

Decennial Liability Insurance

Strata Community Association (NSW) Submission

8 August 2023

INTRODUCTION

1. Strata Community Association (NSW) Overview

Founded in 1980, Strata Community Association (NSW) was formerly known as the Institute of Strata Title Management. SCA (NSW) serves as the peak industry body for Strata and Community Title Management in New South Wales. The association proudly fulfils a dual role as both a professional institute and consumer advocate.

2. Membership

SCA (NSW) boasts a membership of over 3,000 members, including lot owners, suppliers, and professional strata managers who oversee, advise, and manage a combined property portfolio estimated to be worth over \$450 Billion.

3. Strata and Community Title Schemes in NSW

NSW is home to 89,049 Strata and Community Title Schemes. A significant 95 per cent of these schemes are comprised of residential lots. Altogether, the total number of Strata and Community Title lots in NSW stands at 1,043,690.¹

4. NSW as a Leader in High-Density Living

According to the 2022 Australasian Strata Insights Report, there are 2,501,351 people residing in apartments across Australia. A majority of these apartment dwellers (51 per cent) are in NSW. ² NSW also leads the way in the trend to higher density living in Australia and boasts the highest proportion of apartment households relative to all occupied private dwellings, standing at 22 per cent.

5. Employment Impact

Strata is a significant employer, directly providing jobs to 1,413 managers throughout NSW, as well as an additional 1,317 other related employees. ³

6. Promoting Professionalism

1. SCA (NSW) is dedicated to fostering a high standard of professionalism in the strata industry with initiatives like the Professional Standards Scheme (PSS), which contributes to ensuring strong consumer outcomes for over 1 million strata residents in NSW.
2. SCA (NSW) membership encompasses a wide range of entities, from large corporate companies to small family businesses to dedicated volunteers. Members possess expertise in all aspects of strata management, service provision, and governance.

For further information about this consultation, please contact Dylan Lin, Policy and Advocacy Officer, SCA (NSW). Dylan.lin@strata.community

¹ Hazel Easthope, Danielle Hynes, Yi Lu and Reg Wade, Australasian Strata Insights 2022, City Futures Research Centre, UNSW, Accessed at https://cityfutures.ada.unsw.edu.au/documents/717/2022_Australasian_Strata_Insights_Report.pdf

² Ibid, p.8-13

³ Ibid, p.8.

SCA (NSW)'S RESPONSE TO THE DECENNIAL LIABILITY INSURANCE CONSULTATION PAPER

Overall Feedback

SCA (NSW) welcomes the NSW Government's Decennial Liability Insurance (DLI) scheme, a pioneering initiative that reflects the transformative achievements of the Construct NSW agenda. The association acknowledges that the implementation of the DLI not only offers substantial commercial benefits to the strata and construction industry but also reinforces consumer protections and plays a vital role in reducing the occurrence of building defects.

In the context of NSW residential properties, a notable disparity exists concerning Home Warranty Insurance (HWI) based on the number of storeys in the building. Homebuyers in four-storey buildings are not eligible for HWI, which means that if the builder faces financial difficulties, they bear the responsibility for addressing any defects that may arise. Conversely, those investing in three-storey buildings enjoy the advantage of government-backed coverage, with a substantial amount of \$340,000 per lot allocated to rectify defects. For 15 years, **SCA (NSW) has advocated that all buildings should be entitled to HWI.** Given that everyone pays stamp duty, it is equitable for everyone to receive equal government protection, irrespective of building height.

Although the existing DLI does provide protection for five-star buildings, it becomes evident that not all buildings will receive the same protection. Consequently, it is imperative that NSW Fair Trading steps forward to provide HWI for buildings that do not meet the criteria for DLI. Furthermore, the existing 5 or 6 per cent bond requirement may prove insufficient to cover the costs associated with rectifying defects and procuring necessary materials. Therefore, a thorough revaluation of the bond amount is essential to ensure that homeowners possess adequate financial protection to address any issues that may arise in the future.

Currently, **SCA (NSW) suggests refraining from making DLI mandatory, given its novelty and lack of testing. Instead, the association proposes allowing time to assess its effectiveness and implications.** This measured approach can prevent potential issues and challenges that may arise if a hastily mandated DLI were to encounter obstacles. By proceeding prudently, the NSW Government can ensure a smoother implementation and maximise the positive impact of DLI on the strata and construction industry.

Response to Consultation Paper Questions

SCA (NSW) holds the view that providing feedback on most questions in the consultation paper may not be necessary, as they are not directly related to the scope of SCA (NSW) and its members. Instead, the focus should be directed towards assessing the need for a DLI scheme and its potential for mandatory implementation.

Regarding the initial four questions, SCA (NSW) believes they primarily concern insurers and protects their position on the DLI. Moving on to questions 5, 6, and 7, they are deemed as not directly pertinent to SCA (NSW). However, it is essential to clarify question 7 by making it more specific, as its relevance would depend on the particular performance indicators that are not met.

Among questions 8 and 9, SCA (NSW) is contemplating submitting feedback specifically concerning question 8. One critical aspect of building defects revolves around warehouse conversions. SCA (NSW) recognises the challenges associated with these conversions and asserts that DLI should exclusively cover a builder's current works, not previous works. When undertaking a warehouse conversion for residential buildings, the DLI should specifically protect the builder's work for that particular project. Regarding question 10, SCA (NSW) advocates maintaining the current status quo, suggesting that no changes are necessary in this regard.

DLI Issues

SCA (NSW) expresses concern about the cost of DLI, as a less than 1 per cent one-off premium for a 10-year liability could be expensive. However, with an optional DLI, the market dynamics would naturally determine the appropriate pricing, allowing for fair competition. The major concern surrounding DLI centres on its potential impact on reducing competition. While the NSW Government aims to address issues with bad actors, SCA (NSW) encourages new entrants to the industry, especially those starting small. Any reduction in competition could create barriers to entry for new strata businesses; therefore, hindering the growth of the strata and property sector.

The last critical aspect that requires attention is the financial backing of insurers. Assuming that every insurance underwriter or reinsurer can handle the risk might be unrealistic. It is essential to consider the possibility of an underwriter being unable to withstand the risk. Proper assessment and assurance of financial stability are crucial to safeguard the effectiveness and credibility of the DLI scheme.

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