

**Write a 1,000-word essay (with 10% leeway) on any topic (a current topical stratum issue).**

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The Ned Kelly Effect: Balancing Individual Rights and Collective Good in Strata Communities

Ned Kelly, Australia's legendary bushranger, has long been a symbol of the age-old conflict between individual rights and societal order. Renowned for resisting oppressive forces and advocating for personal freedoms, Kelly's defiant narrative resonates with the challenges faced in the strata industry, where the battle between personal freedoms and collective good plays out regularly. For Strata communities, striking a balance between individual rights and the common good is particularly challenging in today's landscape, where current legislation, financial constraints and the need for education and engagement continue to create tension.

Strata Living: A Collective Venture

Strata communities, by their very nature, are a form of communal living. Each owner possesses a 'lot' but also shares ownership of 'common property,' areas such as hallways, gardens, and recreational spaces. Such a set-up, by default, implies a degree of surrender of personal rights for the overall benefit of the community. Shared amenities, for instance, offer communal advantages, but they also demand shared accountability and sometimes limit personal freedoms. For example, loud music enthusiasts must recognize and respect the potential disruption their sonic passions could cause to the peaceful enjoyment of their fellow residents.

The Ned Kelly Dilemma in Strata Living

Drawing parallels to Ned Kelly, the struggle in Strata communities is often between the desires of one and the well-being of many. Just as Kelly's actions were seen by some as self-assertion and by others as public endangerment, actions within strata communities can be similarly contentious. This was the case in *Owners Corporation No.1 PS502321G v R(1)* where an individual owner's action to install a storage locker on their private carpark without Owners Corporation approval sparked a dispute spanning four years, ultimately resulting in removal of the locker. Much like Kelly's final stand at the Glenrowan Inn(2), strata disputes such as this often arise from situations where an individual, feeling cornered by collective decisions, chooses to defy the established norms.

In the context of the evolving strata landscape, the installation of Electric Vehicle (EV) charging stations presents a vivid example of the 'Ned Kelly Effect', where the tension between individual rights and the collective good becomes palpable. As EV's continue to gain popularity globally it is clear that Australia is not to be left behind, with projections estimating that, by 2030, EV's will account for 49% of all vehicle sales, reaching 100% by 2040 (3). Owners who are early adopters of this technology seek to install charging stations within their strata communities. However, this isn't a straightforward process. Retrofitting older buildings can be costly and complicated, involving not only the equipment itself but potentially significant upgrades to existing electrical systems to support the new load. In the context of balancing individual wants and collective good, the decision becomes even more complex and the question arises: should the entire community bear the cost for the convenience of a few? Just as Ned Kelly's actions often toed the line between personal freedom and the greater good, the decision to invest in EV infrastructure pits individual benefits against collective costs. Some owners may view it as an essential move towards a greener future. While others might perceive it as an undue financial burden benefiting what is often, at this early stage, only a small portion of the community. In today's environment of ever-increasing living costs, balancing these competing interests requires careful consideration, negotiation and, ideally, a forward-looking consensus that anticipates the needs of the community as EV adoption becomes more widespread(4).

Legislation: Protection or Hindrance?

Strata communities navigating the complexities and challenges of balancing individual rights and collective good, are steered primarily by the overarching framework of legislation. This framework, designed to foster orderly and harmonious living and management of strata communities, outlines the rights, responsibilities and procedures that bind owners and residents alike. In this context, one can draw a comparison between these governing laws and Ned Kelly's iconic armour. Much like Kelly's armour was designed to provide protection, strata legislation aims to shield owners and residents from unfair practices and conflicts, creating a structured environment in which communal living can prosper. Yet akin to the cumbersome and restrictive nature of Kelly's armour, which weighed some 45 kilograms (5), current strata legislation can sometimes feel burdensome and restrictive, and its efficacy in drawing the line between two conflicting ideals isn't always clear-cut. The often ambiguous or intricate clauses may slow down decision-making processes and foster disputes due to different interpretations. One such example can be found in the benefit principle, as outlined in Sections 24 and 49 of the Victorian Owners Corporations Act 2006 (6). These sections empower an Owners Corporation to levy charges on specific lots for expenditure related to repairs, maintenance or other works, on the basis that the lot that benefits more pays more. However, a significant grey area emerges, as the Act lacks clear and explicit criteria for determining which lots are considered to 'benefit', thereby leaving this open to interpretation. This vagueness can, and often does, lead to disputes between Owners Corporations and individual owners, each of whom may have differing perspectives on what precisely constitutes a 'benefit'. In this light, strata legislation can become a burden that, reminiscent of Kelly's own cumbersome armour - essential for protection, yet challenging to navigate with agility and responsiveness.

## Future Directions: Education and Engagement

In the complex landscape of strata communities, where the 'Ned Kelly Effect' vividly highlights the ongoing tension between individual freedom and shared obligations, education and engagement emerge as key solutions for achieving balance. Just as Ned Kelly embodied a resistance to authority that was both liberating and destructive, so too can individual actions within a strata community be double-edged. To navigate this dichotomy, education emerges as a vital tool. Informing residents and owners about the nuances of strata laws, the principles of communal living, and the rights and obligations of lot ownership can illuminate the rationale behind seemingly restrictive rules and foster a greater sense of shared purpose. This can be achieved through regular information sessions, accessible guides, and transparent communication from Owners Corporations. Moreover, active and meaningful engagement of owners in the decision making processes is paramount. Creating forums where owners can openly discuss, debate, and provide feedback on issues, such as the installation of EV charging stations, promotes a sense of agency and belonging among members of the community. In this environment, the 'Ned Kelly Effect' need not be an inevitable showdown, but rather a point of dialogue where individual needs and collective well-being are weighed and harmonized through informed, empathetic, and engaged community participation.

(1) Owners Corporation No. 1 PS502321G v R (Owners Corporations) [2022] VCAT 779, Accessed at <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VCAT/2022/779.html>

(2) Ned Kelly Information Sheet, The State Library of Victoria, March 2022, Accessed at <https://www.slv.vic.gov.au/search-discover/explore-collections-theme/australian-history/ned-kelly/ned-kelly-fact-sheet>

(3) Australasian Strata Insights 2020, City Futures Research Centre, UNSW, Accessed at <https://arena.gov.au/knowledge-bank/australian-electric-vehicle-market-study/>

(4) Electric Vehicles in Strata - Phase 1: State of Play, Strata Community Association, December 2022, Accessed at <https://www.strata.community/electric-vehicles-in-strata>

(5) Ned Kelly's Armour, The State Library of Victoria, Accessed at <https://www.slv.vic.gov.au/view-discuss/ned-kellys-armour#:~:text=Ned%20Kelly%20armour&text=Ned%20Kelly's%20armour%20weighed%20around,helped%20launch%20the%20Kelly%20myth>

(6) Victorian Owners Corporations Act 2006, Accessed at <https://www.legislation.vic.gov.au/in-force/acts/owners-corporations-act-2006/019>