

STRATA & COMMUNITY LIVING

SPRING 2019

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STRATA INDUSTRY SHAKE UP

Over the past few months, SCA (NSW) has been voicing that something needs to be done to support strata owners and residents get a fair deal following the defects and combustible cladding issues which are fast becoming a crisis.

We have been working on many levels and continue to do so. The main ones are to support the NSW strata sector, seek government support and get the message out through various channels including media.

A meeting was held with the Minister for Better Regulation and Innovation, the Hon Kevin Anderson, MP, on 31 July to discuss a seven-point plan that strata industry representatives have devised to address the failures in building standards and the flammable cladding issues that are plaguing apartment owners and residents.

The seven points, which aim to restore confidence and deal with the worst impacts of past failures, are:

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.

Earlier in July, the NSW Parliament commenced an inquiry into the "Regulation of building standards, building quality and building disputes".

SCA (NSW) made a submission outlining the state of the strata sector from the viewpoint of both those living and working in the sector and included the seven points.

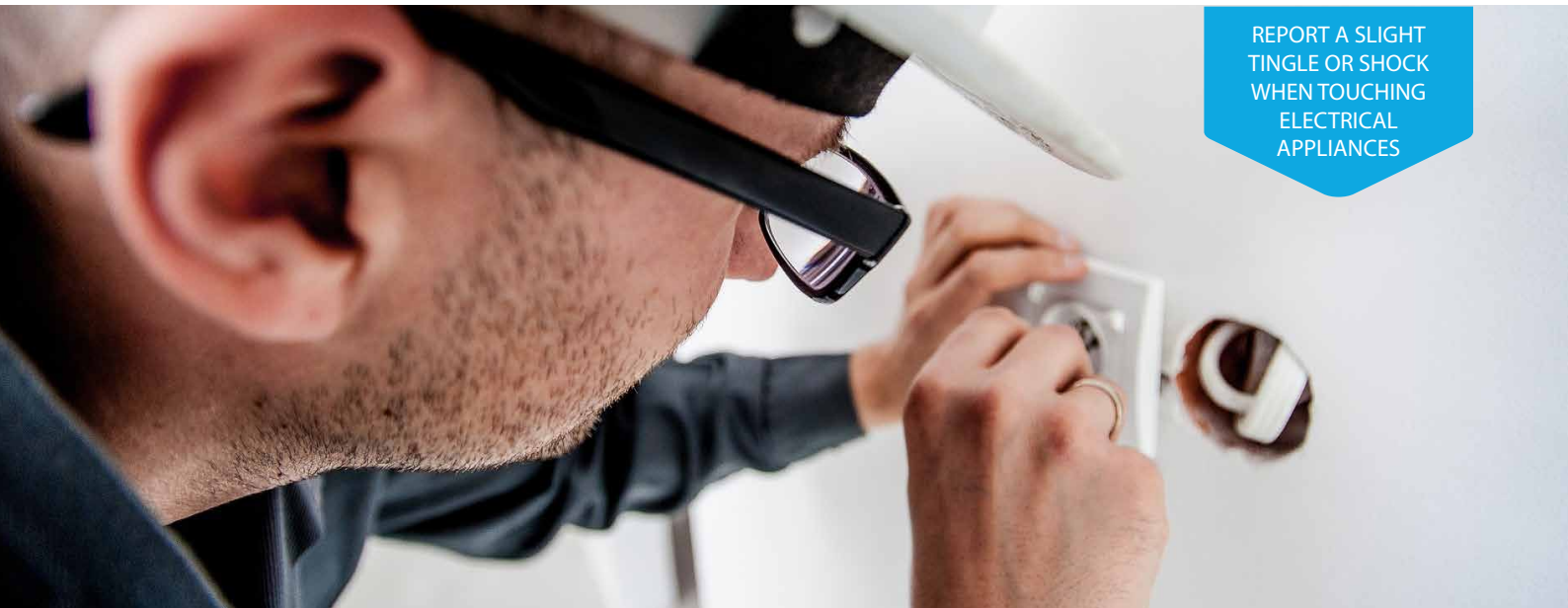
In the submission SCA (NSW) highlights that, "There is a strong case for retrospective legislation to deal with builders and suppliers who have shut down companies and started new ones to avoid their responsibilities."

SCA (NSW) was invited to appear on Friday, 16 August. A copy of the transcript from the hearing is available on Parliament's website which can be accessed at www.parliament.nsw.gov.au. There you'll also find information about the inquiry, including the Terms of Reference and access to the public submissions.

To keep the pressure on the NSW Government, we are encouraging anyone living or managing an apartment, unit, townhouse or strata title property to join the strata army and register your support as we demand change from the government. Find the strata army at www.nswstrataarmy.com.au.

Also if you've missed any of the media we have been getting lately you can read about it on the SCA (NSW) website nsw.strata.community/information/media-centre.

REPORT A SLIGHT
TINGLE OR SHOCK
WHEN TOUCHING
ELECTRICAL
APPLIANCES



DON'T GET ZAPPED

NSW Fair Trading is warning apartment residents who might feel a slight tingle or shock when touching electrical appliances in their homes to report it straight away.

Strata managers, property agents, landlords and the strata committee have an obligation to act on these reports immediately.

