



NSW leads the way with apartment defect insurance

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NSW is the first jurisdiction in Australia to introduce a new insurance product that offers 10 years' protection for buyers of residential apartments.

Minister for Fair Trading Victor Dominello said the NSW Department of Customer Service has accepted the application of Resilience Insurance to offer decennial liability insurance as a form of security under the Strata Building Bond and Inspections Scheme.

"This is a big win for apartment owners and body corporates," Mr Dominello said.

"Decennial liability insurance provides those living in residential apartment buildings with comprehensive consumer protection for building defects caused by substandard design and building work.

"It also provides an insurance safety net for consumers that is currently lacking in residential apartment buildings.

"Decennial liability gives power to the purchasers and body corporates, who will no longer need to prove liability and will only have to demonstrate the damage for assessment.

"For the first time in Australia, this will ensure building owners have access to a timely and straightforward remedy to remediate those defects."

Under a decennial liability insurance scheme, developers or builders would take out a policy to cover any potential costs by an owner to fix serious defects of critical building elements for up to 10 years.

A decennial liability insurance policy would cover critical parts of a building's common property, including the building's structure, fire safety systems and waterproofing.

This insurance is intended to provide an insurance of first resort – allowing building owners to make a claim as soon as a defect is identified.

While this form of insurance is available in many markets around the world, it has not been offered in Australia.

NSW Building Commissioner David Chandler OAM said, “the introduction of decennial liability insurance is the latest reform to the building and construction industry which will improve the design and construction of apartment buildings in NSW.

“These reforms have come about due to the united commitment of government and industry to transform the NSW construction sector.

“NSW is now in the position of being a national leader in offering an insurance product of this type for Class 2 buildings because of the three years of conscious effort and commitment by Government and industry to the journey we have been on under Construct NSW.

“We’re looking to clean up the market and bring an end to expensive litigations against developers who have deep pockets or subsequently vanish into thin air.”

To support the broader rollout of this critical consumer protection for NSW apartment building owners, a regulatory impact statement is being prepared for consultation on the proposal to mandate decennial liability insurance for residential apartment building developments, following a transitional period that will support NSW’s creation of a mature and affordable decennial liability insurance market.

Other reforms have included the introduction of the Design and Building Practitioners Act to ensure competent designs and builders are undertaking compliant work and the Residential Apartment Building (Compliance and Enforcement Powers) Act to give the building regulator comprehensive powers to respond to defective building work.

Consumers in NSW also have the benefit of the industry-led Independent Construction Industry Rating Tool (iCIRT), a five-star system to rate the trustworthiness of builders, certifiers and developers.