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## Scaremongering on apartment defects irresponsible

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Claims by the Owners Corporation Network and the state opposition that the recent changes to the Home Building Act will lessen consumer protection for defective work on apartment buildings are not correct says the Urban Taskforce.



"The definition of major defect in the amendments to the Home Building Act is quite clear that this includes where a defect prevents part of a building being used for its intended purpose and that this would particularly apply to major elements like a fire safety system or for waterproofing." Says Urban Taskforce CEO Chris Johnson. "I can't see how the Owners Corporation Network interprets this to mean a lowering of importance for waterproofing or fire safety system defects."

"The government's own website on the changes to the act clarifies that a faulty waterproofing membrane that caused water to leak into only one room would be a major defect."

"The Urban Taskforce and other property groups have worked with consumer groups to lessen the enormous amount of funds that are currently spent on legal battles over possible defects. The industry and OCN agreed to a package of changes that ensure quality builders and developers will not be continually fighting claims that have dubious evidence. This included a new definition of major defect which we thought was a fair benchmark for all concerned."

"It is concerning to now see the state opposition quoting OCN claims that says 85 per cent of apartments since 2000 have defects. These assertions are actually based on a survey by the City Futures unit at the University of NSW and is based on less than 300 respondents of which half said they had no problem getting the defects fixed. There were 600,000 strata units in NSW at the time of the survey so 300 respondents is a small percentage of the total."

Sydney lawyer Christopher Kerin, director at Kerin Benson Lawyers, said Queensland apartment owners were especially vulnerable for shoddy workmanship with little chance of redress.

"The major problem with the process in Queensland is firstly Queensland does not have statutory warranty protection that other eastern seaboard states have, so there are less rights that bodies corporate have in Queensland," he said in a Gold Coast Bulletin report.

Mr Kerin said a High Court decision handed down last October had further eroded the legal rights of unit owners in Queensland. "The ramifications are that ... it'll be very difficult for bodies corporate to sue builders in negligence for shoddy workmanship," he said.

Mr Kerin wrote to then-housing minister Tim Mander late last year suggesting the state government make legislative changes. "The easiest thing would be for the Queensland

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government to amend the Domestic Buildings Contracts Act and then extend the implied warranty coverage to include apartment owners," he said.

But the Minister's office said unit owners were protected through the Queensland Building and Construction Commission. r Kerin said the difficulty with that course of action was that fines for non-compliance could be as little as \$28,500. "Now if you have defects that cost hundreds of thousands or millions of dollars to fix, then many builders are simply going to accept the penalty rather than spend that sort of money to rectify the defects," he said.

He also said builders who went into voluntary administration could avoid costly repair bills for poor workmanship. "Many of the builders have numerous companies within a group of companies and they will regularly wind companies up within the group to avoid paying legitimate debts," he said.

QBCC commissioner Steve Griffin told the Gold Coast Bulletin the commission had strong powers to force builders to fix any defects reported within the warranty period of six years and three months. "Any builder that doesn't go back and comply with rectification faces the ultimate sanction of losing their licence, so the vast majority of builders do go back and rectify," he said.

Mr Griffin said hundreds of builders lost their licence each year, but nothing could be done if the builder had gone into administration.

A group of Gold Coast apartment owners said there had been problems with their high-rise building, which the owners did not want identified, since it was built seven years ago. Body corporate chairman Lindsay Forbes said many of the windows started leaking immediately.

Mr Forbes said their builder reluctantly had done some minor repairs, but the windows were still leaking.

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Could someone help me with this problem?

I have problem in my apartment, water is leaking during rain from roof of the high-rise apartment. (Age of the Building under 6 years)  
 Carpets are always wet after heavy rain.  
 Apartments are managed buy onsite manager.  
 Who I should be talking with regarding my problem.  
 When I approach Body corp. manager's office they advise me to go to the onsite manager.  
 On site Managers advice me that they have no power other then collect and record information received from owners.  
 I am not in postion to go to courts.  
 I have no contacts with builder to ask builder to fix problems  
 It is nightmare trying to establish the way to solve problem.  
 Body crop demands regular contributions ignoring problems

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I am an expert Body Corporate Lawyer. Any building defects with regard to water proofing issues are a Body Corporate issue, if it is to do with the roofing structure, the outside of the building or the water proofing membrane. The Body Corporate Manager should bring it to the Committee's attention who should in turn seek legal advice as to the rights of the BC. Put your complaint in writing to the BCM and the onsite manager for them to table at the next Committee meeting for action. If the Committee want legal assistance please ask them to contact me.

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