The warning comes after a tenant recently reported to their property manager an occurrence of intermittent electric shocks, to which they did not receive a response. The tenant then engaged a contractor who alerted the electrical network operator, and a voltage of 232 volts on rainwater down pipes plus front and rear awning supports was discovered. In this instance, it was a network issue and was fixed by the operator. Had the problem not been resolved, a fatal incident could have occurred.

If you don't receive a prompt response, NSW Fair Trading recommends contacting your electrical network operator directly. All operators will investigate reported public shocks at no cost:

Ausgrid: 13 13 88

Essential Energy: 132 080

Endeavour Energy: 131 003

If your operator does not respond in a timely manner, contact the Energy & Water Ombudsman NSW (EWON) for a free dispute resolution service.

HAVE YOUR SAY

Strata owners are being encouraged to have their say on laws around short-term rentals.

The Department of Planning, Industry and Environment and Department of Customer Service are seeking your feedback on draft Regulations that have been proposed and are aimed at introducing a state-wide planning framework and Code of Conduct for short-term rental accommodation.

The proposed changes are outlined in a Discussion Paper, which also seeks feedback about introducing a new industry-led short-term rental accommodation property register.

The exhibition is open for public feedback until **11th September 2019**.

The Department of Planning, Industry and Environment

and the Department of Customer Service say they welcome feedback from the community, government agencies, councils, industry and other stakeholders during consultation. This will help them to better understand the opinions and concerns of the community, which in turn will inform the Government's decisions.

To have your say, you need to complete an [online submission form](#) or send a written submission to:

Att: Director, Housing and Infrastructure Policy
NSW Department of Planning, Industry and Environment GPO
BOX 39
Sydney NSW 2000

Whatever way you do it, make sure you have your say by the due date **11th September 2019**.

ASK AN EXPERT

We all need a little help from time-to-time especially when it comes to dealing with rules and regulations. SCA (NSW) provides an 'Ask an Expert' service where general advice can be provided to members. We always recommend that professional advice be sought in relation to specific matters and that the information we provide should not be solely relied on.

Question:

At every AGM our strata manager asks if anyone wishes to join the strata committee. Individuals who raise their hand are automatically accepted. This is done without asking what they will contribute or if they are fit to be on a committee. Are there any guidelines about fit and proper persons being on the strata committee?

Answer:

There are no qualification requirements for nominees to join or address the committee should they be elected. Committee elections are governed by Division 3 of the Strata Schemes Management Act 2015 and Part 2 Strata Schemes Management Regulation 2016.

Here are some points that might assist in understanding what should happen at an AGM:

- The chairman calls for nominations to the strata committee
- The number of nominations must be between 1 and 9
- Owners must be financial to be nominated or to nominate someone else
- Once nominations are received the chairman calls for several persons to be elected to the committee
- If the number determined equals the number nominated, then those persons are elected. In the event that the number determined is less than the number nominated then there is a ballot for the election
- If there is a ballot each lot owner receives a ballot paper and completes the ballot paper with names up to the number they want elected.
- An owner cannot place more names than the number

determined.

- The votes are added up and those persons with the most votes are elected.

Owners can eliminate persons they do not wish elected to the committee by agreeing to a number less than the number nominated and conducting a ballot.

Question:

Can a person be removed from the committee if they are not working in the best interests of the owners corporation?

Answer:

The process for removing strata committee members is not an easy process if the committee member does not wish to resign. Section 35(3) of the Strata Schemes Management Act 2015 requires that to declare a committee member position vacant a special resolution must be passed at a general meeting.

Question:

An owner has installed a surveillance camera to the common property supporting pylon from his unit balcony to the above unit balcony. This camera is pointed towards the main common property entrance stairs to the building. This owner is the only person who has access to the footage. The strata manager has sent the owner a compliance letter stating that they are breaching by-laws and to remove the camera. At this point in time the camera has not been removed. The police will not do anything and say it is a matter for the owners corporation. Where do we stand?

Answer:

As the owner is not responding to the strata manager, a Notice to Comply with the by-laws should be forwarded to the lot owner. The Notice to Comply with the By-Laws is detailed in Section 146 of the Strata Schemes Management Act 2015 and the strata manager will be able to assist in completing this notice. Action via mediation through NSW Fair Trading and if necessary, an application to the NSW Civil and Administrative Tribunal (NCAT) may also be considered.

NSW Building Commissioner appointed



The Minister for Better Regulation and Innovation, the Hon Kevin Anderson, MP, announced that the NSW government had appointed David Chandler OAM to the role of Building Commissioner on 7 August 2019.

Mr Chandler is a building and construction expert with more than 40 years' experience in the industry. He is well-respected as a result of that experience.

According to the Government's announcement, the Commissioner will be responsible for:

- the investigation and disciplinary action for misconduct in the building industry
- overseeing the end-to-end licensing and auditing across the building industry and
- driving legislative reforms of the building industry, including consultation with industry.

Mr Chandler is reported to have welcomed the opportunity to work with the Government to strengthen the building and construction industry.

He stated that "recent events have reduced community confidence in how buildings are designed and constructed and how they perform, but I welcome the leadership and commitment being shown by the Government to implement change that will strengthen the construction industry foundations in NSW."

Mr Chandler started in the position on 14 August 2019 and has since appeared before the NSW Parliamentary inquiry at which he was highly critical of the building plans and design of Mascot Towers which he described as 'poor'.

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EDITORIAL CONTACT: SCA (NSW) Ltd W: nsw.strata.community | P: 02 9492 8200 | E: enquiries@strata.community

