



CITY FUTURES RESEARCH CENTRE

MANAGING DEFECT RECTIFICATION WORKS

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Managing defect rectification works can be challenging for a number of reasons:

- Strata committee members are rarely building experts, and might be new or unfamiliar with the responsibilities of their role in managing works
- Positive outcomes require collaborative work, which can be stressful and time-consuming when managing multiple needs, stakeholders and personalities.

This guide is intended to help you to avoid common challenges when managing defect rectification works in your scheme.

PRIORITISING THE WORKS

As defects are identified, they should be ranked from higher to lower priority. For [private lot defects](#), this prioritisation will be at the discretion of the lot owner(s). For defects on and [affecting common property](#), the priorities for rectifying identified defects are decided by the owners corporation based on the advice of experts.

When prioritising the works, consider:

- the risk that the defects pose to the residents of the building and their property
- the likelihood of the defect causing additional or unforeseen issues in the building
- the cost of the rectification and who is likely to cover the cost
- the time and inconvenience to residents to rectify the defect
- whether some of the required work can be incorporated into the planned maintenance schedule, to take advantage of similar works and minimise disruption to residents

ORGANISING THE WORKS

The responsibility for organising the works depends on the nature and location of the defects (see [Whose Property is Affected?](#)). For defects affecting common property, the owners corporation must take responsibility for the works and ultimately has the liability if these defects are not rectified and result in harm to someone on common property. However, the owners corporation can get assistance with oversight of the rectification works from others, such as a project manager or strata manager.

It's important to note that the owners corporation must (i) determine the moneys payable by owners to the administrative and capital works funds, and (ii) approve a decision to seek legal advice where the advice is anticipated to cost over \$3,000, or the work is urgent but the anticipated cost is over \$15,000. These decisions are made by way of an ordinary resolution at a general meeting.

Otherwise, the following people can assist with tasks related to rectification of building defects:

Strata committee:

The strata committee can make decisions on behalf of the owners corporation in most cases. Minor building repairs can be organised without the need for a committee meeting, while larger repairs and decisions to remedy structural defects must be decided at a strata committee meeting.

[Strata sub-committees](#) can be formed to assist with the defect rectification process, but they do not have the power to make decisions. They must report recommendations back to the strata committee or owners corporation so that decisions can be made.

Strata managing agent:

Decisions to remedy defects can be delegated to the strata managing agent (strata manager) if the owners corporation chooses. However, any decisions that the strata managing agent makes on the owners corporation's behalf can be overruled by the owners corporation. The strata managing agent can be found liable if their decisions are outside of the agreed management contract or if they are negligent in their duties under [Part 4](#) of the *Strata Schemes Management Act 2015*.

Building manager:

If your scheme has a building manager, they may take on the responsibility of scheduling works and gaining access to apartments for the builders. Your building manager has no decision-making power beyond the functions specified in their [building manager agreement/contract](#).

Project manager and hired experts:

If you decide to [hire a project manager](#) or defect rectification expert (advisable for major works), they will take the responsibility of supervising works and liaising with the builders and building experts, documenting works progress and reporting back to the strata committee, and check the quality of work after it is completed.

IMPORTANT:

If no action is being taken, a lot owner can put a motion requesting repairs to the next meeting of the owners corporation. If the matter remains unresolved, you can lodge an application for mediation with Fair Trading.

From [NSW Fair Trading](#) (CC BY 4.0)



COMMON CONCERNS

Managing Funds

By law, the owners corporation needs to manage two different funds:

- **Administrative fund** for day to day management and maintenance of common property
- **Capital works fund** for replacement and repair of the common property

These funds are maintained through contributions (strata levies) by the owners corporation. The contributions are determined by cost estimates agreed to at the annual general meeting of the owners corporation.

Defects rectification work can be funded through the administrative fund if possible, but defect work at greater cost will typically be funded through the capital works fund. If there are insufficient funds to cover the defect rectification, the remaining costs will be covered by all owners (proportionate to their unit entitlements) through a special levy or the owners corporation taking out a loan.

In the City Futures Report '[Managing Major Repairs](#)', a few potential concerns were flagged by strata residents in relation to managing funds. A common concern was owners' unwillingness to pay higher strata levies, which resulted in insufficient funds for running the building and to cover the costs of defects or emergency repairs. Costs for major capital works should be factored into the scheme's budget, as special levies to fund major capital works can catch owners by surprise and cause distress.

Another concern was that future costs were difficult to estimate. [Hiring experts](#) can help you to make an accurate estimate of the cost of maintaining and rectifying issues in your scheme.

Insurance

There are different types of insurance that the owners corporation should check in relation to building work. Some key types of insurance are:

- **Public liability:**
It is the owners corporation's responsibility to have public liability insurance cover at a minimum of \$20 million.
- **Workers compensation:**
It is the owners corporation's responsibility to ensure that any person working on common property has adequate workers compensation cover (in NSW this is via [icare](#)). This includes regular maintenance workers, such as a gardener, cleaner or building manager, as well as builders or project managers employed for specific building work.
- **Contractors insurance:**
It is the owners corporation's responsibility to check that contractors who work on the common property are adequately insured. If the contractor does not have their own insurance cover, the owners corporation may be liable for costs.

