

The Commissioners  
Queensland Productivity Commission  
Via Email/Portal

## **Re: Inquiry into Productivity in the Construction Sector**

Dear Commissioners,

We thank you for the opportunity to provide feedback on this important topic. We are hopeful this inquiry and the re-establishment of the productivity yields genuinely positive results.

### **About SCAQ**

Strata Community Association Queensland (“SCAQ”) is the peak industry association supporting Queensland’s professional strata management sector, with more than 1,200 individual and corporate members who help oversee, advise and manage assets worth in excess of \$280 billion for Queenslanders. Our industry generates around \$1.75 billion worth of economic activity annually and employs circa 60,000 people directly and indirectly.

SCAQ understands the strata sector from a broad array of viewpoints owing to our diverse membership. We pride ourselves on our ability to advocate from a “whole of industry” perspective.

As of 2025, there are over 530,000 lots in more than 53,000 community title schemes across Queensland.

This number is expected to grow exponentially as strata living – apartments, townhouses and other shared developments – become an increasingly critical and affordable component of our housing mix into the future. As Queensland grapples with our current housing crisis, efficient forms of housing and land use, plus well-located housing close to existing infrastructure are central to the solution.

### **Terms of Reference and Context**

The inquiry has, in summary, one aim:

*“In considering policy responses, the inquiry should focus on the key systemic policy and regulatory settings that impact construction sector productivity... and make recommendations for reform to improve productivity without compromising quality and safety outcomes.”*

According to the terms of reference, construction sector productivity growth has substantially undershot the growth in productivity in other sectors of the economy. This is of deep concern amid a housing crisis and an enormous infrastructure build being required to host the Olympic Games in approximately seven years.

Regardless of any other policy settings around approvals, taxation or land release, in the absence of an extraordinary surge of labour or a substantial lift in productivity, Queensland will either have insufficient housing for its booming population, or a large portion of Olympic Games venues being unfinished or sub-par.

## Scope of the Inquiry

To assist the Commission in developing its draft findings and recommendations, stakeholders are asked to provide:

- their direct experiences of any policy and regulatory settings adversely impacting construction sector productivity or the cost or timely delivery of projects
- any available analysis, data, case studies, and examples that can inform how policy settings, regulations and

regulator behaviours may be unnecessarily impeding productivity or increasing costs or project delivery timeframes

- views on what areas/issues should be prioritised for reform
- options for improving construction sector productivity without compromising safety or quality outcomes and, if applicable, case studies demonstrating effective solutions or reforms where they are already in place.

## Introduction

SCAQ will use the definition of productivity taken from the Reserve Bank of Australia:

*“Productivity refers to the efficient conversion of inputs (like labour, capital, and resources) into outputs (goods and services). It essentially measures how much output is produced with a given amount of inputs. A higher level of productivity indicates that more output is produced with the same or fewer inputs, signifying greater efficiency<sup>1</sup>.”*

In context of strata development, in addition to any building creation productivity imposts/issues, one of the bigger concerns is the productivity lost through the impacts of defective work, including the cost of rectification, slower occupancy, and a diversion of labour away from new, productive projects as well as financial implications across the economy more generally.

## Experience of SCAQ – Building Defects

SCAQ believes that the overarching culture and regulatory environment of the Queensland construction sector needs a substantial overhaul, particularly with regards to medium and high-density properties. These properties have difficulties which emerge from their system of Governance and oftentimes the complex nature of their construction.

Our focus in this submission is on the impact that defective buildings have on slowing down economic growth and productivity. We will explore this from two positions:

1. The **impact of defective construction** on asset values as well as the re-direction of otherwise productive capital will inform our submission. The economic and human cost of building defects that stretches beyond the sector itself and into the wider economy.
2. The **Queensland Home Warranty Scheme** ( henceforth “ the Scheme” ) does not extend to buildings over 3 storeys. This means that the process of defect rectification (virtually an

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<sup>1</sup> Productivity. Available at: <https://www.rba.gov.au/education/resources/explainers/pdf/productivity.pdf> (Accessed: 27 May 2025).

inevitable part of construction) is a complex, time consuming and litigious process which is a drag on the sector.

## The Nature and Impact of Building Defects

Where the construction industry “gives birth” strata managers “raise” a body corporate scheme through its life cycle. Given this, any problems with defective construction, titling or service provision become the problem of the body corporate manager and the lot owners, whilst the original owner/developer can shift the impost of these defects onto purchasers.

A variety of estimates have been given around the impact of building defects in economic and statistical terms. It is important to note that there is no one full accepted “source of truth” around these issues due to difficulties in data collection and aggregation. Given this lack of clarity, we will reference a variety of sources, what we would note is that there is a clear consensus this is a major issue.

