



Rethinking the Design & Building Practitioners Act

Strata Community Association NSW Submission
May 3 2024

INTRODUCTION

1. Strata Community Association NSW Overview

Founded in 1980, Strata Community Association NSW (SCA 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.adu.unsw.edu.au/documents/717/2022_Australasian_Strata_Insights_Report.pdf

² Ibid, p.8-13.

³ Ibid, p.8.

RETHINKING THE DESIGN & BUILDING PRACTITIONERS ACT

1. Introduction

This submission from SCA NSW focuses on the increased cost of the Design & Building Practitioners Act 2020 (“D&BPA”) and the shortage of qualified practitioners in regional areas of NSW. The Act was introduced to address the following problems:

1. Excessive excavation from an adjoining property that caused significant structural issues to Mascot Towers.
2. Inappropriate support works to non-structural panels in Opal Towers.

To address the above, poor building performance during new builds was included to improve the design quality. These provisions were assumed to seamlessly transfer to remedial works, with exemption clause 13 of the Design & Building Practitioners Regulation 2021 offering benefits that would prove helpful in improving quality.

This system has been in operation since July 2021 and, like any innovative legislation, is subject to ongoing review and modification to adapt to the evolving needs of the time. Consequently, SCA NSW makes the following findings and recommendations based on collected feedback.

2. Design & Building Practitioners Act Issues

Internal Survey Results

SCA NSW members (Composed of non-regional and regional members) provided the following feedback to the questions presented in the survey:

1. A majority supports permitting additional license holders for remedial works to reduce unnecessary subcontracting arrangements. This would help reduce costs and improve efficiency, particularly for specialised tasks such as roofing or design consulting.
2. Most are dissatisfied with the clarity and comprehensibility of the Act's provisions related to remedial works.
3. A majority believe the Act has not effectively promoted accountability among remedial design and building practitioners.
4. Most are not confident in navigating the regulatory processes under the Act. While some aspects are clear, the overall process could be made more user-friendly.
5. All respondents are highly unlikely to share positive experiences related to the Act's implementation in its current form.
6. Respondents are highly dissatisfied with the Act's overall effectiveness in ensuring the quality of remedial works.
7. The strata remedial industry generally does not comply well with the Act.
8. **All respondents support the exemption of \$5,000 to be expanded to \$100,000 for all works as it would provide much-needed flexibility and cost relief for users.** However, regional strata members do not support this exemption and want to take it wider due to a lack of registered designers and building practitioners.
9. A majority supports a complete exemption from the Act for remedial works as long as alternative mechanisms are in place to ensure quality and safety.
10. The overall experience with the Act for remedial works has been largely unsatisfactory from the perspective of non-regional and regional members.

11. The delays in works attributed to the D&BPA are leading to notable hikes in insurance premiums due to outstanding works. In one instance, two strata schemes experienced such delays that insurers only offered three-month policies, nearly tripling the annual premiums as a result of the DBPA delay.

Case Studies

Below are 10 de-identified examples of remedial jobs provided by SCA NSW members:

Example 1

Pre-D&BPA Price: \$25,000

Pre-D&BPA Timing: 4 months

D&BPA Compliant Price: \$100,000

D&BPA Timing: 12 months

Description of the Works and Breakdown

- Water penetration repair job for a Blacktown building with 50 lots.
- Engineering costs were approximately \$30,000.
- Once complying with the Act, the water penetration repair job is now \$100,000.

Example 2

Pre-D&BPA price: \$30,000

Pre-D&BPA timing: 3 months

D&BPA compliant price: \$100,000

D&BPA timing: 9 months

Description of the Works and Breakdown

- Balcony and water penetration job for a Mosman building with 23 Lots.
- Engineering costs were approximately \$30,000.
- Once complying with the Act, the balcony and water penetration repair job is now \$100,000.

