

Spring 2019 » Sponsor Article » Uniting for Stronger Communities

Uniting for Stronger Communities

By BCB



Recently the construction industry has been in the headlines for the wrong reasons. With high-rise buildings appearing on our cities' skylines at an astonishing rate, serious concerns around quality standards have been severely undermining confidence.

So, where to from here for the strata ecosystem? How do we restore trust and confidence and create more financially resilient communities?

Defects – a widespread problem A study from Deakin University* suggests 85% of new buildings have defects.

A construction defect is generally defined as a defect in the design, the workmanship, and/or in the materials or systems used on a project that results in the failure of a component part of a building or structure and causes damage to person or property, usually resulting in financial harm to the owner.

Common building defects

- Fabric and cladding
- Fire protection
- Waterproofing
- Roof and rainwater disposal
- Structural issues

Not a simple insurance solution

When a defect causes damage, it isn't necessarily up to the insurer to fix it...so who is responsible?

Builders Warranty Insurance (or Home Warranty Insurance) is different in each state because the laws are inconsistent and complicated. In some states, strata apartment owners have statutory warranties that the building will be free from defects. These are deemed to be given by the builder and in one state (NSW) also the developer, but this isn't always the case.

Strata insurance protection includes cover for accidental or sudden and unforeseen damage caused by an insurable event but isn't there to protect against poor workmanship or inferior materials used by a builder. So, while cover may apply for damage to walls and ceilings from water entering via a defective roof, it doesn't extend to rectifying the defect itself. Unfortunately, Owners Corporations are left to cover this cost themselves.

Rebuilding confidence

With shared ownership, strata properties involve joint and several liabilities for all owners to meet any costs associated with shortfalls or gaps in any insurance payouts. Consequently, some owners feel reluctant to disclose serious defect issues, fearing they may not secure adequate affordable strata insurance, or in extreme situations, get any cover at all.

However, full disclosure is necessary for "Utmost Good Faith" – a core principle underlying all contracts of insurance. Strata owners' contractual duty of disclosure is vital for insurers to appropriately assess property risk, price appropriately and accurately authorise repairs when assessing a claim.

Failing to adequately disclose building problems may lead to part, or all, of a claim being denied, leaving owners alone to foot the bill. Lack of disclosure also contributes to an erosion in confidence on both sides. Insurers are being urged to ask the right disclosure questions before taking on risk, which may help reduce cases of unintended non-disclosure, and should encourage greater compassion in the event of a claim.

Uniting our ecosystem with trust and confidence

While the Government may legislate for stricter regulations, certification rules and compulsory registration for the construction industry, this doesn't guarantee everyone will comply.

The insurance market is subject to cycles driven by insurer profitability and capacity (supply) and is currently in a hardening phase. Underwriters are increasing prices and discerning risk quality, adding cover limitations, or in some cases not offering cover.

It's time for a more collaborative approach.

Strata managers have a huge role to play. By aggregating their portfolios, they act as crucial intermediaries in the market. Their knowledge and partnerships with specialist brokers develop considerable leverage and greater advice and advocacy for owners. By dealing with the complexities and administrative responsibilities, owners don't have to try and leverage the best coverage and claims outcome as a single risk.

Strata managers have an opportunity to demonstrate their value to owners. The quality of their risk information and claims record keeping, their ongoing insurance market education and strong partnerships with specialist expert insurance brokers all provide superior outcomes in the owners' best interests.

Owners should feel supported with the knowledge that the losses of the few are borne by the many. And insurers should thrive on accurate and consistent information, motivated to take a portfolio view rather simply trying to "cherry pick" better quality risks.

Let's continue the conversation for a more united and collaborative approach across the strata and community living ecosystem. If stakeholders work together to prevent and solve problems caused by building defects, in time we can rebuild trust and confidence for both present and future strata communities. * Dr Nicole Johnston – Deakin Business School June 2019

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