- A building defect being defined as “a failing or shortcoming in the function, performance, statutory or user requirements of a building, and might manifest itself within the structure, fabric, services or other facilities of the affected building<sup>2</sup>.”
- The most comprehensive study done into the topic of building defects in Australia in multi-owned (strata or body corporate) was undertaken by Griffith and Deakin Universities. Titled “An examination of building defects in residential multi-owned properties<sup>3</sup>” (the Report or Deakin Defects Report) and authored by academics Dr. Nicole Johnston and Assoc Prof. Sacha Reid, the Deakin Defects Report outlines the serious problems facing building standards in this section of the built environment.

It is important to understand the magnitude of this problem that is building defects in strata properties.

The Deakin Defects Report examined 212 building audit reports from New South Wales, Victoria and Queensland and found over 3000 line-item defects<sup>4</sup>. 85% of buildings analysed had at least one defect and the average number of line-item defects was 14. The Deakin Defects Report<sup>5</sup> defined the following core “construction systems” in a high-rise building to inform their analysis also:

- Building Fabric and Cladding
- Electrical, Lighting and Data
- Fire Protection
- Hydraulics
- In Motion Equipment
- Mechanical and Ventilation
- Roof and Rainwater Disposal
- Safety
- Structural

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<sup>2</sup> David Watt, Building pathology: principles and practice (Blackwell Publishing, 2nd ed, 2007) 96

<sup>3</sup> Johnston, Nicole and Reid, Sacha 2019, An examination of building defects in residential multi-owned properties, Deakin University, [Melbourne, Vic.]

<sup>4</sup> Johnston, Nicole and Reid, Sacha 2019, An examination of building defects in residential multi-owned properties, Deakin University, [Melbourne, Vic.]

<sup>5</sup> Australian Building Management Accreditation (ABMA), ABMA Building Management Code (2018) Queensland Edition.

- Utility Supply
- Waterproofing
- Non-essential Services
- Access and Egress

The scale of building defects in the strata sector is obvious based on the data, but the economic and social implications, including their impact into the wider economy are insufficiently accounted for.

The failure to appropriately insure against building defects is a significant economic and social impost.

The salient data points we will rely on for discussion as to the economic cost of building defects throughout this submission are:

- An approximate cost of building defects to consumers of \$5.2-7.2 billion according to Equity Economics.<sup>6</sup>
- An approximate cost of \$10.2 billion according to Mozo- which equates to approximately \$6,500 per dwelling.<sup>78</sup>

Combustible cladding, arguably the most notorious building defect is likely to also cost billions of dollars to appropriately rectify in Queensland. To this day the presence of such cladding is imposing higher insurance premiums on strata communities and posing a significant risk to life and property. This is a defect which should also be individually examined and rectified imminently.

Costs are borne by occupants through defect remediation costs, the sector through labour being diverted from new construction and increased insurance costs for owners. Whilst these direct costs are obvious, secondary costs in consumer confidence and misallocation of investment also play a part in the second layer of productivity drain.

## **Impact off Defects- Lack of Insurance Across the Economy**

### **Case Studies and Data**

In Queensland, high rise buildings lack defect insurance coverage. The impacts of this have been studied in detail in New South Wales, and we will make reference to this study , given the obvious similarities between the two jurisdictions.

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<sup>6</sup> Maxwell, C. (2023) The cost of building defects: Economic modelling of the cost of building defects in apartments across Australia, Equity Economics. Available at: <https://www.equityeconomics.com.au/report-archive/the-cost-of-building-defects> (Accessed: 27 May 2025).

<sup>7</sup> <https://www.abcb.gov.au/sites/default/files/resources/2022/Building-confidence-report-case-intervention.pdf>

<sup>8</sup> Wednesday, M.E., Mozo Editorial Mozo's team of experienced journalists and money experts provide news and Editorial, M. (no date) Property pain: Building defects report 2019, Mozo. Available at: <https://mozo.com.au/home-loans/articles/property-pain-building-defects-report-2019> (Accessed: 27 May 2025).

The New South Wales Legislative Council Regulation of Building standards, building quality and buildings disputes Report<sup>9</sup> (henceforth “NSW Report”) received submissions from owners regarding the emotional, personal and of course financial toll of building defects.

