flat building throughout the metropolitan area and gave information on matters ranging from transport to finance. Blues Point Towers formed a 'prominent' feature of the display (Murphy 1984, 51). The Centre did not last long, partly because of the credit squeeze and partly because in 1961 Richardson and Wrench Ltd became a wholly owned subsidiary of Lend Lease which placed other real estate agents

involved in the centre in direct competition. It closed its doors in 1962.

Lend Lease avoided the flat market until 1968 when Lend Lease Homes formed a Home Unit Division. It built five rental blocks as an experiment to test the strength of the market. Apparently heartened by the success of this venture, the company began construction in earnest in 1968, building 15 flats, steadily escalating to a peak of 476 flats in 1972/73. Lend Lease built most of its flats in middle and outer ring suburbs where land was cheaper and in reasonable supply and council approval forthcoming. Between 1968 and 1984 Ryde accounted for over one third (1076 flats) of all Lend Lease flat building while Kogarah, Warringah, Holroyd, Liverpool, Canterbury, Fairfield, Strathfield, Parramatta and Rockdale accounted for 43 per cent (1331 flats) (Lend Lease internal records). As a paper written by I S Foxall and L L Haines of Lend Lease stated 'during the period to 1974, the Company concentrated deliberately on developing products in the lower end of the market with considerable success. Following the 1974 property crash, the company changed from the lower to the middle market sector in areas like St. George, Drummoyne, Ryde, Hornsby, North Sydney and Willoughby'. (Foxall & Haines 1979, 2).

Parkes Developments Pty Ltd concentrated its flat building in Eastlakes on what had been the old Rosebery race course. It purchased a major share of the site for construction of low cost flats which it proceeded to erect in an area bounded by Florence Avenue, Gardeners Road, Maloney Street and George Street, Mascot. In 1966 they sold to owner-occupiers for $9650 each. Migrants were the prime target sales group. The nearby hostels at Bunnerong Road and Daunt Avenue together housed over 1500 migrants. Parkes ran its own sponsorship scheme at the end of the 1960s. The company placed advertisements in London newspapers and sent over its own representative to

interview prospective migrants. Approved applicants were met at Sydney airport, given one months accommodation in Joffre Court and helped to find employment. Nearly half the families eventually purchased a Parkes flat either at Eastlakes or on what had been crown land and a golf course at Hillsdale where Parkes flats were erected in Grace Campbell Crescent and Nilson Avenue and sold in 1968 for $12000 (Mitchell interview 1984). These were halycon days for developers, before councils fully realised what kind of built environment they were permitting and before vendors grew wise to the potential value of their property to the developer.

The Flat Dwellers

Sydney's flat boom had more to do with demographic changes than the introduction of the Strata Title Act. A survey of multi-unit construction in Australia conducted by the Commonwealth Department of Housing and published in 1969 but based on a sample taken between January and June 1965, showed that all states increased their level of flat building despite the fact that strata legislation was introduced in different states at different times. (CDH 1969, 15-18).

Moreover, although the Strata Title Act made borrowing easier, the evidence showed that most of Sydney's flats were still rented. A crude analysis of the number of strata flats created between 1961 and 1971 (Appendix E) compared with the increase in owner occupation of flats during the same period indicates that only 62 per cent of strata flats were owner occupied. At 1961, 78 per cent of all flats were rented. At 1971 67 percent were still rented. During the same period as Appendix I shows, owner occupation certainly increased, from 21 per cent in 1961 to 28 per cent in 1971 but not as much as popular belief might have it. Moreover, not all

suburbs experienced this growth rate. In particular (excluding suburbs where the numbers are either very small or so large that the percentage decrease is misleading), Fairfield, Holroyd, Leichhardt, Liverpool, Auburn and Marrickville showed an increase in the proportion of flats being rented. The influx of migrants into these suburbs, particularly those from southern Europe (many of whom rented flats while saving for a house) partly accounted for this trend. One architect at the time commented:

> ... migrants are helping to foster the demand for flats and home units ... They are taking many of the new flats, especially those in the western suburbs. Unlike Australians they are mostly accustomed to apartment blocks. I've known farmers in a small village in Italy to live in apartment blocks and walk to and from their fields (SMH 20 July 1965).

