

27 July 2019

NSW Legislative Council
Public Accountability Committee

INQUIRY INTO REGULATION OF BUILDING STANDARDS, BUILDING QUALITY AND BUILDING DISPUTES

Submission: Strata Community Association (NSW)

Thank you for the opportunity to assist the Committee in examining the cause of the current crisis of confidence in construction of high-density residential housing in NSW. More importantly, we welcome the committee's consideration of solutions to a set of issues that are both long standing and urgent.

Strata Community Association (NSW) is the peak industry body for Strata and Community Title Management in New South Wales. Membership includes strata managers, support staff, committee members and suppliers of products and services to the industry. SCA (NSW) has in excess of 3,000 members who help oversee, advise or manage a combined property portfolio with an estimated replacement value of over \$400 Billion. In the same way that our members act as professional advisers and advocates for owners' corporations, SCA (NSW) proudly fulfils the dual roles of a professional institute and consumer advocate.

Our members have been dealing with the issues before the committee for many years. As evidenced by the large number of confidential submissions, many examples have been swept under the rug because owners rightly feared the impact on property values should they complain too loudly. This way, they believed they retained the option of selling at a reasonable price - and making their problem someone else's. It fed a dog-eat-dog culture in the market. Buyers had more consumer protection buying a \$1000 television than a million-dollar apartment. This was well understood by unscrupulous players who took full advantage.

This conspiracy of silence could not last forever. Buildings like Opal, Mascot Towers, Sugarcube, and Alexandria are the tip of a very large iceberg. On one issue alone, flammable cladding, our members estimate there are at least 1500 and perhaps 2000 buildings facing remediation costs of up to \$60,000 per owner. Failed or non-existent waterproofing and fire safety non-compliance are even more endemic.

The true economic and social cost of this collapse in regulatory standards cannot be over-stated. The trend towards higher density residential living is long term, global and irreversible. These issues simply do not exist in jurisdictions like Singapore where all stakeholders take their responsibilities to consumers seriously.

As it stands, the loss of credibility for all developers – good and bad – and the damage to the reputation of apartment living has potentially far reaching consequences for the whole economy in terms of urban planning, transport, housing affordability, labour market mobility, economic activity and social cohesion.

For those directly impacted, we expect the committee will hear abundant evidence of the financial and emotional costs. These are catastrophic and life changing in many, many instances.

There are solutions readily available to government that will provide effective protection for future owners if implemented. Given the manifest failure of regulatory responsibility, governments have a moral responsibility to respond effectively and provide meaningful assistance to owners' corporations in resolving defects. Governments have collected stamp duty, GST, land tax, payroll tax and headworks charges and have no hesitation in using taxpayers fund to remedy defects on their own sites. The question needs to be asked as to why they are so hesitant to show genuine leadership and firmly commit to a plan for resolving this crisis.

Builders and suppliers should also be held accountable, not only for structural integrity issues like those at Mascot Towers. Builders were continuing to use flammable aluminium cladding two years on from the Grenfell Towers fire in London which killed over 70 people.

There is a strong case for retrospective legislation to deal with those builders and suppliers who have shut down companies and started new ones to avoid their responsibilities.

SCA (NSW) has a seven-point plan that, if adopted, will go a long way to restoring confidence and dealing with the worst impacts of past failures:

1. Reintroduction of a robust and accessible Home Owners' Warranty Insurance scheme for all levels of strata development, removing the current four-story exclusion.
2. Increasing the two year statutory warranty period to at least three years.
3. Along the lines of the precedent now established in Victoria, provide an assistance package for cladding and structurally affected schemes. This may include a combination of subsidised loans, rate/taxation relief and other financial assistance.
4. Legislate within the regulatory framework for builders, developers, designers, and certifiers a clear duty of care to owners and owners' corporations
5. Legislate a statutory chain of responsibility through the entire design and construction cycle
6. Introduce mandatory supervision of private certification
7. Introduce a record of occupation certificates accessible to owners' corporations that is separate from the Office of Fair Trading. This will avoid any conflict of interest with its regulatory functions and enforcement of compliance, licensing and administration of home building compensation fund.

Our members have a wealth of experience in dealing with these matters on behalf of owners' corporations and SCA (NSW) would welcome any opportunity to elaborate on our experience and the benefits of our plan before the committee.



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