Submissions to the NSW report included the following excerpts relating to personal hardship faced by owners in affected strata schemes- these are just some of a plethora of examples:

*“I am now out of pocket over \$550,000 (paid for by way of a mortgage) and I am still not living in my home due to major building defects, gross negligence and unreasonable delay on the builders’ part... This whole situation has left me with medically-diagnosed severe depression.”<sup>10</sup>*

*“I will start by stating that words and numbers on a page cannot adequately convey the human pain and suffering caused, firstly by the handful of individuals responsible for this sorry affair but also the environment within which they were allowed to operate.”<sup>11</sup>*

*“Besides the financial cost, there is also a real hard to measure negative impact on time, health, relationships and ultimately quality of life in the past 8 years for all concerned.”<sup>12</sup>*

Information from the Deakin Building Report indicates that there is little variation between the rates of building defects in Queensland and New South Wales in the context of multi-owned dwellings.<sup>13</sup>

It is important to note the economic consequences of a lack of building defect insurance at a macro level. Consumer confidence in the New South Wales high rise apartment sector was significantly dampened by high profile instances of building defects. Valuers estimated the Opal Towers incident to have diminished values across the New South Wales high rise apartment sector by 16 per cent.<sup>14</sup> Markets rely heavily on sentiment for consumers. A downturn in high rise building confidence- further than already exists could impede economic growth and undercut significantly Queensland’s economic future.

From a financial perspective, it is also important to note that in this financial year, roughly 28% of Queensland State Government revenue was from transfer duty.<sup>15</sup> The bulk of this was from property transactions and amounts to billions of dollars. An increase in confidence in the high-density sector, or at a minimum buttressing the sector against the risk of a confidence downgrade, is important to ensure revenue stability and the capacity of the Queensland Government to invest in long term productive infrastructure.

It only took two buildings across the enormous New South Wales market to cause what is a very large loss in value across the entire market. The undermining of dense housing also encourages urban sprawl, and reduces access to labour in the medium term, whilst creating the economic and social productivity drain that comes with urban sprawl.

The reluctance by many to purchase in off-the-plan high density housing can be seen as a direct result of the high preponderance of building defects coupled with the lack of defect insurance and quality assurance. The Queensland Government would also be a substantial beneficiary from

<sup>9</sup> <https://www.parliament.nsw.gov.au/lcdocs/inquiries/2540/PAC%20-%20Regulation%20of%20building%20standards%20quality%20disputes%20-%20Final%20report%20-%20Report%20no%206.pdf>

<sup>10</sup> Submission 60, Name suppressed, p 1. (NSW Report)

<sup>11</sup> Submission 141, Name suppressed, p 1. (NSW Report)

<sup>12</sup> Submission 51, Name suppressed, p 4 (NSW Report)

<sup>13</sup> Deakin Defects Report, p 21

<sup>14</sup> <https://www.abc.net.au/news/2019-01-21/opal-tower-effect-to-hit-sydney-apartment-prices/10727268>

<sup>15</sup> [https://budget.qld.gov.au/files/Budget\\_2024-25\\_BP2\\_Revenue.pdf](https://budget.qld.gov.au/files/Budget_2024-25_BP2_Revenue.pdf)

enhancing integrity in high density buildings, from both an investment certainty perspective and a revenue perspective.

We acknowledge that there will likely be an overall increase in costs in the building sector initially; however, we would view the resultant restoration in confidence in the sector as being worth the cost. The financial implications for Mascot Towers, where the builder has gone into liquidation, have been severe. Owners face a loss of 70-80% of the purchase price, ongoing legal and strata fees and in many instances bankruptcy.<sup>16</sup> Whilst it may not always make sense for an individual to take out insurance for a particular event, on a macro scale, large rates of non-insurance can be catastrophic.

## Reform Priorities and Proposed Solutions

SCAQ see's a multifaceted approach to rectifying the epidemic of building defects that will enhance confidence and asset values, improve safety and increase confidence and the efficiency and economic productivity of our cities.

### Building Certifiers

We believe targeted reform of building certification can be a key plank in enhancing construction productivity.

Certifiers generally need more robust and significant oversight according to a substantial volume of feedback from SCAQ members. Feedback from members of SCAQ involved in these issues is that the Government should take stronger action to ensure that commercial interests and other pressures do not prevent building certifiers from acting in the public interest.

Building certifiers face practical and commercial pressures to provide client advice that may conflict with their compliance and enforcement roles as independent checking professionals – the concerns are:

- conflicts of interest;
- disengagement of building certifiers;
- confusion over the building certifier role;
- the standard of building certifier work; and
- enforcement action.

SCAQ believes appropriate oversight of these factors, particularly relationships with developers, need to be addressed. In the industry, there is a view that certifiers can often have conflicted priorities owing to commercial relationships with developers. SCAQ believes this needs to be addressed through a comprehensive auditing system with respect to the activities of building certifiers.