Example 3

Pre-D&BPA price: \$40,000

Pre-D&BPA timing: 2 months

D&BPA compliant price: \$100,000

D&BPA timing: 10 months

Description of the Works and Breakdown

- Combustible cladding repair job for an apartment building with 36 lots.
- Engineering costs were approximately \$25,000.
- Once complying with the Act, the combustible cladding repair job is now \$100,000.

Example 4

Pre-D&BPA price: \$25,000

Pre-D&BPA timing: 1-2 weeks

D&BPA compliant price: \$59,950

D&BPA timing: 1-2 months

Description of the Works and Breakdown

- Balcony waterproofing job for an apartment building in Rose Bay.
- Engineering costs were approximately \$10,000.
- Once complying with the Act, the balcony waterproofing job exceeds \$50,000.

Example 5

Pre-D&BPA price: \$15,000

Pre-D&BPA timing: 2 months

D&BPA compliant price: \$271,371

D&BPA timing: 6 months

Description of the Works and Breakdown

- Balcony repair job for an apartment building.
- Engineering costs were approximately \$26,300.
- Once complying with the Act, the balcony repair job exceeds \$270,000.

Example 6

Pre-D&BPA price: \$3,500,000

Pre-D&BPA timing: 3-6 months

D&BPA compliant price: \$8,800,000

D&BPA timing: 12-18 months

Description of the Works and Breakdown

- Balcony balustrade replacement across 160 apartments in Rosebery. The entire balcony across each apartment had to be ripped up and re-waterproofed.
- Engineering costs were approximately \$800,000.
- Once complying with the Act, the balcony jobs are now \$8,800,000.

Example 7

Pre-D&BPA price: \$900,000

Pre-D&BPA timing: 3-6 months

D&BPA compliant price: \$1,700,000

D&BPA timing: 24 months

Description of the Works and Breakdown

- Rooftop terrace waterproofing job for apartments in Bondi.
- Engineering costs were approximately \$85,000.
- Once complying with the Act, the rooftop terrace waterproofing job is now \$1,700,000.

Example 8

Pre-D&BPA price: \$140,000

Pre-D&BPA timing: 2-3 months

D&BPA compliant price: \$300,000

D&BPA timing: 6 months

Description of the Works and Breakdown

- Waterproofing job for apartments in Epping.
- Engineering costs were approximately \$30,000.
- Once complying with the Act, the job is now \$300,000.

Example 9

Pre-D&BPA price: \$40,000

Pre-D&BPA timing: 1 month

D&BPA compliant price: \$100,000

D&BPA timing: 3 months

Description of the Works and Breakdown

- Balcony repair job for apartments.
- Engineering costs were approximately \$15,000.
- Once complying with the Act, the job is now \$100,000.

Example 10

Pre-D&BPA price: \$30,000

Pre-D&BPA timing: 3 months

D&BPA compliant price: \$110,000

D&BPA timing: 9 months

Description of the Works and Breakdown

- Waterproofing job for apartments.
- Engineering costs were approximately \$25,000.
- Once complying with the Act, the waterproofing job is now \$110,000.

Regional Case Studies

The following case studies illustrate the current challenges faced by regional SCA NSW members in their endeavours to find qualified practitioners.

Example 1 – Regional Strata NSW

Project Overview

Background

In late 2021, Strata Plan SP 16288 faced a critical issue when insurance renewal was denied unless the repairs were to be carried out on balconies and railings. To address this, Regional Strata NSW engaged a licensed engineer and builder to conduct a structural assessment report and develop remedial design plans.

Scope of Structural Design

1. Site inspection and dimensional survey
2. Ground floor terrace joists design
3. Ground floor terrace supporting beams
4. Additional beams strengthening the first-floor concrete terrace
5. Posts supporting new and existing terrace structure
6. Foundations design
7. Structural plans and details.

Project Execution

The engineer's initial lack of registration as a design practitioner and the builder's non-registration as a building practitioner delayed progress by months despite the project requiring urgent action. Monthly progress updates were communicated to the insurance underwriters, who provided insurance on a monthly basis.

