

**Submission
No 76**

**INQUIRY INTO REGULATION OF BUILDING
STANDARDS, BUILDING QUALITY AND BUILDING
DISPUTES**

Organisation: LF Economics

Date Received: 26 July 2019

Inquiry into Regulation of Building Standards, Building Quality and Building Disputes.

In the last few months, the news keeps getting worse for NSW apartment buyers who were pitched the 'Australian Dream' in easy-living apartment-life only to end up being a co-owner of a high-rise incineration bucket or a structurally unsound building.

For years we were told by politicians and the property development industry that there was a shortage of residential dwellings in Sydney driving property prices higher, resulting in a property construction boom to a scale rarely seen in modern Western history.

The NSW state government cheered this property bonanza like those who made a \$100 bet on 'Sunshine Sally' in the 1991 Melbourne Cup watching that horse lead the first 2,400m of the race. This disappointment for those who took a punt on Sunshine Sally was that it finished dead last in that race. And like Sunshine Sally, when it comes to construction quality in the West, under the watch of the Premiers (past and present) of NSW (and indeed Victoria), we have seen these two states take out the top and second spot for having the poorest quality residential apartments in the Western world. The only question remaining, in this instance, is which state is first and which state is second. Time will tell.

The root problems of the failures generated by government and industry to ensure dwellings are built to a 'safe' standard usually comes down to two key issues.

The first issue is purely a money issue, coming down to government revenue. During constructions booms, such as the one we have witnessed in Sydney, we start to see a large spike in stamp duty revenue for the state government. For the NSW government, it was no different. The state government, like what was exposed in the Financial Services Royal Commission, put profit (stamp duty) before safety.

The second and more concerning issue is the smitten relationship the state government has with property sector stakeholders. This is the relationship that equates to these stakeholders money going into 'politicians knickers' as a form of a political donation and social influence. And still to date, this industry is still incredibly protected from public, and government scrutiny. NSW residents essentially have no clue if a particular building has structural or cladding defects. There is no proper register residents have access to in order to understand which builders or developers consistently produced sub-safe or sub-standard dwellings.

Furthermore, prospective buyers have no way to understand if a particular apartment building has any defects, structural issues or sewerage leaks, or flammable cladding. Names are protected. And furthermore, there is little legal recourse for apartment buyers. This is due to existing owners of apartments in a particular building that has a major fault not wanting to bring to attention these issues due to them not wanting the value of their apartments fall.

Whilst our research primarily focuses on the Australian financial regulatory environment and risks associated within the Australian banking and mortgage sectors, we are not surprised there is this new crisis related to the poor construction of residential dwellings. In fact, it is well aligned with illegal misconduct in the financial services sector as they are the primary financial contributors to this residential construction disaster.

The State government must be held accountable for allowing the construction industry to go 'unregulated'. Like APRA and ASIC, whom for years had turned a blind-eye to misconducts in

the mortgage market, so has the NSW state government when it comes the residential construction sector. Furthermore, the NSW government are taking extreme measures protecting both the identities and businesses of those who have a poor track record of building extremely dangerous apartment complexes.

Though our research company commonly argues issues related to fiscal impacts, poor construction of apartments can lead to loss of life. If one loses their life savings, it can be revocable. But loss of life due to sub-safe construction practices is irrevocable.

It is pretty clear that there was simply not enough expertise or qualified manpower in NSW to build as many high and low-rise residential apartments as was, and is currently being built. Combined with essentially a self-regulated system, developers and builders were able to cut corners with no legal recourse (i.e build crap and sell it for a premium price). This is commonly due to the timeframe that by the time defects or flaws are uncovered, the builders and developers have closed down the entity legally responsible for the construction of such residential dwellings.

The state government should be ashamed of itself. Not only did it turn a blind-eye to dangerous construction practices, but it still appears to have taken above and beyond measures to conceal the names of those who are responsible for sub-safe construction practices. Political greed and illegal practices of such a scale always come back to haunt. This instance will be no different.

And it is disgraceful that the NSW state government knows which residential buildings have flammable cladding, but refuse to publicly release information on which residential buildings have flammable cladding.

We make the following recommendations

- Allow insurance companies to charge apartment owners/strata fair market price for insurance policies relative to the true risk a particular apartment building offers.

Because the NSW government is concealing information on which apartment buildings pose more insurance risk than others, it would better assist new property buyers in understanding the risks of purchasing in a particular apartment complex versus another based on the annual insurance premiums that need to be paid. I.e if insurance premiums are five or twenty times higher than the norm, that should give a clear indication to the buyer that a particular dwelling poses a higher safety or structural risk versus other apartment buildings.

- Any law changes to improve dwelling construction quality, safety matters, and criminal sentences related to sub-safe construction activities and builds must be retrospective.

- Any developer, builder, or owner of an apartment that carries the above mentioned associated risks must disclose to parties interested in purchasing the apartment 'all' the defects or safety issues prior to purchase. Should they not be disclosed, it should be classified as an act of criminality (or fraud).

- State Government make available online, a full and complete list of which buildings have structural or safety issues (particularly related to flammable cladding).

No State government should ever consider it ethical, moral or legal to conceal which apartment complexes in Sydney or elsewhere in NSW have safety issues. No family, indeed with children should ever be allowed to blind-buy into mortal danger.

- A royal commission with a broad terms of reference into Regulation of Building Standards, Building Quality, Building Disputes and Political Relationship between Politicians and the residential construction sector and stakeholders.

This is a must.

- All newly built apartment dwellings must be able to withstand a strong earthquake.

Whilst powerful earthquakes are very rare in NSW, at this point in time there is no understanding how structurally stable all these new residential apartment complexes in Sydney and elsewhere actually are. But we do know that in 1989 an earthquake with a magnitude of 5.6 on the Richter magnitude scale caused serious damage and killing 13 in the city of Newcastle. Approximately 35,000 homes were damaged.

I believe its safe to say, that many newly built dwellings would structurally struggle should we see a repeat instance of the Newcastle earthquake should the epicentre be closer to the metropolitan Sydney area.

Conclusion

Whilst there is no excuse for failed regulation of the residential construction sector, it is equally inexcusable the conduct of the state government to protect this industry from continuing to profit from sub-safe building standards. This is illegal and should be treated that way. It also gives sub-safe builders and developers an unfair financial edge over their ethical, by-the-book competitors who actually do build safe residential dwellings.

LF Economics understands there are serious financial challenges related to the value of properties falling due to the mentioned failures. Though money can come and go, life doesn't.