

Inquiry into Regulation of Building Standards, Building Quality and Building Disputes

OCN Opening Statement 11 December 2019

Introduction

1. Chairman and Committee Members thank you for the opportunity to appear before you today. I am Philip Gall, Chairman of the Owners Corporation Network. With me today is the OCN Deputy Chair, Jane Hearn.
2. OCN is an association of apartment owners and Owners Corporations. We are a non-profit organisation with a focus on consumer protection.

Support for Inquiry Recommendations

3. We support Recommendation 3 in the Committee's report that the NSW Government act now to address the issue of flammable cladding. In particular, we support the Committee's position that a more centralised approach to the issue of flammable cladding on New South Wales buildings is needed, including a financial support package to assist buildings to remove and rectify it as a matter of urgency.
4. We also note the Committee's references to the initiatives in Victoria on flammable cladding, particularly those aimed at helping, communicating and supporting owners corporations and their service providers to deal with this issue.

Issues Facing Apartment Owners

5. An excessive and unreasonable burden has been imposed on many apartment owners and their strata committees a result of building safety defects like flammable cladding. This burden is not of their making. The Australian building code is a minimum standard and meeting the Code does not guarantee safe homes. The design and construct model allows builders a great deal of discretion and we are at the end of a global supply chain with unsafe products circulating in the Australian market.
6. The Strata Schemes Management Act (2015) is crafted on the assumption that new apartment buildings are safe and relatively cost free when certified for occupation. Instead far too many new strata schemes are confronted with large, complex and expensive rectification projects from day 1 that would challenge the most experienced and capable project managers. Funding these projects almost always involves either complex legal claims on third parties and/or imposing significant new compulsory levies on unsuspecting home owners.
7. This challenge is often beyond the skills set and financial capability of the owners corporation or their usual strata scheme support service such as strata managers. Indeed, in some instances, strata managers appointed by developers are conflicted.
8. Many people buying apartments are retirees living on fixed incomes, young first home buyers relying on first home owner grants to get a foothold in the housing market, essential workers on modest incomes, or people without English as their first language.
9. Every rectification project is unique. The nature and extent of the problem and the solution varies from building to building. There is also uncertainty over what remediation options are definitively safe to use. The recent decision by NCAT that Biowood cladding is a major defect because it failed combustion testing illustrates the problem.
10. Driving ordinary people under threat of prosecution to expensive solutions, possibly without proper assistance, is to deprive them of the opportunity to find the most cost-effective outcome. This is not a substitute for leadership and coordination.

Assisting Owners is good for NSW

11. We are in the middle of a crisis of confidence in both apartment construction and apartment living right now, despite the importance strata property in meeting the housing needs of a growing population. It follows that a high-profile safety issue like flammable cladding needs leadership and a high-profile response that is demonstrably aimed at helping people. This is part of the wider issue of restoring confidence in the strata sector and the construction industry.
12. Governments have a duty to help ensure people are safe in their homes. Another major cladding fire like the Lacrosse fire in Melbourne in 2014 could not only cost lives but would also further shatter confidence apartment living and the construction industry. It also shatters peoples' confidence in their elected officials who they expect to protect their interests. What is more fundamental than being safe in your own home?

Like Victoria this assistance needs to be both financial and non-financial in nature.

13. Financial assistance does not have to overburden the State budget to be effective. It can include low interest loans, assistance with legal costs to recover costs from builders or manufacturers, payment for technical investigations and financial guarantees. There is also a place for special measures for owners facing severe hardship. Temporary mortgage or rates relief could also help owners meet special levies. The Commonwealth could consider making a special levy for defect rectification an income tax deduction.
14. Non-financial assistance is equally important. This could include detailed guides to owners corporations on how to deal with cladding problem, legal action by our consumer protection regulator must be an option, a panel or register of properly qualified experts, materials and design solutions, and independent certification of rectification projects.
15. There is a lot of common sense in have a dedicated authority set up with a charter and budget to provide this assistance to strata owners. Done properly this provides a management structure and a critical mass of expertise to deliver a cost-effective assistance program linked to timely remediation of unsafe buildings. It would provide a central port of call for owners corporations, local councils and new buyers and it would greatly improve transparency around this issue. The authority would report to Parliament and could report regularly to the Public Accountability Committee ensuring there is democratic accountability.

Pressing the Commonwealth to do its Part.

16. The Commonwealth Government has a role in assisting apartment owners too. The NSW Government needs to join with Victoria and other State Governments to press the Commonwealth to assist both financially and with improved controls and testing to reduce the prevalence of unsafe products in the market.

The need for effective communication channels with Owners Corporations

17. All policy programs involving residential strata schemes need effective communication channels with each and every strata scheme in NSW. At the moment it not possible for Government to communicate directly with owners corporation.
18. However, it would certainly help if there was an up to date register of the basic details of each and every strata scheme in NSW that included, among other things, the contact details of the Secretary of the Owners Corporation.
19. Thank you for the opportunity to summarise our position. We welcome questions from the Committee.