Example 2 – Dubbo Strata NSW

Project Overview

In early 2024, Dubbo Strata NSW was required to conduct a roof replacement. A motion was put forward to the owners corporation, prompting them to explore options for a registered building practitioner in terms of availability and cost.

The project is currently underway, but due to the unavailability of qualified building practitioners in Dubbo, Dubbo Strata NSW had to source one from Bathurst to carry out the roof replacement.

Additional Costs

Estimate number of work orders placed over \$5,000 in Class 2, 3 and 9c Buildings in NSW

In October 2023, a total of 426 work orders valued at \$5,000 or more were placed across 1,300 buildings in the last month. Extrapolating this data to encompass the 85,000 strata schemes in NSW over 11 months of the year, the total number surpasses **300,000 jobs**.

Estimate of additional cost for remedial work

The average increase in the additional cost of remedial work amounts to **179%**.

Estimate of additional time for remedial work

On average, the additional time to complete remedial works is **7 months**.

How long it takes on average to get a quote from a registered designer

On average, it takes approximately **1 month** to receive a quote from a registered designer.

How long does it take to get a report from a registered designer

On average, receiving a report from a registered designer takes around **3 to 6 months**.

The additional delays may also cause an increase in rent and other compensation claims among property owners. Unfortunately, no defence is available for damage claims under section 106 of the Strata Schemes Management Act 2015. These delays and increased risk contribute to a rise in insurance premiums. In certain cases, buildings are only offered 3-month and 6-month policies due to the protracted delays in the remedial process.

As shown in the table below, various remedial works are also subjected to paying the building works levy:

Figure based on Cost of the Work	
Up to \$150,000	= \$0
More than \$150,000 but not more than \$500,000	= \$700
More than \$500,000 but not more than \$1 million	= \$1,300
More than \$1 million but not more than \$5 million	= \$2,000
More than \$5 million but not more than \$10 million	= \$2,700
More than \$10 million	= \$4,000

Currently, less than 5% of strata remedial works comply with the D&BPA when required. When faced with the choice of compliance or non-compliance, owners will naturally take the non-compliance option due to the issues highlighted in this submission. However, if this compliance were to rise to 50% and it was currently at 5%, the delay times for the design aspect alone would extend the quoting time to 10 months and the delivery of the report to a range of 30 to 60 months thereafter.

The intention behind the D&BPA, which is currently limited to Class 2, 3 and 9c buildings but is anticipated to include Class 1, was not advertised as depriving independent licensed trades of the right to contract directly, but it operates that way. The legislation should not force these trades, as shown in the table below, to subcontract their services exclusively through a builder rather than having the option to work directly with end users.

List of Trades

<ul style="list-style-type: none"> • Carpentry • Decorating • Dry plastering • Excavating • Fencing • General concreting • Glazing • Installation of security doors, grilles, and equipment • Joinery • Minor maintenance/cleaning 	<ul style="list-style-type: none"> • Minor tradework • Painting • Roof plumbing • Roof slating • Roof tiling • Stonemasonry • Swimming pool repairs and servicing • Underpinning • Wall and floor tiling • Waterproofing • Wet plastering
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3. Conclusion

Overall, the D&BPA substantially increases costs for remedial projects and fails to address the shortage of qualified practitioners in regional NSW. The Act's primary shortcomings arise from its requirement to involve multiple professionals or trades, leading to unreasonably higher costs and delays that deter users and necessary work. These complexities underscore an urgent need for a more streamlined and cost-effective system for remedial building work in the strata industry.

It's clear that while the Act serves its purpose well for new builds, it presents numerous challenges for existing ones, as outlined in this submission. Hence, **SCA NSW urgently calls for the expansion of clause 13 of the Design & Building Practitioners Regulation 2021 to exclude all remedial works and further wide-ranging reforms to make the Act more suitable for addressing issues related to remedial works.**

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