In some cases, the owners corporation may also require construction insurance or to extend its building cover if the work is over a certain amount. If you have any concerns or questions, you should [contact your insurer](#) to seek clarification about the required and recommended cover for your scheme, and notify them of the expected costs of works.

MANAGING RELATIONSHIPS

Effective communication between the various stakeholders [has been found](#) to be one of the most important factors in creating a good outcome for your scheme. Disagreements between owners, committee members, strata managing agents, building managers, builders and developers can have a negative impact on the running of the scheme, and the quality of life of residents.

Relationship with original builder/developer

The original developer/builder is important to the defect rectification process. They have the information about the building construction and should be able to access contractors to fix defects quickly when they are identified.

New schemes may still be in transition from developer to owner control, which may mean that the developer has voting rights. If defects are identified within this timeframe, developer control can be beneficial as they can use their knowledge and contacts to get defects rectified quickly. However, original developers can also use their decision-making power to [hinder and delay the process](#) to avoid costs and responsibility and erode the other owners' ability to get adequate compensation within statutory timeframes.

Maintaining ongoing contact and communication with the original developers and builders is essential, regardless of whether they retain control of lots or have completed the handover process. The original developer and the builder should be contacted as soon as defects are identified, to get the rectification process underway and to meet timeframes for warranty claims. All correspondence with the original developer and the builder should be in writing, and be reasonable, professional and courteous.

You might consider [hiring a defect rectification expert](#), particularly if the developer is avoiding taking responsibility or delaying the process, or is completely uncontactable. A defect rectification expert can act as an independent channel for communication between the new owners and the original developer, and provide expert advice on prioritising defects, timely rectification, managing the works and maintaining a positive relationship. Defect rectification experts can appear costly upfront, but will often save time, money and further issues overall, as they have experience managing relationships with developers and builders.

Relationships between owners

Positive relationships between owners are essential for timely action on defects, as it is ultimately the owners corporation that makes the decisions on how and when to rectify. Owners can have different management priorities for the scheme based on their different relationships with the building (for example investor owners versus owner-occupiers, short-term residents versus long-term residents).

Common difficulties between owners are:

- getting agreement from owners over the expenditure of repair and maintenance,
- accurately estimating costs of future works, and
- inaction on rectifying defects or maintaining common property.

Proactive strata committee members make a huge difference to the effective maintenance and rectification of a building. Money spent on maintenance and early rectification work can prevent exacerbating issues down the track. Providing a thorough breakdown of the strata levies and communicating a justification for these costs can help owners understand the importance of contributing to the administrative and capital works funds. If you have a strata manager, they can also assist you to estimate realistic costs for future works.

Relationships between residents and building professionals

Owners and residents need to be informed about the changes happening within their home or investment. Greater communication with residents and owners will help the strata committee to get access to apartments to undertake works. Rectification works can cause much noise and disruption to residents, and so their patience and understanding is necessary.

If the building is about to undertake significant works, setting up an email list, website or Facebook page for the strata scheme is an effective way to keep residents up to date. These options are also much cheaper than using physical flyers or mailing out information, as there are no printing and distribution costs. If you need to get more residents' and owners' contacts, you can advertise the email list, website or Facebook page on the front doors or in the lobby of the scheme's buildings.

However, with projects that are ongoing and complex, it is best to provide only the key information that residents need, unless there are direct queries. This is so that essential information is not lost among less vital details. For more information, the [Owners Corporation Network](#) outlines common ways to keep owners and residents informed of updates in the strata scheme.

Previous research has found that the defect rectification process is more successful if one member of the strata committee or a sub-committee monitors the works as a 'go-to' person. This person then acts as a liaison between stakeholders and as a person to whom owners and residents can direct their general queries about the works.

Relationships between the strata manager and strata committee members

A common complaint by owners and strata committee members regarding building and strata managers is that the owners and strata committee did not get enough information about the defect rectification process. Hiring a strata manager with good communication skills is important. If you have complaints about the conduct of your strata manager, first establish whether you have made enough attempts to appropriately communicate first, and then consider filing a complaint with the strata managing company or [contact NSW Fair Trading](#).

OPPORTUNITIES WITH DEFECTS REPAIR

While the defect rectification process can be challenging, there are several ways you can take advantage of work already being undertaken on your scheme. For example, while rectification works are happening and builders are on site and scaffolding erected, you could take the opportunity to undertake beautification works or [implement sustainable retrofits](#) as long as you have first obtained any required approvals. This provides a way to achieve multiple improvements in one go and reduce the need for further disruption down the track.

ADDITIONAL RESOURCES:

- [Managing Major Repairs – City Futures Research Centre, UNSW](#)
- [What is Strata Insurance – CHU Underwriting Agencies](#)

There are additional How to Guide documents for additional information on specific topics. Please see:

- [Communicating with Stakeholders](#)
- [Hiring Experts](#)
- [Getting Quotes](#)
- [Drafting a Scope of Works](#)
- [Working with Building Professionals](#)
- [Who Pays?](#)
- [Getting the Legal Advice you Need](#)

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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 | <https://nsw.strata.community/>