Such a regime could consist at the outset of the QBCC examining the practices of certifiers who have signed off on projects where the QBCC has been forced to issue directions to rectify for significant defects. If it is found by the QBCC that upon investigation the defects ought to have been picked up, then the regulator should be empowered to issue fines, or other punishments, in a similar fashion to how it operates with other licenses.

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<sup>16</sup><https://www.sbs.com.au/language/english/owners-in-last-ditch-attempt-to-recoup-losses-two-years-after-mascot-towers-evacuation>

SCAQ also sees scope for the regulation of how certifiers interact with developers similar to how auditing practices are regulated by the *Corporations Act* (2001) (Cth). Specifically, section 324DA which reads:

*(1) If an individual plays a significant role in the audit of a listed company or listed registered scheme for 5 successive financial years (the extended audit involvement period), the individual is not eligible to play a significant role in the audit of the company or the scheme for a later financial year (the subsequent financial year) unless:*

*(a) the individual has not played a significant role in the audit of the company or the scheme for at least 2 successive financial years (the intervening financial years ); and*

*(b) the intervening financial years:*

*(i) commence after the end of the extended audit involvement period; and*

*(ii) end before the beginning of the subsequent financial year.*

Similarly drafted legislation around time periods or even the number of projects certified without interruption by a specific certifier, may have the effect of removing any real, or perceived, conflicts to their role.

SCAQ also believes on-site inspections must be made mandatory for certifiers to undertake via legislation, and that photographic proof of this inspection must be mandatory. This should be accompanied by a mandatory statutory declaration indicating the attending certifier attended on site, inspected and took the photos.

The benefit of such a change is that it imposes no new costs or red tape, encourages competition and promotes integrity by certifiers.

### **Defect Insurance – Decennial Liability Insurance**

Having just been introduced into New South Wales it may be helpful for Queensland to examine the capacity of decennial liability insurance to help ameliorate many of the building confidence issues we face in our race to help ensure confidence in new housing supply.

Integrating Queensland with the recently created New South Wales decennial liability insurance market could create strength, confidence, and resilience in the high-rise building sector. It could also create the scale required to attract more insurers to offer this product, thereby fostering more competition.

SCAQ believes mandatory decennial liability has the potential to be an effective remedy for the current building crisis in high rises. Decennial liability insurance is a product which has many benefits and would restore long term confidence in the sector also. SCAQ believes for the avoidance of doubt that the strict liability in the French system, where there is no obligation to prove fault should be applied to original owners if this type of insurance is introduced to Queensland.

The French civil code introduced the concept of decennial liability at its inception for construction work.<sup>17</sup> This means that if significant structural defects in a building manifest themselves in the first ten years of a building life cycle, the builder is obliged by law to rectify.

Under the French system, the ten-year period for major defects, damage or partial or total collapse begins on the date of construction works and protection by this liability period is transferred to any subsequent owner.<sup>18</sup> This means any defects which manifest in the first ten years of a building life cycle must be rectified. If there is no capacity for the contractor to rectify, the insurance is used to fund works. Government strictly regulates premiums and there is no allowable limit on cover by law.

This type of system has operated very successfully around the world including in many former French colonies.<sup>18</sup> In France, premiums are generally 0.8% to 2% of construction cost. It is worth noting that premiums as a percentage of construction cost have come down over time after the introduction of decennial liability insurance in the United Kingdom<sup>17</sup> indicating that the introduction of such a product improves building culture and efficiency over time.

Whilst at face value this may impose a cost on the sector, it is worth comparing with the potential loss in values, and the inefficiencies that a preference away from dense construction due to a lack of confidence in high density construction cause.

## Conclusion

SCAQ believes the Government must embrace the notion that quality and safety in the high-density building sector as being a key driver of productivity. By ensuring ongoing confidence in the high-density building sector, the State Government can ensure:

- Property taxation revenue is stable and protected
- Land use in Queensland can become more efficient, particularly in cities and economically important hubs.
- The economic impact of building defects is minimised or substantially reduced.
- Housing affordability and labour access for businesses is improved through an embrace of high density living underpinned by confidence in quality and longevity of product.

Yours sincerely



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<sup>17</sup> <https://ferrer.law/blog/construction/decennial-liability-and-decennial-liability-insurance-the-only-road-to-the-promised-land-for-the-new-south-wales-building-crisis>

<sup>18</sup> [https://constructionlegal.com.au/wp-content/uploads/2020/03/jrippon\\_bcl\\_v35\\_pt5.pdf](https://constructionlegal.com.au/wp-content/uploads/2020/03/jrippon_bcl_v35_pt5.pdf)