At the 1971 census most Italians, (the largest ethnic group in Sydney other than British born) lived in the LGAs of Leichhardt, Drummoyne, Ashfield and Concord, all high flat areas. Concentrated pockets appeared in the old market garden communities of Fairfield, where the Marconi Club, one of Sydney's largest Italian clubs is located, and Warringah, especially west of Dee Why (Davis and Spearritt 1974, Map 27). Greek migration is more recent, with most arriving after 1961 to settle in the inner LGAs of Sydney, South Sydney, Leichhardt, Marrickville and Botany and a smaller proportion in Randwick, Canterbury and Rockdale. Between 1971 and 1976 a marked shift in the location of Sydney's Greeks took place to suburbs on the periphery of the inner south western concentration based on Marrickville, for example Auburn/Parramatta/Holroyd and Kogarah/Hurstville, again all municipalities with large numbers of flats (Poulsen and Spearritt 1981, 104, 152).

Neutze's study of Randwick also noted the high correlation between migrants and rented flats. He found that over two thirds of 'recent' migrants (defined as those who arrived after 1953) occupied rented flats. Very few (only 14 per cent) owned flats and relatively few (41 per cent)

owned houses in comparison to those migrating before 1953, 59 per cent of whom owned houses (Neutze 1971, 20-21).

While the influx of migrants created a growing demand for flats, by far the greatest pressure came from young adults. The post war babies now in their teens and twenties had a greater degree of affluence than ever before. This enabled them to move out of home and share a flat with other young people. Neither was it necessary for many young married couples to live in the parental home while saving for the deposit on their own house like so many of the previous generation had been forced to do. Flats, mostly rented, were seen as a launching pad for freedom. The demand for flats from young people under 35 is illustrated in Figure 6.2 (Cardew 1980, 83). By 1971 young people in the 20-29 age bracket formed the largest adult group in Sydney, their numbers nearly doubling since 1961. No other age group saw quite this dramatic a jump in numbers.

The Sydney LGAs which showed the highest increase (Cardew 1980, 83) in the percentage of young people aged 20-29 from 1961 to 1971 included North Sydney, Woollahra and Waverley, already dense flat suburbs. Lane Cove entered the picture for the first time. Between 1961 and 1971 the proportion of 20-29 year olds in Lane Cove increased by 7 per cent (2615 persons), during a period when the number of flats in the LGA rose by 25 per cent from 708 in 1961 to 3416 in 1971 (Census 1961, 1971). The percentage increases must be viewed in conjunction with numerical increases, especially important where an LGA may have grown enormously so that young people form a sizeable group in numerical terms but the actual percentage increase is insignificant. Blacktown's population, for example, more than doubled between 1961 and 1971 but the proportion in the 20-29 age bracket remained about the same and very little flat building took place. By contrast Randwick's proportion of young people increased by nearly 7 per cent

representing an increase of about 15 000. In Neutze's survey of approximately 60 dwellings and 460 residents in part of Randwick municipality, 38 per cent of the rented flats had household heads in the 20-29 age group. Only 2 per cent of this age group owned a flat or a house. Sixty per cent of the flats that were owned belonged to older household heads aged sixty and over (Neutze 1971, 14-15).

The tendency for young people to rent flats is borne out in Table 6.2. At 1971 over half the total number of household heads in Sydney between the ages of 15 and 24 lived in rental flats. By contrast only 4 per cent owned a flat. House ownership increased for the over 35s to approximately 70 per cent until household heads reached the 65 and over age group when there was a tendency to sell the family home and move into a flat, most commonly an owned flat rather than a rental flat. About one quarter of all household heads over 65 lived in a flat.

