



## CITY FUTURES RESEARCH CENTRE

# IDENTIFYING, DOCUMENTING AND REPORTING DEFECTS

## IDENTIFYING DEFECTS

In this guide, we use the term 'defects' to refer to issues that arise as a result of defective building work either during the initial building construction, or in the course of subsequent renovation or rectification works. This includes the use of inappropriate building materials and work that is not fit for the intended purpose, but excludes building problems that result from poor maintenance or wear and tear over time.

The question of whether building work is defective can sometimes be a complex issue, which will require input from technical experts and legal experts. As a starting point, the *Home Building Act 1989 (NSW)* [Part 2C](#) sets out the circumstances in which work will be considered defective for the purposes of making a claim under statutory warranties. Under this Act, a new building needs to meet the requirements of the National Construction Code, which can be accessed [here](#).

For a general understanding of what might be considered a defect, check the [Common Defects](#) guide and resources. The sooner defects are identified, the sooner they can be rectified. Unresolved defects [can escalate or lead to other problems](#), such as water ingress leading to mould growth. The following information outlines tips for identifying defects.

### New building work

When a building has been newly completed or if any new work is undertaken, the strata committee and individual owners should consider the quality of the finished product, and endeavour to identify potential defects issues.

If you've just bought a property in a new building, it is a good idea to visually inspect your property and the building's common areas for anything that might indicate a defect. If you notice something on the common property that looks amiss, report this to your strata manager or strata committee. Be on the lookout especially for any indication of a [common defect](#).

Also be aware that many defects cannot be identified from a visual property inspection. Enlist a defects consultant or building

consultant/engineer to do a report as soon as possible, ideally prior to settlement of your purchase ([see Hiring Experts](#)). Note that generally the most expensive defects to repair are located in the common property which is the responsibility of the owners corporation. For this reason, you should also ask your strata committee what steps they are taking to obtain a defects report.

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## DOCUMENTING DEFECTS

It is very important that any defects are documented and reported as soon as they are identified. The following steps outline some of the key information that should be collected:

### Step 1. Builders, contractors and developer's documentation

For new buildings, the owners corporation and its strata committee should try to obtain as much information as soon as possible about development drawings (including as-built drawings) and approval documents, identified and potential defects, strata records, work health and safety compliance, fire safety compliance and other related documentation from the builders, contractors and developer. The original owners (usually the developer) by law must provide an [initial maintenance schedule](#), which should contain warranties, manuals and manufacturer details for [common property](#) (such as the façade, roof, air conditioning and ventilation systems). For older buildings, the strata committee can hire a [quantity surveyor](#) to create a maintenance schedule.

### Step 2. Owner and Strata Committee documentation

The owner (for any [defects on their lot](#)) and owners corporation through either its strata manager or strata committee (for [defects on common property](#)) should document all stages of the defect rectification process. The documenting of defects can be used to make stakeholders (such as lot owners and residents) aware of the issue. It will also provide evidence for claims and potential legal action.

## DOCUMENT THE DEFECT

- ✓ Nature, severity and location of the defect
- ✓ Take photos and/or videos of the defects and surrounding area
- ✓ History of the defect (e.g. construction contracts, materials/elements used, notes in maintenance report about affected area)
- ✓ Note whether it needs to be further investigated, replaced, repaired, maintained or monitored and the timeframes/priority for these steps (e.g. manufacturer warranties)

### Step 3. Professional defects report

A professional defects report will provide you with a list of defects and incomplete work, which can be shown to the contractor or builder to rectify. The report should be comprehensive, and identify any instances of non-compliance with the *Home Building Act 1989* or the [National Construction Code](#), and identify both [major and other defects](#). The report can include individual lot defects as well, or individual owners can have their own reports conducted. If many owners would like a defects report at the same time, it might be worthwhile to co-ordinate an inspection of lots together (see [Communicating with Stakeholders](#)). The sooner a report is completed, the sooner any defects rectification can commence and/or any defects claim can be made.

Be aware that the comprehensiveness of defects inspections can vary, and look for indications that all areas have been thoroughly investigated in the report. Ask your strata manager, strata lawyer or other strata experts for advice on reputable inspection companies if possible. For new buildings under the [Strata Bond Scheme](#), you may choose to commission a defects report in addition to the report completed by a building inspector, as some defects may not be immediately visible, may require closer inspection, or may become apparent after the inspector's interim defects report has been completed.



## REPORTING DEFECTS

Defects should be reported to the correct person as soon as they are identified. This person will vary depending on where the defects are located.

Report any common property defects to the strata manager or the owners corporation through its strata committee via email, letter or in person at a meeting as soon as possible. You can request a motion be put on the agenda of the next strata committee meeting or general meeting by contacting the secretary of the owners corporation or the strata manager. The strata manager or strata committee should then contact the original builder to get the defects rectified and/or seek compensation. It is essential that the owners corporation immediately notify any relevant insurers, as delaying notification may affect your ability to make a claim. All insurers will accept these declarations via the strata committee, the strata manager or even individual owners.

If the defects are in your lot and not affecting common property, then you can directly contact the builder (or manufacturer if it is a defective appliance), or opt to have a lawyer act on your behalf. If you are a tenant, you should contact your landlord or real estate agent.

NSW Fair Trading also urges owners and owners corporations to report building defects via [their online form](#) as soon as possible, to ensure the best outcome. Owners corporations have a duty of care to ensure defective buildings are being dealt with appropriately and in a timely manner to help protect existing and future owners.

Keep all correspondence in writing with dates and take notes and photographs where possible for your records. These notes and correspondence will be useful if there is [any dispute](#) over the responsibility for rectifying the identified defects.



### IMPORTANT:

Be aware that there are time limits to bringing defects claims to the attention of insurers, builders and developers (see [Who Pays?](#)). Make sure you get your claim in by the due date.

### ADDITIONAL RESOURCES:

- [National Construction Code – Australian Building Codes Board](#)
- [Guide to Standards and Tolerances – NSW Fair Trading](#)

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Strata Community Association (NSW) is the peak industry body for Strata and Community Title Management in New South Wales. Membership includes strata managers, support staff, committee members and suppliers of products and services to the industry. SCA (NSW) has in excess of 3,000 members who represent over 75% of strata lots in NSW by way of helping to oversee, advise or manage a combined property portfolio with an estimated replacement value of over \$400 Billion. SCA (NSW) proudly fulfils the dual roles of a professional institute and consumer advocate. Contact: (02) 9492 8200 | [enquiries.nsw@strata.community](mailto:enquiries.nsw@strata.community) | <https://nsw.strata.community/>