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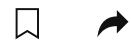
Property Residential Development outrage

# NSW government's building reforms are not sufficient

**Su-Lin Tan** *Reporter*



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The NSW government's reform plans for the state's failing building and construction industry are not enough to fix it, industry groups warn.

Consultations on the state's planned reforms – which involve the adoption of the recommendations from the Shergold-Weir report ahead of new legislation – have closed, drawing strong responses from the public.





Problems continue for owners of Opal Tower apartments in Sydney. **AAP**

The Shergold-Weir report, commissioned by the Building Ministers' Forum in 2017, made 24 recommendations to improve national building practices more than a year ago. In NSW, it was not until after the "cracking" Opal Tower was evacuated last Christmas Eve that NSW agreed to instigate reforms in response to the report.

The current reforms plan to make building designers comply with the Building Code of Australia, force the accreditation of these designers, appoint a building commissioner and introduce a new principle of "duty of care" for the industry.

While many commend the government's first step towards the rehabilitation of an industry now littered with building evacuations, "\$2 companies" or "special purpose vehicles" set up by builders and developers, the insufficient six-year warranty period and general insurance afforded to home owners have not been addressed, the industry says.

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The Owners Corporation Network (OCN) submission to the government says the current reforms merely help the government buy time to plan a new one.

"Good buildings are now going to be under suspicion until people satisfy themselves they are not defective. This is a GFC-style situation, where credit ratings and the risk for financial products came into question. In that case loss of confidence in the financial system became a contagion," the report states.

"The NSW government needs to step into the breach just as it did when HIH and FAI Insurance collapsed in March 2001."

The NSW government should also stop builders and developers from winding up project companies and require all builders, not just low-rise ones, to be covered by the Home Building Compensation Fund.

Currently buildings with fewer than three storeys are protected by this extra layer of statutory insurance, which was introduced following the collapses of HIH and FAI to cover defects when a builder has disappeared.

"But a 'cowboy' builder wishing to be subject to less scrutiny is almost encouraged

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statutory warranties should also be extended to seven years from six years, the OCN said.

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The Construction, Forestry, Maritime, Mining and Energy Union (CFMEU)'s submission also supports the call made by the OCN that there is insufficient insurance for buildings over three storeys.

It also says the reforms do not tackle the remediation of combustible cladding nor make any commitments to fund the removal of non-compliant cladding in an estimated 1100 buildings.

"Unfortunately, the suggestions made for reform in the discussion paper do not go far enough in terms of addressing the heart of the issues," the CFMEU submission said.

Other submissions lament the inadequacies of the "design & construction" (D&C) method of building in NSW.

Design plans should be "frozen" and uninfluenced by the builder, one submission said. The current practice where builders override designs should be abolished.

"The plans should be certified ... and the build process should be a straightforward execution of the plans with little guesswork remaining," the submission said.

"The design process in a D&C should [also] be a collaborative exercise where the builder has input into how they want to build and their requirements form part of the brief for the designers to create a holistic solution, not the current situation of builders dictating and overriding the expertise of designers."

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"It's not uncommon that walls are positioned incorrectly on site and instead of rectifying the error, it is brushed off as 'within tolerance' and there's no clear definition of what degree of tolerance is acceptable," the submission said.


[The Opal Tower failure epitomises this problem when investigators found non-compliant construction and structural design at the building in February.](#)

Reforms aside, NSW should immediately make available long-term low or interest-free loans to fund existing building defects, the OCN says.

"There are many hundreds, possibly thousands, of apartment buildings already facing major and urgent repair bills," OCN chairman Philip Gall said.

"All too often they cannot be sold for anything like their original purchase price."

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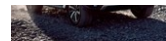
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