Table 6.2 Household heads aged 15 and over by nature of occupancy by structure of dwelling. Sydney Statistical Division 1971

Age	Owner %		Tenant %		Total
	House	Flat	House	Flat	
15 - 24	20.6	3.5	21.4	54.5	45 225
25 - 34	53.2	3.9	17.7	25.3	156 767
35 - 44	69.7	3.6	15.0	11.6	162 154
45 - 54	72.1	5.6	12.7	9.6	169 530
55 - 64	69.8	9.3	10.8	10.1	130 954
65+	66.0	13.7	9.3	11.0	121 987

Source: Census 1971

Note: 'House' includes private house and villa unit. 'Flat' includes self contained flat. 'Tenant' includes tenant of government and tenant of employer and tenant of other landlord. 'Owner' includes owners and owner/purchasers.

One company in the late 1960s set out to attract the new generation of 'swingers' with two 8 storey blocks situated next to the railwlay station at West Ryde of 32 flats each, designed exclusively for unmarried males and females between 21 and 40. Tenants capable of paying $30 for a one bedroom flat or $44 for a two bedroom flat, enjoyed club amenities including sauna, swimming pool, a 36 foot cruiser berthed at Bobbin Head and a common room for parties and get togethers. 'Swingers' were carefully screened for character and financial standing. Mr Bill Gye, managing director of Glenmore Investment Pty Ltd, stipulated that people sharing an apartment must be of the same sex but to the Sydney Morning Herald reporter who queried whether the flats would be patrolled to ensure that swingers kept their beds to themselves, Mr Gye admitted 'You can't control that sort of thing, but we won't encourage it. You have to have fairly strict control or else the flats might get a reputation that could ruin them (Sun Herald 3 Aug 1969; Real Estate Journal Aug 1969, 180).

Developers and agents soon found that with changing social attitudes, it was impossible to exercise much control over who rented flats. Today's tenants of these two blocks share with whoever they wish. Neither are the flats exclusively for the young any more, which is perhaps not surprising. For the swinging set, West Ryde smacked too much of suburbia, baby health centres, churches and car washing on Sunday. They wanted to live where the action was, close to clubs, restaurants and discos.

Flat Life

What was life like in the flats? As far as utilities went not very much different from life in a house, if anything marginally better. Flat dwellers were considerably better off for sewerage facilities. Only 843 flats (0.5

per cent) needed the sanitary man to call compared with over 40 000 houses (6 per cent). Only 78 per cent (498 775) of houses could claim a flush toilet to the public sewer compared to an overwhelming 94 per cent (175 720) of flats. The rest (13 per cent of houses and 3 percent of flats) relied on a septic system. Most flats and houses had sole use of a bathroom and kitchen (96 per cent and 97 per cent respectively), but over 600 houses did not contain a bathroom or a kitchen and over 1000 had only sole use of a kitchen but no bathroom. No flats came into either of these categories (Census 1971).

The quality of life for flat dwellers looks less rosy when income is taken into account. In 1971, when the average weekly male wage stood at $84.80, the average weekly rent for flats was $20.90, for houses $19.47. Flat dwellers tended to have higher rental payments in relation to their average weekly earnings leaving them a smaller disposable income for necessities and luxury items. This is reflected in the statistics on television and vehicle ownership, although the latter is also influenced by location and ease of parking. Fewer flats (69 per cent) contained a television set in comparison to houses (82 per cent) and nearly four in every ten flats had no vehicle at a time when only 20 per cent of houses were without a vehicle. About the same proportion of flats (48 per cent) and houses had one vehicle but far fewer flats had two, three or more vehicles, in part because flats usually had fewer occupants than houses. Just over one half had two bedrooms and a quarter had one bedroom. By contrast most houses had three bedrooms (54 per cent) and only a quarter had two bedrooms. Luxury penthouse flats were few and far between. Only 1.4 per cent of flats had four or more bedrooms compared with 13.4 per cent of houses. Over 10000 flats were classed as having no bedrooms, in other words were bedsits or in real estate jargon 'studio apartments', or 'bachelor flats'.

