



Building Commission NSW Dispute Resolution Scheme

Strata Community Association NSW Submission
6 October 2026

INTRODUCTION

1. Strata Community Association (NSW) Overview

Founded in 1980, Strata Community Association (NSW) (SCA NSW), formerly the Institute of Strata Title Management, is the peak industry body for strata and community title management in New South Wales. The association serves both as a professional institute and as a consumer advocate.

2. Membership

SCA NSW has more than 3,000 members, including lot owners, suppliers and professional strata managers who oversee, advise on and manage a combined property portfolio estimated to be worth more than \$450 billion.

3. Strata and Community Title Schemes in NSW

NSW is home to 91,346 strata and community title schemes, 95 per cent of which comprise residential lots. Together, these schemes contain 1,073,277 strata and community title lots, and 44 per cent have been registered since 2000.

4. NSW as a Leader in High-Density Living

According to the 2024 Australasian Strata Insights Report, 2,501,351 people live in apartments across Australia, with 51 per cent of these residents located in NSW. ² NSW also leads Australia's shift towards higher-density living, with apartments accounting for 20 per cent of all occupied private dwellings.

5. Employment Impact

Strata is a significant employer, directly providing jobs to 1,259 managers throughout NSW, as well as an additional 854 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 Andrew Jefferies, Senior Policy and Advocacy Advisor, SCA NSW. Andrew.Jefferies@strata.community

BCNSW DISPUTE RESOLUTION SCHEME DISCUSSION PAPER

— STRATA SECTOR RESPONSE

Introduction

Strata Community Association (NSW) (SCA NSW) welcomes the opportunity to comment on the Building Commission NSW's (BCNSW) Dispute Resolution Scheme Discussion Paper.

A dispute resolution scheme is not currently mandatory in NSW, despite the availability of multiple, sometimes concurrent, resolution pathways. In November 2025, the NSW Parliament's Public Accountability and Works Committee (PAWC) published its review of the *Design and Building Practitioners Act* and the *Residential Apartment Buildings (Compliance and Enforcement Powers) Act*. The review recommended reforms to the management of building disputes, including the establishment of a dispute resolution process for building defects.

The NSW Government subsequently supported this recommendation, with a focus on enhancing the services offered by BCNSW. In June 2026, [*the Building \(Approvals and Practitioners\) Bill 2026*](#) was introduced into Parliament. It included provisions to establish a new dispute resolution scheme within BCNSW under the [*Residential Apartment Buildings \(Compliance and Enforcement Powers\) Act 2020 \(RAB Act\)*](#). The Bill received assent on 14 August 2026. During its consideration, the NSW Legislative Council agreed to an amendment requiring the supporting dispute resolution regulation to be published by 31 December 2026.

The proposed regulation would support a two-year pilot dispute resolution process funded through the 2026–27 NSW Budget. The pilot would give effect to amendments to the RAB Act applying to Class 2 buildings, while generating data and feedback to inform the preferred long-term model.

SCA NSW supports the intent of the two-year pilot and offers the following observations on its proposed policy direction and framework.

SCA NSW RESPONSE

Dispute Resolution Scheme

SCA NSW supports the establishment of a statewide pilot dispute resolution scheme. However, further refinement will be needed to ensure the scheme is fit for purpose and capable of supporting an effective long-term model.

The strata sector has experienced substantial delays in having disputes heard by the NSW Civil and Administrative Tribunal (NCAT) and in reaching outcomes acceptable to all parties. The cost of rectifying defects continues to increase for owners corporations (OCs) and builders. In more complex matters, NCAT may be ill-equipped or unsuitable as the forum for adjudication.

A practical, low-cost alternative dispute resolution process is therefore needed to support the timely rectification of building defects. SCA NSW offers the following observations:

- Litigating building defect matters in NCAT or the civil courts is expensive. Costs may include pleadings, cross-claims, directions hearings, subpoenas, expert reports, affidavits, conclaves, joint reports, mediation, hearings, solicitors and barristers. Preparing robust expert evidence is time-consuming and costly. Although litigation is necessary in some cases, it is generally not the most appropriate dispute resolution mechanism for most defect matters;
- The cost of rectifying defects has increased significantly over the past 5 or 6 years and many claims are beyond NCAT's jurisdiction and therefore must be adjudicated in the District or Supreme Courts. This means these cases need to be administered according to the [Uniform Civil Procedure Rules](#) and the practice notes of those courts, which are not tailor-made for defects claims by OCs;
- Cases are often commenced in NCAT to preserve an OC's rights and avoid the draconian consequences of allowing a warranty period to expire. NCAT generally will allow the parties 4 – 6 months to try to negotiate a settlement, but will then require evidence to be filed and served;
- While most builders are willing to fix defects to avoid litigation, many look for the bare minimum at the least possible cost. They often also have an eye on liquidation;

- It is difficult to negotiate effectively with a builder about rectification unless expert evidence substantiates the defect and clearly explains the appropriate remedial work;
- Even if a defect is apparent (e.g. water leaking from a bathroom or ponding on a bathroom floor), a builder will typically propose a patch-up solution;
- Often serious defects are not immediately obvious and require identification by an expert who knows what to look for – e.g. glazed balcony balustrades;
- Without an expert report, the OC is usually behind the 8-ball and, in all likelihood, is forced into a settlement and ends up paying to rectify the defects itself to save costs;
- The Home Building Compensation Fund (HBCF) insurance is a limited solution given most strata buildings don't have HBCF and, if they do, they need to exhaust their remedies against the builder before they can get access to it;
- The appointment of a single expert witness to identify defects and prescribe a remedial scope would be a good process for most strata schemes. Whether that expert is appointed by a Court, NCAT or by the BCNSW, we believe it would effectively help to address more specific questions such as:
 - What are the defects?
 - Who is responsible?
 - What work is required to rectify them?
- On occasions, “procedural fairness” can be wasted, particularly when parties are advocating a position to best benefit themselves, instead of seeking to work out a practical solution;
- If the outcome is to update consumer protection laws to protect strata schemes by having the builder fix the defects or pay compensation, or do both, enforcement mechanisms and/or meaningful consequences for non-compliance need to be in place and activated, without litigation requirements;
- Whether the mechanism is mediation, conciliation, arbitration, litigation, unless the OC has something to work with, it will typically be in a weaker position.

Building Commission NSW role

SCA NSW supports BCNSW acting as a neutral third party, with agreed outcomes that are binding and enforceable upon both parties.

Dispute Definition

SCA NSW recommends defining the scope of a dispute by reference to three key questions:

- **Defects:** What are the defects, and how severe are they?
- **Responsibility:** Who is responsible for rectifying them?
- **Remedial work:** What work is required to rectify them?

External advice and expertise

SCA NSW supports a role for an external expert to prepare reports, provide professional advice and conduct independent assessments to support the evidence used in the dispute resolution process.

For smaller schemes, the requirement to engage experts and obtain specialist reports may be beyond their financial capacity and available resources. Consideration could be given to allowing the costs associated with participation, including expert reports, to be claimable under the **Home Building Compensation Fund (HBCF)**. This would help ensure that all parties have access to quality professional advice, independent assessments, and appropriately prepared reports, regardless of the size or financial position of the scheme.

Regulatory intervention

SCA NSW considers BCNSW's existing regulatory tools useful and effective in supporting the new dispute resolution process.

Cost recovery, penalties, and OC support

SCA NSW recommends that the pilot scheme remain free of charge throughout its two-year term. This would allow sufficient time to assess the scheme's cost and effectiveness. Given the NSW Government's commitment to the pilot and the agreed funding arrangements, participants should not be charged during the pilot period.

SCA NSW is also concerned about imposing penalties on an owners corporation where participation proves difficult.

Owners corporations are critical to the success of the pilot and are largely governed by volunteer committee members. Strata managing agents can act only on the instructions they receive. From 1 October, newly elected strata committee members must also complete an additional hour of online training. We believe that mandatory participation requirements, or penalties for limited involvement, may discourage ongoing committee participation and reduce willingness to engage with the pilot.

We encourage BCNSW to provide incentives, clear communications and practical assistance to help strata managers secure owners corporation support for voluntary participation in the pilot.

By contrast, SCA NSW does not object to penalties for builders that unreasonably refuse to participate in the dispute resolution process.

For further information about this consultation, please contact Andrew Jefferies, Senior Policy and Advocacy Advisor, SCA NSW. Andrew.Jefferies@strata.community