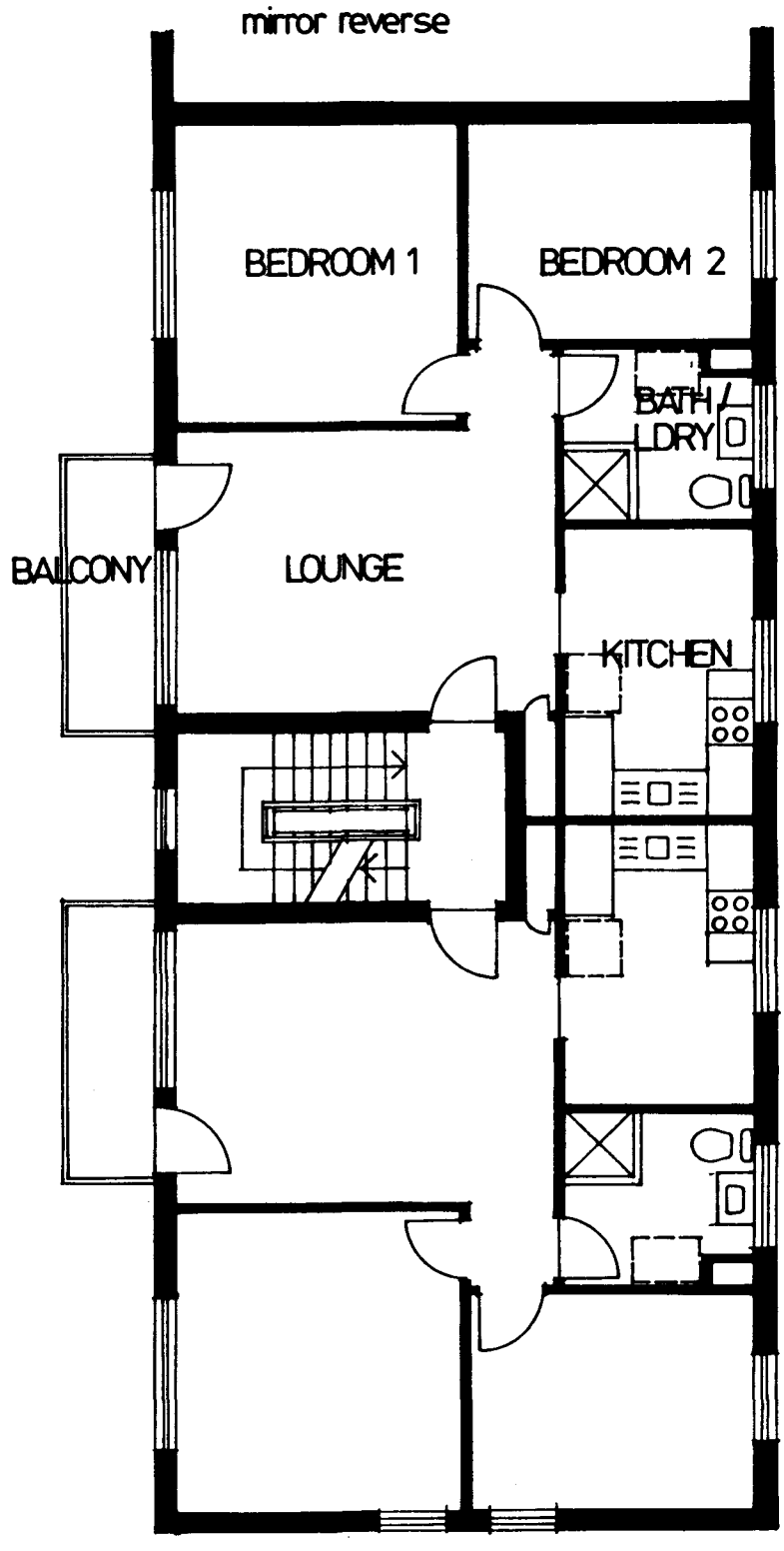


Fig. 6.4 A typical floor plan of a two bedroom flat built in the sixties. The poky sized bathroom contains a toilet, handbasin and shower - there is no room for a bath - and provision for a washing machine. The kitchen is poorly equipped with a single bowl sink, a stove and inadequate work benches. The two bedrooms, one particularly small, have no built-in wardrobes and open virtually directly off the lounge. There is not separate dining room, or even a dining alcove, only a modest area within the kitchen as an 'eat-in'. The basic design of the block offers no scope for individuality between flats; the two shown are mirror images of each other. (Drawing by Kim Murray architects).

Two bedroom flats attracted more criticism for their cramped conditions than 'bachelor' flats or even one bedroom flats which, though physically smaller, suited the life style of their occupants. Single adults who chose to live in a bachelor or one bedroom flat often did so because they wanted to be close to the city and close to transport and entertainment venues. Usually out at work during the day and often out in the evening as well, they saw very little of their flats and even less of their neighbours. Real estate agent Vince Moran, attempting to sell a block of 55 bachelor flats in Kirribilli in the late 1950s, classified those attracted to bachelor flat living into three categories.

> There was firstly business couples, secondly batchelors [sic] and thirdly spinsters. It is not much good of [sic] talking about anybody else who would live in a one room flat that was 27 x 12 ... They were small and to ignore this fact was only inviting trouble ... So we coined a phrase and we called them compact units ... We were also capitalising on the tremendous publicity that the motor industry was going to compact cars. They were trying to tell everybody that a Chev. was no better than a Holden. We felt that we were going to tell people that a bachelor flat was just as good as a mansion (Moran n.d.).

Where two, three or four adults were sharing a two bedroom flat the deficiencies of living at close quarters soon became glaringly obvious to the occupants. Before they moved in, the empty flat appeared spacious and airy; full of furniture it suddenly became dark and cramped. The size of a typical two bedroom flat, usually only 9 to 11 squares, also posed a problem for older couples moving out of the family home and loathe to part with a lifetime's collection of furniture. 'Generous' built-in cupboards in bedrooms, kitchen and bathroom, apparently models of 'compactness', were hopelessly inadequate. Balconies which seemed a reasonable compromise to compensate for the lack of a garden, were invariably too small to sit out on and had such an unappealing aspect that they were relegated to a repository for the clothes horse draped with washing. For those who spent a lot of time

inside their flat - aged pensioners and housewives in particular - the flat often became claustrophoic and especially so if it was not the preferred choice of dwelling. Many couples with children were forced through economic circumstances to live in a flat, or at least until they had saved enough for a deposit on a house. The typical suburban three storey walk-up of the sixties - which such couples could just afford - was not designed for children. There was nowhere for them to play, either inside the flat with its open plan style living spaces or outside, apart from the potentially dangerous street. Strollers, prams and bicycles were not welcome in the common passageways so they took up space inside the already cramped flat.

The problems associated with living in a sixties block of flats were as much to do with poor design as with neighbourly intolerance. Complaints about noisy neighbours, and banging garbage bins could certainly have been improved by more thoughtful location of common utilities, the provision of stairwell corridors and separate entrances for privacy. This would have made life more pleasant for the Randwick housewife who commented 'what gets me is that they think it should be like one happy club ... with everyone knowing each other's business' (SMH 18 June 1970). Disputes between tenants and owner occupiers, were even more intractable. One tenant in Neutral Bay felt victimised because she did not own her flat. She considered the house rules 'petty'.

> I'm not allowed to sunbake on the lawn, or wear my bathing costume in the lift. The TV has got to go off at 11.00 p.m. If I throw something down the rubbish shute after 10.00 p.m. one of my neighbours is sure to say something about it. Even if I use the washing machine twice a week, they are on to me for using too much power, It's like living in a boarding house with a mean old lady (Sun Herald 3 Mar 1968).

Owner occupiers seem to share a common belief that they look after their flats more carefully, take a greater pride in their block and are much

more considerate neighbours than tenants. They also make the rules, presumably according to their own standards rather than in the interests of tenants who have no voting rights at Body Corporate meetings.

The flat boom of the 1960s and early 70s established beyond doubt that flats would continue to be a major form of housing in Sydney. The flats themselves were often shoddily built and even more often badly designed and poorly placed on their sites. By the time of the recession in 1974/75 councils, architects, builders, developers and the general public could assess - at least from the outside - the impact of the new flat boom. Flat dwellers and their visitors also knew about life on the inside. Enough people did not like what they saw - whether they were looking at modest walk-ups or high rise towers - to cause most local councils to drastically reconsider their attitudes to flat design and location.